

# Lawyers' Wellbeing and Professional Legal Education<sup>1</sup>

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## Abstract

This paper examines the background and early results of pilot research on the wellbeing and satisfaction levels of lawyers in the workplace. It describes the little we know about workplace satisfaction for lawyers in Australia, compared with the worrying findings about the legal profession in the United States. The background includes reports that are critical of how we educate and train lawyers; specifically, that doctrinal legal education not only avoids interpersonal skills development but jeopardises the future well-being of graduate lawyers by implying such skills are relatively easy to acquire in practice or are unnecessary in any case, compared to the importance of 'knowing the law'. I discuss the need to investigate the wellbeing and satisfaction levels among newly admitted lawyers, and to consider ways to teach law that could help lawyers not only make wise career choices but develop strategies to cope better with stressors in their workplace. One possibility is that clinical legal education helps students develop professionally as well as personally and improves their chances of coping with high stress levels and enjoying a happy and productive life at work.

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<sup>1</sup> This paper follows a related paper presented by Dr Colin James and Ms Jenny Finlay-Jones at the Asia-Pacific Educational Integrity Conference, University of Newcastle, 2 – 3 December 2005, and a paper presented by Dr James at the Australasian Professional Legal Education Council Conference, College of Law, Sydney, 2006.

<sup>2</sup> With thanks to Jenny Finlay-Jones for assistance on earlier drafts.

## **Introduction**

On 11 November 2005 an anonymous letter was published in the *Lawyers Weekly* by a person claiming to be a partner in a large law firm. The author was extremely critical of large law-firm workplaces, calling them ‘profit centres... with centralised management’, where ‘profit is not a consideration; it is the sole driving force.’<sup>3</sup> He/she went on to critique medium and small firms as suffering similar ‘structural problems’, ruled by the six-minute unit, which fuelled the ‘common practice’ of ‘masking inhumane pressure by inflating time sheets, undertaking unnecessary research, exaggerating the need to review everything during discovery, undertaking overzealous due diligence processes and other practices readers will be familiar with. In other words, we cheat and lie to make ends meet.’

The author complained also that lawyers don’t live well because ‘we work too much’, making a lot of money but at a punishing personal cost. The author would not recommend a young graduate become a lawyer because ‘this is not how a life should be lived’.

Can we dismiss this letter as anonymous ranting of a weakling? A loser who should get out of practice and stop making the rest of us feel guilty? Unfortunately, the relative silence from the profession, the failure to respond to this letter, to refute or deny the allegations as untrue or exaggerated could be acknowledgment by default. It suggests hopelessness: the world is thus, and better to let the accusations fade rather than risk upsetting clients and giving the letter the credibility of a response.

On 29 September 2006 the *Lawyers Weekly* reported on visiting Canadian psychiatrist Dr Mamta Gautam, who specialises in professional health and wellbeing. Her research ranked lawyers as the most depressed out of 105 professions surveyed, with the incidence of the disease being three times higher than the general population. “Twenty-five per cent of lawyers suffer from elevated feelings of psychological distress: inadequacy, anxiety, social isolation [and] depression” (Gibbs, 2006).

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<sup>3</sup> ‘Big firm partner breaks ranks’, *Lawyers Weekly*, 11 November 2006, p.3; subsequent quotes are from the same reference.

There is increasing evidence that practising law is dangerous for your health. Yet what is to be done? At what levels of legal education, training or practice should the risks be addressed? Is it the problem of legal firms, especially big firms as the obvious culprits, or is there some responsibility for smaller firms, and those who provide professional legal training as well as law schools? Perhaps, as ‘the legal profession’ infers by its relative silence and inaction, it is a problem for the individual; survival of the fittest rules as the law of the jungle and reflects commercial realities in developed society.

### **The Problem in America**

Many studies in the United States over the past two decades show lawyers suffer poor physical health and significant levels of mental illnesses, especially depression, alcoholism and drug abuse, as well as high rates of divorce and suicidal ideation.

Depression by itself has a significantly detrimental effect on performance and can no longer be dismissed as a side-effect of a stressful job (Martin, 2001). The problem in the legal profession was clearly identified in the 1980s and the blame sheeted home to law schools (Benjamin, Kazniak, Sales, & Shanfield, 1986). By the 1990s the situation had deteriorated and became a concern for the American Bar Association (Benjamin, Darling & Sales, 1990).

In 1998 Professor Susan Daicoff argued a ‘tripartite crisis’ existed in the legal profession, consisting of a decline in professionalism, a decline in the public opinion of lawyers and a decline in the wellness and satisfaction levels of practising lawyers (Daicoff, 1998).

Subsequently, in 2005, Seligman, Verkuil & Kang published a study that confirmed the poor mental status and growing unhappiness among lawyers, particularly young lawyers. They consulted legal academics and practitioners including managing partners in large firms and the American Bar Foundation, and found that the dissatisfaction stems from three causes. First, employers select lawyers for their pessimism (or “prudence”) which is encouraged and generalises to the rest of their lives. The second reason is that young lawyers typically hold jobs that involve high pressure and low decision-making capacity, which promote poor health and low morale. Third, adversarial legal systems are largely a zero-sum game, where lawyers must use aggression to compete successfully and one

party's win is another's loss. Leading American lawyer Sol Linowitz concluded the single-minded drive to win in the adversarial system makes "young lawyers not only less useful citizens ... but also less good as lawyers, less sympathetic to other people's troubles, and less valuable to their clients" (Linowitz, 1994).

Later research proposed ways out of the paradox, but it remains to be seen whether large firms in the United States will embrace reforms they fear may affect profit margins (Daicoff, 2006). Typically law firms operate as businesses competing in a market, more than service providers in a community of needy clients. Even those professing the high-end ethics of client-centred practice would not apologise for putting profit ahead of the wellbeing of their staff. Most would claim that conducting a legal service as a business reflects a professional approach in the commercial world.

Should Schools of Law and providers of PLT inform law students and trainees of the risks of legal practice? Should educators help students to make informed career choices? If the risks are high, is it time to recognise educators have a duty of care? Further, is warning enough, or should law schools and PLT providers help students develop ways to practise law to endure commercial realities?

### **The Problem in Australia**

Currently in Australia and New Zealand lawyers appear to face less risk than in the United States, but the situation is deteriorating (Prodan, 2003). There are some early signs of Daicoff's 'tripartite crisis', and it is worth citing the evidence to decide whether legal educators and trainers should review their own practices.

In 2001 the president of the Law Council of Australia addressed the 32nd Australian Legal Convention with a paper that began like this:

There has been an unprecedented number of attacks this year on the legal profession characterising it variously as greedy and self-serving, as tax avoiders and abusers of the system for personal gain. (Trimmer, 2001)

Some lawyers provide good reasons for the diminished reputation of the profession. Controversy surrounds lawyers' behaviour concerning James Hardie Industries (Merrit,

2004), the HIH collapse (Martin, 2003), Enron's collapse (Ackman, 2002) and an Australian subsidiary of British American Tobacco (Birnbauer, 2004). Lawyers' professional integrity is challenged by the recent finding that only 38% of young lawyers surveyed in NSW always record their time accurately (Coghlan, 2006). Should we as legal educators and trainers better prepare students to resist the culture in many firms that passively encourages the 'massaging' of time sheets? Should legal ethics remain a discrete subject at law schools, focussing on fixed rules, or should it be reconstructed as professional integrity and pervade all courses, exercises and assessments? (Curran, Dickson and Noone, 2005)

Another aspect of the crisis is reflected in the Australian data suggesting a gradual decline in lawyers' wellbeing. While not on the American scale, the evidence of a profession in distress seems to be increasing in all Australian states and should be a concern for the legal profession, PLT providers and law schools.

One signal of problems is the high rate of mobility between firms and lawyers leaving the profession. It has been reasonable to blame inflexible working conditions that made it difficult for people with parenting responsibilities, who are (still) typically women. In 1989 one of the first empirical surveys on the satisfaction of Australian lawyers (Law Institute of Victoria, 1990) caused some concerns because it showed that 6% of male practitioners and 12% of women practitioners did not renew their practising certificates. The main reason given by men was 'Lack of Satisfaction' (shared with 'Personal/Lifestyle'). Women gave 'Personal/Lifestyle' as the biggest reason, followed by 'Family Commitments' then 'Lack of Satisfaction'.

Another study in 1999 showed up to 30% of private practitioners in Victoria were considering leaving their jobs (Victorian Women Lawyers Association, 1999). By 2000 44% of lawyers in both Sydney and Melbourne were considering leaving their present firm (Schmidt, 2000). Most recently a survey showed almost half of current practising young lawyers in NSW plan to quit their jobs within 2 years (Coghlan, 2006).

In 2001 the Young Lawyers' Section of the Law Institute of Victoria (2001) published some 'horror stories' from complaints by young lawyers over a number of years about the employment conditions in some Victorian law firms. Similar anecdotal concerns were

raised in Queensland in 2000 when an experienced legal recruiter warned that the majority of lawyers in that state were unhappy at work and were looking for change (Lawyers' Weekly, 2000).

Australian law graduates in a national survey claimed that the most frequently used skills in practice were oral and written communication (Vignaendra, 1998). However communication skills were among the biggest deficiencies of graduates according to a survey of employers (AC Nielsen Research, 2000). These skills are not taught in most law schools, except for those with good clinical legal education programs where students work with clients and develop skills not only in oral and written communication, but also how to listen. Most practices of legal education and training assume there are two realms of teaching: theory and practice. If universities teach theory and students get practical legal training elsewhere, are we assuming nothing else matters, or that employers will guide graduates through work-place experiences to enable interpersonal skills to develop naturally and adequately?

Research in Western Australia found that poor communication within the firm was a major cause of dissatisfaction (Law Society of Western Australia & Women Lawyers of Western Australia, 1999). Solicitors reported they had inadequate control over factors which impacted on their work; there was unfair allocation of "interesting work"; expectations were not communicated; there was no clear vision and direction from firm partners; and salary was inadequate compared to the level of responsibility. While low pay relative to responsibility could make a lawyer feel unappreciated the research states '... research is quite clear that pay is not a significant factor for remaining with an employer.' (Law Society of Western Australia et. al., 1999).

The pay question is complex, because it can affect how a lawyer feels about their workplace and their role in it. Survey questions about pay put in a different style can elicit different responses. Recently for example, young lawyers in NSW seem more concerned about pay as it was by far biggest reason stated for intending to change jobs: 'More pay, more pay, and ...maybe more pay. Who cares about pro bono stuff when you can't pay the mortgage' (Coghlan 2006). It may be that while lawyers' remuneration has

not kept pace with industry changes and other professions, especially financial services, their level of responsibility has increased, causing higher stress and dissatisfaction.

As early as 1991 the Law Society of NSW established LawCare, a counselling service for lawyers and their families, in recognition of increasing stress levels in the profession. However, by 1998 a Law Society study found that solicitors were working 'excessively long hours', even more than in other professions, and it impacted on their family and personal lives (Law Society of New South Wales, 1999). Subsequent reports by LawCover and the Professional Standards Department of the Law Society of NSW found that 'unacceptable numbers' of solicitors faced personal difficulties such as depression, alcohol dependency, gambling, stress and serious illness (Aaron, 2001).

Several surveys commissioned by the Law Society of New South Wales showed up to 18% of responding solicitors were either dissatisfied or very dissatisfied with their jobs (Mercer Human Resource Consulting, 2001, 2002, 2003 & 2004). In 2004, 52% of respondents indicated that stress at work had increased over the previous 12 months and about a third reported work-place discrimination, harassment, intimidation or bullying.

In the inaugural Tristan Jepson Memorial Lecture in Sydney in 2006, psychiatrist Dr Mumta Gautam pointed out the number one cause of stress is the feeling of having no choice or no control (Gautam 2006). A common experience of young lawyers is they feel 'trapped in a catch-22 of fee-hungry partners but thrifty clients' (Coghlan 2006).

Following low pay, the second most common reason young lawyers gave for intention to quit their jobs was poor training, mentoring and professional development. It seems likely that many graduate lawyers have adequate knowledge about the law and legal procedures, yet have minimal skills or understanding about working with that knowledge in stressful situations. They have no control over the high level of responsibility, large amount of work and minimal professional support given to them.

Knowing the law and procedures may not be enough if the practitioner has difficulty solving problems or poor communication and other interpersonal skills. As Neil Rees indicated as early as 1980, many lawyers suffer burn-out because they work closely with clients who have distressing problems, they are often the harbingers of bad news in their advice, they have to communicate with people at a deep level but get no training in

interpersonal skills, and some are very sympathetic with their clients but tend to overcommit and take every loss personally (Rees, 1980).

Legal employers sometimes profess care for their staff, however lawyers' surveys suggest profit remains the firms' paramount consideration. Many firms may struggle to survive in changing environments of growth, deregulation, globalisation, law reforms, competition and technology. Often in big firms these tensions filter down to mid and junior-level practitioners who have little say in the nature of work they do, but have to meet unreasonable billing targets and keep clients satisfied.

If the problem is systemic, until we can humanise legal practice in the commercial world, perhaps we should aim to produce more resilient lawyers. Schools of law and PLT trainers have the opportunity to help future lawyers develop skills of survival. Where articulated-clerkships are no longer available, most lawyers complete a professional legal training course after graduating from university. However, it is unlikely that brief role plays, drafting and practical exercises adequately prepare trainees to face the competing pressures of managing partners and colleagues in their firm, and clients, other lawyers and the courts in their practice.

Some debate assumes a continuum between doctrinal legal education and practical legal training. For example, both the Pearce Report (Pearce, Campbell & Harding, 1987) and the McInnis Report (McInnis & Marginson, 1994) critiqued the slowness of law schools to introduce legal skills into the curriculum. However while knowing how to conduct an interview and draft documents is important for legal practitioners, the problem of depression and coping with stress relates more to lawyers' personal development, their attitudes and emotional capacities, more than their practical skills. Currently we assume lawyers survive either by having coping skills innately or picking them up in practice 'as they go'. It may be time to consider new strategies to promote personal development for lawyers rather than simply adding more legal skills training to their legal education.

### **The Problem with Law School**

Law schools can never teach all the law, and they are easily accused of teaching 'the

wrong thing'. The Australian Law Reform Commission for example has called for legal education to focus on what lawyers need to do rather than traditional notions of what they need to know (Australian Law Reform Commission, 2000). Similarly, in 2001 the Law Council of Australia accused the Commonwealth Government of starving law schools from the late 1980s by placing them in the lowest funding category at a time when studying law was becoming very popular (Law Council of Australia, 2001). While practical legal training had commenced within large firms and some law schools by 2001, augmenting the College of Law courses and other training providers, the Law Council complained there was no coordination or monitoring of standards. Despite the conservative recommendations, changes in legal education have been minimal and have not reduced the apparent incidence of depression or mobility of lawyers.

Early American data showed that four out of ten students who entered law schools up to 1967 failed to graduate (Miller, 1967). In 1980 the American Bar Association awarded a prize to a student editorial that abhorred the 'unwarranted stress' placed upon law students at the University of Arizona and the lack of concern for them by faculty (Heins, Fahey & Henderson, 1983). That university subsequently surveyed law students and medical students at the beginning of their second year, and found that law students suffered significantly more 'Academic Stress' and 'Fear-of-Failing Stress' than medical students (Heins et. al., 1983). Concurring with these findings, a graduate professor who endured the law school process, wrote that he found it was marred by an atmosphere of fear, intimidation and psychological manipulation of law students' sense of self (Halpern, 1992).

In 1985 a group of American researchers criticised previous studies on law students' stress levels because: 'no study examined the longitudinal psychopathological conditions students acquire before, during, and after completing law school' (Benjamin et al, 1986). They then administered a battery of five tests to 320 students and alumni from the University of Arizona Law School over the period from 1981 to 1984. The tests were designed to check for obsessive-compulsive behaviour, interpersonal sensitivity, depression, anxiety, hostility, phobic anxiety, paranoid ideation, and psychoticism (social alienation and isolation). The results could be called alarming. Prospective law students rated 'normal' levels of symptoms in these measures, however their symptoms increased

significantly as the students progressed through law school, and continued to worsen for 20-40% of students at least for two years post graduation (Benjamin et al, 1986). While 3-9% of the general population suffer clinical depression, 17-40% of law students were clinically depressed, and 20-40% suffered from other symptoms as well.

Other research in 1999 confirmed that law schools contribute to the malaise in the American legal profession as law students exhibited higher levels of depression than the general population (Dammeyer & Nunez, 1999). More recent confirmation came from Krieger and Sheldon who found that law students at orientation exhibited normal mental health patterns, but by second year displayed significant anxiety, depression and reduced motivation (Krieger and Sheldon 2004).

One study considered another arm of the tripartite crisis in the legal profession as identified by Daicoff (1998). Looking at the 'moral reasoning' of lawyers, Janoff found that the first year of law school had an insignificant effect on men's moral reasoning but a substantial effect on that of women (Janoff, 1991). The explanation seemed to be that most women enter law school oriented towards interpersonal relationships rather than towards a hierarchy of abstract principles. Legal education is more aligned to how men think and so had less impact on their moral reasoning than it did on women.

Implicit in Janoff's conclusion is that law schools might benefit from recognising the 'voice of care' or what Gilligan called the traditionally feminine values of connectedness and care (Gilligan 1982). The conventional view is, however, that the adversarial system of law privileges toughness in lawyers, not sensitivity, suggesting providers of legal education and training should specifically not promote attitudes of care and connectedness among their students.

On the other hand, western legal systems such as Australia are experiencing a rise of alternative forms of dispute resolution, such as mediation, partly driven by the shortage of legal aid funding and partly by the success of 'alternative' programs such as therapeutic jurisprudence and preventative law, which call for changing the adversarial mind-set (Phelan 2003, Goldberg 2005).

In this changing social environment, teaching law and legal procedure to get students to 'think like a lawyer' may be personally damaging in some cases. 'Thinking like a

lawyer' includes prioritising external measures of success, such as grades, credentials, appearances, money, win-ratios and prestige. Legal practitioners whose life choices correlate with needing external rewards and recognition are often dissatisfied and display high levels of stress (Kronman, 1993).

Lawrence Krieger argued the dehumanising aspects of legal education cause the most distress for law students (Kreiger, 1998, 2006). He and others have been particularly critical of the narrow focus of legal education:

Thinking 'like a lawyer' is fundamentally negative; it is critical, pessimistic, and depersonalising. It is a damaging paradigm in law schools because it is usually conveyed, and understood, as a new and superior way of thinking, rather than an important but *strictly limited legal tool* (Kreiger, 2002 p.117, emphasis added).

Doctrinal law schools prioritise 'legal analysis' and teach that the law exists as a discoverable truth. There is no place for the chaos and uncertainty of real life when the focus is on finding the correct answer from analysing legislation and appeal cases. Most students are taught as if law is already justice, instead of an attempt to achieve it; as if there is a correct and identifiable answer in every case. Law schools often teach in the paradigm of a perfect world where legal services are affordable by those in need and legal aid covers the rest; politicians comply with international treaties; laws are comprehensive and comprehensible; judges reason consistently and follow precedents; juries make logical decisions; police are responsible; courts are efficient; lawyers are ethical; witnesses tell the truth; and the client's instructions are complete.

Students learn little about the uncontrollable variables in every case and the role of chance that make many legal outcomes unpredictable. The messiness of real life impacts significantly on legal practice but is largely ignored by legal education and training.

### **What Can Law Schools Do?**

In 1983 researchers at the University of Mississippi decided it was unrealistic to remove the causes of stress in law school or in legal practice. Instead they helped students get the knowledge and skills to cope with the usual causes of chronic stress and maladaptive

stress patterns (St. Lawrence, McGrath, Oakley & Sult, 1983). They gave a group of first and second year law students stress-management training and compared their subsequent stress levels to those of a control group. Comparisons showed that stress management training was very successful in reducing the law students' stress levels and increased their use of adaptive stress management strategies. The report recommended the program as 'highly effective'.

Contemporary law schools with established legal clinics are well positioned to incorporate programs on stress management. Legal clinics could offer an environment that allows for one-to-one and small group discussions between students and supervisors which can help identify the students' personal needs and begin the process of deciding how to address them. One method would be simply to incorporate a program of stress reduction and management strategies. As found by the Mississippi program, it is likely to have beneficial effects immediately for many students and provide them with life-long strategies for coping with stress at work and in their personal lives.

Legal clinics could also adapt existing courses and services for clients to help students understand legal ethics as professionalism; not as a list of rules to follow, but a pervasive focus on careful practice. Ideally, clinical programs include role-plays of client interviews and negotiations in preparation for supervised work with real clients, followed by timely and constructive feedback from supervisors. Students can be helped to develop personal survival skills by activities that encourage reflection, such as small group discussion, mentoring and keeping journals. Supervised legal experiences in a clinical practice can help students identify their skills and strengths, as well as their sensitivities and areas to improve. They can develop emotional competencies without needing to endure extremely conflictual situations or other negative experiences in the workplace, with a client or in the courtroom. Probably most importantly, because it informs the other personal skills, students can learn in legal clinics ways to better integrate their personal and professional values.

There is significant theoretical support for these kinds of personal development facilitated by clinical legal education programs. Abraham Maslow theorised a hierarchy or pyramid of human needs which had 'self-actualisation' at the apex (Maslow, 1943 and Maslow,

1970). In terms of legal practice, the winning of cases, achieving a high billing target, getting a promotion or even becoming a judge would be relatively lower-order achievements in themselves. A self-actualised lawyer would value internal criteria of success, have a balanced life, and apply the same value system personally as well as professionally. Similarly, clinical legal education falls within Fredrick Herzberg's theory of promoting professionalism (Herzberg, Mausner, & Snyderman, 1959). As they involve working with clients and actual legal problems, clinical experiences can be deeply motivating for students and promote personal development better than the cognitive learning of legal rules and procedures.

Clinical legal education is qualitatively different to practical legal education or training because it exposes students to real-client experiences (Rice, 1996). Clinical legal education gives students responsibility to work directly with clients and trusts them to begin identifying the ethical issues immediately as they apply what they have learnt about law and legal procedure. Most students then begin to *understand* the legal process at a deeper level, not from texts, case-law or lectures, but by seeing legal problems as clients experience them in a social and personal context. Clinical experiences help students connect the rules of law with the reasons for them and begin to relate to their social role as a lawyer at an emotional level.

Recognising the importance of emotions in legal practice could be a key to helping graduate lawyers cope with stressful work experiences working with clients, colleagues, courts or managing partners. The concept of emotional intelligence has improved our understanding of the nuanced aspects of human experience and competencies that are difficult to measure (Salovey and J D Mayer, 1990; Goleman, 1995; Bayne, 1995 & McGuinness, Izard & McCrossin (eds), 1992).

Salovey and Mayer's 1997 model of emotional intelligence consists of four parts: the perception of emotion in oneself and others; the emotional facilitation of thinking; understanding and employing emotional knowledge; and the reflective regulation of one's emotions to help personal growth (Mayer & Salovey, 1997). This model has been affirmed as a standard by 'scholars working in the field of emotions' according to several management researchers (Jordan, Ashkanasy & Hartel, 2003).

Many law firms recruit on modernist notions by testing prospective employees for IQ and personality types, however research suggests that IQ is a poor indicator of legal performance (Bligh, 1977; Brayne, 1996). It seems that a high IQ helps lawyers get jobs, while it is emotional intelligence helps them endure and thrive. Rather than trusting the emotional development of students to chance, or to their experience in the workplace, future law schools may need to engage students more personally, to enable deep learning of the law in its human context and to motivate and develop their emotional capacities.

### **‘Learning Survival’ – pilot research**

Researchers at the University of Newcastle Legal Centre are conducting a pilot project to investigate the perceived effects of legal education and training on the workplace satisfaction of graduates of the School of Law. The project attempts to survey 308 graduates of the School of Law between 1997 and 2004 and to correlate findings of workplace satisfaction of practising lawyers with clinical legal education and preliminary measures of emotional intelligence. About half the invitees experienced clinical legal education by completing the Professional Program (LLB, DipLP) at the UNLC, and about half completed an academic degree (LLB) only, without clinical legal education, followed by mandatory PLT training elsewhere.

The research aims to identify any differences in the satisfaction rates and experiences of lawyers that can be reasonably associated with their prior clinical legal education or PLT training. It also seeks to further examine the reasons for dissatisfaction among graduate lawyers that might inform curriculum and methodology decisions in Schools of Law and PLT training organisations. Thirdly, the project measures the emotional capacities of lawyers to see if there is a relation between that and their levels of personal satisfaction or dissatisfaction as legal practitioners.

The research will also inform discussion on the objectives of legal educators and trainers. Specifically, should we teach law to meet the needs of the legal profession or to meet academically predetermined graduate outcomes? If the former, how should we determine the needs of the legal profession? To what extent would they reflect the demands of the major employers such as large firms? Should legal ethics be just another subject or

applied throughout legal education and training? What role is there in legal education for the perceived needs of smaller law firms, clients, the courts, or society at large? Should access to justice issues have a role in legal education?

The research method involved inviting graduate lawyers by email to complete an online questionnaire involving 56 questions seeking both quantitative and qualitative responses. The questionnaire referred to their experiences of professional legal training, their experiences in legal practice since admission, and included indicative measures of self-awareness and emotional capacities.

In addition to the questionnaire, the email invited participants to consider agreeing to a recorded interview to provide more information on their experiences in legal practice since graduation, including questions on the relevance of their clinical legal education, or their PLT training, in preparing them for work as a lawyer.

### **Preliminary results**

Early responses on this pilot research suggest positive results in terms of the satisfaction levels of the graduate lawyers. Asked to respond to the statement: ‘Overall, my job satisfaction is very high’, about 38% either agreed or strongly agreed; while only around 23% disagreed or strongly disagreed with the statement. This positive result is despite the fact that two thirds of the respondents agreed or strongly agreed that: ‘My job is very stressful’, while less than 14% disagreed or strongly disagreed.

However, further analysis of the preliminary data shows that over 75% of respondents had experienced clinical legal education by attending the Professional Program at the University of Newcastle Legal Centre. The remainder had undertaken ‘non-clinical’ PLT training at other institutions that involved no interaction with real cases or contact with clients. These interim results suggest that those lawyers who underwent clinical legal education have higher job satisfaction despite having a stressful job, compared with those lawyers who received more conventional PLT training without the clinical experiences.

These indications may be clarified by further analysis of the quantitative data and transcripts of the qualitative interviews currently underway. It may be that a higher

proportion of clinically trained lawyers felt motivated to respond to the survey than the PLT trained lawyers, as the researchers are based within the clinical facility itself. As the research is ongoing, later participants may have needed more time to complete the questionnaire and their responses on levels of satisfaction may be less positive than the first responses received. It is also possible that some lawyers who do not respond to the survey felt unable to do so because of the demands of their job and the stressors in their workplace. Some of these issues may be considered further by analysis of the interview transcripts, although it is not possible to safely infer the experiences of non-participants from those of participants.

## **Conclusion**

Lawyers' subjective experiences are difficult to research empirically because of the diverse nature of legal practice. Lawyers in large firms may spend their working lives 'law shaping' on behalf of their affluent, usually corporate clients, through high-level strategic lobbying, issues planning, policy development and negotiating with legislators and other authorities. In medium and small firms lawyers compete against each other for promotion, against non-lawyers offering similar services (eg. conveyancers, tax agents, mediators, immigration agents), and against virtual services and information on the internet (Australian Law Reform Commission, 2000; Weisbrot, 2001).

Patrick Schiltz (1999) recommends we should advise students to avoid joining large firms, because of their poor record in caring for their staff in the United States. However in Australia there is not yet enough research data to condemn large firms or to recommend smaller firms to students. In any case, the demands of the employment market and the prestige reputation of some firms may override caution in many students seeking jobs amidst the momentum of ambition, the expectations of others and the euphoria of graduation.

In legal education it is not a matter of 'getting the balance right' between academic study and practical training, or between professional skills and interpersonal skills. Language of

balance implies separateness while life demands integration. Legal education, practical skills and professional training, interpersonal skills training, and personal development all overlap and interact within the student's experience, and will continue to interact and affect the person throughout life. Compartmentalising too much has entrenched attitudes and hindered communication and value sharing. It has also increased artificial competition between methods and orientations of legal education, and fuelled rivalry and opposition to reforms.

Nor is it a matter of getting lawyers to toughen up, as if resilience in legal practice involves being insensitive. On the contrary, sensitive legal practice may be ideal because the self-aware lawyer, like Maslow's self-actualised person, will know how to self-protect, how to respond to unreasonable demands or implied expectations from the workplace culture, managing partners or clients. Steven Keeva argued strongly that practising law with mindfulness can lead to improved quality of work and greater resilience (Keeva, 1999; Tulku, 1978). Further, Lawrence Krieger and others have argued causal links exist between ethical legal practice and survival in the profession using the axiom 'Integrity Leads to Wellness' (Krieger 1998; Krieger and Sheldon 2004).

The UNLC pilot research may indicate the need for two broader streams of enquiry. One would survey lawyers from a range of law schools, examining the risk factors for depression in the context of their legal education, training and workplace experiences. The other would be longitudinal, measuring the broad wellbeing of students as they enter university, progress through and graduate from law school and the various PLT options, and as they enter practice. Both streams could lead to new evidence-based options for law schools, clinical programs and other training organisations helping lawyers to integrate their personal and professional values, and thereby to practise law with integrity, compassion, diligence, endurance and enjoyment.

Until we know if an American style crisis is developing in the Australasian legal professions, as educators and trainers we can do more to improve the wellbeing and satisfaction levels of lawyers, avoid a decline in professionalism and improve the public opinion of lawyers. Recognising the significance of emotions in legal education and training would be a good first step to improve students' awareness of risk factors, to

increase their chances of surviving in legal practice and to help them maximise their overall wellbeing.

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