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Marie Failinger
Mitchell Hamline School of Law, marie.failinger@mitchellhamline.edu

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Abstract
Religiously affiliated law schools have, for the most part, given little thought to the integration of faculty members who are from faith communities other than their own. The article will consider the question of how religiously affiliated law schools truly include faculty members of all religious faiths in the development of mission and community in such law schools, using the lens of the religious metaphors of pilgrimage and Exodus. After presenting this typology for critiquing law school practices, the author deconstructs the very premises of the question through the metaphors of pilgrimage and Exodus. The author argues that a proper understanding of the “integration” question requires religiously affiliated schools to acknowledge the true host for their work, which is not – as is commonly assumed – those faculty and staff members whose faith tradition is the same as the law school’s religious affiliation.

Keywords
Religious schools, Law schools, Diversity in the workplace

Disciplines
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Pilgrimage or Exodus?: Responding to Faculty Faith Diversity at Religiously Affiliated Law Schools

MARIE A. FAILINGER*

INTRODUCTION

Religiously affiliated law schools have, for the most part, given little thought to the integration of faculty members who are from faith communities other than their own. This article will consider the question of how religiously affiliated law schools cannot simply be tolerant, but truly include faculty members of all religious faiths in the development of mission and community in such law schools, using the lens of the religious metaphors of pilgrimage and Exodus. At one level, perhaps trivial, one might challenge such law schools by playing on the modern linguistic use of the terms of my title, "Pilgrimage or Exodus?" That is, we might ask, are our law schools going to be places of pilgrimage, places that academics of varying religious persuasions flock to because they are devoted not only to the reality but the ideal of welcoming all, in a way that shines light and hope to a pluralistic world? Or are they going to be institutions so hostile to some journeys toward the truth that religious minority faculty members beat a hasty exodus as soon as they can find another place that will grant them tenure?

It is difficult to find helpful evidence for reflection on the role of religious minorities in religiously affiliated institutions. My own experience, while not uniform, was not a great deal of help. After observing as a student at a law school affiliated with my own Lutheran denomination and then at a once intensely religious but now proudly secular university,¹ I have taught for 20 years at a Methodist university

* Professor of Law, Hamline University School of Law and Editor, Journal of Law and Religion. Portions of this paper were delivered as part of a panel entitled "Integrating Faculty Who Do Not Share the Institution's Religious Tradition Into Advancing the Tradition," at the Conference of Religiously Affiliated Law Schools, University of Notre Dame Law School, March 27, 2004. My thanks to Walter Pratt and members of the Conference for inviting me.

1. Valparaiso University School of Law, and Yale Law School, respectively. Cf. SYDNEY E. AHLSTROM, A RELIGIOUS HISTORY OF THE AMERICAN PEOPLE 162-63, 288, 295-98, 415-16 (1973) (describing the "strictly ecclesiastical" fruits coming from the formation of Yale University by New England Puritans affiliated with the Mather family, and subsequent impact on American religious life because of the Yale experience of such
where there are no vocally Methodist law faculty members; and those who have most visibly and consistently participated in the school's Law, Religion, and Ethics projects have been Jewish, Quaker and Lutheran. Though these traditions, and others, influence religious mission discussions at my current law school more than Methodism, it was difficult to identify any "best practices" in the sense of distinctive or consciously chosen paths that created an environment where religious persons who do not hail from the institution's religious tradition in effect have the most profound religious influence on that mission.

Thus, to seek some evidence about whether there was a pattern to the response of religiously affiliated law schools to other religious faculty at their institutions, I did a small and informal survey of several people who have taught at religious law schools not of their own religious persuasion, to see whether I could uncover some best practices of inclusivity.2

My little informal survey has confirmed again what many other scholars have argued in many other venues. First, a fair number of law schools affiliated with religious universities claim and display little or no religious identity whatsoever.3 Second, those law schools that do claim some religious identity vary widely in the intensity and type of expression of that identity. Some have community prayer and require classes that treat religious issues, while for other schools, the only visible nod to religious identity consists of some physical religious symbols around the building and perhaps a related religious event once a year, such as a Red Mass or an opening or closing religious convocation.4


2. I thank those who responded — and to whom I offered anonymity — for their very gracious and thoughtful help in my struggle to gain clarity.

3. Among others who have made variations on this argument, see, e.g., Thomas L. Shaffer, Erastian and Sectarian Arguments in Religiously Affiliated American Law Schools, 45 STAN. L. REV. 1859, 1864 n.18 (1993) (positing that thirty-seven of the forty-eight law schools affiliated with Christian or Jewish traditions are "functionally secular," seven are Erastian, and four are sectarian); Robert John Araujo, "The Harvest is Plentiful, but the Laborers are Few": Hiring Practices and Religiously Affiliated Universities, 30 U. RICH. L. REV. 713, 718 (1996) (noting, inter alia, Professor Mark Tushnet's observation that a university "will find it extremely difficulty' to maintain [a religious] affiliation if it also seeks to attain or preserve a national reputation.").

4. For written descriptions about how some law schools negotiate their religious identities, see, e.g., Nicholas P. Cafardi, Catholic Law Schools and Ex Corde Ecclesiae, or What Makes a Law School Catholic?, 33 U. TOL. L. REV. 7, 14 (2001); John J. Fitzgerald,
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Third, it appears that even those law schools with a more pervasive religious identity have, by and large, not thought in any extended conscious way about how religious minorities might be part of the process of creating a mission tied to religious identity, no matter how much or little attention these schools have lavished on the question of their own (majority) religious identity.  

Fourth, religious minority faculty are not of one mind about whether the presence or absence of religious identity is a good thing or bad thing, either for the institution or for their integration into the life of the school. Indeed, religious minorities on law faculties even differ significantly on the question of whether clearly sectarian "practices" exclude them as part of the community — even, for example, about whether having Christian prayer before classes or faculty meetings is a barrier or aid to integration. Like all legal questions — perhaps like all human questions — the answer seems to be "it depends on the context and the people involved."

Into this unclear picture leaps the theorist! As my descriptive foray, I want to argue that law schools display certain sorts of "character" or that they display distinctive models of the role of religion in their common life. I borrow by analogy from scholars like H. Richard Niebuhr and Carl Esbeck who have suggested that religious traditions have distinct characters. Niebuhr, for example, wants to claim that denominations exhibit a Christ Against Culture character, or a Christ and Culture character. I want to quickly sketch just one typology, and then suggest what is probably salutary and what is potentially problematic about each type, in terms of the integration of religious minority faculty. The usual caveat about typologies needs to be given, however: the main purpose of this one is to highlight problems rather than to accurately represent any one or any collective group of faculty members' actual experience, which is necessarily richer and more complex than I will be describing.

After presenting this typology for critiquing law school practices, I want to turn my presentation upon itself, deconstructing the very premises of the question through the metaphors of pilgrimage and exodus. I will argue that a proper understanding of the "integration" question requires

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5. Some consideration to these issues with respect to students or faculty appears in the literature on religiously affiliated law schools. See, e.g., Howard B. Eisenberg, Mission, Marketing, and Academic Freedom in Today's Religiously Affiliated Law Schools: An Essay, 11 REGENT U. L. REV. 1, 6 (1999).


8. See NIEBUHR, supra note 6, at 83.
religiously affiliated schools to acknowledge the true host for their work, which is not — as is commonly assumed — those faculty and staff members whose faith tradition is the same as the law school's.

I. ONCE MORE ON ENLIGHTENMENT APPROACHES TO LAW SCHOOLS

A first type of response, what might be termed the Enlightenment response to religion in law schools, has been endlessly debated and often excoriated at law and religion conferences and in the literature. The model proposes that religion is a private, irrational matter that should be relegated to the family home and religious community, serving as a valuable motivator for ethical professional behavior but not otherwise significantly influencing law or legal institutions, including law schools. However, any candid discussion of this model must acknowledge its apparent attraction for many religious minorities, even those with the professional status and independence of law professors. Some religious minority law faculty continue to believe — and understandably so, based on the reception of their own religious tradition in American public life — that if religion becomes a prominent and visible part of their law school's mission and ethos, it will be used in harmful ways against minority faculty and students. Or, at the very least, they are concerned that religious identity will be used to symbolically segregate minority faculty and students, marking them off as "odd" and "outside" the law school mainstream, thus potentially excluding them from influence on the mission and direction of the school, much less the status and rewards that accompany our profession.

If the law school atmosphere can be completely secularized, minority as well as majority faculty who believe in the Enlightenment model would say, minorities have the opportunity to be treated equally on the basis of

9. See, e.g., John T. Noonan, Jr., A Catholic Law School, 67 NOTRE DAME L. REV. 1037, 1044 (1992) (criticizing nominally Catholic law schools "whose faculty were hostile or contemptuous of Catholic values, schools whose whole tone was less open to religion than avowedly secular institutions"); Steven D. Smith, Legal Discourse and the De Facto Disestablishment, 81 MARQ. L. REV. 203, 211-16 (1998) (describing absence of religion as a resource in law school classrooms); see also Douglas Laycock, Continuity and Change in the Threat to Religious Liberty: The Reformation Era and the Late Twentieth Century, 80 MINN. L. REV. 1047, 1078 (1996) (noting colleagues' remarks that "religious claims are absurd, ridiculous, irrational, or unworthy of respect" but that he had never heard a colleague "make a religious claim in an academic context"); Shaffer, supra note 3, at 1860-64 (criticizing the ABA's "theological preference for secularism" over other theological missions).


their objective merit as law teachers and scholars. To the extent politics raises its head, the Enlightenment law teacher hopes, it will be in debates over what sort of secularized activity is meritorious — e.g., whether scholarly merit should be judged by how prestigious one's law review article placement is and whether teaching should be judged by bar passage rates or by student satisfaction evaluations.

In a sense, the decision to adopt an Enlightenment model can be a form of integrative strategy (if everyone is equally disadvantaged, there are no minorities). However, it is also essentially a question to all religiously affiliated law schools about whether they delude themselves into thinking that any such school can also be hospitable to diversity. That is, it is essentially a challenge to whether religiously affiliated law schools should have ANY religiously related mission, in light of the potential effects both on the ideal of equality and the real persons law school communities have power to harm.

Of course, though most who attend conferences of religiously affiliated schools may well have concluded differently, in the spirit of keeping everyone humble, we need to remember that those who continue to hold to the Enlightenment model have some history on their side. The folklore, at least, is that Jews and Catholics were excluded from the faculty of prominent law schools for a very long time — and some think that serious Catholics still are excluded in some of the elite institutions. Moreover, at present, I see no reason to try to convince Muslim lawyers, for example, that their faith tradition will never be used against them in law faculty hiring decisions. Based on my conversations, I am confident that at least in some law schools, a Muslim candidate would be quizzed on his position on Jews and Israel, and the answer would be decisive in the hiring decision. Then there are subtler and unconscious questions, such as how successful a Muslim woman who was wearing a full hijab might be in securing a position after she interviewed at the AALS hiring conference. I would venture to guess that a Rastafarian and a vocally pro-life anti-gay conservative Christian, to just name two religious minorities, might have some of the same problems. And that is not even counting perhaps a handful of law schools that admit to raising explicit questions in the interview process on candidates' faith traditions or religious or ethical commitments.

12. See, e.g., David L. Gregory & Charles J. Russo, Proposals to Counter Continuing Resistance to the Implementation of Ex Corde Ecclesiae, 74 ST. JOHN'S L. REV. 629, 637 (2000) (arguing that "[a]nti-Catholicism within the elite law school faculties is the open and notorious 'secret' of the legal academy. There are virtually no Catholics on the elite private and public secular law school faculties; there are only a few actively committed non-Catholic Christians."); see also John D. Lamb, The Real Affirmative Action Babies: Legacy Preferences at Harvard and Yale, 26 COLUM. J. L. & SOC. PROBS. 491, 494-97 (1993) (describing ways in which Yale and Harvard limited the numbers of incoming Jewish and Catholic students until the 1960s).
As many before me have suggested, some nominally religious law schools that have consciously or unconsciously agreed to the Enlightenment model can, without any overt practices, still signal to members of the community in subtle ways that it is distasteful to speak of religion, minority or majority, when one is discussing law. While a student or faculty member who "wears his religion on his sleeve" in the law school may not be directly punished for his behavior, law school communities often react much the same as wealthy people at a cocktail party react if one introduces the subject of starving and homeless children.13

Law students can be the worst offenders, imposing their own social code of classroom etiquette, shifting uneasily or in horror in their seats if a classmate makes a religious argument on any matter ranging from the death penalty or abortion to the right view about property. However, this uneasiness about explicit references to religion is not limited to students: faculty too can signal to religious faculty that they risk being shamed if they make such arguments. As my colleague Howard Vogel pointed out, if law students and faculty have a strong need to be well-liked and well-thought-of, such practices can be just as successful as any explicit punishing behavior in narrowing the parameters of what is considered "seemly" conversation.14

While for some Enlightenment law schools, this implicit agreement that such religious talk is out of bounds might indeed be integrative — i.e., a good faith attempt to include religious minorities in their midst, I suspect that other concerns are more directly at play. One is almost aesthetic: the language of faith is too personal, too "emotional." It makes its speaker seem too vulnerable in a convention of objectivity and impersonality that characterizes most law school debate; she may be thought to lack the conventional skills that some law schools believe themselves to be teaching their students.15 Ann Douglas' argument that religion was relegated to the "sentimental" women's sphere in mid-19th century American life16 might be validated today, I would suggest, by studying similarities in law

13. See e.g., Robert A. Destro, ABA and AALS Accreditation: What's "Religious Diversity" Got to Do with It? 78 Marq. L. Rev. 427, 467-68 (1995) (sugesting that religion is "often viewed as the uninvited, embarrassing guest at academe's celebration of 'cultural diversity.' It alone is viewed as a conversation stopper.").


15. For the classic description of this phenomenon, see Roger C. Cramton, Beyond the Ordinary Religion, 37 J. Legal Educ. 509, (1987) (discussing the problems with objectivism and relativism, and reviewing his earlier argument that law schools promote risk promoting "moral relativism tending toward nihilism, a pragmatism tending toward an amoral instrumentalism, a realism tending toward cynicism, an individualism tending toward atomism, and a faith in reason and democratic processes tending toward mere credulity and idolatry.").

classroom body-language responses to religious arguments and to other arguments from emotion often ascribed to women students.\footnote{17}

A second Enlightenment-style objection to religion or religious argument in law schools is based on disciplinary pigeonholing biases that law schools also share: faculty might argue that the language, categories and intellectual "moves" of religious thought are foreign to those of the law, and the effort required to perceive analogies or translate definitions seems too difficult. Historians and others whose primary disciplinary focus is not law have had some of the same problems in the legal academy, though perhaps not as pronounced. But, this is another example of how a seemingly inclusive strategy might in fact exclude.

A third dynamic at work, of course, is the incorrect but still strong sense that there is a "constitutional" problem with law schools displaying any religious affiliation, as any number of academics have illustrated. As the most apocryphal example, we might remember Tom Shaffer's experience with a student who wondered whether the crosses in Notre Dame's law school classrooms didn't represent a church-state violation.\footnote{18} Clearly, the ethos of separation is so strong in the American imagination that it governs the subconscious of those who inhabit even private institutions that undertake public roles, including lawmaking and interpretation.

When religious minority law teachers either subscribe to, or at least accede to, the Enlightenment position, things might indeed appear to be calm and egalitarian around the law school. However, like any agreement in any family or community not to talk about certain important and hotly contested matters, what passes for peaceful coexistence is often a cover for other less desirable states of affairs, including a cauldron of conflict that is being covered up.

Many scholars have fully rehearsed the problematical effects the Enlightenment "agreement" can have on civil culture.\footnote{19} However, the Enlightenment "agreement" can also have a pernicious effect not only individually, on those who believe that they must speak in faith terms in

\footnote{17. And here, I am taking issue with Professor Suzanna Sherry's taking issue with both feminist and religious legal academics for their insistence on making the feminine and the religious a welcome part of the public discussion in legal education and public culture. Sherry argues "for a scheme analogous to what one scholar has characterized as the eighteenth-century 'schizophrenic conception of God': the rational 'Divine Engineer' in public, and the warmer, more mystical 'Heavenly Father' for 'personal religious experience.'" Sherry, supra note 10, at 476-77 (quoting JAMES TURNER, WITHOUT GOD, WITHOUT CREED: THE ORIGINS OF UNBELIEF IN AMERICA 59 (1983)).

18. This story (because it has been repeated in this type of literature) was, I believe, first printed in Shaffer, supra note 3, at 1863-64.

19. Again, the probably most-cited, but not only argument on this point, is STEPHEN L. CARTER, THE CULTURE OF DISBELIEF: HOW AMERICAN LAW AND POLITICS TRIVIALIZE RELIGIOUS DEVOTION 217-18 (1993); for a contrary view, see Sherry, supra note 10, at 476-77.
their daily lives, but more significantly, on the law school community as a whole. Intellectually speaking, the "Enlightenment agreement" can both desiccate the intellectual conversation at a law school, and hide conflicts that bubble just below the surface. It may desiccate the intellectual conversation at a law school by robbing the intellectual community of the accumulated wisdom to be found in the religious traditions on matters of critical importance to jurisprudence and justice — what the religious traditions have come to discover about, for example, the relationship between justice and forgiveness.20 As just one case study for this proposition, I think about some of the public writings emerging in response to the political and social aftermath of September 11. Those who have the theological resources to name the enormity of evils, both in and after that event, have been able to speak in a much more telling way about what confronts us as a society in a world of terror than those who are forced to speak only out of secular resources.21

Second, the Enlightenment understanding may disempower colleagues who are in heated struggles with each other about contested issues such as abortion, gun control, or even whether faculty pay should be based on teaching or scholarship. They may be discouraged from discovering and expressing their most deeply held values emanating from religious understandings of the nature of the person and the nature of community life. When one's most foundational rationales for passionately held views are banished from the conversation, the old adage that some conversations shed more heat than light is inevitably going to be true. Moreover, when profoundly held beliefs cannot be fully shared, the problem that Wayne Booth has identified about the modern skepticism about "hidden motives" is likely to come into play.22 That is, colleagues engaged in a law school power struggle may believe that their adversaries are using argument simply to "put one over on them" by covering up their true motives for making arguments. Such suspicions about hidden motives can be as strong in contested debates about values as those in which faculty members suspect that seemingly objective policies, e.g., on faculty productivity, are simply a cover for some faculty members to get better salary packages or status perks than their peers.


Finally, the banishment of religious language from the law school community may be part of the banishment of all that is "personal" to law faculty members. Although they share a lifetime of professional community together, I doubt whether most faculty members can identify their colleagues' children, much less understand much about their personal struggles or joys, or even what they believe their legacy to the teaching profession and to the world to be. As an offender in this regard, I can name the sin.

The values of professional objectivity and the separation of professional and personal life that faculty members teach their students by modeling it in the classroom have salutary purposes: those values can enable lawyers to serve their clients competently and objectively, without melting down or raging into unhelpful tirades from the emotions generated by a case. However, like the concept of the "separation of church and state," I fear that law school communities have unconsciously carried these values well beyond the purposes that they serve, into areas of common life in the law school where such values are inimical to preserving community. If we cannot talk about a law faculty member's religion any more than about his or her children, then we signal to every member of the law school community that he or she cannot really count on us when the chips are down, when that faculty member confronts a personal crisis or the demons connected with aging and questions of professional meaning.

II. OF NATURAL LAW, SERVANT-LEADER, AND SECTARIAN LAW SCHOOLS

A second group of religiously affiliated law schools display what we might call a "natural law" character regarding the role of religion in law schools. At least some religious minority faculty members at these law schools are comfortable with this view, because they effectively agree with the assumptions of the natural law model. In my Lutheran tradition, this view is to be described as the "two kingdoms" or more properly, the "two governances" view about the mission and work of law schools. This natural law model would agree with the notion that law is essentially a "secular" enterprise in Luther's sense of the word — that is, not secular in the sense of stripped of the divine, but secular in the sense of pertaining to

23. This is a somewhat different (Lutheran) argument than Tom Shaffer's distinction between Erastian and sectarian Catholic law schools, see Shaffer, supra note 3, at 1864-70. Shaffer understands Erastian theology as assuming that the civil community is essentially Christian, and the church serves that whole, even those who do not consider themselves part of the Church. An example he cites is the Anglican Establishment in England. Id. at 1866. Shaffer argues that Erastian law schools generally function quite similarly to other law schools, though they may support some non-secular research and writing, and permit more religious discourse in the classroom. However, Erastian law schools would not see themselves "merely as serving the state" but often "becomes a cheering section for state violence." Id. at 1867-70.

God's *weltlich* work — i.e., God's constantly changing activity in this earthly life.25 This natural law model presumes that people of faith have no particular or novel insight into what the demands of earthly existence require — a faculty member's wise contributions to a law school's mission and practice depend more on his or her moral and intellectual virtues than his or her direct pipeline from faith tradition to daily work.

At such religiously affiliated law schools, particularistic religion, especially religious argument that relies heavily on revelation or textual literalism, is usually not deemed a relevant category for creating insiders or outsiders as respects the school's mission. While certain basic theological assumptions, such as that God created and continues to govern this earthly life, are always the background for discussing law, they do not admit of any specialized insights about legal education or other legal institutions. Thus, there is no particular purpose to be served in raising them in a policy discussion, either in the classroom or the faculty meeting. In this view, anyone who employs practical wisdom to the task of legal education can be persuasive as the next person, no matter what his or her religious affiliation.

As with the Enlightenment model, this model is perhaps less likely than others to demarcate on-the-surface divisions between insiders and outsiders on the basis of faith tradition. It may effortlessly acknowledge the value that minority religious faculty members can bring to the discussion in shaping the mission and values of law and legal institutions. Its great advantage over the Enlightenment model is that at natural law schools, there is nothing inapt or shameful or odd about being an openly faithful person. At these schools, students might regularly see faculty going off to chapel, taking holy days off, praying, reading holy texts, or even drawing from their faith when a student or colleague faces a critical moment, such as a death or mental illness.

However, problems can arise for religious minorities at "natural law" institutions that are not dissimilar to those arising at Enlightenment-style institutions where discussion of religion is discouraged. For one thing, religious faculty members who are not fully reflective about what we Lutherans call the difference between the "right-hand" governance, or the life of salvation, and the "left-hand governance," decision-making on matters of earthly life including jurisprudence,26 may inadvertently and unreflectively bring theological judgments from the "right-hand" governance into their solution of "left-hand" governance problems without explicitly pronouncing them. One example might be a law school's stance about teaching professionalism: faculty members might easily confuse the question of what lawyers must do to be ethical with the question of what lawyers must do to be saved.

25. *Id.* at 77.
26. *Id.* at 71-72, 78-82.
Such unthinking borrowing from religious tradition may confuse those minority faculty and students not privy to the background assumptions of the tradition. In turn, if minority faculty members display any confusion about or seeming dissent from "right-hand" assumptions, majority faculty members may be quick to assume that a minority faculty member is not competent in matters presumed to be accessible and indeed obvious to any thinking person. In fact, some majority faculty members may come to the conclusion that a religious outsider "will never understand" and thus can never be fully trusted as an equal in critical mission debates.

Second, to the extent that the religiously affiliated legal institution visibly retains its "right-hand" governance affiliation, parts of its life may continue to be tied to the religious or social rituals peculiar to its own faith tradition. Virtually every faith tradition, no matter how apparently universal, has rituals that, even when they are not intended to exclude, necessarily do exclude because they grow out of a faith community gathered around a shared tradition and evidence a commitment not fully extended to outsiders. Having had an outsider's privilege of observing others' ritual traditions from American Indian tobacco ceremonies to bar mitzvahs, I believe that it is virtually impossible for limited and sinful human beings to participate in a ritual community without creating a divide, however modest, between insiders and outsiders, no matter how gracious and welcoming the community may strive to be. For example, at Valparaiso University School of Law where I received my J.D., even though there was little direct mention of religious concerns in the classroom, the religious services at the massive chapel just across the lawn from our law school served, at least once a day, to mark faithful Lutherans (and those other Christians who felt comfortable attending) from others who attended our school. It was certainly not a pervasive or oppressive divide for others, but it was still a divide.

Indeed, cultural rituals may be the most excluding, precisely because they purport to be more universal, unlike worship rituals that everyone expects to mark the boundary between inside and outside. Catholic jokes about Sister so-and-so or Lutheran jokes about confirmation day and hotdish suppers can be moreexcluding than worship because they are based on a social history that an outsider cannot even learn about in books and yet one that he is expected to appreciate, laughing at all the appropriate moments. Indeed, sometimes it is the very exclusivity of these insider jokes or stories that makes them delicious to humans — even the most gracious among us enjoy sharing secret wisdom or insider experiences that by definition exclude others.

In a law school environment where religion is thought to be not necessary to any discussion because it is not pertinent to our "left-hand governance" work, the religious majority's communal ritual behavior will make outsiders' status in the community quite unclear. In reality, like the antics of "Our Gang" in the secret clubhouse, the appearance to minorities
that being a religious insider confers status in the law school community may well be vastly out of proportion to reality. Nevertheless, the perception that some are more privy to the goods of the institution because they participate in majority rituals and culture may be hard for some minority members to shake, particularly if they have lived a lifetime of being excluded from "the club," starting with whether they celebrated Christmas as kids. Of course, religion is not the only tie that creates an "insider-outsider" effect — first-generation professionals, women, racial minorities, academics who grew up in rural areas, sexual minorities and others often report this same sense that they are working in a culturally foreign country. Nevertheless, at a religious institution, minorities might understandably be particularly sensitive to their identification as an outsider.

A third, closely related model for the role of religion in religiously affiliated law schools might be characterized as a "servant-leader" approach. In this view, to which at least some Protestant traditions subscribe, what matters is not so much one's (or one's institution's) particular theology, but as the way that theology manifests itself in one's work on behalf of others. My own Methodist law school at least at times seems to enact this model.

On the positive side, the "servant-leader" approach has much to commend it as a model of integrating religious majority and minority faculty. By focusing on what lawyers should be doing, rather than from what faith tradition they approach law, the servant-leader law school model can emphasize in practical ways that, as a community of professionals, we can cooperate in serving human beings and justice no matter what our particular religious or political leanings may be. Such a tradition emphasizes the common values and civility necessary in a leadership class, part of whose responsibility is to lead very bitter cultural debates into practical decision-making that will inevitably violate deeply cherished beliefs of some members of the polity; and even to help settle such hotly contested matters as whether Civil Procedure and Contracts should be taught in five credits or six.

However, like the other models, the "servant-leader" approach has its drawbacks. First, this approach, like the natural law or Enlightenment approach, may begin with the idea that it is distasteful even to speak about faculty members' religious traditions, because of the belief that they should be judged on their "works" rather than identified by their religious affiliations. Second, this approach may elide conflict by suggesting that everyone, no matter what faith tradition (including none) can buy into the work of the law school without agreeing upon the values that inform social justice. Without some agreement on such values, however, debates about

27. My thanks to my colleague Angela McCaffrey for first framing the substance of this insight.
what counts as service to the community when faculty members (or students) are involved in pro bono work or scholarship can become more visceral-reaction-fests than serious intellectual discussions.

A servant-leader approach to the role of religious discussion in the law school counts upon modeling rather than reflection to lead to ethical behavior; but just as reflection alone cannot be trusted to make us moral, modeling cannot be fully trusted either. As faculty members know from experience, as much as we might try to model ethical lives, if we fail to teach our students the necessity of lifelong reflection upon their deepest commitments, we write a recipe for professional conformity at the least, and moral failure at the worst. So too, a natural law or servant-leader approach that describes a law school's mission in the broadest terms while failing to reflect on what the religious traditions have learned about moral dilemmas will often provide little guidance or moral encouragement to faculty members in making tough moral decisions about mission itself.

Thus, as with Enlightenment law schools, "natural law" or "servant-leader" law schools that begin with the premise that different faith traditions have nothing useful to contribute to the law may find that bleaching out the particulars will have very practical negative effects on defining and implementing a law school's mission. As with any other attempt to define what people in a community hold in common that does not rely on particularistic strategies such as telling a community's story or analogizing from individual experiences, creating or implementing a mission without lifting up particulars of faculty and staff experience risks being insipid.

My argument can be illustrated by any faculty meeting dedicated to revising the school mission statement. Without a clear understanding of defining law school values, those of us not as capable of the brilliant abstraction as say, Kant, are almost doomed to write mission statements that convey nothing of importance about a law school's mission, or else raise the uncomfortable question whether the law school should even stay in business since its mission statement sounds a lot like every competitor school's mission. Searching for the least common denominator among the faculty in terms of ethical and social values might make it appear that religious minorities are being integrated into the mission of the law school, but a more honest reading is probably that "there is no there there" — there is no real mission into which religious minority faculty or anybody else can actually be integrated.

Moreover, in the absence of the ability to describe in particular ways, through the language and history of traditions, what drives the work of a law school community, law schools can easily lose a sense of communal purpose and courage, and come to exist largely for their members' own comfort and security. Again, by way of illustration, one can conjure up those defining moments when the strategic plan needs to be revised, and the law faculty has to choose whether to spend resources to gain a better
standing with the U.S. News and World Report or to further founding values — for example, a mission to educate competent, caring and indispensable attorneys who find their vocation in dealing with clients' routine legal needs, but who may not be skilled in making a Yale law student's brilliant abstractions. A mission approach that does not employ the particulars of religious traditions as well as other values and experiences is unlikely to steer the conversation in the unpopular direction.

It seems to me that, to some extent, the integrative antidote in natural law and servant-leader schools is to encourage faculty members to tell stories from their faith traditions more often and not less. Those stories should be told in both in formal settings such as websites and conferences, but also in informal conversations with colleagues and students. While narrative has come to be a cliché in the legal academy, the fact is that story-telling often will de-privilege initial majoritarian assumptions because the tellers are forced to articulate hidden assumptions through concrete events, images and feelings. Encouraging faculty members to tie abstract ideas to particulars, to compare and analogize their own experiences with those of others, asks them to risk equality as well as to claim it as a value.

A conversation in which everyone has to begin by saying, "my story is this . . . what is your story?" offers the prospect of clearing away some of the mystery of the "Our Gang" clubhouse and laying bare some of the hidden assumptions of the institution while inviting religious and other minorities to share their own assumptions and values. And story-telling does not eliminate the hope that consensus or good action can result, even in situations of profound conflict. If nothing else, stories may motivate us to act on our convictions, not simply to spout them, because of the passions they uncover.

A final law school model, often referred to as the "sectarian" model, begins with the premise that to talk about God and what God commands, expects, ordains in law (and law schools) is as essential as (indeed more essential than) to talk about what the Supreme Court commands, expects, or ordains.28 In this model, religion supplies a distinctive truth that necessarily governs the nature of just law,29 one that is accessible to others

28. Again, my typology defines sectarian law schools somewhat differently than Shaffer's. Shaffer's sectarian law school would focus not on what its responsibilities for the wider society are, but on "obedience to its Lord" and the service to society that results when it does obey. Shaffer, supra note 3, at 1870. He identifies four qualities of a sectarian law school: it would be communal, "would view the practice of law . . . as a commissioned ministry," would depend upon "infallible[] assurance" and would address particular professional behavior. Id. at 1871-72.

29. For an example of the intellectual argument underpinning such schools' missions, see David K. DeWolf & Robert John Araujo, And God's Justice Shall Become Ours: Reflections on Teaching Law in a Catholic University, 11 REGENT U. L. REV. 37, 37-38 (1998-99) (arguing that "the realization that everything depends on God's transcendent truth lies at the heart of seeking and doing justice" and "the more we have sought to understand who we are and what our lives in the law should be, the more we have encountered the
only to the extent that they come to fully understand, or even embrace, the particular theological demands placed upon the law. In this model, not to speak to, and about, God in the law school and in jurisprudence is an affront to God and to the truth. Thus, prayer and theological reflection are not only a necessary part of the law school community members' spiritual life, they are a necessary part of the discussions that law schools carry on about justice. This model, perhaps rarely fully embraced, is most criticized by persons afraid of exclusivist and hegemonic religions.

I think it is fair to expect that religious minorities may potentially feel themselves to be outsiders more in such law school communities than others. After all, these communities want very much to link both the truth and the right to a particular understanding of the will of God. It would be difficult for even the most generous religious minority not to feel at times personally and professionally judged as unacceptable by a law school environment where his journey to the truth and God was categorically excluded as an option.

I use the term "potential" for exclusion on purpose, because, based on my limited knowledge of them, sectarian law school communities, like all of the others, vary widely in their ability to embrace the richness that the religiously Other has to offer their community, and to exhibit true respect, not just tolerance, for his or her Otherness. Indeed, much as so-called "fundamentalists," and "liberals" in the world's religions today seem to share more with their "fundamentalist" and "liberal" counterparts in other religions than with their own co-religionists, law schools' attitudes about celebrating the Otherness of religious minorities seemingly have little to do with whether they are Enlightenment-style, natural law, servant-leader or sectarian law schools. Rather, the embrace of minority religionists seems to have more to do with how faculty and students understand the relationship between their fundamental commitments (including their understanding of God's creative work) and human diversity. My conversations and others' scholarship suggests to me that those law schools claiming to be most inclusivist can be as intolerant and arrogant as any in refusing to embrace the ideological or theological Other. Conversely, sectarians may be among the first to rejoice in and embrace the willingness of religious minorities in their midst to speak of and act on their distinctive freeing truth that is God and His ultimate, true justice.

See also Jeffrey A. Brauch, *It Sounded Great in the Glossy Brochure... So Where Is It? Carrying out the Mission at a Mission Driven School*, 33 U. TOL. L. REV. 1, 2 (2001) (describing Regent's mission "[t]o integrate biblical principles into the substance of the law we teach" and "[t]o train and mentor students to bring a Christian perspective to bear on the way they live and practice law").
religious beliefs,\textsuperscript{30} considering them fellow travelers in the project of returning God to a proper place in public life.

Of course, the real complications come in with the possible variations on these themes, when, for example, a sectarian law professor gets hired at a natural law institution, and so forth. While the limitations of this article do not permit me to speculate on possible issues that these pairings might create, let me close by listing some perhaps obvious, but basic ethical (and practical) requirements for any law school that hopes to integrate religious minorities into its work.

**Confession or informed consent:** As one of my respondents and any number of writers on this subject have suggested,\textsuperscript{31} confessing our positions — or, in secular terms, informed consent — is a minimum. First, it is a matter of fairness — like other workers these days, law faculty make a substantial reliance investment in their choice of law schools, and if they make a wrong choice based on bad information, it may be very difficult for them to find a new position at a place that is compatible with their understanding of their vocation. If there is indeed a religious ethos and basic set of expectations at a religiously affiliated law school, it should be conveyed to prospective faculty members so they can decide whether they are willing to "buy in" according to the role that religious minorities play in that law school.

The unspoken problem with the "informed consent" principle is that law faculties cannot honestly inform prospective members until they themselves actually talk about what being a religiously affiliated law school means to them. This, in turn, requires majority faculty members and others to be self-reflective and even self-critical about the ways in which their religious traditions might unconsciously affect their approach to law school mission and governance. (Giving the question to a committee has not seemed to be a successful approach to ensure that this discussion makes a difference, however). For example, if a servant-leader law school expects its faculty members, of whatever faith tradition, to devote a substantial amount of time to "good works," it should not tell new faculty members that their chief responsibility beyond teaching is to produce scholarship in top-25 law reviews. Even at the level of basics — how an absence from class or events is going to be viewed by colleagues and the powers that be if it is for religious reasons — faculty members as well as students need to be informed about what terrain they are likely to encounter.

**Welcome Mats:** In *Adarand Constructors, Inc. v. Pena,*\textsuperscript{32} Justice Stevens colorfully distinguished between a "welcome mat" that institutions

\textsuperscript{30} See, e.g., Brauch, *supra* note 29, at 2-3 (noting the broad representation of Christians from a wide variety of denominations from Presbyterian and Baptist, to Roman Catholic, Pentecostal and Mennonite on its faculty).

\textsuperscript{31} As just an example, see Eisenberg, *supra* note 5, at 13.

\textsuperscript{32} 515 U.S. 200, 244 (1995) (Stevens, J., dissenting).
can hold out to minority candidates and a "no trespassing sign." If law faculties, after examining themselves, actually do prize religious diversity, it is important for them to think about how they are going to put out the welcome mat for religious minorities. As with affirmative action, visibility is a big part of the picture. A law school that advertises the faith commitments of its faculty members — as reflected in matters such as religious dress and observance, faculty pro bono work and scholarship — is going to tell prospective faculty, students and members of the larger community much more about how likely it is that their faith tradition is welcomed than any documents on diversity lying around in the associate dean's office. A dean's letter that highlights a faculty member's service to his church or religious community as well as to the ABA or AALS, or a school website that advertises a faculty article on religious traditions and law, when it is thoughtfully paired with similar activities in other faith traditions, will do more to put out the welcome mat to religious minorities than any abstract commitment to diversity.

Second, good hosts and hostesses, like good family members, are sensitive to cues, verbal and not, that guests or other family members have unique needs not met by even the most seemingly universal practices and policies. Just as preparing only steak and then inviting known vegetarians to dinner signals that a host does not care very much about his guests, administrators who implement school policies can give the same message that a minority faculty member is not seen and heard. This can be equally true when administrators claim that they cannot make exceptions for religious needs as when the practices are continued simply as a matter of habit — for example, scheduling faculty meetings on late Friday afternoons.

Sensitivity to such concerns depends on institutionalizing awareness of difference. Regular training and explicit written direction to line staff about what kinds of concerns applicants, students, faculty and staff of minority religious persuasions may have is just as essential as discussions at faculty meetings. It is just as critical that the dean's secretary who orders food for receptions or banquets knows that if she must order pork (which might offend some Buddhists), she needs to give orders that it cannot touch the rest of the food on the deli tray (for Muslims) and that she knows she should avoid serving a meat entrée with ice cream (for observant Jews). Most administrative staff members, in my experience, are very thoughtful about other people's needs if only they have an adequate information base to ask. And most religious minorities are only too happy both to instruct others about their religious needs and to understand when the accommodations made for them must be compromises to reflect others' interests and wishes.

Good hosts and caring family members are also willing to sacrifice for others' benefit, something that is sometimes difficult for law faculty members who are used to having significant amounts of control over their
working environment. For example, valuing diversity means that Christians must be prepared to take late Friday afternoon and Saturday classes so that their Jewish colleagues can celebrate Shabbat, and Jews and secular faculty will end up teaching Sundays so the Christians can go to church. Similarly, each of them must be willing to help out Muslims on holy days, just as they do when a colleague has a conference or other professional commitment. Respecting diversity means growing in sensitivity toward others' religious needs. That means considering, for example, whether you will hold conferences on Saturdays because it is the most convenient for non-Jews, or whether you will buy a prayer rug and make time in the Friday schedule for Muslim prayer, to mention only two potential conflicts for minority religious faculty.

The Beginning of Respect is Knowledge: Third — and this seems so obvious and yet so honored in the breach — majority law faculty members need to educate themselves about other religions so they can have at least minimally informed conversations with their colleagues about how their faith traditions influence their work. In selecting what religious work will inform their study, they need to be sensitive to both the appearance of inclusiveness and the real dynamics that result from creating a "clubhouse" atmosphere in the law school with those of similar religious traditions leading the way on study of the tradition's work. They need to acknowledge these realities both to themselves and to their minority colleagues, even if it has to take the form of humorous self-deprecation to be comfortable.

Knowing something of others' traditions places demands on law faculty in two areas where they are least generous: their time and their intellectual vulnerability. Knowing other religious traditions demands that faculty take precious hours away from their own academic interests to focus on traditions that might not have otherwise sparked their intellectual curiosity. The demand to know others' traditions also threatens faculty members' need for mastery over what they know and assurance that they are speaking authoritatively, for few religious majority faculty members will ever be able to learn enough to speak about minority religious traditions without humility and error. But this has to be done.

To make minority religious traditions part of the fabric of a religiously affiliated institution, these conversations need to go beyond the bounds of the faculty. Student and alumni ignorance and prejudice about minority religious faiths may be almost as likely to undermine a school's inclusive efforts as faculty ignorance. For example, alumni may bring their influence to bear when a dean candidate who does not share the faith tradition of the school is being considered — that influence may be as helpful as asking the faculty and staff to consider how the dean will help further the mission of

33. Indeed, I owe a debt of gratitude to my colleague Mary Jane Morrison for taking my Saturday class so I could attend this conference.
the school, and as insidious as unreflective prejudices about persons from certain religious backgrounds.

I feel that I am veering into recitation of the obvious here. But, as obvious as it is, I see very little attention to these matters occurring in religiously affiliated law schools, including my own, no matter which model of religious affiliation they embrace. Yet, the matter of educating ourselves about religious traditions and reflecting on what it means to be a religiously affiliated law school need not be an additional "task force" burden imposed on faculty members. It can begin with actions as simple as:

- yearly attention to the question of what the school's and faculty's religious traditions can contribute to an understanding of the law school mission at scheduled faculty retreats or faculty meetings. Religious ideas can serve not just as the main topic for conversation, but as a lens through which faculty can view any particular issue they face, whether it is program proposals or how to teach students to be ethical leaders. However, such regular reflection will require that the faculty give the dean, and/or one or more members of the faculty, the "permission" to be the voice that regularly raises these questions, just as every faculty has a colleague who can be counted on to bring up diversity, ethics, or academic freedom concerns with regard to other challenges the school faces;

- dissemination to all faculty of colleagues' scholarly work that is tied to their faith traditions or reflects on the mission of religiously affiliated law schools, so that individual faculty members have some "meaty" ideas around which to reflect on their own vocational journeys. The same faculty forums that consider teaching methods and works-in-progress could consider these issues as well, perhaps most effectively if the faculty had scholarly readings to attend to the questions;

- some administrative attention to the question of religiously informed mission when all-school speakers are chosen, and, when it is possible, diverting speakers who come to campus to talk with faculty groups about how their own religious experience has shaped their work;

- providing opportunities for faculty and alums, in small faith circles or in email discussion groups or CLE events, to give the law school feedback about the extent to which these issues were visible to them throughout their law school career, and to continue the conversation about what their faith tradition means to them in their work. Majority faculty members can usefully gain from these conversations, not only for general issues of mission but also to understand their minority colleagues that much better; and

- expanding opportunities in the regular curriculum where faculty members discuss religious traditions, "regular" law and professional vocation with their students. My colleague Howard Vogel's professional responsibility seminars are exemplary in this respect, but there is no reason that students should not be encouraged to bring theological insights into
Criminal Law class or even Evidence. Even those faculty members who do not feel comfortable professing their own faith because of their influence on students can bring richness to the classroom by presenting views of Jews, Muslims, Christians and others on issues from abortion to lending money, always subject to their willingness to be open to correction.

III. PILGRIMAGE AND EXODUS: DECONSTRUCTING MY OWN WORK

As my little survey suggests, much of an institution's character is not dependent on Big Ideas about religious affiliation, but upon the character of real law faculty members — how they live out habits of respect and hospitality in the daily ways that influence how faculty members feel "at home" in our own institutions. I am too Lutheran not to acknowledge that law school faculties are no different from any other sinners in the ways in which they misuse or neglect to properly use their power to create inclusive environments, just as they misuse and neglect their office in dealings with students and staff by creating hierarchies of worth, neglecting others in their hour of need, and denying their complicity in institutional evil. Indeed, religious law faculty members, even at religious law schools, are no less sinners insofar as they deny their responsibility for the creation — deny the responsibility for achieving justice even when students, alumni, guest speakers and others bring those stories of injustice to their very doors. I can name these sins as one who participates in them.

Even so, I might suggest that looking at the question of integration theologically provides a more hopeful prospect for surmounting the sinful limitations that we bring to the project of integration than any committee or any lists of projects as I have outlined might produce. The theological images of pilgrimage and exodus provide resonant and deconstructing means for our reflection on the problem of "integrating" minority religious faculty at majority institutions.

Imagining our lifelong journey as members of a law faculty on pilgrimage, to be sure, takes some imagination, though not as much as it used to. Twenty years ago, one prominent paradigm for promising law teachers was the "corporate" career: it was assumed that the most ambitious would begin their teaching careers at lesser-known law schools, rise to prominence via major research university law schools and thence to Ivy League or other elite institutions. Due to increasing supply and decreasing demand, this image, if it ever really existed, has disappeared for all but a few of the best and brightest, much like the similar life trajectory of other corporate climbers. Indeed, increasingly, mobile legal academics are more like traditional pilgrims — wandering around from one school to the next on visiting assignments, some of them waiting for a school to see their indispensability and to grant them a tenure-eligible slot and a home. Tenure-track faculty members, on the other hand, make their professional journeys with the same colleagues for thirty or more years.
If then increasingly law faculties are companies of lifelong fellow travelers not along the Route 66 of academic fame and fortune, but along a perilous highway of U.S. News rankings and admissions downturns, we may wonder why the metaphor of pilgrimage has so easily escaped our notice, especially at religiously affiliated law schools. Imagining our journey as majority and minority religious law faculty members through dangerous straits is not so difficult in an age where the future of our institutions is hardly assured, much less our own tenure in them.

The metaphor of pilgrimage is not just a universal one, but also one that has a distinctive American resonance. In terms of world religions, the pilgrimage is a ritual important to the life of virtually all religious traditions, from Christianity and Islam to Hinduism and Judaism. In some traditions, the pilgrimage is a central ritual; in others, its prominence has depended very much on status and wealth in some centuries, and on ethnicity and regional understandings of piety in others. In Islam, of course, the hajj is a mandatory rite for every Muslim who is capable of making it, at least once in his lifetime; and the Prophet himself instituted the basic outlines of the ritual that modern-day Muslims undergo. But the pilgrimage is not exclusive to Western traditions: American Indians continue to conduct religious ceremonies, often secret extensive experiential trials, in those sacred mountains or other sites where their people are thought to have originated. Australian aborigines memorialize the heroic feats of the heads of their clans by visits to sacred sites where these events occurred; and in Afghanistan, migrating nomads seasonally halt to pray at the tombs of pious men whose good works have become legend.

In America, the distinctively English Protestant understanding of pilgrimage was virtually a founding metaphor in the New England colonies. Founding religious leaders were eager to compare their journeys from the Old World to Abraham's wandering from "a centre of civilisation

34. See Luigi Tomasi, *Homo Viator: From Pilgrimage to Religious Tourism Via the Journey*, in FROM MEDIEVAL PILGRIMAGE TO RELIGIOUS TOURISM: THE SOCIAL AND CULTURAL ECONOMICS OF PIETY 4 (William H. Swatos, Jr. & Luigi Tomasi eds., 2002) [hereinafter FROM MEDIEVAL PILGRIMAGE TO RELIGIOUS TOURISM]. Tomasi notes that centers of pilgrimages have been known since antiquity, from Delphi in Greece, to ancient Egypt. Sites that attract multiple religious groups range from Jerusalem, to St. Francis Xavier's tomb in Goa and Adam's Peak in Sri Lanka, which both attract Christian, Hindu and Muslim pilgrims. Even the powerful Romans had a tradition of pilgrimage to thank the Gods. Id. at 3-4, 11-12.

35. THOMAS W. LIPPMAN, UNDERSTANDING ISLAM: AN INTRODUCTION TO THE MUSLIM WORLD 22 (2d ed. 1995).

36. See, e.g. Howard J. Vogel, *The Clash of Stories at Chimney Rock: A Narrative Approach to Cultural Conflict over Native American Sacred Sites on Public Land*, 41 SANTA CLARA L. REV. 757, 780-81 (2001) (describing rituals at Chimney Rock, the place of World Renewal "whose purpose is the stabilization and preservation of the earth from catastrophe, and of mankind from disease"). Id. at 780.

37. Tomasi, supra note 34, at 7.
and from his family... to live as a nomadic tent-dweller in 'the foreign and hostile land of Canaan,'" and the Exodus was similarly a seminal metaphor for the New England migration.\(^{38}\) To come to America was to make the long and perilous journey in the name of the mysterious will of God, "the race for the prize of the crown of salvation."\(^{39}\) "To make such a reckless decision and to insist on undertaking so foolhardy a journey argues an audacious and intrepid character," the Puritans suggested.\(^{40}\) The risk of the adventure was not only physical, but spiritual — in the view of these spiritual forefathers, it would be difficult for the New Americans to get through the narrow way, to negotiate the rocks of spiritual temptation on either side.\(^{41}\)

We might focus on three key idealistic themes of the pilgrimage that resonate in the self-understanding of a religiously affiliated law faculty: themes of oneness and community, of self-abnegation and of transformation. One of the great observers of pilgrimages around the world, John Turner, suggests that pilgrimages "homogenize" status and by severing ties to one's home position, "level[] status differences and role structures" so "[a]ttachments form among the pilgrims themselves and the communities around them."\(^{42}\) In Islam, the focus on community is perhaps most palpable, the message of the hajj is an experience of oneness with fellow Muslims, a sense of the whole umma coming together in worship of Allah and in remembrance of their history as a people of God.\(^{43}\) Moreover, the ritual of the hajj, which clothes everyone in the same white garments and takes everyone through the same symbolic re-enactment of the Prophet's journey, is meant to demonstrate the equality of pilgrims in their faith.\(^{44}\) So too the traditional Christian pilgrimage was meant to demonstrate the oneness of the Body of Christ — the wealthy as much as the poor took their turn genuflecting at the sacred sites that made up the pilgrimage.\(^{45}\) And the Exodus is, as well, a story of the transformation of individual Jewish slaves, who live isolated, unseen lives in wealthy Egyptian households into a free and equal people. In the ancient Passover


\(^{39}\) Id. at 255.

\(^{40}\) Id. at 252.

\(^{41}\) Id. at 253-54.

\(^{42}\) Lutz Kaelber, The Sociology of Medieval Pilgrimage: Contested Views and Shifting Boundaries, in FROM MEDIEVAL PILGRIMAGE TO RELIGIOUS TOURISM, supra note 34, at 52.

\(^{43}\) See SUZANNE HANEEF, WHAT EVERYONE SHOULD KNOW ABOUT ISLAM AND MUSLIMS 64-65 (1996); LIPPMAN, supra note 35, at 22-23. The hajj also represents the unity of the person, whose body, mind, soul, time, status, and even individuality is subsumed into worship. HANEEF, supra, at 62.

\(^{44}\) See HANEEF, supra note 43, at 63.

\(^{45}\) Id. at 3.
pilgrimage, which drew the entire Jewish nation to crowd into Jerusalem, there was "an unparalleled feeling of belonging and brotherhood that encompassed all the participants ... [and] Jerusalem veritably rang out with song and the holy, intense celebration of life lived in religious freedom and Divine purpose." 46

Second, the traditional pilgrimage in most religious faiths is a time not only for expression of the unity and equality of the faithful, but also a time for renunciation and personal self-abnegation. Pilgrims are instructed, in the devotional books of many religions, to prepare for their journeys by giving up those creature comforts or material possessions which are important to them, on which their daily lives hang. 47 The preparations made before the journey signaled that pilgrims were undergoing a "civil death." 48 Pilgrims would intensively prepare spiritually for the arduous journey by foot across hundreds or thousands of miles, steeling themselves for dangers and deprivations, an undertaking today equaled only by those few we hail as extreme adventurers. 49


47. Tomasi, supra note 34, at 5; Keeble, supra note 38, at 247-48, 251-52.

48. Tomasi, supra note 34, at 6. Tomasi notes that medieval law provided for a pilgrim to be declared dead when a year and a day had passed without word of him, in part to recognize how dangerous pilgrimages actually were, because of violence and illness. Id.

49. See Kaelber, supra note 42, at 58. Kaelber notes that preparation for departure could begin months before a pilgrimage, involving rituals of contrition and confession, making a will, giving to charity, and donning distinctive garb. To understand how amazing these rituals of pilgrimage were for medieval Christians — and are in at least some faith traditions such as Hinduism or Buddhism today — we need to stretch our minds to imagine something that is quite outside the experience of the modern West. In the year 2000, more than two million Muslims converged in ninety-nine degree heat, on Mount Arafat outside Mecca to pray and read the Qur'an; until modern times, the journey to Mecca would have had to be made by foot, or animal rides. See Bassem Mroue, Muslim Pilgrims Pray for Forgiveness at Mount Ararat, THE DETROIT NEWS, March 15, 2000, available at http://www.detnews.com/2000/religion/0003/15/3160011.htm (last visited Nov. 21, 2003); SACHIKO MURATA & WILLIAM C. CHITTICK, THE VISION OF ISLAM 19 (1994). But the magnitude of such pilgrimages is not simply a function of convenient modern travel and the size of the global population. Some academics believe that 500 years before Christ, as many as one million Jewish pilgrims would flock to Jerusalem three times a year to observe the Pesach, Shavuos, and the feast of Tabernacles, living in vast tent cities. In medieval times, Jews would walk from Germany and Poland to be part of one of these "three-foot" festivals, hence the name "Drei-fuss," Dreyfus, for those who undertook the journey. See Campbell Simon, Israel, a Tourist Spot? Heck, Dwellers in the Holy Land Practically Invited the Industry, at http://www.jewishworldreview.com/0598/touristsI.html (last visited Nov. 21, 2003). Traffic of Christian pilgrims to the East was so heavy that the Venetian administration had to intervene in 1392 to ensure that the ships used to transport European Christians to the Holy Land were seaworthy. Tomasi, supra note 34, at 6. We moderns
Third, the chief aim of the traditional pilgrimage, unlike modern Western religious tourism, was not to take in and experience a holy site, but rather to transform one's inward parts, to receive absolution as well as enlightenment. Pilgrims in at least some traditions expected a liminal experience — they were to escape the confines of their old lives either for a transitory transcendent experience, or a permanently life-changing journey. Pilgrims gave up their property because there was no need for it in the new and altered life they planned to live upon their return. Indeed, hardened criminals as well as ordinary penitents often joined medieval pilgrimages, because they represented perhaps the only path for these criminals to become "new persons," to atone for what they had done by putting off their old selves and taking on new lives that would allow them to be accepted back into the community.

This transformation was not only outward, but also inward — as the preparatory rituals suggested. Thus, pilgrimage authors speak of an "external pilgrimage" that moves focused persons to a revered place of contemplation, as well as an "interior pilgrimage," a metaphor of the transformation of the individual to a "particular condition of holiness or healing," often from a "spiritless or degrading position to one held in relatively high esteem."

These three experiences — the experience of the unity and equality of the collective, the sense of self-sacrifice and self-abnegation, and the notion that the journey is not only an exterior journey of a professional life but an interior transformation — all carry some resonance for an imagination of a law faculty attempting to live faithful to a religious mission. First, even in secular law school communities, despite our perennial and stubborn demands for professional independence, the themes of community and equality that we sound in our loftier law school publications and model in our governance sound at least in small part on these pilgrimage themes. They repeat that we are all equal professional brothers and sisters on this journey into the unknown, despite differences in rank and renown. The equality of the faculty, from the dean down to the newest member, is sometimes a value more honored in the breach; but it offers a compelling demand on the way in which we imagine our work together.

would have to imagine hundreds of thousands of people following Ann Bancroft's thousand-mile dogsled journey across the ice caps of the South Pole or joining Thor Heyerdahl's 4,300-mile expedition from Peru to the South Pacific.

50. See Kaelber, supra note 42, at 52.

51. Tomasi, supra note 34, at 8 (citing S. TENDERINI, OSPITALIA SUI PASSI ALPINI: VIAGGIO ATTRAVERSO LE ALPI, DA ANNIBALE ALL CONTRORIFORMA 97-98 (2000) (noting that the practice of sending criminals on pilgrimage had to be discontinued in the 14th century to prevent wayfarers from being overrun with criminals disguised as penitents).

52. See Michael York, Contemporary Pagan Pilgrimages, in FROM MEDIEVAL PILGRIMAGE TO RELIGIOUS TOURISM: THE SOCIAL AND CULTURAL ECONOMICS OF PIETY, supra note 34, at 137-38.
Second, our professional journeys as lawyers and as law faculty members resemble in trivial ways as well as more profoundly the tone of self-abnegation and contrition that medieval pilgrims might display on their journey to a favored shrine. On the trivial end, some of us are eager to point out, to any who will hear, how much money we might have made in private practice, and how we have sacrificed in order to serve the public and our own students. Especially for those coming from lucrative private practices, the evidence that law faculty members are foregoing well-earned worldly goods for some higher journey toward the truth can be quite immediate. Even the way in which we perceive ourselves, as scholars whose responsibility is to exercise frequent bouts of self-criticism, both about our teaching and about our scholarly ideas, resonates with a penitential model in our arduous struggle toward a just society.

In religiously affiliated law schools, moreover, the emphasis on quality teaching and mentoring of our students and on community service carries with it a sort of narrative of self-abnegation which is distinctively different from the public secular narrative about legal education. In the secular narrative, the successful law faculty member is one who, while he or she may also be a good teacher, is primarily focused on scholarship that will profoundly influence the very theory of law for decades to come, and also decisively affect its immediate shape in court decisions, legislative efforts, and even administrative reforms. In many religiously affiliated schools' narratives, however, the successful faculty member is the one who strives earnestly to be an accessible and challenging teacher, whose office door is always open. In these law schools, the good law teacher might spend much of his or her free time in committee work sustaining the life of the law school or university, or working for unsung and more pedestrian pro bono causes unrecognized in the elite academy, such as taking legal aid pro bono cases or helping a state bar or legislature draft a policy. Still, this work carries a mixed message: like the saintly pilgrim, the admiration expressed for these saintly teachers by those who have taken the more traditional secular path might well be accompanied with pity or even condescension, with the subtext that a teaching/service faculty member has given his professional life away instead of living it to the fullest.

Third, religiously affiliated law schools take more seriously, by talk about responsibilities to model an ethical life to students, that their law faculty members are on a journey that changes character, not simply one that juggles ideas. Most of the time, of course, we talk about how our law school experience is designed to change students' characters, to help them grow into conscientious and ethical lawyers who are different from "secular" lawyers in their adherence to higher ethical standards and willingness to serve the public good. Yet, among many faculty at religiously affiliated institutions, there is a hope that their experience of the distinctive community gathered around a religious tradition will, if it does not transform their own character over a lifetime of professional teaching
and service, at least strengthen those aspects of their character that they attribute to the difference faith makes in their lives.

My colleague Howard Vogel writes about the task of teaching our students how to live out of vocation using a text of wandering, the Exodus, as his framework. He would have us imagine that lawyers are wandering in the wilderness of our professional lives, a place seemingly barren of the hope of personal or ultimate meaning. Absent some way to find or make meaning, the practice of law can become a desert that poses the same temptations as the children of Israel or the children of pilgrimage encounter. There is the temptation to curse God for what we expect and assume He should provide us, including a sense of the meaning of our professional lives that we have lost along the way.\(^{53}\) There is the temptation to bow down to the golden calf (not much analogical imagination needed here!).\(^{54}\) There is even the temptation to reject the reality of the barrenness in which we find ourselves sometimes, like the children of Israel trying to find an alternative deity that will make them safe in their hostile and dangerous land of exile.\(^{55}\)

Law faculty members, even at religiously affiliated schools, may not live out the dramatic existence of the Exodus, but in the comfort and freedom of our lives, we are no less subject to these temptations. For a mid-life law faculty member, it is easy to plod along from day to day, rejecting the opportunity to search for meaning in our work or to ask whether we are demanding that our students search for meaning in theirs. It is easy to let the law become an arid mental exercise instead of a difficult journey toward justice. While we may not have as many material "golden calves" to tempt us as our colleagues in practice, law faculty members have their own temptations for concrete personal security — the desire for status in our profession, for the well-placed article, for the praise of a brilliant panel presentation, for offers from prestigious schools or consulting contracts.

The temptation to curse God or life in general or maybe even our own central administration for not providing those creature comforts and status that our law school classmates or colleagues have earned that we thought would be ours by now is very real. And certainly, the temptation and ability to put our faith in scholarship and teaching, and ignore the real troubles of the world, even those pertinent to our own vocation — the violations of human rights and civil rights law that go on even in our local communities while we pontificate from the academy on old cases — is as

\(^{53}\) See Exodus 16:2-3 (RSV) (describing the murmurings of the Israelites after six weeks of wandering in the wilderness).

\(^{54}\) See Exodus 32:1-7 (RSV) (Aaron fashions a golden calf for the Israelites to worship to appease the Israelites when Moses has not returned from Mount Sinai).

strong as the Israelites' willingness to deny the trouble in which they have found themselves. Like them, we too want to go back to the safe but imprisoning walls of our own past or our books instead of bravely confronting the terror awaiting us in a flood of current injustices unraveling work that many of us have done as lawyers or law professors. 56

The language of pilgrimage might teach us something here, though not quite enough. First, it teaches by its pretense. Contemporary sociologists tell us that underneath the surface of the pilgrimage myth, underneath its egalitarian, self-abnegating, and transformative story, we will find that pilgrimage is actually a contested activity, constructed and experienced differently by different social classes of pilgrims. 57 Whereas the myth of pilgrimage proposes that all are equal and all are one in the pilgrimage, the reality is that there are multiple experiences and ethics of pilgrimage, many at odds with the very piety of the pilgrimage. 58 For example, while what Kaelber calls the medieval Christian "religious virtuoso" was renouncing the world and transcending it through asceticism and good works, ordinary people on pilgrimage lived out the "ethic of the average" by understanding pilgrimage in a much more practical way — as a means of obtaining favors from and expressing their devotion to the saints through pilgrimages in their own regions. 59 Similarly, the myth of penance and self-abnegation is called into question by the actual accounts of pilgrimage sites, many of them scenes of material indulgence and celebration rather than journeys of self-abnegation and renunciation. 60

Both medieval and recent accounts of pilgrimages have emphasized the real goings-on beneath the surface that disrupt the myth of pilgrimage. In opposition to the pilgrimage ideal of oneness and equality, pilgrimage observers have emphasized race, class and nationality divisions that separate and sometimes cause conflict among pilgrims in the experience. 61

In opposition to the spirit of asceticism, often carnival-like distractions are part of the pilgrimage scene — one account of the hajj, for example, mentions not only the numerous bazaars and places of entertainment, but the stands selling the forbidden that linger around the campgrounds in Mecca. 62 In opposition to the spirit of an inward renunciation and the

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56. See, e.g., Exodus 15: 12 (NIV) (where the Israelites say to Moses, "Is not this what we said to you in Egypt, 'Let us alone and let us serve the Egyptians' For it would have been better for us to serve the Egyptians than to die in the wilderness.").
57. See Kaelber, supra note 42, at 52.
58. Id. at 54-57.
59. Id. at 55-57.
60. Id. at 59-60.
shedding of the old self, these accounts also suggest that modern pilgrimages have become, rather than experiences to leave the self behind, moments meant to enrich the sense of self and individuality, to identify one's individual place in the world. As Blasi suggests, medieval penitents needed to abandon the social situation in which a non-normative identity had been established and return at a future date as a changed person. The penitential pilgrimage itself would be an extended circumstance of liminality in which the individual would undergo a transformation of self. Contemporary religious tourism presupposes a private religiosity. The feeling for a greater cosmos leads the individual into a serial schedule of experiences that individualize the person's place in the world.

The image of pilgrimage easily lends itself to this sort of dual, seemingly hypocritical journey of any faculty toward its institution's future. The values of equality and oneness within our faculties are often belied by the bitter divisions and pecking orders beneath the surface. Formal rank and material rewards as well as informal recognitions for highly favored activity such as scholarly productivity create a drama of hierarchy not unlike early English kings, who traveled from pilgrims' shrines to other events with itinerant courts evincing the trappings of power while wearing the garb of peasants. The appearance of self-abnegation indeed covers over professional lives that are often self-focused and self-indulgent. It is sometimes too much to consider changing how we teach or what we teach or how much time we spend with students or what kind of scholarship or service our community really needs from us, because we have found comfortable niches of expertise in which we can profess to know most everything and risk almost nothing. We are no longer challenged to cast off the old self, but simply to multiply experiences (good texts, good teaching moments, good conferences) that make our lives richer.

Moreover, the notion that we are on any inner journey of sanctification with our students, or as between our selves, is belied by the sense of meaninglessness we law academics sometimes feel about our own professional lives. We want to forget how quotidian was the sacrifice that the Holy Land pilgrim expected to transform his inner life, how monotonous that five hundredth mile on the journey must have been, that...
second month of hunger and exhaustion on the way. Rather than considering our daily work as an exercise in putting off our old selves, and pondering what sort of devotion we may be living out as we lecture in a class or go to that everlasting committee meeting, we may fret about whether we are providing enough separate religious experiences or rituals to make our common lives spiritual and meaningful, whether the external trappings of faith are sufficiently, or too much, represented in the academy.

These are, to my mind, the problematical absorptions of pilgrimage reflection, despite its concededly salutary aspects. In focusing on self-abnegation, we are still focusing upon the self. In striving for our own sanctification, we are still striving for personal fulfillment.

The Exodus story, a story of leave-taking as much as it is going toward a sacred place of pilgrimage, may present a more powerful image to the faithful law faculty member or the faithful law student. In the story, the main actor is not the self; the main problem is not how to sanctify oneself through self-abnegation and penance, or how to achieve a liminal experience. In Exodus, the main character is Yahweh; it is Yahweh who does and says, and the people of Israel serve only as a witness to what God speaks and does in the world. The message of the Exodus narrative is that God has "acted in decisive and transformative ways" in the world, and it is by God's action and not our own piety or penance that the world is changed.

The Exodus story is the story of covenant, to be sure, but it is a covenantal story in which God promises to us, in which God swears not only to Abraham but also to the people wandering in the wilderness. God speaks God's commitment to the people and obliges God's self to faithfulness. Moreover, God blesses — God's words are a "bestowal of life-force, related to generativity, birth, and reproduction, which the powerful giver entrusts to the recipient." Second, God does not only promise but God delivers, resolving to "intervene decisively against every oppressive, alienating circumstance and force that precludes a life of well-being." The Exodus is the story of a people being "snatched' out of the danger of... slavery," of the defeat of the forces of despair that want to deny Israel's well-being. It is the story of people being bought by a great act of generosity. That is, God does not simply promise deliverance, but Yahweh enacts deliverance. Not only that,

67. Id. at 123.
68. Id. at 165.
69. Id. at 174.
70. Id. at 174-75, 179.
71. Id. at 175.
but Yahweh enacts exoduses from oppression for everyone, not just an exclusive people.\textsuperscript{72}

Finally, God commands, as a "sovereign who has a legitimate right to command, who expects rightly to be obeyed, and who has the power . . . to enforce the command," "[y]our life is under my sovereignty."\textsuperscript{73} It is a command that demands that we live lives of Islam, of surrender to the one God. The substance of this command is a transformative "social practice in which the maintenance, dignity, security and well-being of every member of the community are guarded in concrete ways, . . . [and] the community has active responsibility for the well-being of each of its members."\textsuperscript{74} Brueggeman argues that the trajectory of this demand comes into tension with another, that God demands that people live their lives "in an orderly way," demands purity and "disciplines whereby the life-threatening disorder may be overcome."\textsuperscript{75}

This is the subversive message that overcomes the lawyer-pilgrim's preoccupation with his own journey, with her own self-abnegation and anxiety in the wilderness, whether it is the wilderness of the wider secular profession that seeks to overwhelm or diminish her or the wilderness of the daily routine that threatens to sap her life away.

IV. WHERE THE EXODUS LEADS

For Christian (and perhaps also predominantly Jewish and Muslim) law schools, the tension between pilgrimage and Exodus creates a small but critical epiphany: we have been asking the wrong question when we think about how a religiously affiliated institution can integrate religious minorities into its faculty. The question presumes that the institution, and those who affiliate with its tradition, are the hosts, and religious minorities are the guests.\textsuperscript{76} The Exodus story reminds us that we are all recipients of the promise, we are all the ones redeemed out of oppression of the daily, we are all the ones commanded to a life of transformative justice and holy orderliness. To the extent that we feel stranded in the wilderness, our hope is not in our own ability to change our circumstances, but our hope is in Yahweh's ability to deliver, to keep His promises to us. The deepest experience of the hajj is one of being a guest: as one pious Muslim explained,

"When you come here" [to Mecca on hajj] . . ., "you are calling on God, you are entering His House. The Talbiya is your application for admittance to His House, a request for an

\textsuperscript{72} BRUEGGEMANN, supra note 66, at 178.
\textsuperscript{73} Id. at 182.
\textsuperscript{74} Id. at 189.
\textsuperscript{75} Id. at 190.
\textsuperscript{76} The core of these concluding insights I have learned from theologian Patrick Keifert.
appointment with Him. And that you were able to make the Pilgrimage at all is a sign of God's willingness to accept you.\textsuperscript{77}

If we accept that the holiness of our institutions is not measured by how many religious rituals or expressions we program into the curriculum or the life of the law school, but how often we are open to hearing the promise of God, whether from the mouths of students successfully making a powerful argument or from the kindness of one faculty member toward another, we are freed from preoccupation with the seemingly overwhelming burdens of the self or the institution. For the freedom and success of our institutions will not be dependent on how well we do in the U.S. News or how many choices we make available to students and faculty, but on how we acknowledge the gift of our being. In Christian terms, this requires a double move: first, we must confess our own denial of God as an agent breathing through our law schools; and second, we must acknowledge that we are not our own saviors nor the saviors of our institutions, but we are ourselves redeemed in every moment of our sinfulness. The justice of our institutions is thus not dependent on how successful we ourselves are in coming up with fair faculty policies or good environments for our students. It rests on how willing we are to heed the commands of God to do justice, seek mercy and walk humbly\textsuperscript{78} in the place where we find ourselves to be.

\textsuperscript{77} Michael E. Jansen, \textit{An American Woman on Hajj, in Everyday Life in the Muslim Middle East} 222, 229 (Donna Lee Bowen & Evelyn A. Early eds., 1993).

\textsuperscript{78} \textit{Micah} 6:8 (RSV).