Client Choices, Community Values: Why Faith-Based Legal Services Providers are Good for Poverty Law

Melanie D. Acevedo
NOTE

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INTRODUCTION

The summer of 1968 found the city of Chicago in flames, literally and metaphorically. Martin Luther King, Jr. was assassinated on April 4, followed by Robert Kennedy in June. The Near North neighborhood, which includes the massive Cabrini Green public housing complex, was no exception to the anger and sometimes violent unrest. In response, the LaSalle Street Church created a much-needed safe haven for the community’s young people in the form of a summer day camp. In the fall, the program continued as a “pool hall” for youth, located in the church basement. Church member and attorney Chuck Hogren volunteered to help run that pool hall.1

It wasn’t long before the young men and women shooting pool found out that Hogren was a lawyer and when they did, the requests began coming in. These young people aggressively sought Hogren’s help with criminal defense matters for themselves and family members, often a father or older brother who had been arrested. Calls came to the church from mothers distraught at the arrest and brutal treatment of their sons at the hands of the police department. When Hogren responded that, as a real estate lawyer, he wouldn’t be much assistance, the youth essentially said, “What good are you in the neighborhood if you’re a lawyer and you can’t do anything to help?”

*J.D. Candidate, 2003, Fordham University School of Law. This Note would not have been possible without the sacrificial support of my husband Johnny Acevedo and the daily sunshine of Adrian and David, our children. Many, many thanks also go to Russell Pearce and Robert Cochran for their invaluable suggestions and support, Amy Uelmen for her unbridled enthusiasm, Chuck Hogren, Marena McPherson, and John Robb for sharing their work with me, and Nick Lundgren, whose research and thoughtfulness on this topic encouraged me to write this Note.

1 Telephone Interview with Chuck Hogren, Founder, Cabrini Green Legal Aid Clinic (Oct. 15, 2001) (on file with the Fordham Law Review).
Hogren began representing some of the young men on a volunteer basis.\(^2\)

William Leslie, LaSalle’s pastor, led a Bible study for the congregation in which he identified over 100 scriptural passages mandating justice and care for the poor. In response to that study, Pastor Leslie and the congregation asked Hogren to run a neighborhood legal clinic full-time, as a ministry of the church. Hogren said he would do it if the church could provide the funding. Within two weeks, Pastor Leslie secured a grant covering the entire first year’s budget and the Cabrini Green Legal Aid Clinic was born.\(^3\)

The Cabrini Green Legal Aid Clinic (“Cabrini Green”) is still operating, three decades later, as a faith-based organization (“FBO”) providing legal services to the poor.\(^4\) It is not the only such organization. In fact, there are faith-based legal services providers in urban and rural areas nationwide.\(^5\) The existence of these providers generates questions as to the appropriateness of a faith-based organization as a context for poverty law practice. These questions take on particular significance in light of suggestions that standard avenues of poverty law are largely inadequate\(^6\) and that, as a nation,

\(^2\) Id.

\(^3\) Id. For a more detailed account of the events, see David Claerbaut, The Reluctant Defender: A Big-City Attorney Defends Desperate People 53-65 (1978).

\(^4\) Telephone interview with Marena McPherson, Volunteer Lawyer Coordinator, Cabrini Green Legal Aid Clinic (Oct. 4, 2001) (on file with the Fordham Law Review). A “faith-based organization” is defined as a religious congregation, a non-profit entity affiliated with a religious denomination, or a private non-profit entity with an expressed faith affiliation. See Office of Policy Dev. and Research, U.S. Dep’t of Hous. and Urban Dev., Faith-Based Organizations in Community Development 1 (Aug. 2001) [hereinafter HUD].

\(^5\) There are at least forty faith-based legal services providers nationwide. See Telephone Interview with John D. Robb, Director of Public Ministries, The Christian Legal Society (October 26, 2001) (on file with the Fordham Law Review); see also Nick Lundgren, Lawyering for God and Neighbor: Should Faith-Based Organizations Provide Legal Services for the Poor? 50-70, Appendix A (April 28, 2000) (unpublished manuscript, on file with the Fordham Law Review). For a more comprehensive view of some of these providers, see James G. Godlewski, Let Justice Roll Down, Christian Legal Soc’y Q., Spring 1990, at 12; Lundgren, supra, at 50-70, Appendix A. Lundgren discusses fifteen faith-based legal services agencies with diverse faith affiliations and practice philosophies ranging from Catholic Charities and Bet Tzedek, both described by Lundgren as “non-sectarian models,” to Christian Legal Services of Cleveland, a “sectarian model” that affirmatively incorporates religious faith into legal practice. See id. In 1998, Pepperdine University School of Law initiated a student clinical program working in a faith-based setting, the Pepperdine-Union Rescue Mission Legal Aid Clinic. See Jennifer Smodish, Pepperdine Street Lawyers, Pepperdine Law, Spring 1999, at 11, 12.

\(^6\) See, e.g., David Barringer, Downsized Justice, 82 A.B.A. J. 60, 62 (July 1996) (citing studies showing that only approximately twenty percent of all of the poor’s legal needs are met); Matthew Diller, Lawyering for Poor Communities in the Twenty-First Century, 25 Fordham Urb. L.J. 673 (1998) (calling this a “bleak moment at which to ponder the future of poverty law”); Lucie E. White, Facing South: Lawyering for Poor Communities in the Twenty-First Century, 25 Fordham Urb. L.J. 813 (1998) (acknowledging both hope and despair in the future of poverty law).
we should look towards faith institutions to assist government in the provision of social services generally.  

The role of FBOs in providing social services has been the topic of substantial political and social debate in recent years. Although much of this national debate has focused on federal funding of FBOs, a topic beyond the scope of this Note, other issues have surfaced that are relevant in their own right to lawyering within a faith-based context. While proponents of faith-based provision of social services argue that community faith institutions are equally, if not uniquely, equipped to provide service and care to needy communities as compared to government and secular private organizations, skeptics question the ability of faith institutions to separate their evangelistic commitments from their social commitments. Critics complain that


8. See sources cited supra note 7.


10. See HUD, supra note 4, at 17-18 (describing FBOs as potential "incubators" for community development, and noting their ability to access volunteers, financial resources and public trust); Dilulio, Supporting Black Churches, supra note 7, at 44-45 (commenting on the significant role African American churches play in helping residents of poor neighborhoods); In Good Faith, supra note 7, at 314-15 (citing Charitable Choice as potentially enhancing the provision of social services); Lenkowsky, supra note 7, at 23 (noting evidence that the most disadvantaged of social services beneficiaries get "emotional and spiritual support" from faith-based providers); Dilulio, The State of Religion, supra note 7, at 5, 7 (praising the "[s]mall armies of religious volunteers" engaged in faith-based social services work).

11. See In Good Faith, supra note 7, at 315-16 (noting the potential of FBOs to endanger beneficiaries' religious liberty); Charitable Choice: A Bad Choice for Government and Religion, People for the American Way, at http://www.pfaw.org/issues/liberty [hereinafter Bad Choice] (discussing potential discrimination against beneficiaries); The Bush 'Faith-Based' Initiative: Why It's Wrong, Americans United
FBOs sometimes do not employ standard professional methods and, in the name of religious freedom, are often not expected to do so. In particular, critics fear that vulnerable clients will be coerced into religious activities in order to gain the organization's assistance.

These general concerns of coercion and other unprofessional conduct apply equally to faith-based legal services providers. However, as with FBOs generally, faith-based legal services providers are not monolithic in either style or substance. A significant majority, although not all, of these organizations are affiliated with the Christian religious tradition. Otherwise, they differ from each other in many ways, including the extent and manner to which the faith aspect of the organization impacts the overall mission of the organization and the professional work of the particular lawyers within.

Cabrini Green represents one model of faith-based lawyering for the poor—what this Note calls a "faith-informed" model—in which religious belief plays an important foundational and philosophical

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For Separation of Church and State, at www.au.org/press/pr22001.htm (Feb. 20, 2001) [hereinafter Why It's Wrong] ("Religion could be forced on those in need of assistance.").


13. See sources cited supra note 11. But see Trulear, supra note 7, at 18 (noting that many faith-based providers of assistance for at-risk youth work focus much of their energy on non-spiritual ways of helping young people); Dilulio, The State of Religion, supra note 7, at 6 (noting that only a "handful" of even very evangelistic organizations make "a current or eventual expression of religious faith" a condition of receiving assistance).

14. See HUD, supra note 4, at 2; Cnaan, supra note 7, at 51 (outlining the diversity of religious affiliation, service provision, and socio-economic class in service providing congregations); Trulear, supra note 7, at 3-4 (describing the various distinguishing characteristics of faith-based youth programs incorporated into the study).

15. See supra note 5 and accompanying text. Both organizations profiled herein have a Christian affiliation. This is not an attempt to diminish the contributions of other faith traditions, only an effort to profile two organizations with diverse philosophies that represent much of what is happening in faith-based legal services. For an example of a legal services agency with a Jewish faith affiliation, see http://www.bettzedek.org.

16. See infra Part I.A.
part, but the lawyer's role as to his client is essentially the same as it would be in other community-based legal services offices.\(^\text{17}\) Cabrini Green lawyers inform their traditional role as lawyers with a faith-driven values system.\(^\text{18}\) New Mexico Christian Legal Aid ("NMCLA"), on the other hand, has a more "faith-transformed" approach to the lawyer's role.\(^\text{19}\) The lawyer is present to meet legal needs, but also to proactively engage his client in spiritual conversations designed to seek out and address spiritual elements related to the client's legal concerns.\(^\text{20}\) The NMCLA lawyer transforms the role of the lawyer by blending, to some extent, the typical duties of the lawyer with those of a spiritual counselor or guide.\(^\text{21}\)

Both models will be addressed in light of the American Bar Association's Model Rules of Professional Conduct (the "Rules") and the legal profession's standard paradigm of the lawyer's role. The Rules give some general room for religious values in the lawyer/client relationship.\(^\text{22}\) There is little agreement, however, on the practical application of the Rules to the day to day conduct of the religious lawyer.\(^\text{23}\) In addition, even if acceptable within the framework of the Rules, faith-based lawyering for the poor faces tensions when viewed against the dominant philosophical view of the lawyer's role today in which the lawyer's personal religious beliefs have little to no relevance.\(^\text{24}\)

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22. See Bruce A. Green, The Role of Personal Values in Professional Decisionmaking, 11 Geo. J. Legal Ethics 19, 26 (1997) (stating that the Model Rules of Professional Conduct allow both a limited or more expansive role for the lawyer's personal moral values).
23. See id. at 24-25.
The question of the lawyer's role takes on a unique tone when asked in a poverty law context. By all accounts, poverty law today is in a crisis. Many credit decreased funding, increased restrictions and a hostile political climate with paralyzing poverty lawyers who seek to make legal services available, adequate and effective for the poor. However, legal services' harshest critics, including some within the profession, give at least some of the blame to poverty lawyers themselves. They argue that poverty law, as it is generally practiced, encourages client dependency on both the lawyer and the government and does little to root out the underlying cause of the poor's problems—poverty as a social institution. The persistence of poverty and inadequacy of legal services for the poor, regardless of who is to blame, suggest that poverty lawyers should look for creative ways of approaching poor people and the communities in which they live.

One solution increasingly promoted as effective against poverty itself is community lawyering. Community lawyering sees the system inappropriately insulates the lawyer from accountability for his own actions). 25. See sources cited supra note 6. 26. For a brief history of the economic and political factors impacting poverty law today, see Barringer, supra note 6, at 60-62 (describing the results of federal restrictions and a decreased legal services budget as "stricter intake criteria, more caseload reductions, and more skeletal forms of service"); Raymond H. Brescia et al., Who's In Charge, Anyway? A Proposal for Community-Based Legal Services, 25 Fordham Urb. L.J. 831, 834-40 (1998). 27. See Brescia et al., supra note 26, at 832 (noting that dominant strategies in poverty law fail to "mobilize community resources and reflect community priorities," thereby significantly decreasing their efficacy); Paul E. Lee & Mary M. Lee, Reflections From the Bottom of the Well: Racial Bias in the Provision of Legal Services to the Poor, 1993 Clearinghouse Rev. 310, 312 (blaming non-minority legal services providers for "gain[ing] self-esteem by looking down upon their poor clients of color" and failing to work in a way that leads to client empowerment and self-determination). 28. See Kenneth F. Boehm, The Legal Services Program: Unaccountable, Political, Anti-Poor, Beyond Reform and Unnecessary, 17 St. Louis U. Pub. L. Rev. 321, 336-37 (1998) (stating that legal services programs, though "well-meaning," often result in greater dependency and dysfunction in clients). Boehm cites examples of legal services organizations fighting to keep drug dealers in public housing, helping clients to circumvent welfare laws, and affirmative litigation that cripples government programs for the homeless as evidence of how these organizations support the poverty and dependency cycle. See id. at 336-37, 341-44. 29. See supra notes 26-28. 30. See Diller, supra note 6, at 674. 31. See supra notes 26, at 840-41 (stating that non-community based programs are often "overly-specialized, lawyer-dominated and isolated from the community"); Diller, supra note 6, at 676; Janine Sisak, If the Shoe Doesn't Fit... Reformulating Rebellious Lawyering to Encompass Community Group Representation, 25 Fordham Urb. L.J. 873, 874 (1998) (calling the message of poverty lawyers "clear" that community lawyering must be pursued); Paul R. Tremblay, Toward a Community-Based Ethic for Legal Services Practice, 37 UCLA L. Rev. 1101, 1129-30 (1990) (noting that because resources and concerns are different, a "hired gun" view of the lawyer's role may be unrealistic in poverty law settings).
community as the "client." The lawyer seeks to support existing community structures, such as tenants' associations and other grassroots entities, and helps to create new ones if necessary. These community groups and institutions direct the lawyer to the needs of the community and become, with the attorney's assistance, part of the solution to community problems.

Standing at the intersection of poverty law's growing interest in community lawyering, the discussion on the appropriate definition of the lawyer's role, and the national debate on faith-based social services, is a small but distinctive group of lawyers who choose to practice law for the poor in a faith-based, rather than a secular, context. The purpose of this Note is to discuss faith-based legal services providers as one means of accomplishing the goals of community lawyering and to do so within the greater discussion of faith-based organizations as an avenue for aiding and empowering poor communities.

Part I profiles the Cabrini Green Legal Aid Clinic of Chicago and New Mexico Christian Legal Aid, a pro bono effort, as examples of faith-based organizations providing legal services to the poor. From these examples, Part I develops two working models: the faith-informed model and the faith-transformed model. This part also shows how these models fit into the discussion of faith-based organizations generally.

Part II analyzes the faith-informed model and the faith-transformed model as they interact with the formal rules of professional conduct, with the standard paradigm of the lawyer as a morally neutral partisan, and with the somewhat distinct role of the community lawyer. This part discusses these interactions as they relate to concerns of unprofessional conduct within a faith-based legal services context.

Part III argues that, because of the discretionary nature of the formal standards and legitimate alternatives to the dominant view of the lawyer's role, faith-based lawyering for the poor, in the form of either the faith-informed or the faith-transformed model, does not inherently result in unprofessional or otherwise unacceptable conduct on the part of the lawyer. This part also demonstrates that community faith institutions are uniquely situated to do community lawyering. Lawyers working within that context, therefore, are in an excellent position to impact both individuals and communities in need.

This Note concludes that faith-based legal services providers, while arguably subversive to some notions of what it typically means to

32. Brescia et al., supra note 26, at 855.
33. See id. Community lawyering places an increased emphasis on transactional work as a means of supporting community institutions. See Diller, supra note 6, at 677.
34. See Brescia et al., supra note 26, at 856-58; Diller, supra note 6, at 677.
practice poverty law, have tremendous and largely untapped potential to help transform communities in need.

I. BACKGROUND: THE WORK OF FAITH-BASED LEGAL SERVICES PROVIDERS

Show me your faith without deeds, and I will show you my faith by what I do... [F]aith without deeds is dead.35

A. Faith With Deeds

The label “faith-based organization” encompasses a broad group of entities.36 Generally speaking, an FBO is an organization which is expressly affiliated with a specific congregation of believers, a religious denomination or a faith tradition.37 An FBO could be a church, synagogue, mosque or other house of worship, it could be a non-profit entity initiated and/or funded by a religious denomination, or it could be an independent non-profit entity with expressed religious commitments.38 This Note will focus on those FBOs that provide social services in a neighborhood setting.39 Other than the fact that they have a faith affiliation, these groups often have little else in common with each other.40 Faith-based legal services offices, as a particular type of FBO, also are broad in form and character.41 This section profiles two organizations in an effort to demonstrate some of that diversity: the Cabrini Green Legal Aid Clinic and New Mexico Christian Legal Aid.

36. See HUD, supra note 4, at 1.
37. See id.
38. See id.
39. The FBOs discussed herein can be either a community organization themselves, such as houses of worship or community-based non-profit organizations, or an outside organization that works in the context of a community organization.
40. See HUD, supra note 4, at 2-3; Cnaan, supra note 7, at 51 (discussing diversity among structure and services of FBOs); Truelear, supra note 7, at 3 (describing various FBOs represented in empirical study).
41. Some faith-based legal services organizations are small and independent, others are part of national entities such as Catholic Charities and Lutheran Family and Children’s Services. See supra note 5. Some employ staff while others are volunteer organizations. See infra text accompanying notes 84-113. Some integrate religious activities into their legal assistance; others do not. For these distinctives as seen in FBOs broadly, see Esbeck, supra note 7, at 10-11; In Good Faith, supra note 7, at 307.
1. Cabrini Green Legal Aid Clinic, Chicago, Illinois

Our purpose is to answer God's call to seek justice and mercy by providing legal services to the poorest of the poor.42

Cabrini Green, created by the LaSalle Street Church in 1973,43 and directed until 1999 by founding attorney Chuck Hogren, describes itself as a grassroots organization that serves as a bridge between a distrustful community and legal resources.44 The five full-time attorneys, including Director Anne Stalder Nelson, represent clients in over 800 criminal defense, family law and housing cases per year.45 The clinic has handled over 10,000 legal matters in its twenty-eight year history.46 Because of significant fundraising needs, Cabrini Green has a full-time development staff member.47 The clinic receives financial support from many sources including the United Way, the Department of Housing, local bar associations, corporations, churches and individuals.48

A notable component of the clinic's work is the training and mentoring of law students.49 Cabrini Green has trained over eighty law student interns, and additional college and high school student interns, in poverty law.50 Over half of these law students have gone on to practice law in public interest settings full-time.51 Cabrini Green also provides pro bono opportunities for private lawyers, an area they seek to expand in order to increase overall service.52

Most, though not all, staff members are Christians. There also have been Jewish, Muslim and non-religious staff attorneys, interns and volunteers.53 However, a controlling majority of Cabrini Green's board of directors are members of the LaSalle Street Church.54 While Christian faith is not a requirement for employment or volunteer

42. Cabrini Green Legal Aid Clinic, Biographical Materials 7 (on file with the Fordham Law Review) [hereinafter Biographical Materials].
43. See supra notes 1-3 and accompanying text.
44. Biographical Materials, supra note 42, at 6. This lack of trust on the part of clients is justified by many factors, including racial and socioeconomic divisions between the client and the lawyer. See Lee & Lee, supra note 27, at 312.
45. McPherson, supra note 4.
46. See Biographical Materials, supra note 42, at 8.
47. McPherson, supra note 4.
49. McPherson, supra note 4.
50. Id.
52. McPherson, supra note 4.
53. Hogren, supra note 1; McPherson, supra note 4.
54. Hogren, supra note 1.
opportunities, potential staff and volunteers may "self-select" Cabrini Green on that basis.\textsuperscript{55} All staff members and attorney volunteers acknowledge and accept Cabrini Green as a faith-based legal office with strong church ties and values rooted in the Bible.\textsuperscript{56} Attorney and Volunteer Lawyer Coordinator Marena McPherson, who was hired in 1999, believes that many find a "very appealing" atmosphere and structure at Cabrini Green, one where "for all the hard stuff we do here, there is a lot of joy [that she believes] comes out of a person's faith."\textsuperscript{57} McPherson calls the dynamic of being a Christian ministry and a legal services office a "balance."\textsuperscript{58} Although community members know Cabrini Green is a Christian organization, they also know that they are there to do legal work for community residents, not to convert them to the Christian faith.\textsuperscript{59} Cabrini Green staff assert that they are "lawyers first" that simply "bring [their] faith to [their] practice."\textsuperscript{60}

Cabrini Green calls that bringing of faith values to the practice of law "lawyering-plus."\textsuperscript{61} Lawyering-plus is a holistic approach to "serv[ing] the whole person."\textsuperscript{62} Staff are encouraged to "have an ear" for clients' concerns when they enter the office—first, their legal concerns but also their other, often more troubling, issues.\textsuperscript{63} If, for example, a public housing tenant faces eviction because her babysitter brought a gun into her apartment, Cabrini Green will seek to prevent her eviction and utilize community contacts to help her secure more appropriate childcare.\textsuperscript{64} If a client appears to be struggling with substance abuse, the staff will let the client know that if he wants help, they will help him get it.\textsuperscript{65} Some attorneys pray for their clients, though not necessarily with them, seeking "God's will, guidance and direction."\textsuperscript{66} Attorneys do not uniformly engage in religious

\textsuperscript{55} McPherson, supra note 4. Cabrini Green has not kept records, but has numerous anecdotal stories of full-time and volunteer attorneys choosing to work there specifically because of the organization's faith affiliation.

\textsuperscript{56} Id.
\textsuperscript{57} Id.
\textsuperscript{58} Id.
\textsuperscript{59} Id.
\textsuperscript{60} Id.
\textsuperscript{61} Id.
\textsuperscript{62} See id. Poverty lawyers have recognized the need to integrate legal services into the network of community service providers. See Brescia et al., supra note 26, at 860.

\textsuperscript{63} See McPherson, supra note 4. The view of a client's problems as extending beyond the legal arena has been cited as a difference between lawyering for poor clients and lawyering in other contexts. See, e.g., Stephen Wexler, Practicing Law for Poor People, 79 Yale L.J. 1049 (1970) (asserting that "[p]oor people are not just like rich people without money" because they have fundamental issues that control many areas of their lives).

\textsuperscript{64} See Liane Jackson, Legal Clinic and Cabrini Green Share a Reconstruction Zone, Chicago Lawyer, July 2000, at 31.

\textsuperscript{65} McPherson, supra note 4.

\textsuperscript{66} Hogren, supra note 1; McPherson, supra note 4.
discussions with their clients, although moral considerations and questions of the common good often are part of the client counseling process.\textsuperscript{67}

While acknowledging that "we're not therapists," staff members view these interactions as "a way of life, how you would be with a friend."\textsuperscript{68} The staff are "committed to seeing people as children of God, made in God's image, and will treat them accordingly."\textsuperscript{69} One way that philosophy manifests itself is that Cabrini Green staff try to relate to clients in a way that encourages personal empowerment and self-esteem by requiring clients to actively participate in their cases and, when possible, to handle certain matters, such as an uncontested divorce proceeding, themselves.\textsuperscript{70}

Criminal defense was the original need expressed by the community and is still a key component of the clinic's work.\textsuperscript{71} Cabrini Green bases this work on the many Biblical passages mandating justice for the poor and defenseless and asserts that, "If nobody else is representing the needs of the criminal defendant poor, then we must."\textsuperscript{72} They are the only private organization providing such services in Chicago and one of only a few Chicago clinics which assist juvenile criminal defendants and handle contested family law matters.\textsuperscript{73}

Clients are not chosen based on their religious faith.\textsuperscript{74} However, the high demand for criminal defense representation and the desire of Cabrini Green staff to have a positive impact on individual clients necessitate a narrowing of criminal defense representation to the unjustly accused, first-time offenders, or others the staff believes it can help stay out of the criminal justice system.\textsuperscript{75} In order to make a difference, staff members try to develop relationships with the client's family and to follow-up with that client after the representation has been completed.\textsuperscript{76}

In order to provide the framework to make lawyering-plus work, Cabrini Green has committed itself to "deep involvement with [the] community, especially in connection with local churches," often the

\textsuperscript{67} McPherson, supra note 4.
\textsuperscript{68} Id.
\textsuperscript{69} See Biographical Materials, supra note 42, at 7. In the words of Cabrini Green Director Anne Stalder Nelson, "Our attorneys really, really care about our clients; and I think that's a big part of what we're doing." See Jackson, supra note 64.
\textsuperscript{70} McPherson, supra note 4. In criticizing typical poverty law practice, Stephen Wexler states that "[t]he hallmark of an effective poor people's practice is that the lawyer does not do anything for his clients that they can do or be taught to do for themselves." Wexler, supra note 63, at 1055.
\textsuperscript{71} McPherson, supra note 4.
\textsuperscript{72} Id.; Biographical Materials, supra note 42, at 9.
\textsuperscript{73} Biographical Materials, supra note 42, at 6.
\textsuperscript{74} McPherson, supra note 4.
\textsuperscript{75} Id.
\textsuperscript{76} Id.
most consistent and stable community institutions, calling this "integral to the success and effectiveness of [their] work."77 Clients are often referred to the clinic by local churches.78 In addition, Cabrini Green is housed in a building with social and youth services agencies and has close connections with other local programs, businesses, law enforcement and city government.79 Over the years, Cabrini Green has created and participated in numerous youth entrepreneurship, mentoring and educational programs.80 These community contacts and activities do much to set the agenda for Cabrini Green’s legal work.81

2. New Mexico Christian Legal Aid, Albuquerque, New Mexico

God has special love and concern for the poor and has exhorted His family to share that love and concern.82

NMCLA is a pro bono effort serving homeless and poor citizens in Albuquerque, New Mexico.83 NMCLA is part of a loose network of approximately thirty Christian legal services organizations, many of whom have received guidance or training from the Public Ministries division of the Christian Legal Society, a national non-denominational, non-partisan fellowship of lawyers, law students and legal professionals.84 NMCLA operated for five years in the 1980's and resumed its work in 1997 in response to sentiment by Chairman John Robb and others that “the church had fallen down on the job” of filling needs created by welfare reform in 1996.85

NMCLA is a volunteer coalition that partners with three community faith institutions that offer comprehensive assistance to the homeless: Noon Day Ministries, a multi-church consortium, and

77. Biographical Materials, supra note 42, at 7. See Dilulio, Supporting Black Churches, supra note 7, at 43 (noting that churches in African American communities are often the center of social support and growth). For more on this role for faith institutions in general, see infra Part III.
78. McPherson, supra note 4.
79. Id. Proponents of community lawyering cite this dynamic of community connectedness as emblematic of community-based organizations. See Brescia et al., supra note 26, at 858.
80. Hogren, supra note 1; McPherson, supra note 4.
81. Hogren, supra note 1; McPherson, supra note 4.
82. Robb, supra note 5.
83. Id.
84. See Charles Emmerich, Panel Discussion: Models of Successful “Religion and Lawyering” Programs, 26 Fordham Urb. L.J. 917, 919 (1999). These “network” organizations vary in their relationship to the Christian Legal Society. Some are closely tied and follow the Christian Legal Society guidelines; others do not. Many are pro bono coalitions while others are staffed by salaried attorneys. See Robb, supra note 5. For more information on the Christian Legal Society, see http://www.clsnet.org.
85. See Robb, supra note 5. Robb and others consider it a religious obligation to help government meet the poor’s physical needs. See id.; McPherson, supra note 4.
the Albuquerque Rescue Mission and Joy Junction, two residential centers. These organizations provide a wide range of services for the poor and homeless population of the area including shelter, counseling, food and clothing, job and life skill training, education, and drug rehabilitation assistance—all from a faith-orientation. Worship, Bible study and Christian counseling are a significant component of these host organizations. NMCLA partners with the host organizations by being available on-site at scheduled hours to address the legal needs of the organization’s clients. Typical areas of need are minor criminal matters, domestic cases, public benefits, landlord/tenant and consumer credit assistance. The host organization provides the attorneys with a meeting place and pre-screens clients. Any other expenses are borne by the volunteer attorneys as individuals. There are approximately fifty NMCLA attorney, law student and paralegal volunteers. Students are paired with lawyers, providing opportunities for training and mentorship.

NMCLA volunteers provide what Robb calls “brief service” to those with legal concerns. Advice, a letter, a phone call or other limited action resolves about seventy percent of client legal matters. Attorneys may follow more complicated cases through the judicial system, but are not required to do so if they feel they lack the skills or time to handle the matter. These cases are assessed by the NMCLA volunteer and then referred to an attorney outside of NMCLA who has agreed to accept the referrals as pro bono cases.

All NMCLA volunteers are Christians. The values of the organization are based on a “hard look at Scriptures,” particularly those passages teaching care for the poor.

86. Robb, supra note 5.
87. Id.
88. Id.
89. Id.
90. Id.
91. Id.
92. Id.
93. Id.
94. Id.
95. Id. A “limited service” model has been utilized in other settings due to high demand and limited resources. See Bruce A. Green, Rationing Lawyers: Ethical and Professional Issues in the Delivery of Legal Services to Low-Income Clients, 67 Fordham L. Rev. 1713, 1722 (1999). In the case of NMCLA, the style seems more related to the simple nature of many of the legal matters and the ability to refer more complex matters to specialized attorneys. See Robb, supra note 5.
96. Robb, supra note 5.
97. Id.
98. Id. Referral lawyers are not necessarily Christians and often specialize in the area of need for which they are being referred. Id.
99. Id.
100. See, e.g., Psalm 140:12 (“I know that the Lord secures justice for the poor and upholds the cause of the needy.”); Psalm 82:3, 4 (“Defend the cause of the weak and fatherless; maintain the rights of the poor and oppressed. Rescue the weak and
NMCLA approach as a "blending or merger" of the spiritual with the legal.\textsuperscript{101} Addressing the legal situation comes first, but volunteers consider it "part of [their] work in ministry to deal with spiritual problems for clients who are willing.... It is part of [their] mission."\textsuperscript{102} Interviews with clients often include prayer and Biblically-based counseling for those clients who ask for this assistance or agree to receive it.\textsuperscript{103} Clients are encouraged to pursue Biblical solutions to their problems, such as reconciliation in broken relationships or repayment of debts to creditors.\textsuperscript{104} Clients are not chosen on the basis of religious faith or willingness to pray with or receive counseling from an NMCLA attorney.\textsuperscript{105} However, because clients are already part of the Christian host organization's programs, they presumably either are Christians or at least have a willingness to be helped by a religious service provider.\textsuperscript{106}

Each lawyer exercises his or her own independent judgment in handling client matters, but in its training process, NMCLA does posit a few considerations for the volunteer lawyers.\textsuperscript{107} For example, in divorce cases where domestic violence is not a factor, attorneys will consider urging a client to seek reunification with his or her spouse or at least to fully weigh the practical and spiritual consequences of a divorce.\textsuperscript{108} Volunteer attorneys are also encouraged to seek non-confrontational solutions in cases that appear to be motivated by revenge on the part of the client.\textsuperscript{109}

Robb sees this "blended" approach as advantageous both to the client and to the volunteer attorney.\textsuperscript{110} The client has the benefit of the professional skills of the attorney but also sees a broader range of options open to him, both as related to his legal concerns and as applied to other issues in his life.\textsuperscript{111} The volunteer attorney has an opportunity to "do more" than he might do in another setting.\textsuperscript{112} In "doing more," the attorney has a chance to look at and assist with "spiritual problems which [NMCLA attorneys believe] often

\begin{itemize}
  \item \textsuperscript{101} Robb, \textit{supra} note 5.
  \item \textsuperscript{102} Id.
  \item \textsuperscript{103} Id.
  \item \textsuperscript{104} Id. According to Robb, this encouragement is not compulsion of the client, but merely an exploration of other solutions to the client’s situation. \textit{Id}.
  \item \textsuperscript{105} Id.
  \item \textsuperscript{106} Id. Critics may point out, however, that there may be few non-religious options available. \textit{See} sources cited \textit{supra} note 11. For an argument that the presence of religious providers increases a client’s choices, see \textit{infra} Part III.C.
  \item \textsuperscript{107} Robb, \textit{supra} note 5.
  \item \textsuperscript{108} Id. Many religious believers consider marriage a sacred act before God with limited justifications for divorce. \textit{See}, \textit{e.g.}, \textit{Matthew} 19:4-6.
  \item \textsuperscript{109} Robb, \textit{supra} note 5. The Model Rules prohibit legal action designed primarily to hurt another person. \textit{See} Model Rules of Prof’l Conduct R. 3.1 cmt. (1983).
  \item \textsuperscript{110} Robb, \textit{supra} note 5.
  \item \textsuperscript{111} Id.
  \item \textsuperscript{112} Id.
\end{itemize}
contribute to the client’s overall difficulties, including his legal situation."

B. Cabrini Green and NMCLA as Working Models

Cabrini Green and NMCLA are similar in many respects. Each is a privately funded non-profit entity providing legal services to the poor. Each is framed by the founders’ understanding of their faith and its mandate to care for the poor. Each is community-based, Cabrini Green directly as a ministry of a community faith institution, and NMCLA indirectly as a partner with community-based ministries for the homeless. Most significantly for the purposes of this discussion, each views its faith commitments as integral to the day to day interactions of attorneys and clients. This relevance of faith commitments, however, is also at the root of a philosophical and practical difference that will be the defining factor distinguishing two working models. Although Cabrini Green and NMCLA agree that religious beliefs and values deeply impact a lawyer’s work, they differ notably on how that impact should manifest itself. Specifically, they differ as to the definition of a lawyer’s role within a faith-based setting.

1. The Faith-Informed Model

Cabrini Green makes no secret of its faith affiliation. Community members, clients, potential employees and volunteers are aware that the clinic is a ministry of a church and that the clinic’s leadership and many of its staff claim a religious world view and motivation for work among the poor. Lawyers at Cabrini Green work to further a mission of caring for the poor because they believe God commands it. They also try to see each other and clients as God’s children because they believe that’s what God does. Although Cabrini Green’s philosophy of “lawyering-plus” is informed by a religious faith, the lawyers function as lawyers, not ministers whose job is to provide spiritual guidance and comfort. This is particularly clear because
Christian faith (or any faith) is not a requirement to be hired by or volunteer for Cabrini Green.122

A faith-informed model allows its faith commitments to inform the definition of the lawyer's role, but not to completely transform it.123 This faith-informed approach results in a practice atmosphere which, on the surface, is not entirely unlike a secular neighborhood legal office. However, a closer look might reveal many distinguishing factors, such as intra-office staff relations, community connections, funding sources or client selection criteria that differ from a secular setting.124

2. The Faith-Transformed Model

NMCLA attorneys also allow their religious faith to inform their view of the lawyer's role, a process that results in a transformation of that role.125 NMCLA lawyers see spiritual guidance and counseling of willing clients as part of their job description.126 They frequently pray with their clients, not only about legal matters but other issues as well.127 NMCLA attorneys are Christian believers who see it as their mission to provide spiritual assistance and who do so within an already spiritually-oriented comprehensive program of assistance for their clients.128

In the faith-transformed model, the faith-based organization sees the lawyer's role as more than a legal advocate or advisor.129 The faith-transformed lawyer seeks to tie the client's legal needs to his spiritual needs and looks for the solutions to the client's problems in the lawyer's religious belief system as well as in the legal system.130 This does not mean that these lawyers do not provide legal assistance. Rather, it means that in providing legal assistance, they will also seek to provide spiritual assistance to their clients.131 In order to play this role, attorneys in a faith-transformed practice necessarily share the religious views of the organization.132

122. See supra text accompanying note 58.
123. See supra text accompanying notes 59-60.
125. See supra text accompanying notes 101-03.
126. See supra text accompanying notes 101-03.
127. See supra text accompanying note 103.
128. See supra text accompanying notes 86-87, 99.
129. See supra text accompanying notes 101-02.
131. See supra text accompanying notes 101-04.
132. See supra text accompanying note 99.
The difference between the faith-informed model and the faith-transformed model is primarily a matter of degree. Both models see faith as a determinative factor in the lawyer’s role. Both see their work as religious service. In the faith-informed model, that means bringing faith values to a lawyer’s job, thus impacting to some extent how that job is accomplished. In the faith-transformed model, the lawyer’s job itself is altered to create a type of merger of legal and spiritual assistance.

C. The Faith-Based Models Within the Larger Discussion of Faith-Based Organizations

The question of the degree to which the religious nature of a faith institution impacts its service work is at the heart of the controversy over the provision of social services by FBOs generally. Much of the current debate on federal funding for FBOs relates to public support of what are often called “pervasively sectarian” organizations—FBOs in which religious activities permeate the entire organization, including its service work. Critics raise concerns that this permeation causes the social services workers to do their work in a way that significantly departs from accepted professional standards. For example, some religious traditions teach that drug and alcohol abuse are primarily a matter of personal responsibility rather than a disease. Faith-based drug abuse counselors may reflect that belief in their work. Critics find such a departure from the standard professional framework disconcerting. Equally disconcerting is the idea that vulnerable clients could be victims of coercion by the faith-based provider. In a climate of inadequacy, they argue, needy people will have little choice but to tolerate unwanted religious instruction or activities as part of the assistance they receive. Such a situation leaves the poor with no freedom from religion if they desire to have their social needs met.

133. For a discussion of this distinction generally, see Green, supra note 22, at 24. Green outlines the various possible relationships between personal values, including religious values, and professional norms. They range from “complete exclusion of personal values” to a much more significant role for personal values. See id.
134. See supra Part I.A.
135. See supra Part I.A.
136. See Esbeck, supra note 7, at 10-11; In Good Faith, supra note 7, at 307.
137. See supra note 41.
138. See sources cited supra note 11.
139. See sources cited supra note 11. But see Wilson, supra note 7, at 38 (citing Alcoholics Anonymous as an example of an organization which has always deviated from traditional therapeutic models but which is “the single most important organized example of personal transformation we have”).
140. See sources cited supra note 11.
141. See sources cited supra note 11.
142. See sources cited supra note 11.
143. See sources cited supra note 11. But see Lenkowsky, supra note 7, at 23 (citing
The next part will address whether faith-based legal services is an acceptable means of lawyering from the standpoint of the Rules and, if they are, whether that model is desirable as a paradigm of professionalism. This part will analyze the models of faith-based legal services as they interact with both the Rules and the standard paradigm of the lawyer's role. This part will also discuss the particular role of a community lawyer. These discussions will address the concerns of coercion and other unprofessional conduct as they arise.

II. RULES, ROLE AND RESPONSIBILITY: CAN FAITH-BASED LEGAL SERVICES FIT WITHIN THE PROFESSIONAL FRAMEWORK?

A. Faith-Based Legal Services and the Model Rules

In considering whether or not lawyering for the poor in a faith-based setting fits within the legal profession's standards and expectations, we look first to the American Bar Association Model Rules of Professional Conduct to see if the Rules place limits on the extent to which a lawyer may bring his religious viewpoint and values into his professional work.144 Although the Rules do not address religion specifically, they do discuss the role of moral values, presumably including those moral values derived from religious belief and tradition.145 In general, the Rules allow for moral considerations, but are vague as to the practical application of that allowance.146 The clearest statement on the role of moral values is in Rule 2.1 which states, "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to evidence that FBOs are often most attractive to the neediest because of the "emotional and spiritual support that other charities, focused as they were on material aid, did not provide"."

144. See Green, supra note 22, at 20. Green queries if the role of a lawyer's personal values in his professional work is to be "assign[ed] a leading role... or merely a bit part." Id.; see also Joseph Allegretti, Lawyers, Clients, and Covenant: A Religious Perspective on Legal Practice and Ethics, 66 Fordham L. Rev. 1101, 1125-26 (1998) [hereinafter Allegretti, Lawyers, Clients, and Covenant]. Allegretti notes that although the Rules give room for moral considerations, few lawyers bring them into the relationship because they either see themselves or their clients as controlling the representation. Therefore, there is no room for a moral dialogue. See id.

145. See Wright, supra note 24, at 574-76.

the client's situation." The comment to Rule 2.1 states that purely legal advice is not always adequate in the face of moral and ethical considerations and in order for a client to make an informed decision, the lawyer, although not a "moral advisor," may bring these considerations to the attention of the client. The comment also indicates that it may be appropriate for the attorney to refer the client to another type of professional (for example, a psychologist or an accountant) to resolve the non-legal aspects of the client's situation.

The Rules do not address from what source a lawyer may derive the moral considerations that he brings before the client. Can they be distinctly religious in nature? Should they reflect the lawyer's moral views or the client's moral views or some kind of common values? The Rules do not address situations in which the lawyer's moral values are unusual, or differ from the client's or from social or professional norms. The Rules do not indicate to what extent the moral considerations have to impact the legal issues of the client to be considered relevant. As to professional referrals, the Rules appear to allow the lawyer to refer a client to a clerical professional, such as a minister or a rabbi, if the lawyer perceives that such a referral would be in the client's best interest.

The discretionary nature of these issues is acknowledged by the Rules themselves. The Preamble calls the Rules a "framework for the ethical practice of law" and asserts that "no worthwhile human activity can be completely defined by legal rules," therefore allowing, or perhaps encouraging, religious considerations to inform the lawyer in areas of practice where the Rules do not specifically

149. See R. 2.1 cmt.
150. See R. 2.1 cmt.; Green, supra note 22, at 42-43. In no place do the Rules refer to the principals contained therein as secular or religious in nature.
151. See Green, supra note 22, at 45. It is not clear what might qualify as "common values." Green posits a possible definition of "common values" as compliance with "societal and legal norms." See id. at 46. Green makes a distinction between common values and specifically religious values. See id. at 46; see also Marc D. Stern, The Attorney as Advocate and Adherent: Conflicting Obligations of Zealousness, 27 Tex. Tech L. Rev. 1363, 1367 (1996) (acknowledging that while a lawyer may be bound to advise the client of moral considerations, "religion is different"); Uelmen, supra note 114, at 1084 (referring to the view that values that are "shared by others" are the only values that can be brought into the "public square").
152. See Green, supra note 22, at 42-43.
153. The Rules seem to leave this to the lawyer's discretion. See R. 2.1 (indicating that the lawyer only needs to think that the advice "may be relevant" to the legal concerns of the client).
154. See R. 2.1 cmt.
155. See Model Rules pmbl.
156. Id.
One broad area that the Rules do not specifically regulate is the lawyer's "general philosophical approach" to his work, including the approach he takes to client counseling, or what values, outside of those mandated by the Rules, should control the practice environment.

The Rules, however, do set some implied limits on the role of the lawyer's personal values. For example, Rule 1.6 sets specific and limited circumstances under which a lawyer may expose a client confidence. Rule 1.4 requires a lawyer to provide adequate information to the client in order for the client to make an informed choice. Most broadly, Rule 1.2 mandates that it is the client, not the lawyer, who makes ultimate decisions regarding the objectives of representation. Each of these Rules limits the role of the lawyer's personal values in the representation by giving significant control of the representation to the client.

1. The Faith-Informed Model and the Rules

The faith-informed model of faith-based legal services allows religious beliefs and values to inform the overall philosophical framework and professional objectives of the organization. This is not prohibited by the Rules. However, the Rules require the lawyer's advice to be candid and adequate to promote informed consent on the part of the client. If the faith-informed lawyer brings either his or the organization's faith values into the representation but does not explicitly inform the client of this, the advice is less than

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157. See id.; Green, supra note 22, at 26.
158. See Green, supra note 22, at 26.
159. See id. at 43; see also Allegretti, Lawyers, Client, and Covenant, supra note 144, at 1125 (calling on the lawyer to go beyond the provision of "technical legal assistance" in client counseling).
160. See Green, supra note 22, at 26.
161. R. 1.6. The circumstances in which revealing a confidence is permissible do not include those in which the lawyer believes it is morally appropriate. See id.
162. See R. 1.4.
163. See R. 1.2. Although Rule 1.2 does not prohibit a moral conversation, it does prohibit a lawyer's moral considerations from controlling the representation. See id.; see also Monroe H. Freedman, Legal Ethics From a Jewish Perspective, 27 Tex. Tech L. Rev. 1131, 1133 (1996). But see Hazard & Hodes, supra note 146, at 304; Pepper, supra note 148, at 630 (arguing that informing a client of moral considerations gives the client greater freedom of choice and allows the lawyer to be more accurately informed by the client as to the client's ultimate wishes).
164. See supra Part I.A.1.
165. See Green, supra note 22, at 26.
166. See R. 2.1.
167. See R. 1.4(b); R. 2.1. The comment to Rule 1.4 indicates that a lawyer may not withhold information to serve the lawyer's own interests. See R. 1.4 cmt.; see also Pepper, supra note 148, at 631 (stating that moral dialogue can be expensive and time consuming for the lawyer and the client and, therefore, may not serve the client's interests).
It could be coercive in that the client may assume the advice is based solely on professional considerations, when, in fact, religious values are playing an unseen role. An additional difficulty would arise if the organizational values, whether held by the individual lawyer or not, conflict with the client’s goals. If, for example, the religious beliefs informing the organization hold that divorce is acceptable only under limited circumstances, a client seeking a divorce outside of those circumstances may receive inadequate assistance in reaching his goal, in violation of the Rules’ requirement of competency.

If the lawyer sees a conflict between his religious commitments and the client’s objections, he could deny representation at the outset or withdraw, thereby allowing the client to secure competent representation from another source. Rule 1.16 and its comment allow the lawyer to withdraw his services if the client’s objectives are found by the lawyer to be “repugnant or imprudent” or alternatively, for any reason, as long as withdrawal will not adversely affect the client’s interests.

While permissible, this solution might be inadequate in the poverty law context given the lack of available representation for the poor. If the faith-informed lawyer refuses a client, that client may be without representation altogether. While the Rules do not require a lawyer to represent any particular person, Rule 6.1 and its comment state that a lawyer should seek to provide legal services to those without means to pay, and that such an activity is an important professional responsibility.

2. The Faith-Transformed Model and the Rules

The lawyer working within the faith-transformed model wears two hats—that of the lawyer and that of the concerned religious counselor. Because of this dual role, the lawyer is likely to engage

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168. See Green, supra note 22, at 44 (arguing that client counseling informed by unexpressed personal views is improper).
169. See id.
170. See R. 1.2(a).
171. See R. 1.1 (noting that a lawyer “shall provide competent representation”).
172. See R. 1.16(b)(3); see also Rhode, supra note 24, at 67; Teresa Stanton Collett, Speak No Evil, Seek No Evil, Do No Evil: Client Selection and Cooperation With Evil, 66 Fordham L. Rev. 1339, 1381 (1998) (calling on religious lawyers to refuse representation that “cooperate[s] materially with the sin of the client”).
173. See R. 1.16(b)(3).
174. See Tremblay, supra note 51, at 2475 (“Poverty lawyers will inevitably encounter more potential poor persons than they have the resources, time, and money to serve.”).
175. See R. 1.16.
176. See id.
177. See supra text accompanying notes 125-32.
the client openly in religious discussions. Again, the Rules do not prohibit this, as long as the client is willing and the considerations are relevant, although the Rules seem to leave the determination of relevance to the lawyer's discretion. Even though the religious component of the faith-transformed lawyer's client counseling might be substantial, the Rules probably allow it. While candor may be less of a concern, values and agendas that conflict with the client's interests pose the same difficulties for the faith-transformed lawyer as for the faith-informed lawyer. Like the faith-informed lawyer, the faith-transformed lawyer has the options of disclosure of limits on representations, refusal of representation and withdrawal of representation but faces the same obstacles of denying representation to clients who may have no where else to turn.

Even if these difficult questions are answered to a satisfactory extent and one were to grant adequate flexibility in the Rules to allow for both the faith-informed and the faith-transformed models of faith-based legal services, both models operate in a legal profession deeply affected by a view of the lawyer's role that leaves less room for moral involvement on the part of the lawyer than does even a conservative reading of the Rules. Following is a discussion of that view, its criticisms and how the faith-based models might interact with it.

B. Faith-Based Lawering and the Standard Paradigm of the Lawyer's Role

The current standard paradigm of the lawyer's professional role is that of a morally neutral partisan whose primary, perhaps only, allegiance is to his client. Under this view, the lawyer's religious values have little or nothing to do with his professional actions. The sole job of the lawyer is to help the client achieve his or her goals,

178. See supra text accompanying notes 125-32.
179. See R. 2.1; Green, supra note 22, at 26.
180. See Green, supra note 22, at 26.
181. The conflict may be even greater as the faith-transformed lawyer sees it as part of his role to influence the client's views.
182. See supra notes 174-76 and accompanying text.
183. See Rhode, supra note 24, at 15 ("Under prevailing views of professional responsibility, lawyers need not choose to exercise moral independence within their professional role. Rather, their preeminent obligation is loyalty to client interests.").
184. Critics of this paradigm are quick to point out that although it is the current view, it is not the traditional one. See id. at 51.
185. See id. at 53; Allegretti, Christ and the Code, supra note 130, at 132; Wright, supra note 24, at 575-76.
186. See Panel Discussion, supra note 146, at 876 (remarks of Russell G. Pearce); see also Timothy W. Floyd, The Practice of Law as a Vocation or Calling, 66 Fordham L. Rev. 1405, 1408 (1998). Floyd calls this view the "Remains of the Day" view of professionalism, referring to the 1988 Kazuo Ishiguro novel and subsequent film which feature Stevens, a butler who refuses to let personal feelings impact his duties, to the point of spending his life in isolation. See id. at 1409.
regardless of religious considerations that may be relevant to the lawyer, the client or third parties. As one writer states, "[I]t is the client's consent and understanding of his or her own interests alone that empowers the attorney to act. Anything more is a usurpation by the lawyer." According to this view of professionalism, "There is no such thing as a male lawyer or a female lawyer, a Christian lawyer, a Jewish lawyer, or a Muslim lawyer... so long as they are fulfilling their obligations to be extreme partisans, they are not morally accountable for any of their actions."

In other words, if the lawyer acts zealously on behalf of his client's wishes and within the bounds of the law, that is all that is required, even permitted, of him. Religious beliefs and values are "to be checked at the door" of the law office and the courthouse.

Supporters of this role see it as a necessary component of the American adversarial system of justice. The lawyer's actions are not based on an external moral guide, but on the nature of his role in the system, what some call "role morality." When lawyers representing all parties "fight it out" to the best of their ability on behalf of their clients' wishes before an objective third party, justice should ultimately triumph. If lawyers replace their clients' values with their own, proponents of the standard paradigm say, the system is muddied. Rather than serving their clients, and thereby the system and all citizens, lawyers who sit in judgment based on their own values and fail to wholeheartedly represent their clients inevitably serve no one.

Others find the dominant view of the lawyer's role unsatisfactory. They question the "idealized vision of the adversary process" as

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187. See Wexler, supra note 63, at 1065 ("A lawyer must help [clients] do their thing, or get out.").
188. Stern, supra note 151, at 1369.
189. Panel Discussion, supra note 146, at 876 (noting, however, that Jewish scholars generally agree "that a Jew has an obligation to bring his or her religion into his or her work") (remarks of Russell G. Pearce); see also Sanford Levinson, Identifying the Jewish Lawyer: Reflections on the Construction of Professional Identity, 14 Cardozo L. Rev. 1577, 1591 (1993) (equating being a Jewish lawyer with being an "ethnic lawyer," a status which inevitably impacts one's practice).
190. See sources cited supra note 189.
191. See Schutt, supra note 24, at 142. Schutt calls this description of the lawyer's role a "myth" that needs to be seen in the context of Biblical support for advocacy. See id.
192. See Zitrin & Langford, supra note 24, at 31.
194. See id.; Rhode, supra note 24, at 53.
195. See Stern, supra note 151, at 1370.
196. See id. Stern gives the example of a religious lawyer who fails to zealously advocate in a child custody case because of the faith of one of the parents, thereby losing sight of the goal of justice for his client. See id.
197. See Allegretti, The Lawyer's Calling, supra note 24, at 9 (characterizing the trial as a "sporting event"); Rhode, supra note 24, at 17 ("No longer should ethical analysis be short-circuited through appeals to some idealized vision of the adversary
neither reflecting reality given the disparity of power in the legal system nor as what is ultimately in clients' best interests. The lawyer should consider public interests, critics assert, such as, "unnecessary harm to third parties, [the promotion of] a just and effective legal system, and [respect for] core values such as honesty, fairness, and good faith on which that system depends." These interests do not control, they say, but should be balanced against confidentiality and other considerations based on promoting client interests. It also has been noted that most lawyers operate in legal situations that are non-adversarial in nature.

Among those engaged in discussion about the appropriateness of the standard paradigm are participants in what has been called a religious lawyering "movement," an affiliation of lawyers and legal professionals interacting through symposia, personal relationships and scholarship. Although there is relative religious and viewpoint diversity within this group, the lawyers are bound by the common thread of a desire to integrate, in some manner, their faith and professional commitments, or at least to understand the relationship between the two. Some participants in this movement find in their religious convictions support for the standard paradigm. Others, however, find a possibly irreconcilable tension between their religious

process."); see also Luban, supra note 193, at 125 (describing the tension between common morality and role morality); Schwartz, supra note 24, at 671 (noting both the advocate and nonadvocate roles of the lawyer); Wright, supra note 24, at 577 (criticizing what he calls the "adversarial shield" behind which "many lawyers... absolve themselves from moral responsibility for their professional actions, thus creating a bar of, at best, amoral, neutral technicians, instead of caring, committed professionals").

198. See Rhode, supra note 24, at 17.
199. Id. at 67.
200. See id.
201. See Schwartz, supra note 24, at 671 (noting that because of the lack of a third party arbiter in negotiating situations, the role of advocate must be altered).
203. See Floyd, supra note 186, at 1410 (stating that even in spite of diversity "this remarkable group of lawyers [engaged in the religious lawyering movement] overwhelmingly concluded that a lawyer can serve God and neighbor"); Howard Lesnick, The Religious Lawyer in a Pluralist Society, 66 Fordham L. Rev. 1469, 1472 (1998) (finding "diversity... as broad as its commonality" among religious lawyers).
204. See Floyd, supra note 186; Lesnick, supra note 203; Pearce, supra note 202.
205. See Freedman, supra note 163, at 1131 (finding a common values system in Jewish teaching and the Bill of Rights); Schutt, supra note 24, at 140 (finding justification for the often criticized representation of guilty clients); Stern, supra note 151, at 1366.
values and the dominant professional values. These viewpoints will be discussed within the context of the models for faith-based lawyering.

1. The Faith-Informed Model and the Standard Paradigm

Both models of faith-based legal services are potentially inconsistent with the standard view of the lawyer’s role that disallows infusion of the lawyer's religious considerations into the lawyer-client relationship. These models give a significant role to religious values in the lawyer's professional life. It is possible, however, that one's faith would inform the lawyer, or the faith-informed organization, that zealous and morally neutral advocacy on the client’s behalf is appropriate, trumping other considerations, as long as the representation is within the bounds of the law. Some proponents of the role morality that characterizes the standard paradigm see ultimate justice as God’s responsibility and give the lawyer the role of making sure that human justice, inherently imperfect, does not overstep its authority. By zealously advocating, the lawyer participates in a procedural system which “cannot [and should not] do what God’s justice can: punish all who are truly guilty.” Therefore, under this view, it is not the lawyer’s job to achieve absolute justice but only to prevent inadequate but powerful systemic forces from taking a role that rightly belongs to God.

Others see standard professional values themselves as substantially consistent with their religious values. In legal ethicist Monroe Freedman’s view, the Bill of Rights and the adversary system should form the basis of legal ethics because the ideals embodied therein are “consistent with Jewish tradition.” Freedman finds role models for this viewpoint in Moses and Abraham of the Bible who zealously advocated for their people before God. Lawyers holding this viewpoint, even if working within a faith-informed model of lawyering, also work within the dominant view of the lawyer’s role.

206. See, e.g., Allegretti, The Lawyer’s Calling, supra note 24.
207. See supra Part I.B.
208. See supra note 203 and accompanying text.
209. See Schutt, supra note 24, at 141.
210. Id. at 142.
211. See id.
212. See Freedman, supra note 163, at 1131.
213. See id. Joseph Allegretti has called this view, within a Christian context, “Christ in Harmony with the Code.” See Allegretti, Christ and the Code, supra note 130, at 133. Allegretti claims that this view can result in a “collapse of the lawyer's moral universe.” Id. at 134.
214. See Freedman, supra note 163, at 1134-35 (citing the Biblical stories in Exodus 32 and Genesis 18).
For some religious lawyers, however, the values of the standard paradigm are not consistent with their religious values and they find the role morality required by the standard paradigm leads to a bifurcated life defined by its disconnectedness and tension with one's most deeply held beliefs. They argue that most, if not all, religious traditions involve the view that a person's faith permeates all of what the person does, or that at least it should. The concept of role morality is inconsistent with this principal. Professional ideology that "suggests that religion should play no role in a lawyer's work" causes difficulties if "you believe that your obligations to God extend to all parts of your life, including your work." For some expressing this viewpoint, acceptance of the paradigm of moral nonaccountability ends in a sacrifice of personal integrity.

Based on religious reflection, I arrive at the conclusion that if I would like to be a person, to be fully human, I must keep before me a vision of the common good, I must live according to the implications of this vision in every aspect of my life. . . . [A]sking me not to act in accord with this sense of obligation . . . is to ask me to let go of my deepest sense of what it means to be a person.

If a faith-informed lawyer’s religious understanding of the common good does not include the mandate to uphold the adversarial system in the face of other obligations, adherence to the standard paradigm could be difficult, if not impossible.

2. The Faith-Transformed Model and the Standard Paradigm

On one level, the faith-transformed model of lawyering confronts the same issues related to professionalism as the faith-informed model. A faith-transformed lawyer might support the standard paradigm based on religious conviction. He might also find those viewpoints irreconcilable. What makes the faith-transformed

216. Wright, supra note 24, at 577. Wright notes that this separation “severs lawyers from who they are; it alienates them from their ethical roots, frequently found in religion, and leaves them adrift in a professional world with only minimalist rules for guidance.” Id. at 577.

217. See Panel Discussion, supra note 146, at 876 (remarks of Russell G. Pearce); see also Azizah Y. al Hibri, Faith and the Attorney-Client Relationship: A Muslim Perspective, 66 Fordham L. Rev. 1131, 1134 (1998) (contrasting Muslim scholarship with the concept of "compartmentalization" of one's life into separate public and private worlds); Kinji Kanazawa, Being a Buddhist and a Lawyer, 66 Fordham L. Rev. 1171, 1174 (1998); Panel Discussion, supra note 146, at 885 (calling religious identity "an imperative, it is a call; it is not something you simply do unless something else comes along that makes you change your mind" (remarks of Howard Lesnick)).

218. Panel Discussion, supra note 146, at 876 (remarks of Russell G. Pearce).

219. Uelmen, supra note 114, at 1079.

220. See supra notes 206-19 and accompanying text.

221. See supra notes 206-15 and accompanying text.

222. See supra notes 216-19 and accompanying text.
lawyer unique, however, is the addition of a second component to his
work, the role of a spiritual advisor. This lawyer seeks to engage his
client in a moral dialogue which potentially impacts not only the
client’s legal situation but other areas of the client’s life as well. This
dialogue could be characterized by a “give-and-take [in which]
the morally responsible course of action [can] be discerned.” It
could also be characterized by more of a moral leadership role on the
part of the lawyer. Either of these approaches is problematic for the
standard paradigm of lawyering that says that the only role of the
lawyer is to fight for his client’s expressed interests and not to analyze
and, especially, attempt to modify those interests.

The idea of proactively engaging in a moral dialogue with one’s
client has particular nuances when lawyer and client are in a poverty
law context. Under these circumstances, the lawyer—who is
educated, middle-class and typically white—interacts with a client who
is poor, probably uneducated and often a person of color. Some
argue that this relational paradigm alone leaves the client vulnerable
to coercion by the lawyer, a criticism raised by some who otherwise
strongly hold for a moral dialogue between lawyer and client. Some
clients are more easily manipulated by the lawyer, they argue, even if
the lawyer is acting in a way that might not impact a more

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223. See supra Part I.B.2.
224. See supra Part I.B.2.
225. See Allegretti, Christ and the Code, supra note 130, at 140.
226. See Rhode, supra note 24, at 65 (posing for the lawyer an affirmative role of
moral leadership in the lawyer-client relationship).
227. See Stern, supra note 151, at 1365. Stern notes, “I, at least, resolved long ago
that I was going to be a lawyer and not a rabbi, that the relationship between lawyer
and client was complicated enough without adding to it a wholly different dimension.”
Id.
228. See Dr. Ana Maria Pineda, Covenanting With the Powerless: Strangers,
229. See Lee & Lee, supra note 27, at 312 (asserting damaging socio-economic
differences between poor clients and their lawyers).
230. See Pineda, supra note 228, at 1178. Pineda questions the idea of a lawyer-client
relationship characterized by moral dialogue from both a theological and an
empirical perspective. She finds that perhaps the model is “ideal” but that it is
unrealistic in the face of the “broader realities” faced by clients, particularly the poor
or, as Pineda terms them, “the powerless.” See id. at 1178-79. Pineda points to both
the shortcomings of individuals (presumably lawyers, in this case) and the “inequality
among humankind” and concludes that these dynamics leave many clients vulnerable
and unable to form a relationship characterized by equality and trust. See id.
231. See Robert F. Cochran, Jr., Crime, Confession, and the Counselor-at-Law:
Lessons from Dostoyevsky, 35 Hous. L. Rev. 327, 392-94 (1998) (calling on a lawyer to
regulate the intensity of his moral dialogue based on existing factors in the lawyer-client
relationship, including the relative power of lawyer and client); Pepper. supra
note 148, at 632 (“Lawyers in some contexts may be simply unable to engage in
dialogue with their clients: the larger the cultural and economic gap between lawyer
and client, the less likely is meaningful moral dialogue.”); Uelmen. supra note 114, at
1092.
sophisticated client in the same inappropriate manner.\textsuperscript{232} This view does not necessarily forbid a moral dialogue with a vulnerable client, but asserts that, "[t]he attorney must be sensitive to ways in which she may ‘dominate’ the relationship to the detriment of open and effective communication and problem solving."\textsuperscript{233} If the lawyer’s moral role extends to that of a “guru,” where his moral leadership results in a morally passive and unempowered client, the concept of moral dialogue has become instead a control mechanism.\textsuperscript{234} Rather than engaging in a dialogue, the lawyer ends up dictating the moral framework and considerations to the increasingly dependent client.\textsuperscript{235}

Under circumstances where the lawyer and client are of different religious traditions, particularly if the client is of a minority religion, it is possible to imagine the introduction of the lawyer’s moral values imposing on the client’s autonomy and negatively affecting the representation.\textsuperscript{236} There is greater room for misunderstanding, incorrect assumptions, and imposition when lawyer and client come into the relationship with vastly different life experiences and value systems than if they come from a common religious tradition.\textsuperscript{237} In addition, some question the qualifications of a lawyer to provide spiritual guidance.\textsuperscript{238} If the client accepts the lawyer’s spiritual guidance as coming from a spiritual “professional,” he may be unduly influenced.\textsuperscript{239}

The faith-transformed lawyer has a dual legal and spiritual role that is probably fundamentally incompatible with the moral nonaccountability and role morality of the standard paradigm of professionalism. Many lawyers within the faith-informed model, as well, will find the paradigm unworkable or at least undesirable. The real issue is whether or not that is a problem for the lawyer or the legal profession.\textsuperscript{240} Given the nature of the criticisms of the standard

\textsuperscript{232} See Cochran, \textit{supra} note 231, at 392-94 (contrasting the intensity of moral dialogue for a poor criminal defendant with that of a wealthy corporate client); Uelmen, \textit{supra} note 114, at 1092.

\textsuperscript{233} Uelmen, \textit{supra} note 114, at 1092.

\textsuperscript{234} Thomas L. Shaffer & Robert F. Cochran, Jr., \textit{Lawyers, Clients, and Moral Responsibility} 34-35 (1994). Shaffer and Cochran indicate that this guru-like role is based on an assumption of the lawyer’s sense of inherent superiority and on the client’s need for instruction. Id. at 35.

\textsuperscript{235} See id.; \textit{Panel Discussion}, \textit{supra} note 146, at 892 (indicating that some moral conversations should take place after the situation in question in order to avoid lawyer control (remarks of Timothy Floyd)).

\textsuperscript{236} See \textit{Panel Discussion}, \textit{supra} note 146, at 891 (remarks of Azizah Y. al-Hibri); Stern, \textit{supra} note 151, at 1367.

\textsuperscript{237} See Cochran, \textit{supra} note 231, at 394-95 (“Admittedly, when lawyer and client share a common moral tradition, the moral counsel can be deeper. Counselor and client can understand one another at a deeper level. When they do not share a common moral tradition, moral discourse is more difficult.”).

\textsuperscript{238} See Stern, \textit{supra} note 151, at 1367.

\textsuperscript{239} See id.

\textsuperscript{240} See Wright, \textit{supra} note 24, at 582 (noting that “lawyers need not automatically
paradigm—criticisms that come from both religious and broader perspectives—what are the consequences of lawyering in a way that is arguably allowable by the Rules but in contravention of standard views of practice? This question has particular significance when raised in a poverty law context, where there is a growing argument that the typical role of the poverty lawyer is less than effective both at meeting the needs of individuals and in bringing about community-wide change and impacting poverty itself. The next section will address the issue of the lawyer’s role within the context of a conversation poverty lawyers are having today about community lawyering.

C. Community Lawyering as a Variation on the Standard Paradigm

Poverty law practice, with its typical emphasis on the enforcement of individual rights through litigation, has generally been consistent with the standard paradigm of the lawyer’s role as a morally neutral partisan set on advocating for his client’s wishes. There is an argument by some, however, that this approach can be inconsistent with broader goals of community empowerment and the reduction of poverty generally. For example, a lawyer fighting for the “rights” of a drug dealing tenant to remain in public housing is arguably acting at odds with what may be community efforts to create safer communities. Some might also worry that a poverty law office’s emphasis on eviction prevention could serve to divert focus and resources away from the development of quality low-income housing.

A community lawyering model of poverty law practice places an increased emphasis on the legal and social needs as expressed by the community itself and on the organization of community groups and individuals to enact community-wide change. The lawyer seeks to identify and utilize a community’s existing resources and strengths, rather than focusing on solutions brought in from outside the community by those with their own agenda. Thereby, proponents

embrace [the standard paradigm] simply because it is modern and prevalent”).

241. See supra notes 26-30 and accompanying text.
242. See Brescia et al., supra note 26, at 840-44.
243. See id. at 843-44.
244. See id. at 846.
245. See id. at 844.
246. See id. at 832; see also Wexler, supra note 63, at 1053. Wexler argues that, Poverty will not be stopped by people who are not poor. If poverty is stopped, it will be stopped by poor people. And poor people can stop poverty only if they work at it together. The lawyer who wants to serve poor people must put his skills to the task of helping poor people organize themselves…. [A] realistic analysis of the structure of poverty, and a fair assessment of the legal needs of the poor and the legal talent available to meet them, lead a lawyer to this role.

Id.
argue, a “top-down, lawyer-dominated” model is replaced by one in which the community sets its own agenda and becomes the increasingly independent mechanism of change.

Some have questioned the practical application of this role, noting that under circumstances when an individual client’s interests differ from that of the community as a whole, the individual still needs representation. Others have pointed out that it might be difficult or impossible to determine precisely who should represent community needs when there are diverse interests at stake. For example, in an economically diverse community, homeowners and low income tenants might have significantly different interests as to the development of new housing in the community. Community lawyering does not necessarily require a complete rejection of the standard paradigm, but it might require a rethinking of what it means to advocate for a client in light of a role which necessarily requires consideration of community goals, and harmonization of those goals, to achieve community-driven ends.

III. FAITH-BASED LAWYERING: COULD THIS BE AN ANSWER TO POVERTY LAW’S PRAYERS?

This part will argue that lawyers working within the context of community faith institutions are uniquely suited to understand community problems, harmonize community interests, and to partner with community members and organizations to effect positive change. The argument will begin by showing that the models of faith-based lawyering are not outside the relatively broad and vague parameters of the Rules, as long as the mandates of the Rules, which encourage religious reflection, are followed. This part will also demonstrate that, although faith-based poverty law is in tension with the standard paradigm of the lawyer’s role, such a tension is not only acceptable, but desirable in light of both the acknowledged difficulties with the standard paradigm and the unique characteristics of community lawyering. Finally, this part will show that community faith institutions have a critical and unique role to play in community revitalization and that lawyering within that context goes hand in hand with what poverty lawyers increasingly say they want to accomplish.

247. Brescia et al., supra note 26, at 832.
248. See id.
249. See id. at 846-47; see also Tremblay, supra note 31, at 1125.
250. See Tremblay, supra note 31, at 1128-29 (noting that individual community groups may have interests that differ from the interests of other groups or the community at large).
251. See Brescia et al., supra note 26, at 860.
252. See Lundgren, supra note 5, at 21.
A. Porous Rules, Lawyer Discretion

[Rules] ignore many of the interesting and important issues in legal practice. . . . Rules cannot empower a lawyer to be caring or courageous. . . . They cannot tell a lawyer whether a tactic or strategy that can be employed should be employed. Moreover, rules provide no guidance for the lawyer who is grappling with the questions that the rules themselves ignore—questions such as the ends of lawyering or the lawyer’s moral accountability for her actions.253

The Rules are “porous” in nature, setting no more than a sparse framework upon which the lawyer can build his own philosophy of practice and set his own professional goals.254 The Rules simply do not deal with most of the philosophical and practical decisions a lawyer makes every day.255 As one writer has said, “[T]his standard of what is ‘professionally ethical’ is not much of a standard at all. It ultimately demands relatively little.”256 This is true for both secular and faith-based providers. From the perspective of the Rules, neither the faith-informed nor the faith-transformed models of faith-based lawyering inherently results in a violation of its principles.257 The religious lawyer, like all lawyers, is responsible to use discretion, always in adherence to the directly stated mandates of the Rules.258 Moral considerations, not excluding those rooted in religion, that are relevant to a client’s situation should be evaluated by the lawyer and, at the lawyer’s discretion, may be introduced into the lawyer-client relationship.259 In fact, the Rules call this course of action “proper.”260 The Preamble to the Rules asserts that moral considerations should be introduced in light of the notion that “no worthwhile human activity can be completely defined by legal rules.”261 Those considerations can then be evaluated by the client himself in the context of his legal situation and the rest of his circumstances.262

In order to assure that a client is making informed decisions about his representation and to avoid coercion or manipulation of a client, a

253. Allegretti, Lawyers, Clients, and Covenant, supra note 144, at 1107.
254. See Green, supra note 22, at 26; Panel Discussion, supra note 146, at 877 (remarks of Russell G. Pearce); Pepper, supra note 148, at 635. For further discussion on this issue, see Allegretti, Lawyers, Clients, and Covenant, supra note 144, at 1107.
255. This principal is inherent in the Rules themselves. See Allegretti, Lawyers, Clients, and Covenant, supra note 144, at 1107.
256. Wright, supra note 24, at 575.
257. See Green, supra note 22, at 26.
259. See id.; R. 2.1 cmt.
260. See R. 2.1. cmt.
261. See Model Rules pmbl.
262. See Pepper, supra note 148, at 631 (noting that “[t]o the extent that the lawyer makes room in the professional relationship for a moral dialogue, the client’s moral and ethical perceptions can affect decisions”).
lawyer should disclose the source of his moral considerations. If a Muslim lawyer introduces moral considerations derived from his study of Islam, he should say so. A legal services office with a faith affiliation should disclose that affiliation so that a potential client knows beforehand that the lawyer’s practice is impacted by the organization’s broader philosophy. The client can then make an informed decision about whether or not he wants to seek assistance from that office. If he does, the client can then choose whether or not the lawyer’s moral considerations affect his legal situation. If the client rejects the considerations, the lawyer should respect that decision. Informing a client of moral considerations derived from religion is not inherently different from informing him of considerations derived from other sources, something all lawyers do, and, according to the Rules, should do. Drawing on religious or other moral values simply broadens the scope of considerations a client might make. If a client is only informed of what will be in his own interests, or what the organization assumes (absent a moral dialogue) are the client’s interests, he is arguably not well informed at all. Under those circumstances, the lawyer gives an amoral technical answer to a moral human problem. Such an answer is incomplete.

As to conflicts between client interests and the lawyer’s religious values, if the lawyer cannot competently provide certain services, he can deny representation up front. That will most easily allow the client to seek alternative counsel. If issues arise later in representation that cannot be resolved without either violating the client’s autonomy or the lawyer’s integrity, the lawyer has the option to withdraw. Given the scarcity of access to legal services, withdrawal or denial of representation should be reserved for situations in which the lawyer reasonably believes he cannot help a client reach his goals. By taking these actions within the Rule’s guidelines, faith-based lawyers are just as responsive to professional standards as any other lawyers.

Concluding that faith-based lawyering for the poor is permissible is not the same as concluding that it is desirable. Because the models of

263. See R. 1.4(b); R. 2.1 (calling for candor on the part of the lawyer).
264. This leaves the client ultimately in charge of the representation as required by Rule 1.2. See R. 1.2(a).
265. See Green, supra note 22, at 55.
266. See supra Part II.A.
267. See Panel Discussion, supra note 146, at 885-87 (giving examples of situations in which clients are often informed only what is in their own interest) (remarks of Howard Lesnick); Pepper, supra note 148, at 630 (stressing moral dialogue as necessary to the lawyer’s full understanding of the his client’s situation).
268. Pepper, supra note 148, at 630.
269. See R. 1.16 cmt.
270. See R. 1.16.
271. See supra note 6 and accompanying text.
faith-based lawyering will often conflict with the standard paradigm of the lawyer's role, two issues must be addressed. First, are there reasons to deviate from the standard paradigm? Second, if there are, do the models of faith-based lawyering do so in a way that offers something to poverty law?

B. Role Morality, A Moral Role

One of lawyers' most crucial contributions involves helping individuals live up to their best instincts and deepest moral values. That role requires advocates who are willing to pass judgment and to identify ways of harmonizing client and public interests.272

When legal ethicist Deborah Rhode made the above statement, she was clearly contemplating a vision of the lawyer's role that falls well outside of morally nonaccountable advocacy. Role morality fails to contemplate the complexities of the world in which we live273 and the fact that both client and lawyer are tied to families, communities and faith traditions that form the foundation of their lives and personal moralities.274 Instead, lawyers under the standard paradigm have a "dispensation" from the morality expected of others and which the lawyers themselves might hope to practice in their personal lives, an option generally not available to those in other professions.275 While this dispensation may make professional life easier, and often more profitable, for lawyers, it's not clear that it has made it better.276 Lawyers have a high divorce rate and suffer from elevated levels of depression, substance abuse and personal and professional dissatisfaction relative to the rest of the population.277

For some religious poverty lawyers, faith-based lawyering could be the answer. Ultimately, a religious lawyer's poverty law practice is rooted in his religious beliefs.278 The Old Testament, which serves as the foundational teaching for Judaism, Christianity and Islam, is full of passages mandating that the believer care for and protect the

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272. See Rhode, supra note 24, at 65.
273. See Model Rules pmbl.
274. See Allegretti, Lawyers, Clients, and Covenant, supra note 144, at 1109.
275. See Wright, supra note 24, at 576.
276. Incidentally, it's hard to imagine that overworked lawyers behaving amorally twelve hours a day, five or more days per week will be able to completely leave that philosophy at the office. See Wright, supra note 24, at 576 (noting that when lawyers leave the workplace "[t]hey are then allowed to behave as themselves—if that self remains any different, and can remain any different—when they are through for the day—if there is any day left when they are through with their work").
277. See Allegretti, The Lawyer's Calling, supra note 24, at 2-3. Allegretti cites studies showing that lawyers are four times as likely to be depressed as non-lawyers, that almost half report not having enough time for family and that rates of professional dissatisfaction have doubled since 1984. See id. at 2; see also Rhode, supra note 24, at 25.
278. See Escalera, supra note 114, at 1401-02.
There is a general understanding that the faithful must do more than attend religious services. They are called to serve the poor, utilizing their gifts and talents to benefit those less able to care for themselves. The faithful are asked to show their love for God by loving their “neighbor”—a broad term used to describe anyone in need, even if such a person would otherwise be one’s enemy.

Believers are to care for the widow, the orphan, the fatherless, the weak. They are to defend the rights of those unable to defend themselves.

These religious imperatives form an excellent foundation for the practice of poverty law. In fact, “[n]owhere is the lawyer’s religious obligation more evident” than in service to the poor and needy.

Religious traditions “encourage us to examine our relationship to the least, lost, and left out in our communities ... [and they] will have something to say about how we must relate to those people.” In other words, there is some way in which religious lawyers are prepared by their beliefs to serve the poor. Biblical religious traditions hold that everyone is equal in God’s sight and should be treated with respect and care. They also teach that personal sacrifice in service of the greater good is not only important but mandatory. It goes without saying that such instruction in humility and personal sacrifice is not provided in law school.

This concept of sacrificial service can be applied by the attorney who needs “powerful resources for coping with the inevitable tensions and disappointments of [his] work.” As the religious lawyer seeks to square his religious ideals with “the mundane realities of everyday
life...[these ideals] provide an opportunity to enrich apparently mundane activities, imbuing them with spirituality." The spiritual resources of the religious lawyer give meaning and fullness to his daily work while providing respite from its difficulties.

Faith-based practice settings provide alternatives to forcing a religious lawyer to submerge his private self and work within a conception of professionalism that denies the open nature of professional standards, the complex realities of daily life and the lawyer's and client's own faith commitments. If caring for the poor is a defining factor of one's faith commitments, then the expression of one's faith will be critical to establishing the philosophical and practical parameters of one's poverty law practice. Given the fact that less than one percent of lawyers engage in poverty law practice full-time and that a woeful portion of those in private practice make any meaningful pro bono contribution, consideration should be given to any effort that increases the number of lawyers doing either. Giving lawyers permission to be "themselves" within the necessary but broad professional constructs can only encourage longevity in the profession and commitment to its more altruistic ideals.

C. Client Choices, Community Values

1. Faith-Based Lawyering and Client Choices

Unlike paying clients, who can afford to shop for a lawyer, low-income individuals with legal problems lack the economic clout to ensure that their individual preferences are respected.

While choice for the lawyer may be good, choice for the client is even better. As has been noted, the poor usually have few or no

290. Levine, supra note 215, at 1199. For this principal at work in the context of assisting at-risk youth, see Truear, supra note 7, at 17 (citing volunteers in a study about the efficacy of faith-based organizations who name their faith as what motivates them and helps them through difficult work situations and disappointments).

291. See Allegretti, The Lawyer's Calling, supra note 24, at 35; Levine, supra note 215, at 1199; Cochran, supra note 283, at 15 ("[I]ncreasingly, professional values have little power to inspire.").

292. See supra Part III.A.

293. See Escalera, supra note 114, at 1393.

294. See Tremblay, supra note 51, at 2481 (citing research showing that less than one percent of all lawyers engage in public interest legal work full-time).

295. See Rhode, supra note 24, at 37 (citing research showing that one half of all attorneys do no pro bono work at all and that the average contribution for all attorneys is less than one half-hour per week).

296. See Panel Discussion, supra note 146, at 883 ("You necessarily bring who you are into the lawyer-client relation and into everything else you do as a lawyer. ... You are yourself. And if you are a faithful adherent of any religion that is part of who you are and that is part of what you bring to the practice of law." (remarks of Timothy Floyd)).

297. Green, supra note 95, at 1717.
choices about how and from whom they receive legal assistance. They are fortunate to get help at all. If the wealthy client can choose what kind of lawyer he wants, categorically denying the same freedom to the poor community closely resembles the paternalism poverty lawyers say they want to eradicate. By saying that the personal, professional and political values that dominate mainstream legal services are what is “best” for poor clients, we say that clients are incapable of making that decision for themselves. While these clients are arguably “vulnerable” in some respects, they are not children incapable of filtering what they hear and making intelligent choices as a response. Treating poor clients that way shows a fundamental lack of respect for their autonomy. Increasing the variety of options available to the poor does nothing less than liberate them to make choices based on their own values and preferences.

Given the option, some clients will certainly choose the faith-based provider. Maybe they have a connection with the faith institution and, therefore, feel more comfortable seeking help in a setting where they feel less like an outsider. Perhaps they like the idea of a structure they perceive as more distantly related to the “system,” of which many people are understandably distrustful. Or, for many, the motivation will be that they share the religious beliefs of the organization and prefer to seek legal counsel from a member of their own faith, someone with whom they presumably share many values.

It seems necessary to deal with the possibility that some attorneys engaging in religious conversations with their clients might overstep the bounds, to the point of inappropriately imposing religious viewpoints and values on the client, hurting both the client and the representation. This would be a serious situation. Fortunately, it is also an avoidable one. As was discussed previously, when advising clients, the lawyer can and should be forthright about advice informed by religious belief.

298. See id.; see also supra note 7 and accompanying text.
299. See Lee & Lee, supra note 27, at 312; Wexler, supra note 63, at 1051 (calling on the poverty lawyer to “understand the relationship of poor people and the law before [deciding] what his practice must be like”).
300. See Green supra note 95, at 1717; see also supra note 7 and accompanying text.
301. See Green supra note 95, at 1717; see also supra note 7 and accompanying text.
302. See Lenkowsky, supra note 7, at 23 (citing an Indiana study showing that the “most troubled recipients of social services” were also the most likely to choose a faith-based program when they had numerous options); McPherson, supra note 4 (indicating that many Cabrini Green clients affirmatively choose to receive legal assistance in a faith-based environment).
303. The problem of “outsiderness” is often cited as one barrier to personal and community empowerment. See, e.g., Lee & Lee, supra note 27, at 312.
304. See McPherson, supra note 4.
305. The need of people to align themselves with like-minded organizations is one justification for community lawyering. See Brescia et al., supra note 26, at 858.
306. See supra note 11 and accompanying text.
307. See supra notes 263-68 and accompanying text.
Even more critically, the religious lawyer can use professional discretion when regulating the intensity of the moral dialogue he initiates with the client.\textsuperscript{308} If the client has considerable power over the lawyer, such as in a corporate law setting, the lawyer should feel free to express his own moral concerns regarding the client’s conduct or goals.\textsuperscript{309} If, however, the lawyer is already largely in control of the lawyer-client relationship, as in a poverty law setting where lawyer and client are likely to be of different races or socioeconomic classes, the lawyer should take that into consideration and focus any moral dialogue on the client’s own religious beliefs and moral standards.\textsuperscript{310} Rather than imposing religious viewpoints, the lawyer empowers the client to utilize the client’s own belief system to consider the motivation and consequences of his actions and to bring those considerations into the decision-making process.\textsuperscript{311}

Incidentally, statistics on faith-based providers of other types of social services show that only a very small percentage of providers make religious activity or adherence in any sense a requirement of receiving the benefits of the program.\textsuperscript{312} Descriptions of our model organizations, which vary significantly in the role religious conversations play in the lawyer-client relationship, do not lead to the conclusion that this imposition of values is in any way inherent to the operation of a faith-based legal services organization.\textsuperscript{313} Faith-informed lawyers simply bring religious considerations into their practice structure and, to a limited extent, into client counseling.\textsuperscript{314} Even faith-transformed lawyers, with a significantly greater role for religious dialogue, only do so with the consent of the client and not as a condition for assistance.\textsuperscript{315} In fact, religious lawyers might well respond that their religious values would forbid any imposition of beliefs on a client.\textsuperscript{316} Nevertheless, attorneys who breach a client’s religious autonomy and thereby fail to provide competent

\textsuperscript{308} See Cochran, supra note 231, at 391-94 (noting the danger of engaging in inappropriately intense moral dialogue with clients).
\textsuperscript{309} See id. at 392.
\textsuperscript{310} See id. at 392-95 (“The powerful lawyer may need to work to respect the dignity of the client.”).
\textsuperscript{311} See id.
\textsuperscript{312} See Trulear, supra note 7, at 18 (describing faith-based mentors of at-risk youth as generally being able to “bracket doctrinal concerns” in order to help young people); DiIulio, The State of Religion, supra note 7, at 6 (citing studies which show that only a “handful” of community-serving congregations require religious activities of the beneficiaries).
\textsuperscript{313} See supra part I.A. Cabrini Green and NMCLA serve clients regardless of the clients’ religion or willingness to discuss religion.
\textsuperscript{314} See supra Part I.B.1.
\textsuperscript{315} See supra Part I.B.2.
\textsuperscript{316} For example, lawyers at both Cabrini Green and NMCLA insist they only discuss spiritual matters with client consent or at the client’s initiative. See supra text accompanying notes 67, 102.
representation could be held accountable just as attorneys who fail to provide competent representation for any other reason.\footnote{317} Another consideration at play is the assumption by some that, while faith-based entities are value-laden,\footnote{318} secular entities are value-free or perhaps governed only by values common to everyone.\footnote{319} Under this view, clients of FBOs are at great risk of unknowingly being indoctrinated by the lawyer's values while clients at secular agencies have no such risk. Evidence of this is lacking, in poverty law no less than in other situations.\footnote{320} Anywhere there are people, there are people with values. All lawyers have values not shared by others.\footnote{321} Secular values are no more "common" than religious values.\footnote{322} In fact, a majority of Americans are members of religious institutions, say religion is "very important in their lives," and believe that "religion can answer all or most of today's problems."\footnote{323} Thus, a values system that says "what life is principally about is people getting what they want,"\footnote{324} and that removes religious considerations from the table, arguably is not common at all. Assuming that poverty lawyers working in a secular context hold their ideals just as passionately as poverty lawyers working in a faith-based context,\footnote{325} clients are already on the receiving end of value-laden messages. Who is to choose which values are acceptable to express to a client or to dictate the overall philosophy and culture of a services agency? Again, in the spirit of respect for client freedom,\footnote{326} clients should make that choice. Denying clients this choice because of the relative scarcity of other options leaves them without any choices at all.

\footnote{317} See Model Rules of Prof'l Conduct pmbl. (1983) (noting that although the Rules should not form the basis for litigation, they operate as a mechanism for peer approbation and professional disciplinary proceedings).
\footnote{318} See supra note 11 and accompanying text.
\footnote{319} See supra note 11 and accompanying text.
\footnote{320} See Boehm, supra note 28, at 328-29 (noting that the political and ideological pursuits of federally-funded legal services programs have been the subject of considerable controversy).
\footnote{321} See Green, supra note 22, at 55.
\footnote{322} See Dilulio, Supporting Black Churches, supra note 7, at 43 (noting the pervasiveness of church membership among Americans).
\footnote{323} See id. Dilulio cites figures showing that over two thirds of Americans are members of a church or other house of worship.
\footnote{325} See Boehm, supra note 28, at 328-29.
\footnote{326} See Model Rules of Prof'l Conduct R. 1.2 (1983); R. 1.4.
2. Community Faith Institutions and Community Values

Finding new ways to work with and engage poor communities is among the most important pieces of any new agenda for poverty law.\(^{327}\)

Faith-based lawyering for the poor not only furthers lawyer and client freedom, but also provides an excellent means for accomplishing the goals of community lawyering. If the goal of community lawyering is to respect community organizations and thereby "mobilize community resources and reflect community priorities,"\(^{328}\) lawyering within the context of a house of worship or other community faith institution makes a lot of sense. Part of this reflection of community priorities by a faith institution will undoubtedly include a reflection of religious values. However, if the community places a premium on its faith institutions, that caveat seems in line with the broader goals of community lawyering.

Poor communities, particularly urban communities of color, do, in fact, value their faith institutions.\(^{329}\) Within the African American and Latino communities, the church, and increasingly, the mosque, is the center of the social and political,\(^{330}\) as well as spiritual, activity of the

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327. Diller, supra note 6, at 676.
328. Brescia et al., supra note 26, at 832; see also Diller, supra note 6, at 678.
330. The relationship between African American faith institutions and political activity and social progress was never more apparent than during the civil rights movement of the 1950s and 1960s, although it predated that period and continues today. See Carle, Shelter in the Time of Storm, supra note 329, at 29-31 (citing examples of African American churches sheltering runaway slaves, furthering the abolitionist movement, and caring for the poor). Both Martin Luther King, Jr. and Malcolm X spoke from a religious perspective and were spiritual, as well as political, leaders. See James H. Cone, Martin & Malcolm & America: A Dream or a Nightmare 143-45, 166-69 (1991) (finding a significant spiritual motivation and influence for both leaders, even given their profoundly different conclusions resulting from that motivation). In 1961, King told Redbook magazine, "I am first and foremost a minister. I love the church, and I feel that civil rights is a part of it... The basis of my struggle for integration... is something that began with a religious motivation." Id. at 120. African American churches and their ministers formed the core of King's support. See id. at 143. Cone also points to Richard Allen, Adam Clayton Powell, Sr. and Jr., Vernon Johns and others as examples of the significant role African American churches and their congregations played in the movement. See id. at 6-7. Cone notes, however, that the same cannot be said of predominantly white churches during the same era. See id. at 135.
Faith institutions, namely, churches, synagogues, mosques and their ministries, are the ultimate community-based institutions, often the only ones that weather the ups and downs of community structure and economy. African Americans report higher church attendance, greater financial giving to faith institutions and a greater belief that "religion can solve all or most of today's problems" than do white Americans. Most significantly, these institutions have an historic and present role in serving the needy of their own communities through a variety of social services. Faith institutions often form the basis of community and cultural stability for newly-arrived immigrants, who are sometimes those most in need of legal assistance. Frequently, faith institutions have been the only place in which those who are unempowered in the greater societal structure find safety, control and opportunities for leadership. Sociologist James Cone calls the African American church a place where "blacks [can] believe they are somebody in spite of what whites [do] to them."
One unique characteristic of community faith institutions is their ability to bring together diverse people and interests.\textsuperscript{337} Often, the only trait shared by congregates is the particular religious faith and its attendant moral values.\textsuperscript{338} Members are of all ages, have all types of jobs or no job at all, earn different incomes, and bring diverse life experiences into the faith environment.\textsuperscript{339} They are the children, the elderly, the small business owners, the addicts, the educated, the uneducated, the homeowners, the tenants, the powerful and the powerless of the community. Their lives are diverse as are their interests. Their viewpoints reflect that diversity, as do their resources and needs. This internal diversity makes faith institutions ideal candidates for understanding and harmonizing conflicting community interests, one area of potential difficulty for community lawyering.\textsuperscript{340} As individual members share ideas and pose solutions, many different viewpoints are heard. The faith institution is not a “person” with one voice; it is “people” with many voices.

Members of faith institutions represent an important network for reaching needy individuals in the community who are not members of the congregation.\textsuperscript{341} Studies have found that while people within a congregation benefit greatly from social services provided within, children and families from outside the congregation receive the majority of the benefits provided by the faith-based services.\textsuperscript{342} One author notes that “[t]he impact of [a neighborhood church] is not in its programs or politics but in its capacity to connect.”\textsuperscript{343} As members of faith institutions live in neighborhood homes, shop in neighborhood stores, access transportation, send children to school and sports activities, and generally live their lives within the community, they form relationships with many kinds of people, including people with needs.

The congregation, through its diverse membership, can seek to address at least some of these needs.\textsuperscript{344} For example, a welfare

\begin{thebibliography}{99}
\item[337] See Cnaan, supra note 7, at 51; De Vita et al., supra note 332, at 8 (discussing the motivating power of faith among volunteers serving high-risk youth).
\item[338] See Robert D. Carle, Seeking the Shalom of the City, in Signs of Hope in the City, supra note 329 at 11, 25 (giving the example of several socially diverse New York City churches engaged in outreach to the city).
\item[339] Cabrini Green is a good example of this dynamic at work. The church membership contains both professionals, such as founder Chuck Hogren, and those in need of professional assistance. See supra Part I.A.
\item[340] See Tremblay, supra note 31, at 1124; supra Part II.C.
\item[341] See Escalera, supra note 114, at 1399; De Vita et al., supra note 332, at 8.
\item[342] See Dilulio, The State of Religion, supra note 7, at 6.
\item[343] Lupton, supra note 332, at 53. This community “presence” has been called an imperative for community-based lawyering. See Susan D. Bennett, On Long Haul Lawyereng, 25 Fordham Urb. L.J. 771, 773 (1998); Brescia et al., supra note 26, at 856.
\item[344] Studies of the social services activities of congregations show that those engaged in the provision of social services are generally engaged in multiple types of service. See Chaves, supra note 334, at 2; see, e.g., Lupton, supra note 332, at 52-53 (citing the anecdotal example of one church couple who tutored neighborhood
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recipient who becomes acquainted with a member of a community faith institution with a legal services ministry may choose to seek legal assistance in that environment. Not only can the faith-based lawyers provide this assistance (and do so with a true understanding of the context in which the client lives), but they can provide the client with possible job referrals or training developed from contacts within the congregation. They may also be able to present opportunities for the client’s children in the institution’s after-school program or any other of an array of services.345 It is then the client’s choice whether or not to pursue those options. Even if she does not, she still receives legal assistance in a way she has chosen herself.

The congregation can reach out to people with ideas for solving community problems and can create a forum for people from inside and outside its membership to actively propose community action.346 Faith institutions are “fundamentally teaching entities.”347 As such, they are uniquely situated not only to provide the forum, but to communicate ideas and strategies to their congregations and the community at large. Through this mechanism, the number of voices, who are in every sense community voices, is increased as is the impact on social injustice. In addition to assisting the individual, faith institutions can manifest an aggregate kind of influence in the efforts to “identify structures that hinder human dignity and freedom, and can . . . shape an agenda for change.”348 Faith institutions engaged in policy movements and community development activities are often at the forefront of such efforts.349

Without doubt, a specific faith community, even with its diverse congregation and community relationships, will not represent the values of each community member. This is probably true with any definition of “who” the community is.350 However, through their own membership and networks within the community, community faith institutions are at least as able as others, if not more so, to gauge the “pulse” of the neighborhood, assess needs and enact solutions.

children in their home and used their professional skills to landscape public land in the church neighborhood).

345. Proponents of community lawyering assert the need to connect people with legal needs to other services. See Brescia et al., supra note 26, at 860.

346. See Dantuono, supra note 283, at 1389; Diller, supra note 6, at 678 (stating the necessity of balancing the “localism” of community lawyering with policy activism).

347. See Lundgren, supra note 5, at 36 (noting the ability of faith institutions to “disseminate information”).

348. See Dantuono, supra note 283, at 1389.

349. See Diller, supra note 6, at 679.
This scenario is not hypothetical. This is exactly what happened in the Near North neighborhood of Chicago in 1968.\textsuperscript{351} Cabrini Green began and continues to serve the community based on the community’s legal needs as identified and understood through the LaSalle Street Church membership and the church’s broader community connections.\textsuperscript{352} Cabrini Green attorneys have access to community priorities and community relationships and clients have access to help from an organization they can trust.\textsuperscript{353}

Of nearly equal import to faith institutions’ internal diversity and community connectedness is the potential network to resources from outside the immediate neighborhood. Faith institutions are often within a denomination that extends beyond community borders,\textsuperscript{354} or at least in an affiliation of some sort which connects them to other like-minded organizations.\textsuperscript{355} In many cases, these networks connect institutions with needs to institutions with resources in a way that is desperately needed but often not otherwise possible.\textsuperscript{356} In fact, some of the financial resources open to faith-based organizations may not be available to secular organizations because of the faith-related priorities and values of the donors. In addition to responding to doctrinal expectations on giving financially to religious work,\textsuperscript{357} some religious contributors will prefer to give to organizations with whom they share beliefs and priorities, something all donors do. Because the institutions share many common values, they are well-suited to care for each other.

This partnership between community faith institutions, community members and outside resources is fertile ground for community lawyering. Lawyers working within the context of a community faith institution have tremendous potential to understand community needs and build on community strengths. They have access to resources inside the congregation and outside via the congregation’s connections. This is not to say that faith-based lawyering should be

\textsuperscript{351} See supra text accompanying notes 1-3.
\textsuperscript{352} See supra text accompanying notes 1-3, 71-77.
\textsuperscript{353} See supra text accompanying notes 71-77; see also HUD, supra note 4, at 18 (acknowledging faith institutions as a “context that engenders public trust”).
\textsuperscript{354} See Lupton, supra note 332, at 79-80.
\textsuperscript{355} See HUD, supra note 4, at 1.
\textsuperscript{356} See Lupton, supra note 332, at 80 (“Church partnerships have yielded a broad range of innovative programs...[and] doubtless represent the best means available for reconnecting isolated urban neighborhoods with the systems and resources of the larger region.”). While community based, much of the financial support for Cabrini Green comes from faith-affiliated organizations and individuals from outside of the community. See supra text accompanying note 48. Similarly, NMCLA operates on the principal that attorneys from outside the community have an obligation to share time and money resources with faith institutions that need their services. See supra Part I.A.2.
\textsuperscript{357} Religious teaching often requires the believer to give at least a “tithe” (ten percent) of one’s income to God via religious charity. See, e.g., Leviticus 27:30.
the only way, or even the only preferred way, of accomplishing the goals of poverty law today. Unfortunately, there are plenty of needs to go around. To not welcome and support these organizations, however, is to neglect one of the greatest assets available to poor communities in need of hope and restoration.\textsuperscript{358}

\section*{CONCLUSION}

Faith tends to subvert legal order. Or, as [some] would say—it doesn't much, but it should.\textsuperscript{359}

Faith-based lawyering for the poor does not preclude adherence to the Rules. However, it is subversive to other, less justifiable, aspects of poverty law's "legal order."

Faith-based lawyering for the poor is subversive to the vision of the lawyer as an impersonal, amoral keeper of a role, capable of checking his personal values at the door of every professional interaction. Faith-based lawyering sees the religious lawyer as a person who, like everyone else, can't help but be guided by his deepest beliefs.

Faith-based lawyering is subversive to the idea that poor clients cannot make intelligent determinations about the values that will guide their legal decision making. Faith-based lawyering presents religious considerations and allows clients to choose.

Faith-based lawyering is subversive to the typical poverty law practice that ignores the potentially vibrant role of community faith institutions in reflecting community values and setting an agenda for community transformation. Rather, faith-based lawyering grows out of deep community roots and a tradition of community self-help, bringing together the diverse voices and wealth of resources found in community faith institutions.

Ultimately, faith-based lawyering is subversive to the idea that there is one way to practice poverty law, even in the face of clear evidence that needs are vastly unmet and poverty itself is almost entirely unaffected.

Faith-based lawyering offers another way.

\textsuperscript{358} See DiIulio, \textit{Supporting Black Churches}, \textit{supra} note 7, at 45.

\textsuperscript{359} Shaffer, \textit{supra} note 279, at 1089. Shaffer states that God and the justice he brings challenge legal ideology, which serves the powerful and wealthy and "provides ease to the consciences of lawyers." \textit{Id.} at 1096.