

10-19-2020

Re-Envisioning Law Student Scholarship

Emily Zimmerman

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Emily Zimmerman, *Re-Envisioning Law Student Scholarship*, 69 Cath. U. L. Rev. 291 (2020).

Available at: <https://scholarship.law.edu/lawreview/vol69/iss2/8>

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Cover Page Footnote

Professor of Law, Drexel University Thomas R. Kline School of Law. J.D. Yale Law School; A.B. Bryn Mawr College. The author appreciates all the assistance, input, and feedback that she received throughout this project. The author is especially grateful for the thoughtful feedback on drafts from Susan Brooks, Alex Geisinger, Deborah Gordon, Beth Haas, Kristen Murray, Terrill Pollman, and Jay Wussow. The author also thanks John Cannan, Margaret DeFelice, Peter Egler, and Hans Herzl-Betz for their research assistance, Deborah Minkoff and Kaitlin O'Donnell for food-for-thought regarding law review notes, and Richard Couch and the other editors of the Catholic University Law Review for their work. The author appreciates having had the opportunity to discuss some of the ideas in this Article during a presentation at a session of the 2019 Association of Legal Writing Directors (ALWD) Biennial Conference—during which Deborah Gordon and Kaitlin O'Donnell also presented—and during two discussion groups at the 2019 Southeastern Association of Law Schools (SEALS) Annual Conference.

RE-ENVISIONING LAW STUDENT SCHOLARSHIP

Emily Zimmerman⁺

I. RECOGNIZING THE DIFFERENCES BETWEEN THE ROLE OF SCHOLARSHIP FOR LAW PROFESSORS AND THE ROLE OF SCHOLARSHIP FOR LAW STUDENTS AS WE CONSIDER SHIFTING THE FOCUS OF LAW STUDENT SCHOLARLY WORK AWAY FROM THE CREATION OF A TRADITIONAL RESEARCH PAPER	300
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Many law professors are expected to produce published scholarship (most typically, law review articles),¹ and law professors spend a tremendous amount

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This Article was written before the sudden changes to legal education, law practice, and life generally brought on by the COVID-19 pandemic, although the editing process was completed for this Article during this tumultuous time. If anything, the re-envisioning proposed in this Article would seem even more appropriate in light of the changed circumstances brought on by the present situation.

1. Orly Lobel, *The Goldilocks Path of Legal Scholarship in a Digital Networked World*, 50 LOY. U. CHI. L. REV. 403, 405 (2018) (“For law professors, law review articles continue to be the gold standard of scholarship.”).

of time on scholarship.² Moreover, it does not seem as though the expectations that law professors publish scholarship are likely to change anytime soon.³ Law students, however, by and large come to law school in order to become practicing lawyers, not law professors,⁴ and law schools are now expected to be more deliberate about their educational responsibilities towards law students. For example, building on previous calls for law schools to better prepare students for their professional lives as lawyers,⁵ there is growing focus on law

2. Scholarship is frequently referred to as “the coin of the realm” in the legal academy. *See, e.g.*, Andrea A. Curcio, *Assessing Differently and Using Empirical Studies to See If It Makes a Difference: Can Law Schools Do It Better?*, 27 QUINNIPIAC L. REV. 899, 904 (2009); Nora V. Demleitner, *Colliding or Coalescing: Leading a Faculty and an Administration in the Academic Enterprise*, 42 U. TOL. L. REV. 605, 608 (2011); *see also* DEBORAH L. RHODE, IN PURSUIT OF KNOWLEDGE: SCHOLARS, STATUS, AND ACADEMIC CULTURE 33 (2006) (“[T]hroughout the American academy, scholarship has become the principle foundation for status. It is increasingly the basis for job offers, promotions, grants, invitations, awards, compensation, and reputation.”). *But see* Richard E. Redding, *The Legal Academy Under Erasure*, 64 CATH. U. L. REV. 359, 400–01 (2015). Tenure-track law professors must publish scholarship to receive tenure, and scholarship is also typically required for promotion. *See infra* pp. 11–12 for a fuller discussion of the pressures on law professors to publish. In addition, law professors may receive supplemental remuneration to incentivize and reward scholarship. Although the importance of scholarship to law professors’ professional lives is largely taken for granted, this has not always been the case. *See* Roger C. Cramton, *Professional Education in Medicine and Law: Structural Differences, Common Failings, Possible Opportunities*, 34 CLEV. ST. L. REV. 349, 352 (1986) (“Teaching takes much of [law professors’] time and is probably the most important priority of most faculties in terms of peer attitudes and institutional rewards.”); ROBERT STEVENS, LAW SCHOOL 163, 270–79 (1983) (discussing the history of scholarship in law schools).

3. Although law schools certainly rely to an extent on professors and adjunct professors who do not need to produce scholarship, there are some trends in legal education that suggest that some additional full-time law professors will be expected to produce scholarship, as professors who teach legal writing and clinics are, become, or seek to become tenure-track or tenured. Ann C. McGinley, *Employment Law Considerations for Law Schools Hiring Legal Writing Professors*, 66 J. LEGAL EDUC. 585, 588 (2017); ASS’N OF LEGAL WRITING DIRS. & LEGAL WRITING INST., ALWD/LWI ANNUAL LEGAL WRITING SURVEY: REPORT OF THE 2017–2018 INSTITUTIONAL SURVEY 11, 58, 118, <https://www.lwionline.org/sites/default/files/Final%20ALWD%20LWI%202017-18%20Institutional%20Survey%20Report.pdf> [hereinafter 2017–2018 ALWD/LWI SURVEY]; David A. Santacroce et al., *The Status of Clinical Faculty in the Legal Academy: Report of the Task Force on the Status of Clinicians and the Legal Academy*, 36 J. LEGAL PROFESSION 353, 374–75 (2012); Judith M. Stinson, *Generating Interest, Enthusiasm, and Opportunity for Scholarship: How Law Schools and Law Firms Can Create a Community and Culture Supportive of Scholarship*, 9 LEGAL COMM. & RHETORIC: J. ALWD 315, 324 n.30 (2012). In addition, some professors who are not on the tenure track or tenured may also be required to publish. *See* Santacroce et al., *supra*, at 375, 377–78; 2017–2018 ALWD/LWI SURVEY, *supra*, at 118. *But see* Comments of Robin West, Transcript—Conference on the Ethics of Legal Scholarship, 101 MARQ. L. REV. 1084, 1170 (2018) (“Schools that are in precarious financial straits are seriously considering cutting back way back on scholarship, meaning cutting way back on what they expect or demand or even allow of their law professors in scholarship.”).

4. *See* STEVENS, *supra* note 2, at 246, 269.

5. *See, e.g.*, WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS 12–14 (2007).

schools' role in students' professional identity development⁶ and law schools are required to develop learning outcomes for their students and "determine the degree of student attainment of competency in the learning outcomes."⁷ Some may perceive a disconnect between the role of the law school as a place where scholarship is created and the role of the law school as a place where students are prepared for their professional lives as lawyers.⁸ In fact, law students' engagement in scholarship can be a way to better join these missions of the law school. In order to do this, we should be thinking more intentionally and creatively about both the ways in which law students' engagement in scholarship can play a meaningful role in their professional development and law professors' role in students' scholarly engagement.⁹

6. See, e.g., *id.* at 14; Susan L. Brooks, *Meeting the Professional Identity Challenge in Legal Education Through a Relationship-Centered Experiential Curriculum*, 41 U. BALT. L. REV. 395, 399–401 (2012); Patrick Emery Longan, *Educational Interventions to Cultivate Professional Identity in Law Students: Introduction*, 68 MERCER L. REV. 579, 580 (2017).

7. AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2019–2020 Standards No. 302, 315 (2019), https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2019-2020/2019-2020-aba-standards-and-rules-of-procedure.pdf [hereinafter ABA STANDARDS].

8. See Jacqueline D. Lipton, "*Ph.D. Lite*": *A New Approach to Teaching Scholarly Legal Writing*, 2009 CARDOZO L. REV. DE NOVO 20, 21 ("Because most J.D. students will become practitioners, the degree tends to be focused accordingly. This makes the scholarly upper level writing requirement feel anomalous. It also tends to create apprehension in the minds of students facing scholarly writing for the first time in the context of a practice-oriented course of study."). Of course, some legal scholarship addresses ways to prepare students for law practice and, thus, explicitly bridges this divide. See Peter A. Joy, *Clinical Scholarship: Improving the Practice of Law*, 2 CLINICAL L. REV. 385, 387–88 (1996). Whether one perceives a disconnect between the legal academy and law practice may be a function of one's opinion about the relevance of legal scholarship to law practice and one's opinion about whether law professors respect practicing lawyers (and vice versa). See Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession*, 91 MICH. L. REV. 34, 34–36 (1992).

9. There are different ways to think about the "connection between scholarship and law practice." For example, we can think about whether law professors' immersion in scholarship can be used to help law students better prepare for practice. Deborah Rhode has said, "Although legal education prides itself on teaching students to 'think like a lawyer,' what it teaches best is how to think like a law professor." RHODE, *supra* note 2, at 80. This raises the question of whether there are connections between "thinking like a law professor" and "thinking like a lawyer," what those connections are, and how we can use those connections to prepare our students for their lives as lawyers. Related to this question is whether law students' engagement in scholarship can help them better prepare for practice and how law professors can facilitate this connection, which this Article addresses.

An initial question could also be asked about what "scholarship" is. For example, does scholarship necessarily require the production of a traditional research paper? Can scholarship be thought of as a process, apart from the product produced? What does a "scholarly process" involve? Some authors use "scholarship" to refer to a product, rather than a process. For example, in the context of discussing scholarship created by law professors, one author notes that his

The dual identity of law schools as both places where scholarship about law is created and places where future lawyers are trained is nothing new.¹⁰ One of the reasons for a perceived disconnect between scholarship and professional development might be too much of a focus on the product of scholarship rather than the process by which that product is created. Most lawyers are not expected to write scholarship,¹¹ although most practicing lawyers certainly do engage in other types of writing. While law professors might see a direct connection between their creation of scholarship in law school and their creation of scholarship as law professors, law students who are anticipating careers in law practice may not perceive much of a connection between their scholarly writing in law school and their professional careers. However, while many lawyers will never write traditional scholarship, we sell both law practice and scholarship short to say there is no connection between the two. By focusing more explicitly on the relationship between the scholarly process and professional development, rather than thinking of the process primarily as the means to create a specific type of written product—a traditional research paper—law schools could better include scholarship as an integral part of students' legal education and clarify the value of students engaging in the scholarly process.

article will adopt a broad definition [of scholarship] that includes any *published research* on the theory, doctrine, or practice of law, whether it be an academic book, a hornbook, a law review article, or an interdisciplinary or other-disciplinary piece that focuses on law in some respect. Legal scholarship is original research that attempts to contribute to our understandings of legal doctrine, human behavior in the context of law, or other aspects of our legal system.

Matthew T. Bodie, *Funding Legal Scholarship*, 4 J.L. 107, 107 n.1 (2014) (emphasis added); see also Stinson, *supra* note 3, at 315 (“us[ing] the phrase ‘legal scholarship’ to broadly mean any *writing* that advances knowledge about what the law is and how it works”) (emphasis added). As conceived of in this Article, “scholarship” relates to the type of project that would typically involve identifying a research topic or question, in depth research regarding that question, synthesizing information, critical thinking, and analysis. The traditional product of this process would be a research paper or law review note. However, this Article suggests that we think beyond these traditional forms when we think about products of the scholarly process. As a result, some features of traditional law student scholarship (for example, a thesis) might not necessarily need to be present in all law student scholarly products as conceived of in this Article. See, e.g., Lipton, *supra* note 8, at 23–24 (stating that for law students’ “scholarly writing projects . . . the aim is that students will develop a solid and sustained legal argument . . . to master and clearly convey arguments both for and against their thesis”); Claire R. Kelly, *An Evolutionary Endeavour: Teaching Scholarly Writing to Law Students*, 12 LEGAL WRITING 285, 287 (2006) (stating that in their scholarly writing, “students need to identify a legal problem, explain why it is a problem, venture a solution, and explain why the solution is viable”).

10. See STEVENS, *supra* note 2, at 135–39, 158, 264, 266. See STEVENS, generally, for a history of legal education in the United States.

11. Stinson, *supra* note 3, at 317. However, there may be benefits for practitioners who do write scholarship. *Id.* at 318–19. For example, practitioners who write scholarship further develop their knowledge, and publications may help a practitioner develop business and gain entry into professional organizations. See *id.*; see *Nomination to the American College of Trust and Estate Counsel*, ACTEC, <https://www.actec.org/nomination/> (last visited July 10, 2020).

Focusing more explicitly on process can create more opportunities for our students' engagement in scholarship to be relevant to their future professional lives.¹² Focusing on process can also lead to a more inclusive view of scholarly engagement because it enables students to participate in, and benefit from, the scholarly process even if those students are not interested in creating a work of traditional scholarship. By shifting our focus from product to process,¹³ we can also better unify the work that both law professors and law students are spending their time doing within the law school community, even if the end results of that work are different and being engaged in for different purposes.¹⁴

As law schools are paying even more attention to their role in preparing students for law practice,¹⁵ now is a good time to reconsider the role of

12. Just because scholarship is a big part of law professors' lives, does not mean that it necessarily needs to be a big part of our students' lives. However, it is worth considering whether there are ways that scholarly engagement can help better prepare our students for their professional lives.

13. Previous scholars have written about teaching legal writing by focusing on the process of writing, and there are resources that guide students through the process of creating a traditional scholarly paper. See, e.g., Teresa Godwin Phelps, *The New Legal Rhetoric*, 40 SW. L.J. 1089, 1093–94 (1986); Linda L. Berger, *Applying New Rhetoric to Legal Discourse: The Ebb and Flow of Reader and Writer*, 49 J. LEGAL EDUC. 155, 165–84 (1999); Ellie Margolis & Susan L. DeJarnatt, *Moving Beyond Product to Process: Building a Better LRW Program*, 46 SANTA CLARA L. REV. 93, 98–99 (2005); sources cited *infra* note 55. This Article, rather, suggests that the scholarly process can be used for law students' professional development and that the goal of the scholarly process does not necessarily need to be the creation of a traditional research paper.

14. Cf. Terrill Pollman, *A Writers' Board and a Student-Run Writing Clinic: Making the Writing Community Visible at Law Schools*, 3 LEGAL WRITING: J. LEGAL WRITING INST. 277, 277 (1997) (noting "the community of writers that already exists in each law school"). If legal scholarship is completely unrelated to preparing students for law practice, then one might wonder whether the same people whose jobs require producing scholarship are also the same people who are best situated to prepare students for law practice. Some law professors may see our responsibilities more holistically and see connections between two of the most significant professional responsibilities that we have: teaching and scholarship. Cf. Amy R. Mashburn & Sharon E. Rush, *Fostering Student Authorship*, 33 TOURO L. REV. 399, 403 (2017) ("Working with students to help them publish a paper is an excellent way for professors to meet their professional responsibilities. This type of guidance is a strength of traditional legal education and one of the best ways, in our opinion, for tenured professors to advance the goal of making students more 'practice ready.'"). This Article focuses on law students' engagement in scholarship, rather than the relationship between scholarship and teaching for law professors, although that is also an interesting question. See RHODE, *supra* note 2, at 49 ("Whether involvement in research enhances or competes with teaching is a far more complicated question than either critics or defenders generally acknowledge."). Of course, as discussed in this Article, law professors can participate in helping scholarship play a more meaningful role in students' professional development.

15. Although it has been suggested that some law schools will abandon the expectation that their professors create scholarship given pressures to prepare students for law practice and financial pressures, it seems likely that many law professors will continue to produce scholarship—and be expected to produce scholarship—for the foreseeable future. See Comments of Robin West, *supra* note 3, at 1170.

scholarship vis-à-vis law students.¹⁶ Pressures are growing on law schools to better prepare students for their professional lives as lawyers,¹⁷ and establish and assess learning objectives for law students.¹⁸ These developments raise the question of the role of scholarship for law students and whether there are ways that scholarship can better play an integral role in law students' professional education and development.¹⁹ In light of the increasing focus on students' professional development—along with calls to provide students with more opportunities to engage in scholarship and more pedagogical support for creating scholarship²⁰—this Article considers some ways for scholarship to play a more salient role in students' professional development.²¹

16. Other scholars have considered various issues regarding law professors and scholarship. See, e.g., Transcript—Conference on the Ethics of Legal Scholarship, 101 MARQ. L. REV. 1084 (2018).

17. See, e.g., Emily Traylor Vande Lune, *Settling for Six: Should the American Bar Association Have Done More to Promote Experiential Learning in Law Schools*, 39 J. LEGAL PROF. 305, 306 (2015).

18. ABA STANDARDS, *supra* note 7, Standards 302, 315.

19. Similar questions could also be raised about other work in which law students engage. Cf. Ilija Vickovich, *Law Journals: From Discourse to Pedagogy*, 25 LEGAL EDUC. REV. 65, 66 (2015) (in the context of undergraduate law students in Australia, discussing the role that student participation in law journals can play in accomplishing learning objectives for students and suggesting that “[t]he educational benefits to students of law journals work should prompt law schools to . . . focus on law journal pedagogy”).

20. See Ruthann Robson, *Law Students as Legal Scholars: An Essay/Review of Scholarly Writing for Law Students and Academic Legal Writing*, 7 N.Y.C. L. REV. 195, 199 (2004) (“Although I agree that one goal of student scholarship is publication, the larger goal is the student’s development and achievement. The pedagogical value of student scholarship should not be underestimated.”). Other authors have suggested ways to “improv[e] the upper-level writing experience students are currently having.” Alyson M. Drake, *You Can’t Write Without Research: The Role of Research Instruction in the Upper-Level Writing Requirement*, 18 FLA. COASTAL L. REV. 167, 168 (2017); see also *id.* (“Currently, most students receive little supervision and feedback over the course of the scholarly research and writing process. . . . One possible solution to this problem is to include research librarians as part of the upper-level writing requirement.”); Jessica Wherry Clark & Kristen E. Murray, *The Theoretical and Practical Underpinnings of Teaching Scholarly Legal Writing*, 1 TEX. A & M L. REV. 523, 525 (2014) (advocating for law schools to “[p]rovid[e] better scholarly writing instruction, and more of it, to students”); Kenneth D. Chestek, *MacCrate (in)Action: The Case for Enhancing the Upper-Level Writing Requirement in Law Schools*, 78 U. COLO. L. REV. 115, 141–44 (2007); Kristina V. Foehrkolb & Marc A. DeSimone, Jr., *Debunking the Myths Surrounding Student Scholarly Writing*, 74 MD. L. REV. 169, 179 (2014) (“Given the benefits of scholarly writing, law schools should increase scholarly writing opportunities in their curriculum.”). Yet other authors have proposed that publication should be required of all law students. Mashburn & Rush, *supra* note 14, at 399, 401. Mashburn and Rush recognize that publication in a journal will likely not be an option for all students; rather, they propose that law schools create “on-line repositories for student publications” so that every student may publish. *Id.* at 399.

21. It has been suggested that the increasing focus on preparing students for law practice will impact law professors’ scholarship by increasing scholarly focus on the pedagogy of preparing law students for practice and professionalism. Steven M. Virgil, *The Role of Experiential Learning on*

a *Law Student's Sense of Professional Identity*, 51 WAKE FOREST L. REV. 325, 326 (2016). Rather than focusing on law professors' scholarship, this Article addresses how we might re-think scholarship by law students to make it a more meaningful part of students' professional development.

There is a copious amount of scholarship that addresses legal education, pedagogy, and professionalism, both recent and not so recent. Much of this scholarship focuses on the development of law students' "professional identity . . . which is sometimes described as professionalism, social responsibility, or ethics." SULLIVAN ET AL., *supra* note 5, at 14; *see also id.* at 129; *see also* ROY STUCKEY ET AL., BEST PRACTICES FOR LEGAL EDUCATION 79–84 (2007) (discussing "professionalism"); Daisy Hurst Floyd, *Practical Wisdom: Reimagining Legal Education*, 10 U. ST. THOMAS L.J. 195, 201–02 (2012) (discussing "professional identity"); Patrick Emery Longan, *Educational Interventions to Cultivate Professional Identity in Law Students: Introduction*, 68 MERCER L. REV. 579, 580 n.8 (2017) (defining "professional identity"). Some scholars also use the term "professional formation," when referring to "professionalism." Neil W. Hamilton, Verna E. Monson & Jerome M. Organ, *Empirical Evidence That Legal Education Can Foster Student Professionalism/Professional Formation to Become an Effective Lawyer*, 10 U. ST. THOMAS L.J. 11, 11 (2012); *see also id.* at 14 ("We like 'professional formation,' but believe an even more specific statement—'professional formation toward a moral core of service to and responsibility for others'—best captures both the developmental nature of the educational challenge and the 'other-directedness' inherent in professionalism.").

As discussed in the present Article, law students' professional development includes but is not limited to professional identity development—to the extent that professional identity development refers to "professionalism, social responsibility, or ethics." SULLIVAN ET AL., *supra* note 5, at 14. The scholarly process can be used to help students develop skills of reflection and self-direction, which can support both professional development more generally and professional identity development. *See* ROY STUCKEY ET AL., *supra*, at 65 (identifying "self-reflection and lifelong learning skills" as "attributes of effective, responsible lawyers" that legal education should help law students develop); *id.* at 127 ("[L]aw schools must produce graduates who possess excellent self-directed learning skills."); SULLIVAN ET AL., *supra* note 5, at 135 (identifying the importance of reflection in law students' professional identity development); *see also id.* at 160–61 ("The situational character of practical expertise strongly suggests that one essential goal of professional schools must be to form practitioners who are aware of what it takes to become competent in their chosen domain and to equip them with the reflective capacity and motivation to pursue genuine expertise."); *id.* at 85 ("[F]ormative education must enable students to become self-reflective about and self-directing in their own development. . . . [L]aw school ought to provide the richest context possible for students to explore and make their own the profession's possibilities for a useful and fulfilling life."); Neil Hamilton, *Formation-of-an-Ethical-Professional-Identity (Professionalism) Learning Outcomes and E-Portfolio Formative Assessments*, 48 U. PAC. L. REV. 847, 856, 871 (2017) (identifying "reflection" as part of "an effective professional-formation curriculum" and identifying "self-directed learning" as part of "professional-formation").

Professional identity does not occur in a vacuum, and law students' scholarly engagement can help them think more intentionally about and prepare for the contexts within which they will express and develop their professional identity. *See, e.g.,* Sullivan et al., *supra* note 5, at 132 ("The values that lie at the heart of the apprenticeship of professionalism and purpose also include conceptions of the personal meaning that legal work has for practicing attorneys . . ."). Law student scholarship—along with law professors' engagement in law student scholarship—can be a particularly meaningful opportunity for students' professional development. *Cf.* Susan Sturm & Lani Guinier, *The Law School Matrix: Reforming Legal Education in a Culture of Competition and Conformity*, 60 VAND. L. REV. 515, 534–35 (2007) (critiquing legal education and stating that the academic work that students do in law school usually does not explicitly address students' "professional identities and career directions" and that "many professors do not communicate with

The Article asserts that we can better integrate scholarship into legal education and make scholarship a more meaningful part of students' law school experience by thinking about law students' scholarship differently from law professors' scholarship. Law students' scholarship should not be thought of as law professors' scholarship "for beginners."²² Most law students are not going to become law professors. We should think more intentionally about the specific purposes that scholarship can serve for law students, most of whom are intending to become practicing lawyers, rather than narrowly focusing on how we can assist students to create a final product that resembles the type of scholarship that law professors create.²³

The pedagogy of scholarship for law students should focus more intentionally on the scholarly process because this process can be a valuable part of preparing students for their professional lives as lawyers, rather than primarily being thought of as the means to a particular, traditional scholarly product. Shifting focus from product to process means that more time can be devoted to the process and that students will be less pressured to rush through the process because they need to create a final product in the limited time available for the project.

Considering how law student scholarship can be an integral part of students' professional development also means rethinking the products that students create as part of the scholarly process. We should not take for granted that the ideal or only permitted scholarly product for law students should necessarily be like the type of scholarly product that law professors create as members of the legal academy. Rather, it might make more sense for students to create different types of documents than those created by law professors, both in terms of interim assignments and in terms of a final product, so that students can derive more benefit from the process of scholarship and create work that is more meaningful to them.

students about the relationship of their academic work to their professional aspirations and goals"). Student scholarship that explicitly addresses professional identity formation could be quite valuable; however, scholarship on other topics could also contribute to students' professional development.

22. See Andrew Yaphe, *Taking Note of Notes: Student Legal Scholarship in Theory and Practice*, 62 J. LEGAL EDUC. 259, 279 (2012) (describing students writing law review notes as "emulating their professors"); see also Lissa Griffin, *Teaching Upperclass Writing: Everything You Always Wanted to Know but Were Afraid to Ask*, 34 GONZ. L. REV. 45, 48 n.7 (1998-99) ("[S]eminar professors have experience in the kind of legal scholarship they are demanding of their students.").

23. Professor Harriet Katz has noted that the priority that law professors place on their own production of scholarship may influence their perceptions about the type of writing that law students should do. Harriet N. Katz, *Fulfilling Skills and Writing Requirements in Externship*, 21 CLINICAL L. REV. 53, 65, 73 (2014). Although Professor Katz made this observation in the context of distinguishing between "scholarly writing" and "writing for law practice," *id.* at 65, the type of scholarly writing that law professors engage in may also influence their perception of the type of scholarly work that law students should do.

The ideas in this Article are not limited to work engaged in by law students to satisfy an upper-level writing requirement. However, even with respect to the upper-level writing requirement required by the American Bar Association (ABA) Standards,²⁴ law schools have flexibility regarding the types of writing engaged in by students, and law schools should take advantage of this flexibility when thinking about law students' scholarly work. Law students are not required by the ABA Standards to write a traditional research paper while they are in law school.²⁵ Pursuant to the ABA Standards, law students are required to have "one writing experience in the first year and at least one additional writing experience after the first year, both of which are faculty supervised."²⁶ The "additional writing experience after the first year" may be a traditional research paper, but it does not need to be.²⁷ Students can engage in writing that satisfies the requirement for an upper level "writing experience" without writing a traditional research paper, so it is certainly possible to re-envision law student scholarship in a way that would be consistent with the upper level writing requirement set forth in the ABA's Standards.²⁸ Moreover, the requirement of a "writing experience" is "wording which suggests an emphasis on the writing process and not on a final product,"²⁹ further supporting the ideas in this Article.

This Article considers the role that scholarship can play for law students and, specifically, explores some ways in which the process of scholarship can be a means to help students with their professional development as lawyers, rather

24. "ABA Standards" refers to the ABA Standards and Rules of Procedure for Approval of Law Schools. For more information regarding the creation of these Standards, see ABA STANDARDS, *supra* note 7, at Preface, vii.

25. *See id.* Standard 303.

26. *Id.* Standard 303(a)(2).

27. Interpretation 303-2 states that "Factors to be considered in evaluating the rigor of a writing experience include the number and nature of writing projects assigned to students, the form and extent of individualized assessment of a student's written products, and the number of drafts that a student must produce for any writing experience." *Id.* Presumably, the reason that this interpretation focuses on "evaluating the rigor of a writing experience" is because a previous version of Standard 303(a)(2) required students to have a "rigorous writing experience . . . after the first year" of law school. Drake, *supra* note 20, at 170; *see also* Chestek, *supra* note 20, at 119, 121.

Even though the Standards do not require law students to engage in scholarly writing, law students may engage in scholarly writing in connection with their courses or other work in law school, for example law review, and some schools might require students to engage in scholarly writing. *See* 2017-2018 ALWD/LWI Survey, *supra* note 3, at 38; Katz, *supra* note 23, at 59.

28. Of course, students can take additional writing courses above and beyond what the ABA requires.

29. Katz, *supra* note 23, at 72. Professor Katz asserts that writing that law students do in externships ("such as briefs, opinions, pleadings, and predictive memoranda") should be able to satisfy the ABA's upper-level writing requirement and that writing should not need to be "scholarly" in order to satisfy this requirement. *Id.* at 72-73. In addition to considering the scope of upper-level writing requirements, it is also worth considering the role of law students' scholarship in legal education.

than focusing on the process of scholarship as a means to the end of a final, traditional scholarly paper. Part I of this Article further discusses some of the reasons supporting a re-envisioning of law student scholarship, focusing on the differences between the role of scholarship for law professors and law students. For many law students, the process of scholarly engagement should be where much value lies.³⁰ Part II of this Article explores the role of topic selection and reflection in making scholarship a more meaningful part of students' professional development. This Article also asserts that we should take a broader, more creative view of what "counts" as the product (or products) of law students' scholarly engagement in order to focus more attention on the process and encourage students to create work that is meaningful to them. Part III addresses this re-thinking of the products of students' scholarly engagement. Part IV of the Article addresses some concerns that might arise in connection with the re-envisioning of law student scholarship proposed in this Article. Focusing more on the scholarly process and thinking more creatively about the products of scholarly engagement can open up new ways to integrate scholarship into legal education and make scholarship a more valuable component of students' legal education and professional development.³¹

I. RECOGNIZING THE DIFFERENCES BETWEEN THE ROLE OF SCHOLARSHIP FOR LAW PROFESSORS AND THE ROLE OF SCHOLARSHIP FOR LAW STUDENTS AS WE CONSIDER SHIFTING THE FOCUS OF LAW STUDENT SCHOLARLY WORK AWAY FROM THE CREATION OF A TRADITIONAL RESEARCH PAPER

In order to make scholarship a more meaningful experience for law students by shifting the focus of law student scholarly work away from the creation of a traditional research paper, we should think specifically about how scholarship can be used to promote law students' professional development. Thinking about how scholarship can facilitate students' professional development requires us to

30. This is not to say that the process does not also have value for law professors who create scholarship. See RHODE, *supra* note 2, at 46 ("[E]ven research that does little to advance inquiry in a field may promote the intellectual growth of authors and their students. The process has worth independent of what it produces."). However, it seems safe to say that for most law professors, a very important goal—personally and professionally—is to produce *published* work.

31. Other authors have also recognized "[t]he pedagogical value of student scholarship." Robson, *supra* note 20, at 199. In addition, some students do engage in research projects where the goal is to create something other than a traditional research paper. See, e.g., Jan L. Jacobowitz, *Cultivating Professional Identity and Creating Community: A Tale of Two Innovations*, 36 U. ARK. LITTLE ROCK L. REV. 319, 329 (2014); Ruth Anne Robbins, Legal Writing for Legislation and Public Policy Advocacy, Presentation at the 2019 Biennial ALWD Conference (May 31, 2019).

Some professors and students are already engaged in some of the practices that this Article suggests. The time is right for a more deliberate, pervasive reorientation regarding law student scholarship that considers how law student scholarship can play a more intentional, salient role in students' professional development.

recognize ways in which scholarship plays different roles for law students and law professors.

Many law professors are professional scholars.³² For these law professors, the ultimate goal is to produce *published* scholarship.³³ While the process of producing published scholarship takes up a tremendous amount of time and is, obviously, an integral part of producing a publication,³⁴ the end product of scholarship itself is crucial for law professors. Law professors engage in the process of producing scholarship in order to end up with published work. It is typically important to law professors to produce publications that are of high quality, are read by others, and contribute to their field. Scholarship “creates knowledge,”³⁵ and publication is what enables that knowledge to be disseminated.³⁶

For many law professors, it is personally meaningful to publish scholarship because they are interested in what they are studying and want to enter the scholarly conversation about their topic and make contributions to the field;³⁷ even apart from these motivations, there are other pressures on law professors to produce published scholarship.³⁸ Tenure-track law professors are required to produce published scholarship in order to get tenure.³⁹ When determining

32. Law professors are also professional teachers.

33. For law professors, “scholarship” most frequently takes the form of law review articles. Some law professors also publish books and other types of writing.

34. The process may result in more than one publication. For example, a project may result in multiple related articles, or ideas may be generated in the course of working on one publication that inspire additional publications. Publications can also take different forms; publications do not necessarily need to be (although they generally are) traditional law review articles. Regardless, publication in one form or another is typically the goal.

35. Stinson, *supra* note 3, at 317.

36. Publication may not only provide a means for knowledge to be disseminated but may also promote the creation of knowledge. See Mary Garvey Algero, *Long Live the Student-Edited Law Review*, 33 *TOURO L. REV.* 379, 379 (2017) (discussing “student-edited law reviews” and noting that their “provision of a space for the expression of . . . ideas itself is valuable because it encourages scholars to take the time to go through the exercises of thinking, researching, and writing deeply on legal subjects. Through the process, scholars often develop new ideas and new ways of thinking of things.”).

37. Professors are likely interested in making different types of contributions depending on the nature of their work. For example, some professors might be interested in contributing to the development of the law, some professors might be interested in contributing to changes in law practice or legal education, some professors might be interested in contributing to an understanding of how the law operates or legal theory.

38. See Tamara R. Piety, *In Praise of Legal Scholarship*, 25 *WM. & MARY BILL RTS. J.* 801, 806 (2017) (“We engage in the production of legal scholarship for all sorts of reasons—the search for truth, professional distinction, sheer pleasure, or compulsion . . .”).

39. See Meera E. Deo, *Intersectional Barriers to Tenure*, 51 *U.C. DAVIS L. REV.* 997, 1022–23 (2018) (“While most schools adhere to the tenure trifecta—service, teaching, and scholarship—the litmus test for most schools is scholarship. . . . [A]n Assistant Professor who does not publish

whether a professor has satisfied the scholarship requirements of his or her school's tenure standards, it is typically work that has been published or accepted for publication that is eligible for review. In fact, these days, candidates are typically expected to publish scholarship even before being hired as a tenure-track law professor.⁴⁰ Publishing scholarship is also likely to be a requirement for promotion: from assistant professor to associate professor, and from associate professor to professor. The production of published scholarship may be tied to the receipt of raises or summer research grants.⁴¹ Moreover, law professors are commonly expected to publish scholarship regardless of whether publication is a formal requirement for any tangible benefit.⁴² For law professors, the process of scholarship is vital as a means to the end of published scholarship, but the ultimate goal of the scholarly process is published work.⁴³

Scholarship plays a different role for law students than it does for law professors. Law students are not typically required to publish scholarship. Most law students are not in law school to become law professors and so do not need to produce a traditional scholarly article that they can use to go on the law teaching market.⁴⁴ While publishing a law review article or writing a traditional scholarly paper might be a useful credential for some jobs, many law students

will likely not get promoted. This is why academic success is characterized by the common adage, "Publish or perish." (footnote omitted).

40. See *Transitioning to Academia*, YALE L. SCH., <https://law.yale.edu/studying-law-yale/areas-interest/law-teaching/law-teaching-program/preparing-career-law-teaching/transitioning-academia> (last visited July 10, 2020).

41. See Wise et al., *Do Law Reviews Need Reform? A Survey of Law Professors, Student Editors, Attorneys, and Judges*, 59 LOY. L. REV. 1, 3–4 (2013) ("Law reviews and law journals . . . have a significant impact on law professors' careers. They help determine who is hired as a law professor, which law school hires them, whether law professors receive tenure and promotions, what compensation they receive, and what influence their research has on legal scholarship and the law."); see also Bodie, *supra* note 9, at 109. For a discussion of law school summer research grants, see generally Robert M. Jarvis & Phyllis Coleman, *Dog Days in the Law Library: Philosophical, Financial, and Administrative Issues Raised by Faculty Summer Grant Programs*, 37 NOVA L. REV. 309 (2013).

42. The consequences of not producing scholarship may, however, be quite different depending on whether a professor is tenure-track or tenured. Bodie, *supra* note 9, at 109.

43. Adding to the existing focus on law professors' published work, *U.S. News and World Report* announced that it was going to be collecting publication-related data for tenured and tenure track law professors and "is considering publishing a separate law school scholarly impact ranking . . ." Robert Morse, *U.S. News Considers Evaluating Law School Scholarly Impact*, U.S. NEWS (Feb. 13, 2019, 1:00 PM), <https://www.usnews.com/education/blogs/college-rankings-blog/articles/2019-02-13/us-news-considers-evaluating-law-school-scholarly-impact>; see also Robert Morse, *U.S. News Responds to the Law School Community*, U.S. NEWS (May 2, 2019, 10:00 AM), <https://www.usnews.com/education/blogs/college-rankings-blog/articles/2019-05-02/us-news-responds-to-the-law-school-community>.

44. See Christina D. Lockwood, *Improving Learning in the Law School Classroom by Encouraging Students to Form Communities of Practice*, 20 CLINICAL L. REV. 95, 130 (2013) ("[M]ost [law] students do not aspire to be law school professors.").

apply for jobs for which a publication or scholarly paper while in law school is not expected and for which other experiences while in law school will be more valuable. Some law students may want to write a traditional research paper while they are in law school. However, creating a traditional research paper is not necessarily a goal for all law students.⁴⁵

Particularly for these law students, the value of scholarship primarily lies in the process, not the product. And really, for all students, we should think about how the process of scholarship can play a more meaningful role in students' professional development. The scholarly process enables students to identify a topic that interests them and pursue that topic deeply and critically. This process of purposeful inquiry gives students the opportunity to develop habits of mind that will be important to them in their professional lives.⁴⁶ Rather than focusing on the process as the means to the end of a traditional research paper, we should think about ways to highlight the process as a valuable learning experience in and of itself.

In order to enable students to dedicate time and attention to the scholarly process, it is worth reconsidering whether a traditional research paper should necessarily be the goal of students' engagement in that process. Scholarship takes time,⁴⁷ and law students may not have the time that it takes to produce a traditional scholarly research product.⁴⁸ Students typically have, at most, only one or two semesters to produce a scholarly paper, which gives students very little time to create a work of traditional scholarship that is the result of an immersion in the literature.⁴⁹ We do not do students any favors by creating an

45. Even students on law review, who are typically required to write a law review note, are not necessarily motivated to participate on law review because they want to write a note. See Kelly, *supra* note 9, at 285 (“[S]tudents often see . . . selection [for a journal] as an honor that will help them gain employment rather than as a forum to write a note.”).

46. See Foehrkolb & DeSimone, *supra* note 20, at 177–78; Kelly, *supra* note 9, at 285.

47. See, e.g., Yaphe, *supra* note 22, at 261 (“[P]roducing a note is, for most students, an enormous investment of time.”). Writing other forms of law student scholarship (such as seminar papers) can also take a significant amount of time. See, e.g., JESSICA LYNN WHERRY & KRISTEN E. MURRAY, *SCHOLARLY WRITING 3* (3d ed. 2019).

48. Although time constraints are certainly a consideration, the suggestions in this Article are not solely a response to the limited amount of time that law students typically have to create traditional scholarly research papers. There is value in thinking intentionally about the role of scholarship in law students' professional development and ways to use the scholarly process to promote students' professional development; these ideas are not limited to only those situations where students do not have sufficient time to create a traditional research paper.

49. Clark & Murray, *supra* note 20, at 552–53 (discussing the difficulty of students writing research papers within only one semester and recommending that students be given more than a semester to complete their research papers); Elizabeth Fajans & Mary R. Falk, *Comments Worth Making: Supervising Scholarly Writing in Law School*, 46 J. LEGAL EDUC. 342, 369 (1996) (recommending that students be given a year, rather than a semester, to write a scholarly paper and noting that “[m]ost expert scholarly writers would have difficulty producing a piece of serious writing in one semester on a topic relatively new to them, yet we routinely expect students to

expectation of quick production of scholarship that necessarily requires students to give short shrift to the scholarly process. Creating an unrealistic deadline for production of a research paper that necessarily causes students to rush through the scholarly process undermines the quality of the resulting product. Even worse, rushing through the scholarly process devalues and detracts from the process itself, rather than enabling students to focus on and learn from the process.⁵⁰

Rather than being a welcome opportunity to identify and pursue a question of interest and create a document that has personal meaning to them, students may see traditional scholarly projects as another hoop to jump through—another requirement to get out of the way.⁵¹ Law students have only three years within which to complete their professional training, and some law students may receive their degrees in even less than three years. Law students have a myriad of responsibilities in connection with their legal education: required courses, elective courses, clinics and other experiential opportunities, pro bono requirements, co-curricular activities. In addition, law students might have jobs outside of law school, not to mention other non-law-school-related

produce an original and polished paper in three and a half months”); Foehrkolb & DeSimone, *supra* note 20, at 179 (stating that expecting law students to write a scholarly article for a one-semester seminar while they are also learning the subject matter of the seminar “may be an impossible task”); *see also* EUGENE VOLOKH, *ACADEMIC LEGAL WRITING* 281 (5th ed. 2016) (noting that law students writing seminar papers may, in reality, have even less than a semester to write their papers).

50. *Cf.* Erin Carroll, *Teaching Patience: Why Law Students Need to Slow Down and How to Help Them Do It*, 24 *PERSP.: TEACHING LEGAL RES. & WRITING* 23, 23 (2016) (noting that “it is important to help students build patience and focus”). Rushing through the scholarly process can also diminish the quality of the product that results from that process. *Cf.* Fajans & Falk, *supra* note 49, at 369 (“[I]f student writing projects, including ‘term’ papers, were routinely of a year’s, not a semester’s, duration, the process might be more meaningful and the product more substantial.”).

51. *See* Clark & Murray, *supra* note 20, at 526 (“It is . . . sometimes difficult to engage students in their scholarly writing endeavors as more than just a check-the-box exercise on the way to graduation.”). In discussing student notes, one author remarked that:

While some students may regard the note as an end in itself—yet another law school obligation to be dutifully discharged, then never thought of again—many students regard it as a significant undertaking with important repercussions. The note will often furnish its author with a writing sample, which will be used when applying for clerkships or other post-law school jobs. At the least, the note constitutes a resume line which (the student hopes) will prove attractive to future employers.

Yaphe, *supra* note 22, at 261. Here, the author of the quoted passage focuses on the value of the product (the note), rather than the process of creating the note. Towards the end of the article, however, the author proposes “the scholarly theory” of the student note:

On this view, students might try to find an area of the law that genuinely interests them. Instead of scouring conventional sources to locate a topical subject, they might try to figure out what it is they think about whatever area of the law matters to them. Having done so, they might write up the results of their inquiry in whatever form seems most appropriate.

Id. at 296.

responsibilities. If students only have a semester or even a year to produce a scholarly research paper, students may not engage deeply with the material or the process. Given limited time to complete a research project and produce a research paper, students might rush through the process in order to end up with the required paper. It is counter-productive for students to engage in a less rigorous research process just so they can end up with a final product. Especially given the value that the process of working on a research project can have for law students, we should avoid creating a context where students (and professors) prioritize having a final product at the expense of a meaningful process.⁵²

Although law professors recognize how much work goes into law student scholarship, law professors expect law students to engage in all of this work in a short period of time—in less time than law professors have for our scholarship, in fact. Many law professors ordinarily dedicate much of their summers to scholarship and work on scholarship during the terms that they are teaching too (although how much time they have to devote to scholarship when they are teaching depends in part on what they teach and how they teach).⁵³ Law students work on their scholarly projects when they are taking other classes, not to mention their other non-class commitments. Certainly, law professors have other commitments too, but professors frequently have more scholarship-focused time over the summer, which law students do not usually have. Moreover, law professors who are not writing their first article have the benefit of having written scholarship before and law professors who are not writing on a brand-new area for them also have the benefit of having prior knowledge in their

52. In addition to having a limited amount of time, law students may not have the training required to engage in certain types of research (for example, empirical research). Law students are not doctoral students, and law students are not expected to come to law school with any particular training or expertise. *See id.* at 264 (“[T]here is no reason that law students should know the first thing about how to write serious legal scholarship.”). Particularly given the limited time that law students typically have for a research project and that law students are not expected to come to law school with prior training in any particular research methodology, it makes sense to focus on ways that the process of research can be used to advance students’ professional development, rather than focusing on the particular final product that results from that process. Moreover, law students come to law school with different past experience with research and writing; some law students might have significant prior experience with research and writing, while other law students might not have such experience.

53. This is not to say that scholarship is easy for law professors. Even under the best of circumstances, scholarship is challenging. In addition, not all law professors have similar amounts of time and support for scholarship, and law professors have other obligations (professional and personal) in addition to scholarship. *See* Bryan Adamson et al., *Can the Professor Come Out and Play?—Scholarship, Teaching, and Theories of Play*, 58 J. LEGAL EDUC. 481, 492 (2008) (identifying “insufficient time or resources” as one “reason[] why many [law professors] feel their legal scholarship is more of a burden than a delight”).

discipline, while most law students do not share this prior experience or knowledge base.⁵⁴

Legal educators should think about how scholarship can help our students in their process of professional development as lawyers and how we might make better use of the scholarship process in the law school curriculum. We should ask whether there may sometimes be other, more meaningful goals for law students' scholarship besides ending up with a finished traditional academic paper and whether there are ways that we can better promote our students' attainment of those goals.⁵⁵

In other words, we should think specifically about the role, process, and product of scholarship for law students rather than imposing our view of scholarship in our own professional lives onto our students.⁵⁶ Law students and law professors are not in similar positions with respect to the role of scholarship in their professional lives—in terms of the purpose of scholarship, time to create scholarship, or the ongoing relationship with scholarship. Particularly in light of this reality, we should think more intentionally about the role of the scholarly process in students' professional development, rather than thinking more single-mindedly about the scholarly process as the means for creating traditional legal scholarship. Focusing on process, rather than product, can open up new ways to think about law students' scholarship and the pedagogy of law students'

54. See Fajans & Falk, *supra* note 49, at 369. Fajans and Falk recommend giving students a year to produce a scholarly paper, although even a year might not be sufficient, particularly in light of students' many other commitments. *Id.* Although law students' scholarship is not necessarily identical to law professors' scholarship and may be subject to different expectations than law professors' scholarship, law students are expected to undertake a time-consuming and rigorous research and writing process when they engage in scholarly research projects. See, e.g., *id.* at 344.

55. Of course, to the extent that students are required to produce a research paper or law review note in order to receive credit or satisfy a requirement, or to the extent that students want to write a traditional research paper, this specific product of scholarship is important, and there are valuable resources that focus on helping law students write traditional scholarly papers. See, e.g., ELIZABETH FAJANS & MARY R. FALK, *SCHOLARLY WRITING FOR LAW STUDENTS* (5th ed. 2017); WHERRY & MURRAY, *supra* note 47; VOLOKH, *supra* note 49. Additional books about writing legal scholarship continue to be published. See ELIZABETH E. BERENGUER, *THE LEGAL SCHOLAR'S GUIDEBOOK* (2020); CHRISTINE COUGHLIN, SANDY PATRICK, MATTHEW HOUSTON & ELIZABETH MCCURRY JOHNSON, *MODERN LEGAL SCHOLARSHIP* xvii (2020) (noting that "legal scholarship has moved beyond traditional parameters" and addressing a variety of forms of scholarship, traditional and less traditional). The purpose of this Article is not to diminish the value of writing a traditional scholarly paper for students who have that goal. However, we should recognize that this is not a goal that all students have (or need to have). Even authors whose focus is on helping students produce traditional scholarly papers acknowledge that there is room for reconsideration of this endeavor. See Clark & Murray, *supra* note 20, at 534–35 ("An exploration of the pros and cons of requiring an upper-level research paper could itself be the subject of its own article. . . . [T]hough we do not unconditionally support the status quo research paper requirement, it makes sense to assume that the requirement will remain in place for at least the near future").

56. See Clark & Murray, *supra* note 20, at 531 (reviewing some of the criticisms of traditional scholarly writing requirements for law students).

scholarship, adding more meaning to scholarship for law students and more explicitly connecting scholarship to professional development.

Focusing on process can also encourage a re-thinking of the types of “product” law students might create in connection with their engagement in the scholarly process. Needing to create a traditional research paper may impede, rather than promote, the value of the process for students’ professional development. In addition, there might be other types of work product that would be more meaningful to law students than traditional scholarship. Being more open-minded about the types of work product that law students create in connection with the scholarly process could lead to more students being engaged in and deriving benefit from that process.

II. CONNECTING THE SCHOLARLY PROCESS MORE DELIBERATELY AND EXPLICITLY TO LAW STUDENTS’ PROFESSIONAL DEVELOPMENT

We should neither assume that law students’ engagement in scholarship contributes to their professional development nor, on the other hand, concede that the scholarly process only contributes to the professional development of law students who are planning to become law professors. Rather, we should consider how law students’ engagement in scholarship can promote their professional development recognizing that most law students will not become law professors. This Part of the Article will consider two ways in which scholarship can be used to promote law students’ professional development. Section A of this Part will discuss how the selection of a topic for a scholarly research project can be a significant professional development opportunity. Section B of this Part will address how scholarly research projects can provide students with opportunities for reflection, further contributing to students’ professional development.

A. *Topic Selection*

The selection of a topic to research is a stage in the process that could be used more fully to explore law students’ interests and promote students’ professional development. The scholarly process requires students to identify and pursue research questions. Research projects can be a vehicle to help students reflect on their interests and future professional lives as they engage in the process of identifying questions that they want to investigate for their research projects. Scholarly research projects give students an opportunity to immerse themselves in research and think deeply about areas of interest to them. Students’ engagement in scholarly research enables students to explore questions that they have about areas of the law or aspects of law practice. One of the benefits of scholarly research projects is that they can be flexible to accommodate the needs and interests of individual students. Recognizing this benefit should inform how

we think about scholarship—and the utility and pedagogy⁵⁷ of scholarship—in the curriculum.

When talking with students about research topics, law professors should encourage students to think about their future careers and topics that relate to areas of the law or types of law practice that students are interested in pursuing.⁵⁸ At the beginning of the process, some students may already have a particular research question in mind. Other students may have a particular area of interest but need to identify a specific research topic. Yet other students may not even have a particular area of interest in mind. Working with students to develop a research question is an opportunity to help students think about areas of the law and types of law practice that are of interest to them and questions that they have about those areas of the law or types of law practice.⁵⁹ These questions might be about a particular aspect of the law, a particular type of law practice, professional responsibility, or professional identity. Students do not necessarily need to know what type of law they want to practice in order to identify a meaningful research question that will promote their professional development. Moreover, students may not end up practicing in the practice area that they anticipate. As law professors help students identify research topics, we can help students explore and identify potential connections between topics of interest and students' future professional lives.

As we work with students on their research topics, both in identifying research topics and exploring connections between research topics and students' professional lives, law professors can play a more meaningful role in students' professional development.⁶⁰ Rather than thinking about a topic primarily for the purpose of producing a research paper, students should be encouraged to think about areas of the law that they are interested in and questions about the law that are personally meaningful to them, including questions about the role of the

57. Whether “pedagogy” or “andragogy” (or some other term) is precisely right when discussing the teaching of law students is not entirely clear. See Emily Zimmerman, *An Interdisciplinary Framework for Understanding and Cultivating Law Student Enthusiasm*, 58 DEPAUL L. REV. 851, 868 n.103 (2009); see also Geraldine Holmes & Michele Abington-Cooper, *Pedagogy vs. Andragogy: A False Dichotomy*, 26 J. TECH. STUD. 50, 50–52 (2000).

58. Law professors may already be involved in students' topic selection. See Griffin, *supra* note 22, at 50, 54. This Article suggests that the topic selection process—and professors' involvement in that process—be more deliberately connected to students' professional development.

59. FAJANS & FALK, *supra* note 55, at 21 (“[W]riting about an area in which you would like to practice has obvious advantages since it will increase your expertise and thereby enhance your qualifications.”); see also Yaphe, *supra* note 22, at 296 (proposing “the scholarly theory” of the student note in which “students might try to find an area of the law that genuinely interests them”).

60. A vision of law student scholarship that sees scholarship as an integral part of students' professional development also means that other members of the law school and wider professional communities could be valuable resources for students as they develop research questions. The process of developing a research question could be another opportunity for students to engage with externship supervisors, career development professionals, and practicing lawyers.

lawyer.⁶¹ As part of the topic selection process,⁶² professors should engage students in conversations about students' professional aspirations, questions that students have and might want to explore, and areas of the law that students want to learn more about. By engaging with students in this way, law professors can act both as "scholarship coaches" for students,⁶³ as well as coaches who can help students think about their professional interests and goals.⁶⁴ This process can be one way to situate scholarship within a student's overall process of professional development and one way in which faculty can play a role in this process.⁶⁵ Rather than counting on conversations about professional development to arise as the by-product of law students' conversations with professors (and one another) about scholarship, conversations about professional development should be an intrinsic, intentional part of law students' conversations about scholarship.⁶⁶

In addition to investigating connections between students' professional interests and research questions in conversations, students could also be encouraged or required to write a reflective essay regarding the selection of their research question, exploring the connection between their research question and

61. See Carol McCrehan Parker, *What Will I Do on Monday, and Why Aren't We Doing It Already?: Reflecting on the Value of Expressive Writing in the Law School Curriculum*, 15 J. LEGAL WRITING INST. 285, 290 (2009) ("[A]n education in law should also include experience in formulating and expressing original thought on issues of importance to the student and to society."). Books written for law students about scholarly writing also encourage students to select a topic that is of interest to them. FAJANS & FALK, *supra* note 55, at 21; WHERRY & MURRAY, *supra* note 47, at 23; VOLOKH, *supra* note 49, at 13; see also Robson, *supra* note 20, at 198, 203 (noting the importance of law students' "passion" for their topic); *id.* at 211 (discussing the importance of law students' "passion" and "persistence" to writing a law review article that is submitted for publication, and stating that "it is passion that fuels this persistence").

62. As will be discussed later in this Article, we should also be more creative about what students produce and should be less tied to the traditional research paper as the necessary product of students' work. Thus, in addition to thinking about *topic* selection at the initial stage of the process, the professor and student should think about *project* selection: what the student will produce during the process. Moreover, the products of students' research should be considered to include work that is produced during the process itself and not only a "final product" that might be produced in connection with a project.

63. See Philip C. Kissam, *Seminar Papers*, 40 J. LEGAL EDUC. 339, 343 (1990) ("[A] law professor can perhaps best encourage student-centered research and writing by becoming a coach throughout the research and writing process until the final papers are submitted.").

64. Cf., e.g., Neil Hamilton & Jerome M. Organ, *Thirty Reflection Questions to Help Each Student Find Meaningful Employment and Develop an Integrated Professional Identity (Professional Formation)*, 83 TENN. L. REV. 843, 874–76 (2016) (discussing the role of coaching in law students' "professional formation").

65. Cf. *id.* at 885 (discussing professional formation questions for law students).

66. Cf. Clark & Murray, *supra* note 20, at 537 ("Interacting with faculty through a scholarly writing project can open the door to other interactions students find critical to satisfaction, such as discussions about which courses to take, career planning, or other topics unrelated to a particular course.").

their professional development and aspirations.⁶⁷ This essay would give students more of an opportunity to think about their research topic and consider and identify the value of their topic to them.⁶⁸ Devoting time to writing a reflective essay at this stage in the process would also signal the importance of this stage in the process and the expectation that students' projects should be meaningful to them. A reflective essay would give students an opportunity to explore and explain—to themselves and those assisting them with their projects—the significance of their topic and how the topic relates to their professional interests.⁶⁹ In addition, the essay would be a reflective writing opportunity for students and, as such, would also have value, above and beyond its role in the topic selection process. This essay could be reviewed by the professor and used to facilitate further discussion with the student about the research topic. Moreover, to the extent that students were writing research papers in connection with a course, students in the course could share their topic reflection papers with one another, giving students additional opportunities to discuss and respond to questions about their research topics.⁷⁰

Enabling students to identify and pursue a topic of interest to them provides students with autonomy and self-directedness that is sometimes lacking in legal education.⁷¹ During the first year of law school, law students are typically

67. Reflective writing as students work to determine their topics could be useful too—in terms of both selecting a topic and identifying the value of the topic to the student.

68. Cf. Kissam, *supra* note 63, at 343 (“[A]s part of obtaining approval for their projects, [the author] either invite[s] or require[s] [his] students (depending on the seminar’s subject and structure) to submit a brief written statement that describes their topic, their particular focus, and their reasons for choosing the project.”).

69. Students writing seminar papers will likely not be able to write on any topic that they want; their topics will need to relate to the seminar. Hopefully, students choose to take a course because they have some interest in the subject matter. Regardless, students should be encouraged and guided to select topics that are meaningful to them given their personal and professional interests.

70. Sharing their topic reflection papers with classmates, and giving feedback to and receiving feedback from classmates would also give students opportunities to work collaboratively and gain additional experience in verbal, as well as written, communication. Students writing papers in connection with their participation on law review or other contexts that involve writing among peers could also participate in these activities.

71. See Kennon M. Sheldon & Lawrence S. Krieger, *Understanding the Negative Effects of Legal Education on Law Students: A Longitudinal Test of Self-Determination Theory*, 33 PERSONALITY & SOC. PSYCHOL. BULL. 883, 884–85, 894–95 (2007) [hereinafter, Sheldon & Krieger, *Understanding the Negative Effects of Legal Education on Law Students*]; Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L. 261, 281–82 (2004). Autonomy support is identified in the literature on self-determination theory as being related to well-being. Sheldon & Krieger, *Understanding the Negative Effects of Legal Education on Law Students*, *supra*, at 884.

Self-determination theory also informs theory and research regarding “intrinsic motivation” and

required to take a prescribed set of courses. Law students read what their professors assign them to read in the courses that students are required to take. During the first year of law school, when students do engage in research, they are most often researching an area of law that has been assigned to them in connection with a memorandum of law or brief assignment in their legal writing courses. Given their lack of familiarity with the law and law practice, some students may not want to make many choices about what to study or research during their first year of law school.

Law students have more autonomy after the first year of law school, although this autonomy may not necessarily extend to topic selection for writing projects. Law students have more choice regarding the courses that they will take and the experiential opportunities in which they will participate. Even after their first year of law school, however, students have limited autonomy regarding the work that they undertake in connection with any given class. Although students generally have more control over the courses that they take after the first year of law school, the topics and readings for courses are typically determined by professors. To the extent that classes have writing assignments that give students experience writing the types of documents that practitioners write (such as contracts or appellate briefs), the topics of those assignments too are frequently determined by the professor. When students write in the context of an externship or clinic, the topic of the writing is typically determined by the needs of the placement, although students might have some input into the types of work that they handle. When students engage in research projects, they generally are

“extrinsic motivation.” Stefano I. Di Domenico & Richard M. Ryan, *The Emerging Neuroscience of Intrinsic Motivation: A New Frontier in Self-Determination Research*, 11 FRONTIERS HUM. NEUROSCIENCE 1–2 (Mar. 2017).

When intrinsically motivated, people engage in an activity because they find it interesting and inherently satisfying. By contrast, when extrinsically motivated, people engage in an activity to obtain some instrumentally separable consequence, such as the attainment of a reward, the avoidance of a punishment, or the achievement of some valued outcome.

Id. at 1. There is an extensive literature regarding intrinsic motivation and extrinsic motivation. *See, e.g., id.* at 1–5 (reviewing some of the literature regarding intrinsic motivation); Christopher P. Cerasoli, Jessica M. Nicklin & Michael T. Ford, *Intrinsic Motivation and Extrinsic Incentives Jointly Predict Performance: A 40-Year Meta-Analysis*, 140 PSYCHOL. BULL. 980, 980–83 (2014) (same).

In general, there is a positive relationship between intrinsic motivation and performance. *Id.* at 996. Of course, in any given situation, a person might be motivated both intrinsically and extrinsically. *Id.* at 1000 (“Thus, although our findings suggest that it is always beneficial to help people find their tasks intrinsically rewarding, extrinsic incentives can and will also play a role.”); *see also* Judith M. Harackiewicz, Yoi Tibbetts, Elizabeth Canning & Janet S. Hyde, *Harnessing Values to Promote Motivation in Education*, 18 ADVANCES MOTIVATION & ACHIEVEMENT 71, 74, 77, 82–83 (2014) (discussing “four types of subjective task values” identified by “expectancy-value theory,” including “utility value,” which is defined as “the perceived importance or usefulness of a task for accomplishing future goals relevant to an individual’s life” and discussing research regarding “utility-value interventions” for students).

given some control over the topics of those projects.⁷² This autonomy can enable students to pursue topics that are personally meaningful to them, and professors can provide opportunities for students to identify areas of interest and support as students determine the particular research questions that they will pursue.

Students may need time to reflect on their areas of interest, identify potential research questions, and select topics. When students are expected to produce a “full-blown” traditional research paper, students may rush through the topic selection process (and other aspects of the research and writing process), in order to produce a paper by the deadline. The pressure to produce a paper within a very limited period of time may also encourage students to select a topic based on its ability to result in a research paper within the requisite timeframe, rather than based on the student’s genuine interest.⁷³ This rushing may result in a paper, but this rushing may also be reflected in the quality of the paper and the process itself. Rather than treating each stage in the process as essentially a means to an end of the final paper, we should focus students more intentionally on the process itself and on deriving value from the process.

Law school is a time when students should be thinking about their future professional lives. Formulating a research question about a topic of interest can help students identify an area of the law in which they are interested and a

72. See Adam G. Todd, *Teaching ‘Scholarly Writing’ in the First-Year LWR Class: Bridging the Divide Between Scholarly and Practical Writing*, 22 PERSPECTIVES 35, 36 (2013) (“[T]he subject matter of scholarly writing is typically selected and shaped by the writer in contrast to practical writing, which must conform to the needs and circumstances of the client.”).

73. The pressure to select a topic and produce a paper might also discourage critical, deep thinking because students are less apt to want to change course as their research develops given the limited time that they have to produce a final paper. Thus, students may feel pressure to stick with a topic or thesis, rather than think critically and question their ideas as their research develops. Law students generally have less time than law professors for their ideas to develop and evolve. For example, this Article originated with the author’s interest in exploring the use of community-based participatory research as a way to involve law students more meaningfully in empirical research: as researchers and not only as “subjects.” See, e.g., Barbara A. Israel et al., *Review of Community-Based Research: Assessing Partnership Approaches to Improve Public Health*, 19 ANN. REV. PUB. HEALTH 173, 177–80 (1998); Andrea Cornwall & Rachel Jewkes, *What Is Participatory Research?*, 41 SOC. SCI. & MED. 1667, 1667–69 (1995); see also Alison Cook-Sather, *Translating Learners, Researchers, and Qualitative Approaches Through Investigations of Students’ Experiences in School*, 13 QUALITATIVE RES. 352, 352–53 (2012). However, as work on this topic progressed, the author considered that while community-based participatory research may provide a methodology for involving law students more actively and with more agency in research, this methodology may not be practical for most law students, who may not have the time or the interest to participate in such a research project. The project then developed into thinking about how we might focus on the scholarly process as a valuable pedagogical tool, which seems to be more feasible and to have wider utility for law students. Cf. Nancy Knauer, *Learning Communities: A New Model for Legal Education*, 7 ELON L. REV. 193, 198 (2015) (advocating for the use of “learning communities” in law schools “to combine elements of theory, practice, and professionalism into one integrated course of study,” while recognizing impediments to the widespread use of learning communities within law schools).

question that they have about that area of the law that they want to pursue. This question might be about a particular practice area, but it does not need to be; the question can be about lawyering, professional responsibility, or professional identity. Regardless of the specific question itself, identifying the question can help students think through what it is about the law they are interested in and want to take time exploring.⁷⁴

74. There is an extensive literature about “interest,” including literature about different types or levels of interest and the development of interest. See, e.g., PAUL A. O’KEEFE & JUDITH M. HARACKIEWICZ, EDS., *THE SCIENCE OF INTEREST* (2017); Judith M. Harackiewicz, Jessi L. Smith & Stacy J. Priniski, *Interest Matters: The Importance of Promoting Interest in Education*, 3 POL’Y INSIGHTS FROM BEHAV. & BRAIN SCI. 220 (2016); K. ANN RENNINGER & SUZANNE E. HIDI, *THE POWER OF INTEREST FOR MOTIVATION AND ENGAGEMENT* (2016); see also Zimmerman, *supra* note 57, at 858–68 (reviewing some of the literature regarding interest and applying that literature to legal education). In addition to having different levels of interest for law study generally and for particular areas of the law, law students likely also have different levels of interest for research and writing or, even, for particular types of research and writing. Cf. Suzanne Hidi & K. Ann Renninger, *The Four-Phase Model of Interest Development*, 41 EDUC. PSYCHOLOGIST 111, 111–12 (2006); Rebecca L. Lipstein & K. Ann Renninger, “Putting Things into Words”: *The Development of 12–15-Year Old Students’ Interest for Writing*, in WRITING AND MOTIVATION 113, 135 (Suzanne Hidi & Pietro Boscolo eds., 2007); Zimmerman, *supra* note 57, at 893–94.

Recent research has explored differing views that individuals hold about interest—specifically, whether individuals believe that interests are “inherent” or “developed.” Paul A. O’Keefe, Carol S. Dweck & Gregory M. Walton, *Implicit Theories of Interest: Finding Your Passion or Developing It?*, 29 PSYCHOL. SCI. 1653, 1653 (2018). In discussing their findings, these researchers conclude that believing that interests are developed, rather than inherent, “leads people to express greater interest in new areas, to anticipate that pursuing interests will sometimes be challenging, and to maintain greater interest when challenges arise.” *Id.* at 1663.

In advocating for topic development to be used to help law students explore areas of interest, this author does not mean to suggest that law students’ interests are fixed and just waiting to be discovered. See RENNINGER & HIDI, *THE POWER OF INTEREST FOR MOTIVATION AND ENGAGEMENT*, *supra*, at 3 (emphasizing that “interest is dynamic” and “always has the possibility to develop”). Nor does this author mean to suggest that law students will necessarily end up practicing law in the areas of interest that they identify in the course of working on their research projects or that law students may not develop new interests beyond those that they identify in law school. Cf. Patricia Chen, Phoebe C. Ellsworth & Norbert Schwarz, *Finding a Fit or Developing It: Implicit Theories About Achieving Passion for Work*, 41 PERSONALITY & SOC. PSYCHOL. BULL. 1411, 1420 (2015) (finding that surveyed individuals reported having similar levels of “fit” with their jobs, although some respondents reported having higher levels of fit when they started their jobs while other respondents indicated that their levels of fit increased over time). However, there is value in giving law students opportunities to consider areas of the law or types of law practice that interest them as they progress through law school. Cf. *id.* at 1420 (“[T]he higher people’s perceived starting fit . . . and current fit . . . , the more passionate they felt toward their vocations.”). Thinking about these areas of interest can inform choices that students make in law school—for example, about courses to take and jobs to apply for both during and after law school. Authors, including this author, have suggested the importance of interest development for students. See, e.g., Zimmerman, *supra* note 58, at 892–95, 907–17; Harackiewicz, Smith & Priniski, *supra*, at 221 (“Cultivating interest should not be an afterthought to the typical learning situation: Interest is essential to academic success.”).

Moreover, using the topic selection phase of the research project to explore students' interests (including students' questions and concerns about the law, lawyering, and professional identity) and encouraging students to select research topics that grow out of their interests can help students to see the connections between theory and practice. Rather than seeing topics for research papers and the scholarly process itself as removed from practice, students should be encouraged to see connections between scholarly research and practice.⁷⁵

Another way to explicitly connect theory and practice would be for students to write research papers that address issues that have arisen in connection with their clinic or other experiential opportunities (including externships and other work experiences).⁷⁶ In the course of selecting a research topic, students could be encouraged to think about experiences that they have had during their clinics or other experiential opportunities that raise issues about the law, lawyering, or the legal profession—including questions about professional identity—that they are interested in exploring further.⁷⁷ To the extent that students participate in clinics or other experiential opportunities that reflect their professional interests, students would be researching topics that both reflect their professional interests and relate to specific professional experiences (including questions that have been raised in the context of those experiences), further unifying research and experiential opportunities in preparing students for practice and highlighting the connection between theory and practice.

In encouraging students to connect their research topics to their interests and *in helping students to make those connections*, legal educators would be conveying to students that they should be deliberative and self-aware about their professional interests and goals and that students should consider how they can find personal meaning in their work. Legal educators would also convey to students the complexity and depth of practice areas, and highlight the importance of identifying questions in and about practice to consider, research, and explore.

While students might not always have so much autonomy over where they work or the matters on which they work, students should not feel that they need

75. See Todd, *supra* note 72, at 36 (“Practical writing should be cognizant of theory and the issues raised by experts as reflected in scholarly writing.”).

76. See VOLOKH, *supra* note 49, at 273 (noting that students may be able to use work that they “originally wrote for another purpose—for instance, for a summer law firm job or a judicial externship” as the starting point for a law review article); Katz, *supra* note 23, at 69–70 (noting that one way to connect students’ externship work with writing that would satisfy a scholarly writing requirement would be for “student experience at a work setting” to inform their writing on a “topic that could be investigated in a rigorous and scholarly manner . . . while also oriented to being useful for practice”); see also *id.* at 59 (reporting results from a survey of law schools and noting that a few schools reported that students could receive upper-level writing credit for externship-related writing “but only for academic papers on a topic deriving from the externship experience”).

77. See *supra* note 76; see also WHERRY & MURRAY, *supra* note 47, at 29 (recommending that when students “brainstorm for ideas” for paper topics, they “might have some interests based on . . . summer work experience”).

to lose sight of their interests and values in the course of their professional lives but rather should recognize that their interests and values can play a role in the path of their careers.⁷⁸ Encouraging students to identify what they are interested in and to find meaning in their work might also promote a deeper engagement with the project⁷⁹ and promote students' ability to persevere in their work when they are faced with challenges.⁸⁰

In fact, experiencing challenge *while working on a project that is of interest to a student* can itself be an important professional development opportunity. Pursuing meaningful questions is not easy. Students will have opportunities to develop strategies, both independently and with their professors' guidance, for constructively addressing challenges that arise in connection with their projects—a constructive approach to challenge that should serve students well in the context of their research projects, other work in law school, and law practice.⁸¹ Law professors should prepare students to encounter challenges in the course of working on their projects and help students understand that

78. See Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy: A Data-Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554, 579–81, 624 (2015). Of course, saying that students' "interests and values can play a role in the path of their careers" does not mean that this will play out in the same way for every student or that this will play out in the same way for a particular student at every point in his or her career. For example, over the course of a career, a lawyer might have different priorities at different points in time that influence that lawyer's professional choices (priorities that may include pursuing work in a particular area of law, being financially self-supporting, financially supporting others, pursuing mission-driven work, having time for other commitments besides work). See John Bliss, *Divided Selves: Professional Role Distancing Among Law Students and New Lawyers in a Period of Market Crisis*, 42 L. & SOC. INQUIRY 855, 893 (2017). And, of course, interests can also develop and change over time. See *supra* note 74. Certainly, students may end up practicing law (or otherwise working) in areas that they did not anticipate when they were in law school. Regardless, students' engagement in scholarly research projects while in law school can help students develop habits of mind and other skills that will serve their professional development, even if there is not a direct connection between the topics of their research projects and their work after law school.

79. See Alecia Marie Magnifico, *Writing for Whom? Cognition, Motivation, and a Writer's Audience*, 45 EDUC. PSYCHOLOGIST 167, 178 (2010) (discussing research regarding student motivation).

80. See WHERRY & MURRAY, *supra* note 47, at 38 (noting that as law students work on their research papers, remembering why they chose their topics may help them persevere); Kissam, *supra* note 63, at 343 ("Students are likely to work more effectively and overcome the inevitable frustrations of research and writing if their own interests and enthusiasm determine their choices [regarding what to write about]."); cf. Patrick L. Hill, Anthony L. Burrow & Kendall Cotton Bronk, *Persevering with Positivity and Purpose: An Examination of Purpose Commitment and Positive Affect as Predictors of Grit*, 17 J. HAPPINESS STUD. 257, 264–65 (2016) (finding positive relationships between undergraduate students' "purpose commitment" and "grit").

81. See Chen, Ellsworth & Schwarz, *supra* note 74, at 1423 (raising the possibility that individuals who believe that one's passion for one's work is a matter of "fit," rather than something that develops over time, "may construe any dissatisfaction or professional setback as an indication of poor fit with their line of work, and therefore more easily conclude that they should consider changing careers").

“interest” does not necessarily mean “ease.”⁸² Helping students retain interest in the face of challenges and setbacks can be a particularly meaningful role for law professors as we work with students on their projects. As law professors, one of the ways that we can prepare our students for practice is to prepare our students for challenge, normalize challenge, and help our students develop strategies to manage challenge.⁸³

We can re-envision scholarship for law students by devoting more time and attention to the beginning stage of the research process: adding meaning and importance to the students’ selection of their research topics.

B. Reflection

Another way for the research process to be given greater meaning—and a more significant role in students’ professional development—is to build reflection more deliberately and explicitly into the process. Reflective practice is a significant part of experiential education,⁸⁴ and it should also be integrated regularly into students’ research projects.⁸⁵ Incorporating reflective practice into

82. See *id.*; see also O’Keefe, Dweck & Walton, *supra* note 74, at 1662 (reporting that students who expressed interest in a topic and who then read an article on the topic that they found difficult to read reported less interest in the topic after reading the article than students who initially expressed interest in the topic, read the article, and found the article not difficult to read).

83. See Emily Zimmerman & Leah Brogan, *Grit and Legal Education*, 36 PACE L. REV. 112, 146–48 (2015); see also Catherine Martin Christopher, *Normalizing Struggle*, 73 ARK. L. REV. 27 (2020). The author of the present Article also gave a presentation on *Normalizing Challenge for Law Students* as part of a panel entitled *Professionalism, Pain, and Personal Growth: Supporting Our Law Students* at the Southeastern Association of Law Schools (SEALS) Annual Conference in Fort Lauderdale, Florida, on August 8, 2018. Law school is an important time for students to develop strategies for managing challenge and being resilient in the face of challenge. See Zimmerman & Brogan, *supra*; cf. Kaci Bishop, *Framing Failure in the Legal Classroom: Techniques for Encouraging Growth and Resilience*, 70 ARK. L. REV. 959, 967 (2018). The scholarly process can provide meaningful opportunities for students to develop these skills, and developing these skills can be explicitly identified as a goal of the process. Students (along with their professors) may be able to devote more time to this important part of the process if they are not so single-mindedly focused on the necessity to produce a final traditional research paper.

84. Nancy Levit, *Legal Storytelling: The Theory and the Practice—Reflective Writing Across the Curriculum*, 15 J. LEGAL WRITING INST. 259, 267 (2009); see, e.g., Alexander Scherr & Margaret Martin Barry, *Reflection and Writing Journals*, in LEARNING FROM PRACTICE: A TEXT FOR EXPERIENTIAL LEGAL EDUCATION 203, 203–06 (3d ed. 2016). Reflective practice (including writing) is something that has been—and can be—integrated into other courses as well. See, e.g., J.P. Ogilvy, *The Use of Journals in Legal Education: A Tool for Reflection*, 3 CLINICAL L. REV. 55, 56 (1996); Jacobowitz, *supra* note 31, at 327, 329; see also Levit, *supra*, at 261 (“Most exploratory writing tasks in law school come in clinical courses, although a few adventurous professors are adding reflective and narrative assignments in doctrinal classes.”).

85. A benefit of incorporating reflective writing in the context of research projects is that students not only will gain more experience with reflection but also may be less apt to see reflection as something that is an idiosyncratic element of experiential education. Cf. Levit, *supra* note 84, at 260 (“Promoting reflective writing in law schools—across the curriculum—is a real uphill battle.”). As used in this Article, “reflective practice” has a broader meaning than used in some

students' research projects provides students with another context in which to develop reflective habits that will serve them well in practice.⁸⁶ As discussed in the previous Section, students should be encouraged to reflect as they select their research topics.⁸⁷

Reflective practice can also be incorporated into the research process.⁸⁸ Students can reflect on both the process that they are using to find information and the information that they are finding. Encouraging students to reflect on their research process can enable students to evaluate the information that they are finding, the sources of that information, and the methods that they are using to find the information.⁸⁹ Students will evaluate whether the means they are using to find information are yielding information that is useful for their projects. With this awareness, students and professors can discuss students' research processes: what is working and why, what is not working and why, and ways to further refine the approaches that students are taking. Students can use the reflective process to think critically about the information that they have found and how that information is relevant (or not) to the students' research projects. This process can help students identify holes in their research and synthesize the information that they have as they work on their projects. This process of reflection can also help students articulate how what they are discovering is impacting their understanding of their research questions and raising additional questions for them. In addition to reflecting on the process and results of their research, students can reflect on their affective reactions to their research projects, both in terms of their responses, if any, to the information that they are

other contexts. Cf. Donald A. Schön, *Educating the Reflective Legal Practitioner*, 2 CLINICAL L. REV. 231, 246–47 (1995).

86. See Ogilvy, *supra* note 84, at 62 (“[T]here are certain intellectual skills—we can call them skills of critical thinking and reflection—that are probably essential elements in the thinking of almost all truly effective lawyers.”); Parker, *supra* note 61, at 293 (“Reflection papers and journals can help students grapple with material on a personal level and build habits of life-long learning in the profession.”); *id.* at 296 (“Expressive writing is integral to the process of developing critical understanding and provides deliberate practice in reflection, itself an essential professional skill.”); Levit, *supra* note 84, at 274 (“[R]eflective writing is essential to professional development.”).

87. Students could write reflection papers before or after they select their research topics (or at both of these stages of the process). Writing a reflection paper even before a topic is selected could be particularly meaningful and useful to help students identify interests and questions that they might want to explore. As part of the reflective process, students can be encouraged to consider what makes particular topics or questions regarding the law (including law practice) meaningful to them. See WHERRY & MURRAY, *supra* note 47, at 30 (recommending that students keep a journal as they engage in “brainstorming” to identify potential topics for their scholarly research papers, including “what about the topic interests you”). Engaging in this process can help students think more about their professional identity and connect their professional identity to who they are as people. See Parker, *supra* note 61, at 286 (“Deliberate practice of reflective and exploratory expressive writing fosters development of authentic professional identity and voice.”).

88. Kristina L. Niedringhaus, *Teaching Better Research Skills by Teaching Metacognitive Ability*, 18 PERSP.: TEACHING LEGAL RES. & WRITING 113, 116–17 (2010).

89. *Id.* at 113.

learning, and in terms of their responses to the process of working on the projects themselves. In short, building reflection explicitly into the research process is another way to encourage students to be meta-cognitive about what they are learning and how they are learning.⁹⁰

There are various ways to integrate reflective practice into the students' research process. Certainly, in meeting with students about their research or in engaging in conversations with students about their research (in class or in other contexts), professors can ask students questions that promote reflection. Professors can also make reflection an explicit goal of the research process. In addition, reflective writing can be integrated into the research process.⁹¹ Professor Carol McCrehan Parker wrote an excellent essay about the value—and underuse—of “expressive writing” in legal education.⁹² Reflective writing is one form of expressive writing that law students can engage in as they work on their research projects.⁹³

There are different ways that reflective writing can be integrated into the process of working on a research project. Students could be required to keep reflective journals, writing entries on a regular (for example, weekly) basis as they work on their projects.⁹⁴ Knowing that they need to write regular journal entries would provide an incentive for students to work regularly on their projects. Writing regular journal entries could also provide an opportunity for students to reflect on the ups and downs of their research project and highlight the importance of consistent reflection throughout the students' work. If students did not make the progress that they intended on their projects in a particular week, that fact could be the basis for a reflection on the research process.

90. *Id.* at 113, 116–17. Incorporating reflection into the process of working on a research project may also make more clear the experiential nature of the student's work on the research project—helping the student learn from the experience and narrowing the divide that may exist between the different aspects of a law student's education (for example, classroom-based courses and clinics). *See* Levit, *supra* note 84, at 268 (discussing the use of reflective writing in clinical courses and stating that “[t]eaching students to reflect critically on and learn from their experiences trains them to be responsive to new situations, so that they will be ready to do that in practice as the law evolves and changes”).

91. *E.g.*, FAJANS & FALK, *supra* note 55, at 31; Niedringhaus, *supra* note 88, at 115–16.

92. Parker, *supra* note 61. “Expressive writing” includes, “writing to express the writer's thoughts to the writer herself and perhaps an audience of trusted others, writing to reflect and to make sense of texts, writing to explore the realm of knowledge and experience, and writing to exercise authority over texts and give voice to the writer's experience.” *Id.* at 279–80 (footnote omitted).

93. *Id.* at 285–86; *see also* Lisa McGuire, Kathy Lay & Jon Peters, *Pedagogy of Reflective Writing in Professional Education*, 9 J. SCHOLARSHIP TEACHING & LEARNING 93, 93–96 (2009) (discussing reflection and reflective writing in education).

94. *See* Ogilvy, *supra* note 84, at 76–80 (noting that “[j]ournals are a powerful tool for encouraging reflective behavior” and describing different ways in which students can be reflective in journals); Niedringhaus, *supra* note 88, at 115–16 (recommending that students engage in reflective writing in legal research classes).

Students should be encouraged to be aware of impediments to progress, as well as progress made, and reflect on ways to address those impediments.⁹⁵ In that way, students can use challenges that they encounter during the process as opportunities for growth and as opportunities to think about ways to manage frustration and persevere in the face of frustration.⁹⁶

Another option for reflective writing during the process of working on research projects would be for students to complete reflective writing assignments at particular points during the process, rather than more frequently throughout the process.⁹⁷ One advantage of this approach is to lessen the burden on students by identifying particular moments in the process when it would be most useful for students to take time to reflect. For example, as discussed previously, the topic selection phase of the process is one point where students could write a reflection paper. Students could write about why their topics are meaningful to them and how those topics relate to students' future professional lives. Students could identify their learning goals for the project. Students could also discuss their anticipated research plan, anticipating challenges that they might face along the way and strategies to address those challenges. As students continue to work on their projects, they could write reflection papers at other milestones in the process. For example, students could write a reflection paper as they transition from the research phase of the process to the writing phase of the process.⁹⁸ This reflection could enable students to consider the information that they have learned through the research process and how that information has informed their thinking about the research question and the process of doing research. Reflection at this stage of the process would give students an opportunity to evaluate the research process so far, prepare for the transition from research to writing, and surface their thoughts and concerns about the next steps in their project. Whether they were writing a traditional research paper or creating some other type of work product, students could also engage in

95. See VOLOKH, *supra* note 49, at 108 (discussing the importance of self-knowledge as one works on a research paper).

96. Cf. Peter Meindl et al., *A Brief Behavioral Measure of Frustration Tolerance Predicts Academic Achievement Immediately and Two Years Later*, 19 *EMOTION* 1081, 1081–82, 1089 (2019).

97. Another option would be for students to have a particular number of reflections to produce throughout the process of working on their projects and for students to be able to choose when to produce those reflections. Relatedly, students could be given particular reflection questions to respond to but have the choice as to when to write their reflections responding to those questions. These options would give students the ability to write reflections when it would be most useful or meaningful to them, although some students might prefer to have a more structured schedule for creating their reflections.

98. This possibility is not to suggest that the process of working on a research project is entirely linear. Certainly, students may move back and forth between research and writing during the process. However, there is likely a point where a student transitions from primarily working on research to primarily working on writing, even if the process is, in reality, somewhat recursive.

reflective writing during the writing—or work-product-creating—part of the process.⁹⁹

There are several benefits to integrating reflective writing into the research process.¹⁰⁰ First, students will have additional opportunities to write. Second, it will give students an explicit opportunity to reflect both before and as they write, and this process of reflection and writing, and reflection while writing, should help students develop and refine their thoughts, both about the research process and the topic of their research.¹⁰¹ Third, students will have a record of their reflections, and this record may be helpful to students both as they work on the current research project and as they work on future projects. Fourth, requiring students to create written reflections sends the message that reflection is an important part of the research process. Fifth, incorporating written reflection into the process of working on a research project can help to create more cohesiveness between theory and practice for law students.¹⁰² In law schools, reflective writing may be most commonly used in experiential contexts, although some scholars have advocated for reflective writing to be used more broadly throughout the law school curriculum and some professors use reflective

99. See, e.g., FAJANS & FALK, *supra* note 55, at 53–54 (discussing the use of “freewriting” and suggesting different topics for freewriting, including “the problems you are having writing”). As far as the particular nature of the reflection papers or journal entries, students could have the freedom to choose what to write about or students could be given specific reflection questions to respond to. Alternatively, a hybrid approach could be used where students were required to respond to particular reflection questions and also given the opportunity to choose what to write about. Another approach would be to give students a menu of reflection questions to choose from. As this discussion suggests, there are many different options for integrating reflective writing into the process.

100. See Jodi S. Balsam, Susan L. Brooks & Margaret Reuter, *Assessing Law Students as Reflective Practitioners*, 62 N.Y.L. SCH. L. REV. 45, 63 (2017–2018) (identifying some of the benefits of students engaging in reflective writing).

101. Ogilvy, *supra* note 84, at 60 (discussing many benefits of law students writing journals, including that “the journal encourages writing; probing beneath the surface of problems; thinking more deeply about the materials, products, and processes of learning; and taking more responsibility for their own learning”); Andrea McArdle, *Writing Across the Curriculum: Professional Communication and the Writing that Supports It*, 15 J. LEGAL WRITING INST. 247, 252, 256–57 (2009); FAJANS & FALK, *supra* note 55, at 31 (stating “[i]f you have been taking notes that summarize your research, but do not include in your notes observations, tentative thesis possibilities, gut reactions, and reflections, your final job of selecting a thesis and synthesizing your research may seem overwhelming” and recommending the use of a “reading journal”). Other authors have suggested that law students “consider keeping a journal or some form of notes” when trying to find a topic, including notes “on why you think something would make a good topic, or what about the topic interests you.” WHERRY & MURRAY, *supra* note 47, at 30.

102. McGuire, Lay & Peters, *supra* note 93, at 94. Students’ reflective writing can also help professors better understand their students and what students are experiencing as they work on their research projects. This insight might help professors more effectively identify challenges that students are facing and work with students to address those challenges.

writing in other courses.¹⁰³ Incorporating reflection into a research project will show students that reflection and learning from experience should not be limited to clinics and externships. Students should be reflecting on their other work too and learning from their reflections. By incorporating reflective writing into the process of working on their research projects, students will have further reinforcement of the value of reflection and gain additional experience in reflection.¹⁰⁴

Integrating reflection papers into the process of working on a research project heightens the focus on the process and promotes students learning from the process.¹⁰⁵ Students have additional opportunities to write and gain further experience with the process of reflection.¹⁰⁶ This experience provides an introduction to reflective writing that students can build on in future experiences, or this experience reinforces and builds on reflective experiences that students

103. Parker, *supra* note 61, at 296–97; *see also* Hamilton & Organ, *supra* note 64, at 845, 874 (discussing the role of reflection and reflective writing in professional identity formation); Vickovich, *supra* note 19, at 79, 92 (discussing the use of reflective writing in connection with students’ participation on law review).

104. Giving students more opportunities for reflection, in multiple contexts, would be particularly important to the extent “that law students increasingly are resistant to reflective assignments.” Becky L. Jacobs, *Cultivating Purposeful Curiosity in a Clinical Setting: Extrapolating from Case to Social Justice*, 21 CLINICAL L. REV. 371, 381 n.63 (2015). On another note, in addition to using reflective writing to promote “critical thinking,” “creativity,” and the development of ideas, one author has suggested that “the reflective writing of [qualitative] researchers themselves . . . can be seen as secondary data.” Melanie A. Jasper, *Using Reflective Writing Within Research*, 10 J. RES. NURSING 247, 251–53 (2005).

105. Students’ reflective writing can also be beneficial for professors. Ogilvy, *supra* note 84, at 84–86 (discussing how law students’ journals can provide information to professors). Reading students’ reflection papers can give professors’ insights into students’ work processes and challenges, and this information can inform professors’ interactions with their students. *See* Balsam, Brooks & Reuter, *supra* note 100, at 62; *cf.* Cassandra L. Hill, *The Elephant in the Law School Assessment Room: The Role of Student Responsibility and Motivating Our Students to Learn*, 56 HOW. L.J. 447, 458 (2013) (“Analyzing student performance on exams, writing projects, or oral presentations may prove easier than reviewing students’ ‘behind-the-scenes’ work and preparation.”). Professor Hill asserts that efforts to assess law student learning should include an examination of law students’ “contributions” to learning (including law students’ “process, effort, and motivation”), and Professor Parker notes that “expressive writing assignments are valuable tools for assessment of students’ learning.” Hill, *supra*, at 459; Parker, *supra* note 61, at 291. As law schools adopt learning outcomes and develop methods to assess the extent to which law students are reaching those outcomes, law students’ reflective writing could play a useful role in providing information about law students’ attainment of learning outcomes pertaining to reflection and self-directed learning, among others.

106. *See* Balsam, Brooks & Reuter, *supra* note 100, at 63–64 (“Few of us are innately skillful at reflective practice. Thus, multiple opportunities for performance of the skill of reflection coupled with formative assessment is a vital element of building this skillset.”); *id.* at 65 (“The ultimate aim of reflective practice is for it to become more of a habit. Habit-formation by definition requires multiple iterations of a process or performance.”).

have already had.¹⁰⁷ Either way, students gain valuable experience with reflection—and written communication—during the process of working on their research projects. This experience with reflection normalizes reflection and helps students develop reflective habits for their work in and after law school.

III. RE-THINKING THE PRODUCTS OF SCHOLARSHIP TO ENABLE STUDENTS TO FOCUS ON PROCESS AND CREATE WORK THAT IS MORE MEANINGFUL TO THEM

Along with focusing more deliberately on the process of scholarship in order to make scholarship a meaningful professional development experience for law students, law professors—along with law students—should think more creatively about what we consider to be the products of students' work.¹⁰⁸ Typically, students engage in research in order to produce a final written product. In law school, when we think of students engaging in scholarly research, we typically think of the end result of the research taking the form of a traditional research paper or law review note.¹⁰⁹ However, it is worth considering whether the traditional research paper or law review note should become more commonly thought of as one option among many of the ways in which students can communicate the results of their research. Some (but not the only) other options for students' scholarly writing include shorter articles, essays, reports, case studies, blog posts, and responses to the writing of other authors. In addition, students' reflective writing in connection with their projects should also be valued work product. Students could also communicate their

107. Law students may have had experience with reflective writing in their experiential opportunities in law school (for example, clinics or externships). *See id.* at 46–47. Students might also have had reflective writing experiences in their first-year legal writing courses or in other courses. *See, e.g., id.* at 50; Andrea McArdle, *Teaching Writing in Clinical, Lawyering, and Legal Writing Courses: Negotiating Professional and Personal Voice*, 12 CLINICAL L. REV. 501, 528 (2006).

108. “End result” and “product” are used, rather than “goal,” because one of the points of this Article is the need to focus more on other goals besides the creation of a final product.

109. Law students also engage in research in order to produce the type of document that a lawyer would produce in practice (such as an appellate brief). However, this Article is focused on ways to make more meaningful the types of research projects that would more typically result in a traditional research paper, rather than research that would lead to the preparation of an appellate brief, contract, or other type of practice document. *Cf. Katz, supra* note 23, at 59–60 (discussing distinctions made by law schools between “writing done at [externship] placements” and “academic papers” for purposes of the type of writing that can satisfy upper-level writing requirements). A student's research project could, however, relate to the content or form of a practice document. For example, a student's research project could result in a proposal for a new type of argument or contract provision. In so doing, the research project would highlight the connection between theory and practice—both for the student researcher and for others who would benefit from the student's sharing of the work. In addition, there are certain types of documents that practicing lawyers write that might lend themselves to students' research projects (for example, policy papers and other types of reports).

work during workshops (or in other communication forms), which should be seen as another valuable product of students' scholarly engagement.¹¹⁰

Writing a good research paper takes a significant amount of time and effort, and there are circumstances where it might be more valuable and motivating for students to invest this time and effort differently. For some students, creating a traditional research paper might be meaningful and motivating. However, this is likely not the case for all students. Some students may write traditional research papers because they are required to do so but not otherwise have an interest in creating that particular type of work product. Faced with the requirement of having to produce a traditional scholarly product that does not hold personal meaning for them, law students might be even more inclined to think of the research paper—and accompanying process—as a requirement to complete and check off, rather than absorb themselves in and learn from.¹¹¹

We should be sensitive to the connections between process and product. For example, if students need to produce a lengthy research paper in a relatively short period of time then their focus might understandably be on accomplishing that ultimate task. If we want students to focus more intentionally on process, then, at least for some students, re-defining the product would be useful. It is understandable that students might give less attention to the process if they are overwhelmed at the prospect of needing to create a substantial research paper, particularly in addition to their other responsibilities. Thinking more flexibly about the products of students' research could give students' more time and attention to spend on the process.

Students would benefit more from the scholarly process if they did not rush through it. Many benefits of the scholarly process are derived from immersing oneself in a literature, considering an issue from multiple perspectives, and thinking deliberately and deeply about what one is learning: the opposite of skimming the surface and cutting corners in both research and thinking.¹¹² Enabling students to slow down and immerse themselves in the scholarly

110. Some professors have integrated workshops into students' scholarly writing process. *See, e.g.,* Lipton, *supra* note 8, at 21. These workshops should be treated as valuable learning opportunities in and of themselves and not only valuable to the extent they assist students to create a final written work product.

111. Students who are not required to engage in scholarly research might avoid it because they are not interested in writing a traditional research paper. However, law students who have no interest in writing a research paper (or who might, in fact, have an aversion to writing a research paper), might actually be interested in engaging in the research process for another end. If a traditional research paper is the necessary product of a research project, then these students might avoid engaging in research altogether, to the extent that they are able to do so.

112. *See* Kelly, *supra* note 9, at 285 (“[Scholarly writing] teaches students what it means to ‘really’ know something, an experience that will be valuable to them once they are practitioners. They learn about the process of getting to know something deeply—a process that can be long, uncertain, and daunting.”).

process will serve students' professional development.¹¹³ Particularly to the extent that students identify connections between topics that they are researching and issues that they might face in practice,¹¹⁴ the scholarly process will help students appreciate the depth of issues that arise in practice and the importance of careful, deliberative work.¹¹⁵ Students will also see that understanding takes time and effort, and students might better appreciate the time and effort that lawyers need to spend to educate themselves about or stay current on a particular legal issue. Engaging in the scholarly process to research topics that are relevant to practice can help students identify and appreciate connections (or tensions) between theory and practice. To the extent that students' topics relate to disciplines other than law, students will be better able to explore those interdisciplinary connections.¹¹⁶ Students might be more receptive to discovering and wrestling with challenging and complex information if the focus is on the scholarly process and reflection, rather than the relatively quick production of a traditional research paper.

As previously discussed, law students are not under the same pressures as law professors to write, much less publish, traditional scholarly writing. We should take advantage of that freedom and give ourselves and our students room to be creative about students' scholarly work. Part of taking advantage of this freedom includes giving students a role in determining the ways in which they will communicate the results of their research, rather than presuming that students should create traditional research papers in connection with research projects. For some students, writing a traditional research paper could be a meaningful goal. For other students, writing a traditional research paper may not be a meaningful goal, and these students might derive more value from the process if they are able to work towards creating a product that is more meaningful to them.

Indeed, determining the products of students' scholarly engagement could become a more regular part of the process of working on those projects. The

113. *Id.*

114. As previously discussed, another benefit of scholarly research is that students can select research topics that are of interest to them, so students can be encouraged to select topics that have a connection to areas of the law, types of law practice, or questions about lawyering or professional identity that are of interest to them.

115. Of course, not all issues in practice are complex and deep, and students should understand this too. Similarly, law students should appreciate the time constraints under which they will be working in practice. Nonetheless, law students' scholarly engagement can prepare them to recognize and confront complex and deep issues in practice, and lay the foundation for their appreciation of the need and means to continue their self-directed learning in practice. *See* STUCKEY ET AL., *supra* note 21, at 65, 127 (noting that law schools should help students develop "lifelong learning skills" and "excellent self-directed learning skills").

116. Some students might be interested in conducting empirical research to explore questions about the law. However, even if a student had prior knowledge regarding research methodology, a student might not have time to design and conduct an empirical research project. Nonetheless, it might be a valuable project in and of itself for a student to design an empirical research project to investigate a question about the law, even if the student does not carry out the project.

process of determining and explaining the type of work product that would be meaningful to them could be a part of law students' work on their research projects and could also help law students make connections between their work in law school and their professional goals. That way, even if students decide to write a traditional research paper, they will have identified why that type of writing is meaningful to them, rather than writing a traditional research paper just because they have been assigned to write a traditional research paper.

Students might be more invested in the scholarly process when they are able to help determine not only the topic for their work but also how their work will be communicated. Students might not spend as much time and effort on a research paper if their interest in simply completing the assignment outweighs their personal investment in the assignment. Students might be more engaged in the process of working on a project when the work product (or products) they are creating holds more meaning for them. Being invested in one's work is a meaningful goal in and of itself. Being invested in one's work is also related to the concept of autonomy, which has been identified as being related to law students' well-being.¹¹⁷

Giving law students a role in determining the products of their research would not only promote their autonomy but could also be a way to help students learn more about particular areas of practice that are of interest to them. For example, students could investigate how lawyers in particular areas of practice stay up-to-date on legal issues and could identify the types of articles and journals that are used by lawyers in those practice areas. Some students might choose to write the types of articles that they would be expected to consult (and that they might write) once they are practicing lawyers. Students could also learn whether there are specialty journals in particular practice areas that are consulted by practitioners, and might choose to write a research paper that could be published in one of those journals. The process of exploring the types of writing engaged in by lawyers in practice areas that are of interest to students could help students better prepare for practice, see how lawyers need to stay current on the law and legal issues in their practice areas, and learn how lawyers actually do continue to educate themselves throughout their careers.¹¹⁸ Engaging in this investigation would contribute to students' professional development, along with helping

117. Sheldon & Krieger, *Understanding the Negative Effects of Legal Education on Law Students*, *supra* note 71, at 885, 894–95.

118. For their research projects, students do not need to write the types of documents that lawyers write. However, this is one option for students to consider. A student should be encouraged to think about not only his or her research topic but also the type (or types) of work product that the student wants to create in connection with the research project. And students should be encouraged to think creatively about what types of work product they create.

students determine the type of work that they will produce in connection with their research projects.¹¹⁹

We should invite and work with our students to think more creatively about what “scholarship” includes. Some of these forms might resemble types of writing that law professors do; some of these forms might not. There are forms of writing that law professors engage in—such as shorter articles, essays posted online, and blog posts—that suggest possible avenues for some student scholarly activity.¹²⁰ Students are not under the same pressure to write and publish traditional scholarship as law professors, and students’ relationship with scholarship is different from law professors’ relationship with scholarship. As a result, law students should be more free to determine different forms of communication for their scholarly projects.¹²¹ Writing an in-depth response to or critical review of an existing law review article might be a valuable form of scholarly activity for a law student.¹²² The reflective writing in which students engage during the scholarly process should also be treated as valuable work product.¹²³ If we want students to be more intentional and reflective about process, we should think about ways to signal to students that their reflective writings are valuable products of their work.

119. The project can give students an opportunity to explore different types of communication, their comfort levels with and preferences for those different types of communication, and opportunities to address concerns that they may have about different forms of communication. Students should not necessarily be able to avoid types of communication with which they are not comfortable; the research project could, in fact, give students an opportunity to confront their discomfort and develop more comfort with particular types of communication.

120. See Lobel, *supra* note 1, at 407 (“Writing short pieces, such as op-eds or blog posts, and doing radio interviews and podcasts are great ways to publicize your research and get it into the hands (or ears) of policymakers.”). In 2006, there was a symposium titled *Bloggership: How Blogs are Transforming Legal Scholarship*; for an overview of the presentations made at this symposium, see generally Paul L. Caron, *Are Scholars Better Bloggers?*, 84 WASH. UNIV. L. REV. 1025 (2006).

121. Thinking about scholarship for law students more creatively might lead us to think about law professors’ scholarship more creatively too—or vice versa. See Lobel, *supra* note 1, at 405 (noting that “many academics supplement traditional academic writing with multiple, often digital, modes of writing, conversing, and spreading ideas” and “argu[ing] that the benefits of supplementing traditional publication of research with other modes of writing and online exchanges far outweigh the costs”); see also Stinson, *supra* note 3, at 315 (noting the author’s “broad definition” of “scholarship” encompasses “articles in newsletters and bar journals, traditional law review articles, and books or any other writing designed to advance knowledge about the law and how it works”).

122. *But see* VOLOKH, *supra* note 49, at 37 (recommending that law students not write law review articles that are “[f]ram[ed] . . . as a response to [another professor’s] article”).

123. Some law professors already integrate different types of writing into their courses, including writing that is less traditional for legal education (such as reflective writing and creative writing). See Levit, *supra* note 84, at 270–73; Parker, *supra* note 61, at 294. We should think about how different forms of writing and communication can play a meaningful role in law students’ research projects, and we should be open to letting students play a role in determining the form that their work takes. See Robson, *supra* note 20, at 199 (“[A]n independence of spirit . . . seems . . . worth preserving in student scholarship.”).

Students could communicate their work in ways other than writing too. For example, students could present their research in a workshop that would be attended by both students and faculty members. This workshop would give students an opportunity to verbally communicate in a professional academic context about their research. Where appropriate, students could also create supplemental materials to show during their presentations.¹²⁴ Preparing for their presentations would contribute to students immersing themselves more deeply in their projects. Students' ideas might also evolve as they prepared for their presentations. The workshop itself could inform the development of students' ideas, as the presenting students received feedback from the workshop participants.¹²⁵ Students could also receive feedback about their presentation style (including their response to feedback), and this feedback could be useful for students' future communication in a professional context. The presenting student would gain experience responding to feedback, and the other participants would gain experience giving constructive feedback and seeing how their feedback was received.¹²⁶

124. In addition to creating materials to supplement their presentations, some students might create multimedia work as a major component of their research projects.

125. See WHERRY & MURRAY, *supra* note 47, at 110 (discussing the value of law students talking about their writing projects and getting feedback from others, whether formally or informally); VOLOKH, *supra* note 49, at 124 (recommending that students get peer feedback on their drafts); Clark & Murray, *supra* note 20, at 544 (discussing the value of "peer review and collaborative student discussions as part of a scholarly writing project"); Fajans & Falk, *supra* note 49, at 369–70 (discussing the value of "peer writing groups").

Presenting work in a workshop setting would enable students to receive feedback, from more people than if the student were only to submit a written draft to a single person (for example, a professor or law review editor). Giving feedback in a workshop setting would also benefit non-presenter participants in the workshop, who could include students and professors (and perhaps others). These participants would gain exposure to the topic of the presentation, gain experience giving (supportive and constructive) verbal feedback, and have the opportunity to engage with others in the workshop setting.

Practicing lawyers could also be invited to the workshop. See Jacobowitz, *supra* note 31, at 329, 332 (discussing a program in which law students "create and present customized CLE ethics presentations for the local bench and bar" and noting that "[b]ecause students are preparing to present their work to practicing attorneys, the students are motivated and challenged in a manner that is different from classroom performance"). Presenting work to practicing lawyers, in addition to law students and law professors, could help make the student's project and presentation more "authentic" and, thus, more meaningful, for the student because law students are typically in law school to become practicing lawyers and most law school graduates will, at least at the beginning of their careers, practice law. See WHERRY & MURRAY, *supra* note 47, at 185 ("Depending on your paper topic, a practitioner may also be a good resource to consult."); Magnifico, *supra* note 79, at 177–78 (discussing the role of "authenticity" and "audience" in the context of students' writing). Including practicing lawyers in students' workshops would also give those lawyers an opportunity to learn more about the work being done by students in law school and learn from that work, in addition to giving students feedback on their work.

126. These presentations could occur at different points in the process. Presentations could occur as students are working on their projects, to give students an opportunity to receive and

Including faculty members and students at these presentations would promote the law school being a community of purposeful inquiry.¹²⁷ It would give law professors an opportunity to apply both their engagement with research and their experience giving feedback to each other to their students—strengthening the connection between the role of the professor as scholar and member of a professional scholarly community, and the role of the professor as teacher.¹²⁸ Presenting work in a workshop setting would give law students a wider audience for their work and might help students have a more concrete vision of the audience for their work.¹²⁹ Rather than writing a paper for only a single professor to read (and, most likely, read outside of the student’s presence), a student would be presenting to and receiving feedback from multiple people. Moreover, a student would be presenting work live to an audience and receiving feedback in person, adding a more dynamic, interactive, immediate aspect to the process.¹³⁰

To encourage reflection, students could write a reflection on the workshop and its significance to both their project and their professional development. For example, students could address how their ideas about their project were influenced by their presentation and the feedback that they received at the presentation. Students could also address their affective reaction to the experience of the presentation, including how they felt receiving and then responding to feedback.¹³¹ In addition to writing a reflection about the

incorporate feedback as they continue to work. Presentations could also occur at the end of a project, as a capstone event.

127. See Kelly, *supra* note 9, at 291 (describing students’ presentations in the author’s scholarly writing seminar and noting that the author “tr[ies] to invite faculty members who teach or write in the field to each student’s talk [which] is a nice way of welcoming the students to a scholarly community”). Other members of the law school, university, or wider community could also participate.

128. Professors giving feedback to students might need to remember that this context is not identical to giving feedback to other professors, but professors’ familiarity with the workshop experience could inform their constructive participation in workshops with students.

129. For a discussion of the role of “audience” in writing, see Magnifico, *supra* note 79. While law professors write scholarship to be part of an ongoing conversation as members of a wider community or communities (of scholars, teachers, practitioners), law students’ writing does not necessarily have this same social context, and social context can play an important role in the writing process. *Id.* at 181 (“Interacting with members of an authentic audience can underscore this social nature of writing, infusing the writing with meaning and motivating its production in ways that typical school assignments often cannot.”).

130. See *id.* at 175 (“[I]ntroducing an audience into writing instruction may have the potential to change both the social and the cognitive tenor of the learning for the better.”); *cf. id.* at 168 (arguing that, in the context of electronic—as distinguished from print—media, the “transformation from distant writers and passive readers to something more closely approximating orators and live audience members has significant consequences for the individual and social cognitive processes of writers—including planning, metacognition, and motivation”); *id.* at 174 (“A community audience can talk back, and their feedback is often immediate, which transforms the writer into something much closer to an orator.”).

131. Students could also discuss their preparation for the workshops, what aspects of their preparation were most effective, what they would do differently in retrospect, and what they learned that they could apply to future presentations.

workshop, students would also need to determine whether and how to incorporate the feedback received at the presentation into their continuing work on the project, assuming that the workshop was not the final stage of the process. If a presentation occurred at the end of the project, a student could write a reflection about the presentation and discuss how the student might take the feedback that was received at the presentation into account if the student were to continue to work on the project.

The point of this discussion is not to identify all of the types of work that could be produced by students in connection with research projects. Rather, the point is to suggest that we should be open to different types of work being produced by students and open to involving students in the process of determining the works to be produced in connection with their research projects. Giving students more autonomy regarding the work they produce might result not only in students working harder on projects that are more meaningful to them but also in more students working on research projects. These projects will likely involve writing of some sort, as well as other forms of communication, so more students could gain experience with research, critical thinking, and communication than might otherwise be the case if the only product for a research project were a traditional research paper. Some students may avoid engaging in research projects because they do not want to write traditional research papers. If these students have more of a role in determining the work that they produce in connection with their research projects, they may be more interested in engaging in research projects. Students may find that writing is more meaningful to them and more engaging when they are able to play a role in determining the form as well as the substance of what they are writing.

IV. IDENTIFYING AND ADDRESSING CONCERNS

Thinking creatively and flexibly about law student scholarship should give scholarship a more meaningful place in students' legal education.¹³² Rather than

132. Cf. Clark & Murray, *supra* note 20, at 557 (“[W]e need to reframe the goal of scholarly writing instruction so that it is more than just ensuring student survival. Instead, faculty should work to inspire the student to celebrate this project as an opportunity for invention, unlike any other in law school, where the student is free to develop her own ideas, untethered by client expectations or limitations in the law.”). Students should also be “untethered,” *id.*, by the traditional expectations for the form that scholarship should take. In addition to creating documents that are alternatives to traditional scholarship, law students might also create documents that are variations on traditional scholarship. Law students, who are not bound to the tradition of legal scholarship, might be in a particularly good position to offer variations on and alternatives to it. In some instances, students might benefit from being introduced to examples of traditional scholarship so that they can consider modifications and alternatives to it. Cf. Fajans & Falk, *supra* note 49, at 349 (noting that law students who engage in scholarly writing projects “should understand the . . . formal constraints of traditional legal scholarship, and also be aware of at least some of the ways in which the genre is being challenged and transformed”).

being seen as something apart from law students' professional training, scholarship should become a more salient part of law students' professional training. Engaging in the research process can more deliberately give students opportunities to think about areas of interest, and identify and explore meaningful questions. Students can also develop or continue to refine reflective practices as they work on their research projects and assume more autonomy in determining the work products of those projects. Thinking more creatively about the products of research can also promote a focus on process and promote students' engagement as they create work product that holds more meaning to them.¹³³ Rather than seeing the process primarily as a means to the end of a traditional research paper, we can focus on the process as having value in its own right. Re-envisioning law student scholarship can promote the law school as a community of purposeful inquiry as professors work more actively with students to facilitate students' professional development through the scholarly process.

As we consider ways to make the scholarship process more meaningful for our students and better integrated into our students' legal education, we also need to identify concerns that this re-envisioning raises and think about ways to address these concerns. This Section will discuss concerns regarding the goals of students' scholarly work, particularly in relation to the products created by students in connection with that work and the faculty's role in students' scholarly engagement.

A. The Goals of Students' Scholarly Engagement

A fundamental question when we consider shifting the goals of students' scholarly research projects away from the creation of a traditional research paper is whether such a shift defeats the purpose of students' scholarly work in the first place.¹³⁴ In some instances, writing a research paper itself may be an important goal. For example, a law student may have an intrinsic interest in producing a traditional research paper, or a law student may have professional goals for which writing a traditional research paper would be useful.¹³⁵ For students who

133. Writing a traditional research paper "can be an overwhelming task," and the pressures of producing such a paper can understandably shift a student's focus from process to product. *See* WHERRY & MURRAY, *supra* note 47, at 83 ("[T]he process is important, but only if it yields a product that meets the necessary requirements."); *see also* VOLOKH, *supra* note 49, at 20 (discussing topic selection and stating that "your goal is to find whatever problem will yield the best article").

134. *Cf.* Lobel, *supra* note 1, at 408 ("[T]he question of the value of [law professors] complementing [their own] traditional scholarship with other paths of writing is directly related to an underlying and even more basic question of the role and value of legal scholarship.").

135. For example, a student may plan to enter the teaching market and may want to write a research paper that can become a published article. A student might also want to write a traditional research paper to assist the student with clerkship applications. The paper itself might be useful when applying for clerkships, and a professor might feel more comfortable writing a

want to write a traditional scholarly paper, offering alternatives may not make the scholarly process more meaningful, and the purpose of this Article is not to suggest that students be prohibited from writing traditional research papers.

However, there are situations where students do not necessarily need to write a traditional research paper in and of itself. One justification for a traditional research paper being required nonetheless is that it is the vehicle through which other goals are sought to be accomplished. Under these circumstances, we should ask what these goals are and whether the traditional scholarly paper is the only—or necessarily best—way to accomplish these goals. We should also ask whether there are other important goals that could be better accomplished if the traditional scholarly paper were not the only option for students' scholarly research projects.

Some of the goals of the research process can be accomplished without creating a traditional research paper. For example, the benefits of identifying a topic and conducting in-depth research regarding that topic can be accomplished even if a traditional research paper is not the end product. In some instances, these benefits may be derived better if a traditional research paper is not the end product, such as when the pressure to create a traditional research paper leads to a student rushing through the topic selection and research process, rather than using these parts of the process as opportunities to explore both the student's own interests and the topic.

Some goals are more tied to the research paper itself. For example, if one goal of the traditional research paper is to give students experience writing a substantial document in a limited amount of time, then that goal may not be accomplished if the student does not, in fact, need to produce a substantial document (although that substantial document may not need to be a traditional research paper).¹³⁶ In addition, because writing and thinking happen together, the writing process itself should cause students to think more critically and deeply, and generate ideas about their research project that they would not have had without engaging in the writing process itself.¹³⁷ While these benefits of the writing process are not limited to the writing of traditional research papers,

recommendation letter for a student who has written such a paper (although a professor could also write a recommendation letter for a student who has engaged in other forms of writing).

136. See Fajans & Falk, *supra* note 49, at 343–44 (discussing the benefits of scholarly writing for law students).

137. Parker, *supra* note 61, at 296 (“Writing is a tool for constructing meaning. Writing provides a vehicle for reflection and a discipline to focus thinking and perhaps to liberate thought.”); Levit, *supra* note 84, at 266 (“[W]riting is learning.”); FAJANS & FALK, *supra* note 55, at 1–2 (“[C]ritical writing is innovative and introspective, and the writing process generates as well as records the writer’s ideas. . . . [T]he purest form of critical writing is scholarly writing—the sharing within the legal community of new ideas about the law.”); Robson, *supra* note 20, at 199 (“Although I agree that one goal of student scholarship is publication, the larger goal is the student’s development and achievement. The pedagogical value of student scholarship should not be underestimated.”).

traditional research papers may be a type of writing that promotes the inter-play between writing and thinking. Writing a research paper can, thus, potentially be the vehicle through which important goals are achieved.¹³⁸

In reality, whether these goals are actually achieved is likely to vary depending on the students and the circumstances under which they engage in the writing of their research papers. For example, some students may not spend sufficient time on drafts or may not critically evaluate and revise their writing. Moreover, students who are not *required* to write a traditional research paper in law school may avoid engaging in the scholarly research process altogether because they have no interest in writing a traditional research paper, even though other aspects of the process might be of interest—and benefit—to them. A student might be interested in researching a particular topic and interested in communicating the results of that project in a form other than a traditional research paper. Identifying and exploring a topic that one is interested in through a scholarly process should not be limited to only those law students who want or are required to write traditional scholarly research papers.¹³⁹

Ultimately, schools (and individual professors) will need to decide for themselves what their pedagogical goals are and whether traditional research papers are necessarily the only way to accomplish any of those goals. Traditional scholarly papers should not be required of students without carefully considering why students are being required to write them.¹⁴⁰ We should not take for granted that traditional research papers are necessarily the only or best way to accomplish our pedagogical goals. Moreover, we should recognize that

138. Foehrkolb & DeSimone, *supra* note 20, at 169 (“Regardless of whether students will pursue scholarly writing beyond their journal years, these efforts are worth undertaking because scholarly writing skills will make the students stronger instrumental legal writers and, ultimately, better lawyers.”); *id.* at 174 (“The way a student approaches a topic—and, more importantly, writes about that topic—is directly influenced by the type of writing product the student must produce at the end of the process.”); *id.* at 177–78 (discussing the value of “scholarly writing” for law students); Clark & Murray, *supra* note 20, at 535–38 (discussing some of the benefits of requiring law students to write scholarly research papers); Mashburn & Rush, *supra* note 14, at 401–03 (proposing that all law students be required to write a published research paper because, in addition to the other benefits of writing a research paper that the authors identify, “simply knowing that the article will be published will motivate the student author to work diligently to strengthen his or her critical thinking skills”).

139. A student may have an interest in a particular topic, but this does not necessarily mean that the student has an interest in writing a traditional research paper on that topic. See RENNINGER & HIDI, *supra* note 74, at 104 (distinguishing between interest “in [a] topic” and “interest in writing”). Whether the student should be given other avenues for pursuing the topic of interest apart from a traditional scholarly research paper depends, in part, on the goals of the project (for example, pursuing in-depth research about a topic of interest or writing a traditional academic paper).

140. As discussed previously, *see supra* page 9, although the ABA Standards require students to have an upper-level “writing experience,” the Standards do not require students to write a traditional research paper. ABA STANDARDS, *supra* note 7, Standard 303(a)(2).

the process of working on a research project can confer many professional development benefits for students that may not be tied to the creation of a traditional research paper.¹⁴¹

Even if some law students continue to be required to write traditional research papers, some of the re-envisioning suggested in this Article is still possible.¹⁴² For example, topic selection could still be used to explore students' professional interests and identify meaningful research questions, although the amount of time that could be devoted to this part of the process would need to be limited to ensure that students had time to complete their research papers in the required time. Reflective writing could also be integrated into the research and writing process in order to, among other things, promote metacognition and further prepare students to be reflective practitioners.¹⁴³ Other forms of communication could also be added into the process; for example, students could present a workshop as they worked on their papers or distill their papers into a poster presentation.¹⁴⁴ However, students would need time to work on their traditional research papers, so it would be important not to overload students with additional work. The re-envisioning of law student scholarship described in this Article could make time for other valuable components of the process without overloading students.

B. The Role of Faculty

Another question raised by the ideas in this Article is how a re-envisioning of law student scholarship might impact the role of the professor in students' scholarly work. This Article discusses ways in which law professors could be more involved in students' scholarly process, acting as both professional development and scholarship coaches. If professors play a greater role in students' scholarly process, this might result in both qualitative and quantitative changes in the nature of professors' work with students. Professors may need to prepare differently for their interactions with students, whether these interactions

141. While there may be benefits to writing a traditional research paper, other forms of writing also have their advantages. *See, e.g.,* Lobel, *supra* note 1, at 408–09 (“Publishing shorter popular pieces demands that scholars write in an accessible and succinct manner—good qualities for any type of writing.”).

142. The suggestions in this Article could also be incorporated into other courses that might not satisfy a research paper requirement. For example, students could write reflective journal entries or give presentations on research projects on areas of interest in other classes. Other forms of non-traditional writing could also be integrated into law school courses. *See* McArdle, *supra* note 101, at 254 (“Encouraging legal writers to experiment with non-traditional literary approaches . . . can help these writers gain a surer sense of their own voice and instill confidence in their ability to engage with legal form and content.”).

143. *See, e.g.,* Niedringhaus, *supra* note 88, at 116–17.

144. *See* WHERRY & MURRAY, *supra* note 47, at 161–64 (discussing workshops); Samantha A. Moppett, *Think It, Draft It, Post It: Creating Legal Poster Presentations*, 18 LEGAL WRITING: J. LEGAL WRITING INST. 339, 339–40 (2012) (discussing law professors' poster presentations).

occur during one-on-one or small group meetings, or in a classroom setting. For example, professors who have not previously assigned reflective writing to students or prepared students to engage in reflective writing might need to learn more about both reflective writing and ways to teach students about reflective writing. Professors might also need to learn about formative and summative assessment of reflective writing.¹⁴⁵ Time and attention would need to be paid to the evolving role of professors in students' scholarly work. These efforts would contribute to the creation of a more meaningful scholarly process for students, and involvement in the process might also become more meaningful for professors. In addition, as professors gain more experience with their role in a re-envisioned process, they will have a foundation of experience to build on. Thus, professors will not be starting from scratch pedagogically every time they work with students on their scholarship projects.

There are different ways to address concerns that professors might have about the time that it would take to meet with students about their research projects, and read and comment on students' reflective writing.¹⁴⁶ In the ideal world, law professors would work with a limited number of students on their research projects; however, reality may not always reflect this ideal. How law professors address this less-than-ideal world may depend on the circumstances and, in particular, the number of students being advised.¹⁴⁷ Reflective writing in response to specific questions or prompts could take the place of one-on-one conversations in some instances. For projects undertaken in connection with a class, law professors could engage in conversations with the class as a whole or students could engage in conversations with one another during the topic selection process.

Law professors do not necessarily need to comment on every reflection that a student writes.¹⁴⁸ Law professors could read students' reflections and then use them as a starting point for conversations with students, either in individual

145. See Balsam, Brooks & Reuter, *supra* note 100, at 52–67 (discussing the development and use of a rubric to assess law students' reflective writing).

146. Levit, *supra* note 84, at 268; Drake, *supra* note 20, at 168 n.6; Ogilvy, *supra* note 84, at 97. See Ogilvy, *supra* note 84, at 97–101, 105–06, for a discussion regarding feedback on law students' journal entries and other considerations regarding the “cost to the teacher of assigning journals.”

147. See Balsam, Brooks & Reuter, *supra* note 100, at 64 (“The goal of efficient and timely feedback on student writing is always in tension with the level of individualized feedback an instructor has the bandwidth to provide. Obviously, student-teacher ratios, length of writing, and other situational factors significantly impact how an instructor achieves this balance.”).

148. See STUCKEY ET AL., *supra* note 21, at 128 (noting that although in the perfect world professors would “provide feedback” on students' journals, “[e]ven if no feedback is provided . . . the act of keeping reflective journals can help students improve their self-directed learning skills”); Ogilvy, *supra* note 84, at 97–98 (noting the value of providing feedback on law students' journals but also noting that different amounts of feedback can be provided, ranging from an acknowledgement that journal entries have been read to more extensive comments); see also *id.* at 97–101 (discussing feedback on law students' journals).

meetings or in class.¹⁴⁹ Even if professors did comment on students' reflections, the comments would not need to be extensive. Certainly, reading reflections takes time, although the reflections should make for interesting reading. Also, the reflections do not necessarily need to be long to be valuable for the students who are writing them. To the extent that students are writing numerous reflections, professors do not necessarily need to read every reflection written. In fact, there might be value in students writing some reflections for themselves only.¹⁵⁰

To the extent that professors want to focus their and their students' attention on the scholarly process, both students' and professors' time might be reallocated from product to process. In addition, the suggestions in this Article could also be implemented by students themselves. For example, law reviews could include more focus on process—including reflection—as students work on their notes.¹⁵¹

In addition to the issue of commenting on students' work is the issue of assessing students' work, with respect to both formative and summative assessment. One question is the extent to which students' engagement in the scholarly process and the work they create in connection with that engagement should be assessed, either formatively or summatively.¹⁵² If we are taking steps to make scholarship more meaningful to law students by investing the process of scholarship with more significance beyond its role in leading to a final research paper, then should we assess law students' engagement with that process? If so, how? Although these questions pertain to both formative and summative assessment, they are perhaps more of an issue with respect to summative assessment (grading).¹⁵³

149. Professors could also meet with students in small groups. To the extent that students' reflections inform professors' conversations with the class as a whole or in small groups, professors would need to be sensitive to privacy concerns and would need to be transparent about the extent to which students' reflections would be used in group discussions and attributed to the particular students who wrote them.

150. Cf. STUCKEY ET AL., *supra* note 21, at 97 (“[E]ven journal entries that are written without the expectation of feedback can be extremely useful to the writer, but the success of the journal assignment can be greatly enhanced by feedback to the student on her journal entries.”).

151. Students could also reflect on the process of working on their notes at the end of the process. For example, in the spring of 2019, members of the Drexel Law Review were required to submit short reflections with the final versions of their notes.

152. A related question is how law professors can be better prepared for and feel more comfortable with the assessment that they do take on (and, even more broadly, how professors can be better prepared to support students' scholarly engagement and professional development). For example, professors may have experience assessing traditional research papers, but professors may not have experience assessing less traditional forms of work, such as reflective writings.

153. The comments that professors write on their students' reflections could include formative assessment. For example, professors could comment on the depth of students' reflections and on whether students supported their reflections with examples from their experience working on their

On the one hand, grading law students' engagement with the process could reinforce the significance of that process and send the message that the process is important and worthy of students' time, attention, and effort.¹⁵⁴ Furthermore, given that different aspects of the process will require different types of work, grading different components of the process would enable professors to take account of students' strengths in certain areas and weaknesses in other areas. On the other hand, grading law students' engagement with the process might reduce their intrinsic motivation and detract from the constructiveness of the experience for them.¹⁵⁵ Making grading a more pervasive part of the process might also interfere with the role of the law professor in constructively working with a student throughout the process. In addition, grading takes time and adding more grading responsibilities might be too time consuming for law professors, especially professors who are working with many students on research projects. Law professors who do not want to grade anything other than the final product of students' work might be disinclined to add too much to the process of creating that work if law professors feel pressured to grade those additions to the process.

Certainly, there are different ways to respond to these concerns. Some law professors might choose to grade students' final work product and not grade students' work along the way to reaching that final work product. Although this approach has some advantages for both professors and students,¹⁵⁶ it does not reflect the heightened significance of the process, rather than the end result produced.¹⁵⁷ These professors could, of course, still give students feedback throughout the different stages of the process, but students would know that this engagement would not, ultimately, explicitly factor into their grade.¹⁵⁸ Another option would be for professors to give students a grade for the final product but

projects. See Balsam, Brooks & Reuter, *supra* note 100, at 66–67 (providing a rubric for assessing law students' reflective writing).

154. Parker, *supra* note 61, at 291 (“How we assess law students' performance sends a clear message to students about what skills are valued.”).

155. See Caroline Pulfrey, Céline Buchs & Fabrizio Butera, *Why Grades Engender Performance-Avoidance Goals: The Mediating Role of Autonomous Motivation*, 103 J. EDUC. PSYCHOL. 683, 696–98 (2011) (discussing research regarding grading and motivation).

156. Parker, *supra* note 61, at 295 (“Responding to writing without ‘final grades’ may encourage students to use writing to help them organize their thoughts, rather than thinking of writing only in terms of the end product”); see also Kissam, *supra* note 63, at 344 (discussing the author's decision not to grade the first submitted drafts of students' seminar papers); Margolis & DeJarnatt, *supra* note 13, at 123–31 (discussing the benefits of grading only the final assignment in a first-year legal writing course).

157. Cf. Katz, *supra* note 23, at 65 (“[T]he traditional academic goal of assessing student accomplishment is evaluation of the student's ability compared to that of other students as demonstrated by her final product and not evaluation of how she improved her abilities as a result of the process of learning.”).

158. Grading the work produced in connection with the process may indirectly incorporate an evaluation of some aspects of the student's engagement in the process, to the extent that a student's engagement is reflected in the quality of that work.

adjust students' final grade upwards or downwards to take account of students' work during the process leading up to the creation of that final product. Other professors might choose to grade discrete parts of the process (for example, giving students a grade for their reflective writing¹⁵⁹) along with a grade for the final product produced, then averaging the component grades together for the final grade.¹⁶⁰ Other professors might have students create a portfolio of their work on their projects and give each student a grade that takes all of the work into account.¹⁶¹ As with any course, there are many different ways to determine students' final grades, and there is not one "right" way to determine students' final grades.¹⁶² Professors should consider their options, make mindful choices regarding grading, and be open to changing our approaches in future years.¹⁶³

V. CONCLUSION

As law schools become more focused on better preparing students for their future professional lives—including identifying and assessing student learning outcomes—while at the same time continuing to place a high priority on the faculty's production of scholarship, rethinking student scholarship offers a potential bridge between the differing roles of law schools.¹⁶⁴ Law schools are places where both law professors and law students should be engaged in purposeful inquiry. For law professors, publishing scholarship about research questions is part of our professional role. Most law students are preparing for a different professional role than "law professor," but intellectual curiosity and

159. See Ogilvy, *supra* note 84, at 101–05 (discussing issues regarding the grading of law students' journals).

160. Professors who take this approach would also need to determine the weight of each component of a student's final grade.

161. See, e.g., Balsam, Brooks & Reuter, *supra* note 100, at 53; Debra Moss Curtis, *Beg, Borrow, or Steal: Ten Lessons Law Schools Can Learn from Other Educational Programs in Evaluating Their Curriculums*, 48 U.S.F. L. REV. 349, 383–93 (2014); Neil Hamilton, *Formation-of-an-Ethical-Professional-Identity (Professionalism) Learning Outcomes and E-Portfolio Formative Assessments*, 48 U. PAC. L. REV. 847, 848, 862–71 (2017); Deborah Jones Merritt, *Pedagogy, Progress, and Portfolios*, 25 OHIO ST. J. ON DISP. RESOL. 7, 9–15 (2010).

162. In addition, students may also have different preferences regarding grading. Emily Zimmerman, *What Do Law Students Want?: The Missing Piece of the Assessment Puzzle*, 42 RUTGERS L.J. 1, 52–55 (2010); Emily Zimmerman, *Do Grades Matter?*, 35 SEATTLE U. L. REV. 305, 328–29 (2012).

163. Cf. Vickovich, *supra* note 19, at 78 (discussing assessment in connection with Australian undergraduate students' law review work and noting that different approaches need "to be tried and tested").

164. As law schools focus more on experiential learning opportunities for their students, the divide between scholarly engagement and professional development might continue to grow if law schools do not take affirmative steps to connect them. Law professors should help students use the scholarly process to promote students' professional development (for example, by helping students identify areas of interest and questions about practice and professional identity, promoting reflection, and engaging in purposeful inquiry and critical thinking).

active engagement with research questions—along with reflective practice—are also important for law students’ professional lives.¹⁶⁵ Law students should be engaged both in purposeful inquiry about particular research questions and purposeful inquiry about their future professional lives and identities (most likely, as practicing lawyers). Law professors can help students engage with the research process in a meaningful way that takes account of their interests and aspirations. Law professors should not presume that the ways in which scholarship is meaningful for us are necessarily going to be the ways in which scholarship is meaningful for our students. Conversely, we should not assume that scholarship cannot play a meaningful role for our students.

Nor should we exclude students’ voices from the world of scholarly inquiry because they may be less interested in communicating in a traditional scholarly form. We should encourage our students to develop research projects that are connected to their interests and support students’ autonomy to design projects that may be different from traditional legal scholarship. Moreover, especially given the limited time that students typically have for their research projects, we should recognize that the process of working on the project can provide much of the value for our students, rather than the tangible final product that may result from the project. Recognizing that the scholarly process can have value apart from its role in the creation of a traditional research paper can make it possible for faculty and students to focus more intentionally on the process and think about ways to use the process to help students with their professional development.

Being open to decoupling process from product also enables our students and us to be more intentional about the products of students’ work. Rather than taking for granted that a traditional research paper is the way to communicate students’ scholarly work, we should work with our students to consider ways to communicate their work that will be meaningful to them. As students engage in purposeful inquiry in connection with projects, we should help students identify and accomplish their own learning objectives and the objectives that we have identified for them.¹⁶⁶

Thinking differently about law students’ scholarship can also add meaning to law professors’ role in our students’ scholarship as we coach our students through this process and encourage our students to coach one another. As law professors, rather than expecting our students’ relationship with scholarship to mirror our own—and, perhaps, being disappointed when it does not—we can help students engage with scholarship on their own terms, in light of their own goals and aspirations.

The law school can be a community of purposeful inquiry, even if the inquiry takes different forms and has different purposes for different members of the

165. See Jacobs, *supra* note 104, at 379–80.

166. See Magnifico, *supra* note 79, at 176–78 (discussing “motivational factors” in writing, including “audience,” “authenticity,” and “interest”).

community. Just because scholarship does not play an identical role in our lives and our students' lives does not mean that we cannot learn from our students' experiences. As our students engage in reflection and consider creative ways to communicate the results of their research, so too we may be encouraged to reflect on our own relationship with scholarship and consider whether there are different forms that our scholarship can take, which we might not have even yet considered.¹⁶⁷

167. Cf. Douglas A. Berman, *Scholarship in Action: The Power, Possibilities, and Pitfalls for Law Professor Blogs*, 84 WASH. U. L. REV. 1043, 1050 (2006) (“[R]espect . . . should be given to different *forms* of legal scholarship. . . . Law professors ought to be actively encouraged to develop scholarly work in diverse mediums. There are always unexpected connections between form and function; new insights are often only discovered in the process of trying to express ideas in new and different forms.”).