The Law School as a Model For Community

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My approaching fortieth birthday may render this endeavor my final opportunity to espouse views which will be benignly regarded as youthful idealism rather than the foolish babbling of one who should know better.¹ Unless I hastily disavow this article in the coming months, it shall be assumed that gray hair is rapidly replacing gray matter. With advancing age, one should at least gain a deeper perspective on the passions of youth. Pathetic is the sight of a 60's child who is unable to accept the compromises and responsibilities of adulthood and whose entrepreneurial potential has been lost, sad to say, amidst the misguided meanderings of the brain that has turned to mush.

Hogwash. “Some of my best friends” who are 40-plus, with brains relatively intact, lead principled lives in which the personal is very much political and in which hearts are valued as much as minds.² But our voices must be heard, lest we all fall victim to the “upscale renova-

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1. Old friends have reminded me that I felt this way approaching my thirtieth birthday as well.
2. During recent “debate” tours, there were still a few cheers and some laughter for Abbie Hoffman, not Jerry Rubin, for Benjamin Spock, not Sam Hayakawa. At one Hoffman-Rubin event, stockbroker Jerry “came on stage in neat suit, neat tie, neat shirt, carrying two big bottles of Perrier. He made a pitch for ‘entrepreneurial capitalism’ and ‘changing the system from within’ at which Abbie held his stomach and grimaced . . . , then whooped ‘Know how a Yuppie spells relief? R-O-L-E-X!’ He then threw a watch into a Cuisinart along with the keys to a Porsche, a handful of microchips and the intestines of a Cabbage Patch doll. He brewed this into a ‘Yuppie Stew.’” Herb Caen, San Francisco Chronicle (1984).
of liberal thinking. In particular, we as legal educators must speak up. Day in and day out we are training the next generation of lawyers, men and women who will constitute the profession which, for better or for worse, remains the most powerful in our nation. How we serve as models and how we develop and administer our training grounds have enormous implications. How we conduct ourselves and how we maintain our own backyards — to what extent we practice what we preach — will determine the success of our efforts toward broad-based social change. As academics, we fall too easily into the role of critical theorist and observer, offering “the system” insightful free advice as to how it might better operate. Yet, as Robert Pirsig explains, “that kind of approach starts it at the end and presumes the end is the beginning . . . The social values are right only if the individual values are right.”

Radical social change will not occur unless it is embodied in individuals whose lives are the message. What counts are the choices we make for ourselves, including the ways in which we structure our immediate environments, i.e. the law schools, where we devote our working lives.

For those of us still clinging to the notion that our legal system can serve as an effective vehicle for freeing people to realize their potential and for reducing the disparity of income and opportunity, the continuing presence of hierarchy within the law school environment constitutes a formidable stumbling block. Law students, who are trained in schools where roles are strictly defined and where power and decision-making lie with the tribal elders, are likely to reproduce such hierarchy upon graduation in the context of law practice, business and other endeavors. Yet many of us remain ineffectual hypocrites to the extent that we are silent while the institutions which support us, to which we devote much of our lives, perpetuate the status quo. The law school community, where students spend three intense and formative years, must serve as a model for the kinds of societal institutions we hope to create. To do less in the interest of “neutral principles” is to abandon our cause.

3. I recently met a man my age who patted me on the shoulder, acknowledged that he, too, was once a “60’s dreamer”, and explained that he was now “into environmental real estate,” “renovating” small shopping complexes in “upscale” neighborhoods with “food boutiques” for the “former flower children who are now making things happen.”


As I struggle to develop some kind of blueprint for law schools as models for community, I find myself at one of life's junctures when everything appears to be related; in the words of John Muir, "When we try to pick out anything by itself, we find it hitched to everything else in the universe." The points of commonality appear with greater frequency. Lessons once learned while organizing communities around issues of civil rights reappear when developing goals and programs for the law school. The experiences of intentional communities — whether founded upon a common spiritual belief, socialist principles, or a liking for vegetables — have relevance to the law school family. Humanistic psychology and the understanding of self and of personal relationships become invaluable in the teaching of law. Learning to care for one's self in a holistic fashion — honoring the connectedness of mind, body and spirit — has importance for lawyers in the way we lead our lives, address our clients' problems and shape the body of law.

Finally, the women's movement and developing feminist theory have served to tie together for me these influences of civil rights, collectivism and humanism. Feminism makes its greatest contribution, in fact, by recognizing the interrelatedness of so many social issues of our time — by promoting coalition politics as a matter of substantive doctrine, not just political expediency. The theoretical underpinnings of feminism necessarily seek to promote the contribution of other disenfranchised groups — racial and ethnic minorities, the elderly, children and gays, for example — of the environmental defense movement and of the peace movement. Thus, feminism, in this most inclusive sense, becomes an essential — and heretofore missing — component of my model law school.

In Part I of this article, I will offer the following thesis: As a result, at least in part, of child-rearing and socialization practices, white, middle-class American women develop different attitudes and social perspectives than do their male counterparts. Although we are all composites, in varying degrees, of "masculine" and "feminine" qualities, generalizations can be drawn based upon contemporary theories of gender psychology and ancient Eastern philosophy. For example, separation, autonomy and individual rights orientation may be regarded as

6. The women's movement has traditionally supported other causes and has recognized the bond among oppressed people. See, e.g., K. Melder, BEGINNING OF SISTERHOOD: THE AMERICAN WOMAN'S RIGHTS MOVEMENT, 1800-1850 (1977) (describing the women's movement's involvement in the issue of slavery and civil rights for Black people, prohibition, educational reform, health reform and the peace movement).
"masculine", while connectedness, cooperation and inclusion are "feminine." An ideal world would reflect a dynamic balance of these qualities, yet the public sphere, especially legal institutions, has been male-dominated and, thus, overwhelmingly reflects "male" values. Correcting this imbalance will go far, I suggest, toward helping us, as lawyers, resolve human problems and maintain social order. Believing that our training grounds necessarily reflect our values and ideals, I will address in Part II various aspects of the law school environment, proposing a number of reforms which manifest this masculine-feminine fusion.

We have the opportunity to diversify and liberate legal education, a process which entails, first, "looking closely at ourselves, at our own qualities, and seeing what we want more of and what we want less of in our gender-differentiated behavior and values;" and second, looking outward at the institutions we inhabit to see how they "permit, encourage or inhibit the full expression of our values" and ourselves. Sadly, our culture has required us — men and women — to assume such deep disguises, to lead needlessly circumscribed lives. Yet by developing the repertoire of masculine and feminine qualities within us all, we can one day achieve that graceful integration which is "the partnership of our humanity."

One final caveat: Like any theory of human psychology, the ideas

7. I do not mean to suggest a biological or psychological deterministic view of gender. Strictly dichotomous thinking vis-a-vis gender distinctions may rightly be regarded as a political rationalization for maintaining power differentials. As Cynthia Epstein notes, "The ability to appreciate complexity and ambiguity — to reason in terms of ranges and dimensions, rather than discrete qualities — is more appropriate to today's world." Epstein, Ideal Roles and Real Roles or the Fallacy of the Misplaced Dichotomy, 4 Research in Social Stratification and Mobility 35 (1985).

For purposes of this article, it is not necessary to take sides on, much less resolve, the "nature-nurture" debate, which continues to draw such attention in feminist circles. Nor need the reader accept any of the gender distinctions offered in Part I in order to support the specific proposals for legal education offered in Part II. I might have avoided "masculine" and "feminine" labels altogether and simply advocated the infusion of certain values which have been largely ignored in the field of law. Yet, in my experience, the gender distinctions discussed in Part I contain more than a grain of truth, and I offer them for your consideration.


9. Id.

10. Id.
which follow in Part I are not carved in stone. Acknowledging this un-
certainty, I offer them as a possible context for addressing human
problems, which is, ultimately, the business of law. As you consider the
masculine-feminine distinctions which I will draw, and as you relate
them to your own experience, do not take my attributions too literally
(or personally). Just as the “reasonable man standard” is a fiction, no
one is all-masculine or all-feminine, although certain qualities are
found more generally in one sex than the other.

Nor are my proposals for legal education in Part II entirely novel. Some
may be hauntingly familiar and will serve as a nudging reminder
of what we once set out to do; and other proposals are, in fact, well in
place in certain schools and deserve wider attention. None of my sug-
gestions is offered with dogmatic cock-surity. With experience, I find
that I have fewer definitive answers and more expansive questions. The
“shoulds” and “musts” contained throughout this paper reflect the
heartfelt urgency of my concern for legal education, not any brash
claim to the mantle of moral legitimacy. This “model” is a beginning,
not an end — a “first draft” awaiting your collaborative efforts.
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I. Some Thoughts on Men, Women, and Synthesis

A. From Childhood to Adulthood

1. Separation and Relationship

In white, middle-class America, women usually have been the primary child rearers, at least during those "tender years"; gender identity has been a significant part of self-identity; and, thus, the process of self-identification has been significantly different for girls than for boys. Mothers and daughters view themselves as alike, as "continuous" with one another (which does not preclude women, on a less fundamental level, from finding their mothers to be negative role models or from "liking" their fathers more), and the female process of assimilation and identification is smooth and "natural"; "girls emerge from this period with a basis for empathy built into their primary definition of self." Boys, on the other hand, experience their mothers as different. In "defining themselves as masculine, boys must separate their mothers..."
from themselves, thus curtailing their primary love and sense of em- 
pathic tie."\textsuperscript{16} Boys must work at "achieving" masculinity, and, among 
their peers, this struggle takes the form of intense competition in highly 
individualistic and hierarchical activities.\textsuperscript{17} "The little boy learns," says 
Margaret Mead, "that he must act like a boy, do things, prove that he 
is a boy, and prove it over and over again, while the little girl learns 
that she \textit{is} a girl, and all she has to do is refrain from acting like a 
boy."\textsuperscript{18}

Differences between male and female models of dispute resolution 
have been traced to early gender-identified patterns. In a study of ele-
mentary school children, Janet Lever found that, among boys, disputes 
would arise frequently, engaging nearly all the players in vociferous 
exchanges, but the rules would be quickly clarified and enforced so that 
the game could continue.\textsuperscript{19} Girls, on the other hand, were less bound by 
rules, more willing to make exceptions; "girls subordinated the continu-
ation of the game to the continuation of relationships."\textsuperscript{20} Rules would 
ever take precedence over the individual.\textsuperscript{21}

2. \textit{Concepts of Morality}

Utilizing a familiar hypothetical moral dilemma devised by Law-
rence Kohlberg,\textsuperscript{22} Carol Gilligan interviewed two eleven-year- 
olds, a boy and a girl. The "fact pattern" involved a man who must decide 
whether or not to steal from a pharmacist a drug which he could not 
afford to buy in order to save his wife's life. Regarding this dilemma as

\begin{itemize}
  \item \textit{Id.}
  \item \textit{Karst} at 453.
  \item M. Mead, Male and Female 175 (1949).
  \item J. Lever, \textit{Sex Differences in the Games Children Play}, \textit{Social Problems} 482 (1976). Citing Lever and Jean Piaget, Gilligan states: "In fact, it seemed that the boys enjoyed the legal debates as much as they did the game itself . . . [and were] fascinated with the legal elaboration of rules and the development of fair procedures for adjudicating conflicts, a fascination that . . . does not hold for girls." \textit{Id.} at 9-10.
  \item \textit{Gilligan} at 10.
  \item Male obsession with rules, often exaggerated in adulthood, ultimately and 
ironically forces the individual to serve the system. Rules take precedence over the 
individual, and one might well ask, "Who's running whom?" Rule obsession only 
makes sense, it seems to me, if people are regarded as inherently evil, self-centered and 
needing to be controlled. In turn, this kind of paranoid, us-them philosophy becomes 
self-fulfilling.
  \item \textit{Gilligan} at 25, referring to L. Kohlberg, \textit{The Philosophy of Moral De-
velopment} (1981).
\end{itemize}
"sort of like a math problem with humans,"23 the boy accorded to life greater value than to property and logically concluded that permitting the theft was the correct answer. The girl, on the other hand, responded contextually rather than categorically, sought to avoid giving a definitive answer and suggested discussing the situation with the pharmacist so as to work out some arrangement. She was sensitive to the needs of all three parties and sought to "sustain rather than sever connection."24 For her, the parties were not "opponents in a contest of rights,"25 but "members of a network of relationships on whose continuation they all depend."26 Ultimately, she decided that the man should steal the drug, not because of any contractual agreement, marital or otherwise, but because of a natural bond to every other human being — simply "by virtue of being another person."27 "In a way," said the girl, "it's like loving your right hand; it is part of you."28

Responding to the problem with a hierarchy of values, the boy is able to cast the dilemma as "an impersonal conflict of claims,"29 thereby avoiding the interpersonal situation. In contrast, the girl approaches the dilemma not as a win-lose situation, but as a win-win situation in which the emphasis on inclusion is central. He "thinks about what goes first,"30 while she "focuses on who is left out."31

As boys approach adulthood, becoming men is largely a process of differentiating from Woman.32 Because a man's sense of self is at

23. Id. at 26.
24. Id. at 28.
25. Id. at 30.
26. Id.
27. Id. at 57.
28. Id.
29. Id. at 32.
30. Id. at 33.
31. Id. Further interview questions addressing the children's concepts of responsibility produced equally striking differences. Gilligan describes the boy's response:

Beginning with his responsibility to himself, a responsibility that he takes for granted, he then considers the extent to which he is responsible to others as well. Proceeding from a premise of separation but recognizing that 'you have to live with other people', he seeks rules to limit interference and thus to minimize hurt. Responsibility in his construction pertains to a limitation of action, a restraint of aggression . . . Thus rules, by limiting interference, make life in communities safe, protecting autonomy through reciprocity, extending the same consideration to others and self.

Id. at 37-38.
32. Karst at 453.
stake, he must create an image of Woman which he can play off of, from which he can plainly, demonstrably, overtly distinguish himself. Man — and, I repeat, neither you nor I, not most men, nor particular men, but all of us in varying, partial degrees — he must objectify Woman and attribute to her qualities which he must desperately avoid possessing himself: delicacy, timidity, domesticity, passivity, dependency.33

"Hence man needs woman — not individual women, who differ from each other in the same way that men do, but this construct of the mind called woman — to define himself."34 That is the process of objectification.

With respect to patterns of adult behavior, this male need to objectify has produced among men a more highly developed sense of separate identity that is individualistic and competitive, often isolated and lonely. For women, the definition of self is more inclusive. Women’s lives and their hopes for the world are founded, it seems, in relationships.

These contrasting masculine and feminine approaches are confirmed by the responses of a man and a woman, each twenty-five years old, to questions involving the meaning of morality. The man believes that morality means not interfering with the rights of other individuals: “Act as fairly as you would have them treat you.”35 The woman, on the other hand, speaks of mutual dependency, “that a person’s life is enriched by cooperating with other people and striving to live in harmony . . .”36 She pays attention to what people share in common and has “a very strong sense of being responsible to the world.”37 While the young man “worries about interfering with each other’s rights,”38 the young woman “worries about the possibility of omission, of your not helping others when you could help them.”39

For men, maturity means autonomy and individual achievement; for women, it is responsibility and care. Men tend to seek solutions to

33. Id.
34. Id. at 453-454. A goal for many men today is to learn to be less reactive to women — whether he be the “tough guy” who fears women and his own dependency and, thus, demonstrates control by “keeping her in her place,” or the “nice guy” who chooses behavior which he thinks will endear him to women. Learning not to be reactive does not mean being insensitive, but, rather, learning to appreciate one’s self.
35. Gilligan at 19.
36. Id. at 20.
37. Id. at 21.
38. Id.
39. Id.
problems of morality and justice in a hierarchy of abstract rules, while women decry this laissez-faire approach because of "its potential justification of indifference and unconcern." Instead, women "seek to widen the range of inquiry in the hope of finding solutions that preserve human relationships." Thus, the morality of rights differs from the morality of responsibility in its emphasis on separation rather than connection, in its primary consideration of the individual rather than the relationship.

B. Yin and Yang

1. The Dynamic Balance

This distinction between separation and connection is reflected in the Chinese concept of yin and yang. While yin action is conscious of the environment, yang is conscious of the self. Most important, however, is the understanding that "what is good is not yin or yang but the dynamic balance between the two; what is bad or harmful is imbalance." This ideal balance is reflected in modern systems theory:

Systems theory looks at the world in terms of the inter-relat-

40. Id. at 22. If women tend to be deferential to other's judgments, that deference is not just the product of social subordination; it also springs from a healthy moral concern for others, growing out of an inclusive sense of self. Furthermore, the "male" severing of an existing, natural connection may well be the origin of aggression. An overemphasis on autonomy and hierarchy, like computerized war-making, makes it easier to do "violence" to our fellow human beings when we do not have to witness the damage caused by our indifference.

41. Karst at 484.

42. Concluding her chapter entitled Images of Relationships, Gilligan contrasts the "hierarchy of rights" with the "web of connection," which, in turn, produce differing perceptions of danger. By and large, men perceive danger in intimacy while women perceive danger in impersonal achievement situations. Men fear entrapment, women fear isolation.

Thus the images of hierarchy and web form different modes of assertion and response: the wish to be alone at the top and the consequent fear that others will get too close; the wish to be at the center of connection and the consequent fear of being too far out on the edge. These disparate fears of being stranded and being caught give rise to different portrayals of achievement and affiliation, leading to different modes of action, different ways of assessing the consequences of choice. Gilligan at 62.

43. Capra at 38. One might call the former "eco-action," the latter "ego-action."

Id.

44. Id. at 36.
edness and inter-dependence of all phenomena, and in this framework an integrated whole whose properties cannot be reduced to those of its parts is called a system. All entities—from molecules to human beings, and on to social systems—can be regarded as whole in the sense of being integrated structures and also as parts of larger wholes at higher levels of complexity. Arthur Koestler has coined the word “holons” for these subsystems which are both wholes and parts. Each holon has two opposite, but complementary tendencies: “an integrative tendency to function as part of the larger whole, and a self-assertive tendency to preserve its individual autonomy.” In a healthy system—an individual, a society, or an eco-system—there is a balance between integration (yin) and self-assertion (yang). What is truly good is the “synthesis of binary values,” yet what passes for good in our culture are one-dimensional values.

Courage with a capital C, Toughness, Loyalty, Individualism, Tenacity... Each one-dimensional value represses its oppositive virtue, e.g. caution, tenderness, rebellion, cooperation, etc. and regards these as vices, thus dooming our culture to a virulent ecological lopsidedness, and turning moral arguments into shouting matches.

When we afford ourselves the opportunity to step out of our daily roles and are able, in those rarest of moments, to observe our lives from the vantage point of the mountain top, with wondrous eyes we see “the relativity and polar relationship of all opposites.”

From the earliest times in Chinese culture, yin was associated with the feminine and yang with the masculine. From his research, Fritjof Capra is able to make the following associations:

45. Id. at 43.
46. Id.
48. Id.
50. Capra at 36.
51. Id.
Just as in human biology, where masculine and feminine characteristics are "not deeply separated but occur in varying proportions in both sexes," the Chinese believed that all people, men and women, go through yin and yang phases. This view of human nature is in "sharp contrast to that of our patriarchal culture, which has established a rigid order in which all men are supposed to be masculine and all women feminine, and has distorted the meaning of those terms by giving men the leading roles and most of society's privileges." 53

52. Id. 53. Id. Both yin and yang, integrative and self-assertive tendencies, are "necessary for harmonious and social and ecological relationships." Id. at 44. They are also necessary for the balanced development of each individual, male or female. Yet in our society, we have created a gender-based division of labor: when the ambitious, goal-oriented individuals need rest and revival through sympathetic support, human contact and times of carefree spontaneity and relaxation, women are expected, often coerced, to fulfill these needs. They are the secretaries, receptionists, hostesses, nurses and homemakers who perform the services that make life more comfortable and create the atmosphere in which the competitors can succeed. They cheer up their bosses, help smooth out conflicts in the office, and are the first to receive visitors, entertaining them with small talk. At home, they handle affairs so as to minimize the male's distractions from his worldly pursuits, protecting him from the trivial problems of family life. Women carry the emotional baggage, running "back and forth explaining the children and their father to each other." Beverly Stephen, San Francisco Chronicle, June 10, 1985, at 17, quoting M. McGill, The McGill Report on Male Intimacy (1985). All these services involve yin or integrative activities, and "since they rank lower in our value system than the yang, or self-assertive activities, those who perform them get paid less. Indeed, many of them, such as mothers and housewives, are not paid at all." Capra at 45.

In fact, because the Female System (using Anne Wilson Schaef's terminology) "perceives differences as opportunities for stimulation and growth," it has been "nearly eaten up by the White Male System." Schaef at 145. As women have recognized the White Male System as different from their own and sought to learn from it, their "genuine curiosity and interest — not to mention [their] need to survive — has backfired." Schaef at 145. While the "subordinate" people have, in large part, em-
The frequent association of yin with passivity and receptivity, and yang with activity and creativity, is also a modern Western interpretation which does not reflect the original meaning of the Chinese terms. Our contemporary imagery goes back to the Age of Pericles, that famous era in classical Athens which Professor Eva Keuls has labeled “The Reign of the Phallus.” Aristotle’s theory of sexuality has been used to this day, writes Capra, as a “scientific” rationale for keeping women in a subordinate role, subservient to men. Yet in the original, Chinese view, expansion and contraction (both of which are “activities”) are equally “valuable,” complementary and — the bottom line — inevitable. The extent to which we can accept this inevitability determines whether we act “in harmony with nature or against the natural flow of things.”

2. The Rational and the Intuitive

There are also “two modes of consciousness,” two complementary ways in which the human mind functions: the intuitive and the rational. Traditionally, the former has been associated with religion or mysticism, the latter with science. Rational thinking is “linear, fo-

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54. Id. at 37.
56. Capra at 37.
57. Id.
58. Id. at 38.
59. These two modes of mental functioning are what modern science, and now popular culture, refers to as left-brain and right-brain thinking. Schaef explains that left-brain thinking, which is attributed to men more often than to women, involves taking in information “through the sense organs in the head. It is then sent to the brain, where conclusions and decisions are made, and the brain in turn transmits these conclusions and decisions to the rest of the body for action.” Capra at 131. Right-brain activity, on the other hand, involves taking in information through one’s solar plexus, where “[i]t is received and processed . . . before being sent to the right brain, then to the left brain, and then back into the body for action.” Id. at 132. Described by Schaef as “Female System processing,” it is very difficult to support with logical statements and, thus, receives little support in the dominant culture and, most particularly, in legal institutions. Often all one can do to explain the process is to say, “I just feel it,” which, of course, prompts the left-brain thinker to respond, “What do feelings have to do with thinking — especially with ‘thinking like a lawyer’?” Id. at 132.
cused, and analytic,”60 belonging to the “realm of the intellect, whose function it is to discriminate, measure, and categorize.”61 The rational thinker needs to “explain the world”62 and does so “by taking the whole, breaking it down into its component parts, and defining each of these parts in turn.”63 Thus, rational knowledge tends to be fragmented, and linear thinking, though efficient in the short run, is not especially creative. “Because it refuses to see the words and meanings inherent in differences and perceives them as threats to be overcome,”64 the linear system — what Anne Wilson Schaef labels the White Male System — “is a closed system. It stifles creativity and devours itself from within.”65

Intuitive knowledge, on the other hand, is multivariant and multidimensional (what traditional male researchers have described as “scattered”). It is based on “a direct, nonintellectual experience of reality”66 and tends to be “synthesizing, holistic, and nonlinear.”67 Multivariant thinking may take “more time and makes use of more data, some of which — like feelings, intuitions, and process awareness — may seem irrelevant on the surface,”68 especially in the traditional law school classroom. Yet somehow we “just know” that decisions reached by linear thinking, unlike multivariant thinking, are not always right — sometimes they just don’t “feel right” — and, thus, they “seldom hold or have the full support of the group concerned.”69

All too often I have heard thoughtful and sensitive law students complain that the treatment of a case was “hollow,” that the discussion of remedies seemed “too mechanical.” When these students dared to contribute to class discussions, their comments were frequently regarded as “off the mark,” “irrelevant” — even “scattered.” Our task, then, is to recognize that neither way of thinking is necessarily right; both can contribute to data processing and decision-making. The law functions best, I believe, when it uses both multivariant and linear thinking processes. Rational knowledge is likely to generate self-cen-

60. Capra at 38.
61. Id.
62. Schaef at 144.
63. Id.
64. Id.
65. Id.
66. Capra at 38.
67. Id.
68. Schaef at 130.
69. Id.
tered, or yang, activity, whereas intuitive wisdom is the basis of ecological, or yin, activity. Our society has reflected domination of the yang over the yin — "rational knowledge over intuitive wisdom, science over religion, competition over cooperation, exploitation of natural resources over conservation." None of the values pursued by our culture, and particularly by our profession, are intrinsically bad, but "by isolating them from their polar opposites, by focusing on the yang and investing it with moral virtue and political power, we have brought about the current sad state of affairs."

The cultivation of that which honors the natural balance of cycles and fluctuations and the marvelous interplay of the whole organism has been largely neglected. Our progress has been a rational and intellectual affair, and "this one-sided evolution has now reached a highly alarming stage, a situation so paradoxical that it borders insanity" for the individual as well as for the culture. Charlie Reich writes of his days with a Washington D.C. law firm:

[M]y real self was driven far inside. This destruction of

70. Capra at 38.
71. Id. at 39.
72. Id. The emphasis on rational thought in our culture is epitomized, in Capra's view, by Descartes' celebrated statement, "Cogito ergo sum" ("I think, therefore, I exist") which "forcefully encouraged Western individuals to equate their identity with their rational mind rather than with their whole organism . . . [W]e have forgotten how to [use] . . . our bodies . . . as agents of knowing. In doing so we have also cut ourselves off from our natural environment and have forgotten how to commune and cooperate with its rich variety of living organisms" — including one another. Capra at 140. Capra states:

Exploitation of nature has gone hand-in-hand with that of women who have been identified with nature throughout the ages. From the earliest times, nature — and especially the earth — was seen as kind of a nurturing mother, but also as a wild uncontrollable female. In pre-patriarchal eras, her many aspects were identified with numerous manifestations of the Goddess. Under patriarchy, the benign image of nature changed into one of passivity, whereas the view of nature as wild and dangerous gave rise to the idea that she was to be dominated by man.

Id. at 140.

Finally, with the rise of Newtonian science, nature finally became a mechanical system which, like woman, could be manipulated and exploited — or so it was hoped. This ancient association of woman and nature thus links women's history and the history of the environment, and is "the source of a natural kinship between feminism and ecology," which is manifesting itself increasingly today. Id. at 140.

73. Id. at 42.
thought and feeling plus the repressed anger that went with it made it impossible for me to regain any sense of self when the working day was over. You cannot strike your head all day with a hammer and expect that the person within will want to come out when you get home.  

Such are the results of over-emphasizing our yang, or masculine side — rational knowledge, analysis, expansion — and neglecting our yin or feminine side — intuitive wisdom, synthesis, and ecological awareness. And, not surprisingly, this intensely cerebral pattern is equally prevalent in law schools, which have been described as “too single-mindedly absorbed in the affairs of the head and too inattentive to — indeed, rejecting of — matters of the heart.”  

Although the public sphere — and, in particular, legal institutions — has manifested these masculine characteristics, this “White Male System” is just one system: “We all live in it, but it is not reality. It is not the way the world is [or must be]. Unfortunately, some of us do not recognize that it is [merely] a system and think it is [the ultimate] reality.” Yet life is, in fact, bigger than logic.

As men, and often as women in the masculine world of law, we aspire and believe it possible to be totally logical, rational and objective. In the process, of course, we must constantly do battle with the way in which we are not all of these things. We must continually deny and attempt to overcome any tendencies toward illogical, irrational, subjective or intuitive behavior.

Like a square peg being forced repeatedly and unsuccessfully into a round hole, our dualistic thinking can never blend comfortably or work efficiently in a world which is far more complex and multi-dimensional. Things have to be either this way or that, better or worse, superior or inferior. “What horrible and debilitating options! How limiting and exhausting to always have to be one-up so as not to be one-down.” Clinging to a belief system where maintaining power means

75. C. J. Berger, The Legal Profession’s Need for a Human Commitment, Columbia University General Education Seminar Reports, No. 2, at 13 (1975), quoted in Dworkin, supra note 11, at 33.
76. Schaeff at 2. [Emphasis added.]
77. Id. at 12. Of course, not all men strive for immortality or dream of being Rocky or Rambo, or even enjoy this game of one-up-manship. These men don’t necessarily want to be one-up, but they surely want to avoid being one-down. And given those as the only perceived options in the system, survival precludes escape from the
controlling, objectifying and staying on top of a hierarchy is a desper-
ate, rather paranoid and ultimately fatal venture. For part of being
locked into this mythology is believing that it is possible to achieve
Godhood. If we can know and understand everything and if we can be
totally logical, rational and objective, then we can be God — at least
the kind of God who is controlling, who is outside the self, rather than
a constantly evolving process within.78

As such, man actually believes that he can control the universe! While other cultures, notably the Native Americans, attempt to com-
prehend the universe so as to learn to live within it, the White Male
System seeks total mastery over the universe through technology —
what Erich Fromm has labeled "technocratic fascism."79 The great
bulk of our life energy, our study and our research, is devoted to this
goal of control; "we have embraced the scientific method and distorted
it till it has become a way to achieve Godhood."80 Would that we con-
centrate our efforts on becoming "attuned to the processes, cycles and
seasons of the earth — to live and move in harmony with them rather
than to control them."81

In Schaefer's Female System — which she applies to "women who
feel clear and strong and have come to know and trust their own sys-
tem"82 and to men who have come to acknowledge and accept their
feminine side — a greater range of options are deemed possible. Each
relationship is presumed to be one of peers, of equals, unless and until
it develops otherwise; one is not necessarily superior or inferior, and,
thus, a wider range of interactive behavior is available.83

3. Balancing Work and Relationships

Another difference in the male and female systems is the role
which relationships play in our lives. As noted above, our feminine side

78. Id. at 15.
79. E. FROMM, TO HAVE OR TO BE? 180 (1976).
80. Schaefer at 17. Consider Schaefer's example, the climate-controlled shopping
malls, which are built "after measuring populations, buying habits, income and the
like" and where one "can spend hours . . . without ever being aware of changes in
temperature, humidity or time of day." Id. at 17. So, too, with our climate-controlled
homes, automobiles and offices; and, in the works now, controlling the weather itself.
81. Id. at 139.
82. Id. at 105.
83. Id.
finds much of life’s meaning in relationships, and work becomes a vehicle for our need and desire to interact and connect with the world. When our “masculine” side dominates, work becomes an autonomous endeavor measured by individual achievement, and our lives become compartmentalized into “work” and “personal relationships”. More often than not, the self and our work are the center of our universe; relationships, like hobbies, become secondary.

For women who learn to make room for themselves in their lives, to honor and nurture their own growth, “work” becomes an avenue for exploration.

Work becomes more than something one does to earn money; it becomes a ‘life work’. It is what we need to do with our life. It means making a contribution which complements the other aspects of our lives. It is not profit- and power-oriented; instead, it takes its meaning from creativity, bonding, humaneness, and service.\textsuperscript{84}

Creative work — the kind of work to which we aspire, work which makes a difference in the world — evolves only and necessarily from a blending of the masculine and the feminine, from the “graceful integration”\textsuperscript{85} of humility and pride. Abraham Maslow explains that, to be creative and inventive, we must have both the “arrogance of creativity”\textsuperscript{86} and humility. We must be aware of our “Godlike” possibilities while simultaneously laughing at ourselves (“at the worm trying to be a god”)\textsuperscript{87} and at all human pretentions.

One who attains the wisdom to lead a creative and integrated life is likely, one day, to reminisce with words such as these:

\begin{quote}
Aldous Huxley . . . was able to accept his talents and use them to the full. He managed it by perpetually marvelling at how interesting and fascinating everything was, by wondering like a youngster at how miraculous things are, by saying frequently, “Extraordinary! Extraordinary!” He can look out at the world with wide eyes, with unabashed innocence, awe, and fascination, which is the kind of admission in smallness, a form of humility, and then proceed calmly and unafraid to the great task he set for himself.
\end{quote}

\textsuperscript{84} Id. at 113.
\textsuperscript{86} Id.
\textsuperscript{87} Id. Maslow continues:

Aldous Huxley . . . was able to accept his talents and use them to the full. He managed it by perpetually marvelling at how interesting and fascinating everything was, by wondering like a youngster at how miraculous things are, by saying frequently, “Extraordinary! Extraordinary!” He can look out at the world with wide eyes, with unabashed innocence, awe, and fascination, which is the kind of admission in smallness, a form of humility, and then proceed calmly and unafraid to the great task he set for himself.

\textit{Id.}
Lying on my deathbed, I look back on the relationships I have had and the connections I have made — with myself, my work, with people, with my community. Relationships which evolve and change, constantly in process. These will be the things I consider the most important. It will not matter whether I have earned six figures, won big cases, written books or had a chair named after me. I will cherish the lives I have touched and those persons whose lives have touched mine.88

In other words, no one ever said, believing death near, “I wish I had spent more time at the office.”

4. Notions of Power and Leadership

Resistance to the democratic re-distribution of power in society and in the law school is rooted, I believe, in the masculine conception of power as a “zero-sum” commodity, i.e., as based on the scarcity model. The more one shares or gives up to others, the less one has for oneself. There is only so much available, and one had better scramble for it and hoard it. Schaef cites the example of a woman who had apparently bought into the White Male System of power: “‘I want to be the best-known feminist in town, and the only way for me to do that is to get rid of so-and-so’ (another prominent feminist) . . . She had become convinced that there was only so much influence to go around.”89

Feminine values remind us, however, that power, like love, is limitless; when it is shared, it regenerates and expands. It only increases when it is given away. So too with ideas.90 If we try to “own” and hold on to ideas, they stagnate. But if they are allowed to move about and breathe, to be freely given and exchanged, they expand and change constantly, remaining fresh and alive.91

Likewise, the masculine concept of leadership reflects linear relationships and dualistic thinking, while promoting isolation and hierarchy. If leading means “being out front at all times, having all the answers, and presenting a strong, powerful and all-knowing image,”92 it is

88. Schaef at 113.
89. Id. at 125.
90. And this, I suspect, is why I have never been able to grasp wholeheartedly the principles of patents and copyrights! Also, recall the Hamilton cartoon: “Of course, I’m not telling you. Information is power.”
91. Schaef at 125.
92. Id. at 128.
no surprise that we lawyers look so silly striving to be God-like and that many of us drop dead from the effort. A healthier approach might require us to regard leadership as a means to facilitate, to enable others to make their contributions while simultaneously making one's own. 93 A leader's job would include delegating responsibility, nudging people from behind rather than leading them from ahead, encouraging others to discover and develop their own capabilities. 94 It is those qualities we would do well to look for in a law school dean, a professor, a student leader or a meeting chairperson.

C. The Challenge for Society: Fusing the Ladder and the Web

This heavy emphasis on individual achievement and "masculine" values is manifest in our capitalist society through the promotion of competitive behavior over cooperation and through a Social Darwinist view of nature which continues to prevail today. Competition has been seen as the driving force of the economy and, as reflected in our adversary system, of our judicial process as well. Karst contends that the ladder of hierarchy, which reflects a morality centered on individual rights and noninterference, has provided the framework for our legal system.

The men who wrote the Constitution in 1787 designed a framework for governing society as it was perceived by men and run by men. The framework inherited a body of thought that saw man as an 'atom of self-interest', saw the struggle for power as a zero-sum game in which one person's gain was another's loss, and was suspicious of man's insatiable appetite for power . . . The Bill of Rights, like the original Constitution, defined zones of autonomy, of non-interference . . . [and was] an institutional reflection of the view from the ladder; safety from aggression was to be found not in connection with others but in rules reinforcing separation and non-interference. 95

Valuing freedom and autonomy, the American male has regarded himself primarily as an independent atom, going it alone, always moving and always looking over his shoulders with a careful eye for strangers bearing gifts. We have pursued our self-interests in personal rela-

93. Id.
94. Id.
95. Karst at 486.
tionships and at work and have been wary of involvement in community life. Gone, or at least in hibernation, has been that commitment to community which once provided a balance to the radical individualism that so worried Alexis de Tocqueville when he first examined American life in the 1830's. The average American male has seen the world outside the home as a "Hobbesian rat race" where we have no control over the bigger picture—over whether our "corporate employers produce nuclear triggers or make up." Addressing (even listening to) other people's problems is a dangerous distraction from the pursuit of one's own survival. Few among us have been willing to "speak truth to power," based on moral convictions and a concern for the civic good.

Yet, today, there is hope. As the Chinese text says, "The yang, having reached its climax, retreats in favor of the yin." Louder is the call for a renewal of "habits of the heart" to temper competitive individualism. The shallowness of narcissistic pursuits has left us with Peggy Lee's refrain "Is that all there is?" In this search for greater meaning in our lives comes the recognition that there is value in connectedness and responsibility to others.

We are a part of a tremendous evolutionary movement with deeply buried roots. For some, Jefferson's ideal of the virtuous, involved citizen provides inspiration; for others, it is the Judeo-Christian tradition of justice and social responsibility. Still others are discovering that "our lives make sense in a thousand ways, most of which we are unaware of because of traditions that are centuries if not millennia old." The process of re-establishing long-severed connections with our pasts and with others, now and before, takes numerous forms and labels, including Jung's collective unconscious, spiritual quests, ritual and ceremony, and psychic research.

There is a cultural movement afoot, which has begun to be reflected, as well, in the law—an attempt to re-establish a balance between the masculine and feminine sides of human nature. As legal edu-

97. Id.
99. Capra at 45.
cators, we must seek to fuse the ladder of hierarchy with the web of connection, thereby expanding our vision of justice to incorporate affirmative principles of inclusion and community. "The jurisprudence and rhetoric of rights," says Karst, "is the law of the ladder." 102 In a heterogeneous society, there is safety in clinging to inanimate rules and neutral principles; but the passivity and preservationist influence of an obsessive rule-orientation has been an effective neutralizing weapon for protecting "them that got." We must promote a view of the human community as one "characterized by concern," 103 and a view of justice that values not only autonomy but "interdependence and care about real harms to real people." 104

No longer need legal education epitomize "the schism between the disembodied intellect and our whole humanity." 105 No longer need we live in the anterooms of our lives. With eloquent simplicity, one student-turned-professor states her resolve in this new age of lawyering:

> I've come to believe that my feelings and intuitions are sometimes wiser than my mind, which is something I did not know before . . . This is not to say that I value intellectual skills less; rather, I have moved from regarding my mind as the one 'real' tool with which to do my work. So, I put aside the rule of the professors that feelings will only interfere with legal analysis, and instead I use my judgment as to what combination of all my powers are needed in each situation . . . It's a struggle to do it continuously, and I often fail. Still, it is clear to me that people can help each other to do their own valuing and follow what is right for them, in lawyering as in life. 106

II. Creating the Model

How, then, can we transform our law schools into models for the kind of society that we would like to live in — a "world in which we nurture in people the capacity for self-governance and self-fulfillment"? 107 Will we practice what we preach? Can we turn an onanistic

102. Karst at 475.
103. Id.
104. Id.
past-time for ivory-tower academics into a practical experiential model for community? How do we incorporate the "feminine" into a "masculine" world without simply having women exchange "a place in the web for a step on the ladder?" How do we create that "dynamic balance" of yin and yang? In short, what will our model look like? Let us first examine the composition of our law school community, beginning with the faculty, staff and students.

A. The Component Parts

1. Faculty Hiring: Integration, First and Foremost

As law professors, we are regarded as holding powerful and prestigious positions. If we are truly committed to creating a society in which power can be shared, where power is no longer a "zero-sum" commodity, we must begin by opening the doors of our profession. If we truly seek to expand our vision of justice so as to incorporate affirmative principles of inclusion and community, we must re-evaluate the narrow, self-serving hiring criteria which prevail in our law schools.

a. By Race and Ethnicity

Racial and ethnic integration of the faculty is an essential prerequisite to the fulfillment of the mission of the law school. Minorities constitute just five to seven percent of all law professors. One-third of the accredited law schools in the United States have no minorities on their full-time faculties, and another third have only one. Excluding the two historically Black schools, only fourteen schools have more than two minority faculty members. "Without the diversity of experience, knowledge, insight and interest, provided by colleagues who have been subjected to racial [and gender] discrimination within our society, we cannot fulfill our mission of providing all of our students with an edu-

and Undemocratic Realities, MATERIALS ON LEGAL EDUCATION, SEVENTH NATIONAL CONFERENCE ON CRITICAL LEGAL STUDIES 73 (March 1983).
108. Karst at 480.
109. The sources for this statistic and an explanation for its inexactness can be found in Cynthia Epstein's essay herein at 449.
110. SOCIETY OF AMERICAN LAW TEACHERS STATEMENT ON MINORITY HIRING IN AALS LAW SCHOOLS: A POSITION PAPER ON THE NEED FOR VOLUNTARY QUOTAS at 1 (1985) [hereinafter cited as SALT Statement].
111. Id.
cation which will best serve the needs of that society." Students, as well as faculty members, need role models, and as long as law faculties are composed overwhelmingly of white males, an integrated student body remains rhetoric, not reality.

Conventional recruitment attempts have involved "an excess of deliberation and a minimum of speed." Most minority faculty members have remained "isolated token presences" on their law school campuses. And the problem with tokenism is not merely the paucity of numbers; these token few must assume "the multiple burdens of counselors to minority students, liaison to the minority community, and consultants on race to administration and colleagues, all working to establish themselves as effective teachers, productive scholars and congenial colleagues."

I do not believe that continued segregation in the academy is caused by intentional, or at least conscious, racial discrimination. Rather, it is a result of policies, practices and values which comprise the "normal" hiring process. Prefacing their remarks and their votes with a statement of "good intentions," most faculty members proceed to make choices based on "neutral criteria which have an inevitable exclusionary impact." Even if a job offer is made, we readily absolve ourselves of responsibility should a minority candidate decline to accept our invitation to become a token representative in a virtually all-white law school and, perhaps, in an inhospitable community at large. These innocent patterns are "the substance of institutional discrimination, a malady that can only be cured by institutional reform."

Goals must be set commensurate with local, state or national population figures. If a law school operates in a community with a particularly high percentage of the underserved — the poor, minorities — goals for faculty hiring should reflect the ethnic makeup of the local population. For other law schools, state and national population figures may be more appropriate.

To achieve these goals, overt quotas must be utilized. A policy might be adopted, for example, that no position, visiting or tenured, be offered to white candidates unless at least two slots have been filled by

112. Id.
113. Id.
114. Id.
115. Id.
116. Id. at 3.
117. Id.
minority professors. Alternatively, we might require that two of every three new hires reflect groups heretofore under-represented. To avoid problems of tokenism, hiring in blocks should be preferred.

All of us who have served on faculty recruitment committees know how difficult minority hiring has been. Our abysmal failure is, however, ultimately a question of priorities. It may be necessary, for instance, to select two professors as minority faculty recruiters and afford them one-half compensation time for two years and a suitable travel budget (and that the rest of us pitch in to pick up the academic slack where necessary). They should be encouraged to join with an expanded committee to interview as many minority candidates as possible from the AALS registry at the annual Chicago hiring conference. In addition, the recruiters should seek referrals by contacting minority bar associations, community leaders and minority law professors nationwide. Minority members of the practicing bar should be approached and asked to consider teaching at least in a visiting capacity, perhaps as part of a “practitioners in residence” and/or law firm sabbatical program.118

Then, after two years, the entire faculty should evaluate the progress which has been made, e.g. actual minority hiring, contacts which have been established, networks which are in place, and decide whether continued compensation time is required.119

Whatever means we select, our affirmative action plans must be definitive and uncompromising. In its “Statement on Minority Hiring,” the Society of American Law Teachers concludes that, “despite our


119. The SALT Statement explores other alternatives to the traditional ways in which faculty have been recruited and selected:

The recruitment net can be cast more widely by aggressively seeking candidates not just from clerkships and prestige firms, but from all segments of the bar. Good minority students can be actively encouraged to pursue a teaching career while they are not the top students. More weight can be given to professional performance subsequent to law school that indicates potential for success as a teacher and scholar. Good teachers can be hired without reference to curricular needs and these needs met by reassignment within existing faculty. The advice and recommendations of minority colleagues can be sought out and relied upon. We can examine our notions of what constitutes important quality scholarship, encouraging diversity of perspective in style as well as diversity in skin color.

Id. at 3.
best intentions, law school faculties will remain virtually all white unless we impose clear, unalterable obligations upon ourselves by holding designated positions open until they are filled by high caliber minority faculty. We recognize that this is a radical remedy, but are convinced of its necessity.""}^{120}

b. By Discipline

The hiring of teachers trained in other disciplines is also long overdue (and is a need which has merited the attention of several writers in this symposium). As lawyers, we have an enormously chauvinistic and provincial approach to solving individual and social problems. As part of the training we impart to would-be professionals who will be faced with the full range of human pain and conflict, we must incorporate the lessons of history, sociology, psychology, medicine, economics and other disciplines.

Teachers trained in these areas, whether or not they possess a law degree, are invaluable resources and should be hired as full-time members of law school faculties. When our students enter practice, they will take a more holistic approach to problem-analysis and problem-solving. They will be better able and more inclined to produce effective Brandeis briefs and to guide the court with respect to the social consequences of certain policy choices. In addition, students may recognize the value of developing their practices in close consultation with, for example, psychologists, physicians, accountants and economists.

2. Staff Hiring: Integration Again

Integration of the staff by gender and by ethnic background is as essential to our mission as faculty integration. Secretaries and other "support" staff — so labeled, one assumes, to convey secondary importance — are, of course, overwhelmingly female and work "for" a predominately male faculty. (While minority representation on a given law school staff may not reflect population figures, it is, at least, usually greater than minority representation on the faculty). Day after day faculty members experience women primarily in subservient roles. More disturbingly, students observe this relationship, often participate in it when they are given access to staff assistance for special projects, and are inclined to reproduce that hierarchy when they enter practice

120. SALT Statement at 1.
or other professional activities. Again, goals and quotas, set according to population figures, are essential.

3. Student Admissions: The Search for Hearts as Well as Minds

Integration of the student body by ethnic background, gender, and class is the third essential ingredient in the composition of our law school community. Racial integration, in particular, is acknowledged to be long overdue yet seemingly impossible to achieve. And so, we turn out yet another generation of lawyers, arguably our nation’s most powerful profession, that is virtually all white. While the minority community remains grossly under-represented, another class of law students learns about racial problems needing legal redress from a white professor teaching in a white ghetto. Lawyers serving all segments of society should reflect that broad base, yet legal training, both by tradition and as dictated by today’s economy, has been a privilege reserved largely for the aristocracy. With little or no exposure to classmates and colleagues from disadvantaged communities, our graduates are unlikely to develop an interest in serving those communities.

If we expect our graduates to serve working-class and minority clients with any understanding and sensitivity, if not empathy, and if we would like other institutions to open their doors of opportunity, we must take the lead. Goals and quotas, once again, are necessary. As with faculty recruitment, student recruitment requires a significant commitment of resources. The admissions committee — comprised of faculty, staff and students — should be expanded from the norm to include, perhaps, eight to ten members. Student committee members

121. In 1983-84, 9.4% of all law students were minorities, yet the percentage of minorities in our national population was nearly three times that figure. D. Kaplan, *Hard Times for Minority Professors*, NAT’L LAW J., Dec. 10, 1984, at 1.

122. *Washington Monthly* editor Walter Shapiro tells his favorite the-rich-are-different story about a friend who was negotiating with a senior partner at an old New York City law firm: “When my friend accidently dropped a subway token on the rug, the [partner] said, in total seriousness, ‘What is that? A foreign coin? Have you been abroad lately?’” Shapiro, *Craving in Manhattan*, This World, San Francisco Chron. May 5, 1985, at 10.

123. I recall having been told that Florynce Kennedy, a leading civil rights lawyer and a founder of NOW, once commented that “trying to help an oppressed person is like trying to put your arm around somebody with a sunburn.”
(and possibly staff members, as well) should be remunerated, as with any other campus job, in wages or, if appropriate, in credit hours as part of a research project, for example, on law school admissions. Lastly, a healthy travel and support budget is required.

We must begin to develop meaningful admissions criteria and to thoughtfully consider each applicant. All too often under the present system we rely heavily on LSAT and GPA figures (largely "masculine," left-brain measurements), quickly scan personal data and statements, and discourage or outright refuse personal interviews. I have come to believe that this so-called "objective" process reflects not so much a commitment to fairness as institutional apathy and lethargy. The pendulum has swung too far toward anonymity. Personal interviews should be available, at least for that great "middle range" of applicants, on campus or at convenient locations throughout the country, examining, in particular, the applicants' commitment to representing the under-served and the public interest. 124

Age and life experiences should weigh more heavily in the selection process. While there is an arguable correlation between LSAT/GPA figures, law school grades and bar passage rates, I am not sure that we are producing as many of the kind of human beings/lawyers as we might by searching deeply into personal and sociological histories. Furthermore, age itself, irrespective of individual backgrounds, seems to me a relevant factor. I cringe, frankly, at the thought of a twenty-five year-old law graduate wielding the power of an attorney in a world s/he has had little time to grasp. Older students, who have raised families and/or pursued other careers, are usually marvelous students, serious about the endeavor and mature in their perspective.

Those of us who have served on admissions committees of private law schools are well aware of the frustration of competing for minority and working class applicants with state schools charging relatively low tuition. Fundraising for scholarships and loans for these students must become a top priority, integrated into a sliding-scale tuition program for all students. Students paying full fare should know that they are subsidizing low-income students and that their own education will benefit by virtue of integration.

Finally, we must clarify our mission — or redefine it if necessary

124. Encouraging students to serve the under-served upon graduation through tuition rebates and other incentives would provide some students with a legal education which they could not otherwise afford and would be a tangible expression of our commitment to public service. (See Jan Costello's fine proposal herein at 431.)
— so that our primary purpose is not simply to train practicing lawyers. We must emphasize to law school applicants that legal education can be invaluable in and of itself, not simply as a means to an end. In fact, the means is the end, and we would do well to pay attention to the process of growing and becoming, not merely to the content of what a "professional" is imagined to be. And surely we should not promote the expectation that legal education is simply training for the practice of law. All too often students feel obliged to enter practice after investing so much into law school or somehow feel as if they have failed if they do not readily find a position with a reputable law firm. As career counselors for our students, we must make it "okay" for them to pursue other callings, invariably enriched by their understanding of the legal system. Each year I can expect to learn from several of my most energetic and creative third-year students that they are not the least bit sure that they want to spend most of their working hours in a law office. "What I would really like to be is a community activist organizing tenants or workers or single parents, or a union business agent promoting workers' rights — and, in the process, demystify the law. Is that okay?" they ask.

So, as we articulate the mission of our law school in our catalogues and in interviews with prospective students, we must emphasize that while we provide excellent training for the practice of law, including skills courses for those who so choose, our greater goal is to help develop renaissance men and women who will actively participate in their communities.

4. Choosing a Dean: An Opportunity to Examine Our Values and Goals

All too often the academic life leads to "masculine"-type isolation. With the prestige of a professorship, to say nothing of tenure, comes the freedom to ignore the difficult (albeit rewarding) tasks of collective enterprise, institutional governance and community involvement. With but six hours per week in the classroom, there is danger in becoming independent atoms of self-interest, only peripherally aware of our colleagues' endeavors and of broader institutional needs. It is here that the dean (and the dean search process) can draw us back to our collective mission, helping to fuse that web of connection through the rungs of our individual ladders. In holonic fashion, the dean "integrates" into the faculty, while also, as the law school's representative, "self-asserting" into the larger community.
The dean search process is becoming increasingly commonplace at law schools across the country, what with the average deanship lasting but a few years. These searches, enormously time-consuming for the designated “search committee” and for the faculty generally, can make us feel anxious and uncomfortable as we contemplate an ambiguous future, a ship without direction. Often we hasten the process of selection because asking ourself tough questions of purposes and priorities, strengths and weaknesses, makes us squirm. Yet the dean search process can be an extremely effective vehicle for focusing our attention on the values and goals which we have for ourselves and which we bring to legal education. It allows each of us to re-examine his/her visions for a law school, sources of inspiration, and practical and programmatic priorities.

Energy, excitement, innovation — these are contagious qualities. A new dean should have vision, should stimulate us, should be provocative. He or she need not serve as dean forever; perhaps a three- or five-year contract will afford him or her enough time to accomplish a few specific goals and to set a few fires. Like a great teacher, the dean will demand more of us, will make us “stretch.” In turn, we must be sincerely willing to accept criticism, the risks and ambiguities of new approaches, and — at least for a while — more work. Invariably, changes and experimentation will infringe on certain fiefdoms or “pet programs” which we took for granted under a previous administration. Yet loosening our grip on comfort and privilege may have long-term benefits.

A willingness to admit institutional shortcomings need not suggest a mediocre self-image, so long as we dare to experiment with new solutions. A first-rate law school, it seems to me, is one which has the self-confidence, for example, to accept unconventional articles in its law review or to admit unique, but “risky” students. (To paraphrase Colette, we may, on occasion, do foolish things, but we will do them with enthusiasm!)

In some circles, it has been suggested that quantification and cost/benefit analysis are the answers to most of our problems. Rather, I would suggest, vision and imagination should be our first priorities; a leader with these qualities can then tap resources within the community, the school governing board, and within his or her own administration so as to effectuate policy. With the dean as spokesperson, each law school can develop a particular, unique vision for itself. Lord knows, our country does not need just another law school (anymore than each of us needs an epitaph which reads “just another law professor”). No
doubt a number of seeds already planted could benefit from some concentrated nurturing. For example, an existing public interest law program could be expanded and publicized so as to attract students, staff and faculty members particularly interested in these fields. Alternatively, international programs could be funded and expanded to reach a majority of the student body, not just the few who can afford them, and thereby establish a school as the place to go for international studies. Then again, developing a high technology/computer program could become a school's unique mission which would set it apart.

The mission of the law school, and of the dean who represents it, may not fall along particular programmatic lines. We might gear our admissions and financial aid programs toward those who will commit themselves to serving the under-served; or to Hispanics, or to Asians, depending upon our geographic location; or to custodial parents or to older students who have pursued other callings. Our vision might have to do with the way we teach, developed from concentrated research into learning techniques and dependent upon a coherent, sophisticated program of teacher development. Each of us might increase our contact hours, and the school might commit itself to limiting each and every class to, say, fifty students.

There is a lot to be said, of course, for offering a smorgasboard of teaching approaches and course offerings and for encouraging applications from all types of students; in the tradition of academic freedom and the liberal arts, most law schools have always done this. Yet today there is a need in most law schools to develop a focus that will inspire us, something that will excite prospective students, that will make a mark. As a practical matter, we cannot be all things to all people; we can, however, make some choices and earn a reputation for excellence in those "specialties".

Fundraising, an important priority for most every dean, can be a successful endeavor to the extent that we capture the imagination of potential donors by our unique and provocative work. Someone who might not give to a library fund might contribute to a special collection. I, for one, am more inclined to give to my alma mater — or to any institution extending its hand — when it stands for something unique and/or when I can earmark my donation for something related to my own societal concerns and priorities. Corporate donors are no different.

In sum, we should embark upon the dean search process as a welcome opportunity to examine our personal and professional values and, in turn, our institutional goals. And we should ultimately select a dean
who will effectively promote our unique aspirations.

5. **Children on Campus: A Statement of Priorities**

Following the lead of progressive corporations, hospitals, law firms, and university communities, each and every law school should provide a child care center (see Patty Rauch's "dream," page 793). The availability of child care will improve the quality and diversity of the student body — and, in turn, of everyone's law school experience — by facilitating the enrollment of older students who have children, of single parents, and of low- and moderate-income parents. Parents — and I direct this to fathers, in particular — will have a much greater opportunity during their school-day schedules to become involved with their children if there is a child care center on campus.

As noted in Part I, our "masculine" tendencies seek to control nature and aspire to Godhood through the logical ordering of our environment. Because babies don't always share the same agenda, they teach us to take our projects and ourselves less seriously. Marilyn French (and Simone de Beauvoir before her) has written of the "male disdain for the everyday realm," the male perception that women are in a state of "mere being, as opposed to male transcendence," and that the "smell of sweat, excrement, urine, farts, baby spit-up must be banished." Poet Robert Bly speaks of the importance of "learning to live with the wet and the moist." He asks, how can men "stop being at 10,000 feet? Put your hands in baby shit!"

A child care center is a statement that we are committed to developing holistic lives involving a balance of family and professional pursuits. And to the extent that we encourage parent-child conduct in and about the work place, our graduates will influence the policies of law firms, which largely remain entrenched in the self-serving male paradigm of separating the public and private spheres.

6. **Physical Environment: One-Dimensional "Men"?**

Through new admissions and hiring processes and a child care...

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125. M. French, Beyond Power 190 (1985) (referring to de Beauvoir, The Second Sex (1952)).
126. *Id.*
127. *Id.*
129. *Id.*
center, we are attempting to create a community which is populated by both sexes, various ethnic groups and all ages. Our physical environment, as well, should manifest our commitment to integration and synthesis by reflecting our interests and activities as whole persons. As professional educators, we must learn how architectural and interior design choices affect human relations, “team” development, morale and productivity; we must appreciate the effect which space and design have on classroom dynamics and learning effectiveness.

I also wonder sometimes whether lawyers as a breed are peculiarly inept at, or simply insensitive to, landscaping and interior decoration, as if it were an obligatory concession to our feminine side. Law school buildings are notoriously dreary, and faculty offices are designed and decorated as if we were reluctant to reveal our various and multi-faceted selves. I recall vividly as a law student visiting faculty offices furnished with a government-issue style metal desk and file cabinet, two marginally functional chairs, shelves of books on law but little else, fluorescent lighting, and, of course, the family photograph. No texture, no color, no warmth, no flowers, no soul. Our classrooms convey a similar message: often windowless, devoid of color and art work, lest the world outside distract students from their linear pursuit of intellectual achievement.

If “professional appearance” means one-dimensional sterility, let us break the mold. Our offices can be a place for individual artistic expression, our common areas and classrooms a place for murals and other art work and our outdoor grounds a place for creative landscaping and gardening (as well as an additional opportunity for student employment). We have the opportunity to interact with the community — and with other university departments, from which the law school has tended to remain aloof — by displaying the work of local artists and/or by borrowing art work from the university’s art and photography departments or from the local museum.

None of us, really, is as one-dimensional as we might appear.

* * * *

With the law school’s population and facility in place, let me offer a number of proposals relative to the functioning of each group and to their inter-relationships.
B. Campus Life

1. Law School Constitution and Code of Conduct: Democratic Governance and the Administration of Justice

How might the law school’s constitution and code of conduct and the work of the school’s court of justice reflect Carol Gilligan’s “web of connection”? Fundamentally, the constitution and code of conduct should apply to all members of the community, i.e. faculty, staff and students, and the court of justice should be comprised of representatives from all three groups. Likewise, constitutional provisions for governance, including all committee assignments, should include student and staff representation. Thus, faculty and staff members would be subject, for example, to provisions of the code of conduct, and students and staff would serve, for example, on faculty hiring and student admissions committees.

Why is community-wide participation so important? My vision of our role as legal educators includes more than teaching legal analysis, legal research, written and oral expression, substantive law and other identifiable legal skills. I seek to be part of an institution which can serve as a model for the community-at-large. In part, this involves creation of a learning model for participation in decision-making and dispute resolution. More fundamentally, the model necessarily reflects the degree of respect we afford one another, the sense of community we wish to develop and the kinds of values we wish to encourage in our students.

Over the years, we all have heard from numerous students and alumnæ/i who have expressed a real sadness, sometimes resentment, arising from their sense of isolation and alienation during their law school experience. Likewise, staff members often speak of their jobs as boring and uninspiring, according them little respect, low pay, minimal flexibility and virtually no opportunity for advancement (see section 2 below). By precluding students and staff members from full participation in community governance, the message which we convey is that we do not value their contribution and that we do not trust their judgment. It is no wonder that students, in particular, become alienated, want to escape from the institution as quickly as possible and become uninvolved alumnæ/i with no sense of every having been appreciated by the institution. We cannot expect a commitment to the institution, as students or alumnæ/i, if we do not convey that we value their participation. “Pride of ownership” invariably deepens one’s emotional investment, which manifests in a renewed vigor in the classroom or on
the job, in school activities and, down the line, in alumnae/i support.

It seems that often we do not afford students and staff members the respect that they deserve. By virtue of nothing more than their chronological age, students deserve not to be casually labeled as “kids,” or the staff members as “girls”. At times we generalize that students and/or staff members are “mediocre” and “unsophisticated”; we then “confirm” that notion by discovering that when we treat them that way, they fulfill our expectations. On the other hand, when we challenge them and work every bit as hard as we expect them to, we are rarely disappointed.

We should tap the extraordinary wealth of experiences and diversity of backgrounds which our students bring to the educational setting. Educators, doctors, nurses, business persons, government officials, personnel directors, accountants, psychologists, scientists, paralegals, sales persons, social workers, construction workers, secretaries, law enforcement personnel — and all under one roof. These fellow adults are here to gain the benefit of our expertise in a particular field of law. While we were pursuing our own careers in law, many students were pursuing other endeavors which now add to the richness of their collective experience here at the law school and from which we ourselves can learn.

Students and staff members are far more likely to act responsibly when we given them responsibility. The governance process will benefit from the contribution of their viewpoints, the institution will benefit from an increased level of participation in and commitment to the law
school experience, and the student and staff representatives will benefit from working intimately with lawyers/educators in the process of making difficult decisions.

a. Committee Composition

Those who would object to meaningful, not mere token, representation of students and staff on core committees usually contend that 1) they lack experience, 2) they are transient and have only a passing investment in the law school, and 3) their presence will inhibit committee discussion (alternatively stated, students and staff are not trustworthy with regard to respecting confidentialities). Using, for example, the work of a typical admissions committee, I would dispute these conclusions.

1) It is alleged that student and staff representatives are unable to render sound judgments with respect to applicants' qualifications for entering law school and the legal profession. Two of the primary factors to be considered are, of course, each applicant's Law School Admissions Test (LSAT) score and grade point average (GPA). We are all capable of digesting these figures. Of course, we may have different views as to how much weight to give these factors, i.e. whether other factors, such as work experience and extra-curricular activities, should weigh more heavily, but there is no reason to believe that these differences necessarily fall along student-faculty-staff lines.

Situations may well arise when a certain faculty member can offer some unusual expertise with regard to a particular candidate or a particular aspect of a candidate's file. I recall, for example, that during faculty recruitment committee deliberations, occasions have arisen when other committee members have had information about a certain law firm for whom a candidate had worked or about a certain graduate program in which the candidate had participated. If I had no information of my own, I would defer to the judgment of my colleagues; likewise, I would expect that each of us on the committee, including the student and staff representatives, would have the wisdom to defer to our colleagues when they have particular knowledge or expertise pertaining to a given subject. Such is the nature of genuine authority, which is based on competence and which helps the person who leans on it to grow, as opposed to raw power, which serves to exploit the person subjected to it.

Finally, I believe that the student and staff representatives may well offer a different and valuable perspective on candidates and their
qualifications and, in some cases, offer greater expertise than our own. An older student or staff member might bring his or her training in other disciplines and general life experiences to the assessment of individuals, their motivations, and their capabilities. A recent college graduate might have a greater understanding of his or her peers and might be more attuned to today’s undergraduate campus life and the relative value of certain courses and extra-curricular activities.

2) It is said that students and staff members are transient and have only a passing investment in the law school. Few propositions can develop into self-fulfilling prophesies as quickly as this one, and, by promoting this attitude, we perform a great disservice to the law school.

In my experience, turnover among staff members is not significantly greater than turnover among faculty members, notwithstanding the lack of job security and opportunity for advancement for staff members. And in most law schools, the employees who have given the most years of loyal service include staff members as well as faculty. Yes, students are enrolled for only three or four years (though many faculty members do not remain at one school for much longer), but we hope that their support for and involvement in the law school will continue for a lifetime. That depends in large part on the degree and quality of participation and fulfillment which they acquire during their law school years. If we promote the view that their participation should be restricted because they are only transient members of the community, we sow the seeds of our own destruction. It is no wonder that we have problems of morale and of wide-spread apathy and that so many students regard the law school experience as nothing more than a means to an end.

3) It is said that the presence of students or staff members at committee meetings will inhibit discussion. The admissions process involves, among other things, reading and commenting upon personal information in an applicant’s file. In addition, comments may be offered regarding members of the student body who attended an applicant’s school or who share certain similar qualifications. Apparently, some faculty members who serve on admissions committees would be reluctant to talk openly in front of students and/or staff representatives for fear that they would breach the confidentiality of the admissions process. Of course, by creating this “us/them” distinction, we foster distrust, alienation and an adversary relationship. But if we treat with respect our adult colleagues, who happen to be law students or staff members at this point in their lives, they will, in turn, respect the insti-
tution and the confidential process of which they are an integral part. Faculty members, I suggest, do not have a monopoly on integrity.

b. Law School Constitution

While democratic governance is an essential element of "process" under a model law school constitution, substantive law, as written in the constitution and as interpreted by the court of justice must also reflect this ethic of care and community responsibility. If society's duty to its members is not limited to respecting their zones of non-interference, but extends to the responsibility for preventing or at least alleviating harms that are dehumanizing, we should adopt an equal protection jurisprudence for the law school community which is more inclusive than that which presently prevails at the federal level. Applying Ken Karst's suggestions to the law school environment, I agree that we should 1) abandon the intent requirement, 2) abandon or at least liberalize the state action requirement, and 3) recognize poverty as a suspect class.

Societal discrimination is perpetuated, in large part, because the judiciary has stripped the equal protection clause of its potential to be a useful tool in combating subtle, albeit pervasive forms of discrimination. Lest we produce this pattern in our model community, we must recognize that discriminatory intent is well nigh impossible to prove — and "overwhelming impact" but hollow words — and that, more importantly, the doctrine misdirects attention from the plight of the victim to the actor's state of mind. If we are to value connectedness as much as autonomy — if truly your pain is mine, if we all suffer when one amongst us goes hungry — we must focus on who is "left out". Obsessive preoccupation with proximate cause and assigning blame has produced little progress. Thus, for example, claims by law students that the value of their legal education has been diminished because of institutional segregation could not be successfully deflected by an institution which would seek to pass the buck by pinning the blame on amorphous, unidentifiable social forces. Likewise, comparable worth claims asserted by female staff members could not be repelled on the basis of "God-given" market economics.

The state action doctrine, as reflected in contemporary case law,

130. Karst at 494.
131. Id. at 493.
also serves to perpetuate the exclusion of historically disenfranchised
groups from full participation in our law schools, especially those
deemed to be "private". Yet, as Karst notes, two exceptional cases —
*Shelley v. Kraemer*¹³³ and *Reitman v. Mulkey*¹³⁴ — which the present
court has so narrowly construed as to be virtually useless, "would rest
comfortably on a doctrine recognizing a state's affirmative obligation to
protect against private racial discrimination."¹³⁵ By abandoning or, at
least, by vastly liberalizing the state action doctrine in the law school's
constitution, heretofore autonomous student organizations and clubs,
for example, would be subject to discrimination prohibitions and af-
firmative action obligations. Furthermore, as I discussed several years
ago in the context of prestigious men's clubs, the abandonment of tradi-
tional state action limitations would not imply "wholesale judicial in-
trusion"¹³⁶ into intimate groups, families and other purely social
entities.

Thirdly, we should recognize poverty as a suspect class and, in the
process, reject the underlying philosophy which apparently prevails on
today's Court: that rich and poor alike are entitled to sleep under
bridges, that one may simply pull oneself up by one's bootstrap in this
land of equal opportunity, and that a free market economy is somehow
constitutionally mandated. If we are to accept an affirmative responsi-
bility to prevent the kinds of harms, i.e. severe poverty, which effect-
ively precludes people from participating in our society — if we are to
do more than simply respect zones of non-interference — discrimina-
tion against the poor deserves the strictest scrutiny. Thus, in our model
law school community, tuition, books, cafeteria food, summer programs
abroad — whatever we deem important in the educational process —
would be priced according to one's ability to pay.

In sum, equal citizenship means more than non-interference, but
inclusion as well. We need, in Karst's words, a "jurisprudence of
interdependence."¹³⁷

c. Judicial Review

As noted in these proceeding paragraphs, democratic governance

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¹³³ 334 U.S. 1 (1948).
¹³⁵ Karst at 493.
¹³⁶ Id.
¹³⁷ Id. at 495.
and substantive constitutional protection are essential ingredients in our law school community. In addition, I would propose an active system of judicial review, one which openly and purposefully invokes the emotional as well as the cognitive, when cases involving conduct violations are appealed within the law school's judicial system.

The more conservative view of the judiciary's role, whether it be a state or federal bench or the law school's honor court, is that it should avoid value choices and policy making, properly the domain of the legislature, which reflects the political market place. Judicial review is regarded as a narrow, infrequent undertaking, confined to statutory interpretation, leaving to the lawmakers the business of defining substantive rights which (in a masculine, capitalist model) lie within "assigned zones of non-interference." 138 Under this view, members of the law school's court of justice would simply interpret and apply the law school's constitution and other governing rules to a given fact situation; thus, the task of a judge entails "no personal responsibility to do justice, has nothing to do with the effectuation of substantive values, [and] is unconcerned with the building of a [community], except as those goals were embodied in the specifically defined or clearly understood original intentions of the framers." 139

Active judicial review, on the other hand, would draw from the morality of both the ladder and the web, seeking especially to preserve relationships, given the ongoing context of the law school experience for those of us who are employed here and for those who are students-soon-to-be alumnæ/i. Focusing on the real effects on real people, a vital judiciary would "bring into the masculine citadel of justice the feminine plea for mercy." 140 This is not to say that the principle of uniform rule enforcement is to be ignored, simply that it need not be the ultimate measure of a successful society. Karst explains:

   Value choices made by the market or imposed by legislative bargaining are worthy of respect, but if they seriously damage the web of connection, they should not be allowed to stand. Judicial review, far from being an aberration, is what lends legitimacy to the legislature's normal pursuit of self-interest, that is, the interests of those constituents who are able to influence legislators' behavior. In this view, the separation of powers is not a principle commanding wholly independent branches of government, but a system of

138. Id. at 501.
139. Id. at 502.
140. Gilligan at 105.
interaction, of checks and balances. Judges are 'sentient actors', with their own responsibilities to real people and with the more general responsibility to contribute to the maintenance of a community; no one should be left out . . . .

2. Democratizing the Work Place: Staff Salaries, Job Definitions and Working Conditions

If our institution is to serve as a model for a world in which each person's contribution to the collective good is valued and in which hierarchy is minimized in deference to connection, we must redefine staff roles and transform the relationship of faculty and staff. One observant student has written about how students are influenced by patterns of faculty/staff interaction:

The traditional legal hierarchy, that is, the structure of secretary, clerk, associate, junior partner, and senior partner, is initially perpetuated through the law school hierarchy among student, staff and faculty. First-year students are introduced to the structure immediately upon entering the traditional law school. They notice the differences the administration accords professors and secretaries. The professors have quiet, private offices, while secretaries are usually relegated to a noisy 'pool'. The secretaries screen calls for their 'bosses' as opposed to individualized phone answering. Professors rarely make their own xerox copies nor do any typing. In short, the division of labor is rigid. Secretaries perform the necessary administrative tasks, which often include making coffee, taking and relaying personal messages, and perhaps even running personal errands for their 'superiors'. Law professors and their brother lawyers treat 'the girls' as their functionaries who exist solely for the fulfillment of their professional needs. Lawyers-to-be watch all of this and learn.

Hierarchy takes many forms. With a few exceptions, faculty salaries are anywhere from two to six times staff salaries. As professors, we receive prestige, perquisites and ego satisfaction and enjoy our work far more than do most other members of the law school staff. As pleasant and generous as we may be, we spend our days in the safety and comfort of a power relationship over staff and students. While secretaries

142. Cathy Lindsay, Nova '84, unpublished manuscript on file with author.
are confined to their cubicles from nine to five, we enjoy extraordinary flexibility, working virtually any hours we choose, at home, in our private offices, or on the road. Our work need never become dull and routine with the continual flow of new students, new courses and new projects. We are entitled to attend conferences, accept visitorships, take sabbaticals and seek tenure. We have a realistic opportunity for professional advancement.

Faculty members and secretaries should be working together as a team, intimately aware of each other's work habits and schedules, getting to know each other as colleagues and meeting together periodically to discuss our working relationships. Given our faculty status, our salaries and flexible hours, such hierarchy and isolation fosters, from a values standpoint, elitism and, from a practical productivity standpoint, mediocrity.

Elimination of institutional hierarchy encompasses reduction of salary disparity among all employees, flexibility and interchanging of roles, and shared decision-making powers. Such a transformation has been effected by various law firm collectives which necessarily attract individuals who are as committed to the democratic operation and goals of the firm as to the compensation provided by the firm. For example, at the Community Law Office in San Francisco, staff members and attorneys receive equal pay. Everyone who has worked with the collective for at least two years has an equal voice in decision-making, a process of consensus which addresses such issues as hiring, firing, budget, work hours, holidays, and case selection. Role interchanging and the division of labor have evolved through the years according to individual skills and interests. Legal workers without law degrees have been trained to do intake and conduct investigations in addition to performing most of the clerical duties. One of the founding attorneys, Paul Harris, has expressed the underlying rationale of a more egalitarian work place, explaining that the possession of a law degree does not impute more value to that person than to one who, for example, has spent ten years actively involved in the community.

The legal profession has maintained a well-kept secret. For years, women secretaries have been writing basic civil complaints and doing much of the legal work in probate, bankruptcy, marital dissolution, welfare and unemployment cases, while the lawyer

143. Personal conversation with Paul Harris, founding member of the Community Law Office.
meets with the client, goes to court, takes a vastly unequal share of the fee and takes all the credit. It is a goal of law collectives to pierce this veil of elitism and mysticism and to redistribute the profits.\footnote{Harris, \textit{Law Collectives}, \textit{People's L. Rev.} 174 (1983).}

Harris further notes that, while attorneys' receive ego gratification as an added bonus for handling cases, legal workers do not. To address this inequity, the Community Law Office has developed other ways to "build the skills, confidence and power of the legal workers."\footnote{\textit{Id.}} They go to court on many of the cases on which they are working; they take responsibility for chairing weekly office meetings to develop public speaking experience and the confidence to speak their minds; and they often represent the office at conferences and at law school seminars. Although these activities have been time-consuming and, at least in the short-run, hardly cost-efficient, "the end result has been a more politically effective and more human law collective."\footnote{Kennedy, \textit{Legal Education and the Reproduction of Hierarchy}, 32 \textit{J. Legal Educ.} 591, 615 (1982) [herinafter cited as \textit{Kennedy}].}

Invoking democratic principles into the operation of our model law school may not require that salary discrepancies be eliminated altogether. People with families, for instance, may require more income than a person without dependents. As a result, a more sophisticated process of salary determination may be instituted, as at New College of Law in San Francisco, which incorporates criteria such as number of dependents, personal wealth, and individual needs.

Some discrepancies within staff and faculty salaries may be regarded as a product of legitimate hierarchy. Degrees earned and seniority, for example, may provide the bases for salary gradation. At Antioch Law School in Washington, D.C., where the faculty is unionized, the root of the faculty salary scale is the date of graduation from law school — the greater the experience in teaching or in practice, the larger the salary. A similar scale could be devised to include staff members as well.

Job definitions and working conditions for the law school staff must undergo a major transformation. Divisions of labor can be reduced "by adding functions within existing job classifications and reducing the total number of kinds of jobs."\footnote{\textit{Id.}} Providing opportunities to
learn and perform other jobs will reduce boredom, increase productivity and promote individual growth; nor need these new opportunities be defined in the traditional, hierarchial language of the "lateral transfer" or "vertical promotion".

One small way to afford secretaries some control over their work environment is to abandon the practice of "assigning" secretaries to certain professors, and to provide that the secretaries, among themselves, select the professors with whom they will work. In time, this selection process might become a joint faculty-secretary effort, but for the time being, a wholesale shift in power on this small matter seems appropriate.

Faculty members and administrators should encourage staff members to enroll without charge in law school courses, thereby deepening staff members' understanding and appreciation of the law school's purpose and of the experience of the law student, as well as furthering their own personal development. Additionally, we should invite staff members to attend faculty forums where colleagues regularly discuss their works in progress, thereby lending context and meaning to an otherwise impersonal typing assignment.

Flexible time schedules should be initiated so as to accommodate personal needs and schedules as much as possible. If institutional efficiency and faculty productivity are said to be harmed, perhaps faculty "flex-time" ought to be reduced and personal schedules revised.

Exchange programs with other law schools should be developed, modeled after the faculty visitorship system. Exposure to the secretarial or library systems, for example, at other law schools would provide us all with fresh approaches and would provide the individuals involved with new scenery and new ideas. Sabbaticals should be available for staff members as they are for faculty members; where a system of tenure or long-term contracts is available to faculty members, so should it be for staff members.

Finally, in the spirit of interchanging roles among the staff, students and faculty, staff members should be hired to teach, co-teach or guest lecture in courses in their areas of expertise. Experienced librarians, paralegals and legal secretaries, for example, may be well qualified to contribute to the research and writing programs. Certain individuals may have previous experience or academic training in other fields which bear upon certain courses in the curriculum.

A note of caution: Reluctance on the part of staff members to accept new job definitions and to heartily embrace a more egalitarian faculty-staff relationship should not be invoked as an argument for pre-
serving the status quo. Staff members have been conditioned within a system of hierarchy as much as we have. They may be less psychologically able to afford to contemplate new paradigms for working relationships, and they may be understandably suspicious of benevolent plantation owners bearing promises of equality.

3. Faculty: Improving Teaching and Reducing Hierarchy

I offer several proposals designed to improve the quality of teaching and to transform the hierarchical relationships among faculty members, staff and students.

Because teaching is a "feminine" skill involving "relationship," it has been accorded little attention in the male world of law. Emphasis has traditionally been placed on content, not process, on the mere transmitting of accurate, up-to-date information. Perhaps because most of us regard ourselves as lawyers (or scholars) first and teachers second, our commitment to teacher training is minimal. We are lawyers, so we assume that we can teach law. Rarely do we seek guidance or participation from trained educators, much less from psychologists, choreographers and other experts in "unrelated" fields.

Formal teacher training programs — such as certain LL.M. programs or graduate education programs — can be very beneficial, but may not be suitable or necessary for all of us. Periodic A.A.L.S. teaching conferences have been excellent, yet their greatest value is in inspiring on-going teaching seminars back on our law school campuses. In-school seminars, for veterans and novice teachers alike, cannot help but improve individual effectiveness and increase a sense of shared purpose. Discussion among ourselves and with outside experts, addressing teaching techniques and the psychology of learning theory, might well include the relative advantages of various teaching methods, the dynamics of class size and seating arrangements, modes of active and passive learning, the use of audio-visual equipment and computers, and the processes of feedback and evaluation.

Regular class visitations by a colleague can be of great benefit to both the teacher and the visitor. Every other semester, perhaps, each of us should visit a colleague's class on a weekly basis to offer guidance as well as to pick up pointers for our own teaching. Sporadic class visitations on the eve of retention and promotion decisions — as is the general practice these days — are of marginal value, are likely to produce distorted characterizations, and underscore our lack of concern for institutional teaching standards, for our own professional development
and for that of our colleagues.

Once every three years, each of us might enroll as a student in a law school course. The advantages are at least four-fold. First, we would increase our own knowledge of various subject areas; there are numerous areas of the law about which I, for one, am hopelessly ignorant or, at least, know little of recent developments. Second, we would have a greater understanding of the substantive and pedagogical problems pertaining to our colleague’s area of expertise. How often, for instance, can we offer helpful comments to our colleagues regarding prerequisites, credit allotment, and syllabus development in subject areas which are foreign to us? Third, by participating fully — attending, reading, studying and being examined — we could offer meaningful feedback on our colleague’s performance as a teacher. Finally, enrolling in a course every three years will give us an appreciation of the students’ perspectives, which, in turn, will vastly improve our teaching. For most of us, our student days are a distant memory, and we have little experiential appreciation for the psychology of learning theory. What better way to see if (or what) we are actually communicating than to move to the other side of the podium.

Becoming stale, provincial, and narrow-minded are hazards of our profession — and, perhaps, of growing older. How easily we fall into the comfortable routine of teaching the same material year after year and of addressing matters of school policy from an increasingly predictable, “knee-jerk” frame of reference. There are countless ways to keep fresh, but we must encourage one another. Teach new courses every few years (see Lucy McGough’s comments, page 671). Engage in scholarly research and writing. Roger Cramton reminds us that we are fooling ourselves if we believe that we “can maintain freshness, depth, and interests through a lifetime of law teaching without engaging in the discipline and creative effort of scholarship. The wells will run dry, the message will become jaded, the stimulating younger teacher of thirty-five will become the old bore of fifty-five.”148 Write about things we deeply care about, “for it is the passion of the scholar that makes for truly great scholarship.”149 “Caring,” writes Barbara Bezdek, “is what commits the whole of me to what I am doing; care is what taps into my most effective energy.”150 Legal scholarship need not be a

150. Dworkin at 40, quoting Barbara Bezdek.
waste of time. Scholarship can probe and explain social problems and offer solutions which go beyond case analysis and statutory interpretation. It can open up a whole new network of academic colleagues, lawyers, politicians, and community activists, providing new ideas and new perspectives. Scholarship can integrate our personal and political concerns, while bringing definition and groundedness to our dreams of a better world. And sometimes we have an impact, we produce results. Best of all, perhaps, the “energy that flows from the integration of the legal, personal, and political”\textsuperscript{151} nurtures our selves and is highly contagious, as well.

Some simple adjustments in our work lives can make a real difference. Vary committee assignments, even vary office assignments, to get a new “view” on the world. Accept visitorships periodically to see firsthand how things are done at other law schools. Take the kinds of risks, experience the kind of exposure which we demand of our students. And, when the pressure mounts, take a sabbatical break or a leave of absence. Sylvia Law observes:

Successfully advancing on today’s tenure track demands devotion of a substantial portion of our lives to meeting other people’s expectations. Students expect us to be simultaneously authoritative and entertaining. Colleagues expect us to produce scholarship, meeting standards of excellence that are both rigid and elusive. After decades of meeting the expectations of others, it is very difficult to know what we want, who we are, and what we think . . . We need to cultivate tomatoes and relationships with people we respect and enjoy. Friends help us know who we are and what we believe.\textsuperscript{152}

In short, sabbaticals are a key to mental health.

To avoid “brain death,” tenure should be replaced with long-term, albeit renewable contracts. We might consider, for example, limiting one’s service to an institution to seven or eight years, or at least requiring between contract periods a two- or three-year hiatus devoted to teaching elsewhere, practicing law again in one’s area of academic expertise, or pursuing another calling.

As indicated above, salary ranges ought to be standardized according to an objective formula. Upon review and evaluation by the dean,

\textsuperscript{151} S. Law, Professor Worries About Death After Tenure, SYLLABUS, ABA Section of Legal Education and Admissions to the Bar 5 (March 1985).

\textsuperscript{152} Id. at 1.
other professors, staff, and students, meritorious service above that which is normally expected should be rewarded with file letters, recommendations, honorary grants and awards, or if need be, a promotion in rank. Ranking, however, seems unnecessarily divisive, drawing distinctions of questionable validity and encouraging misdirected attention. It is another manifestation of obsessive fragmentation and compartmentalization within the institution. Nor does it serve a healthy purpose by promoting our individuated, "ladder" orientation to professional success. Furthermore, decisions to promote are based primarily on one's publishing record — largely an intellectual, individually-oriented endeavor — rather than on one's teaching record — an other-directed, relationship-based activity. Teaching effectiveness defies objective measurement, so it is said, and thus is accorded less attention and less weight in the evaluation process. In addition, ranking may convey a misimpression to the student body. When preparing to register for classes, would students be correct in assuming that "full" professors are better teachers than "associate" professors? Not in my experience.

Finally, I would suggest a practice which is central to the life of intentional communities throughout the world, communities committed to democratic values and mutual understanding — that is, interchanging roles within the community. For one month each year, for example, faculty members might perform clerical duties (typing, copying, filing, answering phones), assist in the library, do grounds keeping or janitorial services or work in the day care center. As Paul Harris noted in the context of law collectives, any short-term efficiency loss is well-compensated for in long-term "holistic" gain.

4. Students: Transcending Role

We have discussed the importance of a heterogenous student body, integrated by race, gender and class, of a sliding-scale tuition, and of student participation in the governance of the law school. In addition, as part of our web-like model, we must creatively devise ways in which students are able to transcend their student status within and beyond the law school. Part-time employment as staff members and as teachers should be encouraged. Not only can students fill library positions and do clerical work, they can tutor and teach in various capacities. Many students today are embarking on law as a second career and have a wealth of experience which can be integrated into the curriculum. For

153. See also Kennedy at 615.
example, English teachers, writers and editors can assist in the writing program and paralegals in the research program; doctors and nurses can offer lectures in worker's compensation and medical malpractice seminars; law enforcement personnel in the criminal law courses; union members and officials in labor law courses; business persons in contracts and corporations; social workers, therapists and parents in the family law tract; and government officials in their particular areas of expertise. Once students are admitted to law school, their backgrounds should be reviewed again for an eye for potential curricular contributions. An energetic commitment to using these resources within the student body will go far towards eliminating illegitimate hierarchy, transforming law school into a process of adult education rather than of regression to childhood, and helping individual students defray educational costs.

5. The Classroom: The Importance of Context, Caring and the Human Scale.

a. Context

All too often I have taught cases with such a singular focus on uncovering legal principles that I have stripped the event of any human dimension. Who among us does not hear a familiar ring as we read William McAninch's honest account of his early teaching days?

The quest for the rationally relevant dominated my classroom. The personal experience, the curiosity about what happened on remand after the appellate opinion we were studying — these and like concerns were rewarded with the demeaning phrase, 'That's irrelevant,' and sometimes with the condescending explanation that we were there to master principles of law and to develop dexterity in manipulating them.¹⁵⁴

Rather than teaching countless cases bereft of facts, we need to devote some attention to teaching cases in context. Furthermore, legal realism demands that we not deceive ourselves about the purity of legal rules and the consistency of their application. Contextual morality can be translated into law without violating the "rule of law." Notwithstanding the traditional wisdom of law school case book editors, the facts of each case (including the identities and backgrounds of the par-

¹⁵⁴. Dworkin at 50, quoting William McAninch.
ties and the judges) do make a difference. Says Karst, "[T]here is no escape from contextual judgment if the judge wants to do a decent job." Contextual facts may be "legally irrelevant [but they are] morally central" if we are to avoid the tunnel vision and amorality of the hired gun.

As teachers, we must approach our course content as well as our students from a perspective which honors the "feminine" web of connection as well as the "masculine" ladder of hierarchy. Those who insist on the need to appreciate the whole context in which moral issues arise are driven "to widen inquiries, to redefine issues, to expand the range of possible solutions." We can attempt to address problems or cases from an integrated, multi-disciplinary perspective. Categorizing problems in an obsessively fragmented fashion (for example, "Is this a contracts, tort or constitutional law problem?") is becoming an increasingly unrealistic and misdirected endeavor as we recognize the inherent inter-relatedness of human problems and problem-solving. Rather, we need to examine the impact on the parties involved from a psychological, sociological and economic point of view; so, too, with solutions which are proposed (see Joe Grodin's comments, page 547).

b. Ambiguity and Paradox

Tolerating ambiguities and accepting paradox — the co-existence, the "truth" of polar opposites — reflect a wisdom which, more often than not, has eluded me. Yet I am convinced that, in the words of E. F. Schumacher, "society's health depends on the simultaneous pursuit of mutually opposed activities or aims — stability and change, tradition and innovation, public interest and private interest, planning and laissez-faire . . . growth and decay." In the field of law, we experience the competitive tugs, for example, of freedom and order, individualism

155. Karst at 497.
156. Id. at 499.
157. Id.
158. See Jay Feinman and Marc Feldman's description of their "pedagogically and conceptually innovative course in contracts, torts, and legal research and writing — 'Contorts'," Feinman and Feldman, Pedagogy and Politics, 73 GEO. L.J. 875 (1985). See also, the experimental first-year section of "coordinated teaching" at Harvard Law School, described by Todd D. Rakoff, A Great Experiment, HARVARD LAW SCHOOL BULLETIN, 22 (Winter/Spring 1985), and the CUNY Law School at Queens curriculum described in Charlie Halpern's article herein.
and equality, the uniform application of law and its subjective application in particular contexts, honoring and dishonoring precedent. Rules preserve order, while exceptions preserve our humanity.

As teachers, we must do our best to impart the wisdom of accepting ambiguity and paradox. In many ways, our students’ happiness and success in life depends on it. I recall a conversation with a nurse while I was donating blood. As she inserted the needle into my arm, she commented that her daughter was about to enter law school and would be “a great lawyer because she was so good with numbers and rules.” Under the circumstances, I nodded politely but was saddened by the reminder of this misperception, both within and without our profession, of what it takes to be a good lawyer.

We must continually remind ourselves and our students that there are no “right” answers, only arguments more or less persuasive. Our obsession with the minutiae of particular cases and with finding “black letters” (and then often forcing them to fit like a frustrated jig-saw puzzler) reveals our reluctance to acknowledge that the world is not a perfect fit, that the world cannot be compartmentalized through the omnipotence of logic. As one student has commented, there is “an overwhelming desire for control, order and certainty manifested in our method of solving problems. We lawyers and students help create so much particularistic garbage we can’t see the forest anymore.”

c. Class Size

Creative and effective teaching is dependent, in part, upon manageable class sizes. Filling large lecture halls and generating additional tuition smacks of consumer fraud. No law school which portrays itself as a “teaching” institution can maintain class sizes of seventy-five to 150 students in most required and highly recommended courses. Class size does, in fact, affect learning; a class of 130 students is different from a class of 100, from one of 70, from one of 40 (although the increments reflect differences in different ways).

For too many students, their experience of law school has been anonymous and impersonal. Citing a 1975 study of higher education, Roger Cramton notes that “student-faculty relationships are more impersonal in American law schools then in any other field of graduate and professional education.”

160. *Dworkin* at 170, quoting Marcia Eisenberg.
and distrust is reflected in faculty attitudes, where fully “fifty-five percent of the law faculty . . . felt that a teacher could be effective without personal involvement with students.”162 “Law classes are too big and the student-faculty ratio too unfavorable for us to know, even casually, the vast majority of our students,”163 writes another. When we fail to identify and respond to individual needs and modes of learning, we turn out large numbers of uninspired graduates whose potentials were never fully tapped.

Sound pedagogy demands that we drastically reduce class sizes. As educators first and lawyers second, we must be more aggressive in creating an environment which promotes active, not passive, learning and which recognizes the value of individual and small-group attention. How about a “real graduate school with a student-faculty ratio of 10-1?”164 If budgetary constraints preclude any immediate reduction, we must at least 1) more evenly distribute among faculty members the number of students taught each semester, and 2) teach two sections of at least one of our courses each semester, i.e. what is measured as seven and one-half units (assuming three-unit courses), instead of the standard six-unit semester load.

d. Coercion and Choice

The experience of passive, nearly lifeless class sessions is more familiar than any of us would like to admit. The prevailing cause of this condition, I suggest, is the students’ perception of coercion — that she/he is in law school in the first place to fulfill others’ expectations, that the course is required, that class attendance is required, or perhaps that she/he is called on to answer questions in class. These perceptions create easy ways for students (and faculty) to avoid responsibility. On the other hand, if a student chooses to enroll and be present, she/he feels able to participate, to take risks, to develop and learn; “those . . . choosing to attend may well find themselves free of the deadening passivity that the victim psychology engenders in the classroom.”165 As a teacher, I must acknowledge that external requirements do, in fact, exist for students, and I must be absolutely clear in each course how

162. Id.
164. Id.
165. Dworkin at 140, quoting Howard Lesnick.
much student choice I am permitting — required enrollment? attendance? preparation? participation? For sound pedagogical reasons, I may impose various course requirements, but I should know that the trade-off for reducing choice is increased passivity.

It is my experience that developing among students a sense of individual choice and responsibility to one another will dramatically increase attendance and class participation. One of my most rewarding teaching experiences occurred three years ago, when, with the good counsel of my colleague Dinesh Khosla, I relinquished to my seminar students control over course requirements. Although it was an elective seminar with only twenty students, the lessons learned were not without value. Perhaps because I was a known (and trusted?) quantity, the class, after three hours of animated discussion, ultimately deferred to my expertise in choosing course materials, while suggesting a preference for certain subject areas. We settled on reasonable assignment lengths and a course requirement of several papers and an optional exam. Most importantly, the students believed that preparation and attendance were extremely important and constituted a mutual obligation which each student shared with the others. Devising sanctions, they felt, was unnecessary, but the sense of responsibility was overwhelmingly clear. At the semester’s end, one student had missed one class.

e. Caring and Cooperation

The extraordinary pressures of the law school curriculum have fostered, generally speaking, an individually-oriented, highly competitive attitude among students. Even the apparent collective efforts, such as “study groups” and law review, are utilized by most students as a practical means to further individual, not collective success. There is danger in over-emphasizing the values of individual achievement in relation to community responsibility. In terms of substantive law, for example, it has been said that “teachers teach students that limited interference with the market makes sense and is as authoritatively grounded in the statutes as the ground rules of laissez-faire are grounded in natural law.” Similarly, in the process of traditional law school teaching, we convey an “every man for himself” philosophy which, in turn, will produce the kind of individuated, isolated and imbalanced lawyer for which our society has become infamous.

In light of this prevailing ethic, we should seek to instill a sense of

166. *Kennedy* at 597.
caring and mutual responsibility among students. We can encourage first-year students to "look to the right and look to the left" and make a commitment to pull each other through.\textsuperscript{167} Recognizing that no man is an island, even in the macho world of law practice, we must regularly and consciously assign group projects as part of course work and encourage other collective endeavors. Perhaps we should require second and third year students to tutor first year students, as is the practice at People's College of Law in Los Angeles.

Finally, we must pay careful attention to the kind of messages we are conveying to our students with regard to good lawyering. Curtis Berger is concerned about "the mind-set and the heart-set into which we mold our students: that it is better to be smart than passionate; that people that who feel too deeply tend not to think too clearly; that a fine intellect can rationalize any position or state of affairs, no matter how outrageous or indecent or unjust."\textsuperscript{168} Consider the kinds of questions we ask, the verbal and non-verbal responses we give, and the style and content of our exams (or of other student evaluation techniques). Are we forcing students, as Scott Turow recalls, "to substitute dry reason for emotion, to cultivate opinions which [are] rational but which [have] no roots in experience"?\textsuperscript{169} Are students "being cut away from themselves"?\textsuperscript{170} We must train our students to deal with other human beings, to understand that when a client comes into a lawyer's office he is often in pain, to appreciate that very often what is presented as a legal problem has its roots in deep-seated personal and social problems. Above all, we as teachers must let our students know that we value them, and not only for their intellectual abilities. For unless we, as lawyers, acknowledge and value the compassionate qualities within ourselves, we will be incapable of caring about the human needs of others.

\textbf{f. Nurturing Idealism}

Hollow is the education bereft of dreams and ideals. Roger Cramton reminds us that "[t]he aim of all education, even in a law school, is to encourage a process of continuous self-learning that involves the

\textsuperscript{167} Recently, I heard about a track meet in which a runner who was in first place stopped to help her friend who had fallen. Although she lost the race as a result, her coach "doubted that she even cares because she is having the time of her life." But then, this was a Special Olympic Meet for mentally handicapped athletes.

\textsuperscript{168} See Berger quoted in Dworkin, supra note 75, at 34.

\textsuperscript{169} S. Turow, \textit{One L} 85-86 (1977).

\textsuperscript{170} \textit{Id.} at 86.
mind, spirit, and body of the whole person. This cannot be done unless larger questions of truth and meaning are directly faced. 171 We must continually encourage students to clarify and develop their plans and hopes for a better society. And not as I did for many years, by withholding my own, personal views, in the interest of avoiding undue influence, while asking students to reveal theirs. (One can share values and exchange ideas, I believe, rather than impose them, thereby treating others as whole persons worthy of respect (note Howard Lesnick's comments, page 633). Whether or not students ultimately share our particular views, we should set an example by paying continual attention to these kinds of issues and by acting on the basis of deeply-held beliefs.

Of course, we must first teach students basic technical competency, thereby reducing student anxieties about their own capabilities, about bar exam results and about job prospects. Jim Elkins has observed that “before he can direct any effort toward the ideals which he hopes to express in a life in law, the student must become convinced of his ability to survive;” 172 that is to say, our basic needs must be met before higher ideals can be pursued. 173 Yet we must be wary of “developing the technician at the cost of the whole [person].” 174 We must resist tailoring our entire curriculum for the practical wo/man who wants his/her “career ticket punched” with nuts-and-bolts courses on how to run a law office, file papers, and draft documents. “With the denouncement of theory comes the masking of ideals,” 175 a way to avoid addressing our higher possibilities. Speaking to a group of law students late in his life, Benjamin Cardozo observed, “You may find in the end . . . that instead of it being true that the study of the ultimate is profitless, there is little that is profitable in the study of anything else.” 176

6. Evaluating Students: Neither Rhyme Nor Reason

Grading students on the basis of a single exam at the end of the

173. I recall being told that Billie Holiday once said, in a vastly different context, “You’ve got to have something to eat and a little love in your life before you can hold still for any damn body’s sermon on how to behave.”
175. Elkins, supra note 172.
176. Id.
semester (or at the end of the entire year) strikes me as pedagogically unsound — yet I have been doing it for seven years. As presently devised, law school exams test a narrow range of “masculine” skills — “cognitive skill in recognizing legal issues and applying legal doctrine to a set of assumed facts”\(^{177}\) — while failing to measure the attainment of skills for holistic problem-solving. Not surprisingly, there is a high correlation between law school grades and LSAT scores and bar pass rates, yet there is no demonstrated correlation to the range of talents that make good lawyers, e.g., oral communication, counseling, interpersonal relations, and negotiation skills, as well as reflective and creative problem-solving which does not involve excessive time pressure. (For a much more thorough and persuasive discussion of this entire exam problem, see Janet Motley's article, page 723.)

Furthermore, the present system tends to produce a false hierarchy based on grades. Upon the release of first-term grades, “the pecking order of law school is recast overnight and the underlying message is that the objective meritocracy of the grading system is the appropriate (as well as the controlling) determinant of student merit.”\(^{178}\) Depending upon their exam performances, some students emerge, others retreat. Students treat one another differently, and faculty members treat students differently. While regarding grades as enormously important, most students also recognize the narrowness and arbitrariness of these exams as evaluative tools. As a result, even those who fare well become cynical and resentful toward the process. One student comments:

> The exams themselves upset me deeply. I could do them, but they were boring. I left them feeling empty and I realize they existed only to help someone judge me — not for me to learn. My trust was shaken. I had turned over my life, hopes and dreams to the law school and I received in return some grades that had little meaning to me and no connection to the four months I lived through. I had done well in the law school grading system and for the first time some teachers recognized my existence. That recognition only made me feel angry.\(^{179}\)

These problems are compounded by the “front-end loading” of the evaluation process. “The incentive and reward mechanism of law

\(\text{177. R. Cramton, On a Recurrent Unpleasantness: Grading 1 (1982).}\)

\(\text{178. Id.}\)

\(\text{179. Dworkin at 93, quoting Marcia Eisenberg.}\)
school," writes Roger Cramton, "turns almost entirely on first-year performance, which controls the distribution of goodies: honors, law review, job placement and, because of the undue emphasis placed on grades by the law school culture, even the student's sense of personal worth." In addition, front-end loading has a disproportionate and not incidental effect, I suspect, on those less comfortable with "masculine," linear thinking — that is, on minorities and women.

I propose, as others before me have, the following reforms:

a. We should utilize a wider range of evaluation techniques to test the varied skills and talents required of our graduates, as noted above.

b. We should evaluate students on a more frequent basis and provide personalized, detailed feedback so that the exams are, in fact, a learning tool which will improve future performance. In large enrollment classes, the use of teaching assistants would be essential. "Experience in other disciplines suggests that a well-designed test, in which the teacher has prepared model answers, can be fairly graded by teaching assistants . . . [and can provide] students with better feedback. . . ."

c. The awarding of a single, abstract grade should be replaced by thoughtful, written evaluations of individual student's work over the length of the course. Often we rationalize our present system as a "quick-reference" service to employers, yet many employers now give primary emphasis to interviews, letters of recommendation, and previous clerkship experience. CUNY Law School reported that detailed, informative reports of a student's skills are well received by employers, who know from experience the limited value of letter grades as an indicator of one's potential success in the practice of law.

d. Finally, I propose that we consider using a pass-fail system in all first-year courses. (A less radical alternative has been suggested which would "weight second-and-third year grades more heavily than first-year performance." The advantages — for students and teachers, as well as for employers — would be significant: a) with "a longer period to adjust to legal reasoning," students would approach their education more thoughtfully, rather than engaging in a panicky search for short cuts and black letters because of the all-too-important, and entirely premature, first-year exams; b) students would have "an in-

180. See R. Cramton supra note 177.
181. See R. Cramton supra note 177, at 2.
182. Id.
183. Id.
creased incentive to apply themselves in the upper-class years . . . [while] the excitement and intensity of the first year would [still] insure ample student enthusiasm and effort;” and c) academic records, including admissions to honor societies, are more meaningful if they reflect development and achievement “over three years rather than weighting initial efforts so heavily.”


Law reviews, as presently constituted, tend to foster many of the values most destructive to a balanced enterprise of “masculine” and “feminine” influences. As such, law reviews fall far short of their potential to be cooperative enterprises making important contributions to the literature of law.

First, hierarchy in the selection process and in the governing process remains the rule, not the exception. Second, students who are selected on the basis of first-year performance do not necessarily possess the best writing and editorial skills; thus, all of us become party to a selection process utilizing standards which are not job-related. Third, law reviews attract students who, though exceedingly bright and hard-working, are primarily concerned with enhancing their individual resumes as a competitive advantage in the marketplace; few students accept law review positions because of a burning interest in legal scholarship or because of an urgent desire to tell the world about an egregious issue of law and injustice. Fourth, many fine student writers are discouraged from participation because they are unwilling to make this intensely cerebral and often isolated endeavor such an overwhelming priority in their lives.

184. Id.
185. Id.
186. One former law review editor says it all:

Each Sunday from early spring to early fall, hundreds of young people gather in the . . . Commons. It is a varied group in appearance and mood . . . A band plays; there is some marijuana; sailing frisbees define the parameter of the group. Here in [the law review offices] . . . work proceeds as usual. An editor and an author dispute the most effective way of countering a troublesome argument: drop it to a note or meet it head on in the text? A quick glance at the Sunday Times; a cold Pepsi at eleven in the morning; a glance out the window into the Commons. And back to work. [These] Sundays are a plain metaphor of the gulf between law and life which deeply disturbs many of us. The eight to ten years in which a young person attends law school and makes his way into the partnership
Finally, the extraordinary proliferation of law reviews, "most containing a few nuggets along with much dross," has had harmful effects on the quality of legal scholarship. Following our example, most student editors prefer pieces that recite prior developments in the law and that contain voluminous citations which are of little value to most readers. (Cite-itis, a disease of epidemic proportions in our profession and from which I continue to suffer, is the product of an overly "masculine" mind which measures the worth of ideas by the number of authorities cited. Cite-itis discourages non-linear, intuitive thought processes, as well as the expression of creative and experimental propositions which may be labeled as "impressionistic" or "unsubstantiated". Fearing an ambush should an idea — God forbid, a feeling — stand alone, exposed and "unsupported," we retreat to the safety of convention and moderation.)

If each and every law school continues to feel a need to provide a quarterly forum for faculty publishing, faculty members should participate in the solicitation and selection of articles. Student editors at the vast majority of law schools will readily admit that they are hardly in a position to effectively solicit articles from distinguished scholars, nor do they always have the expertise to make scholarly judgments on the contents of submitted pieces. Again, Roger Cramton states:

ranks of a firm have heretofore been years of intense and virtually exclusive involvement in acquiring the lawyer's skills of rationality and judgment. But the sacrifices inherent in a diligent apprenticeship grow increasingly difficult to make. Few of us know where we are headed, and even fewer believe that the slow seepage of personal vibrancy which follows from single-minded devotion to legal studies is worth whatever additional skills may be exercisable upon "arrival" at the unknown point of aspiration. We also wonder whether it will ever by possible fully to re-awaken our esthetic and emotional dimensions after they have fallen into disuse during the long period of legal development. The gulf between law and life cannot be cured by sprinkling an appealing modern seasoning into the law school curriculum, so long as total devotion to things legal and analytical are the stuff around which even the newer courses are built. More flexible selection processes for legal journals will not explain to newly chosen editors why they must become library fixtures at the age of twenty-two.


188. For an amusing and perceptive, albeit unfootnoted, account of how men "measure" the worth of their activities, see Rubin, Keeping Count, About Men, N.Y. Times, Nov. 3, 1985.
The pretense that law students are able to evaluate and edit legal scholarship... is an absurd proposition in today's world of highly specialized, theoretical, and inter-disciplinary legal scholarship. Only peer review by faculty who are expert in the same fields can do the job... The educational benefits to students of writing and editing student work can be preserved without placing so many important judgments about... scholarly contributions in the hands of such inexperienced editors.189

Legal education, for students and scholars alike, would be better served if law review publications would simply reflect the best student writing from seminars during a given year, supplemented by a few faculty pieces. Perhaps a seminar on legal research, writing and editing could be offered for students interested in working for legal publishing houses or in academia, and those students and interested faculty members could edit the law review issues. In any event, law review participation and publication should have no correlation to grades in other courses.

8. Law School Meetings: Goals and Process

In his cogent essay entitled The Politics of Meeting (page 517), Peter Gabel notes that our obsession with promptly “resolving” matters through voting seriously hampers the development of community. My experience in faculty meetings suggests that voting as a form of “efficient” decision-making and our preference for hasty adjournments reflect our discomfort with ambiguity (and, perhaps, with intimacy). It also raises, once again, the distinction between “masculine” and “feminine” processes. Anne Wilson Schaef explains:

The White Male System has a product-goal orientation. The ends almost always justify the means, and it does not matter how the goal is achieved just so long as it is. What counts are outcomes. Men are constantly arranging their lives into a series of goals.

The Female System has a process orientation. A goal is less important than the process used to reach it.190

Schaef tells the story of a couple hiking together:

189. R. Cramton, supra note 187, at 2.
190. Schaef at 138.
The man sets a goal for the hike — such as getting to the end of a trail or to the top of a hill — and focuses all of his energies on reaching that goal. Once he does, he considers the hike over; the return is simply a ‘loose end’ that needs tying up. The woman, on the other hand, sees the hike as a process. She likes to stop along with way; at times she meanders, at times she hikes briskly. Each cramps the other’s style, blaming the other for not knowing ‘how’ to hike, and neither sees the valued and legitimate differences in their approaches.191

Each year I have reminded my first-year students that law school need not be a mere means to an end. If that is all it is, it inevitably becomes a dreary, frustrating and painful process. So, too, with faculty (or general school) meetings. If the sole purpose is to complete the agenda and reach final votes in as little time as possible, getting there is pure hell. By revising and clarifying our purposes and goals, and re-orienting our frame of mind, we can maximize our returns while enjoying the ride. Having acquired the appropriate professional traits of cynicism and self-importance, we must learn anew (with the freshness and wide-eyes of days gone by) to actually look forward to law school meetings as a time for stimulating thought and developing community.

In our profession, which values intellectual achievement above all else, there is the trap of feeling that we must always have an answer. Whether it be in the classroom, where we think that they think that we know (or should know) everything, or in faculty meetings, where we want to appear brilliant and definitive, we lock ourselves into positions which isolate us and which ultimately inhibit personal or institutional development. Defending one pole by attacking the other (an aspect of linear thinking) inevitably hardens our “opponent’s” position, implies an either-or resolution and necessarily produces a zero-sum game.192 “Having” an opinion implies owning a possession. Yet, as Erich Fromm explains, if we can abandon our notion of conversation as “an exchange of commodities (information, knowledge, status)”193 and create “a dia-

191. Id.
192. Anne Wilson Schaef offers an interesting theory:

   Men will fight tenaciously for their ideas. In fact, men defend their ideas like a lioness defends her cubs. Men's ideas really are their offspring. Perhaps, then, it is easier for a woman to part with her ideas because she has a capacity to produce human offspring, while a man's major production is his ideas.

193. E. FROMM, supra note 79, at 23.
logue in which it does not matter anymore who is right, [t]he duelists [can] begin to dance together." 194 Clinging to positions for the sake of “winning” is, of course, an exhausting and misdirected endeavor. “Truth will appear,” says the zen master, “only when we cease to cherish opinions.” But to the extent that we let this opinion-bound approach dominate our interactions with the world about us, we will be always swimming upstream.

Faculty meetings, like law practice, like law itself, is a process of negotiation. How we define “negotiation” for ourselves (and how we aid our students in this effort) will greatly determine how well we will exist in community. In Anne Schaef’s White Male System, “negotiation is seen as a way of manipulating others. The goal is to insist on more than one really wants or expects, then bluff, and end up with something close to what one wants. The fun is not in the process itself, but in winning.” 195 In Schaef’s Female System, on the other hand, “negotiation is a process that allows one to clarify his or her wants, present them clearly, and willingly listen to what other people want before coming to a mutual agreement.” The goal is for everyone to realize as many of his or her wants as possible. Negotiation is fun because it stimulates creativity and imagination that can then be used to reach solutions that will be good for everyone concerned 196 — creating a win-win situation, if you will, which synthesizes the polarities and where “opposites cease to be opposites [and] lie down together peacefully.” 197

We do violence to one another — in meetings as well as in the classroom — with our addiction to talking rather than listening, with our authoritarian and bludgeoning attachment to maintaining “battle” positions and holding opinions. Peace activist Barbara Deming, who has consistently reminded us that non-violence must become a personal way of life before it will ever become public policy, offers guidance:

[Τ]he longer we listen to one another — with real attention — the more commonality we will find in all our lives. That is, if we are careful to exchange with one another light stories and not simply opinions . . . [Τ]ake turns speaking, speak from experience, don’t interrupt, and don’t deliver judgments upon one another. This mode of relating can work a kind of magic. 198

194. Id.
195. Schaef at 135.
196. Id.
197. C.F. SCHUMACHER, supra note 159, at 126.
In a humorous, perhaps all-too-accurate description of how most of us listen, Paul Nash notes that polite behavior requires that we:

give the other person his share of air time even though we know his views are of trifling importance compared with our own nuggets of golden wisdom. We . . . await our turn to speak, adopting the well-learned manners and body language of the person ‘listening’ . . . [T]he customary way to pass the time is to prepare our next remark, perhaps picking up a . . . weakness in the other’s argument, which we can . . . correct or refute, using our correction as a launching pad for our next demonstration of forensic brilliance.199

Real listening — and, in turn, real dialogue — requires a genuine openness to the possibility that the other person “may be in touch with insights that are not apparent to me”200 and which might change or persuade me. By loosening our grip on goals and answers and positions and “winning” — and by negotiating and listening with an open mind — law school meetings can, once again, be worth our while.

C. Looking Outward

1. Job Placement: Hearing the Heartbeat

Beginning with our statement of institutional purpose, and continuing with our daily teaching and career counseling, we must be clear in our intention to help students retain and clarify their larger goals in life. All too often, students approaching graduation are distressed by not knowing what they want to do, having been stripped of their dreams and ideals. We can learn from the experience of a student who found the way back to her chosen path:

[T]he focus is always on the jobs that exist out there and whether we’ll be judged suitable for them. In that atmosphere it is easy to forget to look inside ourselves, decide what we want, and then look for a job to match . . . When I began remembering and focusing on what had attracted me to law in the first place, I finally realized how positive my feelings were . . . I could use my legal and non-legal talents to help others and myself gain more control over our lives, using law in a broader context than a particular law-

200. Id. at 186.
suit . . . For the first time since I started job-hunting, I feel focused and the focus is positive . . . I feel much more in control, and I am excited knowing that I can do something with my skills that will be useful and satisfying for me . . . .

With considerable wisdom, another student comments that it "was my heart that brought me here, and that, I found, doesn’t make for a linear approach to my life and lawyering. And it is through my heart that I will find work that is consistent with what I value in lawyering." I see so many of our best and brightest graduates dissatisfied with their jobs — jobs which they had accepted unconsciously because it seemed the thing to do or out of fear that nothing better would come by or out of perceived financial necessity. When a professional career counselor reports that "lawyers are the most dissatisfied professional group," we should stop and take notice. By paying attention to our hearts as well as to our minds, we and our students can begin to identify the kind of work which brings meaning into our lives. What brings me joy, what makes me feel proud, what challenges me, what fills my life with love? What are the moments in my days that I remember with pleasure? These are the kinds of questions which we might address with our students during their tenure at law school.

We must also take responsibility for the social impact of our placement efforts. In his article "Law Placement and Social Justice," Douglas Phelps explains the importance of our task:

The passage from law student to lawyer, a transition mediated by the law school placement office, is immensely important to both the students and society. Personal decisions are made during this period, sometimes unconsciously, that shape the student’s future career as well as her or her professional identity. Taken collectively, these decisions determine the distribution of lawyers in our society and the character of the legal profession. Since law schools are deeply involved with this transitional process and necessarily concerned about its impact, law placement deserves a good deal more attention than it receives.
Having sought to define a unique mission for the law school, as discussed above, our placement efforts should be channeled to reflect our institutional goals. We might concentrate, for example, on facilitating our “graduates’ involvement with combating social injustice.”

The ultimate choice of a job would remain, of course, with the student, but the placement office’s point of departure would shift “from existing jobs toward legal needs.”

Many of us still have hopes for the law as a vehicle for social change, yet we must concede that, for the most part, we are perpetuating the status quo when the vast majority of students whom we have trained choose to represent powerful interests who can pay well for their services. Faculty members must get involved in the placement process by contacting friends and colleagues doing public interest work, by organizing seminars and conferences, by helping our graduates “create” rewarding jobs. If we fail to ensure that our placement efforts reflect our values and goals, the laissez-faire marketplace will continue to prevail. Most of our efforts as teachers will be in vain if we do not help students find ways to practice what we have preached from within our ivory tower.

2. The Law School as Holon: Integration into the Larger Community

Recalling Arthur Koestler’s term “holon,” referred to in Part I above, we can envision the law school not only as an autonomous entity, but as a subsystem with “an integrative tendency to function as part of the larger whole.” Law schools have traditionally displayed this tendency by becoming involved in their local communities, in state and national issues, and often in international programs. Although some schools experience town-and-gown conflicts, and other schools make overtures to the “world outside” simply as a public relations gesture, community involvement is becoming increasingly commonplace. Community leaders serve on school governing boards; local courts “sit” in campus courtrooms; members of the practicing bar — and alumnae/i, in particular — recognize their special duty to hire and to meaningfully train law students as clerks; schools open their doors to the com-

205. Id. at 665.
206. Id.
207. See supra text accompanying note 46.
208. Capra at 43.
munity for lecture series and other special programs addressing topical issues; and schools loan meeting rooms and other facilities for community use. These kinds of integration are exceedingly important and should be continually developed. In addition, there are three activities which have not always received the attention and whole-hearted support they deserve:

a. The law school should operate a law firm on campus, "modeled after a university teaching hospital," which would focus primarily on providing free legal services for poor people and public interest groups. Other clients, within and without the law school, would be charged according to their ability to pay or at a rate equivalent to their own hourly earnings. All professors would be expected to contribute some of their time to the law firm each year, the amount depending upon their interests and expertise. Much of the discontent which some professors express regarding clinical programs would vanish, I believe, with first-hand exposure and participation in the operation of such a law firm.

b. Through the on-campus law firm, a "street law" program and other outreach services, and various law school publications, we should manifest our commitment to demystify the law for the general public. As one very exceptional law school dean has written to prospective students, "part of your work . . . will be not only to study law, but to divest it of everything that is abstract, impersonal, pretentious, and perplexing; to disclose its meaning in words of one syllable." By explaining to the public how the law works, by sharing rather than hoarding our knowledge and our professional language, we help community members exercise some control over their own lives. As any teacher knows, in the process of explaining and translating from legalese into understandable English, we and our students really learn the material. Seminars and publications designed for the layperson might address issues such as marital dissolution, worker's rights, welfare and unemployment benefits, and tenant's rights.

c. The law school should commit itself to socially responsible investing, including investments in the local community. Students enrolled in courses addressing issues of tax, corporations, and non-profit entities, employment and environmental law, and students participating in public interest law organizations might provide the nucleus of a com-

munity-wide advisory group on institutional investments — the Law School Investment Advisory Committee, if you will.

No longer need institutional investors choose between earning a healthy return and being socially responsible. There are, in fact, stock portfolios of promise, profit and propriety. In recent years, a number of mutual funds\(^{211}\) and money market funds\(^{212}\) have received wide-spread attention for their superior financial track records. The various investment criteria developed by these kinds of funds reflect the social concerns which most of us share personally and which, I believe, should be manifested through the institutions that support us. Generally, socially responsible funds are concerned with some or all of the following: 1) product purity; 2) fair employment practices ("providing opportunities for women, disadvantaged minorities, and others for whom equal opportunity has often been denied"\(^{213}\)), including safe working conditions and, perhaps, employee ownership; 3) environmental concerns, conservation and alternative energy development; 4) marketing practices; 5) long-range economic impact; 6) community involvement, including short-term government securities that promote local investment; and 7) corporate giving. San Francisco's Working Assets, for example, chooses securities that "finance housing, renewable energy, small businesses, higher education and family farms."\(^{214}\) These funds avoid investments in nuclear energy, in the manufacture of weapons of war, and/or in repressive regimes, including South Africa.

The law school's portfolio, like our student placement efforts, is not only a conscious way of interacting with the larger community, but is a tangible reflection of our institutional values and goals. An urban law school, for example, might choose to invest in federally-subsidized low-income housing programs or urban revitalization projects dedicated to historic preservation. A law school with a strong labor law commit-


\(^{212}\) Calvert Money Market Portfolio (see Calvert Social Investment Fund, \textit{supra} note 211); Working Assets Money Fund, 230 California Street, San Francisco, CA 94111, (800) 543-8800.

\(^{213}\) Calvert Social Investment Fund brochure, at 2.

\(^{214}\) Working Assets Money Fund brochure, at 2.
ment could choose to promote fair employment practices in the local community by investing in those companies with good track records, which might well include the fair treatment of members of the law school community and their families.

A law school investment advisory committee would do well to consult the various periodicals which address themselves to socially responsible investing and which provide social and financial profiles of companies. In addition, there are conferences taking place throughout the country on a periodic basis, designed to help us keep our investments consistent with our politics.

3. Utopian Thinking: Identifying and Fulfilling Our Dreams

As lawyers, we are widely regarded as narrowly-focused, sharp-minded workaholics, swelling with self-importance and material success. We are skilled in sophisticated reparte and verbal gamesmanship and charmed by our own quick wit and oratorial brilliance. As law professors, we are deemed the cream of the crop, meaning that we possess all of the above plus some intellectual acumen. In short, we are over-developed above the neck; we are top-heavy and out of balance, tilting severely to one side by virtue of left-brain imbalance.

Our story-telling, our compulsive need to record and report, abruptly destroys our experience of life's events. Through the very act of verbalizing, of putting pen to paper (or more literally, of word processing), we memorialize the story and lose the experience. When we talk about something, we pretend we are making the experience real, yet we are effectively erasing it. This pattern is not surprising when we con-


Periodicals include: Good Money, published bimonthly by The Center for Economic Revitalization, Inc. (Box 363, Calais Stage Rd., Worcester, VT 05682); Insight, published quarterly by Franklin Research and Development Corp. (111 Lewis Wharf, Boston, MA 02110); Renewable Resource and Conservation Report, published bimonthly (311 Miramar Rd., Rochester, NY 14624); The Clean Yield, published monthly by Fried and Fleer Investment Services, Ltd. (Box 1880, Greensboro Bend, VT 05842); The Corporate Examiner, published monthly by the Interfaith Center for Corporate Responsibility (475 Riverside Dr., New York, NY 10115).

216. Recall Jung's oft-repeated observation that American mainstream religions
sider that the experiential approach to learning can be frightening with its potential for uncovering the ghoulish delights of disorder, emotions and complex variables which defy our attempts at control. Likewise, periods of reflection and introspection can be disturbing with their potential for disrupting safe and familiar work patterns, career choices and personal priorities. And so many of us avoid time alone, defer sabbatical leaves, and avoid discussion and other pursuits which may not produce tangible, measurable results.

For ourselves and for our students, we would do well to take the time to reflect on some of the larger issues of law and life. In an environment of kindred souls, with similar aspirations and similar doubts, our students would learn the value of stepping back from the minutiae of everyday pursuits to gain a wider perspective on the filmstrip of our lives. By choosing not to repress this kind of reflection, our students are more likely to make satisfying career choices initially and to avoid traumatic mid-life crises in the future.

I propose that each member of the law school community — faculty, staff and students — be part of a small-group seminar (twelve persons or less), meeting once each month for the duration of his or her tenure at the school, entitled *Utopian Thinking: Identifying and Fulfilling our Dreams*. These on-going groups would develop, in the process of addressing “meaning of life”-type questions, images of the ideal legal system, the ideal law firm, and — of most immediate concern — the ideal law school. Attention would focus on the creative and positive, rather than on judgments and critiques. The late philosopher and theologian, Alan Watts, commented that everyone seems to know “what they are against, but no one knows what they are for.”\(^217\) He suggested that all entering college students write an essay describing “their ideas of heaven on earth.”\(^218\) And they must be “absolutely specific”\(^219\) in their description, he said. If a “wonderful spouse”\(^220\) was part of the picture, specifics of character, appearance, values and such must be included; if a “beautiful home”\(^221\) was desired, very specific architectural features must be included. Of course, continued Watts, this would re-

\(^{217}\) Address by Alan Watts, *Divine Madness*, at Esalen Institute (1968).
\(^{218}\) *Id.*
\(^{219}\) *Id.*
\(^{220}\) *Id.*
\(^{221}\) *Id.*
quire the study of architecture, among other things, and soon the pro-
ject would evolve into the student’s doctoral thesis!\footnote{222} For law students, a first-year essay and a third-year thesis describing the “ideal” legal system or lawyering process, evolving out of their ongoing seminars, would serve an equally valuable purpose.

Conclusion

For law students, staff and faculty members alike, life has arrived. We are, in fact, living life, not just preparing for it. This is all there is. The law school experience is not just a means to an end, not simply a stepping stone to the future. Yet by denying the importance of “now,” we justify our compromises and procrastinations. If we are merely preparing for our lives and for the world we want, we cannot be held responsible for present conditions.

For those of us who have spent much of our lives in schools, escaping this future orientation is doubly difficult because “education” has become widely regarded as a synonym for “preparation,” not an end in itself. From elementary school through college, we aimed at the next preparatory hurdle. Once enrolled in law school, many sought to make law review, to become an officer, to obtain a clerkship. Upon passing the bar, the next step was establishing a practice, making partner or earning tenure. And, still, the “here and now” just around the next corner remains elusive — prestigious appointments, more money, always something structuring our lives. The familiar pattern is that:

... what we ‘really’ want to do is for the moment not feasible and must responsibly be postponed until one more bit of preparation can be laid carefully in place...

We vainly romanticize about a free future life and dismiss as impractical ... any who attempt to live their present lives according to their true values and priorities.\footnote{223}

Yet, as Howard Lesnick so aptly observes, that is “the only cold-eyed practical thing we can do, given the eloquent testimony of the wrecks of so many plans deferred in search of that elusive next ‘something’ that will make true freedom to live possible.”\footnote{224}

Well, talk is cheap. Now is the time to create the kind of coopera-

\footnote{222} Id.
\footnote{223} Dworkin at 88-89.
\footnote{224} Id. at 89.
tive environment in which we want to work, to fuse the ladder of hierarchy with the web of connection, to achieve the dynamic balance of the feminine and the masculine in legal education. Perhaps by incorporating aspects of this model law school into our institutions, we can begin to transform our dreams and our rhetoric into bricks and mortar.

My friend and student, Robin Richards, also the articles editor for this symposium, tells me that I am an “idealistic,” the implication being, of course, that some of my proposals may be impractical. And, in fact, with respect to the proposals I offer in this article, I have not always addressed the difficulties of implementation which are real and significant. Perhaps this is a shortcoming, but it is a conscious choice, for I believe that what we need most is to be reminded of our hopes and dreams. The greatest barrier to transforming legal education is not the reasoned objections of the logical mind, but rather our inability to transcend the logical mind. In our attempts to create order in the universe, we have built a cage around ourselves, severely limiting our view of the world as well as our human potential. What we have to fear is, like dreamless sleep, the lethargy of spirit which accompanies middle-age spread.

Let us try to remember the hopes and dreams which nourished us when we first embarked on careers in law. My dreams may not be exactly your dreams, but why quibble, for it is the renewed pursuit of dreams, not the content of specific dreams, which will begin to dissolve the cage.
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