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## Ethical Professional (Trans)Formation: Early Career Lawyers Make Sense of Professionalism

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## ARTICLE

# ETHICAL PROFESSIONAL (TRANS)FORMATION: EARLY CAREER LAWYERS MAKE SENSE OF PROFESSIONALISM

VERNA E. MONSON<sup>1</sup> AND NEIL W. HAMILTON<sup>2</sup>

### ABSTRACT

This study investigated early-career lawyers' understanding of professionalism using Robert Kegan's theory of lifespan identity development. Kegan's theory posits that the capacity for growth in mental complexity (i.e., identity development) can increase throughout the lifespan, and that one's level of mental complexity shapes how one makes sense of the self in relation to others and to society. We assessed Kegan's stages of mental complexity using a short essay survey of lawyers four and five years into their careers after their graduation from the University of St. Thomas School of Law in Minneapolis, Minnesota ( $n = 37$ ). We used content analysis of responses about the meaning of professionalism to identify themes, which included: (1) the importance of successful relationships; (2) competence at the technical skills of lawyering; (3) growth in understanding professionalism; (4) compliance with the professional rules; and (5) honesty or other personal characteristics viewed as central to professionalism. We also conducted in-depth interviews ( $n = 7$ ) to assess developmental stage and to gauge the construct validity of the online questionnaire assessment on pro-

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professionalism. The implications for legal education are that ethical professional identity, or professionalism, can be empirically assessed, and that growth occurs from law school through the early years of lawyers' careers. The ethical professional identity assessment can be used (1) by faculty, coaches, or mentors to assess and to foster student development of professionalism; and (2) to assess law school outcomes related to professionalism. Implications for law firms and bar organizations include the use of this assessment in professional development and coaching of associates and as an assessment tool in mentoring programs. This study also provides a baseline of identity development for early career lawyers.

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## INTRODUCTION

In the first years that follow law school, lawyers' conceptions about the meaning of professionalism change as they gain experience, develop relationships with clients, partners, and adversaries, and grapple with the boundaries of the professional role. While there are several notable efforts at surveying law school alumni on satisfaction with their careers<sup>3</sup> or exploring key issues related to the recruitment and retention of women and minorities,<sup>4</sup> we know of none that have specifically explored early-career lawyers' views on professionalism through the lens of lifespan developmental psychology. This is the central topic of this research article.

This article reports the results of an empirical study of the meaning of professionalism among early-career lawyers (a random sample from the classes of 2005 and 2006 at the University of St. Thomas School of Law)

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3. Kenneth G. Dau-Schmidt et al., *The Pride of Indiana: An Empirical Study of the Law School Experience and Careers of Indiana University School of Law-Bloomington Alumni*, 81 IND. L.J. 1427, 1428–29 (2006); Kenneth G. Dau-Schmidt et al., *Men and Women of the Bar: The Impact of Gender on Legal Careers*, 16 MICH. J. GENDER & L. 49, 50–53 (2009); Am. Bar Found., *Seven Years into a Lawyer's Career: New Results from After the JD, Wave II*, 20 RESEARCHING L., no. 2, 2009 at 2–10, available at [http://www.americanbarfoundation.org/uploads/cms/documents/abf\\_rl\\_spring09\\_final.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/abf_rl_spring09_final.pdf).

4. See, e.g., ARIN N. REEVES, AM. BAR ASS'N COMM'N ON WOMEN IN THE PROFESSION, FROM VISIBLE INVISIBILITY TO VISIBLY SUCCESSFUL: SUCCESS STRATEGIES FOR LAW FIRMS AND WOMEN OF COLOR IN LAW FIRMS 6–16 (2008), available at <http://www.abanet.org/women/woc/wocinitiative.html>.

that used open-ended surveys ( $n = 37$ ) and in-depth interviews ( $n = 7$ ) to probe the underlying reasoning and motivational structures related to professionalism—or what Robert Kegan calls stages of *mental complexity*.<sup>5</sup> This study provides a window into how early-career lawyers' experiences in the years following graduation from law school shape their conceptions about professionalism and is part of a broader longitudinal study of how law school shapes students' identities. This study builds on recommendations from a 2007 Carnegie Foundation report<sup>6</sup> on the future of legal education calling for increased emphasis on professionalism, or *ethical professional formation*,<sup>7</sup> throughout the law school curriculum.

Many and varied approaches to studying professionalism exist in the scholarly literature. Some view professionalism as a set of personality characteristics or character traits formed in childhood, shaped by the influence of parents, teachers, and mentors.<sup>8</sup> Others believe that some moral decisions and actions related to professionalism stem from unconscious processes—i.e., implicit drives and motives that hijack our higher cognitive abilities when it comes to moral problems.<sup>9</sup> Both these approaches have problems;

5. "Mental complexity" refers to the nature of how we construct knowledge and meaning, based on the idea of increasingly complex cognitive, social, and emotional structures or capacities—also called epistemological, identity, and moral development. The general progression is from egocentrism to a more responsible and penetrating grasp of human relationships. ROBERT KEGAN & LISA LAHEY, *IMMUNITY TO CHANGE* xiii, 16–17 (2009). Kegan's concept is closely related to critical thinking ability, epistemological development, and reflective judgment. See generally ERNEST T. PASCARELLA & PATRICK T. TERENCEZINI, *HOW COLLEGE AFFECTS STUDENTS: A THIRD DECADE OF RESEARCH, VOLUME 2*, at 33–45 (2005) (describing cognitive-structural theories of intellectual and ethical development).

6. WILLIAM M. SULLIVAN ET AL., *EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW* 1–14 (2007).

7. The Carnegie Foundation for the Advancement of Teaching published a series of studies examining higher education and education in the professions, beginning with *Educating Clergy* published in 2006. See CHARLES R. FOSTER ET AL., *EDUCATING CLERGY: TEACHING PRACTICES AND PASTORAL IMAGINATION* (2006). In *Educating Lawyers* (2007), Carnegie used the terms professionalism and ethical professional identity as synonyms. See SULLIVAN ET AL., *supra* note 6, at 29–33. *Educating Physicians* (2010) uses professional formation for this concept. See MOLLY COOKE ET AL., *EDUCATING PHYSICIANS* 30–33 (2010). We use *transformational professionalism*, linking identity development theorist Robert Kegan's work to Carnegie's and to Kegan's assessment methodology that is used in organizational development. See SULLIVAN ET AL., *supra* note 6, at 129; COOKE ET AL., *supra*, at 30–33; KEGAN & LAHEY, *supra* note 5.

8. See, e.g., MARJORIE M. SHULTZ & SHELDON ZEDECK, *IDENTIFICATION, DEVELOPMENT, AND VALIDATION OF PREDICTORS FOR SUCCESSFUL LAWYERING* 18–24 (2008).

9. See, e.g., Jonathan Haidt, *The Emotional Dog and Its Rational Tail: A Social Intuitionist Approach to Moral Judgment*, 108 *PSYCHOL. REV.* 814, 814 (2001). The idea that judgments based on intuition are more prevalent, and, in some cases, superior to more deliberate, conscious reasoning, was made popular by author Malcolm Gladwell in *Blink*. See MALCOLM GLADWELL, *BLINK: THE POWER OF THINKING WITHOUT THINKING* 14 (2005). Gladwell reviews scholarship on cognitive information processing, citing evidence that "rapid cognition," or what he calls "thin slicing," can be superior to more deliberate, effortful cognitive processing. *Id.* at 18–47. For a discussion of moral intuition in relation to the culture of law, see generally, Milton C. Regan, Jr., *Moral Intuitions and Organizational Culture*, 51 *ST. LOUIS U. L.J.* 941 (2007) (describing the role of non-conscious processes and intuition in an ethical culture within an organization).

they view the passage to adulthood as the ultimate destination in personality and character development—that the development from childhood, school, or spiritual and religious institutions is complete upon reaching voting age or graduating from college or graduate school.<sup>10</sup> It is as if our assumptions about physical maturation are tantamount to our assumptions about mental growth and maturity. Psychologist Robert Kegan rejects such a view; while our bodies stop growing in height in late adolescence, our minds can continue growing throughout our lives.<sup>11</sup> Kegan notes that professionalism, using this theoretical lens, is less about the external forces that grant privileges and authority, or shape and mold our character, and more about internal psychological capacities involved with knowing, thinking, and forming relationships.<sup>12</sup> For Kegan, the lifelong curriculum of becoming who we are culminates in the stage of *self-transformation*<sup>13</sup>—of having the capacity to step back from our chosen ways of knowing and recognize the limits of any one system of thinking or knowing. We thus marry the Carnegie Foundation’s notion of ethical professional identity<sup>14</sup> with Kegan’s concept of self-transformation, calling it *transformational professionalism*.

The central research question was: How do early-career lawyers understand the meaning of professionalism? In Part I, we provide a brief review of constructive-developmental theory and research related to moral identity in the professions. In Parts II and III, we report the methodology and the results of our analysis, providing aggregate results of coding of survey and interview data, but focusing more on salient themes that emerged in coding that expound upon issues of current relevance to early-career lawyers, legal education, and law firm administrators. In Part IV, we discuss our findings, and the implications to legal education, law firms, and society.

## PART I: THE MEANING(S) OF PROFESSIONALISM POST-LAW SCHOOL

### A. *Background & the Carnegie Foundation Report on Legal Education*

As trustee institutions,<sup>15</sup> legal education, the organized bar, and the courts provide a road map for aspiring lawyers—i.e., a set of standards that must be reached before entry to the profession is granted. Graduating from law school and passing the bar exam verify a baseline of knowledge and

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10. See ROBERT KEGAN, *IN OVER OUR HEADS: THE MENTAL DEMANDS OF MODERN LIFE* 165 (1994).

11. See *id.* Kegan states the view of personality theorists and the prevailing opinion of laypersons “that adolescence is the last clearly demarcated phase of the lifespan, the point after which developmental theories lose their voice . . . [is a view that] is clearly in need of retirement.” *Id.* at 165.

12. *Id.* at 158.

13. KEGAN & LAHEY, *supra* note 5, at 17.

14. See SULLIVAN ET AL., *supra* note 6, at 30–31.

15. Anne Colby & William M. Sullivan, *Formation of Professionalism and Purpose: Perspectives from the Preparation for the Professions Program*, 5 U. ST. THOMAS L.J. 404, 423–24 (2008).

preparation in the skills of lawyering. The implicit message for new lawyers that passed the bar was that law school and the bar dictate how one becomes a lawyer. Although the road map is clear and detailed to the point of passing the bar, after that, the map is unclear, with mixed signals about the nature and meaning of professionalism and how it develops.

After passing the bar, the new lawyer must begin the process of “owning” the profession and what it means to be a professional, which requires a different process of learning and development, according to psychologists and legal scholars.<sup>16</sup> This transition involves forming one’s conception of the role of the lawyer within the profession and in the context of a complex society. This transition is fostered through encounters with ideas or situations that challenge one to adopt a more complex and nuanced view of self and others. Through such periods in our lives, mentors and supportive others are essential to guiding or coaching for developmental change. Also essential is the ability to deeply reflect on how we are making sense of our role or responsibilities. As a result of the transition, the meaning of professionalism shifts: no longer is it sufficient to competently meet the external requirements of the profession; rather, professionalism becomes a process of defining and adhering to the self-defined, internal demands of a core ethical identity.<sup>17</sup>

This prompts the question: Should this work in self-constructing the meaning of professionalism begin earlier—that is, in law school? Carnegie Foundation scholars concluded it should.<sup>18</sup> The work of self-defining and internalizing one’s core ethical identity, which Carnegie scholars call the *Third Apprenticeship*,<sup>19</sup> would require a fundamental shift in focus from educating law students who implicitly accept the “ownership” of the profession by others to educating law students to become “owners” themselves. This ability to hold opposing conceptions—law students and early-career lawyers obligated to follow the more senior owners of the profession (or the firm) and simultaneously obligated to follow or “own” their internalized moral code—is what Robert Kegan calls one of the fundamental developmental challenges of adulthood.<sup>20</sup> It is the ability to serve one’s profession according to its rules and core principles but also to take ownership of it.<sup>21</sup> What this means is shifting from a professionalism that adheres to existing standards to a professionalism that both transforms existing standards where

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16. See KEGAN, *supra* note 10, at 160; see also SULLIVAN ET AL., *supra* note 6, at 132 (explaining that the formation of professional identity in the legal profession involves beginning to develop “conceptions of the personal meaning that legal work has for practicing attorneys and [a] sense of responsibility toward the profession”).

17. SULLIVAN ET AL., *supra* note 6, at 135.

18. *Id.* at 14.

19. *Id.* at 28.

20. See KEGAN, *supra* note 10, at 157–58.

21. See *id.* at 160.

they are insufficient and makes discretionary decisions guided by one's internalized moral compass.

We refer to this developmental process toward the formation of an internalized moral compass informed by both the professional rules and the core principles and ideals of the profession as *transformational professionalism*. All the interview respondents in both this study of early-career lawyers<sup>22</sup> and our study of peer-honored lawyers<sup>23</sup> recognized as exemplars of professionalism noted that their understanding of professionalism evolved throughout their years of practice.

Following Carnegie's *Educating Lawyer*, Neil Hamilton conducted an analysis and synthesis of professionalism reports from the American Bar Association (ABA) and the Conference of Chief Justices, the ABA's Model Rules, and the Carnegie Foundation's research on legal education.<sup>24</sup> In this review, Professor Hamilton defined professionalism as a process that integrates personal conscience with the professional rules and the core principles and ideals of the profession.<sup>25</sup> Hamilton's model consists of (1) Personal Conscience, (2) the Ethics of Duty, and (3) the Ethics of Aspiration.<sup>26</sup> *Personal Conscience* is an analog to Rest's Four Component Model of morality,<sup>27</sup> which explains how moral behavior results from the integration of cognitive, emotional, and social capacities. The *Ethics of Duty* is required content in the law school curriculum, including "instruction in matters such as the law of lawyering and the Model Rules of Professional

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22. Interviewees were asked to retrospectively assess how the meaning of professionalism has changed from law school through the first years of their career. This methodology is used in situations where pre- and post-tests cannot be implemented or as a means of self-reflection. For an extensive review of this literature in medical education, see David A. Davis et al., *Accuracy of Physician Self-assessment Compared with Observed Measures of Competence*, 296 J. AM. MED. ASS'N 1094, 1095 (2006).

23. Neil W. Hamilton & Verna Monson, *Ethical Professional (Trans)formation: Themes from Interviews About Professionalism with Exemplary Lawyers*, 52 SANTA CLARA L. REV. (forthcoming 2011), available at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1804419](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1804419).

24. See Neil Hamilton, *Assessing Professionalism: Measuring Progress in the Formation of an Ethical Professional Identity*, 5 U. ST. THOMAS L.J. 470, 482–98 (2008).

25. *Id.* at 482–83.

26. *Id.* at 484–90.

27. Our overarching theoretical framework is James Rest's Four Component Model of moral development. See James R. Rest, *A Psychologist Looks at the Teaching of Ethics*, 12 HASTINGS CTR. REP. 29, 29 (1982); James R. Rest, *Morality*, in 3 HANDBOOK OF CHILD PSYCHOLOGY: COGNITIVE DEVELOPMENT 556, 558–70 (P.H. Mussen, J. Flavell & E. Markman eds., 4th ed. 1983). Rest's Four Component Model ("FCM") of moral behavior posits that four distinct psychological capacities explain moral behavior, including (1) sensitivity (or perceptual clarity and empathy), (2) judgment, (3) motivation (also character and identity), and (4) implementation. Rest's FCM, applied to the professions, provides measurement tools and is informed by over three decades of research and curriculum development. Kegan's theory of identity development is used as a proxy for component three, moral motivation and identity. For an introduction to the use of the Four Component Model in professions education, see Muriel J. Bebeau, *Promoting Ethical Development and Professionalism: Insights from Educational Research in the Professions*, 5 U. ST. THOMAS L.J. 366, 369–79 (2008); Muriel J. Bebeau, *The Defining Issues Test and the Four Component Model: Contributions to Professional Education*, 31 J. MORAL EDUC. 271, 283–88 (2002).



Conduct,”<sup>28</sup> and represents the minimum floor of competence and ethical conduct. The *Ethics of Aspiration* include the core principles and ideals that guide the profession and its members. An extensive review of scholarly literature, industry reports, and literature in the professions, particularly the health and accounting professions, found that more fully formed capacities of personal conscience are associated with effective lawyering as defined by both clients and senior lawyers.<sup>29</sup> A recent empirical study on the meaning of professionalism among entering law students, also at the University of St. Thomas School of Law, found varied meanings of professionalism depending on the student’s stage of identity development or mental complexity.<sup>30</sup> This study affirmed Kegan’s theory as well as Hamilton’s synthesis of the core of professionalism: personal conscience in a professional context is not a fixed characteristic but a psychological capacity that can increase.

### B. *Ethical (Trans)formational Professionalism*

How should legal education, law firms, and bar organizations change to foster a higher level of professionalism? First, they must consider that teaching skills alone are insufficient to nurture and grow students’ ethical professional identity. The most effective educational engagements to foster transformational professionalism involve active engagement of the student or associate, solicitation of feedback (discussion), and self-reflection loops over time. The questions for feedback, discussion, and reflection should be appropriate to the developmental stage of the individual.<sup>31</sup> Kegan’s in-depth interview assessment<sup>32</sup> can be used in conjunction with these educational engagements and with coaches or mentors debriefing the self-assessment to facilitate discussions and reflection about the meaning of professionalism.<sup>33</sup>

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28. AM. BAR. ASSOC., 2010–2011 STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 23 (2010), available at [http://www.americanbar.org/groups/legal\\_education/resources/standards.html](http://www.americanbar.org/groups/legal_education/resources/standards.html).

29. Neil W. Hamilton & Verna Monson, *The Positive Empirical Relationship of Professionalism to Effectiveness in the Practice of Law*, 24 GEO. J. LEGAL ETHICS 137, 163–64 (2010).

30. Verna Monson & Neil W. Hamilton, *Entering Law Students’ Conceptions of an Ethical Professional Identity and the Role of the Lawyer in Society*, 35 J. LEGAL PROF. 385 (2011). We use Robert Kegan’s theory of self or identity development, which falls under the general umbrella of constructive-developmental approaches to cognitive and moral development. Kegan’s theory is distinguished from other general approaches in that it integrates thought, emotion, and social aspects of personality development. For a comparison of the major approaches to identity or epistemological development, see KEGAN & LAHEY, *supra* note 5, at 87.

31. See Hamilton, *supra* note 24, at 498–500; see also Bebeau, *supra* note 27, at 388–89, 391.

32. See LISA LAHEY ET AL., *A GUIDE TO THE SUBJECT OBJECT INTERVIEW: ITS ADMINISTRATION AND INTERPRETATION* 14–16 (1988).

33. See Bebeau, *supra* note 27, at 391; see also Eileen M. McGowan, Eric M. Stone & Robert Kegan, *A Constructive-Developmental Approach to Mentoring Relationships*, in *THE HANDBOOK OF MENTORING AT WORK* 401, 401–24 (Belle Rose Ragins & Kathy E. Kram eds., 2007).

The assessment involves identifying four “orders of consciousness” or stages of identity development.<sup>34</sup>

The Instrumental Mind (Stage 2) is characterized by external definitions of self, predominance of “either-or” thinking, limited perspective-taking ability, and an egocentric view—characteristic of adolescence and early adulthood;<sup>35</sup>

The Socialized Mind (Stage 3) is characterized by identity embedded within the social milieu of family, friends, and the profession, with increasing ability to see things from another’s point of view.<sup>36</sup> Understanding and expectations continue to be externalized, shaped by relationships, particular “schools of thought,” or by both;<sup>37</sup>

The Self-Authoring Mind (Stage 4) involves the ability “to step back enough from the social environment to generate a ‘seat of judgment’ or personal authority that evaluates and makes choices about external expectations.”<sup>38</sup> The independence of judgment and problem solving abilities of Stage 4 translate to greater fidelity to one’s inner moral code. At Stage 4 one is not easily swayed by group membership or loyalties;<sup>39</sup>

The Self-Transforming Mind (Stage 5) is characterized by the ability to examine one’s self-authored personal authority and recognize the limits of any one system of constructing meaning. According to Kegan, few people fully achieve Stage 5, but the emergence of Stage 5 identity development is characterized by the recognition of the interdependencies of different systems or ways of being, and reconciliation of contradictory or seemingly paradoxical ways of constructing meaning.<sup>40</sup>

Developmental advances happen very gradually in life, with varied elements of previous stage thinking mixed with more advanced, complex

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34. We omit Stage 1, as this is early childhood and not relevant to the present study. Stage 2, while it occurs primarily in adolescence, can continue well into one’s 20s, and empirical research finds it common in professions education. See Verna E. Monson & Neil W. Hamilton, *Entering Law Students’ Conceptions on Ethical Professional Identity*, 35 J. LEGAL PROF. (forthcoming 2011) (manuscript at 6 tbl.2), available at <http://ssrn.com/abstract=1581528>. Monson and Hamilton found Stage 3 the modal stage among entering law students. See also Hamilton & Monson, *supra* note 23, at 27.

35. See ROBERT KEGAN, *THE EVOLVING SELF: PROBLEM AND PROCESS IN HUMAN DEVELOPMENT* 118–19 tbl.7 (1982).

36. The term “social perspective taking” (attributed to Robert Selman, 1975) is a central concept in the human cognitive developmental theories of Piaget and Kohlberg, the moral development theories of Rest, and general epistemological development (e.g., Kegan). It refers to mental development that moves from egocentric or impulsive motives to increased awareness of others’ feelings, potential reactions, or the ability to empathize with others. See generally JAMES REST ET AL., *POSTCONVENTIONAL MORAL THINKING: A NEO-KOHLBERGIAN APPROACH* 35–36 (1999). See also KEGAN, *supra* note 35, at 118–19 tbl.7.

37. See KEGAN, *supra* note 35, at 118–19 tbl.7.

38. See *id.*

39. See *id.*

40. See *id.*

ways of seeing the world.<sup>41</sup> Movement to later stages does not mean one abandons the earlier ways of constructing meaning; rather, each new meaning-making structure incorporates characteristics of earlier stages.<sup>42</sup> According to Kegan's research, there is a wide range of stage thinking within age categories (e.g., a very small percentage of people in their twenties achieve Stage 4, and a small percentage of people in midlife remain in Stage 2 or Stage 2 / 3.<sup>43</sup> Advancement from Stage 2 to 3 occurs most often in late childhood and adolescence, but can extend well into adulthood, beyond college. Stage 3 is typically observed beginning in late adolescence and, according to Kegan's estimates, is the predominant stage of most adults.<sup>44</sup> Stage 4 is typically not observed until one's 30s. Kegan estimates that approximately one-half to two-thirds of all adults may never achieve a full Stage 4.<sup>45</sup> Aspects of Stage 5 thinking are observed along with Stage 4, but a complete manifestation of Stage 5 is rare.<sup>46</sup>

The shift from Stage 3 to 4 does *not* imply, however, that becoming self-authored means becoming a "lone wolf" or "rogue agent."<sup>47</sup> People retain the complex, early-stage perspectives in constructing meaning and making sense of the world. The capacity to see the world through a Stage 4 lens of Self-Authorship does not mean losing one's Socialized perspective. This misconception may stem from a belief that because Stage 4 is more developed, it is implicitly "better" than Stage 3, and because aspects of Stage 3 are essential to social institutions functioning and thriving (e.g., working with others, being civic-minded). Stage 3 socialized perspectives are assumed, unconscious processes; at Stage 4 they are intentionally chosen ones. At Stage 4 there is a greater level of mindfulness and maintenance of one's intentions or point of view.

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41. See LAHEY ET AL., *supra* note 32, at 46. There are a total of 21 possible stages and transition phases in human development that can be assessed using the SOI. For example, the transition from the Socialized Mind (Stage 3) to the Self-Authored Mind (Stage 4) involves the following "positions": 3(4), which means predominately Stage 3, with some aspects of Stage 4 emerging; 3 / 4 means that the two meaning making systems are fairly equally occurring, with slightly more emphasis on Stage 3; 4 / 3 means Stage 4 is predominant, but Stage 3 remains an important way of making sense of the world; Stage 4(3), in which Stage 4 is the central system of meaning making operating; and last Stage 4 in which the individual is consistently functioning from a Stage 4, self-authored mind, perspective. Researchers emphasize that the SOI assessment is a "snapshot of an individual's mental development"; multiple sources of evidence and parallel forms of developmental assessment should be used. Further, communicating results using the stage number is not recommended unless given by a licensed counselor or therapist.

42. This also suggests that earlier stages are not inherently "bad," and remain part of our way of making meaning, but no longer represent the developmental edge of our full cognitive capacity.

43. LAHEY ET AL., *supra* note 32, at 46.

44. See KEGAN, *supra* note 10, at 189–95.

45. See KEGAN & LAHEY, *supra* note 5, at 14.

46. See KEGAN, *supra* note 10, at 195.

47. We thank our colleague, Professor Russ Pearce, THE Edward & Marilyn Bellet Chair in Legal Ethics, Morality, and Religion at Fordham University School of Law, whose questioning challenged us to clarify this point in reviewing drafts of this article.

Some may question whether advancement to Stage 4 is a worthy goal for lawyers, reasoning that in organizations, collegiality and relationships are critical to effectiveness. The evidence is that Stage 4 can be critical to increasing effectiveness in multiple ways. Self-Authoring (Stage 4) individuals possess the capacity to take the perspective of the Socialized (Stage 3) point of view and can help an individual at this stage to see the broader perspectives of complex problems and encourage them to reflect and choose a self-authored point of view. This element of coaching is essential in leadership and organizational development, managing change, and professional education.<sup>48</sup> The following section discusses studies using Kegan's approach in these fields.

Table 1 displays frequencies and percentages of stages observed in assessments in education in the professions, professional military education, and management. Studies in law and dentistry used a modified version of Kegan's Subject-Object Interview (SOI)<sup>49</sup> based on open-ended short essay questions developed at West Point Military Academy.<sup>50</sup> Other studies displayed used the SOI.

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48. See generally KEGAN & LAHEY, *supra* note 5; see also KEGAN, *supra* note 10, at 232–33. Kegan's view is that development toward more complex ways of making sense of the world is necessary in order to be effective in a global, constantly changing business environment—problems that are complex may be literally “over our heads” if our development is not sufficient to manage complex challenges. Although earlier stages may be prone to egocentrism and social influence, these ways of meaning making are not inherently “bad” and appear side-by-side later, more complex ways of making sense of the world. By definition, later stages reflect more complex reasoning and intentionality, essential capacities to fulfilling the purpose of the professions. See KEGAN & LAHEY, *supra* note 5, at 18–21, and KEGAN, *supra* note 10, at 227 tbl.6.4, for a concise discussion of Subject-Object theory and its application to adult development. See also Robert Kegan, *Hidden Curriculum of Adult Life: An Adult Developmental Perspective*, at 44 (Stockholm Univ. Dep't Educ., Stockholm Lectures in Educology Ser. No. 2, 2003) (on file with author, Verna Monson).

49. “Subject-Object” refers to the mental construction of the dynamic between self and other. As development progresses, the individual moves that which is “subject” (i.e., the aspects of reality beyond our conscious recognition, or “that which owns us”) to “object,” (i.e., “that which we own” or that which we consciously recognize or can articulate). “Subject” refers to that which is an implicit part of the self; “object” is that which we explicitly know, want, fear, or desire. An example of this process occurs in infancy, as the child gradually becomes aware of the separation of self from caregivers or parents. The Subject-Object Interview uses word prompts that are emotion-laden (e.g., success, anger, frustration, loss) presented at the beginning of the interview, eliciting participants' most salient thoughts. The Subject-Object Interview permits researchers, educators, or counselors to discern how individuals are constructing meaning, and with training, to discern the level of identity development. With developmental change, increasing complexity of conscious awareness occurs. See generally KEGAN, *supra* note 10; LAHEY ET AL., *supra* note 32.

50. For background on the development of assessments of professional identity, see Muriel J. Bebeau & Verna Monson, *Professional Identity Formation and Transformation Across the Life Span*, in PROFESSIONAL LEARNING OVER THE LIFE SPAN: INNOVATION AND CHANGE (A. McKee & M. Erant eds., forthcoming 2011). See MURIEL J. BEBEAU & PHILIP LEWIS, CTR. FOR THE STUDY OF ETHICAL DEV., *MANUAL FOR ASSESSING AND PROMOTING IDENTITY FORMATION* (2004) for a detailed discussion of the SOI adapted as an in-depth essay assessment in the context of West Point Military Academy. See also Verna E. Monson et al., *Developing Civic Capacity of Professionals: A Methodology for Assessing Identity*, Paper Presented at the American Education Re-

TABLE 1  
SUMMARY OF KEGAN IDENTITY ASSESSMENT STUDIES IN  
EDUCATION IN THE PROFESSIONS

Study	Stage 2	Stage 2/3	Stage 3	Stage 3/4	Stage 4	Stage 4/5
<b>Bartone<sup>51</sup> et al., 2007</b> , professional military cadets (freshmen), <i>n</i> = 38	8 (21%)	24 (63%)	6 (16%)	0	0	0
<b>Bartone<sup>52</sup> et al., 2007</b> , professional military cadets (senior), <i>n</i> = 38	2 (6%)	10 (31%)	14 (44%)	6 (19%)	0	0
<b>Eigel,<sup>53</sup> 1998</b> , CEOs, <i>n</i> = 21	0	0	0	0	17 (81%)	4 (19%)
<b>Eigel,<sup>54</sup> 1998</b> , middle managers, <i>n</i> = 21	1 (5%)	2 (10%)	7 (33%)	0	10 (48%)	1 (5%)
<b>Monson &amp; Bebeau,<sup>55</sup> 2006</b> , dental students (freshmen), <i>n</i> = 94	12 (13%)	48 (51%)	18 (19%)	12 (13%)	4 (4%)	0
<b>Monson &amp; Hamilton,<sup>56</sup> 2010</b> , first-year law students, <i>n</i> = 88,	14 (16%)	22 (25%)	29 (33%)	22 (25%)	1 (1%)	0
<b>Roehrich &amp; Bebeau,<sup>57</sup> 2005</b> , dental students (freshmen), <i>n</i> = 46	6 (13%)	32 (70%)	4 (7%)	4 (7%)	0	0
<b>Snook<sup>58</sup> et al., 2007</b> , Harvard MBA students, <i>n</i> = 26	9 (35%)		7 (27%)		9 (35%)	

### C. Relevance of Kegan's Framework to the Legal Profession

The relevance of Kegan's identity theory for legal education, law firms, and the organized bar is that a conceptual framework for professionalism that is internally centered on a core identity is needed if we are to elevate the ethical standards of the legal profession and increase the effectiveness of lawyers.<sup>59</sup> As Kegan<sup>60</sup> states,

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search Association Annual Meeting, New York, N.Y. (Mar. 6, 2008) (on file with author, Verna Monson).

51. Paul T. Bartone et al., *Psychosocial Development and Leader Performance of Military Officer Cadets*, 18 LEADERSHIP Q. 490, 497 (2007).

52. *Id.*

53. See KEITH MARTIN EIGEL, *LEADER EFFECTIVENESS: A CONSTRUCTIVE DEVELOPMENTAL VIEW AND INVESTIGATION* (1998).

54. *Id.*

55. See Monson et al., *supra* note 50, at 31.

56. See Monson & Hamilton, *supra* note 34, at 12.

57. *Id.*

58. Scott Snook, *Teaching Leadership in Business Schools: A Case Study*, Presentation at the American Education Research Association Annual Meeting (Sept., 2007) (on file with author, Verna Monson).

59. See Hamilton & Monson, *supra* note 29, at 170–71.

60. See KEGAN, *supra* note 10, at 157.

When one's work is an institutionalized profession, like law, education, or medicine . . . written codes of professional conduct cannot ensure a professional's capacity to adhere to the code, and not merely because humans are sinners and will fall short of the noblest aspirations of their profession. What if, for many, the failure to adhere to this code is not about the suspension of a perfectly performable skill in favor of a baser motive (say, financial gain) but about the incapacity actually to understand what is really being required in the code? What if such a code is itself an epistemological demand?<sup>61</sup>

In this statement, Kegan offers a plausible alternative to the hypothesis that weakness of character is the precursor to unethical behavior. For example, individuals embedded in Stage 3 thinking may simply fail to account for the full complexity of codes of ethics or professional responsibility and instead follow norms and status quo, complying with the minimum, rule-based black letter law. Kegan's approach explains why otherwise smart and technically competent lawyers may fail to see the full complexity of a legal or ethical problem.

#### D. Summary

This study examined transformational professionalism of early-career lawyers four and five years from graduation, using a constructive-developmental theory of identity or cognitive complexity. The five major goals of this study included:

1. To elucidate varied meanings of professionalism by "putting flesh on the bones" of the underlying developmental processes related to understanding professionalism. We aimed for in-depth understanding of our participants' lived experiences of the first years of lawyering;<sup>62</sup>
2. To elicit lawyer's self-assessment of whether and how their understanding of professionalism has grown since law school;
3. To develop a tool for assessing transformational professionalism that can assist mentors, law professors, or law firm professional development staff in coaching or in devising a development plan;

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61. Epistemology is the formal study of how knowledge is constructed or various "ways of knowing" what is deemed as credible or valid. Based in philosophy, epistemological research in education focuses on the development of cognition, progressing from dualistic, "either-or" more simplistic reasoning to more complex capacity to see multiple perspectives. See PASCARELLA & TEREZINI, *supra* note 5, at 34-38. For a concise comparison of related adult developmental theories, see KEGAN *supra* note 35, at 85-89.

62. We used random sampling of our alumni populations in order to maximize the heterogeneity of our sample. In general, this would increase the diversity, depth, and breadth of the concepts about the meaning of professionalism. We acknowledge a limited ability to generalize from this sample to the population of early-career lawyers.

4. To provide a measurement tool for use in evaluating the overall effectiveness of a program in fostering transformational professionalism;<sup>63</sup> and
5. To seek further empirical evidence to validate the premise that the meaning of professionalism can evolve from less to more complex with sufficient challenges and sufficient support.<sup>64</sup>

### E. Research Questions

- What are early-career lawyers' conceptions of professionalism? How do these conceptions of professionalism align with Kegan's stages of identity development?
- What perceived factors do early-career lawyers cite as important to how they have constructed the meaning of professionalism?
- To what extent do early-career lawyers perceive changes in their understanding of professionalism five years from law school graduation? If so, what is the nature of that change?
- What is the relationship between parallel forms of the assessment (i.e., essays and interviews)?

## PART II: METHODOLOGY

This study utilized: (1) a short-essay assessment of identity development in professional education<sup>65</sup> and (2) an adaptation of the SOI. The assessment focused on the meaning of professionalism based on adult development theory and used content analysis.<sup>66</sup> The SOI measures devel-

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63. We agree with Kegan that the general developmental movement to more complex ways of making sense of the world is desirable in the professions. This is not to say that earlier stages should be cast in a negative light—the meaning making structures of earlier stages of development are simply more prone to the limitations of egocentrism and social influence processes that can lead to moral lapses. Later stages represent increased consciousness and intentionality, which we argue are essential to the central purpose of the professions. For a discussion of the relevance of Kegan to the professions, see KEGAN, *supra* note 10, at 157. For a concise discussion of Kegan's theory and relevance to cultural diversity, see KEGAN, *supra* note 10, at 222.

64. We state this goal with full awareness of the unreliability of individual memories, which can tend to distort the past. Is the question we asked of a subset of participants, "Is your understanding of professionalism now the same or different from when you graduated?" too subjective? Our response is that while some individuals may overestimate their growth, and others underestimate, the responses given were those most meaningful to the participants—and our review of the technique of retrospective self-assessment gave us some guidance on when and how conditions are most likely to yield biased, inauthentic responses. Those conditions include high-stakes situations, in which the self-assessment is tied to performance reviews or job evaluations, leading to a lack of trust. Because our study was completely voluntary and interviews were conducted with both authors, one a trusted former professor of participants, we feel the risks of these sources of bias were minimized. For further explanation of the methodological and philosophical underpinnings of our approach, see ANNE COLBY & WILLIAM DAMON, *SOME DO CARE: CONTEMPORARY LIVES OF MORAL COMMITMENT* 322–23 (1992).

65. See Bebeau & Monson, *supra* note 50.

66. KLAUS KRIPPENDORFF, *CONTENT ANALYSIS: AN INTRODUCTION TO ITS METHODOLOGY* (2d ed. 2004).

opmental stage.<sup>67</sup> We also used construct validation methods<sup>68</sup> to explore the validity<sup>69</sup> of the data from the short essay questionnaire by comparing the stages assigned by short essays to those assigned by interview.<sup>70</sup>

This study was part of a broader longitudinal research agenda examining transformational professionalism, beginning from law school matriculation and through graduation and lawyers' careers. The primary intent of this study was to gain an in-depth understanding of lawyers' conceptions of professionalism four to five years into their career, as opposed to estimating these conceptions in the population of early-career lawyers. The second goal was to use coded excerpts to supplement our coding guide that links these conceptions to developmental stages. Long-term, our objective is to utilize a true longitudinal research design that could address the question of how ethical professional identity forms in the years following law school.

The research team for this study included the authors and a research assistant (a third-year law student) who assisted in the recruitment of participants. Since Hamilton is a faculty member who may have taught many of the participants and, thus, may have held biases, Monson de-identified all responses to the web-based survey prior to data analysis.

#### A. *Characteristics of the Population / Sampling*

The population consisted of lawyers who had graduated from the University of St. Thomas in 2005 ( $n = 88$ ) and 2006 ( $n = 116$ ). In phase one of our study, all members of the class of 2005 were contacted through email and asked to complete a web-based questionnaire. The response rate to the questionnaire in phase one was 24% ( $n = 21$ ). In phase two, we called a random sample from the class of 2006, making a total of 23 calls; 17 alumni

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67. See generally KEGAN, *supra* note 10, at 186–87.

68. Construct validity refers to psychometric procedures to determine whether the data is measuring what it was constructed to measure. For a broad overview of qualitative research design and methods, see generally JOHN W. CRESWELL, *QUALITATIVE INQUIRY AND RESEARCH DESIGN: CHOOSING AMONG FIVE TRADITIONS* 1 (1998). See also MAX VAN MANEN, *RESEARCHING LIVED EXPERIENCE: HUMAN SCIENCE FOR AN ACTION SENSITIVE PEDAGOGY* 1 (1990).

69. Although the origin of validity stems from discussion of standardized tests of knowledge or personality, validity can refer more broadly to data derived from performance assessments or observations, which are produced through coding or rating data. For a discussion of different forms of validity, see Am. Educ. Research Ass'n, *Proposed Ethical Standards for AERA*, 20 *EDUC. RESEARCHER* 31, 32 (1991). For a discussion of validity and its importance in the ability to make inferences from test or performance data, see Samuel Messick, *Validity of Psychological Assessment: Validation of Inferences from Persons' Responses and Performance as Scientific Inquiry into Score Meaning*, 50 *AM. PSYCHOLOGIST* 741, 741–49 (1995).

70. The rationale for the inclusion of this variable relates to research that service learning is positively related to college student epistemological development and development of interpersonal skills. Rhoads describes this development with the example of caring for others as a patronizing act, as opposed to an act of mutuality—of coming to understand there are gifts one receives by helping others. See, e.g., Robert A. Rhoads, *Democratic Citizenship and Service Learning: Advancing the Caring Self*, in *NEW DIRECTIONS FOR TEACHING AND LEARNING* 42 (2000); Yan Wang & Robert Rodgers, *Impact of Service-Learning and Social Justice Education on College Students' Cognitive Development*, 43 *NASPA J.* 316, 331 (2006).



completed online surveys for a response rate of 74%. Among phase two participants, we randomly chose seven individuals and invited them to participate in an in-depth interview as a construct validation procedure for the survey. All seven agreed to participate.

### *B. Web-based Survey Questions*

We used short essay questions adapted for a study of baseline identity development in legal education.<sup>71</sup> The questions were open-ended and were administered via a web-based survey; this replicated previous studies in ethics education in the professions.<sup>72</sup> The suggested amount of time to complete the questionnaire was thirty minutes. The questions were designed to tap into the cognitive-emotional-social structures that comprise identity formation and focused on entering students' understanding of professionalism. The questions included:

1. Personally, how do you understand the meaning of professionalism? How did you come to this understanding?
2. Is your understanding of professionalism now the same or different from when you graduated? If it has changed, describe how, as well as what factors may have led to that change.
3. What will you expect of yourself as you work toward your career goals as a lawyer? What will society expect of you? What will the profession expect of you?
4. What conflicts do you experience (e.g., between your responsibility to yourself and to others—clients, family, community, profession)?
5. What would be the worst thing for you if you failed to live up to the expectations you have set for yourself?
6. What would be the worst thing for you if you failed to live up to the expectations of your clients (the profession) (society)?

### *Data Analysis, Web-based Survey*

We used two methods in data analysis. First, Hamilton used a method influenced by grounded theory<sup>73</sup> to identify concepts central to legal practice from the participants' point of view. Second, we used a Kegan-style coding guide developed for professions education.<sup>74</sup> The unit of analysis included phrases or sentences that reflected criteria for each stage and transition stage (i.e., Stages 2, 2/3, 3, 3/4, and 4) (excerpts from the coding

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71. See Monson & Hamilton, *supra* note 34, at 5–6; see also BEBEAU & LEWIS, *supra* note 50, at 9.

72. KEGAN, *supra* note 10; Monson & Hamilton, *supra* note 34.

73. See MICHAEL QUINN PATTON, *QUALITATIVE EVALUATION AND RESEARCH METHODS* 153 (2d ed. 1990).

74. See BEBEAU & LEWIS, *supra* note 50; see also Monson et al., *supra* note 50, at 52–63.

guide are included in Appendix A).<sup>75</sup> We independently coded essay responses for stage and content related to themes.<sup>76</sup> For example, in adolescence and early adulthood it is more common that success is defined by the attainment of a certain lifestyle.<sup>77</sup> With more advanced levels of development, there is increased emphasis on service to others, a desire to use professional status as leverage to improve the profession, and recognition of the obligation of the profession to society.<sup>78</sup>

Following this step, we assigned a holistic stage score to each essay response; we agreed that one essay (case # 35) was too thin to code. We then met to discuss scores ( $n = 37$ ). To guard against agreement based on expediency or on groupthink in our discussion,<sup>79</sup> we used devil's advocacy techniques based on evidence from within the essays to challenge each other's judgments and reasoning.<sup>80</sup>

### C. Subject-Object Interview

We used an adaptation of the SOI,<sup>81</sup> a method of assessing identity developmental stage, as our interview protocol. The protocol involves exploring a concept or phenomenon in relation to several word prompts (e.g., "loss" or "frustration") written on blank index cards. Subjects are given time to reflect on how each of the words relates to the concept of interest (e.g., how frustration relates to the concept of professionalism). Interviews were conducted by the two authors within a 45-minute period. We selected five words: (1) trust; (2) success; (3) disappointment (with self or others); (4) crucibles (or painful, difficult experiences); and (5) love. Participants were asked to think about experiences or challenges concerning profession-

75. We counted as agreement judgments that were within a half stage (e.g., 2 or 2 / 3).

76. SHEELAGH O'DONOVAN-POLTEN, *THE SCALES OF SUCCESS: CONSTRUCTIONS OF LIFE-CAREER SUCCESS OF EMINENT MEN AND WOMEN LAWYERS* 3, 10, 20 (2001).

77. See KEGAN, *supra* note 10, at 94–95.

78. See Monson et al., *supra* note 50, at 36–37; see also *supra* note 5 for a discussion on the definition of mental complexity and less egocentric understandings.

79. Irving Janis, *Groupthink*, in *THE LEADER'S COMPANION: INSIGHTS ON LEADERSHIP THROUGH THE AGES* 360, 361 (J. Thomas Wren ed., 1995) ("[T]he term groupthink [is] a quick and easy way to refer to the mode of thinking that persons engage in when *concurrency-seeking* becomes so dominant in a cohesive in-group that it tends to override realistic appraisal of alternative courses of action.").

80. We used percent agreement to estimate rater agreement. After independently coding each essay, we met to discuss the stage assignments. Initial agreement was 59 percent or 92 percent within a half stage (i.e., counting 3 and 3 / 4 as agreement, similar to the standard used in SOI scoring). All differences in ratings were resolved following discussion. In a similar study of professional coaches, the initial rater agreement level was at 58 percent. See E-mail from Maya Hamilton, Teaching and Research Assistant, University of Minnesota, to Verna Monson, Research Fellow, Holloran Center for Ethical Leadership in the Professions (Apr. 19, 2011, 20:05 CST) (on file with author) (discussing Maya Hamilton, *Ethical Professional Identity: A Pilot Study of NCAA Division I and Division III Swimming Coaches' Conceptions of Professionalism* (May, 2011) (unpublished Master's thesis, University of Minnesota) (manuscript at 29–30) (on file with author), Verna Monson)).

81. For a discussion on the Subject-Object Interview, see *supra* note 49.

alism as the words relate to the concepts on the card.<sup>82</sup> After five to ten minutes of writing notes on the cards (which are for the individual to see and keep; the notes are confidential), we asked them to choose a card that elicited the most thoughts and talk with us about those thoughts. Interviews were recorded and transcribed.

### *Data Analysis, Interviews*

We also independently coded interview transcripts ( $n = 7$ ) for Kegan stage, identifying phrases or sentences that reflected stage criteria, and also assigned an overall stage score.<sup>83</sup> We met again to review stage judgments and discuss the bases of our judgments, comparing key phrases that confirmed or disconfirmed our judgments. Following this initial meeting, we independently coded transcripts for thematic content. In order to focus on themes most relevant to legal education, Hamilton selected themes closely related to the legal profession for our analysis based on his extensive expertise as a law professor and practicing attorney. In our second meeting, we reviewed themes and discussed their relevance to our overall research questions and theoretical perspective. We next identified key phrases, sentences, or paragraphs that best illustrated the concepts, searching for an array of excerpts reflective of different stages.

Following this process, Monson compared interview transcripts and essay responses of a subset of our respondents ( $n = 7$ ) for consistency to identify, confirm, or disconfirm evidence<sup>84</sup> supporting the meaningfulness or consistency across the two methods (i.e., a qualitative equivalent of parallel forms reliability and construct validity).<sup>85</sup>

## PART III: RESULTS

The data resulting from the surveys and interviews contained an expanse of material reflective of stages of identity development and thematic content broadly tied to the concept of professionalism. Due to the volume of this content, we limit the scope of results reported in this article to: (1) the meaning of professionalism from a conceptual and definitional perspective,

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82. *Id.*

83. Monson also drew upon using the SOI guide, which utilizes a more fine-grained range of stages and transitions (e.g., the transition from Stage 3 to 4 includes the following codes: 3 (i.e., Stage 3); 3(4) (i.e., Stage 3, with some 4 emerging); 3 / 4 (i.e., predominately Stage 3, but with much Stage 4); 4 / 3 (i.e., predominately 4, with much stage 3 present); 4(3) (i.e., predominately 4, with some stage 3 remaining); and 4 (i.e., Stage 4). *See id.* at 12.

84. In qualitative research, the ability to control factors is limited without a control group. To address this limitation, researchers generate plausible alternative hypotheses and then attempt to rule them out through closely examining the data or checking with study participants to verify their interpretations. For a thorough review of methods of ensuring quality, meaningfulness, or validity of interpretations, see MATTHEW B. MILES & A. MICHAEL HUBERMAN, *QUALITATIVE DATA ANALYSIS: AN EXPANDED SOURCEBOOK* 274–75 (2d ed. 1994).

85. *See* Messick, *supra* note 69, at 742.

and a developmental stage perspective integrating themes and content related to professionalism; (2) self-perceptions of factors related to growth in understanding professionalism; and (3) a comparison between the web-based survey responses and in-depth interviews to gauge the meaningfulness or validity of the web-based survey method.<sup>86</sup> Throughout this section, we use pseudonyms to attribute quotes that illustrate stage or theme characteristics; all identifying information about our participants is altered to maintain participants' confidentiality.

A. RESEARCH QUESTION 1: What are early-career lawyers' conceptions of professionalism? How do these conceptions of professionalism align to Kegan's stages of identity development?

*The Meaning of Professionalism, Conceptual, or Definitional Perspectives*

Survey responses ( $n = 37$ ) were coded for conceptual content most relevant to the respondent's understanding of professionalism.<sup>87</sup> Themes, in order of frequency, included: (1) the importance of successful relationships; (2) competence at the technical skills of lawyering; (3) growth in understanding professionalism; (4) compliance with the professional rules; and (5) honesty or other personal characteristics viewed as central to professionalism. The following details each theme and indicates the frequency each theme was observed in survey responses:

- Successful relationships included the following subthemes: (1) respect for others ( $n = 15$ ); (2) basic human decency, kindness, or courtesy ( $n = 9$ ); (3) serving clients by following best practices ( $n = 8$ ); and (4) devotion to clients, excellent service to clients, and strong work ethic to serve clients ( $n = 4$ ).
- Technical skills of lawyering included: (1) competence or good work product, including thoroughness ( $n = 10$ ); (2) deep knowledge of the law ( $n = 8$ ); and (3) best quality representation to clients ( $n = 3$ ).
- Growth in understanding professionalism over time ( $n = 14$ ).
- Compliance with the professional rules ( $n = 10$ ).
- Personal characteristics included: (1) honesty ( $n = 11$ ); (2) strong internal moral compass ( $n = 8$ ); (3) integrity ( $n = 7$ ); (4) fairness ( $n = 6$ ); (5) humility ( $n = 2$ ); reflective practice ( $n = 3$ ); and (6) habit of seeking other lawyers' counsel ( $n = 1$ ).

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86. This step in our analysis could provide evidence that responses to the web-based survey were not anomalous or random, and that an alternative "measure" (i.e., the SOI) would yield similar coding results. Although the measurement approaches do not justify a strict construct validation procedure, these steps are the qualitative equivalents of searching for "disconfirming" evidence. See MILES & HUBERMAN, *supra* note 84, at 274–75.

87. These judgments were made by Hamilton, as a practicing attorney and law professor, and based on an extensive review of the literature on professionalism in legal education. See generally Hamilton, *supra* note 24.

The seven interviews had similar conceptual content regarding the respondents' understanding of professionalism, with one notable difference. All seven respondents noted that professionalism involved building successful relationships, particularly to help clients, but also with supervisors, peers, staff, adversaries, and judges. All seven also noted that their understanding of professionalism had changed and grown in the early years of practice. Six understood professionalism to include technical competence and a reputation for technical competence.

The notable difference between the survey responses and the interview responses is that while only three survey respondents included reflective practice as an element of their understanding of professionalism (and ten survey respondents indicated self-reflection helped them to understand professionalism), six of the interview respondents mentioned self-reflection as part of professionalism. Three interview respondents also included dialogue with colleagues and clients to help discern the right course of action as part of professionalism. Three of the interview respondents mentioned empathy as a personal characteristic associated with professionalism.

### *The Meaning of Professionalism, Developmental Stage Perspective*

Next, survey responses were coded for stage-related material by both authors. We coded content (i.e., phrases or sentences) that ranged from Stage 2 to 4 / 5 transition. The predominant stage for our sample was Stage 3 (Socialized) ( $n = 19$ ); second was Stage 3 / 4 transition ( $n = 9$ ). Table 2 displays the counts and percentages of overall stage estimates ( $n = 37$  codable essays).

TABLE 2  
SUMMARY OF RESULTS, KEGAN STAGES, EARLY-CAREER LAWYERS

	Stage 2 / 3	Stage 3	Stage 3 / 4	Stage 4
Number of cases	4	19	9	5
Percent of cases	11%	51%	24%	14%

Representative quotes on the theme of the meaning of professionalism by stage of development are displayed in Table 3. The quotes we chose are excerpts from both the open-ended survey questions and our interviews in order to best illustrate stage structure and content (i.e., theme).

TABLE 3  
EXCERPTS, DEFINITION OF PROFESSIONALISM BY STAGE AND THEME

Stage	Quotes	Theme & Commentary
Stage 2	[Professionalism] entails a lot of little things, such as showing up to work on time, dressing appropriately, completing assignments by or before deadlines, etc.	<b>Technical competence</b> Sentences or phrases coded as Stage 2 emphasized technical aspects of a lawyer's work.
Stage 2 / 3 Transition	Professionalism involves the incorporation of basic human decency, respect, and courtesy in one's professional actions as a complement to the professional's aptitude in performing the underlying tasks.	<b>Technical competence with emerging relationship orientation</b> In this quote, we interpret "aptitude in performing the underlying tasks" as Stage 2, with a relationship orientation (Stage 3) reflected in the statement "incorporation of basic human decency. . ."
Stage 3	[Professionalism means] how I treat everyone I come in contact with while working, volunteering, and in my daily life. It means being respectful and treating everyone how I would want to be treated myself.	<b>Relationship focused</b> We interpret this quote as reflecting an embeddedness in the social context, without an awareness or ability to step back and question.
Stage 3 / 4 Transition	I'm not sure I equate success with professionalism . . . a part of my job [is to just let clients] tell their story. If they come in for an hour and explain to me how they were screwed over by a credit card company or debt collection, or harassment, even though I don't see any claims on their face . . . I tell them I don't think you have any defenses against this . . . It still feels professional. . . like a qualified success that they had someone listen to them. . .	<b>Relationship-focused, with emerging self-authorship</b> In this quote, the participant notes uncertainty about equating success with professionalism, which we interpret as emerging self-authorship. Primary motivations are with serving clients.
Stage 4	So when I think of trust and professionalism [I think] . . . that trusting your judgment and your own moral compass to know . . . whether or not it's consistent with the rules, or what have you, whether or not it just doesn't pass the smell test, and I need to drill down a little bit further. . .	<b>Self-authored professionalism</b> Content coded as Stage 4 contained elements indicating a self-standard in trusting the lawyer's own moral compass.
Stage 4 / 5	[T]here were other career choices I could have made, other professional identities that I could have acquired that might have allowed me to show love, and to show stewardship, and care for people in different ways, but I chose the law . . .	<b>Self-authored professionalism, with emerging self-transformation</b> In this excerpt the participant recognizes the limits of self-authored understanding of professionalism (as demonstrating care for others) by considering the possibility of multiple professional identities.

*B.* RESEARCH QUESTION 2: What perceived factors do early-career lawyers cite as important to how they have constructed the meaning of professionalism?

The second survey question, “How did you come to this understanding?” (i.e., about the meaning of professionalism) was coded for factors across all responses ( $n = 37$ ). Table 4 gives the total counts for each code. Respondents often cited more than one source of influence, thus counts exceed the number of respondents. Social learning (i.e., observing others and working with colleagues) was the most frequently cited.

TABLE 4  
SUMMARY OF CODING, HOW DID YOU COME TO THIS UNDERSTANDING?

Social learning (observing others) (SL)	23
Law school (LS)	10
Self-reflection (SR)	10
Upbringing (UP)	9
Religion (REL)	7
Experience (EXP)	5
Mentoring (MENT)	5

An example of the multiple sources of learning from observing others and being mentored shows that early-career lawyers learn from both good and bad examples of professionalism. The following quote from Sarah, who is a litigator in a small firm, illustrates:

I work with some of the best attorneys in this legal community and they have taught me what it means to be a truly professional, classy attorney. I also learned from my uncle, who is an attorney, about how to stay above the fray in which many attorneys engage. I also learned from watching others who do not exemplify professionalism. I have faced opposing counsel who have relied on insults rather than legal authority to make their arguments. It is rarely successful.

In contrast, some alumni ( $n = 9$ ) viewed the core of professionalism as consisting of a disposition or trait, crediting their parents or their upbringing as the source of their understanding. For example, the following response from Andrew: “Part of my understanding is almost innate, with the underlying elements of professionalism being engrained in me by my parents as necessary components of any human interaction.”

- C. RESEARCH QUESTION 3: To what extent do early-career lawyers perceive changes in their understanding of professionalism five years from law school graduation? If so, what is the nature of that change?

*Self-Assessment of Change, Survey Responses*

On our web-based essay questionnaire, we asked lawyers who had graduated in 2005 how they self-assessed their growth in the understanding of professionalism since law school graduation. The question read: “Is your understanding of professionalism now the same or different from when you graduated? If it has changed, describe how, as well as what factors may have led to that change.”

Of those who responded to this question ( $n = 16$ ), seventy-five percent reported that their understanding of professionalism increased in the years since law school ( $n = 12$ ). Four, or twenty-five percent, reported that their fundamental ideas had not changed. Rather, these respondents indicated that the *importance* of professionalism increased and that it is less theoretical than professionalism learned in law school, or that it is now “more real.”

Among respondents who cited change, they reported moving from an effortful, self-conscious implementation of the rules to a more automatic, mastery of the rules, reflecting an emergent, deeply internalized expertise and identity as a lawyer. The following response from Mary illustrates this increasing competence and expertise:

My understanding is evolving. I came to my current understanding from a foundation that really came into relief in law school (I had some prior conceptions of professionalism, but law school helped me focus on and develop these ideas). Having entered the practice of law, my understanding of what professionalism is, and what it takes to achieve and maintain it, comes into clearer focus, albeit seemingly on a subconscious level (it’s not something that I focus on and think about on a daily basis . . . rather, it’s like a notion that hangs in the background—something that you’re aware of without really thinking about).

*Self-Assessment of Change, Interviews*

In addition to the essay responses, we also observed this theme within SOIs conducted with seven lawyers who had graduated in 2006. This data permitted us to examine more in-depth the lived experience of lawyers a little over four years from graduation. In conveying her views on a controversial policy issue, Angela discussed the move from a self-conscious, technical understanding of professionalism to one that is more confident and competent. She describes her understanding of a problem and how her approach to it has changed since she began her position:



[T]wo years ago I wouldn't have [raised concerns about policy] for sure, and because I was just kind of following marching orders, and . . . because you're not totally comfortable in your skin as a lawyer . . . when you don't know what else to do, you just kind of follow what you're being told to do [laughter].

Another alumna, Sharon, described how she felt intense stress as a new lawyer, but is emerging from the transition to view professionalism to include trusting her own judgment in accepting client business, in the interest of guarding her reputation for ethical behavior. Sharon had emerged from a period where she was powerless to set her own terms and boundaries on work. Her words tell another story of the stress of beginning work as a lawyer:

When I first started, there was almost a sense of desperation—to please, to build, to bring in work—I mean all these stressors, and I still feel intense stress to build, to do a good job, to be efficient. . . . I've learned not to take just any old client because I'm worried about billing and bringing in business. I've turned down clients because I get a hint of something isn't quite right, and I don't want to be involved with anything shady.

The theme of professionalism as setting clear boundaries on the amount or type of work one accepts came through in Thomas's response, a lawyer working in a legal aid setting with impoverished clients:

I found myself kind of at a breaking point, where I had, uh, a caseload that was basically all the cases flared up at once, and as a result, I've kind of learned, I have to limit the number of cases I'm defending at any one time, so I don't end up having to pull those eighty to ninety hour weeks, so it's . . . something I struggle with.

Observing others was a rich source of understanding varied meanings of professionalism, as reflected in the following quote:

My understanding is not different. However, the extent to which there is a wide disparity in how "professionals" practice their own versions of professionalism has been eye-opening. At the risk of stating the obvious, lawyers are not unlike any other practitioner of a trade in that there are many wonderfully professional and ethical ones, many that are downright immoral, and a huge number in between.

- D. RESEARCH QUESTION 4: What evidence is there of the validity or meaningfulness of the essay responses? What is the relationship between parallel forms of the assessment of identity formation (i.e., essays and interviews)?

#### *Interrater Agreement*

The first and second authors coded all thirty-seven essays independently. Based on our initial judgment, we agreed on twenty-two out of thirty-seven open-ended survey responses (coding by stages and transitions) for a 59% agreement level. Following discussion, we agreed to not code one case (#35), because the response was too thin to make a meaningful judgment. After discussion, we resolved all differences larger than a half stage, increasing our agreement to 100% for the thirty-six codable essays.

#### *Construct Validity*

We conducted seven interviews using a close adaptation of the SOI<sup>88</sup> and compared essays to interview transcripts in order to explore the validity of the essay responses. We reasoned that the essay questions in the web-based survey might be more susceptible to measurement error, including extraneous or contextual factors at the time the lawyers responded, self-presentation concerns, or social desirability bias, suggesting that the essay responses might be less meaningful or valid. To rule out this possibility, we analyzed the content of essay responses and interview transcripts to six of our seven interviews (one interview participant did not complete the web-based survey). We found close conceptual alignment, supporting the validity of our methodology. Table 5 displays overall Kegan stage score judgments for the six participants. Two participants' stage assignment varied slightly: Participant A's essay response was judged a half stage lower than the interview; participant D's essay was judged a half stage higher than the stage assessed from the interview transcript. Table 6 provides excerpts that typify the findings in our analysis.

TABLE 5  
RATINGS, ESSAYS, AND INTERVIEWS

Participant	Essay Stage	SOI Stage
A	3	3 / 4
B	3 / 4	3 / 4
C	3 / 4	3 / 4
D	4	3 / 4
E	3 / 4	3 / 4
F	3	3
G	—	3

88. See LAHEY ET AL., *supra* note 26.

TABLE 6  
EXCERPTS, ESSAYS COMPARED TO INTERVIEWS

ESSAY	INTERVIEW
<p>I worry about work all of the time: Abilities, service to clients, performance at [my] firm, etc.</p>	<p>I used to work in the suburbs, and you don't get caught in the small community of the downtown scene of the "who's who"—I think your [definition of] professionalism . . . might shift depending on where you are . . . suddenly I'm worried about partnership. . ."</p>
<p>I want to build solid relationships with people as I achieve [my] goals. I think a large part of that is helping others achieve their goals along the way (mentoring).</p>	<p>I work in local government . . . there are certain alliances that become noticeable, and as much as you'd like to keep things professional on a day-to-day basis—keep your head down, get your job done—you realize how personal some of these relationships have become . . . how that impacts your work, the government as a whole, and therefore the community as well.</p>
<p>I personally do not want to be tied to my career goals or others' expectations so strongly such that I would lose my identity or confidence with the loss of a job. I guess as long as I am happy with my own performance, I will try not to define myself by how I am perceived by clients, law firms, the bar, and the broader society.</p>	<p>If you ask three different people you'll get three different answers, so as far as how you should do something when it's discretionary. . . I have to just think about it—think about, you know—ask for their advice, but then I obviously have to figure out my own course (laughter) because they're all different.</p>
<p>Holding responsible to myself sometimes means disappointing others . . . ultimately, if I am not true to who I am, the disappointment I cause could be more severe.</p>	<p>I took a class in Race in American Politics—we got through the semester and nothing was mentioned about Native Americans in terms of census data or politically . . . it raised red flags to me and it really honed my interest. . .and the goal [became] to earn a law degree to positively impact issues related to Native Americans.</p>

## PART IV: DISCUSSION AND IMPLICATIONS

A. *Main Findings*

We found that early-career lawyers in our sample articulated a wide range of conceptual and stage-related content in response to the web-based survey and to the interviews. We observed that these varied understandings of professionalism aligned to both the developmental stage and Hamilton's synthesis definition of professionalism in law.<sup>89</sup> The data could be coded reliably, and we found that data from the web-based surveys aligned to in-depth interviews. Rather than a simple definition of professionalism, we found early-career lawyers articulated a multi-layered model that focused on the importance of professional relationships (including respect for others and a basic human decency and kindness), competence at the technical skills of lawyering, growth in understanding and internalizing professionalism, rule compliance, an internalized standard of technical excellence, honesty, a strong moral compass, integrity, and fairness.

We conclude that any empirical approach to professionalism should reconsider the use of personality measures that measure preferred "style" or behavioral pattern, and instead utilize developmental measures. Lifespan development is not simply a process of accruing more knowledge, skills, or abilities, like pouring more liquid into a container. Rather, transformational development is about the individual changing the complexity and capacity of his or her consciousness.<sup>90</sup>

We also view assessment approaches that utilize personality tests or experiential learning to promote a deepening of one's commitment to the virtues as inadequate because they do not reflect the gradual shift from being externally authored to internally authored, which is the most stable and effective way of making meaning of professionalism and of lawyering.<sup>91</sup>

This study has major implications for how legal education, law firms, and bar organizations use development programs to approach outcome assessment in the growth toward transformational professionalism. Also, each of these entities should be concerned with how predominant developmental stage might intersect with organizational culture and mentoring and coaching that is tailored to the individual's developmental stage. Finally, the study provides an alternative to personality assessment or leadership development approaches that emphasize a preferred behavioral style or "type." While these approaches can be valuable for understanding the gap between how one is perceived by others and one's internal assessment or self-efficacy beliefs, the point of transformational professionalism is to foster change and growth, not to categorize or label.

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89. Hamilton, *supra* note 24, at 482–88.

90. See Kegan, *supra* note 48, at 24–26.

91. See Monson & Hamilton, *supra* note 34, at 3–4 & 4 n.3.

First, the use of the short-essay web-based assessment of transformational professionalism represents a measurement approach for use in law schools as an outcome assessment tool. It can be integrated with school counseling or job coaching functions by professional staff. By assessing developmental stage upon entering law school and again at graduation, law schools can obtain reliable and valid assessments of the progress toward producing graduates with more complex, nuanced views of professionalism.

Second, the predominance of Stage 3 professionalism—externally defined, relationship-oriented—underlines the critical importance of mentors in the early-career phase and the influence of general organizational culture on shaping early-career lawyers' understanding of professionalism.<sup>92</sup> For example, this was evident in the interview of one alumna, who noted that the culture in which she was immersed was one of competition, where so-called “good natured” joking by others made her uncomfortable, even angry. We were personally concerned about her self-reported stress and wondered whether she had a meaningful mentor in her life to help her navigate the culture of her firm.<sup>93</sup> She reported, following the interview, an interest in potentially leaving the firm to explore other opportunities. We mention this fact because it relates to a common phenomenon of women and minorities leaving firms before being promoted to partner.<sup>94</sup> It also illustrates how easy it would be to characterize her as simply possessing a low tolerance for stress, or perhaps being unclear on her career goals, when in fact what she experienced could be a form of bullying.

Third, the practical significance of this research to law firms or bar organizations and associate development or mentoring programs is that mentoring others should ideally take into account the developmental struggles that are hallmarks of the stage.<sup>95</sup> For example, affirming an associate's Stage 3 commitment, in which the importance of relationships is central (but externally defined), while challenging the individual toward greater self-reflection and definition of personal values will be an important strategy. In Appendix B, we include suggestions for giving developmentally appropriate feedback in mentoring or coaching. For associates at later stages of the developmental trajectory, a conscious consideration of the limitations of one's self-defined identity—and greater awareness of the interdependencies of social systems, and of any one philosophical stance or ideology—could better prepare them for contemporary challenges of leadership of the firm.

Fourth, we speculate whether an excessively competitive social milieu in law firm ethical climate may “pull” lawyers back to a lower developmen-

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92. See, e.g., REEVES, *supra* note 4, at 9–11.

93. See, e.g., *id.* at 11.

94. See, e.g., *id.* at 10–11.

95. For a review of Kegan's theory of identity development in relation to mentoring, see McGowan, Stone & Kegan, *supra* note 33.

tal stage; in this case, Stage 3 (Socialized View). The implications for this phenomenon are multiple and extend beyond effectiveness. The literature from social psychology on conformance tells us that individuals embedded in a socialized way of making meaning are less likely to question the dominant opinions of group members, placing the organization at risk for dysfunction, groupthink, unethical behavior, or fraud.<sup>96</sup> The implications of awareness of organizational dynamics and developmental stage, therefore, may have implications for shaping the ethical culture of the firm.

Fifth, in our view, the implications for firms or bar organizations relate to guidance in hiring and professional development. With the widespread use of personality testing as a means of selecting employees in business, law firms should consider alternatives. Instead of developing the ultimate test for employee selection or “picking out the best apples from a barrel,” more emphasis should be placed on designing an organizational culture that promotes growth and development.<sup>97</sup>

### B. *Fostering Growth*

What kind of instruction or life experience fosters growth development? Recall that constructive-developmental theory views the individual as actively constructing meaning and that development is not a simple matter of “filling up” the minds of passive students or clients. Development, rather, is more about creating the conditions within a learning community that permit a sustained culture in which activities and instruction induce a certain degree of discomfort or dissonance. Kegan and Lahey underscore the importance of shaping the social environment of schools or work, calling for a culture of “optimal conflict” that consists of four conditions necessary for growth:<sup>98</sup>

- Challenges or problems must represent a “persistent experience of some frustration” or “quandary”;
- The problem must challenge one’s assumptions and beliefs or “our current way of knowing”;
- The underlying issues must connect deeply to who we are and what we value; and

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96. See Hamilton & Monson, *supra* note 29, at 52.

97. Placing the emphasis on organizational culture and group dynamics is a strategy supported by research in business and industry studies of corporate fraud. See, e.g., Linda Thorne & Jon Hartwick, *The Directional Effects of Discussion on Auditors’ Moral Reasoning*, 18 CONTEMP. ACCT. RES. 337, 341 (2001) (in this study, researchers found that the predominant mode of decision making was group discussion of the problem). See also ASS’N OF CERTIFIED FRAUD EXAMINERS, REPORT TO THE NATION ON OCCUPATIONAL FRAUD & ABUSE 54 (2006), available at <http://www.acfe.com/documents/2006-rttn.pdf> (40% of corporate fraud cases involved collusion; the economic impact of this type of fraud is fourfold that of an individual perpetrator). For a synthesis of the literature on the debate between the individual and the situation, see generally Seymour Epstein & Edward O’Brien, *The Person-Situation Debate in Historical and Current Perspective*, 98 PSYCHOL. BULLETIN 513 (1985).

98. KEGAN & LAHEY, *supra* note 5, at 54.

- Social support from instructors, supervisors, mentors, peers, and others must be effective to prevent the student from being overwhelmed or able to “escape or diffuse it.”

### C. *Limitations and Future Studies*

There are several limitations to this study. First, although the general distribution of stages we found in our sample was higher than our first-year law student study,<sup>99</sup> we caution the reader in making firm conclusions. The data in Table 7 comparing our study of entering law students with the present study suggests that the years from starting law school through the first years of practice may provide rich opportunities for identity formation among lawyers. Probably most compelling is the finding of content in the upper ranges of the Kegan framework, i.e., at Stage 4 / 5 transition. Although we cannot state unequivocally that this is the case without further studies that replicate this methodology and increase the representativeness and size of our sample, it does affirm the general ideas in developmental theory. Further, replication is needed within other geographic sectors with lawyers in different practice areas and at different career stages.

TABLE 7  
SUMMARY OF RESULTS, KEGAN STAGES, ENTERING AND  
EARLY-CAREER LAWYERS

	Stage 2	Stage 2 / 3	Stage 3	Stage 3 / 4	Stage 4
Entering law students	14 16%	22 25%	29 33%	22 25%	1 1%
Early-career lawyers	0 0	4 11%	19 51%	9 24%	5 14%

Second, the nature of both the content analysis and the Kegan stage score analysis is descriptive and interpretive. While the open-ended survey questions yielded content that could be reliably coded for stage, we observed that in some cases it lacked richness and depth which likely impacted the quality of our interpretations. In contrast, data from interviews possessed much greater depth and contained numerous subthemes related to professionalism that are not within the scope of this article. We also found that the only observance of Stage 5 content (i.e., Kegan’s Self-Transformation or the highest developmental stage) was contained within an interview. Although we would not expect that young adults (in their 30s) would be grappling with Stage 5, some may be in the earliest stages of questioning their self-defined identities. The use of the full SOI has much greater potential to allow the assessor to discriminate the full span of developmental

99. Monson & Hamilton, *supra* note 34.

positions.<sup>100</sup> These cautionary notes aside, the process has the potential to engage alumni in meaningful conversations about their experiences in becoming lawyers and in developing a more complex and nuanced understanding of professionalism.

Third, while we would strongly encourage law firm partners or administrators to consider coaching associates using the Kegan identity assessment, the SOI is a tool with a significant learning curve. Training is essential in learning the interview protocol, techniques, and in interpreting interview data.<sup>101</sup> Trained consultants will be useful.

Fourth, it is critical that firms or bar organizations adopting these tools understand that the end goal of this assessment is not to provide the associate with a single number stage score or result. The use of an assessment in this fashion should only be undertaken with individuals with licensure in clinical or counseling psychology. That does not negate its value as an educational tool; the use of the SOI is prevalent in undergraduate and health professions education, where the SOI or the essay assessment methods are used as a springboard for discussion and self-assessment.<sup>102</sup>

Last, we recognize the limitations of cross-sectional research. For researchers within legal education, true longitudinal research designs are necessary to determine the validity of the idea that lawyers grow in their understanding of professionalism across their lifespan. At the same time, we put forth the notion that these results may have great meaning for law firms searching for alternatives to the traditional professional and leadership development assessment tools.

## PART V: CONCLUSION

This study provides evidence that the development of an ethical professional identity can occur over a career/lifespan and that how professionalism is understood depends on a person's stage of development (i.e., increased maturity or mental complexity). This approach provides a radical

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100. There is a more full range of developmental stages acknowledging the gradual shift that occurs in development, where someone who is solidly within one stage gradually shifts to adopt characteristics of a higher stage. For example, Stage 3 (4) implies a solid Stage 3 with some Stage 4 emerging; Stage 3 / 4 implies an even blend of Stage 3 and 4 structures; Stage 4 (3) implies a solid Stage 4 with some Stage 3 remaining, etc.

101. For information on training and development on Kegan's theory and assessment approach, see MINDS AT WORK, <http://mindsatwork.com> (last visited May 17, 2011) (Kegan's consulting group); see also LAHEY ET AL., *supra* note 32 (the Subject-Object Interview manual is available for purchase through the *Minds at Work* website).

102. See Bebeau & Monson, *supra* note 50, at 16; see generally Marcia B. Baxter Magolda, *Learning Partnerships Model: A Framework for Promoting Self-Authorship*, in LEARNING PARTNERSHIPS: THEORY AND MODELS OF PRACTICE TO EDUCATE FOR SELF-AUTHORSHIP 37 (Marcia Baxter Magolda & Patricia M. King eds., 2004) (by attending classes in college and graduate education and interviewing professors and students, the author works to find conditions that encourage self-authorship and how self-authorship at an early age (early to mid-20s) affects the individual's life as an adult).



alternative to assessments that may label (and limit) individuals. Instead, our approach encourages reflection and intentional awareness of how one's authentic self intersects with organizational culture. For law firm leaders, it provides an empirical basis for encouraging individuals to adhere to their own self-defined identities and values. It is through this process that the legal profession can move from professionalism defined as a set of technical skills toward transformational professionalism.

## APPENDIX A. EXCERPTS FROM CODING GUIDE

*The Meaning of Professionalism: Guide to Coding Content from Kegan-Style Essay Questions*

The following descriptions of stage and transition phases of identity development were adapted from the scoring guide developed by Bebeau and Lewis,<sup>103</sup> grounded in Kegan's<sup>104</sup> theory, to assess distinctions they saw in professionalism essays written by cadets. Criteria and descriptions are modified here, representing the distinctions of the relevant stages and transition phases observed in the entering law student<sup>105</sup> and early-career lawyer essays.

When reading essays and applying the criteria, note that some students use the terms "best I can be," "to best of my ability," "work hard," "educate patients," "help society." These general terms were only coded when they were meaningfully explained in the context of the responses. Note also that the vague and non-descriptive terms "professional" and "professionalism" should not be coded because the questions posed were intended to elicit more precisely what being a "professional" currently means. More precise explanations of these terms may be coded.

*Personally, what does professionalism mean to you?*

<b>Stage 2: Instrumental Professionalism</b>
Criteria
<ul style="list-style-type: none"> <li>• professionalism is understood as meeting specific and concrete role expectations created by and imposed by others</li> <li>• professional organizations or external others specify correct behavior and punishments</li> <li>• describe professionalism in terms of enacting requisite behaviors ("act like" or "conduct myself like")</li> <li>• speak of professional success in terms of personal success, self interest, and competent performance (skills, technical expertise)</li> <li>• speak of meeting professional standards in terms of skill knowledge/expertise and continuing education</li> </ul>

103. BEBEAU & LEWIS, *supra* note 50; *see also* Monson et al., *supra* note 50.

104. *See* KEGAN, *supra* note 35.

105. *See* Monson & Hamilton, *supra* note 34.

<b>Stage 2 / 3 Transition</b>
Criteria
<ul style="list-style-type: none"> <li>• professionalism is understood nearly equally in terms of both Stage 2 and Stage 3</li> <li>• profession might still be a generalized “other” (refer to profession in terms of “I” and “they”), but psychological membership in the profession as a collective “we” is emerging</li> <li>• ideas are expressed specifically and concretely, but being a professional is increasingly a collective experience</li> <li>• professional success might still be defined in terms of skills or technical expertise, but more enduring internal characteristics are also emerging as important (developing interpersonal skills, compassion, trust)</li> <li>• being professional might still be stated in terms of enacting behaviors (“act like”), but more abstract ideas and qualities are acknowledged also</li> <li>• meeting professional standards might be expressed concretely (technical skill, continuing education) but the needs of others and the community are emerging as important also</li> <li>• growing excitement about having an identification with and an obligation to an abstract, collective identity</li> <li>• perspective taking is evolving from taking one perspective at a time to simultaneous perspective taking</li> <li>• expressing concern for others may have an implied element of self-interest (clients dissatisfied with the lawyer’s work means less repeat business) but altruistic motives are becoming increasingly important</li> <li>• if altruistic motives are expressed, they are stated in specific, concrete terms</li> <li>• although they still may be embedded in self-interest, can see focus on self-interest as a shortcoming that needs to be overcome</li> </ul>
<b>Stage 3: Socialized Professionalism</b>
Criteria
<ul style="list-style-type: none"> <li>• professionalism is understood in terms of their shared interconnections with others, being part of something larger than oneself</li> <li>• professionalism means meeting expectations of those who are more knowledgeable, legitimate, and professional</li> <li>• describe professionalism in terms of developing enduring and abstract inner qualities (compassion, honesty, trustworthiness, selflessness) not in terms of isolated incidents or examples</li> <li>• identify with or express concern that they should identify with the profession (speak in terms of psychological membership in the profession, “we,” “my profession,” etc.)</li> <li>• focus beyond isolated incidents of success or failure (concerned with enduring qualities)</li> <li>• speak of meeting professional standards in terms of altruistic motives (doing what is in the client’s best interests)</li> </ul>

- recognize the responsibility given them by clients' trust (look out for clients' best interests)
- emerging willingness to take responsibility for their actions and failures
- able to take multiple perspectives simultaneously (theirs and client, family, peers, profession)
- can think about their thoughts and feel about their feelings (metacognition)
- can think about how others think about them (simultaneously considering alternative perspectives *and* metacognition)
- internalize societal expectations and ideals
- view themselves and the world in terms of shared values, mutual expectations
- identification with institutional and professional ideals and principles
- focus beyond self-interests (oriented to shared experiences, societal obligations)
- idealistic and internally self-reflective

### **Stage 3 / 4, Transition**

#### Criteria

- professionalism is understood nearly equally in terms of both Stage 3 and Stage 4
- in the process of making their shared obligations and identities secondary to a process of self-definition
- in the process of making values of the profession their own and are self-consciously aware of doing so

### **Stage 4: Self Authored Professionalism**

#### Criteria

- professionalism is understood in terms of an internal compass for negotiating and resolving tensions among multiple shared identities (focus on adherence to their own internal standards and values)
- professionalism is understood in terms of forging a personal system of values and internal processes for evaluating shared or collective identities
- full awareness of societal and professional expectations
- they have examined societal and professional expectations and role identities in terms of consonance with their personally held principles and values
- freely commit themselves to personal and professional roles (dentist, spouse, parent)
- have greater freedom to criticize aspects of the profession with which they disagree
- stay committed to the profession because it permits them to be themselves and recognized as such within the profession
- they take responsibility for their choices and actions

APPENDIX B: GUIDELINES FOR GIVING DEVELOPMENTALLY  
APPROPRIATE FEEDBACK<sup>106</sup>

Feedback is an important component of learning. This section is concerned with the development of comments and questions that, in addition to being constructive, take into account how the student sees the self in relation to others. Individuals at different stages of identity have different concerns. Thus, questions that may make sense to a Stage 3 learner may not be understood by a Stage 2 learner and may be less likely to challenge further thinking.

Below are listed some prototypic questions to promote further thinking about what the respondent has written. To identify what kind of probe questions to include, ask yourself, is this an essay that reflects:

1. Individual competence or role enactment? (Primarily a Stage 2 Identity)
2. Team player orientation or sense of social obligation? (Primarily a Stage 3 Identity)
3. Values orientation or professionalism? (Primarily a Stage 4 Identity)

If some of both, then the individual may be in the transition. Select questions from each level that will direct attention to the dimension that is missing.

### **For Stage 2 Identity**

What is the respondent grappling with?

- Concrete individualistic performance

How does he/she see the world?

- Concrete and dualistic

### **Probe Questions**

*Strategy:* When the respondent sees things in dualistic terms: good and bad, right and wrong, black and white.

*Ask:* Does everyone see it the way you do? How did the other person think about what you did or said? Is there any evidence to support your view? Some people think there are situations which are not clearly right or wrong. Can you think of such examples?

*Strategy:* When the respondent sees only his/her interest in the situation, encourage perspective taking.

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106. These guidelines were adapted from BEBEAU & LEWIS, *supra* note 50, at 111–13. For further in-depth discussion of language and constructive developmental viewpoints, see generally ROBERT KEGAN & LISA LASKOW LAHEY, *HOW THE WAY WE TALK CAN CHANGE THE WAY WE WORK: SEVEN LANGUAGES FOR TRANSFORMATION* (2001).

*Ask:* What does (name other party) care about? How does the profession think about that? How would you feel if you were on the receiving end of that action? How would your friend (or family) feel? Do you actually know what your friend (parent, superior, subordinate) thought about what you did? Did you ask? It is helpful to ask and to collect evidence on how others see things.

*Strategy:* The respondent takes others' perspectives with respect to their intent or experience.

*Ask:* Do you think the other person perceived what you did as helpful, disrespectful, dishonest, etc?

*Strategy:* Try to elicit an internal focus.

*Ask:* Would you feel guilty if you did that? If so, why would you feel guilt or shame?

*Ask:* What emotion would your parents or friends experience if you failed (cheated, lied, harmed someone, failed a course, or failed the bar exam)? How would their reaction make you feel? What if you succeeded (earned good grades, an offer in a top firm)? Maybe we can find some words that capture those feelings (self-confident, shameful, compassionate, remorseful). What sort of qualities would you like to strengthen in yourself?

*Strategy:* Try to elicit the respondent's experience of being regarded by others.

*Ask:* What do you want your friends (or superiors, subordinates, parents) to say about you? What kind of person would you like to become? How do you feel when your friends are worried about you (or proud of you, upset with you)? How do you feel when your family members or instructors are worried (or proud or upset or angry) with you?

*Strategy:* Develop a perspective on failure. Help them see that failures can be opportunities for learning.

*Ask:* What can you learn from that experience? What would be the worst thing that would happen to you if you failed? What circumstances might lead you to repeat this failure?

### **For Stage 3 Identity**

What is the respondent grappling with?

- Being a team member or team player
- Concern for societal role, professional ideals

How does he/she see the world and the self?

- Reflective and idealistic

### Probe Questions

*Strategy:* Take the respondent's perspective on what they accepted as a shared value.

*Ask:* How do you know that is true? What is your source of authority for that? Do different authorities disagree about that? What reasons do they use to come to their conclusions?

*Strategy:* Raise consciousness about likely conflicts between interpersonal allegiances and one's ideals. Try to do two things:

First, raise consciousness by asking questions about conflicting interests or competing loyalties.

*Ask:* What if you marry someone who wants you to stay home rather than have a career? What if your friend asks you to keep secret about something that harms someone else? What if a senior associate or partner asks you to lie in order to help a client? What if your client asks you to overlook an ethically questionable policy in an employee contract negotiation?

Second, raise consciousness as to whether one's ideals can be met. Example: Sometimes respondents get very frustrated when they know they should live up to some ideal standard, but do not see how to do it.

*Ask:* Have you worked out a way to really do what is right?

*Strategy:* Develop a perspective on failure. Help them see that failures can be opportunities for learning.

*Ask:* What can you learn from that experience? What would be the worst thing that would happen to you if you failed? What circumstances might lead you to repeat this failure?

**For An Emerging Stage 4 Identity** (someone in Stage 3 to Stage 4 transition)

What is the respondent grappling with?

- Constructing a discerning, principled identity
- Staying centered and responsibly attuned to and tolerant of complexity

How does he/she see the world and the self?

- Developing and changing
- Contextual and constructed
- Ambiguous and paradoxical

### Probe Questions:

*Strategies:* Because respondents are grappling with a number of issues and are already rather discerning, they may need help in finding mentors for their problems.

*Ask:* Who can you talk to about this issue? How do you know if you are seeing this issue clearly? What set of criteria do you use to judge whether your views on this matter are defensible? How do you deal with people who do not know where you are coming from? Is there another whole way of looking at this situation? How do you hold on to your core values in this sort of situation? What about this situation caused you to lose your focus?

*Strategies:* Locating decision criteria within the self.

*Ask:* How do you go about deciding what to trust when you get conflicting guidance from others? How do you resist falling back into accepting the status quo or standard solution when pressured to do so?