

July 2015

# Growin' Up: An Assessment of Adult Self-Image in Clinical Law Students

Judith L. Ritter

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## Recommended Citation

Ritter, Judith L. (2011) "Growin' Up: An Assessment of Adult Self-Image in Clinical Law Students," *Akron Law Review*: Vol. 44 : Iss. 1 , Article 4.

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## GROWIN' UP: AN ASSESSMENT OF ADULT SELF-IMAGE IN CLINICAL LAW STUDENTS

*Judith L. Ritter\**

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### I. INTRODUCTION

Most, if not all, live client<sup>1</sup> clinic teachers have experienced the following: John, a smart and motivated (and fictitious) law student, is

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\* Professor of Law, Widener University School of Law, Wilmington, Delaware. I would like to thank my research assistant, Jonathan Harrar, for his valuable help. I am also very grateful to Maggie Stewart, research librarian, for her skill in and enthusiasm for finding key materials from other disciplines. Thanks also to Frank Masterpasqua, Professor of Psychology, for helping to steer me in the right direction at the commencement of this project.

1. A live-client clinic is one in which students work on behalf of real clients (as opposed to clients in simulations) and confront the sort of problem situations that lawyers confront in practice. See Ass'n of Am. Law Sch., Section on Clinical Legal Education, *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 508, 511 (1992); ROY STUCKEY & OTHERS, BEST PRACTICES FOR LEGAL EDUCATION 188-89 (2007).

thoroughly prepared for a court appearance. The preparation has been comprehensive<sup>2</sup> and the anticipated proceeding has been mooted. The professor has confidence that the student is “ready.” In the courtroom, however, John is transformed. Despite the fact that he knows more about the case and the relevant law than adverse counsel and even the judge know,<sup>3</sup> John seems passive. He is reluctant to insert himself into the proceeding.<sup>4</sup> He seems to be waiting for an invitation to speak.<sup>5</sup> When no invitation comes, John remains quiet.<sup>6</sup> Because it is a moment where advocacy is essential, the clinic professor must then choose between inserting herself into the dialogue, interrupting in order to confer with the student, or watching as client representation suffers.<sup>7</sup>

After court, John explains that he does not know what happened. He was not sure if he was allowed to interrupt. John did not know when it was his turn. He knew he should have said something and knew what to say, but just held back. John leaves the courthouse feeling very disappointed with himself. The professor leaves the courthouse feeling

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2. Preparation takes various forms and covers a broad array of skills. Using what they have been taught in pre-semester classes, the clinic’s seminar component and during supervision sessions, students prepare for a court hearing by conducting legal research, brainstorming theories, conducting factual investigations and preparing written notes or trial notebooks for court. For an excellent compilation of perspectives on the clinical teaching methodology, see generally CLINICAL ANTHOLOGY: READINGS FOR LIVE-CLIENT CLINICS 50-82 (Alex J. Hurder, Frank S. Bloch, Susan L. Brooks & Susan L. Kay eds., 1997); See also Michael Meltsner & Philip G. Schrag, *Scenes from a Clinic* (1978), reprinted in PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION 75, 75-127 (1998).

3. In my experience and in the experiences related by my clinical colleagues, clinic students “out prepare” their adversaries. This is not terribly surprising given the students’ relatively small caseloads, high enthusiasm, and the “leave no stone left unturned” philosophy of clinical supervision.

4. In the criminal defense clinic that I direct, students represent indigents charged with misdemeanor level crimes. Typically the types of proceedings in which students appear are: bail hearings, plea negotiations or plea entry, preliminary and pre-trial hearings, trials and sentencing.

5. Surprisingly, this is true despite the fact that from day one of supervision, students are implored not to wait for invitations to speak because criminal defense attorneys rarely receive them.

6. See, e.g., Jennifer A. Gundlach, “*This Is a Courtroom, Not a Classroom*”: *So What Is The Role of the Clinical Supervisor?*, 13 CLINICAL L. REV. 279, 282 (2006) (relating a courtroom episode during which a clinic student, intimidated by the trial judge, was unable to respond to the court’s question).

7. For a discussion of the dilemma faced by the clinical teacher when considering whether or not to intervene, see generally George Critchlow, *Professional Responsibility, Student Practice, and the Clinical Teacher’s Duty to Intervene*, 26 GONZ. L. REV. 415 (1990/1991). See also Jane H. Aiken et al., *The Learning Contract in Legal Education* (1985), reprinted in PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION, *supra* note 2, at 163-64.

disappointed as well.<sup>8</sup> What was missing from the preparation that could have prevented this?

I have been a live client clinic professor for twenty years. I have had the above-described experience and felt the accompanying disappointment over and over again. Upon years of reflection, I have come to suspect that this common scene may be attributable to the fact that the student lacks an adult self-image. Chronologically speaking, law students are adults. However, psychologists and sociologists agree that age alone does not determine adulthood.<sup>9</sup> For example, Malcolm S. Knowles, one of the earliest proponents of andragogy (adult learning theory) points out that independence, self-responsibility, and the performance of adult social roles, are as important as age in marking adulthood.<sup>10</sup> For reasons explored in this paper, in many important respects, most contemporary law students are not adults.<sup>11</sup> Even more significantly, they do not view themselves as adults. Despite the student's preparation and practiced skills, when he or she finds himself or herself in a professional arena designed for grown-ups, and the other players are grown-ups, the student's child or adolescent self-image prevents him or her from full participation.<sup>12</sup> A novice at any age will

8. See generally David F. Chavkin, *Am I My Client's Lawyer?: Role Definition and the Clinical Supervisor*, 51 SMU L. REV. 1507, 1542-44 (1998) (describing this type of supervisor angst in Part VI, which is entitled "Every Intervention is a Failure of Supervision").

9. See *infra* notes 18-21 and accompanying text.

10. See MALCOLM KNOWLES, *THE ADULT LEARNER: A NEGLECTED SPECIES* 57 (4th ed. 1990). For a summary of adult learning theory as it relates to clinical legal education, see generally Fran Quigley, *Seizing the Disorienting Moment: Adult Learning Theory and the Teaching of Social Justice in Law School Clinics*, 2 CLINICAL L. REV. 37, 46-51 (1995); Angela McCaffrey, *Hamline University School of Law Clinics: Teaching Students to Become Ethical and Competent Lawyers for Twenty-five Years*, 24 HAMLINE J. PUB. L. & POL'Y 1, 30-45 (2002). For an analysis of whether law students are adult enough to benefit from an andragogically based teaching model, see generally Linda Morton, Janet Weinstein & Mark Weinstein, *Not Quite Grown Up: The Difficulty of Applying an Adult Education Model to Legal Externs*, 5 CLINICAL L. REV. 469 (1999).

11. Of course, a number of law students are adults in every sense. This paper concerns the experience of the law student in his or her mid to upper-twenties who has had limited, if any, experience other than that of being a full-time student.

12. In light of the fact that studies have shown that law students on average are aggressive, leaders, outspoken and desire domination over others, see, e.g., Stephen Reich, *California Psychological Inventory: Profile of a Sample of First-Year Law Students*, 39 PSYCHOL. REP. 871, 872-73 (1976), timidity in court is especially puzzling. See generally Susan Daicoff, *Lawyer Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1373-75 (1997); Paul T. Wangerin, *Objective, Multiplistic, and Relative Truth in Developmental Psychology and Legal Education*, 62 TUL. L. REV. 1237, 1298-99 (1988). Social Psychologist Terri Apter put her finger on the problem and writes, "In their first grown-up job, many young people feel they are playing a role they're not quite worthy of. They see themselves, still, as a teenager, a non-adult, and then feel a wave of panic as they realize they are now dealing with adults as an adult. Feeling like a child, still, they cannot believe they belong." TERRI APTER,

understandably lack the confidence that only experience can foster. Nevertheless, the thesis of this article is that the clinic student's self-image inhibits his or her confidence in a different way. If a clinic intern feels like a "kid" when he or she enters a courtroom, an environment populated and controlled by adults, he or she will have difficulty perceiving that he or she belongs there or even more importantly, that he or she is a player who has something to contribute and who deserves to have his or her say.<sup>13</sup>

This theory suggests the following questions: (1) Assuming that an adult self-image is a necessary ingredient for becoming a professional, is this self-image even more important in the legal profession? (2) Can an adult self-image be taught or must it be slowly and naturally acquired? (3) How should recognition of this ingredient impact student supervision and evaluation? (4) What can those of us in clinical legal education learn from the field of psychology to assist us in fostering an adult-self image in our students?

This paper will draw upon theories of psychological and moral development to explore the ingredients of being an adult and having an adult self-image. Part II describes various useful measures for determining the commencement of adulthood. Part III applies the criteria explained in Part II and asks, then attempts to answer, the question of whether the majority of clinic law students are adults. Part IV highlights the obstacles to achieving adulthood faced by contemporary law students both prior to and during law school. Part V discusses the importance of an adult self-image in becoming a professional and whether it is even more important in the legal profession.<sup>14</sup> It argues that having a better understanding of where our students stand developmentally enhances our effectiveness. Part VI stresses that, at the very least, clinic teachers must be mindful that the

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THE MYTH OF MATURITY: WHAT TEENAGERS NEED FROM PARENTS TO BECOME ADULTS 197 (2001).

13. The beginning of the title of this article is taken from the Bruce Springsteen song, *Growin' Up*. BRUCE SPRINGSTEEN, *Growin' Up*, on GREETINGS FROM ASBURY PARK, NJ (Sony Records 1973). In describing rebellious adolescence, the lyric says, "When they said sit down I stood up." *Id.* Too often, our clinic students do the opposite: when the judge says, "Sit down," they meekly do.

14. Common sense and anecdotal evidence suggest that the issue presents itself in other professions and types of professional training. Interviews with Frank Masterpasqua, Professor of Psychology, Widener University in Swarthmore, Pa. (June 12, 2009) and Jon Pahl, Professor of Religion, Villanova University in Springfield, Pa. (June 21, 2009). See Michael C. Gottlieb et al., Training Ethical Psychologists: An Acculturation Model, Paper presented at the Annual Meeting of the American Psychological Assoc. (Aug. 22-25, 2002). The challenge for students in litigation clinics may be greater because they must perform in an adult role in a public forum.

psychological movement of our students into adulthood is an important event and is key to their performance as lawyers. In this final Part, I suggest ways in which we can support our students' transition into adulthood.

## II. WHO IS AN ADULT?

Initially, I approached law teaching with the assumption that my students, all of whom have attained the age of twenty-one, were adults. Until recently, I never gave it much thought. Not seeing it as relevant,<sup>15</sup> I had not pondered the definition of adulthood or whether it mattered if my students were indeed adults. Research has demonstrated to me<sup>16</sup> that there are compelling reasons for doubting that law students, especially in recent years, are adults. The following is a synthesis of much of social science's<sup>17</sup> understanding of what defines adulthood.

Psychologists see adulthood as a process as opposed to a distinct point in time.<sup>18</sup> Chronological age<sup>19</sup> is but a small piece of what comprises adulthood.<sup>20</sup> Broadly speaking, psychological maturity and experience with adult social roles are equally, if not more,

15. If asked, I am sure I would have acknowledged that teaching post-college professional school students required an approach different from the pedagogy used in elementary and secondary education. However, since teaching methods in law school both in the classroom and in a clinic setting were well established when I joined the academy, I saw little need to consider whether they were age or life-stage appropriate.

16. Interestingly, there is not an abundance of literature on what makes an adult. See Robert L. Arnstein, *Young Adulthood: Stages of Maturity*, in *NORMALITY AND THE LIFE CYCLE: A CRITICAL INTEGRATION* 108, 111-12 (Daniel Offer & Melvin Sabshin eds., 1984). In 1970, William G. Perry, Jr. noted that "developmental psychology has not yet fully addressed the transition from adolescence to adulthood." WILLIAM G. PERRY, JR., *FORMS OF INTELLECTUAL AND ETHICAL DEVELOPMENT IN THE COLLEGE YEARS* 203 (1970).

17. Human development has been studied from sociological, biological, psychological and philosophical perspectives. See generally Arnstein, *supra* note 16, at 111-40 (containing summary of life stages and life stage theories).

18. See GORDON G. DARKENWALD & SHARAN B. MERRIAM, *ADULT EDUCATION: FOUNDATIONS OF PRACTICE* 86-87, 98 (1982); Anne Colby et al., *A Longitudinal Study of Moral Development*, 48 *MONOGRAPHS OF THE SOC'Y FOR RES. IN CHILD DEV.* 1 (1983).

19. Even the age marking adulthood varies depending upon the context (voting, military service, drinking, smoking). See Arnstein, *supra* note 16, at 116; Barbara Bennett Woodhouse, *Youthful Indiscretions: Culture, Class Status, and the Passage to Adulthood*, 51 *DEPAUL L. REV.* 743, 758-59 (2002).

20. See Bertram J. Cohler & Mark Freeman, *Psychoanalysis and the Development Narrative*, in 5 *THE COURSE OF LIFE: EARLY ADULTHOOD* 99, 121 (George H. Pollock & Stanley I. Greenspan eds., 1981); DARKENWALD & MERRIAM, *supra* note 18, at 39, 76, 82, 87; KNOWLES, *supra* note 10, at 57; Arnstein, *supra* note 16, at 116 ("For most observers of the young adult period, age is not a very valid method of definition"); Bernice L. Neugarten & Nancy Datan, *Sociological Perspectives on the Life Cycle*, in *LIFE-SPAN DEVELOPMENTAL PSYCHOLOGY: PERSONALITY AND SOCIALIZATION* 53, 56-57 (Paul B. Baltes & K. Warner Schaie eds., 1973).

determinative.<sup>21</sup> With regard to the latter, adult social roles include having an occupation,<sup>22</sup> managing a household, being a spouse or in a committed relationship, being a parent, being a decision-maker and being a citizen.<sup>23</sup>

From a psychological perspective, independence is central to the concept of adulthood.<sup>24</sup> While total independence is hardly a prerequisite,<sup>25</sup> the independence that signifies adulthood means that the individual has accepted the responsibility that comes with adult social roles.<sup>26</sup> In other words, adults see themselves as carrying the burden of workplace, home, and cultural/civic responsibilities. They have some measure of experience in these roles<sup>27</sup> and consequently they have experience with the demands that the roles carry. The notion of independence also includes the sense that one is self-directing.<sup>28</sup> Along with this goes the responsibility for managing one's life.<sup>29</sup>

When does adulthood begin? Adolescence, most agree, begins at puberty.<sup>30</sup> There is not the same clear demarcation for the end of adolescence—the onset of adulthood. Inhabiting the adult roles described *supra* is an accepted measure.<sup>31</sup> Not only does this vary depending upon an individual's life path,<sup>32</sup> but over time, societies have

21. See DARKENWALD & MERRIAM, *supra* note 18, at 39. Malcolm Knowles sees this as “four definitions of ‘adult.’” KNOWLES, *supra* note 10, at 57. His categories for defining “adult” are: biological, legal, social, and psychological. *See id.*; *see also* Arnstein, *supra* note 16, at 117. Intellectual maturity is another milestone in human development. *See id.* at 113. It is less relevant, however, to this article because students have achieved intellectual maturity by the time they reach graduate school. *See* JEAN PIAGET, SCIENCE OF EDUCATION AND THE PSYCHOLOGY OF THE CHILD 29-33 (Derek Coltman trans., Grossman Publishers, Inc. 1970) (1969).

22. *See* Arnstein, *supra* note 16, at 125.

23. *See* ROBERT J. HAVIGHURST, DEVELOPMENTAL TASKS AND EDUCATION 4-5 (David McKay Co. 1972) (1948).

24. *See* DARKENWALD & MERRIAM, *supra* note 18, at 76.

25. Adults, like children, depend upon others for various forms of support. *See id.* at 77. This dependence is normal. *See id.*

26. *See supra* notes 21-23 and accompanying text.

27. *See* DARKENWALD & MERRIAM, *supra* note 18, at 86.

28. *See id.* at 76, 84. In Malcolm Knowles' opinion, “Most of us probably do not have full-fledged self-concepts of self-directedness until we leave school or college, get a full-time job, marry, and start a family.” *See* KNOWLES, *supra* note 10, at 57. *See also* Frank S. Bloch, *The Andragogical Basis of Clinical Legal Education*, 35 VAND. L. REV. 321, 328-29 (1982).

29. *See* DARKENWALD & MERRIAM, *supra* note 18, at 77.

30. *See* JEFFREY JENSEN ARNETT, READINGS ON ADOLESCENCE AND EMERGING ADULTHOOD 5-13 (2002).

31. *See supra* notes 21-23 and accompanying text.

32. For example, a seventeen-year-old who drops out of high school, becomes employed, marries, and starts a family, may be an adult at eighteen or nineteen years of age.

seen that the onset of adulthood has occurred later and later.<sup>33</sup> As a larger portion of high school graduates enroll in college<sup>34</sup> and one-third of college graduates go on to graduate schools,<sup>35</sup> there is a delay in these eighteen to twenty-five year olds taking on adult social roles or feeling independent and self-directed.<sup>36</sup> In other words, society has seen a delayed entry into adulthood. Erik Erikson, one of the most important human development theorists, described a phase of adolescence that he termed a “psychosocial moratorium.”<sup>37</sup> During this period, adult responsibilities are postponed and young people try out different identities in both their personal and work/school lives.<sup>38</sup>

The writings of Professor Jeffrey Jensen Arnett have shed new light on the transition from adolescence to adulthood.<sup>39</sup> Recognizing that so

33. See Jeffrey Jensen Arnett, *The Psychology of Emerging Adulthood: What Is Known, and What Remains to Be Known?*, in EMERGING ADULTS IN AMERICA, COMING OF AGE IN THE 21ST CENTURY 303 (Jeffrey Jensen Arnett & Jennifer Lynn Tanner eds., 2006); APTER, *supra* note 12, at 22, 191, 258. Apter notes, “Children may race into puberty, but they take longer than ever to reach adulthood.” *Id.* at 22. By contrast, there is some evidence that children in recent decades reach puberty earlier than they used to. See Michael D. Lemonick, *Teens Before Their Time*, TIME (Oct. 22, 2000), <http://www.time.com/time/printout/0,8816,58388,00.html>; Tricia Ellis-Christensen, *Does Puberty Start Earlier Than It Used To?*, WISEGEEK, <http://www.wisegeek.com/does-puberty-start-earlier-than-it-used-to.htm> (last visited July 8, 2009); Paul Arshagouni, *But I'm an Adult Now . . . Sort of, Adolescent Consent in Health Care Decision Making and the Adolescent Brain*, 9 J. HEALTH CARE L. & POL'Y 315, 318-21 (2006); APTER, *supra* note 12, at 21 (the onset of adolescence is earlier than it used to be). But see Shumei S. Sun et al., *Is Sexual Maturity Occurring Earlier Among U.S. Children?*, 37 J. OF ADOLESCENT HEALTH 345, 354 (2005) (concluding that the evidence that all adolescents are starting puberty earlier is not persuasive). It must also be noted that there are cultural and socio-economic variations in age of adulthood. See Woodhouse, *supra* note 19, at 758-63; Tom W. Smith, *Coming of Age in Twenty-First Century America: Public Attitudes Towards the Importance and Timing of Transitions to Adulthood*, 29 AGEING INT'L 136, 137. See generally Neugarten & Datan, *supra* note 20, at 57 (explaining that that individual life cycle changes over history and often calls for the recognition of new concepts regarding the distinct phases of life); DARKENWALD & MERRIAM, *supra* note 18, at 97-98 (explaining issue of universality of developmental stages).

34. See Arnett, *supra* note 33, at 308; U.S. BUREAU OF LABOR STATISTICS, U.S. DEP'T OF LABOR, ECONOMIC NEWS RELEASE USDL-09-0454, COLLEGE ENROLLMENT AND WORK ACTIVITY OF 2008 HIGH SCHOOL GRADUATES (Apr. 28, 2009), [http://www.bls.gov/news.release/archives/hsgec\\_04282009.htm](http://www.bls.gov/news.release/archives/hsgec_04282009.htm).

35. See Arnett, *supra* note 33, at 308; Smith, *supra* note 33, at 137.

36. See ARNETT, *supra* note 30, at 21; Arshagouni, *supra* note 33, at 320; Robin Marantz Henig, *The Post-Adolescent, Pre-Adult, Not-Quite-Decided Life Stage*, N.Y. TIMES, Aug. 22, 2010, § MM (Magazine), at 28 (informing that “what we would generally call adulthood is happening later than ever”). Cf. Arnstein, *supra* note 16, at 135 (pointing out that during the secondary education years, students are responsible for themselves in many ways).

37. See ERIK H. ERIKSON, IDENTITY AND THE LIFE CYCLE 111 (W.W. Norton & Co. 1994) (1959).

38. See *id.* at 111-12. See generally Arnett, *supra* note 33.

39. See, e.g., ARNETT, *supra* note 30; Arnett, *supra* note 33. See generally Woodhouse, *supra* note 19, at 763-65 (summarizing the bases and thrust of Arnett's writings).

many twenty-somethings are not adults, and believing it wrong to label them adolescents,<sup>40</sup> Professor Arnett coined the term “emerging adult.”<sup>41</sup> Emerging adults are between eighteen and twenty-five years old.<sup>42</sup> It is a period of instability, experimentation, and exploration of possible life directions.<sup>43</sup> It is a time during which individuals experience important aspects of identity development.<sup>44</sup> Emerging adults themselves say that adulthood is characterized by “accepting responsibility for one’s self, . . . [becoming capable of] making independent decisions [and achieving] financial independence.”<sup>45</sup> They say that they are not yet there.

Some see self-actualization as the ultimate quest in adulthood.<sup>46</sup> Defined in various terms,<sup>47</sup> self-actualization includes the ability to objectify oneself, at least to the extent needed to get to know and understand oneself.<sup>48</sup> Part of self-knowledge is formulating the perspective that sees a trajectory between one’s past, present, and future.<sup>49</sup> Since self-actualization is ongoing throughout much of

40. Wrong because emerging adults display a degree of independence from their families, not seen in adolescence. See ARNETT, *supra* note 30, at 14; Arnett, *supra* note 33, at 304. Most significantly, after age eighteen most Americans move out of their family residence. See *id.*

41. See ARNETT, *supra* note 30, at x and 18. Most of the earlier literature on the delineation of adulthood showed little agreement. See Arnstein, *supra* note 16, at 108. The stage of development that Arnett calls “emerging adulthood” was typically termed “young adulthood.” See, e.g., *id.* at 108. Arnett moved away from this terminology because he does not believe that individuals in this stage are adults at all, young or otherwise. See ARNETT, *supra* note 30, at 14. See also APTER, *supra* note 12, at 24 (referring to individuals between the ages of eighteen and twenty-four as “thresholders”). If recognition of emerging adulthood is tantamount to declaring a new stage of life, it is not without precedent. Towards the beginning of the twentieth century, the concept of adolescence, a stage we currently take for granted, was introduced and eventually accepted by society. See Henig, *supra* note 36, at 30. Henig raises the likelihood that recognition of a new stage of life will invite adaptive changes in societal institutions and services. See *id.*

42. ARNETT, *supra* note 30, at 14. Arnett qualifies this age range by acknowledging that it applies to most young people, but that there are outliers, including those that move into adult roles at relatively young ages. *Id.*

43. See *id.* at 14; Arnett, *supra* note 33, at 304.

44. See Arnett, *supra* note 33, at 308.

45. See ARNETT, *supra* note 30, at 22.

46. See DARKENWALD & MERRIAM, *supra* note 18, at 80-83.

47. See DUANE SCHULTZ, GROWTH PSYCHOLOGY: MODELS OF THE HEALTHY PERSONALITY 47 (1977) (identifying terms synonymous with “self-actualization,” such as Erich Fromm’s “productive orientation” and Gordon Allport’s “mature personality”). For a general discussion of varying perspectives on the self-actualized or healthy adult personality, see *id.* at 6-143.

48. See *id.* at 19-20.

49. See Robert Michels, *Adulthood*, in 5 THE COURSE OF LIFE: EARLY ADULTHOOD, *supra* note 20, at 1, 4. Dr. Robert Michels describes a theme in the psychoanalysis of young adults as “the expansion of their experience of current self-representations as continuous with their childhood and as leading to a future that is related to their past.” *Id.* See also Arnstein, *supra* note 16, at 122.

adulthood, it may hardly even be underway in early adulthood.<sup>50</sup> Nevertheless, an adult is someone who is *positioned* to achieve self-actualization. Beyond biological age, this includes exposure to the variables in an adult's environment.<sup>51</sup>

### III. ARE LAW STUDENTS ADULTS?

While almost all law students are past the age of twenty-one,<sup>52</sup> the majority are not adults. It should be apparent to anyone who works with law students that most do not occupy the social roles that experts agree signify adulthood.<sup>53</sup> For instance, the majority is unmarried.<sup>54</sup> Most are not parents. By definition, most do not have an occupation; rather they are preparing for one. Even in ways more difficult to measure, they do not qualify. While many of them live on their own, their lifestyles and the amount of time spent at school or in a library make it such that they are unable to live the role of "managing a household."<sup>55</sup> In addition, the transience usually associated with being a full-time student may greatly limit a student's ability to experience citizenship. While we might expect students to vote in elections, they are less likely to play a role in

50. See SCHULTZ, *supra* note 47, at 68; KNOWLES, *supra* note 10, at 57. For a succinct explanation of the various frameworks employed to describe psychosocial changes during adulthood, see generally Marjorie Fiske, *Changing Hierarchies of Commitment in Adulthood*, in THEMES OF WORK AND LOVE IN ADULTHOOD 238, 241-44 (Neil J. Smelser & Erik H. Erikson eds., 1980).

51. See DARKENWALD & MERRIAM, *supra* note 18, at 88. These variables can be the "social, physical, and psychological tasks that are part of daily living." *Id.*

52. See *ABA Applicants by Age Groups, Fall 2003 through Fall 2008* (indicating that highest percentage category of entering law students is for ages twenty-three to twenty-five). Cf. KIMM ALAYNE WALTON ET AL., STRATEGIES AND TACTICS FOR THE FIRST YEAR LAW STUDENT 11 (2004) (stating that the average age of law students has been rising to the late twenties).

53. See *supra* note 22-23 and accompanying text. Cf. Bloch, *supra* note 28, at 337 (stating that law students are adults because they are college graduates and many have already occupied a work or graduate student role). Bloch considered whether law students were adults in the context of recommending the use of principles of "andragogy." See *supra* note 10 and accompanying text, in clinical legal education. See Bloch, *supra* note 28, at 336-53.

54. See Rodney M. Coe et al., *Attitudes and Health Promoting Behavior of Medical and Law Students*, 72 AM. J. PUB. HEALTH 725, 725 (1982) (documenting that within study group, 75.6% of first year law students had never been married).

55. This assumes that "managing a household" typically requires furnishing, cleaning, maintaining or improving a residence, providing food for oneself and usually others, paying bills, etc. In a recent feature article on lifestyle coaching in the Philadelphia Inquirer, the reporter noted the following about a graduate student's apartment: "The living room is . . . stacked with 20-plus boxes, unopened even after three years living there. A loveseat . . . is propped on its side. And the new desk and bookshelves await assembly. The kitchen lacks pots and pans, and the fridge holds little more than a bottle of wine, frozen turkey burgers, and a single packet of salad dressing." Lini S. Kadaba, *Coaches to Help Clean Out Life's Messes*, PHILA. INQUIRER, July 2, 2009, (Features Magazine) at E1.

their temporary communities, much less feel responsible for helping a community to thrive.<sup>56</sup> Whether or not law students are “decision-makers” is somewhat more complicated. They have made a significant decision when they chose law as a profession. Most likely, law and other graduate students need to make more and more important decisions than high school and even college students.<sup>57</sup> Nevertheless, as discussed *infra*, today’s students have closer ties with their parents, who know more about the students’ day-to-day lives than was true of their predecessors.<sup>58</sup> Decision-making, therefore, is likely to be a joint endeavor between student and parents. Because being a full-time student usually delays access to the work of being an adult,<sup>59</sup> “graduation from student status” is a pre-requisite for adulthood.<sup>60</sup>

Saying that law students do not inhabit adult social roles is only a partial response to the question of whether or not they are adults. A less tangible psychological measure is also key.<sup>61</sup> For example, are our students independent?<sup>62</sup> Separation from one’s parents is a basic sign of independence.<sup>63</sup> As explained in Part IV *infra*,<sup>64</sup> even while in professional school, a student’s independence from families of origin can be very limited. The achievement of identity formation is another psychological sign of adulthood.<sup>65</sup> An in-depth explanation of the multifaceted concept of identity (or “ego identity”)<sup>66</sup> is beyond the scope of this paper.<sup>67</sup> Nevertheless, while perhaps an over-simplification, it

56. Some students even live in campus housing. While a law school is a community in its own right and offers opportunities to be a citizen, there are significant differences between this community and the larger one outside of academia.

57. Such decisions include incurring a large amount of debt, whether to accept job offers, and possibly choosing a life partner.

58. See *infra* notes 88-94 and accompanying text.

59. See Arnstein, *supra* note 16, at 134.

60. *Id.* at 114.

61. See *id.* at 114.

62. See *supra* notes 24-29 and accompanying text.

63. See Arnstein, *supra* note 16, at 125. Healthy independence need not involve detaching from one’s parents or other important childhood relationships. An emerging adult can achieve autonomy while continuing to value attachments. See Maureen E. Kenny & Catherine E. Barton, *Attachment Theory and Research: Contributions for Understanding Late Adolescence and Young Adult Development*, in HANDBOOK OF ADULT DEVELOPMENT 371, 374 (Jack Demick & Carrie Andreoletti eds., 2002).

64. See *infra* notes 88-94 and accompanying text.

65. See ERIKSON, *supra* note 37, at 108; Arnstein, *supra* note 16, at 119, 125.

66. See generally ERIKSON, *supra* note 37, at 108-75.

67. See generally Arnstein, *supra* note 16, at 119-25 (synthesizing various theories on the definition of identity); Janet Zollinger Giele, *Adulthood as Transcendence of Age and Sex*, in THEMES OF WORK AND LOVE IN ADULTHOOD, *supra* note 50, at 151, 151-73 (summarizing variations amongst life stage theories and their critics). Lawrence Kohlberg with Ann Higgins,

can be said that the essence of identity formation is the combining of three things: past and present identifications, self-image, and the perceptions of others.<sup>68</sup> Healthy identity development allows adults to honestly assess where they stand in all three arenas and use this assessment to know themselves and how they fit into societal structures or institutions. The limited experience that law students have had with mature roles may hamper their ability to achieve identity development, even by the third year of law school.<sup>69</sup>

Whether law students are adults hinges largely on the long-standing controversy about the period of time over which human development extends. For example, early theorists believed that the stages of human intellectual development were completed by the age of seventeen or eighteen.<sup>70</sup> Later scholars found evidence to the contrary.<sup>71</sup> Moreover, while children develop along a “universal process of structural transformation,”<sup>72</sup> adult changes are “largely a function of specific experiences.”<sup>73</sup> In an interesting study, William G. Perry, Jr., observed

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*Continuities and Discontinuities in Childhood and Adult Development Revisited—Again*, in LAWRENCE KOHLBERG, 2 ESSAYS ON MORAL DEVELOPMENT, THE PSYCHOLOGY OF MORAL DEVELOPMENT, THE NATURE AND VALIDITY OF MORAL STAGES 431, 491-97 (1969) (explaining the intersection of moral stage and identity development).

68. In a 1977 paper, Gerald R. Adams suggested that there is both a personal and a social identity. See Gerald R. Adams, *Personal Identity Formation: A Synthesis of Cognitive and Ego Psychology*, 46 ADOLESCENCE 151, 151 (1977). According to Adams, social identity is “the statuses and roles that an individual assumes, in the eyes of others, within a certain social space.” See *id.* He describes personal identity as “a fusion or summation of membership roles, past and present identifications, and personal character, summarized by the person into *self-definitions* which answer the who am I question.” *Id.* See also David Moshman, *Developmental Change in Adulthood*, in HANDBOOK OF ADULT DEVELOPMENT, *supra* note 63, at 43, 53 (claiming that identities, formed in social contexts, are “unique structure[s] of self-understanding that enables me to explain my most fundamental commitments and actions”); Andrew S. Watson, *The Quest for Professional Competence: Psychological Aspects of Legal Education*, 37 U. CIN. L. REV. 91, 103 (1968) (defining identity as “the detailed and complex internal image which each person must develop of himself as he matures, which becomes a kind of model by which he patterns his life”).

69. See ARNETT, *supra* note 30, at 175 (explaining that identity formation seems to take longer than earlier scholars expected and comes later for those who attend college and graduate schools). See also Thomas Lickona, *Critical Issues in the Study of Moral Development and Behavior*, in MORAL DEVELOPMENT AND BEHAVIOR: THEORY, RESEARCH AND SOCIAL ISSUES 3, 19 (Thomas Lickona ed., 1976) (claiming that a healthy sense of self bolsters moral thinking).

70. See PIAGET, *supra* note 21; PERRY, *supra* note 16, at v; Moshman, *supra* note 68, at 43, 45-49.

71. See generally HANDBOOK OF ADULT DEVELOPMENT, *supra* note 63 (containing research reports supporting the idea that development is not restricted to children and adolescents but continues throughout the adult lifespan in ways not previously envisioned).

72. See Moshman, *supra* note 68, at 45.

73. *Id.* When applied to adults, Moshman uses the term “development” in a broad sense. See *id.* at 45-49. Unlike childhood development which has a universal goal and endpoint, adult

that the four years of college were years of inner personal growth for his subjects.<sup>74</sup> Perry traced a sample group of college students, whom he termed “late adolescents,”<sup>75</sup> through their undergraduate years and observed their movements through nine developmental positions.<sup>76</sup> For purposes of this article, one of Perry’s most significant findings was that development continued throughout the college years and even seniors had not reached position nine, the point at which one has the sense of “being in one’s life.”<sup>77</sup> At approximately the same time as Perry’s study, Stephen Reich of Cornell University Medical College constructed a personality profile for a sample group of first year law students.<sup>78</sup> Reich read the subjects’ responses as evidence that they lacked maturity and socialization.<sup>79</sup> Psychiatrist and Law Professor Andrew S. Watson wrote that law students who tend to be in their early twenties are just beginning to form a concept of what they want to be and he worried that their self-images were vulnerable and could be easily surrendered if heavily pressed.<sup>80</sup> Finding, as others did, that maturity is not fully accomplished in the undergraduate years led Psychology Professor Douglas H. Heath to posit that perhaps graduate and professional schooling should not follow immediately on the heels of college, but should be delayed.<sup>81</sup> A later study of graduate students by George D. Kuh and Marilyn L. Thomas proceeded from the premise that developmental transitions involving struggles for independence, recognition of the value of stability, and the formation of “life dreams” persist between the ages of

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development is characterized by changes that are, “qualitative, progressive and internally directed.” *Id.* at 48.

74. See PERRY, *supra* note 16, at 207-09, app. chart.

75. See *id.* at 207. Professor Jeffrey Arnett would refer to this group as “emerging adults.” See ARNETT, *supra* notes 39-45 and accompanying text.

76. See PERRY, *supra* note 16. He refers to intellectual and ethical positions. See *id.* at 207.

77. See *id.* at app. chart and 153-76. See also G. M. Dickinson, *Moral Development Theory and Clinical Legal Education: The Development of Professional Identity*, 22 U. W. ONTARIO L. REV. 183, 194-96 (discussing Perry’s work).

78. See Reich, *supra* note 12.

79. See *id.* at 873. This assessment was borne out by a study done by psychology professor Douglas H. Heath, who noted that the maturation process continued after the college years. See Douglas H. Heath, *What the Enduring Effects of Higher Education Tell Us About a Liberal Education*, 47 J. HIGHER EDUC. 173, 178, 185 (1976). The significance of the findings of both Reich and Perry is limited by their methodologies. Reich interviewed only ninety-four law students, all male. See Reich at 871. Perry’s sample was similar in size and consisted solely of students at Harvard and Radcliffe Colleges. See PERRY, *supra* note 16, at 16-17. In addition, both studies were conducted in the late 1960s and early 1970s. However, for reasons discussed at *supra* notes 33-36 and accompanying text, there are no reasons to believe that those currently in their mid-twenties are more adult-like than the same group was in earlier decades. In fact, the opposite is likely true.

80. See Watson, *supra* note 68, at 97-98.

81. See Heath, *supra* note 79, at 189.

twenty-two and twenty-eight.<sup>82</sup> They concluded that graduate students<sup>83</sup> under the age of thirty gave responses to the study's questionnaire signifying that they were less self-directed, autonomous, and purposeful than older graduate students.<sup>84</sup>

Knowledge about development during the years immediately following secondary education is useful to law school clinicians in several respects. It suggests that law students, those that have taken an uninterrupted path from high school to college to law school, are in the midst of maturing into adulthood. They have not yet arrived. Most have far to go toward the development of identity. Some are striving for independence, but others remain comfortably dependent on parents.<sup>85</sup> Given these realities, law students are unlikely to see themselves as belonging in adult societal institutions.

#### IV. OBSTACLES TO SELF-GROWTH FACED BY CONTEMPORARY LAW STUDENTS

In light of the factors and findings set out in Parts II and III *supra*, it is not surprising that students reach the last phases of their law school years still not feeling like grown-ups. Interestingly, a 2002 survey conducted by the National Opinion Research Center at the University of Chicago revealed that Americans tend to view the completion of schooling as the beginning of adulthood.<sup>86</sup> It should not be surprising, therefore, that individuals still in school, at least on a full time basis, would not see themselves as adults. The problem may even be exacerbated by the fact that today's law students face obstacles to

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82. See George D. Kuh & Marilyn L. Thomas, *The Use of Adult Development Theory With Graduate Students*, 24 J. C. STUDENT PERSONNEL 12, 13 (1983). Kuh and Thomas call this developmental stage, "novice adult." *Id.*

83. Kuh and Thomas defined graduate student as one enrolled in at least eight hours of graduate study at a given time. *See id.* at 16.

84. *See id.* at 17. The impetus for this study was the researchers' desire to test the popular assumption that in the developmental framework for post adolescence, graduate students were behind those of the same age who did not continue in school. *See id.* at 13. Kuh and Thomas found that graduate students did not lag behind. *See id.* at 18. In fact in a few areas the graduate students' answers suggested a higher level of development for questions involving predictions for the future. This last result was attributed to the possibility that those still in school have an overly optimistic view of the degree of control they will be able to exercise over certain aspects of life. *See id.* at 18. In any event, the study indicates that those within the age range of twenty-two to twenty-nine are still growing into adulthood.

85. This does not mean that an individual cannot be an effective litigator until they have completed all developmental stages. The point is that the majority of clinical law students are merely knocking at the door of adulthood and not yet having a foot in that door impacts their professional identity.

86. See Smith, *supra* note 33, at 136-38, 145.

assuming an adult self-image that are unique to their historical and sociological contexts and unique to legal education. Three of these obstacles are: (1) the way that today's twenty-somethings were (and still are being) parented; (2) law school teaching methods and philosophies; and (3) the high degree of stress engendered by attending law school.

#### A. *Relationships with Families*

Many contemporary law students were raised by "helicopter parents."<sup>87</sup> These are mothers and fathers who "hover," even after their offspring have left home for college and graduate schools.<sup>88</sup> This "hovering" takes various forms<sup>89</sup> and is likely to interfere with the child becoming independent.<sup>90</sup> It seems intuitive that if parents remain closely involved in the details of the lives of their college-plus aged offspring, separation will be delayed. After all, being independent may be alluring, but it can also be frightening. When parents work hard to be involved in both large and small aspects of their children's lives, i.e., hover, they may make it much more difficult for the child to resist the temptation to

87. See Kathryn Tyler, *The Tethered Generation*, H.R. MAG (May 2007), <http://www.shrm.org/Publications/hmagazine/EditorialContent/Pages/0507cover.aspx>; Lucia Graves, *The Perils and Perks of Helicopter Parents*, U.S. NEWS & WORLD REP. (Dec. 18, 2007), <http://www.usnews.com/articles/education/2007/12/18/the-perils-and-perks-of-helicopter-parents.html> (defining "helicopter parents" as "parents who micromanage their children").

88. See Sue Shellenbarger, *Tucking the Kids in—in the Dorm: Colleges Ward Off Overinvolved Parents*, WALL ST. J. (July 12, 2009), <http://online.wsj.com/article/0,,SB112250452603298007,00-search.html>; Joel Gehringer, *Helicopter Parents Hover Over College Students*, LINCOLN J. STAR (July 1, 2009), [http://journalstar.com/lifestyles/faith-and-values/article\\_9c0b1cac-529e-59a3-94bb-d5525982aa1b.html](http://journalstar.com/lifestyles/faith-and-values/article_9c0b1cac-529e-59a3-94bb-d5525982aa1b.html).

89. See, e.g., Tyler, *supra* note 87 (referring to mom who uses cell phones and email to "know where my daughters are constantly"). Parents often write resumes and even attend job or college interviews. See *id.* They call professors and/or build class schedules. See Gehringer, *supra* note 88.

90. See APTER, *supra* note 12, at 192. See also Gehringer, *supra* note 88 (noting that children of helicopter parents do not learn how to solve problems); Shellenbarger, *supra* note 88 (noting that children of helicopter parents are unskilled at negotiating for what they need or using common sense); Valerie Strauss, *Putting Parents in Their Place: Outside Class*, THE WASHINGTON POST, Mar. 21, 2006, at A8. In a 2009 *New York Times Magazine* piece, writer Peggy Orenstein noted that, children today grow up "far more tethered than any previous generation to their parents' watchful gaze." See Peggy Orenstein, *The Way We Live Now: The Overextended Family*, N.Y. TIMES, June 28, 2009, (Magazine), at MM9, available at <http://www.nytimes.com/2009/06/28/magazine/28fob-wvln-t.html>. She then points out the ironic reality that "today's parents, who in their youth were so adamant about their own independence, are so lousy at fostering it in their progeny, even after the children leave home." See *id.* But see Don Aucoin, *For Some, Helicopter Parenting Delivers Benefits*, THE BOSTON GLOBE (Mar. 3, 2009), [http://www.boston.com/lifestyle/family/articles/2009/03/03/for\\_some\\_helicopter\\_parenting\\_delivers\\_benefits/](http://www.boston.com/lifestyle/family/articles/2009/03/03/for_some_helicopter_parenting_delivers_benefits/) (stating that some researchers argue that the difficulties encountered by today's adolescents and young adults provide good reasons for parents to remain deeply involved in their children's lives).

stay safely close to the nest or at least to the nesters.<sup>91</sup> As human development theorist Abraham Maslow put it, “Growth takes place when the next step forward is subjectively more delightful, more joyous, more intrinsically satisfying than the previous gratification with which we have become familiar and even bored.”<sup>92</sup> Individuals with “helicopter” families<sup>93</sup> are likely to go through law school without feeling like self-directing adults.

### B. Law School Pedagogy

Another obstacle in the march toward adulthood may be in the teaching philosophy that dominates legal education. Despite the fact that they are enrolled in professional schools, traditionally, and even today, most law students receive little guidance in their personal development.<sup>94</sup> Law schools emphasize doctrine and the development of analytical skills.<sup>95</sup> The development of a professional identity and of interpersonal skills takes a back seat.<sup>96</sup> While this is not true of clinical legal education, the thesis of this paper is that students would get more value from their clinical experiences if they were further along in their

91. See Anahid Gharakhanian, ABA Standards 305's "Guided Reflections": *A Perfect Fit for Guided Fieldwork*, 14 CLINICAL L. REV. 61, 74 (2007) (pointing out that Generation Yers' and Millennials' helicopter parents raised their children in such a way that led to "under-involvement in decision-making; [and] little or no experience with self-advocacy." Cf. APTER, *supra* note 12, at 29, 265 (asserting that continuing to nurture adult children in the appropriate way is beneficial to the adult child's development).

92. See KNOWLES, *supra* note 10, at 40-41 (citing Maslow). According to Maslow, parents can make the growth choice more attractive by "making the regressive choice less attractive and more costly." *Id.* at 41. Along these lines, in her recent piece in the *New York Times Magazine*, Robin Marantz Henig wonders "to what extent a child doesn't quite want to grow up and to what extent a parent doesn't quite want to let go." See Henig, *supra* note 36, at 36. See generally ABRAHAM H. MASLOW, MOTIVATION AND PERSONALITY 80-122 (2d ed. 1970) (explaining the author's theory of human motivation and development).

93. The "helicopters" might be siblings or other relatives.

94. See G. Andrew H. Benjamin et al., *The Role of Legal Education in Producing Psychological Distress Among Law Students and Lawyers*, 1986 AM. B. FOUND. RES. J. 225, 250.

95. See *id.*; Michael Meltsner, *Feeling like a Lawyer* (1983), reprinted in PHILIP G. SCHRAG & MICHAEL MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION, *supra* note 2, at 129, 135-36. See WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007) [hereinafter CARNEGIE REPORT].

96. See CARNEGIE REPORT, *supra* note 95, at 7, 21, 28-29, 31, 132-44. Law professors are understandably reticent to take on the job of development coach. See Meltsner, *supra* note 95, at 134-37 and *infra* notes 174-78 and accompanying text. Much is changing, however. The CARNEGIE REPORT has spurred schools nationwide to consider serious curricular reform. See Jonathan D. Glater, *Training Law Students for Real-Life Careers*, N.Y. TIMES, Oct. 31, 2007, <http://www.nytimes.com/2007/10/31/education/31lawschool.html>; James Podgers, *Sweeping Accreditation Review May Prompt "Sea Change" in Law School Evals*, ABA J. (June 3, 2009), [http://www.abajournal.com/news/article/review\\_of\\_accreditation\\_standards\\_likely\\_to\\_bring\\_sea\\_change\\_to\\_how\\_law\\_sch/](http://www.abajournal.com/news/article/review_of_accreditation_standards_likely_to_bring_sea_change_to_how_law_sch/).

personal development by the time they enroll in a clinic. Instruction in legal skills such as counseling, negotiating, and presenting oral arguments should be further integrated into the curriculum for the concrete reason that these (and other) skills are crucial to the effectiveness of most lawyers.<sup>97</sup> Apart from that, however, it would allow students to practice and try out the role of adult professional.<sup>98</sup> Throughout legal education there is, without question, a growing trend in this direction.<sup>99</sup> Clinic students, their supervisors, and their clients stand to benefit from this trend.

### C. *Stress*

The high degree of stress felt by many law students can slow down the process of maturing. In fact, stressful situations can even cause individuals to regress to an earlier developmental stage.<sup>100</sup> Attendance at any graduate level professional school carries pressures, but this is especially true of law school.<sup>101</sup> There is intense competition over grades, honors, and academic and employment opportunities.<sup>102</sup> Intense

97. See STUCKEY, *supra* note 1, at 97-104. The CARNEGIE REPORT pointed out that a smattering of skills education in the last phase of law school does a poor job of readying graduates for practice. See CARNEGIE REPORT, *supra* note 95, at 7, 132-44.

98. See generally Benjamin et al., *supra* note 94, at 251 (arguing that learning law related interpersonal skills can improve students' intrapersonal existence). See also Leslie Larkin Cooney, *Heart and Soul: A New Rhythm for Clinical Externships*, 17 ST. THOMAS L. REV. 407, 411-12 (2005) (recommending that law students be schooled in "therapeutic jurisprudence" and pointing out that Generation Xers and Millennials often lack basic interpersonal skills). Cooney suggests that Xers and Millennials are deficient in interpersonal skills partly because of their reliance on communication avenues such as email, text and instant messaging, and other non face-to-face dealings. *Id.* at 412.

99. See *supra* notes 96-98 and accompanying text.

100. Terri Apter notes that when entering adulthood, the sense of self may regress because of distorted concepts of identity. See APTER, *supra* note 12, at 71.

101. See Benjamin et al., *supra* note 94, at 228, 247; Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 114 (2002); Nancy J. Soonpaa, *Stress in Law Students: A Comparative Study of First-Year, Second-Year, and Third-Year Students*, 36 Conn. L. Rev. 353, 359 (2004) (highlighting research that concludes that law students experience a higher degree of stress than do medical students); See Daicoff, *supra* note 12, at 1375-90. See generally Matthew M. Dammeyer & Narina Nunez, *Anxiety and Depression Among Law Students: Current Knowledge and Future Directions*, 23 LAW & HUMAN BEHAV. 55 (1999) (reviewing literature that suggests that incidents of anxiety and depression among law students are greater than among the general population and medical students).

102. See Krieger, *supra* note 101, at 117-18; Fernando J. Gutierrez, *Counseling Law Students*, 64 J. COUNSELING AND DEV. 130, 131 (1985) (listing categories of stressors for many professional school students and pointing out that the use of the Socratic method of teaching in law school makes students feel especially vulnerable).

pressure, in turn, breeds distress.<sup>103</sup> In one study, researchers tested a group of individuals before, during, and after attendance at law school.<sup>104</sup> They tested for symptoms such as anxiety, depression, phobia, and hostility.<sup>105</sup> Testing revealed that there was a significant increase in these symptoms during the first few months of law school and that the symptoms worsened as students progressed through the third year.<sup>106</sup> They concluded that “the development and maintenance of the psychological well-being of law students . . . may be stunted by the process of legal education.”<sup>107</sup> Later research led to similar findings.<sup>108</sup>

#### V. ARE THERE SIGNIFICANT CONSEQUENCES IF CLINICAL LAW STUDENTS ARE NOT, OR DO NOT SEE THEMSELVES AS, ADULTS?

The answer is “yes,” and in ways that are both more and less obvious. This article has laid out reasons that law students are not, in fact, adults and do not have adult self-images.<sup>109</sup> Both assertions have implications. A basic, or even crude, analysis might sound something like this: lawyers, especially litigators, must be self-confident, assertive, and sometimes aggressive.<sup>110</sup> If a student litigator enters a courtroom or commences a negotiation feeling like the kid in the room, the student

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103. Reasons for the psychological distress are varied. In findings published in 1986, researchers reported that overwhelming workloads, insufficient time for sleep and relaxation, and competition that led to worries about self-worth all worked to cause distress symptoms. *See* Benjamin et al., *supra* note 94, at 247-48. Some of this stress may be because a number of law students project one personality (self-confident) but inwardly have another (insecure). *See* Reich, *supra* note 12, at 873.

104. *See* Benjamin et al., *supra* note 94.

105. *See id.* at 237-39.

106. *See id.* at 241. Sadly, the study showed that the symptoms persisted beyond graduation and through at least two years of legal practice. *See id.* *See also* Soonpaa, *supra* note 101, at 377-79 (discussing author's research study that found stress level of third year students higher than in earlier years of law school); Angela McCaffrey, *The Healing Presence of Clients in Law School*, 30 WM. MITCHELL L. REV. 87, 94-97 (2003) (referring to studies finding that “students lose self-confidence and self-esteem after beginning law school and became insecure and isolated”).

107. *See* Benjamin et al., *supra* note 94, at 226.

108. *See generally* Krieger, *supra* note 101, at 114-15, 122-24 (summarizing empirical research that found negative psychological changes in individuals during and after law school); Daicoff, *supra* note 12, at 1378-81 (describing studies documenting high levels of stress experienced by law students); Gutierrez, *supra* note 102, at 130 (describing studies documenting high levels of stress experienced by law students).

109. *See supra* notes 53-86 and accompanying text.

110. *See* Marcus T. Boccaccini & Stanley L. Brodsky, *Characteristics of the Ideal Criminal Defense Attorney from the Client's Perspective: Empirical Findings and Implications for Legal Practice*, 25 LAW & PSYCHOL. REV. 81, 92 n.99 (2001).

cannot be effective.<sup>111</sup> While basic,<sup>112</sup> this is significant and will be discussed later in this section. Broader, less obvious consequences will be discussed first.

From a developmental perspective, adults have capabilities that are important to effective lawyering.<sup>113</sup> The stages of cognitive development posited by Jean Piaget culminate by or near age twenty at what Piaget termed formal operational intelligence.<sup>114</sup> According to Jeffrey Arnett and others, however, the ability to be pragmatic comes in a post-formal thinking stage.<sup>115</sup> Pragmatism is a key ingredient in good lawyering.<sup>116</sup> In order to be most effective, lawyers need to be able to anticipate the consequences of possible strategies. In addition to knowing and analyzing the applicable law, the best lawyers are skilled in choosing the approach that is most likely to achieve their clients' immediate and long-term goals.<sup>117</sup>

Reflective thinking<sup>118</sup> is another important lawyering tool that is usually not acquired until the beginning of adulthood.<sup>119</sup> This is an especially useful skill for newer lawyers and most especially for clinic

111. See Gharakhanian, *supra* note 91, at 66 (explaining that one goal of a legal externship program is to “establish a sense of fitting into the profession”).

112. Basic because these personality traits represent an oversimplification of the qualities important to effective lawyering.

113. The adult I refer to here is to be contrasted with individuals close to or at the borderline of adulthood.

114. See JEAN PIAGET, *THE PSYCHOLOGY OF INTELLIGENCE* 119-23 (Malcolm Piercy & D. E. Berlyne trans., 1950) (1947). See also DARKENWALD & MERRIAM, *supra* note 18, at 102.

115. See ARNETT, *supra* note 30, at 89 (mentioning that modern studies show that pragmatism and reflective thinking begin during the emerging adulthood phase). See also Alison Gopnik, *How Babies Think*, *SCIENTIFIC AMERICAN*, July 2010, at 76, 81 (explaining that the prefrontal cortex region of the brain, which governs adult capabilities for focus, planning and efficient action, takes an especially long time to mature and may not be mature until a person reaches the mid-twenties).

116. See Linley Erin Hall, *What Makes for Good Lawyering?*, *BOALT HALL TRANSCRIPT*, Summer 2005, at 22, 23, 24 (listing “26 Effectiveness Factors” for successful lawyering as found by researchers Marjorie M. Schultz and Sheldon Zedeck for their study of predictors for successful lawyering). The twenty-six factors include the following for which pragmatism is intertwined: practical judgment, influencing, ability to see world through eyes of others, providing advice and counsel, developing relationships, problem solving, and strategic planning. See *id.*

117. See G. NICHOLAS HERMAN & JEAN M. CARY, *A PRACTICAL APPROACH TO CLIENT INTERVIEWING, COUNSELING, AND DECISION-MAKING: FOR CLINICAL PROGRAMS AND PRACTICAL SKILLS COURSES* 48-49 (2009). See also D. Don Welch, Essay, “*What’s Going on?*” in *The Law School Curriculum* 41 *HOUS. L. REV.* 1607, 1611-14 (2005) (stressing that learning to exercise judgment regarding each client’s novel situation is a key element in a law student’s professional growth).

118. See STUCKEY, *supra* note 1, at 166 (describing the process of reflection as “stepping back and reflecting on both the cognitive and affective aspects of what happened or was done”).

119. See ARNETT, *supra* note 30, at 89.

students.<sup>120</sup> Students representing clients for the first time will benefit best from the experience if they are able to honestly reflect upon their exposure to our system of justice,<sup>121</sup> interactions with people of varied life experiences,<sup>122</sup> the demands of the legal profession, and the impact the experience has on them personally. Since clinical law students stand at the threshold of adulthood, they are just beginning to understand the need for pragmatism and likely require training and practice in the art of thinking reflectively.

Adulthood also brings higher levels of moral reasoning partly because self-reflection is a key ingredient in the high level construction of moral principles.<sup>123</sup> Moral development progresses throughout the early years of life.<sup>124</sup> In his early writings, Lawrence Kohlberg set forth six stages of moral development that he believed were completed by the time an individual finished high school.<sup>125</sup> However, in his later work,

120. See Aiken et al., *supra* note 7, at 152-53.

121. See STUCKEY, *supra* note 1, at 279-80; Quigley, *supra* note 10, at 62-65; David Barnhizer, *The Justice Mission of American Law Schools*, 40 CLEV. ST. L. REV. 285 (1992).

122. See Antoinette Sedillo López, *Making and Breaking Habits: Teaching (and Learning) Cultural Context, Self-Awareness and Intercultural Communication Through Case Supervision in a Client-Service Legal Clinic*, 28 WASH. U. J. L. & POL'Y 37 (2008); Bill Ong Hing, *Raising Personal Identification Issues of Class, Race, Ethnicity, Gender, Sexual Orientation, Physical Disability, and Age in Lawyering Courses*, 45 STAN. L. REV. 1807, 1809-11 (1993); Philip G. Schrag, *Constructing a Clinic* (1996), reprinted in SCHRAG & MELTSNER, REFLECTIONS ON CLINICAL LEGAL EDUCATION, *supra* note 2, at 244, 248-49.

123. See Kohlberg with Higgins, *supra* note 67, at 428.

124. See Colby et al., *supra* note 18, at 46-50. See also Thomas Lickona, *Research on Piaget's Theory of Moral Development*, in MORAL DEVELOPMENT AND BEHAVIOR: THEORY, RESEARCH, AND SOCIAL ISSUES, *supra* note 69, at 219, 219-40 (stating that Jean Piaget's book, MORAL JUDGMENTS OF THE CHILD, helped establish Kohlberg's approach to moral development).

125. See Kohlberg with Higgins, *supra* note 67, at 429. In his empirical research, Kohlberg asked subjects a set of moral dilemma questions and scored the answers for their levels of moral maturity. See Colby et al., *supra* note 18, at 13. In brief, the six stages identified were: (1) Obedience—deference to superior power in order to avoid punishment; (2) Naïve egoistic orientation—believing it morally right to satisfy one's own needs and occasionally the needs of others; (3) Good boy orientation—conforming to stereotypical images of majority in order to gain approval; (4) Authority and social order maintaining orientation—respecting authority and social order for its own sake; (5) Contractual legalistic orientation—recognizing an arbitrary element to rules and expectations and following them for practical or duty reasons; and (6) Conscience or principle orientation—utilizing one's chosen principles as a directing agent with efforts at consistency. See KOHLBERG, *supra* note 67, at Table 1.2. In his early theories, Kohlberg suggested that moral development simply stabilized during adulthood. See Kohlberg with Higgins at 429. In other words, Kohlberg found that in the years immediately after adolescence, there was often regression to earlier stages followed by movement back up to the already achieved higher stage. See *id.* Cf. Walter Mischel & Harriet N. Mischel, *A Cognitive Social-Learning Approach to Morality and Self-Regulation*, in MORAL DEVELOPMENT AND BEHAVIOR: THEORY, RESEARCH, AND SOCIAL ISSUES, *supra* note 69, at 84, 88 (criticizing Kohlberg's methodology for not being able to distinguish between the moral reasoning a subject is capable of from reasoning the subject prefers). It should be said that Kohlberg's work is controversial. See *generally id.* at chapters 3, 5,

Kohlberg revised his theory and announced his new conclusion that one's moral thinking continued to mature well after high school and that Stages 5 and 6 were often not realized until an individual was nearly thirty or even later.<sup>126</sup>

Kohlberg's Stages are relevant to the discussion in this article because it is at the later Stages that one makes moral judgments in accordance with one's views of justice, social values, and individual rights.<sup>127</sup> The moral principles characteristic of these later Stages are also important in balancing a client's interest against the lawyer's self-interest.<sup>128</sup> Closely related is the cognitive maturity that is necessary to support a worldview that embraces the notion that diverse points of view ought to be considered, and that recognizes that coordinating multiple perspectives may be the best avenue to the truth.<sup>129</sup> Law schools encourage such principled decision-making. Law clinic interns are expected to work under this ethic.<sup>130</sup> It is, therefore, useful to understand that our students may not have reached the stage of moral development that would facilitate optimum moral judgment making. Here again, we

and 19 (contradicting Kohlberg's belief that later achieved stages are better or more moral and explaining the disagreement between moral absolutist and moral contextualist theories).

126. See Kohlberg with Higgins, *supra* note 67, at 437, 458. Kohlberg came to see that what he previously saw as stage stabilization, was instead a sign that the higher levels had never truly been reached. See *id.* at 437.

127. See *id.* at 450, 453.

128. Professor G. M. Dickinson writes of moral development and clinical legal education and emphasizes that clinical teachers encounter some students who, knowing what course is best for the client, nonetheless are tempted to or even do pursue a different course. See Dickinson, *supra* note 77, at 193. He gives the example of the student who pushes a client to trial because the student wants the experience. See *id.* Recognizing that law students are still in the process of moral development, Dickinson argues that an important role of the clinical teacher is to help in "fostering a facility for responsible decision-making." See *id.* at 193-94.

129. See Arnett, *supra* note 33, at 306. See also Norma Haan, *Processes of Moral Development: Cognitive or Social Disequilibrium?*, 21 DEVELOPMENTAL PSYCHOL. 996, 1005 (1985) (noting that "effective morality" requires "some self-doubt about one's own self-righteousness, as well as willingness to admit that another's claims may be superior to one's own"). It strikes me that there may be a bit of tension between having the level of self-confidence useful for successful advocacy and the self-doubt that facilitates good moral judgment. The maturity that accompanies adulthood likely helps an individual to find a workable balance.

130. See generally Amy Gutmann, *Can Virtue Be Taught to Lawyers?*, 45 STAN. L. REV. 1759 (1993). See also Wangerin, *supra* note 12, at 1282 n.171. In discussing Kohlberg's work, Professor Wangerin stresses the value of students' getting experience in making moral choices as a means of developing their sense of morality. When he wrote of this in 1988, Wangerin argued that clinical legal educators were in the best position to encourage moral development and expressed his belief that recognition of this benefit should raise the value placed upon clinical courses in a curriculum. He also recommended that classroom professors modify their approaches, and upper-level law school curricula be redesigned to provide students with many opportunities to think about moral choices for themselves and their future clients. See *id.*

find that age is not controlling. According to Kohlberg and others, Stage 5 reasoning is most likely to be identified in a population that has finished formal education and that has had actual experience in moral decision-making and job responsibility.<sup>131</sup> Kohlberg writes, "Experiences of adult responsibility are conditions involved in the movement to principled moral thought."<sup>132</sup> Of course, there may be a "Catch 22" aspect to the problem. A person cannot be an effective lawyer using best legal practices until he or she has reached the principled moral judgment developmental stage; however, no one can reach this stage without living for a time in a professional role and its accompanying responsibilities. The "catch" need not signify a paralyzing dilemma. Rather, bringing the dilemma to light will ideally help us to understand what our students bring and do not bring to their first lawyering roles.

Moving from developmental stages to less abstract considerations, it stands to reason that if students do not feel adult-like, they will shy away from acting as adults. Much of what clinic teachers prepare students to do requires self-confidence and the ability to present a position forcefully and persuasively. While the stereotypical pushy, arrogant lawyer is a caricature, experience tells us that when representing clients in a range of contexts,<sup>133</sup> the lawyer's words, tone, and body language should communicate the following: I am prepared; I know the relevant facts and law at least as well as all the other players;<sup>134</sup> I have a job to do; I have credible and useful ideas regarding the matter at hand;<sup>135</sup> and I will be heard.<sup>136</sup> Legal advocates, especially

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131. See Kohlberg with Higgins, *supra* note 67, at 451, 455, 457-59. See also Mischel & Mischel, *supra* note 125, at 87 (speaking of empirical evidence that cognitive competencies relevant to moral reasoning and conduct may be modified by social learning experiences).

132. Kohlberg with Higgins, *supra* note 67, at 451. See also Mischel and Mischel, *supra* note 125, at 90 (pointing to research that suggests that while role playing is useful and helps sensitize individuals to the difficulties faced by others, altruism is best learned through living the actual experience of being responsible for the welfare of others).

133. Examples include trial, negotiation, mediation, and counseling.

134. By "players" I refer to participants such as adverse counsel, presiding judge, police officers, and various types of court workers. In my clinic's criminal defense practice, case related workers can include probation officers, bail agency representatives, and victims' advocates.

135. That is: "I have thought about the various interests at stake and I have a solution that will address them" or "I am well versed in the relevant law."

136. See Schrag, *supra* note 122, at 251 (emphasizing the importance of training students to exercise authority). Psychiatry and Law Professor Andrew Watson explains this sort of aggressiveness which he distinguishes from the expression of anger or hostility. See Watson, *supra* note 68, at 101. Watson describes the aggressiveness characteristic of those in the legal field as the desire to "attack the environment and make it do what the individual desires." See *id.*

when representing unpopular clients or causes,<sup>137</sup> need to be tenacious or, as one writer puts it, display “derring-do.”<sup>138</sup> Lawyers need to live up to their ethical obligations. However, the subject of ethics is often viewed by law students as a body of rules against which lawyers must defend themselves.<sup>139</sup> It takes maturity along with self-confidence to give up the “defensive avoidance mentality” as it relates to professionalism.<sup>140</sup> When the judge and/or court personnel seem impatient with counsel’s advocacy, or when an adversary becomes a bully, to properly represent his or her client, a lawyer needs to bravely stand his or her ground and fight.<sup>141</sup> As even experienced lawyers know, this is a tall order. For the inexperienced, it is a bigger challenge. For the legal intern who is both inexperienced and feels like a kid, it can seem nearly impossible to pull off when the voice inside his or her head says, “Who are you to tell these grown-ups their business?”<sup>142</sup>

#### VI. CAN WE TEACH ACORNS TO GROW INTO OAK TREES?<sup>143</sup>

As the topic heading implies, it is reasonable to ask whether or not humans can be *taught* to develop and/or whether the process can be accelerated. If not, does an understanding of human development help clinical educators? While law teachers cannot arrange for our students

137. By unpopular, I mean causes or deeds that privileged or even mainstream society does not view favorably or finds it difficult to understand or forgive.

138. Edwin S. Shneidman, *Personality and “Success” Among a Selected Group of Lawyers*, 48 J. PERSONALITY ASSESSMENT 609, 615 (1984).

139. See Betty J. Luke, *The Ethos and Pathos of Ethics and Law Students: A Clinician’s Perspective*, 45 S. TEX. L. REV. 843, 843-47 (2004).

140. See *id.* at 856-65.

141. Learning about and feeling comfortable with local legal culture and unwritten rules of practice are important tools for any lawyer, see Andrea M. Seielstad, *Unwritten Laws and Customs, Local Legal Cultures, and Clinical Legal Education*, 6 CLINICAL L. REV. 127, 135-60 (1999), and might make it easier for a student lawyer to stand his or her ground. However, just the process of becoming familiar with the local practice culture requires effective interpersonal skills and a degree of self-confidence. See *id.* at 188-205 (suggesting techniques that clinical teachers could use to teach negotiation of unwritten rules and procedures). On the other hand, sometimes the local custom is not to fight too much. Advocates need to feel secure enough in their professional roles to protect a client’s interests even when it requires confronting local customs.

142. Sometimes judges and adversaries say this in so many words. Jeffrey Arnett explains that “learning to stand alone” is an aspiration of emerging adults and requires a “substantial amount of ego development.” See Arnett, *supra* note 33, at 305. See also Arnstein, *supra* note 16, at 140 (speaking of an “attitude of self-respect, and presumably a kind of dignity in dealing with others,” that is often not achieved until the end of the young adult phase).

143. See KAREN HORNEY, *NEUROSIS AND HUMAN GROWTH: THE STRUGGLE TOWARD SELF-REALIZATION* 17 (1970) (conceding that you cannot teach an acorn to grow into an oak tree, but that “when given a chance, its intrinsic potentialities will develop”). Dr. Horney says that the same is true of humans. See *id.*

to leap over developmental stages into “adulthood,” we can support the developmental process and help students function better in roles for which they may be psychologically under-prepared. Equally important, with an understanding of their developmental limitations, we might rethink our pedagogical focus and criteria of assessment.

#### A. *Preparing for a Grown-Up Role*

Students need coaching in reaching the developmental stage at which they see themselves as individuals who are expected to assert themselves, and who do so because they have something grown-up and of value to contribute.<sup>144</sup> This coaching or training can take various forms.<sup>145</sup> In a presentation at an AALS Conference on New Ideas for Experienced Teachers, psychological counselors Lila A. Coleburn and Julia C. Spring proposed a mother-infant model for the law professor-law student relationship.<sup>146</sup> The suggestion was based upon an image of law students as infant lawyers.<sup>147</sup> While such a model may not feel quite right to many legal educators, the published talk is enlightening in that it stresses the value of taking notice of where law students are in the developmental life cycle.<sup>148</sup> Armed with even a very basic understanding of emerging adult development, clinic teachers can call their students' attention to the challenge of developing a grown-up professional self-image.

Perhaps a key first step is simply raising students' awareness about the challenge of achieving an adult self-image. Psychoanalyst Roger L. Gould speaks of “false ideas” making up the “operative barrier to growth and the functional boundary of self-definition.”<sup>149</sup> According to Gould, if there is to be developmental growth, there needs to be a “point of

144. See Gutierrez, *supra* note 102, at 133.

145. Fernando Gutierrez, a counselor at the University of Santa Clara, recommends that “counselor education programs should involve training to meet the law students' psychosocial needs, including adult development.” *Id.* at 133.

146. See Lila A. Coleburn & Julia C. Spring, *Socrates Unbound: Developmental Perspectives on the Law School Experience*, 24 LAW & PSYCHOL. REV. 5 (2000).

147. See *id.* at 5-6.

148. See *id.* at 7-15. The authors describe the students' endeavor as “constructing their adult lives.” *Id.* at 8-9. Coleburn and Spring's prescriptions are aimed at doctrinal teachers in a traditional classroom setting. They advocate the creation of a “growth-facilitating classroom environment.” See *id.* at 30-32. According to the authors, their “mother-infant” model has a range of potential benefits, not least of which is nurturance. See *id.* While law professors could reasonably debate the value of nurturing law students, the important point is that we ought to pay attention to the fact that our students are in the infancy of their adulthood.

149. See Roger L. Gould, *Transformations during Early and Middle Adult Years*, in THEMES OF WORK AND LOVE IN ADULTHOOD, *supra* note 50, at 213, 222.

contact” between the false idea and the rational reality.<sup>150</sup> This point of contact is a conscious acknowledgement of the existence of the threatening idea and the recognition that it need not continue to represent reality.<sup>151</sup> If applied to clinical law students, the false idea is that they are too childlike to participate in the legal profession. The rational reality is that they have come of age, have been trained and prepared well, and need to feel like adults. If clinical teachers are willing to prompt students to wrestle with the tension between the false idea and rational reality, students may be empowered to overcome the false idea.

On a more metaphysical level, law professors, to the extent they are capable, should encourage students to aim to transcend the typical or collective self-image held by their peer group. Contemporary philosopher Ken Wilbur writes of the limitations of the Jungian archetypes.<sup>152</sup> Carl Jung postulated that we each inherit a psyche imprinted with basic images of typical human experiences.<sup>153</sup> According to Jung, millions of past encounters with a variety of common experiences have ingrained those images into the collective psyche of the human race.<sup>154</sup> Therefore, our approach to relationships and situations reflects archetypal experiences often found in magic and mythology. These images influence our reactions even when the reality of the current experience contradicts the archetype.<sup>155</sup> Wilbur agrees that the archetypes play an important role in how we experience the world.<sup>156</sup> Nevertheless, he suggests that humans should “transcend and include” them and then overcome them in order to achieve higher development.<sup>157</sup> Of course the higher development Wilbur refers to is a transpersonal or spiritual awareness<sup>158</sup> and nothing as mundane as the self-image of a budding lawyer. However, there may be a parallel.

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150. *See id.*

151. *See id.*

152. *See* KEN WILBER, A BRIEF HISTORY OF EVERYTHING 319-27 (2d ed. 2007).

153. *See* C.G. JUNG, THE BASIC WRITINGS OF C.G. JUNG 70-78 (Violet Staub de Laszlo ed., 1959). *See generally* SCHULTZ, *supra* note 47, at 90-93.

154. *See* JUNG, *supra* note 153, at 244-45.

155. As Ken Wilbur describes it, when you interact with your mother, you are interacting with the world Mother. *See* WILBER, *supra* note 152, at 320. Wilbur provides the following example: “Perhaps, for example, you have activated the Devouring Mother archetype; maybe it has nothing to do with your actual mother; maybe she is for the most part loving and attentive; and yet you are horrified of being engulfed in relationships, devoured by emotional closeness, torn apart by personal intimacy.” *Id.* at 321.

156. *See id.*

157. *See id.* at 322. Wilbur calls them “regressive pulls in awareness, lead weights around higher development—precisely what has to be overcome, not simply embraced.” *Id.*

158. *See id.*

Clinical law students should strive to overcome the imprint on their psyches that reads, "You are too green to deserve a seat at the table."

There are also many concrete ways to prepare students to assume new roles. For example, when students begin their legal studies, we attempt to "orient" them to the experience of being law students. Typically, this involves tips on briefing cases, advice about study habits, warnings about the rigors of studying law, and information on curricular and extra-curricular opportunities.<sup>159</sup> While this kind of orientation agenda serves many purposes, it likely reinforces the students' impression that they remain in the pre-adult stage. It can come across as more of the same "listen to what we say because we know best" dogma, which mirrors their earlier experiences with school and family. This is not to say that incoming students do not need advice and instruction on how to navigate the new terrain. However, mixed in with these dictates, students should be told that the youngster schoolgirl or schoolboy self-image will not serve them well as they enter this next phase. From an early point in law school, students should be welcomed to the profession,<sup>160</sup> advised that even as young or new attorneys they are expected to contribute to the field,<sup>161</sup> and advised that they ought to work on seeing themselves as independent adults, responsible for their future successes and failures and capable of playing a respected role in the profession.

When students observe courtroom proceedings, they should be reminded to take note of the interpersonal dynamics and imagine themselves as an effective participant.<sup>162</sup> Basic assertiveness training,

159. See sample law school orientation agenda (on file with author).

160. A recently added event for incoming students at my law school is a "Welcome to the Profession" ceremony on the eve of orientation. This is designed to demonstrate to the One Ls the seriousness of their undertaking, and explain the expectations of the faculty and the administration. While they have some benefits, these ceremonies also risk conveying the idea that law students are still youngsters who need to be admonished and told how to behave. Perhaps, as earlier parts of this paper point out, they are. Nevertheless, even at the outset of law school, students would benefit from our underscoring the fact that they need to work on the transition to adulthood.

161. Unfortunately, many students enter law school with the preconceived notion that they are there to learn black letter law and the rules that govern lawyering. While not entirely incorrect, this is a woefully incomplete image. See Gundlach, *supra* note 6, at 308-09 (recognizing that the "law school experience continues to impress upon students the notion that there are normative boundaries that are easy to read and easy to follow," which seems inconsistent with "the notion that as lawyers, they can exercise extraordinary discretionary power over the substantive content of legal rules").

162. In her description of the clinical program at the Hamline University School of Law, Professor Angela McCaffrey reports that after students observe an unemployment compensation hearing they are asked to, *inter alia*, "consider the sociological aspects of being a player in the legal system," and to share with the class "concerns they might have about functioning as an attorney in this forum." See McCaffrey, *supra* note 10, at 52.

while hardly a magic pill or needed by everyone, can be useful as well,<sup>163</sup> especially because it usually involves encouraging the student to believe in himself or herself,<sup>164</sup> and to see himself or herself as a person who deserves to be taken seriously.<sup>165</sup>

### B. *Simulating a Grown-Up Role*

All forms of skills and clinical education are designed to simulate and/or create the opportunity for students to visualize and experience lawyers in their roles. At the same time, students can simulate the role of an adult as they prepare for lawyering. In an article about law school and stress, James B. Taylor claims that successful students learn how to “define a situation in such a way that is taken seriously by others and is capable of defense.”<sup>166</sup> The more frequently we demonstrate that we are taking our students seriously, the greater the ease of their development. This is not to suggest that faculty do not routinely take students seriously. My experience in the legal academy tells me that law professors take their responsibilities to students very seriously and they respect their students’ opinions. This is not the same, however, as fostering an environment in which students are made to feel like adults. Malcolm Knowles describes a learning environment in which students are respected and their contributions utilized as a “climate of adulthood.”<sup>167</sup> As the student struggles to move forward in his or her personal development, it is incumbent upon us to accept the student into our adult and professional world.<sup>168</sup>

The close working relationship between a clinic professor and his or her students provides a most fitting opportunity for an adult experience. Clinic supervisors and their students often function as colleagues in the provision of legal services. Within this professional

163. See Gutierrez, *supra* note 102, at 132; Aiken et al., *supra* note 7, at 158 (commenting that while the stereotype for a law student may include an assertive personality, the authors learned that many students enrolled in clinic to “improve their ability to be assertive”). See also Reich, *supra* note 12, at 873 (remarking that personality studies of law students suggest that students try to project an image of aggressiveness, but inside feel insecure and under-aggressive).

164. See Gutierrez, *supra* note 102, at 132; James B. Taylor, *Law School Stress and the “Déformation Professionnelle,”* 27 J. LEGAL EDUC. 251, 255 (1975-1976).

165. See Taylor, *supra* note 164.

166. See *id.*

167. See MALCOLM S. KNOWLES, *THE MODERN PRACTICE OF ADULT EDUCATION: FROM PEDAGOGY TO ANDRAGOGY* 47 (1980).

168. See PERRY, *supra* note 16, at 215 (in the conclusion of his study of college students, Perry urges educators to “confirm the young adult in his membership in this new and precarious community”).

relationship, students can be encouraged and even expected to take a leadership role and to confront authority—that of their teachers.<sup>169</sup> Our programs can be, and often are, designed in such a way that students' input on case strategies and the structure and content of supervision is respected.<sup>170</sup> Of course, when clinic teachers surrender this authority, it is not without risk. There remains one of the most fundamental issues in clinical legal education: “Are the clients not better off when the experienced lawyers call the shots?” By the same token, do the experienced clinical teachers ultimately know better with regard to the best supervision and teaching model? Clinicians need not agree on the answers to the preceding questions in order to simulate an adult relationship. Taking students' ideas seriously does not have to mean that they have ultimate control.<sup>171</sup> Encouraging students to question and even confront our authority does not have to mean that we fully surrender it. As professional lawyers, our students will experience a parallel structure. We want to help students develop the self-image of a professional who will be taken seriously and who frequently must confront authority in order to fulfill their roles. They will never be assured control, however.

Despite the preparation, mooting, and pep talks, it can be enormously challenging for students to hold onto the positive grown-up self-image when they are inside of the real world institution. Adverse counsel, court personnel, and judges often intimidate even the seasoned attorney. Students need to be encouraged to train their adult-in-progress psyches to shout down their “I'm just a kid” instincts. This is easier said than done, to be sure. Nevertheless, if clinic teachers raise this problem as part of the preparation and try to coach students in this regard, the adult-like psyche may have a fighting chance.

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169. In a paper on “Constructing a Clinic,” Philip Schrag emphasizes that students can “learnabout decision-making under the weight of responsibility” when they are given the authority to make case-related and educational decisions such as topics for supervisory meetings and what type of feedback they want from their teachers at the various stages of client representation. *See* Schrag, *supra* note 122, at 251.

170. *See* STUCKEY, *supra* note 1, at 177-78; Bloch, *supra* note 28, at 338-40.

171. This is not to say that students should not have a measure of control, simply that agreement is not necessary to simulate an adult environment.

C. *Should We “Blunder in Their Heads?”*<sup>172</sup>

As I became increasingly cognizant of the possibility that my students did not see themselves as adults, I frequently incorporated the issue into my supervision. When broaching the subject, I am aware of my discomfort with engaging with students about their maturity or development. I almost feel the need to apologize for, or at least explain my raising what might seem to be a concern that lies outside of my area of expertise.<sup>173</sup> I believe, however, that my hesitancy is unjustified.<sup>174</sup> Clinical educators should see themselves as, what Roger L. Gould calls, “friends to [our students’] growth.”<sup>175</sup> As I understand Gould, he views these “friends” as essential ingredients in the transformational process.<sup>176</sup> Students likely have friends and family members who offer love and encouragement. These loved ones express support for the student’s professional growth. Nevertheless, what students may need in equal measure is the endorsement of the new significant personalities in their lives. As their teachers, we are well suited to this task. We should openly encourage students to embrace their “expanded selves.”<sup>177</sup> As adult lawyers, we have experienced the necessary transformation. At the very least we ought to call their attention to the fact that they need to work on a self-image that coincides with the adult tasks required of them.

## VII. CONCLUSION

The realization that a clinic student’s development into adulthood is incomplete should help the clinical teacher to better understand the

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172. See Meltsner, *supra* note 95, at 137 (within a discussion of the merits of urging clinical students toward psychological awareness, Michael Meltsner exclaims, “No one wants to be accused of blundering clumsily inside students’ heads”).

173. I sometimes hear myself saying, “I’m not trying to psychoanalyze you, but . . .”

174. In his paper, *Feeling like a Lawyer*, Professor Michael Meltsner relates that Professor Anthony Amsterdam soothed his fear of ineptly venturing into his students’ psyches, by reminding him that, “psychologists and psychiatrists may assume that they have a corner on the market but that we do not have to accept their assumption. Other professions – notably that of teacher – have equally relevant insights and expertise.” See Meltsner, *supra* note 95, at 137.

175. See Gould, *supra* note 149, at 223.

176. See *id.* at 222-23.

177. See *id.* at 223. Arguably, the better we get to know our students, the better we will be at supporting their psychological development. Yet, the goal of learning about our students in a personal sense is not without controversy. See Jennifer P. Lyman, *Getting Personal in Supervision: Looking for That Fine Line*, 2 CLINICAL L. REV. 211 (1995). However, while we no doubt find that some students are further along in the maturing process than others, all students stand to benefit from our pointing out the need to recognize how important it is to work on developing an adult self-image.

challenges the student faces. It might also focus the clinician's attention on helping to support this ongoing process.

Naturally, the earlier students pay attention to personality development, the better. Law professors teaching and otherwise working with students<sup>178</sup> toward the beginning of the students' law school careers should also be called upon to support growth. It is not too great a leap of faith to predict that a professor's awareness of the issue can go a long way. Individual, as well as classroom interactions with students, provide opportunities to coach them toward an adult self-image.

The benefit of "early intervention," if you will, is two-fold. First, it gives the student more time to work towards the goal and get comfortable with feeling grown up. Second, it may enable students to get enhanced benefits from upper-level clinical programs. If clinic students approach a lawyer role feeling more adult-like, they are likely to be freer to work on substance, strategy, and client needs. Imagine a student advocate with a more adult mindset in a courtroom. The student sees himself or herself as belonging, and as a player in the adult environment. Potentially, this student can better focus on persuasive advocacy. Instead of wondering, "Is it alright for me to speak?," the student stands a better chance of using clear thinking to decide what to say and to assess unexpected situations. A grown-up mindset will help foster an environment in which students can work on lawyering skills at a more sophisticated level.

Legal educators can play a positive role in their students' transition to adulthood. We have pedagogical theories for and experience in helping students transition from school to practice. This article urges law faculty to recognize that students also need our help in transitioning to adulthood. A healthy transition in the latter case is essential to a successful transition in the former. A delayed transition to an adult self-image will leave new lawyers distracted and feeling like impostors and "suspended in . . . masquerade."<sup>179</sup>

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178. In addition to faculty, administrators at all levels should also be expected to pay attention to this issue.

179. See SPRINGSTEEN, *supra* note 13.

