

University of St Thomas School of Law

Holloran*Center*

for Ethical Leadership in the Professions

**Life Span Professional Formation
(Professionalism):**

**Empirical Data that Legal Education can
Make a Difference**

© Neil Hamilton, Verna Monson, and Jerry Organ



UNIVERSITY of ST. THOMAS

MINNESOTA

Empirical Research on Effective Pedagogies for Professional Formation

- Neil W. Hamilton, Interim Dean, Director, Holloran Center for Ethical Leadership in the Professions
- Verna E. Monson, Ph.D., Research Fellow, Holloran Center
- Jerry Organ, Professor of Law, Associate Director Holloran Center

Based on over fifty site visits to study how professional schools educate lawyers, physicians, clergy, engineers, and nurses, Carnegie Foundation for the Advancement of Teaching president Lee Shulman found that

“The most overlooked aspect of professional preparation was the **formation of a professional identity with a moral core of service and responsibility**”

...around which each student’s habits of mind and practice are organized.

Educating Physicians (2010)

Holloran Center's Empirical Research Focus

Center's prior research focus :

1. Defining the **competencies** law students and practicing professionals need in terms of professional formation to be effective in practice
2. Defining **assessable learning outcomes** (teaching objectives) for professional formation that reflect what students and practicing professionals need;
3. Defining the **most effective pedagogies and curriculum** for fostering the learning outcomes; and

Center's current research focus:

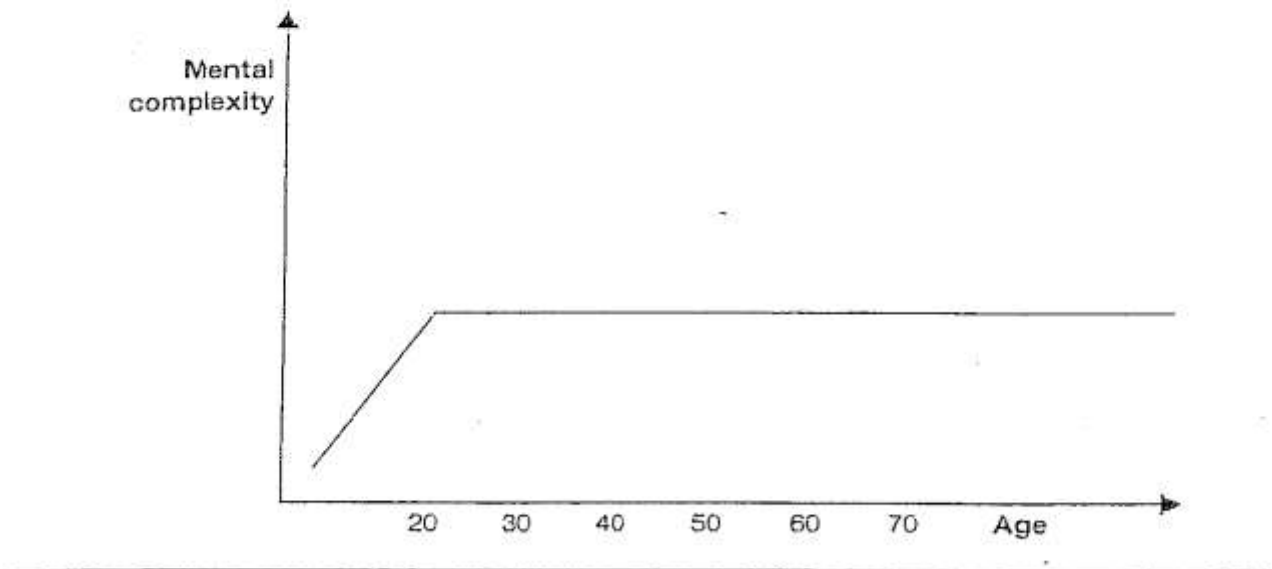
4. **Assessing the effectiveness** of pedagogies and curriculum in achieving the learning outcomes.

Preliminary Question -- Is Professional Formation Possible for Adults?

“Mental Complexity” in the following two figures measures growth toward an internalized moral compass that is a less egocentric, more responsible and more penetrating grasp of reality regarding human relationships.

FIGURE 1-1

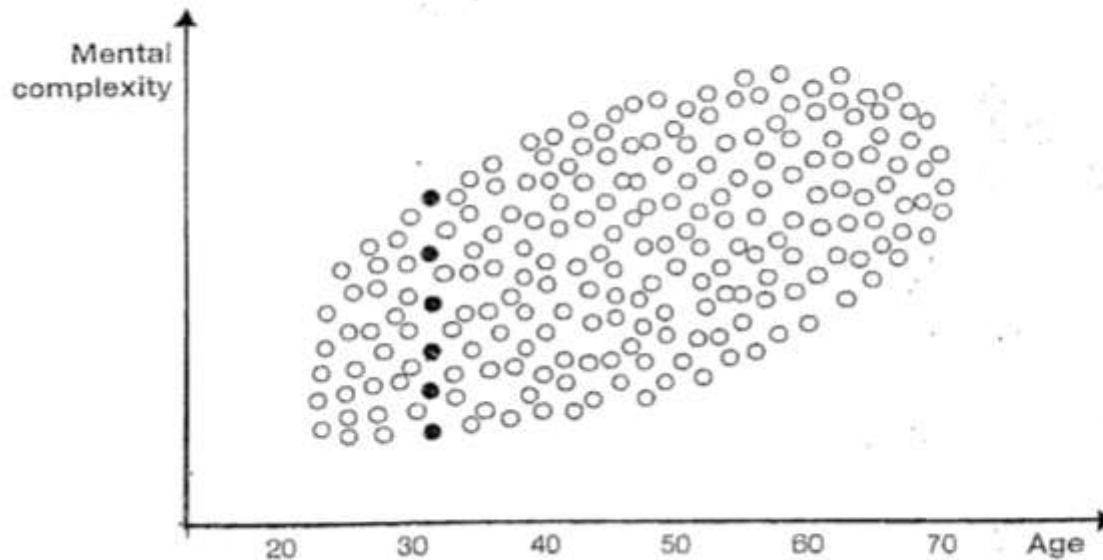
Age and mental complexity: The view thirty years ago



Robert Kegan, *Immunity to Change: How To Overcome It and Unlock Potential in Yourself and Your Organization* (2009)

Is Professional Formation Possible for Adults?

Age and Mental Complexity: The Revised View Today



Constructive-Developmental Growth

Robert Kegan, Harvard – Lifespan Developmental Psychologist

Self Authored (Stage 4)

Individual can step back and distance from emotions or fusion with the group. Internalized moral core of responsibility for others and less egocentric.

Socialized (Stage 3)

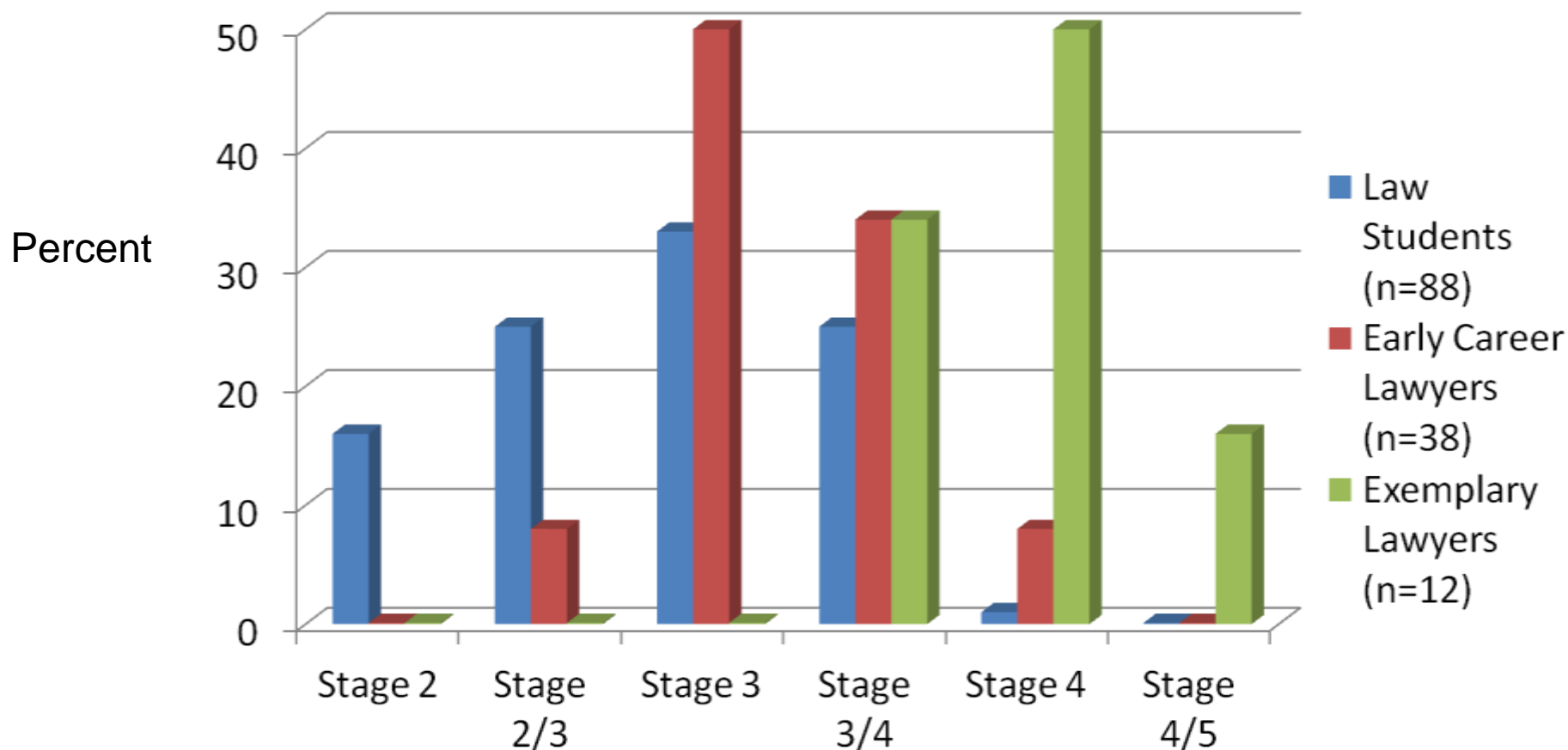
Group affiliation drives individual decisions, values, or behavior.

Instrumental (Stage 2)

Egocentrism, self-interest dominates, thinking is dualistic, perspective taking limited

Stages of Professional Identity Development Among Law Students, Early Career, and Exemplary Lawyers

© Hamilton & Monson, 2011



Suggested Citations: Hamilton, Neil W. and Monson, Verna, Ethical Professional (Trans)Formation: Themes from Interviews About Professionalism with Exemplary Lawyers. *Santa Clara Law Review*, Vol. 52, 2011. Available at SSRN: <http://ssrn.com/abstract=1804419>; Verna Monson & Neil Hamilton, *Entering Law Students' Conceptions on Ethical Professional Identity*, 35 *J. LEGAL PROF.*, tbl. 2 (2011), available at <http://ssrn.com/abstract=1581528>; and Monson, Verna and Hamilton, Neil W., Ethical Professional (Trans)Formation: Early Career Lawyers Make Sense of Professionalism. *University of St. Thomas Law Journal*, Available at SSRN: <http://ssrn.com/abstract=1733282>

1. What competencies do law students and practicing professionals need in terms of professional formation to be effective in practice?

Values and Skills Legal Employers and Clients Want

Values and Virtues	Critical Thinking and Judgment	Service Orientation with Clients	Working with Others	Communications
Commitment to career-long self development toward excellence in all competencies	Core understanding of the law	Responsive-ness to Client	Effective teamwork	Listening
Proactive initiative in exercising all competencies	Legal analysis and reasoning	Client rapport and strong relationships	Effective planning, organization of work on projects including timeliness	Persuasive speaking and writing
Integrity and honesty	Good judgment and pragmatic problem solving	Client commitment		Negotiation
Self-awareness, the capacity to recognize strengths and weaknesses, and reflection	Strategic thinking	Demonstrated value to client		
Resilience and perseverance	Creativity and innovation			

2. Developing Assessable Learning Outcomes: “Professional Formation” Captures Developmental Growth

- Five Carnegie studies use different terms for the third apprenticeship: “professionalism,” “formation of a professional identity,” “ethical comportment,” and “professional formation”
- Educating Physicians (2010) adopts “professional formation” to emphasize its developmental and multi-faceted nature.
 - “An ongoing self-reflective process involving habits of thinking, feeling, and acting.”
 - “A lifelong commitment to continued progress toward excellence on the aspirational goals of the profession.”

2. Professional Formation: Defining a Later-Stage of Professionalism

Assessable learning outcomes (synthesis of 4 studies):

- **Internalized moral core** characterized by a **deep responsibility to others**, particularly the client, some **restraint on self-interest** in carrying out this responsibility and a deep responsibility for self;
- **Ongoing solicitation of feedback** and **self-reflection**;
- **An internalized standard of excellence at lawyering skills**;
- **Integrity**, honesty, adherence to the ethical codes;
- **Public service** (especially for the disadvantaged);
- **Independent professional judgment** and honest counsel.

3. Which pedagogies are most effective at promoting learning outcomes associated with professional formation?

- **Common Pedagogies Showing No Demonstrable Benefit**
 - Ethics/philosophy/jurisprudence courses focused on doctrinal knowledge and critical analysis without reflective exploration of student's own moral core
 - One-time short programs (need weekly meetings over three weeks or longer)
 - Fear-based programs (e.g. "Scared Straight")

3. Most Effective Pedagogies for Professional Formation (Carnegie Studies)

- **Reflecting** on the responsibilities of the profession
- Fostering habit of seeking **feedback**, engaging in **dialogue** about tough calls, and **reflecting (FDR)**
- Teacher-facilitated **discussion of ethics – modeling and coaching**
- **Stage appropriate educational engagements**
- **Integrating apprenticeships** and engaging professional formation **pervasively**
- Opportunities for **formative assessment**

4. Assessing Effectiveness

Question 1: How has the University of St. Thomas School of Law designed its curriculum, culture and pedagogy to foster each students' professional formation?

Question 2: Does the University of St. Thomas School of Law curriculum, culture and pedagogy make any assessable difference in terms of student professional formation?

- 2A -- How do moral judgment abilities of law students change from matriculation to graduation, at both aggregate and individual levels?
- 2B -- How do law students change in assessments of professional ethical identity formation from matriculation to graduation, at both aggregate and individual levels?

UST's Curriculum and Culture

- The University of St. Thomas School of Law has a distinctive mission.
- “As a Catholic law school the University of St. Thomas School of Law is **dedicated to integrating faith and reason in a search for truth** through a focus on **morality and social justice.**”
- We want students to acquire the knowledge of the law, skills of a lawyer, and an **ethical professional identity grounded in the student's faith tradition and with a moral core of service to others.**

First-Year Curriculum

- **Foundations of Justice –**
 - Explicit discussion of
 - Themes/values that inform our understanding of justice
 - Role of the lawyer and values of the profession
 - Conversations with lawyers about professionalism
 - Reflection papers
- **Lawyering Skills –**
 - Two-semester program with formative assessment
- **Doctrinal Courses –**
 - Emphasis on lawyering and professionalism
 - Midterms required in fall and encouraged in spring

Mentor Externship

- Learning by observing and doing (all three years)
- Dialogue with mentors and faculty mentors
- Individualized coaching from faculty mentors
- Reflection papers
- Emphasis on self-directed learning

Upper-Level Curriculum

- **Professional Responsibility**
 - Some reflection papers
 - Emphasis on aspirational ethics
- **Third-semester lawyering skills**
- **Other Courses –**
 - Clinics, skills courses, externships
 - Ethical leadership courses
 - All provide opportunities for feedback, dialogue and reflection
- Significant emphasis on **formative assessment**

Hiring to Mission

- Faculty are people of faith and accomplished scholar/teachers who are interested in and willing to:
 - have conversations about integrating faith and reason and about searching for truth
 - engage moral questions and reinforce commitment to serving others
 - foster a formation environment and reinforce positive images of lawyers.
 - model reflection and coach students.

Supportive Learning Environment

- Faculty and staff focus on individual students
 - Admissions staff emphasizes personalized approach
 - Academic Success Program available to all
 - Teachable moments
- Institutional commitment to spiritual growth
 - Retreat opportunities
 - Worship time
- Co-curricular opportunities –
 - Law Journal, Moot Court, Minnesota Justice Foundation and lots of other student organizations.
 - Extensive programming focused on professionalism, leadership and service.

Instilling a **Commitment to Service**

- Public service requirement and recognition.
- Prominent locations for MJF and Public Service Board
- Public service day
- Encouragement of student group service projects
- Discussion of Pro Bono in courses other than professional responsibility
- Loan repayment assistance program

Modeling Continual Improvement

- As a law school, we try to demonstrate emphasis on feedback, dialogue, reflection and improvement
 - Mentor Externship assessment and restructuring
 - Foundations assessment and restructuring
 - Mentor Externship assessment and restructuring

What are the results?

- How do **moral judgment** abilities of law students change from matriculation to graduation, at both aggregate and individual levels, based on the DIT?
- How do law students change in assessments of **professional ethical identity formation** from matriculation to graduation, at both aggregate and individual levels, based on Kegan-style narratives?
- **On both questions, UST students showed significant progress at both the aggregate and individual levels.**

Data Sources

- **Defining Issues Test 2 (DIT2)** (Rest) used to assess moral judgment.
 - Ethical vignettes of global moral problems – with rating and ranking of 12 moral justification items.
- **Professional Identity Formation Assessment** (Kegan) used to assess understanding of professional identity.
 - Coded essay responses to several questions pertaining to professionalism and the role of the lawyer.
- **Law School Survey of Student Engagement** (LSSSE) (Indiana Univ.) -- used to rule out alternative hypotheses.

Moral Judgment

Cross-sectional Analysis of DIT

- The N2 score reflects the extent to which students can discriminate between personal interests / earlier stage justifications and later stage justifications (i.e., maintaining norms, postconventional).
- N2 index of overall moral judgment capacity
 - fall 2009 -- $M = 30.88$ (SD, 6.72, $n=157$)
 - spring 2012 – $M = 45.21$ (SD, 17.04, $n=75$)
- **Increase is statistically significant:**
large effect size of .8

Moral Judgment Analysis Longitudinal Analysis - DIT

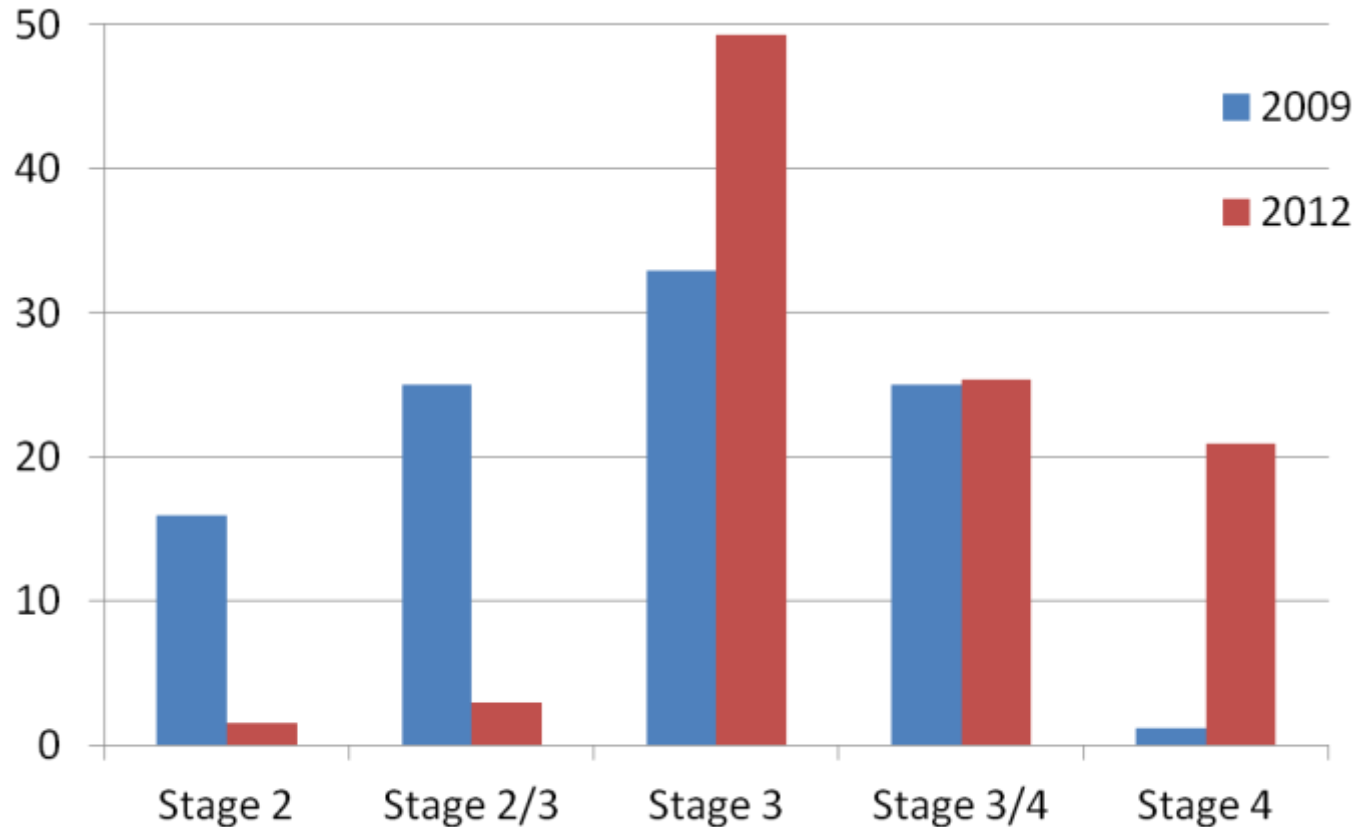
- Examined only matched pairs ($n = 53$)
- N2 index of overall moral judgment capacity
 - spring 2012 – $M = 45.36$ (SD, 14.80)
 - fall 2009 -- $M = 31.43$ (SD, 6.32)
- **Increase is statistically significant**: large effect size of .79
- Individual change scores computed; degree of change categorized
 - 79% of respondents: moderate to highly significant gains
 - only 13%: moderate to highly significant declines

Professional Ethical Identity Formation

Cross-Sectional Analysis -- Kegan

Kegan Stage Estimates – 2009 - 2012

Percentage Stage by Year



2009 n = 88	15.91	25	32.95	25	1.14
2012 n = 67	1.49	2.99	49.25	25.37	20.90

Ruling Out Alternative Explanations

- **Non-Response Bias** –

- **Assertion** - Only the most idealistic and high achieving students participated.
- **Response** – There were no significant differences in sample of participants between 2009 and 2012

- **Self-Selection Bias** –

- **Assertion** - St. Thomas recruits to its mission, so its students might be different from average law students in that they are primed for moral development.
- **Response** - Data from admissions surveys for 2009 does not suggest any distinctive emphasis on moral development – location, quality of life, mentor program and scholarship were primary factors.

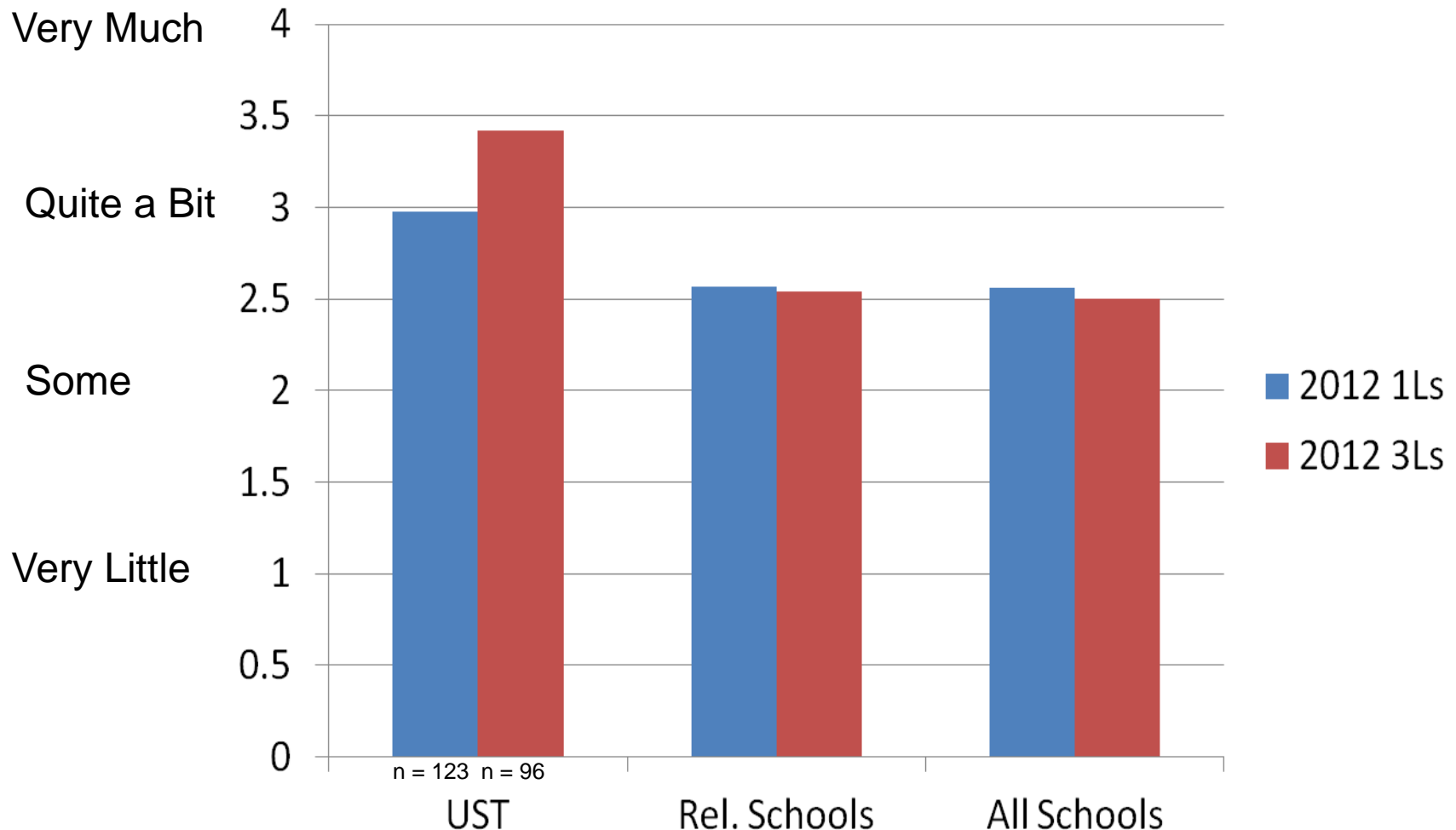
Ruling Out Alternative Explanations

- **Self-Selection Bias (cont.)** –
 - **Assertions** -- Students at religious schools are more likely to advance in moral development because of curriculum / culture of religious law schools
 - Students at any law school will advance in moral development because of nature of legal education and /or students
 - **Response** -- LSSSE results negate these assertions – responses of UST law students on several questions related to ethics/values, self-understanding and public service suggest UST curriculum/culture is very distinctive relative to other law schools or religiously-affiliated law schools.

To What Extent has Your Experience Contributed to Your Developing a Personal Code of Ethics and Values? (10n)

*** Effect Size .42/.43 (2010)

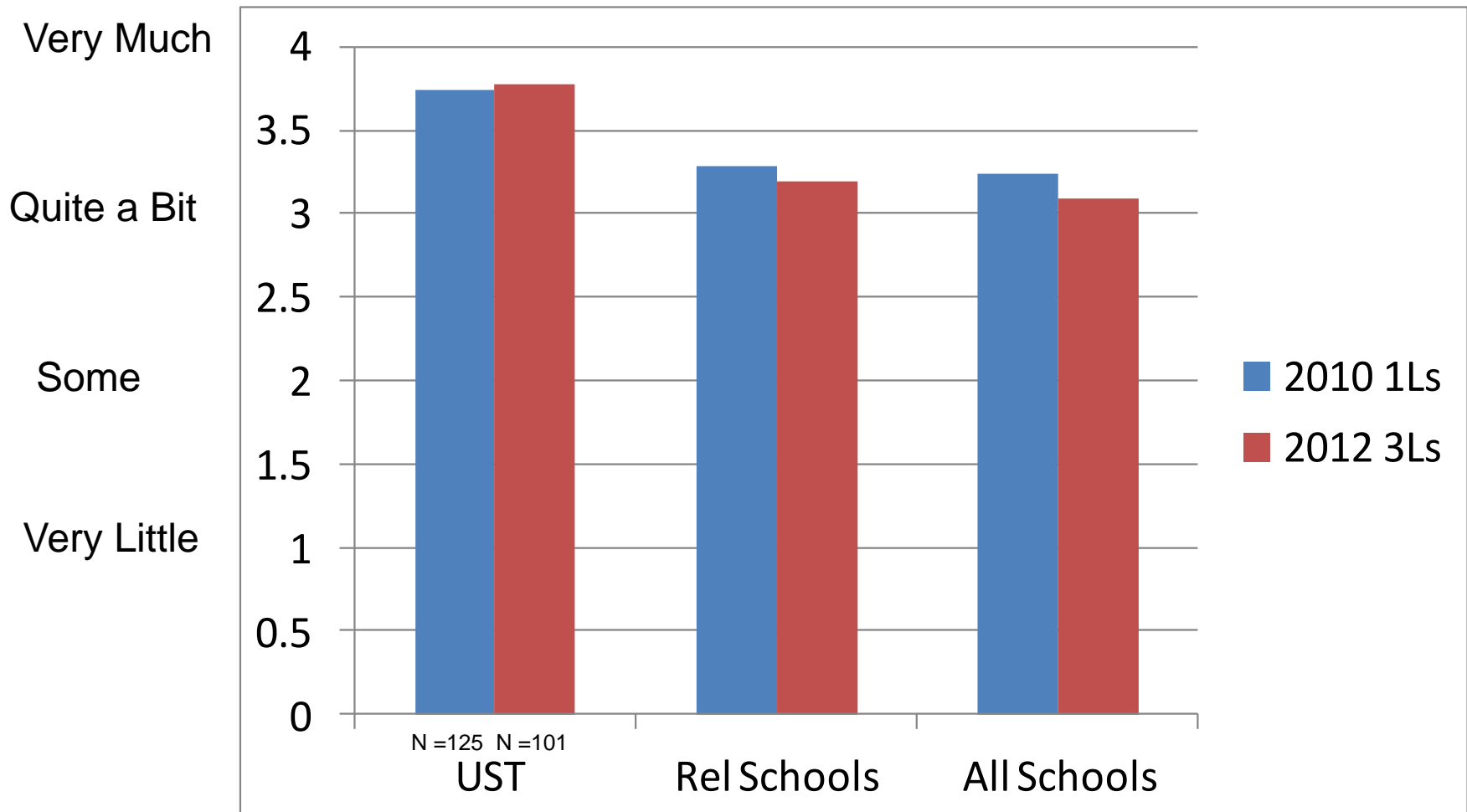
*** Effect Size .88/.93 (2012)



To What Extent Does Your Law School Emphasize Encouraging the Ethical Practice of Law? (8b)

*** Effect Size .69/.79 (2010)

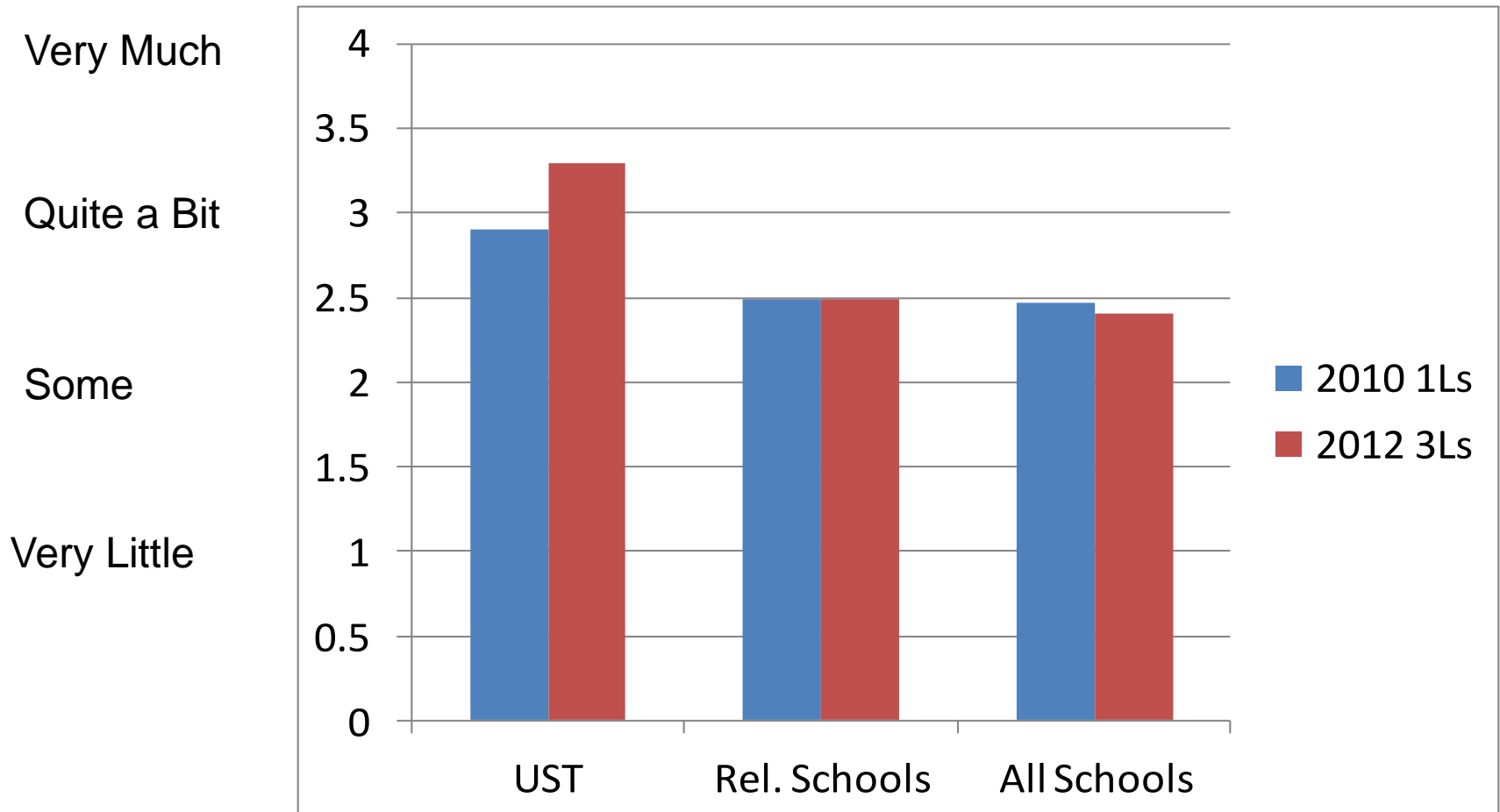
*** Effect Size .72/.77 (2012)



To What Extent has Your Experience Contributed to Your ... Contributing to the Welfare of Your Community? (10o)

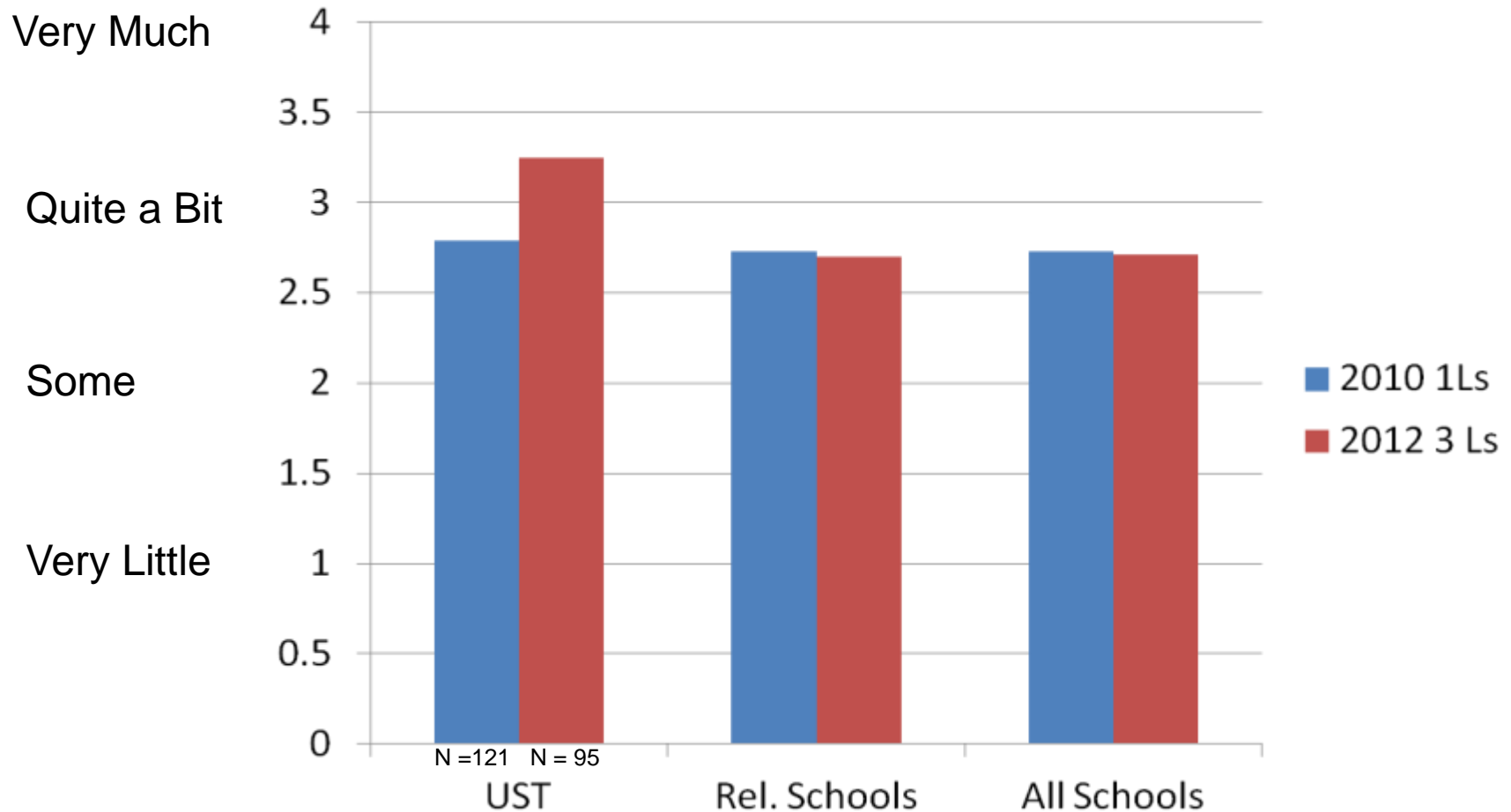
*** Effect Size .43/.44 (2010)

*** Effect Size .82/.89 (2012)



To What Extent has Your Experience Contributed to Your Understanding Yourself? (10j)

*** Effect Size .55/.54 (2012)



Next Steps in Analysis

- **Multivariate methods** – develop causal models – e.g., use structural equation modeling in spring 2013
- **LSSSE Linkage** -- link DIT/Kegan data with individual LSSSE responses for UST – use in regression analyses, construct a proxy for a control group – create a moral formation index score
- **Conduct predictive validity study** – job search outcomes, externship/clerkship performance, peer ratings, discrete aspects of program
- **More DIT scenarios** – need to move from 3-story DIT to 4-story or 5-story in order to increase reliability to high .80s – and develop legal ethical vignettes to supplement the DIT
- **Replication** -- identify schools interested in collaborating to replicate to strengthen validity arguments