

## Marianist Law Schools: Demonstrating the Courage to Be Catholic

David A. Grenardo

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## ARTICLES

### **MARIANIST LAW SCHOOLS: DEMONSTRATING THE COURAGE TO BE CATHOLIC**

DAVID A. GRENARDO<sup>†</sup>

“By developing a Marianist educational culture through implementing the Characteristics of Marianist Education, we hope students leaving our educational [institutions] will be whole persons, steeped in faith and capable of community and service.”<sup>1</sup>

—Stephen Glodek, S.M.

#### INTRODUCTION

Only two Marianist law schools exist in the United States. Both University of Dayton School of Law (UDSL) and St. Mary’s University School of Law (St. Mary’s Law School) proudly embrace their Catholic and Marianist traditions in promoting their schools. For instance, St. Mary’s Law School, the only

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<sup>†</sup> Associate Director of the Holloran Center for Ethical Leadership in the Professions, University of St. Thomas School of Law, Professor of Law; Rice University, B.A., Duke University School of Law, J.D. I previously taught at St. Mary’s University School of Law for nine years (2013-2022) as a Professor of Law, Associate Professor, and Assistant Professor. I would like to thank the faculty members of the University of Dayton School of Law who attended the author’s presentation of this article for their hospitality and feedback. I would also like to thank the individuals from the National Marianist Archives, University of Dayton Archives, and Blume Library (St. Mary’s University) Archives for their efforts in obtaining materials for this article. This article includes excerpts from interviews I conducted of stalwarts of the Marianist community, and I remain grateful for the time and insight shared by those individuals. I must also thank Sister Grace Walle, F.M.I., for her guidance and support on this article and for her many works as the law campus ministry chaplain at St. Mary’s University School of Law. This Article would not have been possible without the work of my former research assistants, Mikayla Longoria, Khadija Aboueisha, David Sames, Rockland Gleason, Mario Yague, Kassady Thomas, Sameer Bhuchar, Taylor Newman, Caitlin Ferrell, Arieana Martinez, Katelyn Mead, and Dave Gravely, St. Mary’s University School of Law J.D. Candidates. The views expressed in this article are mine, and any mistakes, errors, or omissions are solely attributable to me.

<sup>1</sup> STEPHEN GLODEK, MARIANIST PRAXIS: BUILDING MARIANIST EDUCATIONAL CULTURE 11 (2012). S.M. stands for Society of Mary, and its members are known as the Marianists.

Catholic law school in Texas, openly advertises its commitment to welcome and serve “students of all faiths and uphold *the Marianist tradition* of hospitality, openness and the family spirit.”<sup>2</sup> Similarly, UDSL’s online published materials state unequivocally: “In the Catholic, *Marianist* spirit, many of our students participate in pro bono activities and community service efforts.”<sup>3</sup> Both law schools advance a Marianist mission that seeks to produce law graduates who make the world more just and serve the common good.<sup>4</sup>

The origin of the Marianists and the lives of the Marianist founders provide valuable lessons to the law school communities and shape the characteristics that define a Marianist legal education. The Marianist tradition began a little over 200 years ago by Father William Joseph Chaminade, Sister Marie Therese de Lamourous, and Mother Adele de Batz de Re Trenquellion. The Marianist heritage began shortly after and was heavily influenced by the bloody and violent French Revolution. From the beginning of the Marianist tradition, it accepted people from all classes and backgrounds, and it sought to serve the common good, particularly the poor and needy. A Marianist education encourages dialogue between students of different faith traditions, which allows students “to build on one another’s strengths and to learn and be enriched by [those] differences.”<sup>5</sup> Although some religiously-affiliated law schools may worry about alienating or offending students who do not practice the law school’s religion or adhere to the school’s religious beliefs,<sup>6</sup> Marianist education cherishes students from different faith

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<sup>2</sup> *About St. Mary’s Law*, ST. MARY’S UNIV. SCH. OF L., <https://law.stmarytx.edu/academics/about/> [<https://perma.cc/3S2T-8NE9>] (last visited June 29, 2022); see Barbara Hanson Nellermeoe, *50 Years of Excellence: A History of the St. Mary’s Law Journal*, 50 ST. MARY’S L.J. 1, 53 (2019) (“People of all faiths are welcomed at St. Mary’s.”).

<sup>3</sup> *Student Life at Dayton Law*, UNIV. OF DAYTON (emphasis added), [https://udayton.edu/law/about/student\\_life.php](https://udayton.edu/law/about/student_life.php) [<https://perma.cc/VH2N-STQP>] (last visited June 29, 2022).

<sup>4</sup> *Id.*; *About St. Mary’s Law*, *supra* note 2.

<sup>5</sup> DAVID J. FLEMING, S.M., A NEW FULCRUM: MARIANIST HORIZONS TODAY 161 (2014).

<sup>6</sup> See Randy Lee, *Catholic Legal Education at the Edge of a New Millennium: Do We Still Have the Spirit to Send Forth Saints?*, 31 GONZ. L. REV. 565, 586–88 (1996); Thomas L. Shaffer, *Erastian and Sectarian Arguments in Religiously Affiliated American Law Schools*, 45 STAN. L. REV. 1859, 1867 (1993); Spencer K. Nussbaum, *No Man Can Serve Two Masters: A Student Perspective on Jesuit Legal Education*, 43 GONZ. L. REV. 631, 637 (2008) (stating that some Catholic law schools ignore their Christian identity to gain secular approval).

traditions and desires to enrich each other through respectful dialogue.<sup>7</sup> At the same time, Marianist law schools proudly share their own traditions with their law students in a manner that includes rather than offends.<sup>8</sup>

As Marianist education developed, Marianists eventually began a process to identify and synthesize the characteristics of a Marianist education. They later crystallized the five characteristics of a Marianist university, which include the following: (1) “educate for formation in faith”; (2) “provide an integral, quality education”; (3) “educate in the family spirit”; (4) “educate for service, justice, peace and integrity of creation”; and (5) “educate for adaption and change.”<sup>9</sup> Both Marianist law schools embody and exemplify these five characteristics.<sup>10</sup> For instance, St. Mary’s Law School’s commitment to its Marianist traditions includes employing a full-time Marianist Sister, Sister Grace Walle, F.M.I., to serve as the head of law campus ministry and the chaplain for the law school.<sup>11</sup> St. Mary’s Law School’s law campus ministry provides, for example, free coffee and peanut butter and jelly sandwiches to students in the law faculty building every day throughout the school year.<sup>12</sup> The law campus ministry also organizes a lunch and prayer during the 1L orientation.<sup>13</sup> Overall, the law campus ministry works to serve all students from diverse backgrounds and different faith traditions.<sup>14</sup>

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<sup>7</sup> See FLEMING, *supra* note 5, at 161.

<sup>8</sup> See, e.g., St. Mary’s University School of Law Ad Hoc Committee on the Characteristics of a Marianist Law School, *Characteristics of a Marianist Law School: Examples from The St. Mary’s University School of Law* (Dec. 19, 2016) (on file with author) [hereinafter *Characteristics of a Marianist Law School*]; Steven M. Barkan, *Jesuit Legal Education: Focusing the Vision*, 74 MARQ. L. REV. 99, 110 (1990) (stating that religion should be used to unite law school communities by focusing on common goals and values shared by its members who are of different faith beliefs).

<sup>9</sup> ASS’N OF MARIANIST UNIVS. ET AL., CHARACTERISTICS OF MARIANIST UNIVERSITIES 5 (2019) [hereinafter CHARACTERISTICS OF MARIANIST UNIVERSITIES].

<sup>10</sup> *Id.* at 29–30.

<sup>11</sup> *Spiritual Life*, ST. MARY’S UNIV. SCH. OF L., <https://law.stmarytx.edu/student-services/spiritual-life/> [<https://perma.cc/7ZDX-FDD4>] (last visited June 29, 2022). The initials F.M.I. used for the Marianist Sisters’ designation come from the French phrase *Filles de Marie Immaculée*, which means Daughters of Mary Immaculate. *Who We Are*, MARIANISTS, <https://www.marianist.com/FMI-identity> [<https://perma.cc/J68Z-5U8S>] (last visited June 29, 2022).

<sup>12</sup> *Spiritual Life*, *supra* note 11.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

UDSL demonstrates a tremendous commitment to service based in part on its curriculum that focuses on “Learn. Lead. Serve,” which expanded experiential learning opportunities for its students while also “closely align[ing] the law school with the Catholic and Marianist philosophy of educating the whole person, as well as inspiring students to learn, lead and serve.”<sup>15</sup> UDSL students consistently volunteer significant amounts of pro bono and community service hours.<sup>16</sup> For instance, the Class of 2016 dedicated over 4,600 hours of pro bono legal service and community service, and more than a third of that class received the law school’s Pro Bono Commitment to Community Award.<sup>17</sup>

St. Mary’s Law School’s commitment to service manifests itself in many ways, including the requirement that each student complete at least thirty hours of service, with no more than fifteen of those hours coming from general community service and the rest coming from pro bono service hours relating to legal work for those of limited financial means or public agencies engaged in legal work.<sup>18</sup> Students can earn pro bono hours during alternative spring break trips, also sponsored by the law campus ministry, where law students travel to Austin, Dallas, New Orleans, and McAllen to provide legal services for legal aid organizations.<sup>19</sup> Other efforts of the law schools that show how the five characteristics are carried out are discussed below.

Part I of this Article explains the origin of the Marianist order and the history of Marianist education, including Marianist legal education. Part II sets forth the five characteristics of a Marianist legal education as derived from the characteristics of a

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<sup>15</sup> *History of the University of Dayton School of Law*, UNIV. OF DAYTON, <https://udayton.edu/law/about/about-us/history.php> [https://perma.cc/P85X-7N2P] (last visited June 29, 2022).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*; *Our Commitment to Catholic, Marianist Identity & Community Engagement*, UNIV. OF DAYTON, [https://udayton.edu/law/students/pro\\_bono\\_award.php](https://udayton.edu/law/students/pro_bono_award.php) [https://perma.cc/FNY7-YQPS] (last visited June 29, 2022) (stating that law students earn the Pro Bono Commitment to Community Award, which includes “receiv[ing] a notation on their transcripts and . . . wear[ing] a special cord at graduation,” by providing at least 50 hours of pro bono work and community service, where only 10 hours of this total can come from general community service such as working for Habitat for Humanity). St. Mary’s Law School students receive a pro bono certificate at graduation for reaching the requisite hours, and one student receives an award for outstanding pro bono service at graduation. See *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>18</sup> ST. MARY’S UNIV. SCH. OF L., STUDENT HANDBOOK: ACADEMIC YEAR 2020-2021 8–9 (2020).

<sup>19</sup> *Spiritual Life*, *supra* note 11.

Marianist university and the ways in which Marianist law schools live out those characteristics. Part III describes how the law represents a vocation at Catholic and Marianist law schools. Finally, Part IV discusses areas where Marianist law schools can continue to grow in their efforts to provide a Catholic and Marianist education.

This Article concludes that the Marianist law schools educate their students in a manner consistent with the Marianist tradition and Catholic faith, and other religiously-affiliated law schools can use their efforts as a guide for their own education models. Namely, religiously-affiliated law schools should identify the characteristics that describe their legal education and determine whether they are living out those characteristics.<sup>20</sup> Also, they can share their faith and traditions with students of all faith backgrounds in an inclusive, respectful, and thoughtful way. Finally, religiously-affiliated law schools can encourage their students, while also providing opportunities to do so, to adapt to changing times, seek justice and peace, and use their gifts and talents to serve the common good.

## I. MARIANIST BACKGROUND

### A. *Origin of the Marianist Order*

The origin of the Marianists and their founders tell a story of diversity, inclusion, cooperation, adaptation, courage, conviction, education, and a commitment to service. The Marianist family includes: the Marianists, who are the vowed men religious, Brothers and priests; the Daughters of Mary Immaculate, also known as the Marianist Sisters, who are the vowed women religious; and the vowed and un-vowed Marianist lay persons.<sup>21</sup> As with every order, its characteristics take on that of its founder

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<sup>20</sup> See Pamela A. Wilkins, *Law School in a Different Voice: Legal Education as a Work of Mercy*, 63 ST. LOUIS U. L.J. 401, 425–26 (2019) (detailing the two major conflicting approaches to what Jesuit legal education should entail as expressed by Professor John Breen’s perspective versus Professor Gregory Kalscheur’s); Gregory A. Kalscheur, S.J., *Conversation in Aid of a “Conspiracy” for Truth: A Candid Discussion about Jesuit Law Schools, Justice, and Engaging the Catholic Intellectual Tradition*, 43 GONZ. L. REV. 559, 571–72 (2008) (discussing the disagreement among scholars regarding the characteristics of a Jesuit legal education); see also 41 GONZ. L. REV. 459, 469–70 (2006) (arguing against Professor Breen’s view of what a Jesuit legal education should consist of and proposing another approach).

<sup>21</sup> John Habjan, S.M., *Society of Mary: Marianists*, 11 CATH. EDU.: J. INQUIRY & PRAC. 198, 198 (2007), <https://files.eric.ed.gov/fulltext/EJ1005977.pdf> [<https://perma.cc/9BR7-MBPN>].

or founders.<sup>22</sup> The founders of the Marianist families are William Joseph Chaminade (Chaminade), Marie Therese de Lamourous (Marie Therese), and Adele de Batz de Trenquellion (Adele).<sup>23</sup> Before each of these individuals is discussed, the historical context surrounding the founding of the Marianist family, the French Revolution, must be briefly discussed.

### 1. The French Revolution

The backdrop of the founding of the Marianist family is the French Revolution.<sup>24</sup> The bloody and violent French Revolution (1789–1799) brought about sweeping social and political changes to France.<sup>25</sup> In essence, the French Revolution overthrew the monarchy government and terminated feudalism in France.<sup>26</sup> Notably, the Catholic Church also lost its political power during that time.<sup>27</sup>

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<sup>22</sup> Interview with Father Tim Eden, S.M., former Vice President for Mission, St. Mary's Univ. (Apr. 1, 2020) (on file with author) [hereinafter Interview with Father Tim Eden, S.M.].

<sup>23</sup> Habjan, *supra* note 21, at 199–200.

<sup>24</sup> A (*Brief History of the Marianists*, MARIANIST RETREAT & CONF. CTR. (Apr. 19, 2021), <https://marianistretreat.com/blog/a-brief-marianist-history/> [https://perma.cc/QL2R-3H9Q]; see *About Marianists Values & Mission*, MARIANIST RETREAT & CONF. CTR., <https://marianistretreat.com/about/marianist-mission/> [https://perma.cc/VVG4-BV85] (last visited June 29, 2022); A *Short History of the Society of Mary*, MARIANISTS, <https://www.marianist.com/history> [https://perma.cc/VU3D-B4XW] (last visited June 28, 2022); *History of Marianists*, CHAMINADE UNIV. OF HONOLULU, <https://chaminade.edu/mission-rector/history-of-marianists/> [https://perma.cc/F5K2-4V8U] (last visited June 29, 2022); *Meet Our Marianist Founders and Discover Our Deep Roots*, UNIV. OF DAYTON, [https://udayton.edu/rector/mission\\_identity\\_roots/index.php](https://udayton.edu/rector/mission_identity_roots/index.php) [https://perma.cc/P5HF-CK7N] (last visited June 29, 2022); Habjan, *supra* note 21, at 200.

<sup>25</sup> *French Revolution*, HIST. (Nov. 09, 2009) [hereinafter *French Revolution*, HIST.], <https://www.history.com/topics/france/french-revolution> [https://perma.cc/F2E2-ZUXX]; A *Short History of the Society of Mary*, *supra* note 24; *French Revolution*, NEW WORLD ENCYC. [hereinafter *French Revolution*, NEW WORLD ENCYC.], [https://www.newworldencyclopedia.org/entry/french\\_revolution](https://www.newworldencyclopedia.org/entry/french_revolution) [https://perma.cc/ECN5-8ZCW] (last visited June 29, 2022); *French Revolution*, BRITANNICA [hereinafter *French Revolution*, BRITANNICA], <https://www.britannica.com/event/French-Revolution> [https://perma.cc/2RGL-MACU] (last visited June 28, 2022).

<sup>26</sup> *French Revolution*, HIST., *supra* note 25; *French Revolution*, BRITANNICA, *supra* note 25; *French Revolution*, NEW WORLD ENCYC., *supra* note 25.

<sup>27</sup> See George J. Marlin, *The French Revolution and the Church*, CATH. THING (July 14, 2011), <https://www.thecatholicthing.org/2011/07/14/the-french-revolution-and-the-church/> [https://perma.cc/9UJM-95W9]; *French Revolution*, NEW WORLD ENCYC., *supra* note 25; Alberto M. Piedra, *The Dechristianization of France during the French Revolution*, INST. WORLD POL. (Jan. 12, 2018), <https://www.iwp.edu/articles/2018/01/12/the-dechristianization-of-france-during-the-french-revolution/> [https://perma.cc/JCJ5-TETJ]; Gemma Betros, *The French Revolution and the Catholic Church*, 68 HIST. REV. (Dec. 2010), <https://www.historytoday.com/>

Prior to the French Revolution, three social classes called “Estates” separated the people of France.<sup>28</sup> The First Estate consisted of the clergy, the Second Estate included the nobles, and the commoners comprised the Third Estate.<sup>29</sup> Although ninety-eight percent of the people in France fell into the Third Estate and the Third Estate paid most of the country’s taxes, members of the First and Second Estates could outvote the Third Estate.<sup>30</sup> Meanwhile, the nobility held the best jobs and lived lavishly.<sup>31</sup>

This social framework set the groundwork for the French Revolution, amongst a few other reasons. The Third Estate wanted to abolish the noble veto and institute equal voting where one person equaled one vote.<sup>32</sup> The government also faced bankruptcy after it heavily invested in the American colonists’ fight for independence against the British in the American Revolutionary War.<sup>33</sup> Moreover, peasants and the urban populations looted, rioted, and conducted strikes over the cattle

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archive/french-revolution-and-catholic-church [https://perma.cc/3KU4-E7MN] (discussing how the revolution caused and brought on a massive shift in powers for the Church).

<sup>28</sup> *Estate System in the French Revolution*, HIST. CRUNCH, <https://www.historycrunch.com/estates-system-in-the-french-revolution.html/> [https://perma.cc/2YGR-TA2F] (last visited June 29, 2022).

<sup>29</sup> *French Revolution*, HIST., *supra* note 25; *French Revolution*, NEW ADVENT [hereinafter *French Revolution*, NEW ADVENT], <https://www.newadvent.org/cathen/13009a.htm> [https://perma.cc/DX36-FGLE] (last visited June 29, 2022); *The Ancien Regime*, ER SERVS., <https://courses.lumenlearning.com/suny-hccc-worldhistory2/chapter/the-ancien-regime/> [https://perma.cc/43ZP-AYGT] (last visited June 29, 2022); *Taxes and the Three Estates*, ER SERVS., <https://courses.lumenlearning.com/suny-hccc-worldhistory2/chapter/taxes-and-the-three-estates/> [https://perma.cc/TF87-DHBY] (last visited June 29, 2022).

<sup>30</sup> *French Revolution: Forming of the National Assembly*, ACTIVELY LEARN, <https://read.activelylearn.com/#teacher/reader/authoring/preview/915284/notes> [https://perma.cc/TK54-VDBX]; *French Revolution*, HIST., *supra* note 25; *The Ancien Regime*, *supra* note 29; *Taxes and the Three Estates*, *supra* note 29.

<sup>31</sup> *French Revolution: Forming of the National Assembly*, *supra* note 30; see *The Ancien Regime*, *supra* note 29 (explaining the difference between the three estates and how the nobility were exempt from taxes, had more power, and included royalty).

<sup>32</sup> *French Revolution*, HIST., *supra* note 25; *French Revolution: Forming of the National Assembly*, *supra* note 30; *French Revolution*, NEW ADVENT, *supra* note 29.

<sup>33</sup> Julie Marks, *How Did the American Revolution Influence the French Revolution?*, HIST. (May 1, 2018), <https://www.history.com/news/how-did-the-american-revolution-influence-the-french-revolution> [https://perma.cc/K6V7-BSSY]; Betros, *supra* note 27; *French Revolution*, HIST., *supra* note 25; *French Revolution*, BRITANNICA, *supra* note 25.

disease and increase in bread prices that caused uneasiness and strife amongst the Third Estate.<sup>34</sup>

The French Revolution began on July 14, 1789, when revolutionaries stormed the Bastille, a prison, seeking weapons and ammunition.<sup>35</sup> At the start of the revolution, representatives from the Third Estate established the National Assembly where they demanded that King Louis XVI give them certain rights.<sup>36</sup> This group soon took control of the country.<sup>37</sup> The revolutionary government's name changed over time to the Legislative Assembly, then the National Convention, and, finally, the Directory.<sup>38</sup> On January 21, 1793, no longer content with monarchy rule, the revolutionaries charged King Louis XVI with "high treason and crimes against the state" and executed him by guillotine.<sup>39</sup>

In the summer of 1793, the Jacobins took over the National Convention.<sup>40</sup> From 1793 to 1794, the Jacobins, radical extremists led by Maximilien Robespierre, unleashed the "Reign of Terror," which involved killing any opposition to the revolution.<sup>41</sup> The National Convention passed laws that enabled the revolutionaries to arrest persons suspected of treason and execute them with the guillotine.<sup>42</sup> The Jacobins arrested and executed thousands of people during this time, including Queen

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<sup>34</sup> *French Revolution*, HIST., *supra* note 25; see *French Revolution*, BRITANNICA, *supra* note 25; *French Revolution*, NEW WORLD ENCYC., *supra* note 25 (explaining how greater demand increased prices of goods and revolts became a frequent result).

<sup>35</sup> *French Revolution*, HIST., *supra* note 25; *French Revolution: Forming of the National Assembly*, *supra* note 30; *French Revolution*, NEW WORLD ENCYC., *supra* note 25; see Piedra, *supra* note 27 (analyzing the 1789 storming of the Bastille and the causes leading up to that massacre).

<sup>36</sup> *French Revolution*, HIST., *supra* note 25; *French Revolution: Forming of the National Assembly*, *supra* note 30; *French Revolution*, NEW ADVENT, *supra* note 29.

<sup>37</sup> *French Revolution*, HIST., *supra* note 25; see *French Revolution: Forming of the National Assembly*, *supra* note 30; *French Revolution*, NEW ADVENT, *supra* note 29 (explaining how the National Assembly declared themselves as the real representatives of the people).

<sup>38</sup> *French Revolution*, HIST., *supra* note 25; *The National Convention*, ER SERVS., <https://courses.lumenlearning.com/suny-hccc-worldhistory2/chapter/the-national-convention/> [<https://perma.cc/G6XR-H6Q4>] (last visited June 29, 2022).

<sup>39</sup> *French Revolution*, HIST., *supra* note 25; *French Revolution*, BRITANNICA, *supra* note 25.

<sup>40</sup> *French Revolution*, HIST., *supra* note 25; see *Jacobin Club*, BRITANNICA, <https://www.britannica.com/topic/Jacobin-Club> [<https://perma.cc/MDZ9-9CBS>] (last visited June 29, 2022).

<sup>41</sup> *French Revolution*, NEW WORLD ENCYC., *supra* note 25.

<sup>42</sup> *Id.*

Marie Antoinette and political opponents of Robespierre.<sup>43</sup> The National Convention also “eradicat[ed]” Christianity.<sup>44</sup> In reaction to the Reign of Terror, a new government, the Directory, was formed.<sup>45</sup> However, the Directory was short-lived.<sup>46</sup> In November 1799, Napoleon Bonaparte defeated and overthrew the Directory, created the French Consulate, and the revolution ended.<sup>47</sup>

Although the French Revolution devolved at times “into a chaotic bloodbath,” it set the stage for the modern world and governments where the will of the people plays a large role in the rule of the country—that is, democracy.<sup>48</sup> Thus, the French Revolution stood for equality, liberty, and fraternity.<sup>49</sup>

## 2. Catholicism During the French Revolution

Catholicism represented the official religion of France at the time the Revolution began.<sup>50</sup> “The French Catholic Church, known as the Gallican Church, recognized the pope as the head of the Roman Catholic Church.”<sup>51</sup> Shortly after the beginning of

<sup>43</sup> *Id.*

<sup>44</sup> *French Revolution*, HIST., *supra* note 25; *French Revolution*, NEW WORLD ENCYC., *supra* note 25; Betros, *supra* note 27.

<sup>45</sup> *French Revolution*, NEW WORLD ENCYC., *supra* note 25.

<sup>46</sup> *Id.*

<sup>47</sup> *Napoleon’s Rise to Power*, ER SERVS., <https://courses.lumenlearning.com/suny-hccc-worldhistory2/chapter/napoleons-rise-to-power/> [<https://perma.cc/D5GR-M3JA>] (last visited June 29, 2022); *Napoleon Bonaparte*, HIST. (Nov. 09, 2009), <https://www.history.com/topics/france/napoleon> [<https://perma.cc/C9SE-TQVS>]; *The Consulate*, BRITANNICA, <https://www.britannica.com/biography/Napoleon-I/The-Directory#ref16215> [<https://perma.cc/83VP-MTZU>] (last visited June 29, 2022).

<sup>48</sup> *French Revolution*, HIST., *supra* note 25; see Jeremy Popkin, *Vive la revolution!*, AEON (Jan. 20, 2020), <https://aeon.co/essays/what-can-we-learn-from-the-french-revolution-today> [<https://perma.cc/6G3P-WMPG>]; *How Did the British React to the July 1789?*, NAT’L ARCHIVES, <https://www.nationalarchives.gov.uk/education/resources/french-revolution/> [<https://perma.cc/AW5Q-R78G>] (last visited June 28, 2022) (communicating the legacy of the French Revolution and how its ideals still inspire modern democracies).

<sup>49</sup> *French Revolution*, NEW WORLD ENCYC., *supra* note 25; *Liberty, Equity, Fraternity*, FRANCE DIPL., <https://www.diplomatie.gouv.fr/en/coming-to-france/france-facts/symbols-of-the-republic/article/liberty-equality-fraternity> [<https://perma.cc/TS6U-6WZC>] (last visited June 29, 2022).

<sup>50</sup> Betros, *supra* note 27; *French Revolution*, NEW WORLD ENCYC., *supra* note 25. *Catholicism in France*, HARV. DIVINITY SCH., <https://rpl.hds.harvard.edu/faq/catholicism-france> [<https://perma.cc/D3D6-KMX7>] (last visited June 29, 2022) (“Roman Catholicism was the state religion of France . . . until the French Revolution, when the Church’s relationship with the state was radically redefined.”).

<sup>51</sup> Betros, *supra* note 27; see *The Concordat of 1801*, ER SERVS., <https://courses.lumenlearning.com/suny-hccc-worldhistory2/chapter/the-concordat-of-1801/> [<https://perma.cc/2YPV-5VBC>] (last visited June 29, 2022); see *Gallicanism*,

the revolution, the National Assembly took control of church lands.<sup>52</sup> On July 12, 1790, the revolutionary government approved the Civil Constitution of the Clergy, which basically provided the state would control the church.<sup>53</sup> The reforms in the constitution included having the state pay the clergy and allowing citizens to elect priests and bishops.<sup>54</sup> The pope initially refused to approve the Constitution, and the Roman Catholic Church's support was in doubt.<sup>55</sup> In response, the National Assembly required all clergy to take a public oath of loyalty to the Civil Constitution of the Clergy or lose their jobs.<sup>56</sup> Taking the public oath meant pledging allegiance to the state over the church.<sup>57</sup> Only seven of the eighty-three bishops took the oath, along with about half of the parish priests.<sup>58</sup> The pope eventually condemned the Civil Constitution of the Clergy.<sup>59</sup> Clergy who took the oath became known as jurors, and clergy who refused to take the oath were deemed "non-jurors" or "refractory priests."<sup>60</sup>

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NEW ADVENT, <https://www.newadvent.org/cathen/06351a.htm> [<https://perma.cc/9Y3N-CK5E>] (last visited June 29, 2022) (explaining the Gallican view regarding the authority of the pope).

<sup>52</sup> *Civil Constitution of the Clergy*, BRITANNICA, <https://www.britannica.com/event/Civil-Constitution-of-the-Clergy> [<https://perma.cc/6RVZ-PQ2W>] (last visited June 28, 2022); Betros, *supra* note 27; *French Revolution*, NEW WORLD ENCYC., *supra* note 25; Jennifer Llewellyn & Steve Thompson, *The Civil Constitution of the Clergy*, ALPHA HIST. (Sept. 2, 2020), <https://alphahistory.com/frenchrevolution/civil-constitution-of-the-clergy/> [<https://perma.cc/M2CK-ASU6>].

<sup>53</sup> Betros, *supra* note 27; Llewellyn & Thompson, *supra* note 52 ("The Civil Constitution allowed the state to assume control of some aspects of religion, . . .").

<sup>54</sup> Betros, *supra* note 27 ("[C]lergy were to be paid by the state . . . and priests and bishops were to be elected by citizens."); *Civil Constitution of the Clergy*, *supra* note 52 (noting state payment of "the clergy's wages" and the election of "bishops and parish priests" by citizens).

<sup>55</sup> Betros, *supra* note 27 ("The pope's refusal to approve the Constitution, . . . began to cast doubt on the Church's support."); Llewellyn & Thompson, *supra* note 52 (noting Pope Pius VI's encyclical rebuking the Civil Constitution of the Clergy).

<sup>56</sup> Betros, *supra* note 27 ("[T]he Assembly decreed on 27 November 1790 that all clergy must take a public oath of loyalty to the Constitution or surrender their salary and position."); Llewellyn & Thompson, *supra* note 52 (highlighting the "compulsory" oath's applicability to "all members of the clergy.").

<sup>57</sup> Betros, *supra* note 27; see *Civil Constitution of the Clergy*, *supra* note 52.

<sup>58</sup> *Civil Constitution of the Clergy*, *supra* note 52.

<sup>59</sup> Betros, *supra* note 27; Justin Dunn, *Secularizing the Sacred: The Effort to Dechristianize France During the French Revolution*, 4 PRIMARY SOURCE 1, 28 (2012), <https://psource.sitehost.iu.edu/PDF/Archive%20Articles/Spring2014/2014%20-%20Spring%20-%205%20%20Dunn%20Justin.pdf> [<https://perma.cc/GCB8-8FGX>].

<sup>60</sup> Betros, *supra* note 27; *Civil Constitution of the Clergy*, *supra* note 52.

Initially, some French followed the Constitutional Church while others followed the refractory priests, who were allowed to continue practicing.<sup>61</sup> Refractory priests soon became thought of as counter-revolutionary.<sup>62</sup> In November of 1791, the revolutionary government stripped the refractory priests of their pensions and forbid them from using religious buildings.<sup>63</sup> The National Assembly eventually “ordered remaining non-jurors to leave or be arrested and deported.”<sup>64</sup> In 1791 alone, “at least 30,000 ecclesiastics fle[d] or [were] driven from France.”<sup>65</sup>

During the Reign of Terror, the revolutionary government arrested, tried, and killed purported enemies of the state.<sup>66</sup> At some point, even possessing items used in a Catholic Mass constituted a crime.<sup>67</sup> A small percentage of refractory priests received the guillotine to set an example, and religious practice went underground.<sup>68</sup>

Finally, after growing suspicion and discontent with the church, the National Convention declared that “[a]ny priest that continued to practi[c]e, whether constitutional or refractory, now

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<sup>61</sup> *Id.*; *Catholicism in France*, HARV. DIVINITY SCH., <https://rpl.hds.harvard.edu/faq/catholicism-france> [<https://perma.cc/F8GB-LNMZ>] (“The Church was split between those who gave their allegiance to the new Republic and those who refused to do so, and subsequent violence between revolutionaries and clergy members saw widespread bloodshed and the destruction of Catholic sites.”).

<sup>62</sup> Betros, *supra* note 27; Dunn, *supra* note 59, at 28.

<sup>63</sup> Betros, *supra* note 27; see *French Revolution*, NEW ADVENT, *supra* note 29 (stating that if the priests did not take the civil oath, they would be deprived of all salary).

<sup>64</sup> Betros, *supra* note 27.

<sup>65</sup> *A Brief Marianist Timeline*, UNIV. DAYTON MAG., [https://www.mydigitalpublication.com/publication/?i=390685&article\\_id=2735125&view=articleBrowser](https://www.mydigitalpublication.com/publication/?i=390685&article_id=2735125&view=articleBrowser) [<https://perma.cc/3S4M-QDF3>] (last visited June 22, 2022).

<sup>66</sup> Betros, *supra* note 27; *Reign of Terror*, BRITANNICA [hereinafter *Reign of Terror*, BRITANNICA], <https://www.britannica.com/event/Reign-of-Terror> [<https://perma.cc/M5WM-MR3L>] (last visited June 29, 2022); *The Reign of Terror*, LUMEN [hereinafter *The Reign of Terror*, LUMEN], <https://courses.lumenlearning.com/boundless-worldhistory/chapter/the-reign-of-terror/> [<https://perma.cc/3NTL-VAAK>] (last visited June 29, 2022); *Robespierre Overthrown in France*, HIST., <https://www.history.com/this-day-in-history/robespierre-overthrown-in-france> [<https://perma.cc/AN8T-TXNU>] (July 24, 2020).

<sup>67</sup> Betros, *supra* note 27; VINCENT R. VASEY, CHAMINADE: ANOTHER PORTRAIT 70 (1987) (discussing dangers faced by the religious and how just possessing a box for the Eucharist or hosts constituted a crime).

<sup>68</sup> Betros, *supra* note 27; see *Reign of Terror*, BRITANNICA, *supra* note 66; *Reign of Terror*, ENCYCLOPEDIA, <https://www.encyclopedia.com/history/modern-europe/french-history/reign-terror> [<https://perma.cc/LN79-UD5W>] (last visited June 29, 2022) (explaining how the guillotine was used as a form of punishment during the Reign of Terror); Llewellyn & Thompson, *supra* note 52.

faced arrest and deportation.<sup>69</sup> Furthermore, clergy who failed to take the oath, and anyone who sheltered them, were subject “to death on sight.”<sup>70</sup> The revolutionaries attempted to replace Catholicism with cults that treated the revolution as its own religion.<sup>71</sup> A leading cult, known as the Cult of Reason, taught there was no god and instead worshipped the goddess of reason.<sup>72</sup>

De-Christianization led many people to practice Christianity in the privacy of their homes.<sup>73</sup> Also, lay people began conducting masses when priests were unavailable.<sup>74</sup> In response to the continued worship of its people, on February 21, 1795, the Convention announced “the formal separation of Church and State.”<sup>75</sup> The Convention allowed churches to reopen, released refractory priests from jail, and permitted constitutional and refractory priests to practice if they agreed to respect the government’s laws.<sup>76</sup>

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<sup>69</sup> Betros, *supra* note 27; *The Reign of Terror*, LUMEN, *supra* note 66.

<sup>70</sup> *A Brief Marianist Timeline*, *supra* note 65; VASEY, *supra* note 67, at 67 (describing the decapitation of a priest whose head was carried on a pike throughout the streets).

<sup>71</sup> Betros, *supra* note 27; Marlin, *supra* note 27; Dunn, *supra* note 59, at 28. Llewellyn & Thompson, *supra* note 52.

<sup>72</sup> Betros, *supra* note 27; *Cult of Goddess of Reason*, ENCYCLOPEDIA, <https://www.encyclopedia.com/religion/encyclopedias-almanacs-transcripts-and-maps/reason-cult-goddess> [<https://perma.cc/YUK6-RUSF>] (last visited June 22, 2022); Marlin, *supra* note 27; *see* Dunn, *supra* note 59, at 28 (discussing the lack of “magic” and hope in the Cult of Reason).

<sup>73</sup> Betros, *supra* note 27. Piedra, *supra* note 27 (“Religious practice was outlawed and replaced . . .”).

<sup>74</sup> Betros, *supra* note 27; Suzanne Desan, *The Role of Women in Religious Riots During the French Revolution*, 22 EIGHTEENTH-CENTURY STUD. 451, 465 (1989); Thomas A. Thompson, *Distinctive Traits of Marianist Spirituality: Mary, Mission, Community*, 54 MARIAN STUD. 57, 62 (2003).

<sup>75</sup> Betros, *supra* note 27; *see Civil Constitution of the Clergy*, ENCYCLOPEDIA, <https://www.encyclopedia.com/religion/encyclopedias-almanacs-transcripts-and-maps/civil-constitution-clergy> [<https://perma.cc/9FRG-R7K2>] (last visited June 22, 2022); *French Revolution*, CATH. ANSWERS [hereinafter *French Revolution*, CATH. ANSWERS], <https://www.catholic.com/encyclopedia/french-revolution> [<https://perma.cc/3UA4-KGFE>] (last visited June 29, 2022); *see* Dunn, *supra* note 59, at 31 (discussing the effects of dechristianization and how it led to separation of church and state); Llewellyn & Thompson, *supra* note 52 (“A clergyman’s oath to the state, it was argued, might conflict with his loyalty to God and his obedience to the Pope.”).

<sup>76</sup> Betros, *supra* note 27; *French Revolution*, CATH. ANSWERS, *supra* note 75; *Separation of Church and State (France 1905)*, ENCYCLOPEDIA, <https://www.encyclopedia.com/history/encyclopedias-almanacs-transcripts-and-maps/separation-church-and-state-france-1905> [<https://perma.cc/76Y7-NGNP>] (last visited June 29, 2022); *see* Llewellyn & Thompson, *supra* note 52 (explaining the difference between the “constitutional clergy” and “refractory priests”).

The Christian religion continued to threaten the revolutionary government, which later reinstated many of its earlier bans and laws, including those concerning refractory priests, many of whom were arrested in the fall of 1797.<sup>77</sup> The Directory, the new revolutionary government, attempted to replace Catholicism with another cult, Theophilanthropy, which proved unsuccessful.<sup>78</sup> Catholicism experienced a revival, and the Directory understood it needed to allow Catholicism to continue to maintain a stable and loyal people.<sup>79</sup>

In November 1799, Napoleon led a group that overthrew the Directory.<sup>80</sup> Napoleon became the first consul and the leader of the French government.<sup>81</sup> Napoleon believed he could use Catholicism to help unite his country and fortify his new government.<sup>82</sup> After many months of negotiations, in July 1801, France and the Vatican signed the Concordat, which recognized Catholicism as “the religion of the vast majority of French citizens’, a description that denied the Church any privileged place within the state, and the Church was to give up all claims to property lost during the Revolution.”<sup>83</sup> The Concordat also brought the French Catholic Church under the authority of the French government.<sup>84</sup> Reminiscent of the Civil Constitution oath

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<sup>77</sup> Betros, *supra* note 27; *French Revolution*, CATH. ANSWERS, *supra* note 75; see *Coup of 18 Fructidor*, BRITANNICA, <https://www.britannica.com/event/Coup-of-18-Fructidor> [<https://perma.cc/54NU-CXZZ>] (last visited June 29, 2022) (explaining the fear and threat the Directory felt during the post-revolutionary period).

<sup>78</sup> Betros, *supra* note 27; *Theophilanthropy*, ENCYCLOPEDIA, <https://www.encyclopedia.com/religion/encyclopedias-almanacs-transcripts-and-maps/theophilanthropy> [<https://perma.cc/DY4J-M9WZ>] (last visited June 29, 2022); see *French Revolution*, CATH. ANSWERS, *supra* note 75 (discussing how the cult of Theophilanthropy came about).

<sup>79</sup> Betros, *supra* note 27; see Suzanne Desan, *Redefining Revolutionary Liberty: The Rhetoric of Religious Revival during the French Revolution*, 60 J. MOD. HIST. 1, 2 (1988).

<sup>80</sup> *Napoleon Bonaparte*, HIST., *supra* note 47.

<sup>81</sup> *Id.*

<sup>82</sup> Betros, *supra* note 27; *Napoleon I*, BRITANNICA, <https://www.britannica.com/biography/Napoleon-I/The-Directory> [<https://perma.cc/BLA2-V684>] (last visited June 29, 2022).

<sup>83</sup> Betros, *supra* note 27; *Napoleon I*, *supra* note 82; *Concordat*, BRITANNICA, <https://www.britannica.com/topic/concordat> [<https://perma.cc/H536-XZ73>] (last visited June 29, 2022); John M. Cunningham, *Concordat of 1801*, BRITANNICA, <https://www.britannica.com/event/Concordat-of-1801> [<https://perma.cc/DY73-K63R>] (last visited June 29, 2022).

<sup>84</sup> Betros, *supra* note 27; accord Kristen A. Hosack, *Napoleon Bonaparte's Concordat and the French Revolution*, 11 CONSTRUCTING PAST: UNDERGRAD. HIST. J. ILL. WESLEYAN UNIV. 30, 31 (2010) (noting how the Concordat transitioned the bishops and parish priests to become employees of the state); see also Cunningham,

of 1790, all clergy were required to swear an oath of loyalty to the government and their salaries were to be paid by the state.<sup>85</sup> Moreover, Napoleon would appoint all bishops instead of Rome.<sup>86</sup>

As a result, the relationship between France and Rome deteriorated into a state of epic proportions, resulting in “‘one of the most extraordinary conflicts between temporal power and spiritual authority history has ever known.’”<sup>87</sup> The disagreements and disdain between Napoleon, who sought in many ways to control the French Catholic Church personally, and the pope of the Roman Catholic Church, resulted in Napoleon occupying Rome in 1808, the pope excommunicating Napoleon from the Church, and Napoleon having the pope arrested and later taken to France as Napoleon’s prisoner where the pope remained until 1814.<sup>88</sup>

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*supra* note 83 (acknowledging the quid pro quo between the pope—Pius VII—and the government. In return for the pope’s condonement of the acquisition of church property during the revolution, the government agreed to give the clergy suitable governmental salaries.); *see also* *The French Concordat of 1801*, NEW ADVENT, <https://www.newadvent.org/cathen/04204a.htm> [<https://perma.cc/4UJV-ZHJK>] (last visited June 29, 2022) (explaining the pope agreed to the exercise of these State police powers on the condition that the government recognize the Catholic religion as the “religion of the great majority of Frenchmen”).

<sup>85</sup> Betros, *supra* note 27. Llewellyn & Thompson, *supra* note 52 (stating the Civil Constitution required each bishop “to swear ‘loyalty to the nation, the law and the king’” and describing the reasoning at the time that if clergy members “were to be paid by the state . . . then it was reasonable that they swear an oath of loyalty to the state”).

<sup>86</sup> *Id.*; Cunningham, *supra* note 83; *but see* *The French Concordat of 1801*, *supra* note 84 (stating though the French government had the power to present new bishops, the pope was still to give them canonical institution however, bishops were only allowed to appoint persons as parish priests as they were approved by the government).

<sup>87</sup> Betros, *supra* note 27; *see* Robert Wilde, *The Concordat of 1801: Napoleon and the Church*, THOUGHT CO., <https://www.thoughtco.com/the-concordat-of-1801-1221921> [<https://perma.cc/QJ2F-GX62>] (Apr. 2, 2018) (listing one cause of the deterioration to be when Napoleon gave himself his own saints day); *see also* Peter Hicks, *Napoleon and the Pope: From the Concordat to the Excommunication*, NAPOLEON, <https://www.napoleon.org/en/history-of-the-two-empires/articles/napoleon-on-and-the-pope-from-the-concordat-to-the-excommunication/> [<https://perma.cc/CM8Z-M5E7>] (last visited June 29, 2022) (summarizing the events leading up to the kidnapping of the pope by Napoleon agents and covering the addition of the organic articles in the Concordat and French incursion on Papal territory to Napoleon’s excommunication).

<sup>88</sup> Betros, *supra* note 27; *see* Hicks, *supra* note 87 (detailing the kidnapping of the pope following the excommunication of Napoleon); CHRISTOPHER J. KAUFFMAN, *EDUCATION AND TRANSFORMATION: MARIANIST MINISTRIES IN AMERICA SINCE 1849* (1999) (discussing the excommunication of Napoleon from the church).

### 3. The Founders

#### a. *Chaminade*

William Joseph Chaminade was born in Perigueux, France on April 8, 1761, as the second youngest of fifteen children.<sup>89</sup> He began studying at a seminary as a young teenager.<sup>90</sup> By the time he was fifteen years old, he studied and taught his fellow seminarians.<sup>91</sup> Further, he was ordained as a priest in 1785.<sup>92</sup> He stayed at the seminary, taught, and served as a business manager.<sup>93</sup> While at the seminary, through prayer, discussion, and discernment, he determined that he would devote his life to “assisting Mary in her mission of bringing Jesus to the world.”<sup>94</sup>

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<sup>89</sup> *Bl. William Joseph Chaminade*, CATH. ONLINE, [https://www.catholic.org/saints/saint.php?saint\\_id=7719](https://www.catholic.org/saints/saint.php?saint_id=7719) [<https://perma.cc/N9CP-STBP>] (last visited June 22, 2022); *Blessed William Joseph Chaminade Worked to Rechristianize France*, CATH. CULTURE (Sept. 6, 2000), <https://www.catholicculture.org/culture/library/view.cfm?recnum=3097> [<https://perma.cc/HYB8-D6CA>]. JOSEPH STEFANELLI, CHAMINADE PRAGMATIST WITH A VISION 2 (North American Center for Marianist Studies, 2000) (“William was the fourteenth of fifteen children of Blaise Chaminade and Catherine Bethon. He was born April 8, 1761, in the small but proud town of Perigueux in southwest France.”).

<sup>90</sup> Habjan, *supra* note 21, at 200; *accord Blessed William Joseph Chaminade Worked to Rechristianize France*, *supra* note 89 (showing Chaminade entered a minor seminary at just ten years old); *see also Meet 3 Remarkable People Who Got Us Started*, UNIV. OF DAYTON, [https://udayton.edu/rector/mission\\_identity\\_roots/founders.php](https://udayton.edu/rector/mission_identity_roots/founders.php) [<https://perma.cc/YK6B-4SK7>] (last visited June 29, 2022) (stating Chaminade went to the College of Mussidan at age ten).

<sup>91</sup> Habjan, *supra* note 21, at 200; *see also Meet 3 Remarkable People Who Got Us Started*, *supra* note 90 (indicating Chaminade progressed at the College of Mussidan from a student, to a teacher, then to a steward and chaplain); Joseph Stefanelli, S.M., *Biography of William Joseph Chaminade*, <https://www.marianist.com/files/2011/06/Biography-of-Blessed-Chaminade.pdf> [<https://perma.cc/4WHS-FNDV>]; KAUFFMAN, *supra* note 88, at 7 (noting Chaminade began teaching at age fifteen).

<sup>92</sup> Habjan, *supra* note 21, at 200; *Blessed William Joseph Chaminade Worked to Rechristianize France*, *supra* note 89; *William Joseph Chaminade*, SAINTS RES., <http://saintsresource.com/william-joseph-chaminade> [<https://perma.cc/7P4V-ZYSJ>] (last visited June 29, 2022).

<sup>93</sup> Habjan, *supra* note 21, at 200; *Meet 3 Remarkable People Who Got Us Started*, *supra* note 90.

<sup>94</sup> Habjan, *supra* note 21, at 200; *Meet 3 Remarkable People Who Got Us Started*, *supra* note 90 (mentioning Chaminade’s dedication to “[Mary’s] mission of bringing Christ into the contemporary world.”); *Founders: A Trio of Friends Dedicated to the Blessed Mother*, MARIANISTS, <https://www.marianist.com/founders> [<https://perma.cc/637N-9CDJ>] (last visited June 29, 2022) (discussing Chaminade’s dedication to “the mission of Mary in bringing others to Christ”); *William Joseph Chaminade*, *supra* note 92 (“[Chaminade] formed a society of priests, brothers, and laymen that would use Mary as its model of discipleship: the Society of Mary, or Marianists.”).

Chaminade remained in France during the French Revolution.<sup>95</sup> He wanted to help and support the members of his Catholic community.<sup>96</sup> Chaminade refused to take the public oath of loyalty to the Civil Constitution of the Clergy, and he “had to go about in disguise.”<sup>97</sup> He often disguised himself as a seller of goods, such as kettles, pots, and needle and thread.<sup>98</sup> He also received “threats on his life,” which “forced him to go underground” during the Revolution.<sup>99</sup> He overcame his fears to serve his Catholic community based, in part, on the vow he had taken as a teenager to promulgate Mary’s mission.<sup>100</sup> Chaminade “clandestinely exercised his priestly ministry, putting his life in constant danger,” as he narrowly continued to avoid capture by the authorities.<sup>101</sup>

Chaminade employed a servant woman, Marie Dubourg, who would delay visitors at the front door with her cleverness, imagination, and quick wit, to allow Chaminade time to hide inside the house, which included an underground room that Chaminade could enter through a trap door.<sup>102</sup> He also used a secret entrance in a wall in the house that led outdoors to flee quickly, which he did on at least one occasion.<sup>103</sup> In the closest of

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<sup>95</sup> *Id.*; *Blessed William Joseph Chaminade Worked to Rechristianize France*, *supra* note 89; *see also Founders: A Trio of Friends Dedicated to the Blessed Mother*, *supra* note 94 (discussing how Chaminade continued to run a clandestine ministry in Bordeaux during the early years of the revolution). STEFANELLI, *supra* note 89, at 5 (2000) (“During the sweeping violence of the Revolution . . . Chaminade continued his ministry at the risk of falling victim to the guillotine.”); Habjan, *supra* note 21, at 200 (“Chaminade did not leave France during the French Revolution.”).

<sup>96</sup> *See Founders: A Trio of Friends Dedicated to the Blessed Mother*, *supra* note 94 (stating Chaminade would sometimes disguise himself as a tradesman); Habjan, *supra* note 21, at 200 (stating Chaminade remained in France “to be of service to members of the Catholic community”).

<sup>97</sup> Stefanelli, *supra* note 91; *see Founders: A Trio of Friends Dedicated to the Blessed Mother*, *supra* note 94 (“[Chaminade] refused to pledge allegiance to the government instead of the Roman Catholic Church.”).

<sup>98</sup> VINCENT GIZARD, S.M., BLESSED WILLIAM JOSEPH CHAMINADE FOUNDER OF THE MARIANIST FAMILY 17 (2000).

<sup>99</sup> Stefanelli, *supra* note 91.

<sup>100</sup> Habjan, *supra* note 21, at 200 (2007); *Founders: A Trio of Friends Dedicated to the Blessed Mother*, *supra* note 94 (describing Chaminade’s continued prayers and devotion to the Blessed Mother during his exile that gave him strength to return to France).

<sup>101</sup> *William Joseph Chaminade*, L’OSSERVATORE ROMANO (Sept. 6, 2000), [https://www.vatican.va/news\\_services/liturgy/saints/ns\\_lit\\_doc\\_20000903\\_bl-chaminade\\_en.html](https://www.vatican.va/news_services/liturgy/saints/ns_lit_doc_20000903_bl-chaminade_en.html) [<https://perma.cc/MY7G-UUZT>]; Habjan, *supra* note 21, at 200.

<sup>102</sup> JOSEPH SIMLER, WILLIAM JOSEPH CHAMINADE: FOUNDER OF THE MARIANISTS, 35 (1986); GIZARD, *supra* note 98, at 17.

<sup>103</sup> SIMLER, *supra* note 102, at 35.

calls, government agents burst into the house so quickly that Marie Dubourg only had time to hide Chaminade underneath an overturned washtub in the kitchen.<sup>104</sup> The agents drank a glass of wine on the overturned washtub that they used as an improvised table while Chaminade lay quietly and directly below it.<sup>105</sup> Chaminade later said of that encounter, “Only the thickness of a board separated me from the scaffold,” which is a raised platform used to perform public executions.<sup>106</sup>

Chaminade managed to disguise himself so well that the government believed he had already left France because they could not locate him after numerous futile attempts.<sup>107</sup> The government even added his name to official lists of the émigrés, which was a list of people who were not allowed to return to France.<sup>108</sup> After a temporary period when refractory priests could practice openly again, including Chaminade, the government reversed its course and began condemning refractory priests.<sup>109</sup> Even though Chaminade never left France, the government falsely accused him of returning to France without permission and forced him to leave the country.<sup>110</sup>

Chaminade traveled to Saragossa, Spain to join other French exiles.<sup>111</sup> He prayed there at the shrine of Our Lady of the Pillar, a shrine of Mary, where people claim she appeared to James the Apostle in 40 A.D.<sup>112</sup> During his three years in Saragossa, Chaminade spent a great deal of time discerning, and he became inspired to found the Society of Mary.<sup>113</sup> Although Chaminade’s discernment entailed quiet, personal reflection, much of his

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<sup>104</sup> *Id.*; GIZARD, *supra* note 98, at 17.

<sup>105</sup> SIMLER, *supra* note 102, at 35; GIZARD, *supra* note 98, at 17.

<sup>106</sup> SIMLER, *supra* note 101, at 35.

<sup>107</sup> Stefanelli, *supra* note 91.

<sup>108</sup> *Id.*; *Meet 3 Remarkable People Who Got Us Started*, *supra* note 90.

<sup>109</sup> Stefanelli, *supra* note 91 (“In a moment of relative tolerance in 1797, he came out of hiding to exercise his ministry openly. But a sudden shift in the political situation caught him off guard.”); Llewellyn & Thompson, *supra* note 52 (“These dissenting priests were later removed from their posts, by order of the Assembly.”).

<sup>110</sup> Stefanelli, *supra* note 91.

<sup>111</sup> Habjan, *supra* note 21, at 201. Our Lady of Guadalupe, by comparison, refers to the appearance of Mary in Mexico, to the peasant Juan Diego (four times) and his uncle (once) in the year 1531. STEFANELLI, *supra* note 89, at 6.

<sup>112</sup> *All About Mary: Our Lady of the Pillar*, UNIV. OF DAYTON, <https://udayton.edu/imri/mary/o/our-lady-of-the-pillar.php> [https://perma.cc/QA4W-B3VN] (last visited June 7, 2022).

<sup>113</sup> Habjan, *supra* note 21, at 201; *Blessed William Joseph Chaminade Worked to Rechristianize France*, *supra* note 89.

discernment included conversation with fellow exiled priests.<sup>114</sup> Chaminade returned to France in 1800 after the Revolution, settling in Bordeaux.<sup>115</sup>

On December 8, 1800, based on Chaminade's ministry in Bordeaux, several men made a formal commitment to leading lives of prayer and re-Christianizing France.<sup>116</sup> These men constituted the nucleus of Chaminade's first sodality, which is described in detail below.<sup>117</sup> After founding the Marianist family, Chaminade led the Marianists until being replaced as the Superior General in 1845.<sup>118</sup> He passed away on January 22, 1850.<sup>119</sup>

The Catholic Church declared Chaminade Venerable in 1973 and Blessed on September 3, 2000, which means he remains only one step away from becoming a saint.<sup>120</sup> Chaminade's decision to stay in France and provide the sacraments to the Catholic community when he faced death for doing so demonstrates two extraordinary traits that merit imitation by law students and lawyers: (1) an unyielding commitment to serve others and (2) living out the courage of one's convictions. Chaminade also

<sup>114</sup> See Interview with Brother Raymond Fitz, S.M., President Emeritus, Professor of Soc. Change, and former President of the Univ. of Dayton, (June 17, 2020) (on file with author) [hereinafter Interview with Brother Raymond Fitz].

<sup>115</sup> Habjan, *supra* note 21, at 201; Stefanelli, *supra* note 91; *Meet 3 Remarkable People Who Got Us Started*, *supra* note 90. LAWRENCE J. CADA, A SHORT HISTORY OF MARIANIST SPIRITUALITY 53 (NACMS Publications, 2000) ("In 1800, when Father Chaminade returned to France from exile in Saragossa, he founded the Bordeaux Sodality. This was the start of the Marianist Family and the debut of Marianist spirituality.").

<sup>116</sup> Habjan, *supra* note 21, at 201; *Meet 3 Remarkable People*, *supra* note 90.

<sup>117</sup> Habjan, *supra* note 21, at 201.

<sup>118</sup> *Id.* at 202–03 (noting Chaminade's discontent with his replacement believing the ordeal to be illegitimate).

<sup>119</sup> Habjan, *supra* note 21, at 203; *A Brief Marianist Timeline*, *supra* note 66; Stefanelli, *supra* note 91; STEFANELLI, *supra* note 89, at 25 ("On January 22, 1850, after a last-minute reconciliation with his successor, Chaminade died peacefully.")

<sup>120</sup> Habjan, *supra* note 21, at 203; STEFANELLI, *supra* note 89, at 26. To become a saint in the Catholic Church, one must become Venerable, then Blessed, and then a saint. The Catholic Church deems someone Venerable after they die when the pope formally recognizes them "as having lived a heroically virtuous life or offered their life." The title of Blessed, which involves beatifying that person, requires "one miracle acquired through the candidate's intercession," along with "recognition of heroic virtue or offering of life." Finally, canonization to become a saint "requires a second miracle after beatification," although "[t]he pope may waive these requirements. A miracle is not required prior to a martyr's beatification, but one is required before canonization." *Saints*, U.S. CONF. CATH. BISHOPS, <http://www.usccb.org/about/public-affairs/backgrounders/saints-backgrounder.cfm> [<https://perma.cc/2Y4B-UES4>] (last visited June 29, 2022).

provides an example of discernment that law students should use throughout their law school careers and lives to help them determine how they should be using their gifts and talents.<sup>121</sup> Brother Raymond Fitz, S.M., President Emeritus, Professor of Social Change, and former President of the University of Dayton, points out that a major aspect of discernment, as it was for Chaminade, includes conversations with people who are going through the same issues one is facing.<sup>122</sup> The discernment need not be done in solitude, but should include dialogue with peers, mentors, family, and friends.

b. *Marie Therese*

Marie Therese was born on November 1, 1754, in Barsac, France.<sup>123</sup> She met Chaminade in Bordeaux during the French Revolution, and they worked together during that time to provide “secret prayer group meetings” and sacraments for Catholics.<sup>124</sup> She not only helped Chaminade form the first sodality for men in 1800, but she also helped form the Sodality of the Immaculate Conception for women in 1801.<sup>125</sup> Marie Therese also assisted Adele in founding the Daughters of Mary Immaculate, which is the religious order for women in the Marianist family.<sup>126</sup>

Marie Therese dedicated her ministry to serving women who wanted to break away from the life of prostitution and change

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<sup>121</sup> See Susan J. Stabile, *The Practice of Law as Response to God’s Call*, 32 SEATTLE U. L. REV. 389, 394, 398 (2009) (stating that “the practice of law is a calling,” which means law students and lawyers must discern if and then how they best fit into the legal profession, a process that occurs constantly throughout one’s life).

<sup>122</sup> Interview with Brother Raymond Fitz, *supra* note 114.

<sup>123</sup> Habjan, *supra* note 21, at 199; *Founders: A Trio of Friends Dedicated to the Blessed Mother*, *supra* note 94; Allison Leigh, *Marie-Thérèse de Lamourous*, UNIV. OF DAYTON, <https://udayton.edu/womenscenter/education/whm/whm18/marie-th%C3%A9r%C3%A8se.php> [<https://perma.cc/R4XL-6XQ3>] (last visited Oct. 27, 2022).

<sup>124</sup> Habjan, *supra* note 21, at 199; see Stefanelli, *supra* note 91 (stating laity, particularly women, continued the Catholic tradition during the French Revolution by providing sacraments to the Catholic community and teaching the faith to the community when the clergy was prohibited from doing so).

<sup>125</sup> Habjan, *supra* note 21, at 199; see *A Short History of the Society of Mary*, *supra* note 24 (explaining how Marie Therese “helped form and guide the women’s sections of the sodalities”); *Meet 3 Remarkable People*, *supra* note 90; *Marie-Therese, Who Are You?*, WORLD COUNS. MARIANIST FAM. 1, 6 (2017), <https://www.marianist.com/files/2017/12/MarieTherese-WhoAreYou.pdf> [<https://perma.cc/5XAH-YRYP>] (describing how the female branch of the sodalists was born and how Marie Therese was considered the “Mother” of this section, until 1809.”).

<sup>126</sup> Habjan, *supra* note 21, at 199.

their lives.<sup>127</sup> She created the Maison de la Misericorde, the House of Mercy, which housed over 300 women at one point.<sup>128</sup> Women at the House of Mercy acquired the skills to live on their own and serve the Catholic Church while reconnecting with God.<sup>129</sup>

Marie Therese worked with Chaminade, who was her spiritual director and collaborator, for 40 years.<sup>130</sup> Marie Therese died on September 14, 1836, spending the last decade of her life battling various illnesses.<sup>131</sup> She was known for her “loving heart,” organization and administrative skills, and “firm hand.”<sup>132</sup> On December 21, 1989, the Church declared her Venerable,<sup>133</sup> successfully completing the first step in the process for sainthood.<sup>134</sup>

Marie Therese lived a life of service dedicated to the poor with a focus on women. She worked with Chaminade in secret to serve the Catholic community. Law students and lawyers can take many things from the life of Marie Therese including a commitment to serve those less fortunate under the most dangerous and precarious situations. Taking on pro bono cases, particularly when one has billable work to do, where the latter pays the bills but the former can change or save the life of someone less fortunate, represents an ongoing choice to serve

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<sup>127</sup> *Id.*; *Meet 3 Remarkable People Who Got Us Started*, *supra* note 90; *see also* Leigh, *supra* note 123 (explaining Marie Therese’s initial reluctance to aid in bettering the lives of prostitutes).

<sup>128</sup> Habjan, *supra* note 21, at 199; *see* LEO PAUELS, S.M., A VERY SPECIAL FRIENDSHIP AT THE SERVICE OF THE KINGDOM: MARIE THERESE DE LAMOUREOUS AND WILLIAM JOSEPH CHAMINADE 15–16 (2018), <https://www.nacms.org/files/Friendship%20%282%29.pdf> (detailing Marie Therese’s path to opening the misericorde); *see also* *Meet 3 Remarkable People Who Got Us Started*, *supra* note 90 (listing the only condition for entry for the women was a desire to change their way of life).

<sup>129</sup> Habjan, *supra* note 21, at 199; *see also* Leigh, *supra* note 123 (explaining how Marie Therese worked with the local community to aid the mesicorde residents in finding jobs).

<sup>130</sup> Habjan, *supra* note 21, at 199; *see* *Meet 3 Remarkable People Who Got Us Started*, *supra* note 90 (noting Chaminade was at Marie Therese’s side even while on her death bed); *see also* PAUELS, *supra* note 128, at 15–16 (providing an overview of the history and work of Marie Therese and Chaminade throughout their lives).

<sup>131</sup> Habjan, *supra* note 21, at 199; Leigh, *supra* note 123.

<sup>132</sup> Habjan, *supra* note 21, at 199; *accord* Leigh, *supra* note 123 (“Marie-Thérèse is often described as firm of hand and loving of heart.”).

<sup>133</sup> Habjan, *supra* note 21, at 199; *Founders: A Trio of Friends Dedicated to the Blessed Mother*, *supra* note 94.

<sup>134</sup> *See* *Saints*, *supra* note 120 (discussing the three stages of achieving sainthood).

those in need when it may be extremely difficult for the lawyer. Law students face the same decision as they decide whether to spend some of their precious time serving the socioeconomically disadvantaged in clinics, pro bono work, or community service, knowing that it will take time away from studying to attain the highest grades possible and potentially a higher-paying job to pay off large law school loans.

c. *Adele*

Adele was born into nobility on June 10, 1789, about a month before the beginning of the French Revolution, in Feugarolles of Lot-et-Garonne, France.<sup>135</sup> Her father was a baron, and her noble family suffered exile during the French Revolution to England in 1791, then to Spain in 1797, Portugal in 1798, and back to Spain in 1800.<sup>136</sup> She and her family finally returned to France in 1801.<sup>137</sup>

Around the age of fifteen, Adele and a friend co-founded an association for women called the Little Society, which allowed women to grow in their Catholic faith and serve those in need.<sup>138</sup> Adele met Chaminade in 1808, and she decided, through dialogue with him, that her Little Society would join the women's sodality of the Immaculate Conception founded by Marie Therese and Chaminade in 1801.<sup>139</sup> Adele and Chaminade communicated almost exclusively by correspondence and met in person only a few times.<sup>140</sup> Adele, along with Marie Therese and some women from Adele's Little Society association, founded a religious order called the Daughters of Mary Immaculate, also known as the Marianist Sisters, in 1816.<sup>141</sup>

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<sup>135</sup> Habjan, *supra* note 21, at 199; *Blessed Adèle de Batz de Trenquelléon*, CATH. SAINTS (Oct. 15, 2019), <https://catholicsaints.info/blessed-adele-de-batz-de-trenquelléon/> [<https://perma.cc/3NE9-GFPL>].

<sup>136</sup> *Blessed Adèle de Batz de Trenquelléon*, *supra* note 135.

<sup>137</sup> *Id.*

<sup>138</sup> Habjan, *supra* note 21, at 199; *Blessed Adèle de Batz de Trenquelléon*, *supra* note 135.

<sup>139</sup> Habjan, *supra* note 21, at 199.

<sup>140</sup> Interview with Edward Brink, Vice President of Mission, Chaminade University of Honolulu (June 11, 2020) (on file with author); Interview with Brother Raymond Fitz, *supra* note 114.

<sup>141</sup> Habjan, *supra* note 21, at 200; *Marianist Sisters History: The Legacy of Mother Adele*, MARIANISTS, <https://www.marianist.com/FMI-history> [<https://perma.cc/X6BF-GHKS>] (last visited June 22, 2022); *A Short History of the Society of Mary*, *supra* note 24.

Adele continued to work with Chaminade until she died in 1828 after several difficult years of physical health.<sup>142</sup> She was known for her deep love and compassion for the poor and needy.<sup>143</sup> Pope John Paull II declared her Venerable in 1986 and Pope Francis beatified her in 2018 as she earned the title of Blessed.<sup>144</sup>

Adele represents someone born with earthly wealth who dedicated herself to the less fortunate. Some law students and lawyers may share Adele's upbringing and background, and hopefully they also share in her dedication to those in need. Her ability to communicate effectively in writing corresponds quite closely to a lawyer's reliance on the written word. For instance, practicing lawyers understand that courts decide many cases, particularly appellate cases, based significantly on what is contained in the written briefs.<sup>145</sup>

#### 4. Sodalties, the Society of Mary, and the Daughters of Mary Immaculate

Chaminade founded sodalties, which were small faith communities, in the early 1800s, and those sodalties evolved into the Society of Mary, the Marianist Brothers and priests, and the Daughters of Mary Immaculate, the Marianist Sisters. The sodalties were unique because they sought both men and women, people of all ages and social classes, both rich and poor, and people from many different occupations with varying levels of education.<sup>146</sup> Chaminade believed that France's re-

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<sup>142</sup> Habjan, *supra* note 21, at 200; *see also* Leigh, *supra* note 123 (listing Adele's cause of death as tuberculosis); Fr. Joseph Verrier, S.M., *Letters of Adèle de Batz de Trenquelléon*, MARIANISTS 1, 4, <https://www.marianist.com/files/2015/07/Trenquelléon-chronology.pdf> [<https://perma.cc/GW9R-SNR6>] (last visited June 29, 2022) (showing a timeline of Adele's life and specifically how she fell seriously ill in 1810).

<sup>143</sup> Interview with Father Martin Solma, S.M., Chaplain & Special Assistant to the President, Chaminade Univ. (June 18, 2020) (on file with author) [hereinafter Interview with Father Martin Solma].

<sup>144</sup> *Blessed Adèle de Batz de Trenquelléon*, CATH. SAINTS, *supra* note 135.

<sup>145</sup> Daniel J. Bussel, *Opinions First—Argument Afterwards*, 61 UCLA L. REV. 1194, 1208 n.44 (2014); *see* Andrew P. Morriss et al., *Signaling and Precedent in Federal District Court Opinions*, 13 SUP. CT. ECON. REV. 63, 68 (2005) ("Appellate judges decide cases largely based on written materials (briefs and memos), with comparatively brief oral arguments.").

<sup>146</sup> Habjan, *supra* note 21, at 201; *see* FLEMING, *supra* note 5, at 161 (2014) (stating Chaminade "sought to bring together clergy with laity, men with women, members of social elites with common people, rich with poor, highly educated people with those of simple backgrounds, and people of differing ethnic and linguistic

Christianization after the French Revolution required people from every walk of life to serve as messengers of God to others to reach everyone in France.<sup>147</sup> Brother Ed Brink, S.M., Vice President for Mission and Rector at Chaminade University of Honolulu, one of three Marianist universities besides Dayton and St. Mary's, emphasized that lay people, brothers, and priests lived in those communities as equals and chose leaders in the community based on what would be best for the community as opposed to someone's level of education or the titles people held.<sup>148</sup> Further, Brother Frank O'Donnell, S.M., J.D., a Marianist religious and lawyer, pointed out how uncommon it was for women to play such large roles in leadership in the Catholic Church, and Marie Therese and Adele were co-founders with Chaminade.<sup>149</sup>

The sodalities faced adversity just as Christianity faced adversity during the French Revolution.<sup>150</sup> In 1809, the French government prohibited sodalities because it considered sodalities "subversive groups" that threatened the "status quo."<sup>151</sup> The sodalities, therefore, conducted themselves in secret until 1814,

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origins"); CHRISTOPHER J. KAUFFMAN, *supra* note 88, at 17–18 (discussing the inclusivity of Chaminade's sodalities).

<sup>147</sup> Habjan, *supra* note 21, at 201; see *Meet 3 Remarkable People who got us Started*, *supra* note 90 (summarizing Chaminade's concept of sodality as to "gather all Christians—men and women, young and old, lay and clerical—into a unique community of Christ's followers unafraid to be known as such, committed to living and sharing their faith, and dedicated to supporting one another in living the Gospel to the fullest.").

<sup>148</sup> Interview with Brother Ed Brink, S.M., Vice President for Mission & Rector, Chaminade Univ. (June 11, 2020) (on file with author) [hereinafter Interview with Brother Ed Brink, S.M.].

<sup>149</sup> Interview with Brother Frank O'Donnell, S.M. (June 17, 2020) (on file with author). Cf. *St. Teresa of Avila*, BRITANNICA, <https://www.britannica.com/biography/Saint-Teresa-of-Avila> [<https://perma.cc/5X3D-DQ74>] (Sept. 30, 2020) ("Teresa spent [most of] her life establishing and nurturing [at least] 16 . . . convents throughout Spain."); Karin Stetina, *What the Reformation Did and Didn't Do for Women*, BIOLA UNIV. (Oct. 31, 2017), <https://www.biola.edu/blogs/good-book-blog/2017/what-the-reformation-did-and-didn-t-do-for-women> [<https://perma.cc/53WM-3HLM>] ("Women were excluded at the higher levels, due to education being directed towards preparation for church and community leadership roles . . . [w]e should lament the loss of opportunities for women to commit their lives to the formal study of Scripture and service of the church.").

<sup>150</sup> Habjan, *supra* note 21, at 201; see e.g., N. AM. CNTR. MARIANIST STUD., THE FOUNDERS 51, 62 (2016) [THE FOUNDERS], <https://www.nacms.org/files/g5%20Founders.pdf> ("Bordeaux Sodality suppressed by Napoleon, and Chaminade's papers seized[;] Madeleine closed; Chaminade moves to St. Laurent.").

<sup>151</sup> Habjan, *supra* note 21, at 201.

just as Chaminade and Marie Therese provided services to Catholics in secret during the French Revolution.<sup>152</sup>

The Daughters of Mary Immaculate, as discussed above, were founded in 1816. The next year, on October 2, 1817, men from the sodalities, including Jean Baptiste Lalanne, met with Chaminade to discuss forming a group of religious men who would serve the Catholic Church in a community of vowed men.<sup>153</sup> Several men made private vows on December 8, 1817, and several men made public vows on September 5, 1818.<sup>154</sup> October 2 is considered “Foundation Day” for the Marianists,<sup>155</sup> marking the beginning of their Catholic order.<sup>156</sup> The Society of Jesus, the Jesuit order, heavily influenced Chaminade in creating the Society of Mary, the Marianists, which Chaminade felt could provide the same “apostolic dynamism” during a troubled period in France that Jesuits provided in earlier times.<sup>157</sup> Marianists are currently present in 34 countries.<sup>158</sup> Men and women in the Marianist family continue to work together as equals just as the Founders did.<sup>159</sup>

The origin of the Marianists provides numerous lessons and examples for law students and lawyers. The Marianists cherished inclusivity, diversity, service, the ability to adapt to the changing times, and serving as agents of change. Law students can incorporate these concepts in a variety of ways. First, law students can be cognizant of the advantages of diversity in their classrooms, clinics, and their future legal colleagues. Law students can embrace inclusivity by welcoming fellow students regardless of their race, ethnicity, faith tradition, socioeconomic background, gender, gender identity, or sexual orientation. Law students can commit their lives to service, which does not just include pro bono work or working for legal aid organizations, but

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<sup>152</sup> *Id.*; Stefanelli, *supra* note 91.

<sup>153</sup> Habjan, *supra* note 21, at 201; THE FOUNDERS, *supra* note 150, at 51, 62; *Founders: A Trio of Friends Dedicated to the Blessed Mother*, *supra* note 94.

<sup>154</sup> Habjan, *supra* note 21, at 202; *Blessed William Joseph Chaminade Worked to Rechristianize France*, *supra* note 89.

<sup>155</sup> Habjan, *supra* note 21, at 202.

<sup>156</sup> *List of Catholic Orders and Congregations*, TRANSLATION DIRECTORY (Mar. 2011), <https://www.translationdirectory.com/articles/article2296.php> [https://perma.cc/Y9LQ-TNRD].

<sup>157</sup> Thompson, *supra* note 74, at 59.

<sup>158</sup> *Marianist Infographic*, MARIANISTS (Mar. 28, 2020), <https://www.marianist.com/infographic> [https://perma.cc/4C9K-2XZ8].

<sup>159</sup> *Id.*

also community service and service to their respective churches or places of worship.

Moreover, adapting to changing times means something very tangible after COVID-19 and the global pandemic. Learning how to provide legal services remotely and practicing law remotely became a reality.<sup>160</sup> Law students in clinics (and when they become lawyers) must be able to help their clients in their darkest times just as the founders ministered to people in need during France's most turbulent period in history.<sup>161</sup> Law students must be ready to adapt to any situation the world may throw at them. After the civil uprising following the murder of George Floyd,<sup>162</sup> law students must be willing to serve as agents of change in racial justice and other social justice issues.

##### 5. Mary as a Model<sup>163</sup>

Marianists view Mary, the mother of Jesus, as the model of Christian life.<sup>164</sup> Neither Catholics nor Marianists worship Mary as a deity—instead, they view her as possessing many of the qualities that each person should exhibit.<sup>165</sup> Father David Fleming points out several of the attributes of Mary based on Bible passages that Marianists seek to emulate.<sup>166</sup> For example, when the angel Gabriel visited Mary to tell her that she would be giving birth to Jesus, who would be the savior of the world, despite the fact that she had no relations with a man, Mary demonstrated selflessness, care for the world, and a “humble sense of receiving great gifts in trust.”<sup>167</sup> Mary also

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<sup>160</sup> Melissa Heelan Stanzione, *Covid Pressures Change to Where Lawyers Can Practice*, BLOOMBERG L. (Jan. 26, 2021), <https://news.bloomberglaw.com/us-law-week/pandemic-pressures-restriction-on-where-lawyers-can-practice> [<https://perma.cc/TJ72-3CWT>].

<sup>161</sup> Interview with Lisa Kloppenberg, former Dean of UDSL and current Professor of L. at Santa Clara Univ. (July 27, 2020) (on file with author).

<sup>162</sup> Sandra Lemaire, *How George Floyd's Death Has Impacted American Life*, VOA (June 6, 2020), <https://www.voanews.com/usa/race-america/how-george-floyds-death-has-impacted-american-life> [<https://perma.cc/43WZ-Z6LP>].

<sup>163</sup> Father Martin Solma points out that Mary was Jewish and demonstrates a “wonderful example of what [the] Jewish faith produces.” Interview with Father Martin Solma, *supra* note 143.

<sup>164</sup> FLEMING, *supra* note 5, at 157.

<sup>165</sup> *Id.* (“The Marianist charism views Mary as a central figure, model, or image of spirituality and mission.”).

<sup>166</sup> *See id.* at 157–59.

<sup>167</sup> *Id.* at 157–58.

demonstrated courage, faith, patience, and restraint when she watched her Son die from the foot of the cross.<sup>168</sup>

Father Tim Eden, S.M., Ed.D., the former Vice President for Mission at St. Mary's University, discussed how Chaminade looked to Mary as a model who showed faith during challenging times.<sup>169</sup> Father Eden asserts that Mary's experiences, such as watching her son die and wanting to be there for Him, but feeling helpless, is akin to Chaminade's experiences.<sup>170</sup> He lived through a time of turmoil as people's world, government, and lives fell apart, and Chaminade simply had to endure through everything with faith and integrity.<sup>171</sup> Father Eden argues that today people must endure great hardships and unprecedented events, and Mary's life serves as a model for persevering.<sup>172</sup> Finally, Brother Brink recognizes that Mary serves as a model for Christians because she received, accepted, and fulfilled her mission from God as all individuals should.<sup>173</sup>

## 6. Marianist Charism

"The Marianists are distinguished by their particular charism—the particular gift or collection of gifts given by God to a congregation for the benefit of the Christian community."<sup>174</sup> Brother Thomas Giardino, S.M., in his inspiring work, *The Promise and the Path: Starting and Sustaining Marianist Communities*, sets forth the five elements of the Marianist charism: (1) faith of the heart; (2) missionary spirit or dynamism; (3) alliance with Mary; (4) apostolic community; and (5) inclusivity.<sup>175</sup>

Faith of the heart entails Marianists' desire "to live the faith in a community, imitating Mary's response as a model of faith, and helping her in her mission."<sup>176</sup> Missionary spirit or dynamism involves participating in the mission of the Church, which is "the community entering into a covenant with Mary, to

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<sup>168</sup> See *id.* at 157.

<sup>169</sup> Interview with Father Tim Eden, S.M., *supra* note 22.

<sup>170</sup> *Id.*

<sup>171</sup> *Id.*

<sup>172</sup> *Id.*

<sup>173</sup> Interview with Brother Ed Brink, S.M., *supra* note 148.

<sup>174</sup> See *The Marianists*, ST. MARY'S UNIV., <https://www.stmarytx.edu/campuslife/spiritual/marianists/> [<https://perma.cc/GB62-K7WY>] (discussing the Marianist order and what a Marianist guided education entails).

<sup>175</sup> THOMAS F. GIARDINO, S.M., *THE PROMISE AND THE PATH: STARTING AND SUSTAINING MARIANIST COMMUNITIES* 9–11 (2011).

<sup>176</sup> *Id.* at 9.

assist her in her mission to communicate the faith in Jesus Christ.”<sup>177</sup> Marianists must integrate faith and culture as they are called to serve others in this world through their faith.<sup>178</sup>

Alliance with Mary describes how Marianists “are formed by Mary, our mother, just as Jesus was formed as her son.”<sup>179</sup> Apostolic community means a community where its “members have real *responsibility* for the internal and external life of the community,” and the community attracts others to its Christian way of life by the way those in the community live their lives.<sup>180</sup>

The final element, inclusivity, describes the diverse and eclectic nature of the Marianist communities that welcome and employ people from all walks of life with differing talents.<sup>181</sup> Just as “Chaminade gathered men and women, vowed religious and lay people, [and] persons coming from all socioeconomic classes,” the Marianists today do the same and seek to be inclusive in everything they do.<sup>182</sup> In fact, the Marianists Social Justice Collaborative, which “began in 1998 as a means to promote education and action for social justice within the Marianist Family,”<sup>183</sup> includes an LGBTQ+ Initiative that seeks to welcome and embrace LGBTQ+ Catholics and their families into the Marianist family.<sup>184</sup> The elements of the Marianist charism appear throughout the characteristics of a Marianist university, which are discussed in Part II of this Article.

### B. *Marianists & Education*

The Marianist family is an apostolic one, and Chaminade recognized that educational institutions provided the most effective way to re-Christianize France and spread the Word of

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<sup>177</sup> *Id.* at 10.

<sup>178</sup> *See id.*

<sup>179</sup> *Id.* The characteristics of a Marianist university also point out that Mary “formed Jesus for his mission,” and she will help form us “to become like Jesus for the sake of others.” CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 7.

<sup>180</sup> GIARDINO, *supra* note 175, at 10–11.

<sup>181</sup> *Id.* at 11.

<sup>182</sup> *Id.*

<sup>183</sup> *What is the Marianist Social Justice Collaborative?*, MARIANIST SOCIAL JUST. COLLABORATIVE, <https://msjc.net/> [<https://perma.cc/F3Z7-QSHL>] (last visited June 22, 2022).

<sup>184</sup> *LGBT Initiative*, MARIANIST SOCIAL JUST. COLLABORATIVE, <https://msjc.net/lgbt-initiative> [<https://perma.cc/592Y-3JQV>] (last visited June 22, 2022).

God.<sup>185</sup> Marianists initially founded a school for secondary instruction and then a number of primary schools.<sup>186</sup> Chaminade and the Marianists vowed to teach everyone, “especially the young and the poor.”<sup>187</sup> Marianists established normal schools to teach the Marianist Brothers and priests how to teach exceptionally well at Marianist schools.<sup>188</sup> Marianists became renowned for their ability to teach.<sup>189</sup> They eventually started schools outside of France and around the world, sometimes in the most vulnerable areas.<sup>190</sup>

Today, Marianist education occurs in over twenty-four countries and several continents including India, Ireland, Mexico, and Africa.<sup>191</sup> Marianists teach in elementary and middle schools, as well as high schools and universities.<sup>192</sup> In fact, approximately 200 Marianist religious and about 8,000 lay persons work together in these schools and serve over “112,000 children, youth, and adults.”<sup>193</sup> The Marianists came to the United States in 1849.<sup>194</sup> Today, the Marianists sponsor three universities, nineteen high schools, and several middle schools in the United States.<sup>195</sup>

### C. *Marianists & Legal Education*

The two Marianist law schools in the United States, UDSL in Ohio, and St. Mary’s Law School in San Antonio, Texas, began in 1922 and 1927, respectively. The Marianists founded the

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<sup>185</sup> GLODEK, *supra* note 1, at 15.

<sup>186</sup> WORKS OF THE SOC’Y OF MARY, THE SPIRIT OF OUR FOUNDATION: VOLUME III 10, 14, 16 (1920).

<sup>187</sup> *Id.* at 19–20.

<sup>188</sup> *Id.* at 74–75.

<sup>189</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 3; GLODEK, *supra* note 1, at 1–5.

<sup>190</sup> Jan Dixon, *Breaking the Cycle of Poverty: The Marianists in India*, MARIANIST CULTURE, FAITH, & CMTY. ALIVE, Summer 2012, at 4, 4, 5, [https://www.marianist.com/files/2012/07/ALIVE\\_Summer2012.pdf](https://www.marianist.com/files/2012/07/ALIVE_Summer2012.pdf) [<https://perma.cc/RR8A-UAXB>] (“For more than 30 years, the Marianists have been helping some of the world’s most vulnerable people create a better life through education.”).

<sup>191</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 3 (2019).

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at at 3.

<sup>195</sup> *Id.*; *A Short History of the Society of Mary*, *supra* note 24 (citing nineteen Marianist-sponsored high schools).

University of Dayton in 1850.<sup>196</sup> The law school, originally called the University of Dayton College of Law, is a part of the University of Dayton, and it opened in 1922.<sup>197</sup> The law school demonstrated the Marianist characteristic of inclusivity by its very first class, which consisted of a diverse group of students at the time that included two women and one African-American.<sup>198</sup>

The law school enjoyed success and earned a solid reputation for its teaching and academic excellence.<sup>199</sup> The members of the first class attained a 100% bar passage rate on their first attempt and that number remained extremely high for the classes that followed.<sup>200</sup> Unfortunately, the Great Depression forced the law school to close in 1935 with the hope that the school would reopen at some point.<sup>201</sup>

Prior to the reopening of the law school, Reverend Raymond A. Roesch, S.M., the president of the University of Dayton before and during the time of the reopening, learned from lawyers and judges that they struggled with following their legal responsibilities and addressing the “moral aspect of a case.”<sup>202</sup> In 1974, the law school reopened under the name University of Dayton School of Law.<sup>203</sup> Father Roesch declared at the reopening of the law school, “Our interest is not merely in providing, under private auspices, opportunities for the acquisition of legal expertise, worthy though this goal may be. Rather, we see herein an exceptional opportunity to promote Judean-Christian justice, social as well as individual—and thus to help humanize society.”<sup>204</sup> And when UDSL reopened in the 1970s, Dean Dr. Richard L. Braun emphasized that the law school’s curriculum would teach the technical and practical skills,

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<sup>196</sup> *History of the University of Dayton Law School*, UNIV. OF DAYTON SCH. OF L., <https://udayton.edu/law/about/about-us/history.php> [https://perma.cc/3JTM-RYCN] (last visited June 28, 2022).

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> *Capture Welcomes the University of Dayton Law School*, CAPTURE (Feb. 20, 2018), <https://www.capturehighered.com/news/university-dayton-school-law/> [https://perma.cc/XZD9-UX9Q].

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> Pat Rooney, *The UD Law School: The Renascent Dream and the Reality*, DAYTON: USA 22, 23–24 (1977).

<sup>203</sup> *Capture Welcomes the University of Dayton Law School*, CAPTURE (Feb. 20, 2018), <https://www.capturehighered.com/news/university-dayton-school-law/> [https://perma.cc/XZD9-UX9Q].

<sup>204</sup> Ralph Vines, *An Interview: Father Charles Lees Talks About UD’s Law School*, DAYTON: USA 27, 44 (1973).

such as appearing in court, and also stress ethics and morals in the practice of law.<sup>205</sup> UDSL has maintained that commitment over the years.<sup>206</sup>

UDSL is renowned nationally for its legal research and writing curriculum titled the Legal Profession Program.<sup>207</sup> Dayton also started one of the first law and technology programs in the country.<sup>208</sup> Moreover, Dayton, unlike many law schools, offers an accelerated two-year J.D. program.<sup>209</sup> The law school's curriculum has gained national attention as a model for twenty-first century legal education based on, among other things, its focus on "Learn. Lead. Serve." and the experiential learning opportunities it provides to its students. UDSL also provides an online hybrid J.D. program approved by the American Bar Association that combines online learning with live, in-person teaching, and interactive video classes.<sup>210</sup> The law school also offers opportunities for students in the Pro Bono Commitment to Community Program to serve disadvantaged clients directly.<sup>211</sup>

The San Antonio Bar founded the San Antonio School of Law in 1927 as a part-time evening program that met in the courthouse.<sup>212</sup> St. Mary's University, founded in 1852 by four Marianist Brothers, acquired the law school in 1934, thus

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<sup>205</sup> Mike Klingman, *Braun Predicts Law School Growth*, UD FLYER NEWS, OCT. 4, 1974, at 3.

<sup>206</sup> Jeffrey T. Cox, *A Call to Lead – Educating Ethical, Moral Legal Professionals*, 25 U. DAYTON L. REV. 15 (2000) ("UDSL offers a value-centered, ethical and moral program of legal education and training."); Lisa A. Kloppenberg, *Educating Problem Solving Lawyers for Our Profession and Communities*, 61 RUTGERS L. REV. 1099, 1106 (2009) ("[E]ducators are trying to help students develop their professional identities by promoting lifelong learning about ethics, professionalism, and values, including social justice at our Marianist institution."). The first returning class included a diverse group—students who worked in banking, real estate, and business, as well as mothers and grandmothers. Rooney, *supra* note 202, at 22.

<sup>207</sup> *History of the University of Dayton Law School*, *supra* note 196.

<sup>208</sup> *Id.*

<sup>209</sup> *Id.*

<sup>210</sup> *The Online Hybrid J.D. From the University of Dayton ABA-Approved*, UNIV. OF DAYTON, <https://onlinelaw.udayton.edu/form/> [<https://perma.cc/4KVS-8DJQ>] (last visited June 29, 2022).

<sup>211</sup> *Explore Dayton Law*, UNIV. OF DAYTON, <https://udayton.edu/law/about/index.php> [<https://perma.cc/W37T-NKJC>] (last visited June 29, 2022).

<sup>212</sup> *St. Mary's Law History*, ST. MARY'S UNIV. SCH. OF L., <https://law.stmarytx.edu/academics/about/st-marys-law-history/> [<https://perma.cc/FH C5-93XF>]; Charles E. Cantu, *An Oral History of St. Mary's School of Law (1961-2018)*, 50 ST. MARY'S L.J. 309, 329 (2019).

making the law school a part of the Catholic and Marianist mission.<sup>213</sup>

Correspondence from the 1940s illustrates both a common question regarding religiously-affiliated schools heard today and also affirms the law school's early commitment to the Marianist and Catholic traditions.<sup>214</sup> In responding to a letter from Father Alfred Rabe, S.M., the President of Saint Mary's University at the time, Provincial (that is, the leader of a geographic area for the Marianists who is responsible for all of its schools) Reverend Sylvester Juergens, S.M., openly questioned "how much religion or how deeply religious principles are inculcated in the young men who take law courses. I have been wondering . . . whether we are not passing off the Law School under false colors, as a Catholic School just because it takes the name St. Mary's University Law Department."<sup>215</sup> Later in the decade, the new dean of St. Mary's Law School, Ernest A. Raba, said the following of the law school's commitment to the Catholic tradition in a request to the new provincial, Reverend Peter Resch, S.M.:

The School of Law needs money to carry on its education of good, sound, ethical and Catholic lawyers to bring influence on this city and State and to protect the rights of the Catholic Church and to protect the rights of man. This is my object as long as I am Dean of your School of Law. I pray that I shall not fail my Creator in this mission.<sup>216</sup>

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<sup>213</sup> *St. Mary's Law History*, *supra* note 212.

<sup>214</sup> October 9, 1940 Letter from Rev. Sylvester P. Juergens, S.M. to Father Alfred Rabe, S.M., Courtesy of the National Archives of the Marianist Province of the United States: St. Louis Province—Education—San Antonio, St. Mary's University, School of Law—Correspondence with the Provincial Administration; July 17, 1948 Letter from Dean of the Law School Ernest A. Raba to Rev. Peter Resch, S.M., Courtesy of the National Archives of the Marianist Province of the United States: St. Louis Province—Education—San Antonio, St. Mary's University, School of Law—Correspondence with the Provincial Administration.

<sup>215</sup> October 9, 1940 Letter from Rev. Sylvester P. Juergens, S.M. to Father Alfred Rabe, S.M., Courtesy of the National Archives of the Marianist Province of the United States: St. Louis Province—Education—San Antonio, St. Mary's University, School of Law—Correspondence with the Provincial Administration.

<sup>216</sup> July 17, 1948 Letter from Dean of the Law School Ernest A. Raba to Rev. Peter Resch, S.M., Courtesy of the National Archives of the Marianist Province of the United States: St. Louis Province—Education—San Antonio, St. Mary's University, School of Law—Correspondence with the Provincial Administration. In a 1986 self-study written for the American Bar Association, St. Mary's Law School echoed that mission. The mission of St. Mary's Law School includes creating a community of faith where legal knowledge is imparted and law students understand the importance of seeking and promoting justice with moral principles and ethical

The first day division opened in 1936 for a brief time, and it resumed after the war ended in 1946.<sup>217</sup> The law school even survived during World War II and taught one of its most prominent graduates, Henry B. Gonzalez, LL.B., class of 1943, during that time.<sup>218</sup> Henry B. Gonzalez later became the first Mexican American voted to the Texas senate, and he still holds the record for the Hispanic who has served the most years in Congress—his tenure lasted thirty-seven years in the House of Representatives.<sup>219</sup>

St. Mary's Law School earned full accreditation from the American Bar Association in 1948.<sup>220</sup> In its earliest years, St. Mary's Law School taught practical legal skills and became known as the "lawyer's law school."<sup>221</sup> St. Mary's boasts one of the oldest legal study abroad programs, the St. Mary's Institute on World Legal Problems in Innsbruck, Austria, which began in 1986.<sup>222</sup> The late Justice Ruth Bader Ginsburg accounted as one of the eight justices of the Supreme Court of the United States who has taught in the program.<sup>223</sup> St. Mary's Law School also started a study abroad program, St. Mary's University School of Law Institute on Chinese Law and Business, in 2010.<sup>224</sup> St. Mary's and UDSL recently partnered together to provide both of

behavior. ST. MARY'S UNIV. SCH. OF L., AMERICAN BAR ASSOCIATION SELF STUDY 11–13 (1986).

<sup>217</sup> Ernest A. Raba, *St. Mary's University: From the Bexar County Courthouse to 112 College and the Exodus to the Woodlawn Campus*, TEX. B.J. 917, 919 (Oct. 1972).

<sup>218</sup> *St. Mary's Law History*, *supra* note 212; Henry B. Gonzales, U.S. HOUSE OF REPRESENTATIVES: HIST., ART, & ARCHIVES, <https://history.house.gov/People/Detail/13906> [<https://perma.cc/6LG2-RPVA>] (last visited June 29, 2022).

<sup>219</sup> Gonzales, *supra* note 218.

<sup>220</sup> *By Year Approved: ABA-Approved Law Schools by Year*, A.B.A., [https://www.americanbar.org/groups/legal\\_education/resources/aba\\_approved\\_law\\_schools/by\\_year\\_approved/](https://www.americanbar.org/groups/legal_education/resources/aba_approved_law_schools/by_year_approved/) [<https://perma.cc/34KT-YC5A>] (last visited Oct. 27, 2022).

<sup>221</sup> Office of the Dean, "School of Law," St. Mary's University School of Law Bulletin No. 1, 2 (Feb. 1949).

<sup>222</sup> *Innsbruck, Austria Summer Study Abroad Program*, ST. MARY'S UNIV. SCH. OF L., <https://law.stmarytx.edu/academics/special-programs/austria/> [<https://perma.cc/VQ42-FGYV>] (last visited Jan. 8, 2021); Vincent R. Johnson, *Rehnquist, Innsbruck, and St. Mary's University*, 38 ST. MARY'S L.J. 1, 2 (2006); Cantu, *supra* note 212, at 335.

<sup>223</sup> Gerald S. Reamey, *Driving Justice Ginsburg*, SAN ANTONIO REP. (Sept. 26, 2020), <https://sanantonioreport.org/driving-justice-ginsburg/> [<https://perma.cc/V4YV-XDSQ>].

<sup>224</sup> Robert H. Hu, *St. Mary's University Institute on Chinese Law and Business: Remarkable Success in the First Ten Years*, 51 ST. MARY'S L.J. 845, 847–848 (2020). *See About the Program*, St. Mary's University Institute on Chinese Law and Business, <https://sites.stmarytx.edu/chinalawinstitute/about/> [<https://perma.cc/V6E7-GUMC>] (last visited Oct. 25, 2022); Cantu, *supra* note 212, at 386.

these study abroad programs to their students.<sup>225</sup> The clinical programs grew in 1990 and found their physical home in the Center for Legal and Social Justice in 1996.<sup>226</sup> Now the robust and award-winning clinical programs include the Civil Justice Clinic, Criminal Justice Clinic, and the Immigration and Human Rights Clinic.<sup>227</sup>

In both the UDSL's and St. Mary's Law School's clinics, law students work under the supervision of clinical law professors.<sup>228</sup> Law students may also obtain their student bar cards and appear before courts, argue actual cases, and serve real clients.<sup>229</sup> The clinics, as discussed further in the next Part of the Article, represent just one way the schools live out the characteristics of a Marianist legal education.

## II. LIVING OUT THE FIVE CHARACTERISTICS OF A MARIANIST LEGAL EDUCATION

In 1996, an international team of Marianists completed three years of research that culminated in the drafting of a document that identified and explained the common elements of Marianist education.<sup>230</sup> The document, *Characteristics of Marianist Education*, included five characteristics: (1) educate for formation in faith; (2) provide an integral, quality education; (3) educate in family spirit; (4) educate for service, justice, and

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<sup>225</sup> *Summer Study Abroad Partnership*, UNIV. OF DAYTON, <https://udayton.edu/law/students/summer-study-abroad-partnership.php> [<https://perma.cc/NH8N-MT2B>] (last visited Oct. 27, 2022).

<sup>226</sup> *St. Mary's Law History*, *supra* note 212; Cantu, *supra* note 212, at 369–70.

<sup>227</sup> *Clinical Program*, ST. MARY'S UNIV. SCH. OF L., <https://law.stmarytx.edu/academics/special-programs/center-legal-social-justice/clinical-program/> [<https://perma.cc/TX29-W3M9>] (last visited Jan. 21, 2021); Sue Bentch, *A History of the Law Clinics at St. Mary's University School of Law*, 46 ST. MARY'S L.J. 285, 314–16 (2015) (discussing the numerous awards garnered by the clinics).

<sup>228</sup> *Law Clinics: Real Law. Real Clients. Real Experience.*, UNIV. OF DAYTON, [https://udayton.edu/law/jd\\_programs/clinics/index.php](https://udayton.edu/law/jd_programs/clinics/index.php) [<https://perma.cc/STY3-5XE8>] (last visited Jan. 8, 2021); *see Clinical Program*, *supra* note 227 (“Student attorneys gain practical, hands-on experience in all aspects of case-handling in each of the clinical courses under the direct supervision of a member of the faculty.”).

<sup>229</sup> *See Law Clinics: Real Law. Real Clients. Real Experience.*, *supra* note 228 (“You are responsible for all aspects of the client's defense, including: Client interview and counseling, Court pre-trial conferences, Fact discovery and pre-trial motions, Plea negotiations, and trial.”); [<https://perma.cc/STY3-5XE8>]; *see Clinical Program*, *supra* note 227 (“They interview and counsel clients, investigate facts to obtain and organize evidence, draft legal documents, negotiate with opposing counsel and administrative agencies and try actual cases in district, county and administrative courts.”).

<sup>230</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 5.

peace; and (5) educate for adaptation and change.<sup>231</sup> Because the project focused predominantly on primary and secondary schools, a new initiative arose to articulate the characteristics of a Marianist university.<sup>232</sup> All three Marianist universities—Chaminade, St. Mary’s, and Dayton—participated in creating the Characteristics of Marianist Universities (“CMU”), which they published in 1999.<sup>233</sup> The CMU, republished in 2006 and 2014, added substantive changes in the 2019 edition with the input of all three universities.<sup>234</sup> Namely, the 2019 version added *integrity of creation*, described below, to the fourth characteristic.<sup>235</sup>

In 2017, the Association of Marianist Universities (“AMU”) held a conference consisting of a committee from each Marianist law school that independently and collectively sought to articulate the characteristics of a Catholic and Marianist legal education.<sup>236</sup> The participants relied heavily on the CMU. One Marianist law school, using those five characteristics, interpreted the characteristics in light of a Marianist legal education.<sup>237</sup> This Article adopts those interpretations and, in parts, expands upon them. Each law school produced a document that reflected how the law schools viewed the relationship between the five characteristics of a Marianist university and legal education.<sup>238</sup>

The following Sections discuss each characteristic of a Marianist university and how each translates into a characteristic of a Marianist legal education. The analysis includes some overlap as the five characteristics are interdependent and closely related to each other.<sup>239</sup> In addition, after each characteristic of a Marianist legal education is defined, the Sections describe the ways in which the two Marianist law schools carry out and exemplify each characteristic. The examples given are not an exhaustive list of how the law schools live out the characteristics, but they serve as exemplars.

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<sup>231</sup> *Id.*

<sup>232</sup> *Id.*

<sup>233</sup> *Id.*

<sup>234</sup> *Id.* at 3.

<sup>235</sup> *Id.* at 5.

<sup>236</sup> *Conference of St. Mary’s University and University of Dayton Law Schools 1–2* (2017) (on file with author).

<sup>237</sup> *See Characteristics of a Marianist Law School*, *supra* note 8.

<sup>238</sup> *Id.*; Univ. of Dayton Sch. of L. Ad Hoc Comm. on the Characteristics of a Marianist L. Sch., *Guideposts to Law as Vocation* (undated).

<sup>239</sup> Interview with Professor David Coleman, Chaminade Univ. (June 17, 2020) (on file with author).

As will become evident, some of the activities that Marianist law schools engage in are the same activities performed at other law schools, including secular ones, but the reason and motivation for doing so may be different and remain critical. Former Dean of St. Mary's Law School Barbara Aldave once wrote that "if anything is special about Catholic law schools, it should be that they view the advancement of the reign of God as their principal business—as the ultimate rationale for all that they do."<sup>240</sup> Even though other law schools may have, for example, clinics, the duties the Marianists owe—such as the duty to serve others, namely the poor, and protecting the dignity of every person—do not expire upon graduation and must carry over to practice after graduation. As former Dean of UDSL Lisa Kloppenberg once said, "[i]n sum, we want them to leave us with a passion for service that will last a lifetime."<sup>241</sup> Thus, the "why" a Marianist law school engages in some activities may differ from other schools. Moreover, the similarities amongst law schools highlight the common ground Marianist law schools can use to unite their students and faculty, such as the desire to serve the common good, which is a concept that is certainly not exclusive to Christians or Catholics, but is instead shared by many people regardless of their faith traditions.

A. *Educate for Formation in Faith*

The CMU provides that the first characteristic, educate for formation in faith, involves educating the whole person, which includes developing their faith.<sup>242</sup> It also entails a commitment to the formation of a student's character, which allows the student to find and fulfill her vocation in life.<sup>243</sup> Catholic and Marianist universities must help prepare their graduates "to enact their vocations as their response to a call to use their gifts and talents ethically and in service to family and neighbors whether in the work place, the local community, the nation, or the world."<sup>244</sup>

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<sup>240</sup> Barbara Bader Aldave, *The Reality of a Catholic Law School*, 78 MARQ. L. REV. 291, 295 (1995).

<sup>241</sup> Lisa A. Kloppenberg & Lori E. Shaw, *Pro Bono: Assessing Aims and Achievement*, 40 U. TOL. L. REV. 357, 358 (2009).

<sup>242</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 11.

<sup>243</sup> *Id.* at 11–12.

<sup>244</sup> *Id.* at 11; EDUARDO BENLLOCH, S.M., CHAMINADE'S MESSAGE TODAY 130 (2001) (discussing Mary's call by God to a personal vocation where she would be the mother of Jesus, and her acceptance of that vocation showed incredible faith).

Father David Fleming, S.M., when reflecting on this characteristic in his powerful book, *A New Fulcrum*, asserts that Marianist education seeks to integrate “questions of a moral and spiritual nature from academic discourse,” rather than exclude them.<sup>245</sup> Faith and culture must be linked.<sup>246</sup> Father Fleming also notes that faith remains vital to a Marianist education.<sup>247</sup> In a Marianist educational institution, “everyone is invited to nourish, deepen, and broaden the spirit of faith[, and e]veryone is encouraged to develop—critically, sympathetically—a meaningful faith-perspective, no matter what its starting point (Catholic, Protestant, Jewish, Muslim, Buddhist, Hindu, agnostic, etc.).”<sup>248</sup>

Father Fleming makes the significant point that “‘formation in faith’ is *not* focused on proselytism or making converts.”<sup>249</sup> Instead, Marianists seek to share and dialogue in a diverse community with those of other faiths to strengthen their faith and others.<sup>250</sup> “[Marianists] seek to reach out to them in our concern for integrated faith and culture and to offer them a gift from our Christian heritage, while at the same time respecting them and learning something from them.”<sup>251</sup> Brother Raymond Fitz, S.M., states that it is key to understand that everyone has a moral tradition they follow, whether Catholic or not, though the moral tradition individuals follow may be implicit.<sup>252</sup> And sharing how people make decisions based on whatever moral tradition they follow can enrich one another’s traditions and viewpoints.<sup>253</sup>

Applying the language of the CMU and interpretations thereof to law schools, a Marianist legal education involves “educating students for formation in faith, which focuses on the formation of character and growth in faith that allows students to act ethically in their professional community [and to] understand their responsibility to serve others.”<sup>254</sup> The formation of character and growth in faith applies to law students of any and all faith traditions, including Catholic, Protestant, Jewish,

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<sup>245</sup> FLEMING, *supra* note 5, at 144.

<sup>246</sup> *Id.*

<sup>247</sup> *Id.* at 154.

<sup>248</sup> *Id.*

<sup>249</sup> *Id.* at 155 (emphasis added).

<sup>250</sup> *Id.* at 155–56.

<sup>251</sup> *Id.* at 156.

<sup>252</sup> Interview with Brother Raymond Fitz, *supra* note 114.

<sup>253</sup> *Id.*

<sup>254</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

Muslim, Buddhist, Hindu, atheism, and so on. Furthermore, it occurs amongst a diverse student body, faculty, and administration that seek to learn and enrich each other through respectful dialogue.<sup>255</sup> A Marianist legal education also treats the practice of law as a calling, or vocation, where a law student should discern how to best use her talents and gifts to serve others.<sup>256</sup>

The Marianist law schools exemplify educating for formation in faith in a number of ways. For example, UDSL, as a part of the 2017 AMU Conference with Marianist law schools, created a document that views the CMU as “guideposts to law as vocation.”<sup>257</sup> This document provides the following guidance for law students under this characteristic, titled “Know Who You Are and What You Value”:<sup>258</sup>

- Maintain your identity: Do not be defined by your role as a law student or a lawyer—you are much more.
- Explore your vocation: Cultivate your sense of mission. Integrate it into your career path.
- Act with integrity: Learn and abide by the professional standards of legal ethics.
- Feed your faith: Make time for spiritual development and renewal.
- Live your values: Ponder the role your own morality and/or religious beliefs will play in your professional life.<sup>259</sup>

UDSL also offers a course, “Law as a Calling,” which “examine[s] the roles of lawyers in client representation, moral discourse in the lawyer-client relationship and the reconciliation of competing professional obligations with personal moral beliefs.”<sup>260</sup> In the course, students “identify and explore how moral issues arise and may be resolved during client counseling, and how such moral discourse can enhance legal representation, the common good and justice.”<sup>261</sup>

Ethical formation of law students at UDSL occurs throughout its curriculum as ethics is infused in many courses,

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<sup>255</sup> *Id.*

<sup>256</sup> *Id.*

<sup>257</sup> *Guideposts to Law as Vocation*, *supra* note 238.

<sup>258</sup> *Id.*

<sup>259</sup> *Id.*

<sup>260</sup> *Course Descriptions*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/registrar/course\\_descriptions.php#jdprogram](https://udayton.edu/law/registrar/course_descriptions.php#jdprogram) [<https://perma.cc/7KDK-MYJB>] (last visited Jan. 8, 2021).

<sup>261</sup> *Id.*

at least eighteen of which include ethics in their official course descriptions.<sup>262</sup> The course of Professional Responsibility also focuses on the ethical and professional formation of a Dayton law student.<sup>263</sup> As for St. Mary's Law School, the students take part in a ceremony at 1L orientation where they take an oath of professionalism administered by a judge to start their legal careers.<sup>264</sup> The oath every student must take states:

I, (name), do solemnly pledge that:  
I will engage in the diligent study of law, always acting in an honest, moral, and professional manner;  
I will be guided by the spirit of hospitality, collaboration, mutual support, and scholarship, which are the ideals of a *Marianist* university; and  
I will be trustworthy, honorable, and professional in all aspects of my life.<sup>265</sup>

From the very beginning of their legal studies at St. Mary's, law students must profess their adherence to basic moral and ethical precepts, professionalism, as well as several distinct Marianist ideals, during their studies at a Marianist law school.<sup>266</sup> UDSL also requires its entering law students to take an oath that emphasizes ethics, moral principles, and the Marianist tradition that includes educating the whole person and a commitment to serving the common good.<sup>267</sup>

"Professional identity formation helps law students understand that their professional identities as lawyers can and should be guided by their own values and moral compasses."<sup>268</sup>

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<sup>262</sup> *Id.* (including, but not limited to, the following courses: ADR (Alternative Dispute Resolution) for the Litigator; Bioethics and the Law; Capstone: Elder Law; Capstone: Family Law Practice; Corporate Compliance and Ethics; Interviewing, Counseling, and Negotiation; Sustaining Practices for the Legal Profession; Transactional Drafting; Unbundling and the Future of Law; and Virtual and Online Media).

<sup>263</sup> *Id.*

<sup>264</sup> *Take the Pledge*, ST. MARY'S UNIV. SCH. OF L., <https://law.stmarytx.edu/admission/applying-j-d/newly-admitted-students/#pledge> [<https://perma.cc/A8XX-FWQN>] (last visited Jan. 8, 2021).

<sup>265</sup> *Id.* (emphasis added).

<sup>266</sup> *Id.*

<sup>267</sup> Hon. Michael J. Newman, *The Importance of Diversity and Inclusion; an Update: Civics and Service to Others; Peter McCabe's Magistrate Judge White Paper; and Renewing Our Commitment to Professionalism*, 64 FED. LAW. 3, 5 (2017).

<sup>268</sup> See *Characteristics of a Marianist Law School*, *supra* note 8; See Benjamin V. Madison, III Larry O. Natt Gantt, II, *Morals and Mentors: What the First American Law Schools Can Teach Us About Developing Law Student's Professional Identity*, 31 REGENT U. L. REV. 161, 194–95 (2019).

Courses at the Marianist law schools, such as Professional Responsibility and real-client Clinic classes, “enable students to consider and apply the fundamental moral values they need to recognize and resolve ethical dilemmas.”<sup>269</sup> Catholic Legal Perspectives, a course at St. Mary’s Law School, also does the same.<sup>270</sup>

Lisa Kloppenberg, former Dean of UDSL and current Professor of Law at Santa Clara University, asserts that when professors demonstrate and discuss how faith animates them, while at the same time being extremely intellectual, it helps develop law students.<sup>271</sup> I wholeheartedly agree with Provost Kloppenberg. Personally, I tell law students at the beginning of every semester that their faith, morals, values, and the practice of law should not be mutually exclusive. Instead, their faith, morals, and values should guide them as lawyers.

A Marianist legal education that educates for formation in faith “also involves creating a dialogue between faith and culture that embraces and relies on people of other religious traditions to work and lead in a law school.”<sup>272</sup> Catholics and non-Catholics comprise the members of Marianist law schools at every level—students, faculty, administration, and staff.<sup>273</sup> Moreover, at St. Mary’s Law School, the “community of faith and culture is embodied in the Red Mass, which is an annual inter-faith gathering that celebrates members of the San Antonio legal community, including judges, lawyers, law professors, and law students.”<sup>274</sup> Sister Grace, the law school’s full-time campus minister, organizes the entire Red Mass event with the help of the city’s legal community, “to create an inclusive celebration within a Catholic mass [where b]oth faculty and students of many faiths participate and assist in Red Mass.”<sup>275</sup>

### *B. Provide an Integral, Quality Education*

The CMU states the following: an integral, quality education “calls each member of the community to attentive presence, to

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<sup>269</sup> See *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>270</sup> BILL PIATT, *CATHOLIC LEGAL PERSPECTIVES* 3 (2d ed. 2018).

<sup>271</sup> Interview with Lisa Kloppenberg, former Dean, UDSL and current Professor of L., Santa Clara Univ. (July 27, 2020) (on file with author).

<sup>272</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>273</sup> See *id.*; *Guideposts to Law as Vocation*, *supra* note 238.

<sup>274</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>275</sup> *Id.*

participation in genuine community, and to competent and loving service.<sup>276</sup> Marianist education recognizes and cherishes the dignity of each person as God created each person and loves each one of us.<sup>277</sup> Thus, a Catholic and Marianist education welcomes all participants in a university setting including faculty, students, and staff.<sup>278</sup>

The CMU also discusses how students must acquire the skills necessary to work within society and to improve society while making ethical and moral decisions.<sup>279</sup> Brother Stephen Glodek, S.M., in his seminal work, *Marianist Praxis: Building Marianist Educational Culture*, asserts that someone Marianist-educated leaves school with the requisite academic and technical skills.<sup>280</sup> She can also think critically and apply that thinking to her faith and culture.<sup>281</sup>

Applying the foregoing to a legal education, a Marianist legal education that provides a quality, integral education involves “an academic community that strives to nurture the whole person to develop his or her physical, psychological, intellectual, moral, spiritual, and social qualities.”<sup>282</sup> Marianist law schools “expect students to develop competency in the course work, passion for the Rule of Law, and an awareness of their ethical responsibilities as members of the legal profession.”<sup>283</sup> Marianist law schools “integrate[] the practical as well as the academic aspects of the law, so that our students will become a credit to the legal profession guided by the spirit of hospitality, collaboration, and mutual support.”<sup>284</sup>

Both UDSL and St. Mary’s Law School provide nationally recognized programs for first-year law students, the Legal Profession Program and the Law Success Program, respectively, that are “designed to ensure that students have the skills, professionalism, work habits, and competencies necessary to

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<sup>276</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 14.

<sup>277</sup> *Id.*

<sup>278</sup> *Id.* at 15.

<sup>279</sup> *Id.* at 15–16.

<sup>280</sup> GLODEK, *supra* note 1, at 12.

<sup>281</sup> *Id.*

<sup>282</sup> *Characteristics of a Marianist Law School*, *supra* note 8; Kloppenberg, *supra* note 206, at 1099 (stating that Catholic and Marianist education involves educating the whole person).

<sup>283</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>284</sup> *Id.*

succeed in law school and in the vocation of practicing law.”<sup>285</sup> The law schools’ clinical and externship programs enable law students to apply their academic knowledge and employ practical skills to help real clients who need legal assistance while learning how to behave as ethical professionals.<sup>286</sup>

In addition to developing the skills necessary to serve as excellent lawyers, Marianist law schools develop their law students physically and mentally. Each law school provides a wealth of resources for law students facing mental health or substance abuse issues, including on-campus therapists.<sup>287</sup>

Students also have the ability to develop spiritually. For example, St. Mary’s Law School’s spiritual life for its law students is largely facilitated by the law campus ministry which attempts to connect all students to the Marianist traditions at St. Mary’s Law School.<sup>288</sup> For example, Sister Grace meets individually with students to offer personal and spiritual guidance and support.<sup>289</sup> She often leads community prayer at law school events.<sup>290</sup> The law campus ministry at St. Mary’s, besides organizing and hosting the Red Mass, also coordinates the Ash Wednesday Mass to start the Lenten season, and it invites the entire St. Mary’s University community to the Mass and a Lenten meal afterwards.<sup>291</sup>

### C. *Educate in Family Spirit*

According to the CMU, “Marianist educational experience fosters the development of a community characterized by a sense of family spirit that accepts each person and invites everyone in the university into the challenge of building community within

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<sup>285</sup> *Id.*; *Legal Research and Writing Program*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/jd\\_programs/legal\\_pro\\_program.php](https://udayton.edu/law/jd_programs/legal_pro_program.php) [<https://perma.cc/N29A-62KZ>] (last visited Oct. 26, 2022).

<sup>286</sup> See *Characteristics of a Marianist Law School*, *supra* note 8; *Legal Research and Writing Program*, *supra* note 285.

<sup>287</sup> *Health and Counseling Services*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/students/wellness/health\\_and\\_counseling\\_services.php](https://udayton.edu/law/students/wellness/health_and_counseling_services.php) [<https://perma.cc/S86F-YRC2>] (last visited Jan. 2, 2021); *Drugs and Alcohol Abuse Assistance*, UNIV. OF DAYTON SCH. L., [https://udayton.edu/law/students/wellness/drug\\_and\\_alcohol\\_abuse\\_assistance.php](https://udayton.edu/law/students/wellness/drug_and_alcohol_abuse_assistance.php) [<https://perma.cc/6P8Z-E3MQ>] (last visited Jan. 2, 2021) (recognizing that “[d]rug and alcohol abuse is a serious problem among members of the legal profession, including law students”); see *Characteristics of a Marianist Law School*, *supra* note 8; *Legal Research and Writing Program*, *supra* note 285.

<sup>288</sup> *Spiritual Life*, *supra* note 11.

<sup>289</sup> *Id.*

<sup>290</sup> *Id.*

<sup>291</sup> *Id.*

and beyond our campus.”<sup>292</sup> This characteristic focuses on diversity and inclusivity.<sup>293</sup> Members of a Marianist university embrace diversity and communicate respectfully with one another even when they disagree.<sup>294</sup> Hospitality and friendliness remain ever-present at Marianist universities.<sup>295</sup>

Father Fleming emphasizes that diversity is incredibly valuable in today’s society because of all the different races, cultures, languages, religions, and philosophies in the world, and the world is closely connected.<sup>296</sup> Thus, he remarks that “[t]he aim should be to build on one another’s strengths and to learn and be enriched by differences.”<sup>297</sup>

Brother Glodek states that someone Marianist-educated can form and sustain interpersonal relationships and understands the importance of community in developing personally.<sup>298</sup> Moreover, this person has both a commitment to and skill in “staying at the table” when there is conflict or disagreement.<sup>299</sup> Brother Glodek refers to the “Marianist milieu of family spirit” as a “culture of *home*.”<sup>300</sup>

Building on the CMU and its interpretations, a Marianist legal education that educates in family spirit “recognizes that students learn better when they are an active part of a university community, and that a law school plays a formative role in creating lawyers who are ethical members of God’s community.”<sup>301</sup> Moreover, a Marianist legal education “emphasizes the cultivation of interpersonal relationships throughout law school and in practice. The School of Law focuses on these community relationships that are characterized by openness, respect, integrity, and dialogue.”<sup>302</sup> A Marianist legal education involves an inclusive, “diverse community that respects every person and unique perspective, both when their perspectives agree and when they conflict.”<sup>303</sup>

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<sup>292</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 17.

<sup>293</sup> *Id.* at 17–18.

<sup>294</sup> *Id.*

<sup>295</sup> *Id.*

<sup>296</sup> FLEMING, *supra* note 5, at 161.

<sup>297</sup> *Id.* at 161.

<sup>298</sup> See CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 17–18.

<sup>299</sup> GLODEK, *supra* note 1, at 12.

<sup>300</sup> *Id.* at 21.

<sup>301</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>302</sup> *Id.*

<sup>303</sup> *Id.*

Marianist law schools exemplify this characteristic in a variety of ways. For example, St. Mary's Law School's law campus ministry and the Student Bar Association put on community events, such as Boo Bash, a Halloween party for underprivileged children from shelters, which allows law students to work together while serving the community.<sup>304</sup> Law students also created the Justice Carlos Cadena Dining Society that hosts dinners for students, faculty, and the legal community, including jurists and practicing attorneys.<sup>305</sup> The law school has also offered a series called "Theology and Beer" where law faculty and students meet informally at the campus pub to discuss the intersection between law and faith.<sup>306</sup> The Boo Bash, pro bono work, and clinics allow Marianist law schools to immerse themselves in the community by working for the common good.<sup>307</sup>

UDSL offers a "scholarly symposia series" that presents students with legal issues involving ethics and morals.<sup>308</sup> For example, UDSL hosted the Gilvary Symposium on Law, Religion & Social Justice, which featured nationally prominent scholars and child advocates who discussed issues regarding representing children.<sup>309</sup> The symposium also helped garner interest from law students to work as guardians ad litem.<sup>310</sup>

Each Marianist law school comes together to celebrate its students, including for awards specifically based on exhibiting Marianist characteristics. For instance, UDSL annually awards the Brother Fitz Student Leader For Justice Award to a graduating student who sought justice throughout her time in law school.<sup>311</sup> St. Mary's Law School's law campus ministry hosts the annual Fiesta Farewell awards ceremony that honors students and student-run-organizations that demonstrate Marianist qualities.<sup>312</sup>

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<sup>304</sup> *Id.* The Boo Bash is a Halloween party filled with games, candy, and food, "for children from youth programs and shelters." *Spiritual Life, supra* note 11.

<sup>305</sup> *Characteristics of a Marianist Law School, supra* note 8.

<sup>306</sup> *Id.*

<sup>307</sup> *Id.*

<sup>308</sup> *Catholic, Marianist Identity & Community Engagement*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/about/community\\_engagement.php](https://udayton.edu/law/about/community_engagement.php) [https://perma.cc/C9EE-KM3A] (last visited Jan. 7, 2021).

<sup>309</sup> *Id.*

<sup>310</sup> *Id.*

<sup>311</sup> *Brother Fitz Student Leader For Justice Award*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/students/fitz\\_justice\\_award.php](https://udayton.edu/law/students/fitz_justice_award.php) [https://perma.cc/4BFM-6RBX] (last visited Jan. 20, 2021).

<sup>312</sup> *Spiritual Life, supra* note 11.

In terms of inclusivity and diversity, St. Mary's Law School enjoys one of the highest Hispanic/Latino student populations for all U.S. law schools, with a little over 50% of its 2021-2022 entering 1L class identifying as Hispanic/Latino.<sup>313</sup> The percentage of racial minority students for the entire law school is approximately 58% (433 racial minority students out of 747).<sup>314</sup> Of the 48 full-time faculty at St. Mary's Law School, eleven are people of color, which is nearly 23%.<sup>315</sup> When non-full-time faculty are included, the total number of racial minority faculty equals 22 individuals (out of 93 faculty members), which is nearly 24% of the faculty.<sup>316</sup> The religious makeup of St. Mary's Law faculty is just as diverse and includes, among other faith traditions, Catholic, Jewish, Buddhist, and atheist faculty.<sup>317</sup> The eclectic law faculty works collaboratively to govern the law school by consensus.<sup>318</sup>

UDSL also prides itself on its diverse student and faculty population that creates a welcoming and inclusive environment in line with the Catholic and Marianist traditions.<sup>319</sup> UDSL, with 24% of its students from diverse backgrounds, is currently the most diverse law school in Ohio.<sup>320</sup> UDSL also ranks among the best law schools for African-Americans.<sup>321</sup> Furthermore, both Marianist law schools consist of LGBT student organizations.<sup>322</sup>

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<sup>313</sup> ST. MARY'S UNIV., STANDARD 509 INFORMATION REPORT (2021), <https://s18875.pcdn.co/wp-content/uploads/2021/12/Standard-509-2021.pdf> [<https://perma.cc/5KFN-62CX>].

<sup>314</sup> *Id.*

<sup>315</sup> *Id.*

<sup>316</sup> *Id.*

<sup>317</sup> See *Spiritual Life*, *supra* note 11.

<sup>318</sup> See *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>319</sup> *Explore Dayton Law*, *supra* note 211.

<sup>320</sup> UNIV. OF DAYTON, STANDARD 509 INFORMATION REPORT (2021), [https://udayton.edu/law/\\_resources/documents/std509-info-report-udsl.pdf](https://udayton.edu/law/_resources/documents/std509-info-report-udsl.pdf) [<https://perma.cc/5TC8-2Q7U>]; e-mail from Univ. Dayton Sch. L., to David Grenardo, Professor of L., (Sept. 17, 2020, 03:15 CST) (on file with author).

<sup>321</sup> Mike Stetz, *Best Law Schools for Diversity*, 23 PRELAW 1, 29 (2020), <https://www.bluetoad.com/publication/frame.php?i=648084&p=25&pn=&ver=html5> [<https://perma.cc/FZP4-PVWW>].

<sup>322</sup> *Lambda Legal Student Association*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/students/student\\_orgs/lambda\\_legal\\_student\\_association.php](https://udayton.edu/law/students/student_orgs/lambda_legal_student_association.php) [<https://perma.cc/72RC-63J5>] (last visited Feb. 14, 2021) (explaining LGBT Lambda Legal Student Association); *Student Organizations*, ST. MARY'S UNIV. SCH. OF L., <https://law.stmarytx.edu/student-services/student-organizations/> [<https://perma.cc/R8K3-DETX>] (describing LGBT OUTlaw Association).

St. Mary's Law School also hosts "Family Day" at the law school every year.<sup>323</sup> During Family Day 1L families and friends endure a simulated 1L class taught by a 1L law professor.<sup>324</sup> They also learn from law faculty, administration, and upper-level students about what their law student is going through and what it takes to succeed in law school.<sup>325</sup>

*D. Educate for Service, Justice, Peace, and the Integrity of Creation*

The CMU recognizes that Marianist education remains strongly committed to justice, peace, and the common good.<sup>326</sup> Marianist universities heed a special calling to serve the poor and needy, protect the dignity and rights of all people, and work for the common good.<sup>327</sup> Marianist universities seek to serve as agents of change and address social and moral issues.<sup>328</sup> The CMU also provides that Pope Francis' encyclical, *Laudato Si*, encourages people to take care of our common home, Earth.<sup>329</sup> Marianist education "instill[s] in our students a respect for the integrity of creation and a commitment to environmental justice."<sup>330</sup> Brother Glodek states that Marianist-educated individuals "promote[] justice in their interpersonal and professional relationships."<sup>331</sup> They can identify injustice, including its causes, and work with others to battle injustice.<sup>332</sup>

Therefore, a Marianist legal education that educates for service, justice, peace, and integrity of creation integrates these concepts into the curriculum.<sup>333</sup> Marianist law schools emphasize

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<sup>323</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>324</sup> *Id.*

<sup>325</sup> *Id.*

<sup>326</sup> See CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 19; Sister Grace Walle, F.M.I., *Doing Justice: A Challenge for Catholic Law Schools*, 28 ST. MARY'S L.J. 625, 632 ("Catholic law schools can nurture and influence students in their commitment to justice by preparing future lawyers to have a Christian attitude of service, both in the community and in the practice of law.").

<sup>327</sup> See CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 19; see Sister Grace Walle, F.M.I., *Doing Justice: A Challenge for Catholic Law Schools*, 28 ST. MARY'S L.J. 625, 632.

<sup>328</sup> See CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 19–21.

<sup>329</sup> See *id.* at 21.

<sup>330</sup> *Id.*

<sup>331</sup> GLODEK, *supra* note 1, at 12.

<sup>332</sup> *Id.*

<sup>333</sup> See *Characteristics of a Marianist Law School*, *supra* note 8. University of Dayton School of Law Learning Outcomes and Performance Criteria, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/\\_resources/documents/academics/](https://udayton.edu/law/_resources/documents/academics/)

the importance of service as lawyers must serve their clients, and they should serve their communities, especially the poor and marginalized.<sup>334</sup> “Service is an integral part of preparing our students to be leaders, by enhancing their awareness and sensitivity to the needs of others and connecting them to the wider world.”<sup>335</sup> A Marianist legal education also “encourages analysis, dialogue, scholarship, and action that address social and moral issues, and initiatives to achieve needed social change.”<sup>336</sup> A Marianist legal education also places value on all of creation, including the environment and life at all stages.

Both Marianist law schools enjoy robust clinics whose purposes include serving those in need, seeking justice for the most vulnerable in society, and providing valuable experience and skill-building opportunities for their students.<sup>337</sup> UDSL’s clinic, for example, represents the poor and marginalized in civil and criminal cases.<sup>338</sup> Students at each Marianist law school often choose externships for school credit that serve the less fortunate—for example, the Public Defender’s Office.<sup>339</sup> A law school clinic provides needed services for the poor, and it also helps develop a student’s professional identity and judgment.<sup>340</sup>

Service and justice for the law schools go beyond the classroom and the courtroom.<sup>341</sup> At UDSL “students have extended their hands to help with everything from building

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learning-out comes-and-performance-criteria.pdf [https://perma.cc/RZC7-74EW] (last visited June 29, 2022) (“Learning Outcome 9: Graduates will exemplify the Marianist charism of service, community, and inclusivity.”); *Academics*, ST. MARY’S UNIV. SCH. OF L., <https://law.stmarytx.edu/academics/> [https://perma.cc/M32Q-XDEW] (last visited Feb. 14, 2021) (stating under student learning outcomes in the section of service and justice that law students must learn Marianist principles).

<sup>334</sup> *Characteristics of a Marianist Law School*, *supra* note 8; Emily Fowler Hartigan, *Practicing and Professing Spirit in Law*, 27 TEX. TECH L. REV. 1165, 1173 (1996) (“The mission of this Catholic law school[, St. Mary’s,] is to the *anawim*, the poor, forsaken and oppressed.”).

<sup>335</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>336</sup> *Id.*

<sup>337</sup> *Clinical Program*, *supra* note 227; *Law Clinics: Real Law. Real Clients. Real Experience.*, *supra* note 228.

<sup>338</sup> *Community Engagement*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/about/community\\_engagement.php](https://udayton.edu/law/about/community_engagement.php) [https://perma.cc/C9EE-KM3A] (last visited June 29, 2022).

<sup>339</sup> *See, e.g., id.*; *see Characteristics of a Marianist Law School*, *supra* note 8; Kloppenberg & Shaw, 241, at 366 (“As a Catholic and Marianist school, Dayton Law actively seeks placements that serve the poor and encourages students to select those placements, but we do not limit our students to such placements.”).

<sup>340</sup> *See generally supra* Bentch, note 227.

<sup>341</sup> *Community Engagement*, *supra* note 338.

homes for the homeless to helping draft wills for firefighters and police officers to helping immigrants complete their tax forms.”<sup>342</sup> Similarly, St. Mary’s Law School students work in countless ways to serve low-income clients, including, but not limited to: drafting wills, preparing tax returns, advising veterans, recovering ID for homeless individuals, and working with high school students in Peer Court.<sup>343</sup>

UDSL selects students for full tuition scholarships in its Leadership Honors Program that trains lawyer-leaders for tomorrow and includes a leadership legacy project aimed at transforming a community institution.<sup>344</sup> UDSL also awards money through the Lisa A. Kloppenberg Public Interest Award to students who choose to work in unpaid public interest internships during the summer.<sup>345</sup> Students who received this award have served a wide range of clients, including the elderly, disabled, poor, and children, in numerous organizations, such as Legal Aid, the NAACP, and the Court Appointed Special Advocates Program.<sup>346</sup> Former Dean Barbara Bader Aldave, who established St. Mary’s clinics in 1990, once stated, “If any one thing should be of central importance in a Catholic law school, it is a commitment to justice—not only justice under the law, but justice and fairness in society.”<sup>347</sup>

One of the first graduates of UDSL, Judge Frank P. Geraci, Jr., wrote of the experiences offered at UDSL clinic and internships, “Sensitivity and basic human understanding were as important as technical skills. Mutual respect needs to be experienced between attorney and client.”<sup>348</sup> Brother O’Donnell, an attorney himself, affirms that approach, which is that lawyers should treat their clients, regardless of their occupation, wealth,

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<sup>342</sup> *Id.*

<sup>343</sup> *Characteristics of a Marianist Law School*, *supra* note 8. The State Bar of Texas awarded St. Mary’s Law School’s Pro Bono Coordinator Director of Pro Bono Programs, Greg Zlotnick, the 2020 Pro Bono Coordinator Award. *Gregory Zlotnick*, ST. MARY’S UNIV. SCH. OF L., <https://law.stmarytx.edu/academics/faculty/gregory-zlotnick/> [<https://perma.cc/Z7NC-LQH7>] (last visited Oct. 26, 2022).

<sup>344</sup> *Leadership Honors Program*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/jd\\_programs/lhp/index.php](https://udayton.edu/law/jd_programs/lhp/index.php) [<https://perma.cc/M2L3-MDYM>].

<sup>345</sup> *Community Engagement*, *supra* note 338.

<sup>346</sup> *See id.*

<sup>347</sup> Jon Dubin, *Clinical Design for Social Justice Imperatives*, 51 SMU L. REV. 1461, 1483 (1998).

<sup>348</sup> Frank P. Geraci, Jr., “Dayton Lawyer” – *Title of Distinction*, 25 U. DAYTON L. REV. vii, xiii-xiv (2000).

or education, with dignity and respect.<sup>349</sup> Brother O'Donnell worked for low-income clients in landlord/tenant situations and advocates strongly against the death penalty.<sup>350</sup> In his vast experience, he saw first-hand how people treated those clients and individuals, particularly death row inmates, as less than and inferior.<sup>351</sup> Graduates from Marianist law schools should see their clients as equals and treat them as they would want to be treated themselves.

Law faculty model service to their students by teaching continuing legal education courses for lawyers, serving on charitable boards and bar association committees, and engaging in community service.<sup>352</sup> Law professors also address social justice and policy issues through their own scholarship and by reviewing articles eventually published by their law journals. This includes the flagship journals, the University of Dayton Law Review and the St. Mary's Law Journal, as well as the Scholar: St. Mary's Law Review on Race & Social Justice and St. Mary's Journal on Legal Malpractice & Ethics, which address social justice, policy, and ethical issues.<sup>353</sup>

UDSL also offers a unique program called the Hanley Sustainability Collaborative, which involves courses and practice experience in externships and summer fellowships focused on environmental law.<sup>354</sup> Students learn and engage in work concerning the legal issues relating to environmental law and its major topics, such as climate change and sustainability.<sup>355</sup> This bold and cutting-edge program directly exemplifies the Marianist characteristic of a legal education that seeks to protect justice and the environment. Moreover, UDSL created a relationship with the university's Human Rights Center to provide

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<sup>349</sup> Interview with Brother Frank O'Donnell, *supra* note 149.

<sup>350</sup> *Id.*

<sup>351</sup> *Id.*

<sup>352</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>353</sup> *Id.* With regard to the creation of the *Scholar: St. Mary's Law Review on Race & Social Justice*, "All levels of university administration agreed to fund a second journal dedicated exclusively to issues related to racial and social justice concerns." Bill Piatt, *¡Que Viva the Scholar!*, 20 SCHOLAR 9 (2017).

<sup>354</sup> *Hanley Sustainability Collaborative*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/jd\\_programs/hanley\\_sustainability.php](https://udayton.edu/law/jd_programs/hanley_sustainability.php) [https://perma.cc/27EJ-VZHA] (last visited Oct. 26, 2022).

<sup>355</sup> *Id.*

opportunities for law faculty and students to protect the most vulnerable citizens' rights.<sup>356</sup>

*E. Educate for Adaptation and Change*

Chaminade often said, "New times call for new methods."<sup>357</sup> His "pragmatic and visionary approach allows for reading the 'signs of the times' and responding with attention to history and tradition, while considering innovative and practical solutions for current and future contexts."<sup>358</sup> Marianist universities continuously adapt and change their teaching methods and approaches as social and technological advances continue to occur.<sup>359</sup>

Brother Glodek states that a Marianist-educated person maintains flexibility in adapting to the changing times.<sup>360</sup> A Marianist-educated person must also serve as an agent of change.<sup>361</sup>

Thus, interpreting the CMU in light of law school, a Marianist legal education that educates for adaptation and change "educates students to be aware of the accelerating change in the law and the provision of legal services and to develop skills that will allow them to adapt to these changes while maintaining their moral and ethical principles."<sup>362</sup> A Marianist legal education must also prepare law students to be ready and willing to serve as agents of change to address current and future legal issues. St. Mary's Law School received approval for the first fully online J.D. program accredited by the American Bar Association, which will launch in the fall of 2022.<sup>363</sup>

UDSL offers its groundbreaking "Program in Technology" that covers areas in the law where rapid advances in technology take place, such as patent law, copyright and trademark law, intellectual property law, computer law, cyberspace law, and

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<sup>356</sup> *Human Rights Center Collaborative*, UNIV. OF DAYTON SCH. OF L., [https://udayton.edu/law/jd\\_programs/human\\_rights/index.php](https://udayton.edu/law/jd_programs/human_rights/index.php) [https://perma.cc/QF X3-53X7] (last visited Oct. 26, 2022).

<sup>357</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 22.

<sup>358</sup> *Id.*

<sup>359</sup> *Id.*

<sup>360</sup> GLODEK, *supra* note 1, at 13.

<sup>361</sup> *Id.*

<sup>362</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>363</sup> Mike Stetz, *St. Mary's to Break New Ground with Fully Online J.D. Program*, PRELAW (Sept. 15, 2021, 9:42 AM), <https://nationaljurist.com/prelaw/st-mary%E2%80%99s-break-new-ground-fully-online-jd-program> [https://perma.cc/Y7P8-XSJ4].

entertainment law.<sup>364</sup> UDSL also provides a number of courses in this program that focus on the importance of social media law, electronic commerce, and electronic discovery.<sup>365</sup> It even provides a course on Cyberspace Law and a capstone course on Cybercrime.<sup>366</sup>

Both Marianist law schools recognize the increased importance and reliance on alternative dispute resolution and offer courses on arbitration, negotiation, and mediation to prepare students to serve their clients in these arenas.<sup>367</sup> St. Mary's Law School ranks nationally in its advocacy teams,<sup>368</sup> which include moot court and mock trial, as well as arbitration and negotiation whose teams participate in national and international competitions.<sup>369</sup>

Father James Heft, S.M., the Alton M. Brooks Professor of Religion at the University of Southern California and a leading Marianist scholar, contends that adaptation and change also apply to social justice, particularly based on the social upheaval observed in society today.<sup>370</sup> Father Martin ("Marty") Solma, S.M., Chaplain and Special Assistant to the President at Chaminade University, also sees the role of Marianist education to prepare its students for the future, which includes addressing structural racism and inequality to create a more inclusive and fair society, as well as protecting the environment and planet Earth.<sup>371</sup>

Father James Fitz, S.M., the Vice President for Mission and Rector at the University of Dayton, believes that graduates from UDSL, will hopefully raise issues relating to the five characteristics of a Marianist university when representing a client.<sup>372</sup> That graduate will not only want to know whether this is the most profitable route to take for the client or can it be done

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<sup>364</sup> *Course Descriptions*, *supra* note 260.

<sup>365</sup> *Id.*

<sup>366</sup> *Id.*

<sup>367</sup> *Id.*; see *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>368</sup> *St. Mary's Law Advocacy Program Ranks Top 20 in Nation*, ST. MARY'S UNIV. SCH. OF L. (Mar. 27, 2020), <https://www.stmarytx.edu/2020/st-marys-law-advocacy-program-ranks-top-20-in-nation/> [<https://perma.cc/FKH5-YPPM>].

<sup>369</sup> *Characteristics of a Marianist Law School*, *supra* note 8.

<sup>370</sup> Interview with Father James Heft, S.M., Alton M. Brooks Professor of Religion, Univ. of S. Cal., (July 29, 2020) (on file with author).

<sup>371</sup> Interview with Father Martin Solma, *supra* note 143.

<sup>372</sup> Interview with Father James Fitz, S.M., Vice President for Mission & Rector, at Univ. of Dayton (June 30, 2020) (on file with author).

legally, but also how will this affect the environment and how does this affect social justice?<sup>373</sup>

Stephen Sheppard, Dean Emeritus and Charles E. Cantú Distinguished Professor of Law Emeritus, and former Dean of St. Mary's Law School, summed up the law school's mission, which align with the characteristics of a Marianist education:

Our mission commits us to provide a quality education to every student and an experience that encourages peace and social justice, prepares students for change and the future, respects each person, and encourages each in his or her own journey toward faith. So we must prepare law students for service to the poor as well as to the wealthy, with a sense of ethical leadership. And by preparing our students for a changing future, they are ready for an economy and a society that will change with increasing speed.<sup>374</sup>

*F. How Do These Characteristics and the Marianist Tradition Apply to Students, Staff, Faculty, and Administration From Faith Traditions Other Than Catholic*

The CMU and the characteristics of a Marianist legal education do not simply seek to tolerate students and faculty with different faith traditions other than Catholic and Marianist or hope not to offend them. Instead, a Marianist legal education desires to embrace and learn from those other faith traditions while also enriching students with the Catholic and Marianist traditions. Marianist universities and law schools recognize that many of their administrators, faculty, staff, and students are not Catholic and may ascribe to non-Christian religious beliefs or no religious beliefs, but they all share the goal of a search for truth and acknowledge the dignity of every person.<sup>375</sup> Civility amongst those at a Marianist institution is also a hallmark of a Marianist education, and learning how to communicate in a civil manner remains a key component of seeking positive change in a diverse world.<sup>376</sup>

The CMU warns against catering to only the Catholic and Marianist-affiliated faculty, administration, students, and staff,

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<sup>373</sup> *Id.*

<sup>374</sup> Stephen M. Sheppard, *St. Mary's University School of Law*, 78 TEX. B.J. 783 (2015).

<sup>375</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 9–10.

<sup>376</sup> *Id.* at 10; see JOSEPH LACKNER, MARIANIST CHARISM AND EDUCATIONAL MISSION, VOLUME I, 125 (2012) (discussing the importance of civil discourse and objectivity in the pursuit of positive change).

and trying to impose the Catholic and Marianist beliefs on others which is antithetical to the purpose of a university, which is to encourage independent, creative, and diverse thinking.<sup>377</sup> The same applies to Marianist law schools. Since all are created by God, each person possesses human dignity, which means we must respect each other regardless of one's race, ethnicity, faith tradition, socioeconomic background, gender, gender identity, or sexual orientation.<sup>378</sup> The notions of family and the dignity of every person at Marianist institutions create a unique and distinct environment where people of all faith traditions can learn the law in an inclusive and diverse community committed to serving others.

### III. THE LEGAL PROFESSION IS A CALLING

Father James Heft, S.M., quoting the Presbyterian pastor Frederick Buechner, wrote the following about finding one's vocation: "*The place God calls you to is the place where your deep gladness and the world's deep hunger meet.*"<sup>379</sup> A distinct aspect of a Catholic legal education involves treating the legal profession as a vocation, a calling.<sup>380</sup> The Marianist tradition is no different.<sup>381</sup> "A primary goal of a Marianist University education is to create space and opportunity where all members have the chance to discern and live into their vocations."<sup>382</sup> Students at Marianist law schools should "ask themselves: what are my gifts, talents, skill sets and passions? How do they meet the needs of the world?"<sup>383</sup> According to Father Bernard Vial,

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<sup>377</sup> See CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 9.

<sup>378</sup> *Guideposts to Law as Vocation*, *supra* note 238.

<sup>379</sup> JAMES L. HEFT, S.M., CATHOLIC HIGH SCHOOLS: *FACING THE NEW REALITIES* 177 (2011).

<sup>380</sup> See Gregory A. Kalscheur, S.J., *Conversation in Aid of a "Conspiracy" for Truth: A Candid Discussion about Jesuit Law Schools, Justice, and Engaging the Catholic Intellectual Tradition*, 43 GONZ. L. REV. 559, 574–75 (2008) (discussing a key aspect of a Jesuit law school includes helping students understand the legal profession is a vocation); see generally Susan J. Stabile, *The Practice of Law as Response to God's Call*, 32 SEATTLE U. L. REV. 389 (2009); Jerry Organ, *From Those to Whom Much Has Been Given, Much Is Expected: Vocation, Catholic Social Teaching, and the Culture of a Catholic Law School*, 1 VILL. J. CATH. SOC. THOUGHT 361 (2004); Bernard Dobranski, *New Lawyers for a New Century—Legal Excellence and Moral Clarity: The Founding of Ave Maria School of Law*, 36 U. TOL. L. REV. 55, 58 (2004) (stating that Ave Maria School of Law school considers the practice of law a vocation).

<sup>381</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 19–21.

<sup>382</sup> *Id.* at 21.

<sup>383</sup> *Id.*

S.M., “A school may be labeled *catholic* if it allows young people to give meaning to their lives.”<sup>384</sup> Teachers at Marianist law schools must give students time and space for discernment and differentiate between “what is commonly called success.”<sup>385</sup> The success of a Catholic law school should focus on how well its graduates “integrate their religious faith into their professional and personal lives,” as opposed to how much money graduates make.<sup>386</sup>

Professor David Coleman of Chaminade University believes that Marianist law schools should give its students the courage to live lives of faith even though that lifestyle may be countercultural.<sup>387</sup> And these law students should understand their power as lawyers and their call to protect the dignity and rights of others, particularly the suffering and oppressed.<sup>388</sup> Money, he contends, is not an end in itself, but a means.<sup>389</sup> Lawyers who graduate from Marianist law schools should be focused on serving the common good.<sup>390</sup>

UDSL proudly promotes on its school website that “[g]reat lawyers do not just *know* their craft, they also *do* what is right. That is why we believe law is not just a job. It is a calling.”<sup>391</sup> The document created by UDSL in response to the AMU’s request to the law schools to determine what a Marianist legal education entails focuses on law as a vocation.<sup>392</sup> UDSL goes well beyond encouraging students to see the law as a calling by

<sup>384</sup> Bernard Vial, S.M., *Education*, Commentary on the Rule of Life of the Society of Mary 390 (1994) (stating that a school is catholic if it “contributes to a more just world”).

<sup>385</sup> *Id.*; Jerry Organ, *From Those to Whom Much Has Been Given, Much Is Expected: Vocation, Catholic Social Teaching, and the Culture of a Catholic Law School*, 1 J. CATH. SOC. THOUGHT 361, 392 (2004) (stating that success for law students, lawyers, and each individual should be measured by “the extent to which each of us is living in accordance with God’s plan for us, by our faithfulness to God’s call to use our gifts and talents in fulfilling our multiple vocations”).

<sup>386</sup> Barbara Bader Aldave, *The Reality of a Catholic Law School*, 78 MARQ. L. REV. 291, 295 (1995).

<sup>387</sup> Interview with Professor David Coleman, Chaminade Univ., (June 17, 2020) (on file with author); see JOSEPH LACKNER, MARIANIST CHARISM AND EDUCATIONAL MISSION, VOLUME I, 127 (2012) (discussing the similarity between Chaminade’s time and today where society in both times appear more secular than religious and God is excluded from public life).

<sup>388</sup> Interview with Professor David Coleman, Chaminade Univ. (June 17, 2020) (on file with author).

<sup>389</sup> *Id.*

<sup>390</sup> *Id.*

<sup>391</sup> *Explore Dayton Law*, *supra* note 211.

<sup>392</sup> *Guideposts to Law as Vocation*, *supra* note 238.

incorporating that critical notion into their curriculum in the course, described *supra*, titled “Law as a Calling.”<sup>393</sup> Marianist law schools demonstrate the five characteristics of a Marianist legal education and view the legal profession as a calling, yet they can do more for their students.

#### IV. STEPS TO CONTINUE TO MOVE FORWARD

This Part discusses how the Marianist law schools can continue to grow in their efforts to provide a true Marianist legal education.

##### A. *Use the Five Characteristics of a Marianist Legal Education Intentionally and to Guide Decisions*

Marianist law schools benefit from years of research and study that crystallized the elements of a Marianist education and then a Marianist university, which formed the basis of the characteristics of a Marianist legal education. When Marianist law school administrators or professors create a policy or make a statement in class using the characteristics of a Marianist legal education, they should be intentional. I pray before every law school class I teach, and for years I explained to each class on the first day that I wanted every student to learn the law and become the very best version of themselves possible whether they are Catholic, Buddhist, Jewish, Muslim, atheist, or whatever faith tradition they may be. I also told them my prayer was not meant to convert them to Catholicism. Professors at any law school, particularly Marianist law schools, should tell their students that we all may be different in some ways but we share a common human dignity that requires we treat each other with respect.

Also, Marianist law schools should use the five characteristics of a Marianist legal education to guide their policies and practices at every level, including the administrative and professorial levels. Thus, whenever professors think about what they are teaching, they can determine if and how it relates to the Marianist characteristics of a legal education or the Marianist tradition and share those thoughts with the class when applicable. Administrators, when deciding whether to propose or implement a new policy, should do the same and communicate to the law school community how the characteristics guided or impacted their decision.

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<sup>393</sup> *Course Descriptions*, *supra* note 260.

Adding information about the Marianist tradition into class seems at odds with the pressure of making sure law schools cover the concepts their students need to master to succeed on the bar exam. However, law professors need not spend an entire class or a great deal of time on the Catholic and Marianist tradition throughout every class, but they can find spots throughout the semester to make a connection between the material they are teaching and the Catholic and Marianist tradition. Pointing out the connection may only take a few minutes or less, but it will add a layer of depth and explicitly tie in the Catholic and Marianist tradition to the students' law school education and experience.

Finally, financial and practical restraints may prevent law schools from pursuing activities that demonstrate the Catholic and Marianist tradition. Nevertheless, law schools must be creative in how they continue to provide opportunities for their students to live out the five characteristics of a Marianist legal education. For example, despite COVID-19 and financial realities, St. Mary's Law School's law campus ministry successfully held safe variations of annual events during the 2020–2021 academic year including Red Mass and Boo Bash, which is the Halloween party for children at nearby children's shelters.<sup>394</sup>

#### *B. Explicitly Incorporate the Catholic Intellectual Tradition*

Several of the characteristics of a Marianist university discuss the Catholic Intellectual Tradition.<sup>395</sup> For example, the CMU provides that Catholic universities value both faith and reason, which is embodied by the Catholic Intellectual Tradition.<sup>396</sup> The Catholic Intellectual Tradition involves the use of faith and reason in harmony to seek the truth in any discipline and across disciplines with an emphasis on recognizing the dignity of every person and a commitment to justice and serving the common good.<sup>397</sup> In fact, Brother Glodek argues that conveying the Catholic Intellectual Tradition to students should

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<sup>394</sup> *Spiritual Life*, *supra* note 11.

<sup>395</sup> CHARACTERISTICS OF MARIANIST UNIVERSITIES, *supra* note 9, at 11–12.

<sup>396</sup> *Id.*

<sup>397</sup> *Id.*; THE CATHOLIC INTELLECTUAL TRADITION: A CONVERSATION AT BOSTON COLLEGE 9–10 (2010), <https://www.bc.edu/content/dam/files/top/church21/pdf/cit.pdf>.

be a part of a Marianist education.<sup>398</sup> Marianist law schools should incorporate the Catholic Intellectual Tradition explicitly into their curriculum as some Catholic law schools already do.<sup>399</sup>

C. *Addressing the Catholic Church's Shortcomings, While Discussing the Positive Aspects of Catholicism*

Some students will question learning about the Catholic and Marianist traditions when they know the Catholic Church has not always lived up to the ideals and values that it preaches. As Former Dean of Notre Dame University Mark Roche wrote in his book, *The Intellectual Appeal of Catholicism and the Idea of a Catholic University*, when trying to highlight the positives of the Catholic tradition, “one cannot be blind to the darker moments of the Catholic tradition.”<sup>400</sup> Such lowlights include the following: “corruption and authoritarianism,” including the Spanish Inquisition (1478–1834) where the Catholic Church persecuted Jewish and Muslim people and required Jewish people to choose either baptism into the Catholic Church or exile and forced Muslim people to convert to Christianity;<sup>401</sup> irrational reactions to scientific advances;<sup>402</sup> and the abuse of children by clergy.<sup>403</sup> Brother O'Donnell argues that the child abuse by clergy would not have become widespread if women occupied more leadership roles in the Catholic Church.<sup>404</sup> This argument not only admits

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<sup>398</sup> GLODEK, *supra* note 1, at 37–38; see Gregory A. Kalscheur, S.J., *Conversation in Aid of a “Conspiracy” for Truth: A Candid Discussion about Jesuit Law Schools, Justice, and Engaging the Catholic Intellectual Tradition*, 43 GONZ. L. REV. 559, 576 (2008) (stating that Jesuit law schools should embrace the Catholic intellectual tradition in their teachings).

<sup>399</sup> See, e.g., *Educational Goals & Learning Outcomes*, UNIV. NOTRE DAME, <https://law.nd.edu/about/educational-goals-and-learning-outcomes/> [<https://perma.cc/85WE-WH7Y>] (last visited Oct. 26, 2022); *Specific Learning Outcomes*, AVE MARIA SCH. L., <https://www.avemarialaw.edu/academics/learning-outcomes/> [<https://perma.cc/H94X-W49K>] (last visited Oct. 26, 2022) (explaining the learning outcome for its graduates that includes appreciating and understanding the Catholic Intellectual Tradition).

<sup>400</sup> MARK ROCHE, *THE INTELLECTUAL APPEAL OF CATHOLICISM AND THE IDEA OF A CATHOLIC UNIVERSITY* 2 (2003); John J. Fitzgerald, *Today's Catholic Law Schools in Theory and Practice: Are We Preserving our Identity?*, 15 NOTRE DAME J.L. ETHICS & PUB. POL'Y 245, 256 (2001) (supporting the proposition that “Catholic law schools should acknowledge the possibility of error or sinfulness within the Catholic tradition”).

<sup>401</sup> Edward A. Ryan, *Spanish Inquisition*, BRITANNICA, <https://www.britannica.com/topic/Spanish-Inquisition> [<https://perma.cc/QH5X-QZT7>] (last visited June 22, 2022).

<sup>402</sup> ROCHE, *supra* note 400, at 2.

<sup>403</sup> *Id.*

<sup>404</sup> Interview with Brother Frank O'Donnell, *supra* note 149.

the abuse of children by clergy in the church, but it also highlights the failure of the Catholic Church to provide more leadership roles for women within the Catholic Church. Students would appreciate this type of honesty when discussing the Catholic Church.

Despite its various shortcomings and faults, the Catholic tradition supplies an incredible amount of good in the world, which should also be shared with students. For example, the Catholic faith promotes love, forgiveness, and salvation for those who believe in Jesus Christ.<sup>405</sup>

### CONCLUSION

In recent years, I typically share with my classes the secret of life, which is love. Serving others, treating others with dignity and respect, appreciating the differences and gifts in others, and showing care and concern for the environment and well-being of the human race are all forms of showing love. At the heart of Marianist and Catholic education is love.<sup>406</sup> “The Marianist tradition values all people -- regardless of religious belief or faith tradition [and it strives to love God, neighbor, and self.] [This means] we are expected to respect others and ourselves because all of us are gifted with a common human dignity.”<sup>407</sup>

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<sup>405</sup> See generally *Chapter Two You Shall Love Your Neighbor As Yourself*, CATECHISM CATH. CHURCH, [https://www.vatican.va/archive/ENG0015/\\_P7Q.HTM](https://www.vatican.va/archive/ENG0015/_P7Q.HTM) [<https://perma.cc/GL9G-CJ9S>] (last visited Oct. 26, 2022) (reciting the various verses in the Bible that instruct us to love one another); “*And Forgive Us Our Trespasses, as We Forgive Those Who Trespass AGAINST US*”, CATECHISM CATH. CHURCH, [https://www.vatican.va/archive/ENG0015/\\_PAB.HTM](https://www.vatican.va/archive/ENG0015/_PAB.HTM) [<https://perma.cc/T4ZK-H4SA>] (discussing forgiveness of others as God forgives us); John 3:16–17 (“For God so loved the world that [H]e gave [H]is only Son, so that everyone who believes in [H]im might not perish but might have eternal life. For God did not send [H]is Son into the world to condemn the world, but that the world might be saved through [H]im.”). Catholic churches and parishes, along with organizations such as Catholic Charities and the Society of St. Vincent de Paul, provide valuable resources and support for many, including the poor and marginalized, throughout the United States and the world. See, e.g., *Our Vision*, CATH. CHARITIES USA, <https://www.catholiccharitiesusa.org/our-vision-and-ministry/> [<https://perma.cc/2UJD-2Q3Z>] (listing as two of its priorities affordable housing and immigration and refugee services); *The Society of St. Vincent de Paul*, SOC’Y ST. VINCENT DE PAUL U.S.A., <https://ssvpusa.org/> [<https://perma.cc/43K4-NVZU>] (“[T]he Society of St. Vincent de Paul is a worldwide organization of lay Catholics, following Christ’s call to serve the poor, the suffering, and the deprived.”).

<sup>406</sup> *Matthew* 22:36–40 (loving God with all one’s heart, soul, and mind, and loving one’s neighbor as herself constitute the two greatest commandments).

<sup>407</sup> *Guideposts to Law as Vocation*, *supra* note 238.

At its best, a Marianist legal education involves a faith-filled commitment to service and a feeling of family amongst its participants where people of different faith beliefs are respected and loved. Rather than obscure or downplay their religious affiliation and traditions, Marianist law schools demonstrate each day the courage to be Catholic.