

Legal Ed's Futures: No. 2 -- The Importance of Focusing on "Being a Lawyer" - Professional Identity Formation in the 21st Century, PrawfsBlawg Virtual Symposium on the Futures of Legal Education, March 5, 2018 (Invited Participant)

The Importance of Focusing on "Being a Lawyer" - Professional Identity Formation in the 21st Century

By Prof. Jerry Organ

In Part III of his series, Professor Madison discusses five themes that are the focus of "conversations about the state and future of legal education, and by extension about law and the legal profession as a whole." One of those themes is professional identity, a theme I believe is of profound importance but until recently has been underemphasized within legal education.

In the last millennium, when most of us went to law school, the lawyer identity was shaped largely by BOTH the legal profession's monopoly on knowledge of and understanding of the law AND the legal profession's monopoly on the provision of legal services. Being a great lawyer meant one could focus largely on "thinking like a lawyer" because there was no one who could compete with lawyers for providing access to the law and to understanding what the law meant for a specific client in a specific situation. This understanding of professional identity is the "first apprenticeship" mentioned in *Educating Lawyers*. *Educating Lawyers* highlighted that this was the "dominant" aspect of professional identity within legal education, which placed much more emphasis on "thinking like a lawyer" than "being a lawyer" -- much more emphasis on critical thinking and analysis than on developing a "fiduciary disposition," and understanding the importance of relationship skills in building the trust relationship essential to provide wise counsel to clients.

As we move past the halfway point of the first-third of the 21st Century, that first monopoly has disappeared completely as a result of technology and the internet. Access to the law is now widespread and inexpensive. Indeed, advances in coding and artificial intelligence are making it easier and easier for lay people not only to "find the law" but to get some idea of how it applies to them and their situation. A well-structured series of yes/no questions can inform someone if their situation implicates a given statute or regulation.

But clients frequently need to know more than what the law allows or prohibits. They frequently need to understand which of a range of allowable options makes the most sense given the clients specific interests and concerns.

For lawyers to have distinctive value in an artificial intelligence world, it will no longer be sufficient for law schools to produce graduates adept at "thinking like a lawyer." This

will be necessary, but not sufficient. Legal education will increasingly have to help produce graduates who are capable at “being a lawyer” – providing great client service in the interstitial spaces where they help clients explore among a range of legal options.

Lawyers are no longer going to be adding value by helping clients answer whether they “can” do something – whether the law allows them to do something. Clients will be able to do more and more of this on their own. Where lawyers are adding value and increasingly will be adding value is by helping clients work through the “should” questions. Among a range of possible options, which “should” the client select given the client’s legal and non-legal interests and concerns. “Being a lawyer” involves these type of “wise counsel” situations that require one to “think like a lawyer,” but even moreso require relationship skills – active listening, empathy, responsiveness, effective framing and exploration of alternatives. These are the skills of “being a lawyer” – of building relationships of trust with clients in which they feel heard and believe their lawyers understand their interests and concerns and are helping them effectively and efficiently make decisions that will best serve their interests and concerns.

While the [published learning outcomes](#) of many law schools indicate that there may be a growing interest in many of these relationship competencies, whether law schools will invest in the educational and assessment infrastructure to make sure their graduates develop these relationship competencies remains to be seen.