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Morality Now: Healing the Heart of Darkness of the First Year Law Student

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MORALITY NOW: HEALING THE HEART OF DARKNESS OF
THE FIRST YEAR LAW STUDENT

*M.C.**

415

* I want to thank Shari Motro for her friendship and her constant encouragement. I also want to thank my family and friends for their love and support. And for M — *mon miroir, mes yeux, et mon coeur*.

ABSTRACT

This paper argues the current law school structure, championing analytical reasoning over morality, does not adequately prepare law students for effective advocacy. The first section explores the traditional law school structure and the methods used to teach students. The second section argues that these methods encourage students to separate law from morality, which in turn affects their ability. Lastly, the third section argues that by requiring mandatory first year clinical practice and injecting compassion through mindfulness practice, students will have a proper moral foundation to use law as a tool in conjunction with their own belief system.

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INTRODUCTION

“I remember when I was with Special Forces...seems a thousand centuries ago,” Colonel Kurtz whispers as he stares off into the distance, straining for something he once knew, and pondering his past life prior to his immersion in the jungle.

After my first year in law school, I reflected on the man I was to the law student I became and there was a clear disconnect. I came to law school because I was passionate about human rights. While living in Paris at the outbreak of the Syrian Civil War, I came in contact with a group of immigrants and refugees fleeing Syria, and the experience changed my life. Torture was no longer something that happened in distant lands to people who had no connection to me. Torture had a face. Torture happened to my family and my friends, and I could no longer look away. In Paris, I tried to help my friends navigate the complex world of international law involving topics from human rights violations to asylum but at the end of the day, I felt powerless. Idealistic as it may seem, I came to law school to defend those I cared about. Love led me to the law. However, instead of encouraging my passion, I found a first year system bent on stripping me of my morals.

In trying to describe my first year, I envision myself on a slowly drifting boat, passing through a wasteland full of ash and a blinding darkness, where the rotting towers of my ideals and personal beliefs lie in ruins. Engulfed by flames, those once golden towers begin to crumble and break apart. The fire rages on, seeking to cleanse my mind of intrusive obstructions that clashed with the supreme analytical pillar so revered by legal education. I stand there and watch, unable to leave the boat and calm the flames.

Throughout that year, I lived in a constant state of war, battling myself and everyone else around me. The thought of being inside the law school one moment longer than necessary made me nauseous. At one point, optimism and curiosity towards the prospect of studying law flowed through my veins, but when I arrived I found no peace in the classroom or outside of it.

I hated nearly every moment of my first year experience because the entire process seemed to change me in an unrecognizable way. Gone was the person dedicated to protecting human rights, and in his place an unflinching and unfeeling robot emerged. Love and my strong moral beliefs had led me to the law, but those values disappeared as I came to believe that a true law-

¹ APOCALYPSE NOW (Zoetrope Studios 1979).

yer is not guided by his heart or moral compass, but by an objective and cold analysis of the law to the facts. Consequently, I did not care about the plaintiffs and defendants in the cases, nor did I care about the living and breathing human beings in class next to me.

As the first year continued, I fell deeper into the darkness and seriously considered abandoning my legal pursuits altogether. It was not until my second year that I found real freedom when the dark ominous clouds of the first year parted, the Kurtz figures evaporated, and light illuminated the path that was once lost. I came to realize that the students and professors comprising the law school are not the issue. They are some of the most intelligent and nicest people one could ever hope to meet. The real problem lies in the harsh structure of legal education itself whereby the first year attempts to break students down so that they can learn to efficiently analyze the law without the distraction of morals.

This article explores the lack of morality in the first year law school environment and argues the traditional methods of first year legal training should be altered. Part I explores teaching methods employed in the first year curriculum. Part II uses my own first year experience to illustrate the negative effects of these methods. This section examines notions of morality and argues it is unnatural to require law students to separate themselves from their morality. Lastly, the section contends that dismissing morality adversely affects students' lawyering abilities, particularly those interested in human rights. Finally, Part III offers hope in resolving the morality issue by advocating for a mandatory first year clinical experience and infusing compassion into the law school environment through mindfulness practice.

I. THE FIRST YEAR LAW STUDENT

I raised my head. The offing was barred by a black bank of clouds, and the tranquil waterway leading to the uttermost ends of the earth flowed somber under an overcast sky--seemed to lead into the heart of an immense darkness.²

I'll never forget when Karim³ told me about his time in a Syrian prison. I met him a few days before in a tiny apartment in Paris, and already I considered him like a brother, but up until this time, he had never mentioned his story. His unkempt curly black hair was peppered with wisps of grey, and wrinkles lined his forehead. Karim's face reminded me of that of a weary traveler, scarred with worry for those he had left behind. When he spoke,

² See JOSEPH CONRAD, HEART OF DARKNESS: A CASE STUDY IN CONTEMPORARY CRITICISM 94 (Ross C. Murfin, Ed., 1989).

³ Name has been changed to protect his identity. I met Karim in the spring of 2012 and gathered bits and pieces of his story from several walks through Paris as I attempted to show him around. He arrived in Paris as an asylum seeker after Syrian forces had threatened him and his family.

his voice never rose higher than a whisper but it never trembled as he walked along the Seine and described being beaten in prison. It was as if he were relating an experience that happened to someone else, as if Karim did not feel the crushing blows, the broken bones, and the warm blood running down his leg.

I sat and listened, unable to say a word to my friend who was my age but had lived a life so foreign from my own. Karim did not cry as one might have for their family or friends nor did he yell out in anger about being homeless in a strange country without money, a passport, or a job. Instead he continued walking. And I knew he would fight for his beliefs and his people until he had nothing left.

For me, my whole life had been leading up to this moment. I needed to see that faith and experience that rare unshakeable passion where a person desires something so strongly that they willingly accept all risks and abandon everything in pursuit of justice. In this moment, my path became clear and I decided to go to law school.

A. The Pillars of Legal Education

On the first day of class, my professors began whizzing around the room asking open-ended questions about various cases, and testing our understanding of the readings. My classmates and I sat in awe as we nervously waited for our names to be called. The Socratic Method and the Case Method are the pillars of the first year teaching style as they help students develop legal skills and improve their reasoning ability. There is something exciting about walking into a classroom each day, knowing that a professor will soon engage in a logic battle with another student by constantly questioning the student's reasoning about a case. The 2007 Carnegie Foundation Report, *Education Lawyering: Preparation for the Profession of Law*, (Carnegie Report) described this professor-student exchange as the "master artisan...in this cognitive apprenticeship...[and] only through question and answer can instructors make their thought processes explicit, observable, and available for imitation."⁴ The "cognitive apprenticeship" idea terrifies and fascinates students at the same time.⁵ Students feel nervous, as they must display their beginning reasoning skills to their professor, an expert logic "master."⁶ Through this questioning method, students discover what their

⁴ WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW, 62-3 (2007) [hereinafter Carnegie Report].

⁵ *Id.*

⁶ *Id.*

professor looks for in an exam answer, but more importantly, they learn the subtleties of a master lawyer's thought process.

Through the constant reading and close analysis, students begin to develop their legal skills. C.C. Langdell invented the Case Method as a way of approaching "law as a science."⁷ Generally, first year students begin with a heavy workload reading assorted cases and it is through this "repetition and routine," that students begin to learn the legal language, "enhanc[e] their critical thinking skills," and "develop cognitive skills."⁸ The Case Method tosses students into the often-confusing world of law where through repeated exposure to legal language and reasoning, they begin to utilize their newfound critical thinking and cognitive abilities to unearth not only the holding of a case, but also, the reasons behind the decision. The workload is stressful and difficult but like learning a foreign language, one day it clicks and your mind begins to think in legal terms.

The Socratic and Case methods foster the analytical reasoning skills necessary to effectively argue any position because it allows you to understand both sides of an argument. Analytical reasoning is characterized by its "detachment"⁹ and ability to "manipulate facts and legal rules."¹⁰ Through analytical reasoning, students begin to think like lawyers and can therefore argue the strengths and work around the weaknesses. After the first few weeks, there is a drastic improvement in students' understanding and in their ability to argue logic with the professor. The secret world of law, which at one point seemed so foreign, becomes real and accessible after only a short period of time. Analytical reasoning provides students with a key to enter into an exclusive club where they use a "detached objectivity"¹¹ to efficiently approach facts, and "manipulate"¹² the law to suit their interests.

⁷ Bethany Rubin Henderson, *Asking the Lost Question: What Is the Purpose of Law School?*, 53 J. LEGAL EDUC. 48, 54 (2003) (citing Russell L. Weaver, *Langdell's Legacy: Living with the Case Method*, 36 VILL. L. REV. 517, 523–25 (1991)).

⁸ Judith Welch Wegner, *The Carnegie Foundation's Educating Lawyers: four Questions for Bar Examiners*, THE BAR EXAMINER, 15 (2011).

⁹ Roger Cramton, *The Ordinary Religion of the Law School Classroom*, 29 J. LEGAL EDUC. 247, 251 (1978) (explaining that the roles focus on "an analytical detachment that gives preeminence to a rational calculation of alternative strategies of aggressive action").

¹⁰ Paul G. Haskell, *Teaching Moral Analysis in Law School*, 66 NOTRE DAME L. REV. 1025, 1026–27 (1991).

¹¹ Carnegie Report, *supra* note 4, at 9.

¹² Haskell, *supra* note 10, at 1026.

II. THE HEART OF DARKNESS

Believe me or not, his intelligence was perfectly clear...But his soul was mad...I saw the inconceivable mystery of a soul, that knew no restraint, no faith, and no fear, yet struggling blindly with itself.¹³

I remember the first time I felt it slipping away. I sat in my Property class at 8:30 am, listening to my professor lecture on a case involving an inheritance dispute over land. Yawning, I glanced over at the next page of the casebook and happened to see a photo. The discovery of a single picture nestled among a thousand pages of dense case law was a rare gift and tantamount to finding the proverbial needle in a haystack. I stared blankly at the photo of the smiling plaintiffs, a rather portly looking family who had desperately tried to save their land, and ultimately lost after a long court battle. It was at that moment, a simple thought passed through my head—I don't care. I did not care whether they won or lost, their motives behind the suit, or their stories; all I cared about was the legal analysis. Up until this moment, I learned the language, deciphered holdings, and began to comprehend how to analyze facts and provide a well-reasoned argument, but something was missing. I would often look around the room and see many of my classmates either asleep or surfing the web while the professor spoke about the miscellaneous facts of a case, but as soon as the lecture turned to the black-letter law, we would jump to attention and begin manically typing away, hoping to capture the professor's words before they slipped away.

The person who came to law school due to his strong moral convictions, and his passion for defending human rights seemed to evaporate into thin air. When I left Paris, I was passionate about studying law because I wanted to use this extremely powerful tool to fight for the oppressed and give a voice to those whose cries for help had been silenced by dictators and corrupt regimes. However, in the span of a few months, I had become a shadow of myself. I no longer saw law in conjunction with my emotions and morals; instead, I saw "law as a science,"¹⁴ as something completely separate from the realm of human emotions. The first year law school environment had changed me; but instead of feeling as if I were learning how to be a lawyer, I felt like I was losing my humanity. I was taught to eliminate my moral convictions from my interpretation of the law; however, removing morality from the legal environment is unnatural because it is funda-

¹³ CONRAD, *supra* note 2, at 82 (detailing that after wandering through the jungle, the narrator encounters Kurtz and discovers a man who abandoned his morality in order to survive in an unforgiving environment plagued by madness and anarchy).

¹⁴ Henderson, *supra* note 7, at 54 (citing Russell L. Weaver, *Langdell's Legacy: Living with the Case Method*, 36 VILL. L. REV. 517, 523–25 (1991)).

mental to both human nature¹⁵ and law.¹⁶ Consequently, after my first year, I did not feel as if I had a proper moral foundation to work in a human rights field where one must constantly confront morally ambiguous circumstances and “conditions of uncertainty.”¹⁷

A. The First Casualty is Innocence

For many first year students the current law school norms create rampant depression and unhappiness as they begin to feel as if they are losing their identity and personal beliefs. Studies show that there is an epidemic of loneliness and stress within the law school environment as students “exhibit signs of psychological distress...[such as] depression, stress, and anxiety.”¹⁸ After performing her own study at several law schools, anthropologist and law professor, Elizabeth Mertz, theorized that the root of this problem stems from the student’s loss of his or her personal morals and individuality as she observes that a system “encourag[ing] students to unmoor themselves from moral reasoning” culminates in a complete loss “of self.”¹⁹ Law school depression is not some myth generated by lazy students; it is a silent fact that often goes unrecognized and undiagnosed.²⁰ I can attest to the validity of these studies, because I experienced this loss of self and morals in my first year.

Like Kurtz, I had become a broken man.²¹ I sat in the back of a large classroom filled with fifty plus students as professors interrogated us to see if we had understood the case. Instead of viewing these classmates as my friends, I viewed them as my competitors and enemies to be feared.²² We

¹⁵ Clare Keefe Coleman, *Teaching the Torture Memos: "Making Decisions Under Conditions of Uncertainty"*, 62 J. LEGAL EDUC. 81, 88 (2012).

¹⁶ Haskell, *supra* note 10, at 1028.

¹⁷ Coleman, *supra* note 15, at 83.

¹⁸ Todd David Peterson & Elizabeth Waters Peterson, *Stemming the Tide of Law Student Depression: What Law Schools Need to Learn from the Science of Positive Psychology*, 9 YALE J. HEALTH POL'Y, L. & ETHICS 357, 358–9 (2009).

¹⁹ *Id.* at 379 (citing ELIZABETH MERTZ, THE LANGUAGE OF LAW SCHOOL: LEARNING TO ‘THINK LIKE A LAWYER’ 4 (2007) (conducting a study of law students in first year contract’s classes at eight separate law schools)).

²⁰ Peterson, *supra* note 18, at 359 (citing Lynda L. Murdoch, *Psychological Distress and Substance Abuse in Law Students: The Role of Moral Orientation and Interpersonal Style* 87 (Nov. 2002) (unpublished Ph.D. dissertation, Simon Fraser University) (on file with author) (noting one study which stated “44% of law students meet the criteria for clinically significant levels of psychological distress.”)).

²¹ APOCALYPSE NOW (Zoetrope Studios 1979) (“And what would his people back home want if they ever learned just how far from them he’d really gone? He broke from them, and then he broke from himself. I’d never seen a man so broken up and ripped apart”).

²² APOCALYPSE NOW (Zoetrope Studios 1979) (Kurtz explains to Willard “Horror... Horror has a face... and you must make a friend of horror. Horror and moral terror are your friends. If they are not, then they

were not only competing for grades but we were also competing to see who could truly “think like a lawyer.” In order to succeed, I felt as if I needed to become another person. I believed I had to sacrifice my identity and morality to embrace the rational, analytical lawyer I was always meant to become.

As I began to shed my identity and abandon my morals, law school became a battle for survival. Lawrence Krieger compares the law school environment to the “law of the jungle” where there is “a need to defeat, rather than support, classmates and peers.”²³ I could feel Kurtz growing inside of me as law school transformed from a learning environment to a jungle. My motto: “victory at all cost,” took a hold of my mind and sanity. Even after class, this mentality followed me everywhere. Having a third floor study carrel, snuggled in the back of the library, I thought I could find some peace from the stressful classroom environment, but my weary soul found no rest.

In the first week of school, I encountered my sworn enemy, Brad.²⁴ On a hot August day, I attempted to do some reading at my study carrel on the third floor, and to my horror, as I exited the elevator, I discovered a person lying on the ground, obstructing the path to my carrel. The first thought that passed through my mind was that I had stumbled upon a crime scene. However, I soon realized that this tall lanky second year student, Brad, was merely asleep in front of his carrel, which was adjacent to mine. Brad’s many hobbies included sleeping underneath his desk between classes, and draping his dirty clothing over my desk after he returned from a long workout at the gym. What should have been moments of enlightened study turned into a boiling anger as I removed his sweatshirt from my desk and looked in disgust at that half-drunk energy supplements and discarded candy wrappers that littered my territory. Biting my tongue, I decided to make the best of it and carefully tiptoed around Brad to begin studying in my carrel.

Several days later, I again sat down at my carrel and attempted to read for my Torts class. Placing my headphones on, I started to skim the case. Suddenly, a loud knock shattered my concentration as Brad asked me to turn down the music. The same man who had been sleeping underneath his carrel and tossing his trash onto my desk dared to disturb me?! Outraged, I stormed out, swearing loudly and vowing to never again work in the library or speak with Brad.

are enemies to be feared”).

²³ Lawrence S. Krieger, *What We're Not Telling Law Students-and Lawyers-That They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing the Profession from Its Roots*, 13 J. L. & HEALTH 1, 11 (1999).

²⁴ Name has been changed to protect his identity.

Through my loss of morals, I lost the ability to feel compassion and relate to others. I should have just calmly spoken to Brad and asked him to clean up his area so that I could work, but instead I chose to see him as an enemy. As Anne Ijima observed law school's "moral neutering" enables a loss of "physical intraconnections" whereby students "suppress their feelings and come to care less about others."²⁵ With Brad, and everyone around me, I lost the connection. Due to my moral castration, I no longer wanted to understand or empathize with others; instead, I retreated further into the void, allowing darkness to consume me.

B. Morality is Essential to Human Beings and Law

Throughout this section I have tried to avoid broad sweeping generalizations, limiting the first year experiences only to my own; however, morality is not only fundamental to my identity, it is fundamental to each person's unique identity. Requiring law students to separate themselves from their morality is unnatural. Morality focuses on one's ability to perceive right and wrong, and thus impacts the decision making process. Paul Haskell, a law professor at the University of North Carolina, defines the main principles of morality as "avoiding harm, helping others, keeping promises, not lying, and...justice."²⁶ A moral person aims to tell the truth, help others, and choose right over wrong. Consequently, morality is the lens by which humans make decisions; therefore, our morality ultimately forms our "moral judgment making."²⁷ Morality is thus an inherent part of human nature and one's thinking ability.²⁸ Thus, a system bent on dulling these capabilities is not only unnatural but also negatively impacts our ability to think properly and make decisions.

Just as morality is fundamental to human nature so too is it fundamental to law because it rests at the foundation of legal principles. As Haskell states, "[l]aw is made by people" and people are guided by their moral principles; therefore, "moral analysis assists in the explanation and prediction of legal conclusions."²⁹ By connecting morality to "legal conclusions," Haskell highlights that law is written by human beings who are driven by their own individual moral principles, and thus one cannot realistically separate the moral beginnings of the law from the statute itself. He further

²⁵ Ann L. Iijima, *Lessons Learned: Legal Education and Law Student Dysfunction*, 48 J. LEGAL EDUC. 524, 529 (1998).

²⁶ Haskell, *supra* note 10, at 1026–27 (1991).

²⁷ Coleman, *supra* note 15, at 85.

²⁸ Coleman, *supra* note 15, at 88 (noting Psychologists belief that morality is "essential to humans" as it "is fundamental to the human mind").

²⁹ Haskell, *supra* note 10, at 1028.

notes that at their core, a statute's words stand upon fundamental notions of "fairness and justice."³⁰ Viewing a statute as an embodiment of fairness and justice illustrate that laws are words representing societal principles of right and wrong, human attempts at moral signposts. Ironically, law school urges the detached student to utilize only their analytical reasoning skills and disregard morality when approaching the interpretation of the law.

C. Morality is Essential to My Human Rights Work

A strong moral foundation is necessary for me as I plan to use law in a human rights field filled with morally ambiguous situations where I must constantly make judgment calls. Before school, I came from a world of activists, journalists, and advocates who worked day and night trying to provide information to force intervention in the Syrian crisis. Under the current system, the international community cannot act in Syria without explicit United Nations authorization because international law clearly states that only the Security Council can authorize the use of force.³¹ However, it is my belief I have a moral right to assist those who face extermination from a brutal dictator who continues to slaughter his people in order to hold onto his dwindling power. This uncertain situation is not black and white, and it is not a question of lawful or unlawful. Rather, this morally ambiguous situation involves so much more than just relating the law to the facts. It is a complicated question where we must use the law in conjunction with our moral judgment.

I went to law school after sitting through countless horror stories of people I care about recount their gruesome tales of violence and torture but the first year did not adequately prepare me to fight on their behalf. The first year does not attempt to tackle any moral issues, in fact "moral discussions"³² are purposely removed from the learning environment as it is deemed an inhibitor to the growth of the student's analytical reasoning.

Clare Keefe Coleman's article, *Teaching the Torture Memos: "Making Decisions Under Conditions of Uncertainty"* utilized a study by Lawrence Kohlberg & Richard Hersh which explained that as human beings our "highest level of moral development" is characterized by a superior judg-

³⁰ Haskell, *supra* note 10, at 1026, 1029 (noting "consent [to be governed] derives from a belief that the system is fundamentally fair and right).

³¹ See United Nations Charter art. 2, ¶ 4 (calling for a general ban on "threat or use of force against territorial integrity or political independence of any state"); United Nations Charter art. 42 (authorizing Security Council to allow use of force "as may be necessary to maintain or restore international peace and security).

³² Coleman, *supra* note 15, at 88.

ment ability “that permit[s] [one] to question laws and rules of society.”³³ Lawyers are empowered with a societal position where they can change the status quo; thus lawyers and by extension law students should theoretically be at the most advanced stage of moral development in order to make informed judgments on important issues. Unfortunately, “law student morality” is situated in the middle part of the spectrum and “focused on maintaining social order and conformity.”³⁴ These statistics present the shocking truth that due to the lack of morality focused teaching, students are unprepared to use law as a tool to fight for change; rather, the first year teaches young lawyers-in-training how to use law to conform with the status quo.

A proper moral foundation allows lawyers to empathize with clients and passionately argue on their behalf. If I could not stand to be around Brad and other law school students who I saw every day and with whom I shared a common experience, how would I be able to advocate for a torture victim who had experienced a life so different from my own? The first year taught me to disregard my moral conscience and dig through the facts and complex reasoning to find the law in order to best serve my interests.³⁵ However, a lawyer, who only cares about the client in so much as he or she serves the advocate’s interests, is not as effective as someone who is passionate about their client’s right to justice. Infusing morality into legal education causes lawyers to be “more morally attentive” to the needs of clients and thus more compassionate and “sincer[e]” in both their interactions with the client and their advocacy.³⁶ By focusing on morality, a lawyer comes to view the client in a more empathetic manner and the relationship shifts from a monetary agreement into a mutual relationship built on trust and understanding.

III. MORALITY NOW AND REMOVING “THE HORROR”

The shade of the original Kurtz frequented the beside of the hollow sham...But both the diabolic love and the unearthly hate of the mysteries it had penetrated fought for the possession of that soul satiated with primitive emotions, avid of lying fame, of sham distinction, of all the appearances of success and power.³⁷

³³ Coleman, *supra* note 15, at 89–90 (citing Lawrence Kohlberg & Richard H. Hersh, *Moral Development: A Review of the Theory*, 16 THEORY INTO PRACTICE 53, 55 (Apr. 1977))

³⁴ Coleman, *supra* note 16, at 85–6 (citing Susan Daicoff, Lawyer, *Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1397 (1997)).

³⁵ Cramton *supra* note 9, at 251 (referring to the standard roles of lawyer as “hired gun” and “social engineer”).

³⁶ Walter H. Bennett, Jr., *Making Moral Lawyers: A Modest Proposal*, 36 CATH. U. L. REV. 45, 60 (1986) (citing Thomas L. Shaffer, *The Practice of Law as Moral Discourse*, 55 NOTRE DAME L. REV. 231, 250 (1979)).

³⁷ Conrad, *supra* note 2, at 84.

As Kurtz slips away into the darkness one last time, he recognizes his inhumanity and whispers “The horror! The horror!”³⁸ On the surface, he has attained great “power” after conquering the land and commanding legions of followers, but in this moment, we see Kurtz for what he really is — “hollow” to the core. Pondering Kurtz’s death, alone amongst the ruins of his rotting empire, I am reminded that my greatest fear is becoming a lawyer who on the outside has attained professional success, but internally is filled with unhappiness as I was not true to myself.

After my 1L year, I felt as if parts of myself had been violently ripped apart into tiny shards that I could never fit back together. Alone, I entered the 2L year not as the optimistic student with dreams of saving the world, but as a traumatized soldier riddled with scars and self-doubt.

People who knew how I had struggled in my first year asked me why I came back, and I would quickly try to change the subject because I did not know the answer. As I reached the halfway point of my second year, I was glad I had returned, because finally, I found hope. Through a clinical placement program and a mindfulness class, I reconnected with my identity and now believe that small changes can lead to a revolution in the first year experience where morality is returned to the students and the law. In order to foster moral judgment, law schools should transform the learning environment by requiring mandatory first year clinical experiences.³⁹ Law schools should also move away from current definitions and traditions attributed to lawyers and instead redefine the lawyer role as a peacemaker through “mindfulness teaching.”⁴⁰

A. Requiring Mandatory First Year Clinical Experience

As a 1L, I did not feel prepared to use my growing legal skills to help people with their real world legal issues. In the Carnegie Report, educators recognized students’ unpreparedness in making moral judgments and called for a stronger focus on judgment making through clinical opportunities.⁴¹ Through the observation of law classes and typical curriculum, the report noted that the absence of morality affects students professionally in their ability to make “moral judgments”⁴² and stated that students must understand “the wider matters of morality and character.”⁴³ The clinical context

³⁸ Conrad, *supra* note 2, at 85.

³⁹ Anthony V. Alfieri, *Against Practice*, 107 MICH. L. REV. 1073, 1079 (2009).

⁴⁰ David Zlotnick, *Integrating Mindfulness Theory and Practice into Trial Advocacy* 61 J. LEGAL EDUC. 654, 661 (2012).

⁴¹ Carnegie Report, *supra* note 4, at 9–10.

⁴² Coleman, *supra* note 15, at 87.

⁴³ Coleman, *supra* note 15, at 85-6 (citing Carnegie Report, *supra* note 5, at 129).

provides the perfect opportunity for students to be thrust into difficult situations where they must combine legal reasoning skills with moral judgments. Describing, “professional practice as judgment in action,” the report suggests “students observe, simulate, attempt, and then critically reflect on their work.”⁴⁴ Although judgment is developed in the classroom, it matures through action; consequently, students must practice judgment in an actual legal context where they deal with actual clients, issues, and situations. This goal can be achieved through mandatory first year clinical experiences.

After my first year, I spent a summer in London working for an extradition legal aid department. While researching various human rights treaties and working with zealous advocates who shared my passion and enthusiasm for international human rights law, I gained real world experience where I observed lawyers’ interaction with clients and the law. It was an amazing opportunity where I lived and breathed human rights work, but more importantly I rediscovered my morality and compassion not only for my colleagues but also the clients.

One of the most interesting cases I worked on involved an elderly British couple fighting extradition to the U.S. for fraud. Immediately after reading the case file, I thought they had no chance at winning. However, as time went on, and I became more acquainted with the clients, I began to believe that they were truly innocent. Pouring over the facts and the law, my colleagues and I found real and persuasive arguments as to why they should not be extradited.

Unlike my first year class discussions which superficially passed over the clients and their motivations, at my clinical placement, clients transformed into human beings, deserving of compassion and a dedicated advocate. Through this experience, I observed professionals efficiently cut through the facts and law to find strong arguments, but more importantly, I also witnessed great compassion. The advocates did not just view the client as a pawn to further their own interests; instead, they cared about the clients and their case. Extending a clinical experience to first year students during the school year permits students to immediately combine classroom-reasoning skills with their morals, and exposes them to practical legal situations where they must make judgments that affect the lives of others.

B. Lawyer as a Peacemaker

My clinical experience inspired me to return for my second year, but the real healing had not yet started. At the beginning of my second year, I elect-

⁴⁴ Carnegie Report, *supra* note 4, at 9.

ed to take a course entitled “Lawyer as a Peacemaker.” I figured this course would have a focus on human rights and conflict resolution, but in reality I had no idea what to expect. When I arrived for the first class, I noticed a sprinkling of second and third year students, some I knew personally and some I did not. Then, to my horror, I spotted my old nemesis, Brad. Recalling my anger, I repeated my solemn oath that I would never speak with him or acknowledge his presence. Surrounded by strangers and enemies, the professor began meditating with us for several minutes. She then explained that the whole idea behind the peacemaker course is that lawyers cannot give peace to others if they are not at peace with themselves. The course aimed to answer perhaps the two most important questions for a law student; “Why am I here?” and “Where am I going?”⁴⁵ Piquing my curiosity, I stayed, but little did I know that in just a three month period, it would have a profound effect on not only my law school experience but in how I approach life. Through mindfulness meditation, the Kurtzs inside and around me disappeared and I rediscovered my identity and morality.

Mindfulness practice allows individuals to be more aware of their emotions, feelings, and values which in turn fosters a strong sense of self-identity, thus enabling students to approach law in a “morally attentive”⁴⁶ manner congruent with their identity and morals. Mindfulness encourages finding a person’s “authentic self.”⁴⁷ With the “think like a lawyer” campaign, students often believe there is one lawyer archetype that everyone must strive towards no matter their personality. This archetype is often mythologized into the image of a warrior⁴⁸— an aggressive advocate who zealously and confidently argues their client’s position. When students take on this constructed “trial lawyer persona,” instead of being viewed as confident and intelligent they are often seen as disingenuous and deceptive.⁴⁹

Through mindfulness, I was taught to disregard the standard “lawyer persona” and bring my authentic self into my legal practice. Mindfulness meditation helps students “manage stress and anxiety,”⁵⁰ and therefore, allows them to approach law with a heightened awareness of themselves and others. Through this awareness, the student does not need to separate his or

⁴⁵ Shari Motro, Professor at the University of Richmond School of Law, *Lawyer as a Peacemaker Syllabus* (2013) (on file with author). The course is now titled “Mindfulness and the Legal Profession”.

⁴⁶ Bennett, *supra* note 36, at 60 (citing Thomas L. Shaffer, *The Practice of Law as Moral Discourse*, 55 NOTRE DAME L. REV. 231, 250 (1979)).

⁴⁷ Zlotnick, *supra* note 40, at 662.

⁴⁸ This idea was presented to me by an in class presentation by Aubrey Ford, Talk at the University of Richmond in ‘Lawyer as a Peacemaker’ class, Sept. 16 2013 (explaining that as a young lawyer he took on the warrior role and became very unhappy with his life as that was not his personality).

⁴⁹ Zlotnick, *supra* note 40, at 659 (noting that students using their “trial lawyer persona...frequently come across as insincere, abrasive or arrogant...neither believable nor likeable”).

⁵⁰ Zlotnick, *supra* note 40, at 659.

herself from the law and don a faux lawyer persona; instead the student brings their own identity into everything they do, creating congruence between the person they are on the inside and the person they project to the world. Once students understand that their legal identity does not have to be different from their personal identity, they will no longer be faced with the first year identity crisis.⁵¹ By cultivating awareness and identity, mindfulness attacks the root of students' "emotional dysfunctions" and begins to alleviate the "depression, anxiety, and low self-esteem."⁵² In turn, this harmonization of personal identity creates a compassion that spreads into other relationships and environments.

The enemies of 1L year have become friends. Midway through the semester after weeks of meditation and exercises focused on empathy and compassion, our professor began class with a loving kindness meditation.⁵³ I closed my eyes and began to say to myself over and over again, "let me be well, happy, and free from suffering." The professor then asked us to incorporate the class into our meditation and to "let us be well, happy, and free from suffering." Finally at peace, Brad, and the rest of the class popped into focus, and I began the new recitation bestowing kind and loving words to the friends around me. Over those past few months, something had occurred that I had never thought possible; I learned to care about the people in my environment. Through our shared meditation practice, anger melted away into compassion, and I began to see my perceived enemies as real human beings.

A few months ago, Brad represented the king of the Kurtzs' and I blamed him for casting me out into the wilderness, leaving me to search in vain for a place to settle.⁵⁴ In reality, I was my own Kurtz. Blinded by misery and my identity crisis, I perceived those around me as my adversaries. Meandering through a wasteland full of broken morals and empty promises, I lost my compassion. Searching for the fragments of a stolen soul, I lashed out at those in my environment without knowing them. Through mindfulness, the anger disappeared and I filled my heart with compassion. As the loving kindness meditation ended, I opened my eyes and smiled because with this awareness, I knew I was on the path towards healing.

⁵¹ Peterson, *supra* note 18, at 379 (citing ELIZABETH MERTZ, *THE LANGUAGE OF LAW SCHOOL: LEARNING TO 'THINK LIKE A LAWYER'* 4 (2007)).

⁵² Peterson, *supra* note 18, at 358–9.

⁵³ CHADE-MENG TAN, *SEARCH INSIDE YOURSELF* 169–73 (2012).

⁵⁴ Psalms 107:4 ("Some wandered in desert wastelands, finding no way to a city where they could settle").

CONCLUSION

When I first started writing this article, I thought I could hide behind statistics and make general statements about the law school experience. I soon realized I could only speak for myself as some of my peers had a first year vastly different from my own. In my experience, the first year of law school negatively affected me because it attempted to create a separation between my identity as a lawyer and my identity as a moral human being. I transformed from a compassionate human being interested in human rights to a cold surgeon, slicing through the facts. Soon enough, I no longer recognized myself and like Kurtz, I lost myself in the jungle.

Current law school methods operate under this Kurtzian philosophy where they attempt to create lawyers who analyze without feeling, passion, or judgment⁵⁵ yet this exaltation of “detached objectivity”⁵⁶ overlooks the all-important human element between lawyer and client, and humanity and the law. Without a proper moral foundation, students pervert their judgment making ability rendering them unprepared to deal with morally ambiguous situations. However, this failure can be remedied by transforming the first year structure into one fostering moral judgment and compassion through clinical experiences and mindfulness teaching.

Reflecting on my 1L year, I think mostly of “the horror”⁵⁷ but I cannot forget the friendly and great professors who improved my reasoning skills and spent countless hours trying to better my understanding of legal concepts. As I see new first year students trying to navigate this confusing, stressful, and lonely experience, I know they are being told that law school is the way it is, but in reality, it does not have to be this way. The first year does not need to be an experience filled with existential identity crises. We can change it and make it an enriching experience where students develop the moral and intellectual skills to approach law not as emotionless “shade[s]”⁵⁸ but as compassionate humans.

⁵⁵ APOCALYPSE NOW (Zoetrope Studios 1979) (“You have to have men who are moral... and at the same time who are able to utilize their primordial instincts to kill without feeling... without passion... without judgment... without judgment! Because it's judgment that defeats us.”, Kurtz explains).

⁵⁶ Carnegie Report, *supra* note 4, at 9.

⁵⁷ CONRAD, *supra* note 2, at 85.

⁵⁸ CONRAD, *supra* note 2, at 84.