

A PERSONAL CONSTITUTION

By Michael Serota*

“[M]ost lawyers . . . hope that their work will be a source of satisfaction in itself. Indeed, many hope that the intrinsic satisfactions it affords will be important enough to play a significant role in their fulfillment as human beings.”¹

INTRODUCTION

Today’s law school graduates face two disturbing trends in the professional world. Each is well known, but neither is openly discussed in the law school setting.² First, lawyers suffer from chronic professional dissatisfaction.³ Approximately one out of every four lawyers is dissatisfied with her job.⁴ Second, this dissatisfaction exacts an extraordinarily high price on lawyers, the legal profession, and society as a whole.⁵ Most startling, however, is the fact that the widespread dissatisfaction and the associated mental health-related problems prevalent in the legal profession actually begin in law school.⁶

* Law Clerk, U.S. Court of Appeals for the Armed Forces; Instructor, Georgetown Street Law Clinic. J.D., University of California, Berkeley, School of Law. The author would like to thank Michelle Singer, Brian Caster, Robert Dolehide, Jennifer Chang, Elizabeth Somerstein, Benjamin Jones, and Professors Lawrence Krieger, Susan Daicoff, Robert Berring, Sanford Kadish, Patrick Hanlon, and John Steele for their helpful advice and comments. Thanks also to the entire Colloquy team for their superb editing and invaluable assistance in making this article as good as it could be. This article is dedicated to my father, Joseph Serota, who has taught me by example how to find satisfaction and fulfillment in the law.

¹ ANTHONY T. KRONMAN, *THE LOST LAWYER: FAILING IDEALS OF THE LEGAL PROFESSION* 2 (1993).

² Lawrence S. Krieger, *Psychological Insights: Why Our Students and Graduates Suffer, And What We Might Do About It*, 1 J. ASS’N LEGAL WRITING DIRECTORS 258, 258 (2002) (link).

³ Harvey Gilmore, *To Failure and Back: How Law Rescued Me from the Depths*, 10 FLA. COASTAL L. REV. 567, 569 (2009) (link).

⁴ Susan Daicoff, *Lawyer, Be Thyself: An Empirical Investigation of the Relationship Between the Ethic of Care, the Feeling Decisionmaking Preference, and Lawyer Wellbeing*, 16 VA. J. SOC. POL’Y & L. 87, 90 (2008).

⁵ E.g., John P. Heinz, Kathleen E. Hull & Ava A. Harter, *Lawyers and Their Discontents: Findings From a Survey of the Chicago Bar*, 74 IND. L.J. 735, 735 (1999) (link); Krieger, *supra* note 2, at 258.

⁶ Kennon M. Sheldon & Lawrence S. Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L. 261, 261 (2004) (link).

Over the past two decades, as legal scholarship discussing the personal challenges lawyers face has grown,⁷ many scholars have focused on the early inception of these problems. Prominent institutions such as the American Bar Association, the Association of American Law Schools, and the Carnegie Foundation for the Advancement of Teaching have established committees, task forces, and even entire sections of their organizations to study the personal challenges facing lawyers and to discuss how law schools might address these problems.⁸ Their suggestions emphasize that personal values related to professional life—“professional values”—play a central role in producing satisfied, ethical, and effective lawyers.

Despite many recommendations and proposals for reform, however, law schools have done little to address the concerns raised.⁹ Specifically, law schools rarely use the required curriculum to educate students in any meaningful way about the personal challenges of lawyering.¹⁰ However, by ignoring the topic of professional satisfaction in their curricula, law schools create the misconception that the personal challenges of lawyering are peripheral to the practice of law. In reality, an individual’s personal problems necessarily affect the professional environment.

This Article argues that law schools’ failure to address professional values is a problem worthy of remedy, and proposes a solution. It proceeds in four parts. Part I highlights the personal challenges awaiting law students upon graduation and describes the impact that lawyer dissatisfaction has on individual lawyers, the legal system, and society. Part II demonstrates how law schools have failed to address this problem and argues that the problem requires urgent remedy through a required first-year course on professional satisfaction. Part III sets forth a theory of professional satisfaction that views it as a function of the relationship between professional opportunities and personal values. Part IV incorporates this theory of professional satisfaction into the framework of a personal constitution.

⁷ See, e.g., *supra* notes 1–6.

⁸ See, e.g., WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW 195–96 (2007) [hereinafter CARNEGIE REPORT]; A.B.A. Section of Legal Education and Admissions to the Bar Task Force on Law Schools and the Profession (created to produce the MACCRATE REPORT, *infra* note 43); Association of American Law Schools Section on Balance in Legal Education, AALS.ORG, https://memberaccess.aals.org/eWeb/dynamicpage.aspx?webcode=ChpDetail&chp_cst_key=9fb324e8-e515-4fd3-b6db-a1723feeb799 (last visited Nov. 2, 2010) (link).

⁹ Russell G. Pearce, *MacCrate’s Missed Opportunity: The MacCrate Report’s Failure to Advance Professional Values*, 23 PACE L. REV. 575, 584–85 (2003) (link).

¹⁰ See, e.g., Jane Easter Bahls, *Humanizing Law School*, STUDENT LAWYER, Nov. 2002, at 16, 18 (link).

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I. THE RELATIONSHIP BETWEEN LAWYER DISTRESS AND DISSATISFACTION

A. *Lawyer Distress*

The personal challenges of lawyering are well-documented.¹¹ Approximately 20% of the legal profession suffers from clinically significant levels of substance abuse, depression, anxiety, or some other form of psychopathology.¹² America's lawyers suffer from the highest rate of depression of all professionals.¹³ In fact, lawyers are 3.6 times more likely to suffer from a major depressive disorder than the rest of the employed population,¹⁴ and they are also at a greater risk of developing heart disease, alcoholism, and drug use than the general population.¹⁵

Additionally, when lawyers suffer from distress, the condition is abnormally severe. For example, two statewide studies on the mental health of lawyers found that approximately 20% of lawyers suffer from depression levels exceeding "two standard deviations above the mean on standard measures of depression,"¹⁶ and that of these clinically depressed lawyers, most were actively considering suicide.¹⁷ Even more striking, however, are the results of another statewide study finding that 11% of attorneys "admitted they consider taking their lives once a month."¹⁸ As psychologist and law professor Susan Daicoff explains, "this is not simply 'the blues,' 'feeling down in the dumps,' or dysthymia; many attorneys are reporting severe depression."¹⁹

Such abnormal levels of mental health-related issues do not afflict law students before they start law school.²⁰ In one study, pre-law students exhibited relatively normal levels of depression compared to the general population (10%).²¹ But "by late spring of the first year of law school, 32% of law students reported significantly elevated depression levels."²² This number

¹¹ See, e.g., William W. Eaton et al., *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. OCCUPATIONAL MED. 1079, 1083 (1990); Daicoff, *supra* note 4, at 90; Martin E. P. Seligman, Paul R. Verkuil & Terry H. Kang, *Why Lawyers Are Unhappy*, 23 CARDOZO L. REV. 33, 37 (2001).

¹² See Daicoff, *supra* note 4, at 90.

¹³ Todd David Peterson & Elizabeth Waters Peterson, *Stemming the Tide of Law Student Depression: What Law Schools Need to Learn from the Science of Positive Psychology*; 9 YALE J. HEALTH POL'Y, L. & ETHICS 357, 358 (2009); see also Eaton, *supra* note 11, at 1082-83.

¹⁴ Eaton, *supra* note 11, at 1083-85.

¹⁵ Seligman, Verkuil & Kang, *supra* note 11, at 37.

¹⁶ SUSAN SWAIM DAICOFF, *LAWYER, KNOW THYSELF: A PSYCHOLOGICAL ANALYSIS OF PERSONALITY STRENGTHS AND WEAKNESSES* 8 (2004).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.* at 9.

²¹ *Id.*

²² *Id.*

increased to an average of 40% by spring of the third year of law school and never returned to pre-law levels.²³

B. Lawyer Dissatisfaction

Like lawyer distress, lawyer dissatisfaction is prevalent in the legal profession.²⁴ Surveys have found that approximately 85% of Americans are at least moderately satisfied with their jobs.²⁵ However, only approximately 55% of lawyers report being satisfied with their chosen profession.²⁶

In addition, lawyer dissatisfaction has been steadily increasing since the 1980s. The American Bar Association's Young Lawyers Division performed four surveys of lawyer job satisfaction over the course of a sixteen-year period (1984–2000).²⁷ In the first study, conducted in 1984, 15% of respondents identified themselves as either dissatisfied or very dissatisfied.²⁸ In 1990, that number rose to 19%.²⁹ In 1995 and 2000, the number of dissatisfied respondents reached 25%.³⁰

Furthermore, research demonstrates that attorney dissatisfaction and distress are correlated³¹—the most dissatisfied attorneys report the highest levels of distress, whereas the most satisfied attorneys report the lowest levels of distress. Relatedly, attorney well-being is statistically linked to career satisfaction.³² Both of these findings support the conclusion that, if lawyers spend their working hours dissatisfied, their mental health will eventually deteriorate. This relationship, however, also brings with it a sign of hope. By seeking out satisfying work experiences, lawyers might be able to lower the substantial levels of mental-health-related problems from which they suffer.

²³ DAICOFF, *supra* note 16, at 9.

²⁴ *Id.* at 6–7.

²⁵ JEAN STEFANCIC & RICHARD DELGADO, HOW LAWYERS LOSE THEIR WAY: A PROFESSION FAILS ITS CREATIVE MINDS 53 (2005).

²⁶ Stephanie Francis Ward, *Pulse*, 93 A.B.A. J. 30, 32 (2007).

²⁷ See Diacoff, *supra* note 4, at 90 n.9 (citing A.B.A. YOUNG LAWYERS DIV., A.B.A. YOUNG LAWYERS DIVISION SURVEY: CAREER SATISFACTION. (2000); A.B.A. YOUNG LAWYERS DIV., A.B.A. YOUNG LAWYERS DIVISION SURVEY: THE STATE OF THE LEGAL PROFESSION: 1995, (1995); A.B.A. YOUNG LAWYERS DIV., THE STATE OF THE LEGAL PROFESSION: 1990, (1991); A.B.A. YOUNG LAWYERS DIV., THE STATE OF THE LEGAL PROFESSION: 1984 (1984)).

²⁸ *Id.* at 102 n.91.

²⁹ *Id.*

³⁰ A.B.A. YOUNG LAWYERS DIV., A.B.A. YOUNG LAWYERS DIVISION SURVEY: CAREER SATISFACTION tbl. 14 (2000) (reporting results from 1995 and 2000); see also Ward, *supra* note 26, at 32 (2007) (finding that only 55% of those surveyed were satisfied with their careers; only 49% of those with less than three years of experience were satisfied with their careers) (link).

³¹ Daicoff, *supra* note 4, at 131.

³² *Id.* at 131.

C. *The Societal Impact of Lawyer Distress and Dissatisfaction*

Lawyers occupy “an enormously important” position in our society.³³ They “run our civilization for us—our governments, our business, our private lives.”³⁴ As a result, lawyer distress and dissatisfaction have significant consequences for individual attorneys, their clients, and society as a whole.³⁵ The emotional distress, alcoholism, substance abuse, and depression that result from lawyers’ distress negatively impacts the work they perform for their clients and increases costs for health insurers and malpractice carriers.³⁶

For example, many believe that psychological dysfunction and distress among attorneys are responsible for the majority of attorney malpractice or disciplinary actions.³⁷ One study found that approximately 60% of malpractice cases involved an attorney who was abusing substances.³⁸ Moreover, the study identified that “neglect cases tend to arise among lawyers who are procrastinating because they are clinically depressed . . . [and impaired] lawyers who go untreated often become defendants in malpractice suits.”³⁹

To be sure, the problems of lawyer dissatisfaction and distress cannot be viewed in a vacuum. Because of the role lawyers play in America, the satisfaction and mental health of lawyers has both significant societal and economic consequences. Based on this, “you might expect that a lot of people would be concerned about the physical and mental health of lawyers. You would be wrong.”⁴⁰

³³ Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 872 (1999).

³⁴ *Id.* (quoting FRED RODELL, *WOE UNTO YOU, LAWYERS!* 7 (1957)).

³⁵ Daicoff, *supra* note 4, at 135.

³⁶ *Id.* at 90; *see also* Amiram Elwork & G. Andrew H. Benjamin, *Lawyers in Distress*, 23 J. PSYCHIATRY & L. 205, 207–08 (1995).

³⁷ Daicoff, *supra* note 4, at 90; *see also* Carol M. Langford, *Depression, Substance Abuse, and Intellectual Property Lawyers*, 53 U. KAN. L. REV. 875, 902 (2005) (reporting that 50 to 70% of major attorney disciplinary cases in an ABA survey in New York and California involved substance abuse or chemical dependency); Rick B. Allan, *Alcoholism, Drug Abuse and Lawyers: Are We Ready to Address the Denial?*, 31 CREIGHTON L. REV. 265, 266 (1997).

³⁸ G. Andrew H. Benjamin, Elaine J. Darling & Bruce Sales, *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*, 13 INTERNAT’L J. L. PSYCH. 233, 244 (1990) (citing a random sampling of lawyers entering a lawyer assistance program related to malpractice claims).

³⁹ *Id.*

⁴⁰ Schiltz, *supra* note 33, at 872–73.

II. THE NEED FOR LAW SCHOOLS TO TEACH PROFESSIONAL SATISFACTION IN THE FIRST YEAR

A. *The Law School Paradox: Ignoring the Obvious*

In the face of well-documented lawyer dissatisfaction and ever-increasing mental health problems related to the work environment, law schools generally offer little training, preparation, or education on the topics of professional satisfaction and attorney well-being.⁴¹ This gap is one of the great paradoxes of modern legal education: if law schools are focused on producing effective lawyers, one would assume they would devote some portion of their curriculum to preparing students to seek out professional satisfaction.

American legal education, however, has historically valued theoretical knowledge over practical application.⁴² As a result, both the professional and the personal aspects of the legal profession are relegated to the periphery. This practice has been heavily criticized. As the two studies discussed below demonstrate, the legal profession would benefit from an increased emphasis on personal values and professionalism.⁴³

B. *The MacCrate Report and the Carnegie Report*

In 1992, the ABA published the first of two major studies on legal education and professional development, known as the MacCrate Report.⁴⁴ After conducting a comprehensive review of the legal profession, the report concluded that one of the four values fundamental to the legal profession is to find employment aligned with one's professional values.⁴⁵ Since its publication, the MacCrate Report has received broad approval from law professors, practitioners, and career counselors.⁴⁶ It promotes the need for law

⁴¹ See Krieger, *supra* note 2, at 258; Pearce, *supra* note 9, at 584–85.

⁴² Anthony V. Alfieri, *Against Practice*, 107 MICH. L. REV. 1073, 1073 (2009) (reviewing WILLIAM M. SULLIVAN ET AL., EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW (2007)).

⁴³ A.B.A. SECTION OF LEGAL EDUCATION & ADMISSIONS TO THE BAR, TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM (1992) [hereinafter MACCRATE REPORT] (link); WILLIAM M. SULLIVAN ET AL., SUMMARY, EDUCATING LAWYERS: PREPARATION FOR THE PROFESSION OF LAW, http://www.carnegiefoundation.org/sites/default/files/publications/elibrary_pdf_632.pdf [hereinafter CARNEGIE SUMMARY] (link).

⁴⁴ MACCRATE REPORT, *supra* note 43.

⁴⁵ *Id.* at 141, Value § 4.2. Goals are simply values translated into concrete, aspirational statements. For example, a lawyer who values civil rights will have the goal of improving civil rights for herself and others.

⁴⁶ For examples of commentators supporting an approach to lawyering that emphasizes personal values and morals, see Krieger, *supra* note 2; Carrie Menkel-Meadow, *Is Altruism Possible in Lawyering?*, 8 GA. ST. U. L. REV. 385 (1992); Carrie Menkel-Meadow, *What's Gender Got to do with It?: The Politics and Morality of an Ethic of Care*, 22 N.Y.U. REV. L. & SOC. CHANGE 265 (1996) (reviewing JOAN C. TRONTO, MORAL BOUNDARIES: A POLITICAL ARGUMENT FOR AN ETHIC OF CARE (1993)). Interestingly, after the MacCrate Report was released, some argued that one of its primary failings was

schools to emphasize lawyering skills and the importance of professional values.⁴⁷

The second study was conducted in 2007, when the Carnegie Foundation for the Advancement of Teaching performed a comprehensive evaluation of legal education, known as the Carnegie Report.⁴⁸ The Carnegie Report reassessed teaching and learning in American and Canadian law schools.⁴⁹ After completing this exhaustive study, the Carnegie Report found that the value of law school education depends upon how well the various aspects of professional training are understood and integrated into the law school curriculum.⁵⁰ Furthermore, the Carnegie Report recommended that legal education increase its emphasis on professional values.⁵¹

Based upon the findings of these two comprehensive studies, one might hope that at the very least, law school classes such as legal ethics or professional responsibility would address the personal challenges of lawyering. As a general matter, however, they do not.⁵² Indeed, as one commentator explains, these courses are “legal ethics without the ethics.”⁵³ An individual’s actual life experience, including happiness and career satisfaction, is rarely, if ever, discussed in these classes.⁵⁴

C. *The Impact of Law Schools’ Failure to Address Lawyer Dissatisfaction*

To be sure, the inaction of law schools in the face of the impending personal challenges awaiting law school graduates in the professional world is unjustified and detrimental to the legal profession. Empirical studies documenting high levels of lawyer distress have been available and widely discussed since as early as 1990.⁵⁵ Given the wide availability of this information, coupled with the role law schools play in preparing law students to become lawyers, law schools should take an active interest in preparing students to confront the personal challenges of professional life.

that it did not go far enough in emphasizing the importance of professional values, and that the academy failed to incorporate an emphasis on professional values into its curriculum. See, e.g., Pearce, *supra* note 9, at 584–85.

⁴⁷ MACCRATE REPORT, *supra* note 43, at 128 (“Law schools can use the Statement as a focus for examining proposals to modify their curricula to teach skills and values more extensively or differently than they do now. Such modifications might include, for example . . . development of courses or programs concerned with professional values.”).

⁴⁸ CARNEGIE SUMMARY, *supra* note 43, at 1.

⁴⁹ *Id.* at 3.

⁵⁰ *Id.* at 4.

⁵¹ CARNEGIE REPORT, *supra* note 8, at 194.

⁵² See Lawrence Krieger, *The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness*, 11 CLINICAL L. REV. 425, 425–26 (2005).

⁵³ DEBORAH L. RHODE, IN THE INTERESTS OF JUSTICE: REFORMING THE LEGAL PROFESSION 200 (2000).

⁵⁴ See Krieger, *supra* note 52, at 425–26.

⁵⁵ See Daicoff, *supra* note 4, at 91; Sheldon & Krieger, *supra* note 6.

Instead, by ignoring the topic of professional satisfaction in their curricula, law schools create a widespread misconception that the personal challenges of lawyering are peripheral to the practice of law. As the foregoing statistics reveal, however, professional satisfaction and effective lawyering are inextricably linked: dissatisfied lawyers suffer from an inordinate number of mental health-related issues, are less likely to perform their jobs well, and are more likely to leave the legal profession altogether.⁵⁶

Moreover, these trends are not only detrimental to the legal profession, but they are bad for law schools as well. If law schools are concerned with producing effective lawyers, the above research demonstrates that law schools will inevitably fail to achieve their institutional mission without training students to achieve professional satisfaction. When law schools separate legal theory from the personal aspects of the legal profession, they create an artificial dichotomy that simply does not exist in the professional world.⁵⁷ Personal problems necessarily affect the professional environment. Instead of ignoring this reality, law schools should teach their students about it, so that personal satisfaction becomes an accepted rationale for making career decisions.

Indeed, law students must learn the personal challenges of lawyering and how to confront them in the same way they approach legal problems—that is, analytically and methodologically. Further, this training must be provided to students as part of the required first-year curriculum. As the Carnegie Report states, “[w]ithout serious curricular attention to the concrete tensions and contradictions of professional identity and purpose, law schools are failing to provide the kind of open-eyed preparation needed for today’s complicated professional world.”⁵⁸ Because the first year of law school is a transformative period for students and their value systems,⁵⁹ curricular integration is crucial. Given the demands of first-year coursework, it is unreasonable to assume that students will devote the time and resources necessary to work through these complex issues on their own.

In sum, by excluding topics like professional satisfaction from the classroom setting, law schools “perpetuate the institutional message that creating health and well-being in the [legal] profession” is of secondary concern.⁶⁰ Law schools have the ability to implement changes to the way they introduce students to the topic of professional satisfaction; they just

⁵⁶ See *Report of the Task Force on Lawyers’ Quality of Life*, 55 REC. ASS’N B. N.Y. 756, 756 (2000) (link).

⁵⁷ See CARNEGIE REPORT, *supra* note 8, at 196 (“Students who lack experience in negotiating the complex issues facing the profession today can hardly be expected to take up active roles as civic professionals . . .”).

⁵⁸ CARNEGIE REPORT, *supra* note 8, at 138.

⁵⁹ Sheldon & Krieger, *supra* note 6.

⁶⁰ Lawrence S. Krieger, *Institutional Denial About the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112, 127 (2002).

have failed to do so. The question then becomes *how* this challenge can be met.

III. A VALUES-CENTERED APPROACH TO PROFESSIONAL SATISFACTION

A. *The Empirical Foundations of Professional Satisfaction*

Empirical work in the field of professional satisfaction, and lawyer satisfaction in particular, supports the notion that personal values are foundational to the experience of satisfaction.⁶¹ Individuals who are motivated by their personal values, and who choose activities that they find inherently enjoyable, meaningful, or interesting, enjoy greater levels of satisfaction in their lives and suffer from lower levels of distress than do those motivated solely by achieving some extrinsic result.⁶²

For example, a 2001 study tracked law students at two law schools over a three-year period, monitoring levels of law student distress and dissatisfaction.⁶³ At the beginning of the study, students were generally happy and healthy.⁶⁴ Within six months, however, the law students experienced marked decreases in well-being and life satisfaction, and marked increases in depression and physical symptoms.⁶⁵ The study found that this distress directly correlated with a shift in values that law school caused.⁶⁶ The greater weight students placed on extrinsic markers of success, such as grades and competition, the more students' overall well-being and satisfaction declined.⁶⁷

Empirical research in the field of psychology confirms the conclusion of the law student study by finding a strong correlation between intrinsic motivation and satisfaction. Two landmark psychological studies, which sought to explore the relationship between material success and happiness, demonstrate that achieving extrinsic markers of success—such as money, power, and image—do not produce satisfaction.⁶⁸ Indeed, subjects who identified money, image, or influence as important for life satisfaction consistently experience the *lowest* levels of well-being.⁶⁹ In contrast, those par-

⁶¹ See DAICOFF, *supra* note 16, at 158; Sheldon & Krieger, *supra* note 6, at 280.

⁶² Sheldon & Krieger, *supra* note 6, at 275–76.

⁶³ *Id.* at 265–67.

⁶⁴ *Id.* at 271.

⁶⁵ *Id.* at 267, 272–75.

⁶⁶ *Id.* at 276.

⁶⁷ DAICOFF, *supra* note 16, at 158 (describing the results of Sheldon and Krieger's 2001 study).

⁶⁸ Tim Kasser & Richard M. Ryan, *A Dark Side of the American Dream: Correlates of Financial Success as a Central Life Aspiration*, 65 J. PERS. & SOC. PSYCHOL. 410, 421 (1993); Tim Kasser & Richard M. Ryan, *Further Examining the American Dream: Differential Correlates of Intrinsic and Extrinsic Goals*, 22 PERS. & SOC. PSYCHOL. BULL. 281, 285 (1996).

⁶⁹ Kennon M. Sheldon & Tim Kasser, *Goals, Congruence, and Positive Well-Being: New Empirical Support for Humanistic Theories*, 41 J. HUM. PSYCHOL., 30, 44–46 (2001) (link).

ticipants whose primary goals were intrinsic in nature experienced significantly greater well-being.⁷⁰

Numerous other studies over the past century have demonstrated that an emphasis on personal values leads to greater overall well-being and satisfaction.⁷¹ These findings support the conclusion that an individual can achieve satisfaction as a lawyer by aligning her personal values with her professional life.

This approach is similar to what Professor Krieger describes as “integrity,” or a “condition of wholeness or integrated functioning within one’s self.”⁷² As Krieger explains, when lawyers are motivated by their personal values and find a job that enables those values to be integrated, they are more likely to derive satisfaction from their profession.⁷³ There is even a biological component to this relationship, because a state of integrity is “conceptually synonymous with health.”⁷⁴ As Krieger states, “[t]he functioning of the personality and of the physiology are closely interrelated: a person’s level of personal integrity affects his physical health and well-being directly.”⁷⁵

Therefore, empirical research in the fields of law and psychology strongly suggests that lawyers and law students concerned with understanding and addressing the problem of lawyer dissatisfaction should look to their personal values for the solution. With this in mind, the next section attempts to explain which types of personal values are relevant to the experience of professional satisfaction, and how to determine whether or not a legal career can fulfill those values.

B. Professional Values: Personal Values Related to Professional Life

Based upon the foregoing research, law students and lawyers seeking professional satisfaction should first identify their personal values and then determine what types of employment opportunities best fulfill those values. To facilitate this inquiry, it is helpful to view legal jobs as consisting of two main dimensions: the objective and the environmental.⁷⁶ Exploring how these dimensions relate to one’s professional value system allows for a

⁷⁰ *Id.* at 44.

⁷¹ *Id.* at 48–50.

⁷² Krieger, *supra* note 52, at 431.

⁷³ *Id.* at 430.

⁷⁴ *Id.* at 431.

⁷⁵ *Id.* As Professor Krieger further explains, “lying or deceptive behavior, which clearly manifests a loss of character integrity, is often attended by the experience of psychological anxiety and physical stress (increased heart rate, damp palms, etc.)” *Id.*

⁷⁶ See generally PAUL E. SPECTOR, JOB SATISFACTION: APPLICATION, ASSESSMENT, CAUSES, AND CONSEQUENCES 6–10 (1997) (describing job satisfaction survey scales that consist of objective and environmental variables).

more streamlined and accurate evaluation of any career opportunity in light of the person's professional satisfaction.

The objective dimension of a job relates to the nature of the work itself. In the context of lawyering jobs, this includes variables such as the societal impact of the work being done, the types of clients being represented, the intellectual rigor of the assignments, and the type of work product required. Identifying objective values requires a lawyer to determine the type of work she is likely to find inherently enjoyable, interesting, or meaningful. For example, would the lawyer perceive her prospective assignments to be socially beneficial, her clients to be worthy of representation, or her work to be intellectually demanding? Thus, the objective dimension covers all professional tasks that are substantive, or in the context of lawyering jobs, relate to the practice of law itself.

The environmental dimension consists of those variables that relate to the work environment, that is, those variables that concern the manner in which the objective variables are implemented. This dimension would consist of variables such as office ethos, level of coworker support, work-life balance, compensation level, and whether opportunities for professional advancement exist within the organization.⁷⁷ For a lawyer, environmental values dictate how an individual lawyer perceives or relates to the work environment of a given lawyering job. For example, does the individual perceive the office ethos, coworker support, level of compensation, and work-life balance to be desirable? Identifying environmental values helps a lawyer determine what type of environment would best fulfill her individual values. Thus, the environmental dimension covers all other aspects of a lawyering job that are not substantively legal in nature.

In sum, lawyer satisfaction is best understood as a function of the relationship between the objective and environmental dimensions of a job. These divisions facilitate a lawyer's more accurate understanding of the types of personal values associated with professional satisfaction. The divisions can also help lawyers analyze potential employment opportunities. This approach is the foundation of the personal constitution.

IV. THE PERSONAL CONSTITUTION

A. Approaching Professional Satisfaction from a Constitutional Perspective

Following the general structure of the U.S. Constitution, creating a personal constitution requires three steps: (1) establishing a preamble by identifying one's legal and environmental values; (2) creating the articles by identifying career opportunities, both in law school and in the professional environment, that correspond to one's personal values; and (3) amending

⁷⁷ Neither list of variables is intended to be exhaustive, but rather is meant to be representative of the types of variables that might be included in the two dimensions of professional life.

the personal constitution as necessary by periodically reevaluating the relationship between professional values and career opportunities. The personal constitution not only presents the topic of professional satisfaction in a structured and analytical manner, but it also requires the individual to create a document with her findings articulated in a tangible format.

The concept of a personal constitution transforms the theory of professional satisfaction into a specific plan of action that law schools can use to structure a class on lawyer satisfaction.⁷⁸ Additionally, lawyers can also use it at any stage of their careers to help them approach the topic of professional satisfaction in a proactive manner.

There are several benefits to approaching lawyer satisfaction through a constitutional framework. First, it provides law students with an approach to lawyer satisfaction that is proactive, rather than reactive. The personal constitution does not conceptualize lawyer dissatisfaction as a problem to be dealt with after it arises. Rather, the personal constitution approaches a lawyer's career as one fundamentally concerned with pursuing professional satisfaction, thereby placing professional values at the center of a law student's decisionmaking before she has the chance to become dissatisfied.

Second, the personal constitution provides an analytical framework that allows law students to approach the topic of professional satisfaction by using terminology and concepts familiar to them. Indeed, the second primary recommendation of the Carnegie Report is the need to join lawyering, professionalism, and legal analysis in the classroom setting.⁷⁹ Accordingly, the theory of a personal constitution achieves the Carnegie Report's recommendation by translating the U.S. Constitution's structure into a three-step professional values analysis. Law students can apply this analysis to career decisions with the intention of bridging the gap between analytical thought and the subject of professional satisfaction.

Third, the constitutional framework highlights the inconsistency of practicing in a legal system based on a written constitution that articulates values and purpose while lacking the same structure in our own professional lives. The framers of the U.S. Constitution found great worth in identifying America's core values in a preamble, establishing a structure of government to implement these values in the articles, and including the amendment provision, through which the lessons of time and experience could be incorporated. A personal constitution would allow law students to approach their own careers with a similar sense of mission, structure, and discipline.

⁷⁸ Therefore, the personal constitution should be understood as a tool, as opposed to an exact explication of our internal processes; its value is derived solely from its ability to facilitate professional choices that are likely to lead to professional satisfaction. It does not purport, however, to provide an exposition of the inner-workings of the mind.

⁷⁹ CARNEGIE SUMMARY, *supra* note 43, at 9.

B. *Creating the Preamble*

Before undertaking the process of enacting their own personal constitutions, instructors should help law students understand the current state of lawyer dissatisfaction and distress by analyzing previous research, statistics, and empirical studies. This would help students understand the nature of the extrinsic pressures that are exerted upon them in their legal careers and recognize the necessity of devoting the requisite amount of time to the important subject of personal and professional satisfaction.⁸⁰ The empirical work and literature presented above demonstrate the bridge between psychological research and legal scholarship and show that the issue of professional satisfaction is accessible to lawyers and law students alike.⁸¹

Once law students have completed this background study, they can undertake the first step of establishing the preamble. In creating a preamble, a law student must answer the question: what are my personal values as they relate to my career as a lawyer? Without an understanding of the above-mentioned general concepts underlying the theory of professional satisfaction, the answer may at first prove elusive. Thus, law students should be taught about legal and environmental values and the corresponding professional dimensions of legal objectives and work environment. The greater understanding that law students and lawyers have regarding how personal values are relevant to professional life, the more meaningful and less abstract the framework of a personal constitution will seem. Their understanding of these concepts will allow them to evaluate, identify, and articulate their own set of objective and environmental values.

It is important for instructors to emphasize that creating a preamble is not about finding the “right” values, but about discovering and contemplating an individual’s *own* values. While inquiring into one’s personal values for the first time is not likely to produce a complete list of environmental and legal values, it will hopefully begin a process of self-inquiry, identification, and articulation that will grow alongside the law student as her career develops.

C. *The Articles as a Career Plan*

The second component of the personal constitution is the articles. Creating the articles requires law students to establish a list of professional opportunities⁸² that correspond to their objective and environmental values. To create the articles, law students must first possess a basic understanding of the types of opportunities that exist across the legal market, in both the private and public sectors. Only after a law student acquires a foundation in

⁸⁰ See Krieger, *supra* note 60, at 126.

⁸¹ *Id.*

⁸² For law students, this would include considering law school activities, such as journals, moot court, and other organizations, class scheduling decisions, and summer employment opportunities in light of the preamble as well.

the various legal practice areas that exist and understands the structure, mechanics, and demands of the legal market, can she accurately identify her most desirable employment opportunities, while excluding others.

Accordingly, the articles portion of the personal constitution requires that an individual obtain an accurate depiction of the professional realities of each sector of the legal profession, including hour requirements, types of assignments, opportunities for advancement, and necessary academic credentials. Students should particularly focus on those opportunities that exist upon graduation, but not neglect future opportunities for which they may wish to begin preparing. Law schools' career development offices should utilize their alumni networks to provide law students with access to honest and realistic information so they can educate themselves about their potential interests throughout their careers.⁸³

It is important to emphasize the necessity of viewing the articles through the preamble so that an individual learns to mesh personal values with career opportunities. Law students should begin to identify their professional interests early in their legal education and be wary of pressures to obtain only the most "prestigious" or lucrative professional opportunities. The goal is for students to discover how their professional interests relate to their personal values before—not after—they make career-defining decisions. Furthermore, early identification enables students to engage in market-specific preparation, allowing them to plan their law school experiences in a way that better qualifies them for post-graduation employment in their areas of interest.

Finally, creating the articles also requires taking a long-term perspective to approaching career decisions and professional satisfaction. For recent graduates, seeking employment in a downturn economy may severely limit the types of opportunities available.⁸⁴ Those saddled with debt may be further limited by the professional choices available to them immediately upon graduation.⁸⁵ In addition, some legal sectors may not hire students without prior experience, or without certain academic qualifications. Thus, some amount of professional dissatisfaction may be unavoidable in the early stages of one's career. Therefore, lawyers must plan to fulfill their professional values over the course of their careers by meeting *different* values over time, in order to comport with basic economic, geographic, or other needs.

⁸³ The most effective way to learn about the various legal opportunities is by speaking with practicing attorneys engaged in various types of work, and hearing about the realities of practice in their specific sectors.

⁸⁴ See Gerry Shih, *Downturn Dims Prospects Even At Top Law Schools*, N.Y. TIMES, Aug. 25, 2009, <http://www.nytimes.com/2009/08/26/business/26lawyers.html> ("This fall, law students are competing for half as many openings at big firms as they were last year in what is shaping up to be the most wrenching job search season in over 50 years.") (link).

⁸⁵ The average law school graduate owes \$100,000 in student debt. See Kathy Kristof, *The Great College Hoax*, FORBES, Feb. 2, 2009, <http://www.forbes.com/forbes/2009/0202/060.html> (link).

D. Amendment: The Personal Constitution as a Work in Progress

The final component of the personal constitution is the amendments. Similar to the U.S. Constitution, the personal constitution is a work in progress. Experience and maturity may cause a lawyer's conception of her professional values to evolve. Therefore, a lawyer must periodically revisit the personal constitution to allow it to develop alongside the lawyer's professional and individual growth. Furthermore, jobs change over time. What may once have been a fulfilling professional opportunity may no longer meet the values of a given lawyer.

Thus, amending the personal constitution simply prompts one to ask: how, if at all, has the relationship between my personal values and job changed over time? By performing this inquiry, lawyers can ensure that their personal constitutions continue to accurately represent the relationship between their personal values and professional life. Periodically performing this inquiry will ensure that the concepts underlying the personal constitution remain relevant, and that the lawyer is continually informed by that which she held to be important prior to starting a given job.

CONCLUSION

It is time that law schools give the topic of professional satisfaction the attention, time, and resources it deserves. Empirical research, educational reform efforts, academic literature, and the bar itself, all recognize the importance of preparing law students to confront the personal challenges of lawyering. The only way to ensure that students are truly learned in the topic of professional satisfaction is by including a course devoted to the subject in the first-year curriculum. Law schools should take responsibility for the satisfaction and mental health of our next generation of lawyers by ensuring that students make career decisions with an understanding of the central role that personal values play in determining their own professional satisfaction.