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Happy Law Students, Happy Lawyers

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Surveys suggest that lawyers by and large are unhappier than those in many other professions. Members of the clergy, travel agents, architects, scientists, engineers, airline pilots, physicians, financial planners, and detectives are all happier than lawyers. Even repair persons, housekeepers, and butlers report higher levels of happiness than do members of the legal profession. Still, it could be worse: lawyers do report better days on the job than either roofers or gas station attendants. Overall, 43 percent of American lawyers say they are “very happy these days”—a statistic that is hardly alarming, but also suggests plenty of room for improvement. Not all lawyers are miserable; neither is it a cheery profession.

—Albert Camus

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2 National Opinion Research Center, “Job Satisfaction in the United States,” University of Chicago. (Apr. 17, 2007) (study authored by Tom W. Smith). The NORC surveyed more than 27,500 randomly selected people concerning their job satisfaction and happiness in 198 occupations. Clergy reported the highest levels of both job satisfaction (87.2% very satisfied) and general happiness (67.2% very happy). Roofers reported had the lowest mean score (2.84) for job satisfaction and service station attendants the lowest mean score (1.78) for general happiness. 52.4% of lawyers said they were very satisfied with their jobs (mean score 3.33).
3 Id.
Survey data collected in the 1990s were particularly grim. A poll reported in 1993 by the *California Lawyer* magazine found that more than 70 percent of those responding would select a career other than law if they had it to do over again.\(^4\) Some indicators of an absence of well-being across the profession were the prevalence of depression, alcoholism, and suicide.\(^5\) Law students—lawyers in training—suffer from many of these same problems of mental and physical ailments and chemical addictions.\(^6\) Legal education itself can promote these stressors and the “corrosive effect[s]” carry over into legal practice.\(^7\)

Some data suggest a less depressing picture of attorney unhappiness. In the American Bar Association surveyed more than two thousand of members of its Young Lawyers Division.\(^8\) The majority of those responding were “at least somewhat satisfied with both their current position and the practice of law generally,” while fewer than seven percent of respondents “expressed great dissatisfaction with either their career or the practice of law.”\(^9\) A 2007 study of lawyers in firms of varying sizes from across the country showed that the vast majority of respondents were either “extremely satisfied”

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\(^8\) ABA Young Lawyers Division Survey: Career Satisfaction, Brian Melendez, Chair, 2001, available at [http://www.abanet.org/yld/satisfaction_800.doc](http://www.abanet.org/yld/satisfaction_800.doc). The survey of 2,136 members of the Young Lawyers Division yielded 842 responses. Seventy-two percent of those answering the survey were in private practice, almost ten percent worked in government positions, while eight percent worked for corporations.

\(^9\) *Id.* at 17. “Most young lawyers are at least somewhat satisfied both with their current job and with the practice of law generally.” *Id.* at 1.
(35 percent) or “moderately satisfied” (44 percent) with their decisions to become a lawyer.10

Yet rigid billable hour expectations, law firm hierarchies, competition against colleagues within firms, and the absence of opportunities for creativity remain endemic to the profession as practiced most places.11 Despite reported high levels of work satisfaction, lawyers experience high levels of stress and depression.12 Law firms across the nation report high rates of attorney attrition—“a whopping 37 percent of associates at big law firms, defined by the [NALP Foundation] study as those employing more than 500 lawyers, quit their firms by the end of their third years of practice.”13

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There are quite a few misconceptions about happiness. People tend to think that they can buy happiness or bottle it. For $9.95 a month, one can tap into a web site that

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10 Ronit Dinovitzer & Bryant G. Garth, Lawyer Satisfaction in the Process of Structuring Legal Careers, 41 LAW & SOC’Y REV. 1 (2007). This was a study of almost 1,500 lawyers. Interestingly, “respondents with the most elite credentials—graduates of top law schools working in the most prestigious settings—are the least satisfied with their decision to become a lawyer. However, those graduating from the less selective law schools and working in the less prestigious (and remunerative) settings are the most likely to express extreme satisfaction with their decision to become a lawyer.” Id. at 25.

11 STEFANIC & DELGADO, supra note 5, at 48-49, 61 (2005). See also Stephen M. Siptroth, Comment, Forming the Human Person: Can the Seminary Model Save the Legal Profession, 2007 B.Y.U. EDUC. & L.J. 181, 184 (“Billable hour requirements of most firms reach upwards of 1,900 to 2,000 hours per year. While that may be the minimum requirement, it is not always the expectation, leading many lawyers to log more than 2,000 billable hours per year. To reach such expectations, many lawyers work an average of fifty hours a week, some more than sixty.”).

12 Joan E. Mounteer, Depression Among Lawyers, COLO. LAW., Jan. 2004, at 33, 35 (“Depression strikes the legal profession more often than any other profession”). See generally John Hagan, Even Lawyers Get the Blues: Gender, Depression, and Job Satisfaction in Legal Practice, 41 L. & SOC. REV. 51 (2007).

provides a happiness/depression test and offers happiness building exercises. Consumers can even purchase a mildly lemony perfume from Clinique called Happy.

Social science evidence shows however that money can’t buy happiness. While a correlation exists between standard of living and happiness, in the United States, it is only a correlation up to slightly more than the poverty level. Once people surpass an income of, some studies say $20,000, some say up to $40,000, money does not purchase much more happiness. “Surveys have found virtually the same level of happiness between the very rich individuals on the Forbes 400 and the Maasai herdsman of East Africa.” Changes in income levels relative to one’s peers have a much larger impact on happiness than do adjustments in absolute income levels.

It might be tempting to dismiss the concept of happiness as a guiding principle as shallow or the home of self-help fluff. Yet happiness has a distinguished historical and empirical pedigree. For Socrates, Plato and Aristotle, the chief end of human life was

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15 See Daniel Kahneman, et al., *Would You Be Happier If You Were Richer? A Focusing Illusion*, SCIENCE, June 30, 2006, at 1908. (survey that showed people earning less than $20,000 per year reported spending only 12 percent more time in a bad mood than people earning more than $100,000—and the lower income earners spent 34 percent of their time on leisure activities, while the higher income earners spent less than 20 percent of their time on these pursuits) [http://www.sciencedaily.com/releases/2006/07/060724110130.htm](http://www.sciencedaily.com/releases/2006/07/060724110130.htm); Mike Rudin, The Science of Happiness, BBC News, Apr. 30, 2006, [http://news.bbc.co.uk/1/hi/programmes/happiness_formula/4783836.stm](http://news.bbc.co.uk/1/hi/programmes/happiness_formula/4783836.stm) (“[O]nce you have a home, food and clothes, then extra money does not seem to make people much happier. It seems that level is after average incomes in a country top about [$20,000] a year.”).

16 Matthew Herper, *Now It’s a Fact, Money Doesn’t Buy Happiness*, FORBES, [http://moneycentral.msn.com/content/invest/forbes/P95294.asp](http://moneycentral.msn.com/content/invest/forbes/P95294.asp), Sept. 23, 2004. “That’s not to say that increased income doesn’t matter at all. There is a very small correlation between wealth and happiness -- accounting for about 1% of the happiness reported by people answering surveys.” *Id.*

happiness—or living well—but the ancient Greek philosophers (except maybe Epicurus) did not mean living a purely pleasurable existence, but living a virtuous life.\textsuperscript{18}

Rocketing forward a couple of thousand years—and skipping over centuries of Christian theology—we get to the founding of America. Maybe the Framers of the Declaration of Independence were on target when they classed the pursuit of happiness as an inalienable right.\textsuperscript{19} This isn’t an entitlement to exhilaration; it is something more complex.

Fast forward again two hundred years. In 1972 the king of the small Buddhist Himalayan kingdom of Bhutan decreed that the people should aspire to raise the country’s Gross National Happiness rather than its Gross National Product.\textsuperscript{20} In the United States, two decades ago, researchers in the social sciences began to hone in on positive psychology. Before that time, the main people talking about happiness were self-help speakers and Norman Vincent Peale.\textsuperscript{21}

Happiness is now a respected slice of an academic discipline. The new science of happiness research began with work in the 1990s by psychologists who shifted attention from disease and psychopathology to a focus on cultivating positive emotions.\textsuperscript{22} Prior to this time, the prevailing behaviorist model in psychology was also skeptical of the ability

\textsuperscript{18} See DARRIN M. MCMAHON, HAPPINESS: A HISTORY 24-40 (2005).
\textsuperscript{19} The Declaration of Independence para. 2 (U.S. 1776) (“We hold these truths to be self-evidence: that all men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness”).
\textsuperscript{20} Gross National Happiness is measured by how well people are promoting cultural values, conserving natural resources, providing good governance, and offering equitable socio-economic development. Nadia Mustafa, \textit{What About Gross National Happiness?}, \textit{Time}, Jan. 10, 2005, available at http://www.time.com/time/health/article/0,8599,1016266,00.html?promoid=rss_top
\textsuperscript{21} See NORMAN VINCENT PEALE, THE POWER OF POSITIVE THINKING (1952).
\textsuperscript{22} See, \textit{e.g.}, MARTIN SELIGMAN, LEARNED OPTIMISM (1990).
to measure subjective emotional states.\textsuperscript{23} Since then, the research on happiness has exploded—around the world. Several hundred universities have classes in positive psychology. The one called “Positive Psychology” was Harvard’s most popular elective, taken by more than 850 students in 2006.\textsuperscript{24} There is a \textit{Journal of Happiness Studies} and a World Database of Happiness.\textsuperscript{25} Scientists in this country and others—in disciplines ranging from philosophy and education to history and economics—have written literally thousands of articles on the new science of happiness.\textsuperscript{26}

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In psychology, subjective well-being typically refers to several different affective states: emotional reactions to events and circumstances, memories of those reactions, and more global evaluations of circumstances such as life satisfaction—sometimes domain-specific, like happiness in one’s job or marriage.\textsuperscript{27} When we talk about happiness in this essay, we primarily do not use the term to mean “in the moment” happiness—transitory or short-lived moods, such as joy or euphoria—or the reflective view of a life well-lived. Instead, we use the term to refer to the more long-term state of good feelings as one is going through life, a sense of well-being or contentment, satisfaction and meaning—that the good times outweigh the bad. One thing that researchers have discovered is that self-

\textsuperscript{23} MIHALYI CSIKSZENTMIHALYI, FINDING FLOW: THE PSYCHOLOGY OF ENGAGEMENT WITH EVERYDAY LIFE 19 (1997).
\textsuperscript{25} See Ruut Veenhoven, World Database of Happiness: Continuous Register of Scientific Research on Subjective Appreciation of Life, http://www1.eur.nl/fsw/happiness/
reports of subjective happiness correspond with other measures of well-being, such as reports of witnesses and biological information like magnetic resonance images. This means that survey data are substantially reliable indicators of well-being. For lawyers, maybe the best analogy is to Justice Potter Stewart’s test for pornography, perhaps phrased as: “You know it when you feel it.”

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Our essay draws on research into the science of happiness and asks a series of interrelated questions: Whether law schools can make law students happier? Whether making happier law students will translate into making them happier lawyers, and the accompanying question of whether making law students happier would create better lawyers? Our premise is that law schools can make students happier, but maybe not as happy as students might think or law schools might hope. In Part I, we explore the scientific literature on learned optimism and the genetic and environmental limitations on augmentation of happiness.

After we cover the limitations of genetic determinants of happiness and happiness “set-points,” in Part II we address those qualities that happiness research indicates are paramount in creating satisfaction: control, connections, creative challenge (or flow), and downward comparisons. Then we apply those qualities to legal education, while

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29 One caveat here is that self-reporting data are culturally biased based on how happy people think they are supposed to be. DANIEL GILBERT, STUMBLING ON HAPPINESS 208 (2006).
addressing the larger philosophical question—What if happiness were a goal of law schools? In this section, we explore ways to make law students happier.

In Part III we support the hypothesis that happiness is a goal that, when kept in perspective, can promote better pedagogy and better lawyering. The evidence indicates that making law students happier does translate, at least in part, into making them both happier and better lawyers because happiness, collaboration and professionalism each have an effect on the other. The essay concludes with some concrete suggestions about maximizing student happiness, through addressing some of the career reasons why law students become unhappy lawyers.

I. The Science of Happiness—Limitations on Learned Optimism

Can law schools create happy law students and happy lawyers? Is it even possible? Estimates concerning the degree to which happiness is in our genes range from roughly 50 percent to 80 percent, with writers schooled or claiming membership in the Positive Psychology movement offering estimates on the low side of that range and writers from other traditions generally on the higher side. Dr. Clare Rees of Australia’s Curtin University’s School of Psychology says, “Existing evidence suggests that genetics accounts for approximately 50 per cent of the variance in wellbeing and that circumstances account for approximately 10 per cent, which leaves about 40 per cent of the variance to be governed by intentional activity.”

30 Some of our suggestions in answering that question might seem extreme or fanciful. But we’re brainstorming here and part of what we are trying to do is to think imaginatively.

results of his celebrated study of twins raised apart, writes, “We estimate that the heritability of the stable component of subjective wellbeing approaches 80%.”

Identical twins report happiness levels that are much closer to each other than is the case with fraternal twins. Even identical twins raised apart in very different environments tend to have similar levels of happiness. Researchers think that people have a baseline of happiness—happiness “set-points” to which they naturally return following emotional fluctuations. The highs and lows of relationships, changing financial situations, good health (or lack of it)—all these things move people up or down from their set-points—but over the long run people gravitate back towards their set-points. Most of us think things will be rosier down the road, but the reality is that the best predictor of how happy you will be a decade from now is how happy you are today.

II. Methods for Maximizing Gross Student Happiness

32 See David Lykken & Auke Tellegen, Happiness Is a Stochastic Phenomenon, 7 PSYCHOL. SCI. 186 (1996), available at http://www.psych.umn.edu/psylabs/happiness/happy.htm (“From 44% to 53% of the variance in [wellbeing], however, is associated with genetic variation. Based on the retest of smaller samples of twins after intervals of 4.5 and 10 years, we estimate that the heritability of the stable component of subjective wellbeing approaches 80%”).


35 See David T. Lykken, Happiness: What Studies on Twins Show Us About Nature, Nurture, and the Happiness Set Point (1999). Set-point theory is related to a particular suite of personality traits that have a genetic basis. Persons born with a predisposition to risk-taking and extroversion tend to be happier than persons born with a predisposition to wariness, introversion, and introspection. Those traits, in turn, seem to correlate with relative levels of activity in the right versus the left prefrontal cortex, with persons experiencing more right prefrontal cortex activity generally happier than persons experiencing more left prefrontal cortex activity. The levels of activity in the two sections of the cortex are biochemically determined, with cortisol being the key controlling chemical.
To maximize gross reader happiness, we have organized our suggestions for enhancing law student happiness under four activities—and we have tried to helpfully label all of these ideas with words beginning with the letter “C.”

**A. Control**

A sense of being in control is critical to happiness. In virtually any domain, from relationships to jobs, when people feel that they are losing control, they become unhappy.36 Dozens of studies with subjects ranging from college students to British civil servants37 to elderly nursing home residents38 consistently show that control is closely related to happiness. In one study, for example, nursing home residents put in control of watering and tending a plant reported higher levels of happiness (and, remarkably, half the death rate) of residents in a low-control group who were told that a staff person would take care of the plant. In another study, happiness levels among British civil servants turned out not to depend on salary levels but on the degree to which the various jobs allowed the workers to exercise control. In short, “mattering makes us happy.”39

If mattering makes us happy, then making students feel that they matter should be one of the highest priorities for any school aspiring to be a happier place. How can that be done? First, we should recognize that a sense of mattering can come from two distinct sources. One source for a sense of mattering is recognition from others of one’s

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36 GILBERT, supra note 29, at 20-24.
39 GILBERT, supra note 29, at 20-21.
contribution to a common enterprise. The other source is direct empowerment: giving students the power to make choices that influence the courses of their legal educations.

Recognizing the individual contributions of our students is a largely non-controversial step because it comes with few costs. An obvious form of recognition, for example, is the learning and using of students’ names. Students prefer to be called by their names rather than be identified as “You in Back with the Green Shirt” or have a professor’s finger pointed in their direction. The cost of this recognition is only whatever taxes it imposes on some of our middle-aged brains after we’ve watched 10,000 students with 10,000 names walk our halls and take those final walks across the stage. We also should make students feel that their answers and work product are important, by praising good work and expressing disappointment when the effort is not what it should be. A wealth of educational research demonstrates that prompt feedback about the success of an activity is tied to critical thinking, concept mastery, and educational satisfaction; however, in the 2006 Law School Survey of Student Engagement (LSSSE) 16 percent of first year law students and 24 percent of second year law students report that they never received prompt feedback from their professors.\(^40\) Repeated feedback, rather than just a single examination at the end of the semester, is a better way to encourage deep learning.\(^41\) Positive reinforcement and acknowledgement of successes is crucial too. Students who perform well in competitions or volunteer hours on projects that benefit either the school community or the community-at-large should be honored with awards, speeches, or feasts.


A sense of control in its most direct form comes when we give students the power to make or help make decisions. We make students feel that they matter when we accept them as full participants in the decision-making processes of the school by giving them voting positions on all law school committees affecting student life—including appointment committees. 42 We also move in this direction when we give students more control over their studying conditions—provide work spaces in the law school where they control lighting, play music, and display personal items.

Although it creates tension with our educational goals, we perhaps most significantly enhance students’ feelings of being in control when we allow students to feel that they are capable of achieving their desired balance between work and play. A student without time for family and friends will not be a happy student.

If control is so important, it might seem to follow that law schools could make students happiest by turning the farm over to them—make all courses elective, make grades and homework optional, let students decide what day and time classes meet. But not all students have a high tolerance for chaos, ambiguity, and choice. Some students (probably by virtue of their genetic programming) suffer when too many choices are offered. These students, instead, thrive in more structured and ordered settings. A sense of control is supported by allowing choice in matters students see as central to their personal goals; a sense of control is not necessarily enhanced by maximizing the number

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42 See, e.g., William A. Kell, *Pinocchio in Littleton*, 34 U. Mich. J.L. Ref. 321, 355 n.129 (2001)(“Having students participate in designing a portion of their curriculum would likely increase student engagement in the educational work of the schools, mirroring the kind of increased personal investment and productivity documented in workplace settings when employees are given more decision-making control.”).
of choices students are asked to make. Students are different, and some feel more in control when the number of choices doesn’t seem out of control.43

Radical educational freedom for students would make some students happier and others less happy. In his wonderfully insightful book, The Paradox of Choice, Bernard Schwartz explains that most people in the modern world suffer from too much choice, not too little. Being able to select from 90 different brands of toothpaste causes many people—especially those Schwartz calls “maximizers” (persons determined to make the perfect choice)—to feel overwhelmed.44 They simply are unable to digest all the information necessary to make the best possible choice from such a staggering array of options, and they feel frustration and a sense of lost control.

Schwartz suggests that people feel most in control of their lives when they are given choices—but not too many choices. Any professor who has watched a student paralyzed with indecision over the choice of a writing topic understands this. Student happiness is likely to be enhanced when students are asked to choose from a defined list of options (perhaps three to five) rather than told to consider the universe of possibilities and select the topic they would most like to write about. Offering a modest number of choices allows students to find a good topic fit without the time expense and regret that usually accompanies selection from among a large number of possibilities.

The notion that choice should be available, but not be unlimited in scope, has many applications. It might suggest, for example, the benefits of having fewer required courses and more distributional requirements. Such an arrangement enhances student happiness levels by freeing them from having to endure classes that hold little appeal or

44 Id. at 77-96.
are taught by professors who employ teaching methods that either do not work well in
general or for a particular subset of students. Bounded choice might well be the
compromise that produces the greatest sense of control.

None of us believe that it is possible to be a truly great teacher without caring
deeply about the welfare of students; how can we expect our students to be great lawyers
if there is nothing that they care deeply about? Ultimately, the control essential to our
students’ happiness is the ability to choose what they shall value; it is not, as commonly
believed, the freedom to chase their ever-changing wants.

B. Connectedness

Social connections are amazingly powerful. Families, friends, neighbors, trusted
coworkers, communities—these are the bonds that make people the happiest. Happiness
is influenced by a sense of belonging, a connection to other people and projects bigger
than the individual. Numerous studies find a strong correlation between happiness and
social bonds. The Pew Research Center conducted an international survey of happiness
levels in 44 countries. In every one of those countries, friends and “family life provided
the greatest source[s] of satisfaction.”

There is value in a network of social relationships. One of the best predictors of
individual happiness is the extent of people’s social connections. “Large-scale surveys
by the University of Chicago’s National Opinion Research Center, for example, find that

45 Tony Delamothe, Get Happy—It’s Good for You, 331 BRITISH MED. J. 1489 (Dec. 24, 2005); Pew
Connecting with people creates happiness; intimately connecting with people is at the top of the list.
Working is close to the bottom of the list: not quite as satisfying as housework and just a shade above
commuting.
those with five or more close friends are 50 percent more likely to describe themselves as ‘very happy’ than those with smaller social circles.”

A study regarding the top ten percent of very happy people shows they spent the greatest amount of time socializing and the least time alone.

Countless studies document the link between society and psyche: people who have close friends and confidants, friendly neighbors, and supportive co-workers are less likely to experience sadness, loneliness, low self-esteem, and problems with eating and sleeping . . . The single most common finding from a half century’s research on the correlates of life satisfaction, not only in the United States but around the world, is that happiness is best predicted by the breadth and depth of one’s social connections.

If social connections are one of the strongest sources of life satisfaction, what are law schools doing to promote that? Somewhere between very little and not much. Outside of some work in clinics, journals, and a few team events such as moot court, “law school makes competition something of an art form to be practiced in relative isolation.” As the work of a number of researchers in the humanizing legal education movement suggests, the extreme focus on external rewards—grades, class ranking, law review—can undermine the development of internal values.

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47 Dorothy Wade, So What Do You Have to Do to Find Happiness?, SUNDAY TIMES MAG., Oct. 2, 2005.
The latest Law School Survey of Student Engagement does have some “promising findings”—that almost 30 percent of all students responding “frequently collaborated with other students to prepare assignments” and four out of five students collaborated with peers at least occasionally. 51 But, “[t]he vast majority of law students [88 percent] do not frequently work together with other students on projects . . . .” 52 Although numerous studies demonstrate the benefits of cooperative learning—that it fosters engagement, depth, and critical thinking—students at numerous schools still risk Honor Code prosecutions for cooperative behavior. 53

If the best elixir isn’t money, but people—and one of the best ways to make people happier is to help them create strong and supportive personal relationships—law schools should work to increase social bonds. The practice of law is increasingly interdisciplinary and multi-disciplinary. Law schools should create team players, by developing more collaborative projects and assignments. 54

A few schools willing to push the edge of the innovation envelope are developing interdisciplinary and problem-solving courses, primarily in the clinical context, to encourage student teamwork in developing real world solutions to problems of child and family services or healthcare. 55 The thought is that a focus on community needs will develop compassion, build self-esteem, encourage students to work with other students,

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51 Law School Survey of Student Engagement, supra note 40, at 10.
52 Id. at 15.
and develop a broader vision of social justice. A very few schools are expanding these collaborations into the business curriculum—for example, integrating business management concepts with transactional classes to create entrepreneurial lawyers with teams of business students plus law students.\footnote{Luppino, supra note 49, at 17, 34.} Although the actual implementation of collaborative learning projects in law schools has been limited thus far, the possibilities for them are endless: collaborations on in-class oral arguments or creating a team to present a case, group work on a petition or a memo, or simulations that entail representing “clients.”\footnote{See, e.g., Kara Abramson, “Art for a Better Life”: A New Image of American Legal Education, 2006 B.Y.U. Educ. & L.J. 227, 290; Paul S. Ferber, Adult Learning Theory and Simulations—Designing Simulations to Educate Lawyers, 9 Clin. L. Rev. 417, 421 (2002).} As Professor Denise Riebe notes, “[r]esearch demonstrates that most students learn more and enjoy the learning process more when they learn in small collaborative groups.”\footnote{Denise Riebe, A Bar Review for Law Schools: Getting Students on Board to Pass Their Bar Exams, 45 Brandeis L.J. 269 (2007).}

Students may be doing more to contribute to their own happiness than anything professors can do—through student organizations, fraternities, and projects.\footnote{See, e.g., Rachel Anderson, Marc-Tizoc González & Stephen Lee, Toward a New Student Insurgency: A Critical Epistolary, 94 Cal. L. Rev. 1879, 1925-26 (2006) (noting that “activist student organizations can engender a sense of solidarity”).} Student organizations can be instrumental in sponsoring public service activities that give back students’ time and talents to the community.\footnote{Pamela H. Bucy & John L. Carroll, Public Service by Law Students, 68 Ala. Law. 46, 48 (Jan. 2007).} Overall happiness comes not just from the academic program, but from students’ social life as well. Encouraging law students to learn to create balance in their lives is critical to ensuring their happiness.\footnote{Lawrence S. Krieger, What We’re Not Telling Law Students—and Lawyers—that They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing a Profession from Its Roots, 13 J.L. & Health 1, 9 (1998-99).}

One way of supporting communication is to create opportunities for interaction by paying attention to the physical environment: Strategically place coffee pots around the

\footnote{Luppino, supra note 49, at 17, 34.}
\footnote{Denise Riebe, A Bar Review for Law Schools: Getting Students on Board to Pass Their Bar Exams, 45 Brandeis L.J. 269 (2007).}
\footnote{Pamela H. Bucy & John L. Carroll, Public Service by Law Students, 68 Ala. Law. 46, 48 (Jan. 2007).}
\footnote{Lawrence S. Krieger, What We’re Not Telling Law Students—and Lawyers—that They Really Need to Know: Some Thoughts-in-Action Toward Revitalizing a Profession from Its Roots, 13 J.L. & Health 1, 9 (1998-99).}
building and construct places for social engagement. Make benches face toward each other rather than away. Provide cozy spaces for people to sit down and interact, rather than something that looks good in *Architectural Digest*. If schools do not have the places for people to connect, they will not connect as much.⁶²

Another suggestion is to strengthen the social bonds between students and faculty. In addition to making students happier, these connections have educational benefits. Susan Sturm and Lani Guinier argue that professorial engagement with students outside the classroom is critical to convey a sense of professionalism, yet is a dynamic that receives minimal institutional support:

[P]rofessors are not generally involved in out-of-class learning. They do not spend much time providing feedback on students’ work or helping them figure out how to use the law to advance their intellectual and professional aspirations. Students do not generally see faculty as taking an interest in their development as learners or lawyers outside the classroom.

. . . Faculty who devote time and energy to students’ learning outside the classroom do so at their own “expense.” They receive little credit or reward, and colleagues view this work as a distraction from the core functions of scholarship and in-class teaching. Yet, these are crucial locations of learning.⁶³

One way to institutionalize this engagement is to create a formalized advising system by assigning each law student an individual faculty advisor. Several law schools


have integrated members of the local bar into mentoring or inns of court programs to offer students both faculty advisement and attorney counseling.\textsuperscript{64} Formal advisement programs can set the expectation that faculty are supposed to be more accessible to students. Folding in attorneys from the community creates synergies between the law school and the bar, while offering students opportunities for professional socializing. Some law schools arrange programs and projects for students and faculty to play together, ranging from yearly poker tournaments to faculty-student softball games to annual skit shows to Habitat for Humanity projects.\textsuperscript{65}

But, you might ask, is all this festivity good for students, good for legal education, good for lawyering? Our answer is a tentative and qualified (yet still enthusiastic) yes: There is an interpenetration of happiness, collaboration and professionalism. The people who are happier in life are those who give back. There is a distinction between feeling good—the pursuit of pleasure—and \textit{doing} good, which can lead to more lasting happiness, and a life with meaning. People who have a richer sense of happiness are not those who work on their narcissistic personal needs, but those who embrace a larger sense of civic engagement.\textsuperscript{66}

\textit{Happily}, that dovetails with pro bono obligations in law. A recent ABA survey reported that only 46 percent of lawyers met the ABA’s goal of offering fifty hours of

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Those who provided pro bono legal service reported a direct correlation between that form of giving back to society and their own satisfaction. This is confirmed by studies of attorney job satisfaction. While attorneys in private practice at large firms reported the highest average annual income and public interest lawyers the lowest, “the high-earning practitioners in large private practices report the lowest average job satisfaction . . . , and the lower-earning types of practice all report higher average job satisfaction, although it’s the educators . . . and not the public interest lawyers . . . who report the highest average job satisfaction.” This is worth a further and broader conversation than space allows now of ways to encourage students to become better social contributors.

C. Creative Challenge or Flow

Another way to attain happiness is to attain a state of flow or the appropriate amount of creative challenge. Flow is the sense of time flying by when people are engaged in activities they like—the interest in the activity is the end itself. Flow is about finding the right level of challenge so that people are not too anxious and not too bored. If an activity is too difficult, people become frustrated. If it is too easy, boredom

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ensues. It’s the Goldilocks dilemma—we don’t want the work to be too hard or too soft; we want it to be just right.

What things help with flow? An appropriate amount of challenge is critical. Clear goals and prompt feedback. Things that help encourage task-focus and a sense of being “in the zone” include working arrangements that permit control, concentration with distractions, and motivation that comes from within rather than from external rewards. 71

Law schools could do some radical things to ensure just the right amount of individual challenge, such as offer a gifted track or accelerated classes. But that would be an administrative nightmare and it would leave most law students with only upward comparisons, which we note elsewhere is a bad idea. 72 There are some less extreme possibilities and relative simple fixes that could help with flow, and that are good pedagogy.

One relatively simple fix is for faculty to regulate work flow—coordinate midterms and paper assignments. As just one example, our Legal Writing director sends around an e-mail at the beginning of every semester so that other faculty members know when the students have memos due.

Flow is also about engagement with current activities and having one’s full engagement in the moment. 73 Only in relatively recent years has the legal academy turned attention toward ways to enhance student engagement. An array of literature is now available on techniques to increase student participation, motivation, and engagement—

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72 See infra text at notes 79-82.
73 CSIKSZENTMIHALYI, supra note 23, at 28-29.
ranging from ideas about use of technology\textsuperscript{74} to practical and simulation exercises\textsuperscript{75} to motivating students by encouraging their civic engagement.\textsuperscript{76} One section at the AALS annual meeting in January of 2008 addressed “The Critical Role of ‘Play’ in Legal Scholarship and Teaching.”\textsuperscript{77} Good professors are constantly trying to innovate, to shake up the dice and create greater variety in the content of their classes.\textsuperscript{78} Think about what kinds of experiences you had in law school that created those moments of flow!

**D. Comparing Downward**

Sometimes, it turns out, finishing worse is actually better. Researchers evaluating the happiness of Olympic medal winners discovered that bronze medalists generally were happier with their finishes than were silver medalists. Why? The silver medalists tended to compare themselves with gold medalists, the athletes who achieved the goal they had long sought; bronze medalists, on the other hand, were just happy to be on the medal

\textsuperscript{74} Within this literature, some suggestions are to promote greater use within the classroom while others are to encourage less. Compare Nancy G. Maxwell, From Facebook to Folsom Prison Blues: How Banning Laptops in the Classroom Made Me a Better Law School Teacher, 14 RICH. J. L. & TECH. 4 (Winter 2007), with Paul L. Caron & Rafael Gely, Taking Back the Law School Classroom: Using Technology to Foster Active Student Learning, 54 J. LEGAL EDUC. 551 (2004).

\textsuperscript{75} Deborah Maranville, Infusing Passion and Context into the Traditional Law School Curriculum Through Experiential Learning, 51 J. LEGAL EDUC. 51, 58-61 (2001).

\textsuperscript{76} See, e.g., Elizabeth Rindskopf Parker & Sarah E. Redfield, Law Schools Cannot Be Effective in Isolation, 2005 B.Y.U. EDUC. & L.J. 1.


\textsuperscript{78} GILBERT, supra note 29, at 90. In no particular order, we include some of our favorite techniques from watching our colleagues: do a moot court exercise for an area of law instead of following the bouncing case; array pictures of Supreme Court justices so students can visualize the composition of the Court for various constitutional cases; have professors from Torts, Property and Contracts debate each other on an issue that slices across disciplines. . . .
stand, thinking about how close they came to joining all those other hard-working athletes who failed to medal at all.79

The acerbic social commentator H. L. Mencken observed, “A wealthy man is one who makes $100 more than his wife’s sister’s husband.”80 We are okay without that 60-inch plasma screen so long as most of our neighbors don’t have one either. Happier people are less inclined to make upward comparisons than downward comparisons. Happy people don’t try to keep up with the Jones’s; in fact, happy people could care less how the Jones’s are doing.

Yet it is human nature to compare our situation with those around us. If we find our fate better than our comparison group we tend to be happier. So happiness turns in part on the group we choose for comparison.81

The lessons that psychologists offer about comparisons apply to law schools that want to increase student happiness. They suggest, for example, that students’ happiness levels could increase if they enrolled in clinics for the poor, the disabled, and the elderly—clinics that remind them that their own lots are better than those of much of the world’s population. Some experimental law schools—fifteen across the country—have implemented mandatory pro bono graduation requirements.82 Happiness research is unambiguous in showing that students who volunteer to help people in need are generally made happier by the experience. Volunteering brings with it downward comparisons and an increased sense of mattering.

79 Nettle, supra note 37, at 38.
81 Id. at 41-48.
82 Richard F. Storrow & Patti Gearhart Turner, Where Equal Justice Begins: Mandatory Pro Bono in American Legal Education, 72 UMKC L. Rev. 493 (2003). See also Lawrence J. Fox, Should We Mandate Doing Well By Doing Good?, 33 Fordham Urb. L.J. 249 (2005). The ABA accreditation standard requires law schools “to encourage students to participate in pro bono activities and to provide opportunities for them to do so.”
Another way to encourage more downward comparisons would be to change our grading curves to give more minus (“-“) grades and fewer plus (“+”) grades. A student who receives an A- instead of a B+ is likely to get more of a happiness jolt out of that promotion than would be lost when a student gets a “B” instead of a B+. A student who received an A- is likely to think, “Boy, I’m glad that just snuck into the A range” whereas a student who receives a B+ is less likely to grateful than narrowly escaping a B than she is to think of how close she came to that sought-after A. More minuses, fewer pluses—it all comes out in the wash and (with minor adjustments) doesn’t have to significantly affect overall GPAs.

Happiness research about the effects of making comparisons indicates that law schools should encourage students, when job hunting, to think about becoming bigger fish in smaller pools. The evidence is compelling that students will be happier with their career choices if they are local heroes rather than marginal contributors to a more powerful enterprise. This approach, needless to say, runs counter to that adopted by most law schools. Law school faculties often feel that placing their alumni in the most prestigious of big city firms reflects well on their school’s reputation—and perhaps it does. The question is this: Should we value our school’s reputation over our graduates’ happiness? We often think of these as complementary goals. They aren’t, always. We have to make a choice as to which we value more.

III. Happy Law Students, Happy Lawyers and Good Lawyers

A. Copying (or Surrogation) and Life Choices
Daniel Gilbert, a Harvard professor of psychology wrote a book called *Stumbling on Happiness*. His thesis is that people do not do a good job of predicting the circumstances that will make them happy. There are various psychological reasons why people are bad at forecasting. One key reason is that people think they’re in the best position to predict their own happiness and are not willing to trust information from other people, but Gilbert says, “It turns out people aren’t remarkably different in their emotional reactions to events.” This isn’t a message most folks want to hear, because nobody likes to think they are not unique.

The best source of information about the future is actually other people who are presently experiencing the events we are contemplating doing. If you want more accurate information for your students about whether they would like to try a capital case or write a patent application or conduct discovery in a behemoth class action, find people who are presently doing those things and ask them to come talk to your students about their work. Expose students to people who are currently in the kinds of jobs they are considering. Bring in outside lawyers. Create more externship opportunities to let students actually observe different types of practice over a longer stretch of time.

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83 One is that the human brain is able to process only a modest number of cues, primarily the extremes of experiences. Jessica Bernstein-Wax, *Happiness Is a Warm, Fuzzy Memory*, COURIER-MAL (Ausfl.), June 4, 2007, at 39, available at 2007 WLN 10363660. When memories have gaps, the brain invents information to fill the gaps. This means that predictions about the future are overly influenced by present moods and selectively culled memories. GILBERT, supra note 29, at 88-89. People also overestimate their own reactions to future events. They think their happiness will be influenced significantly by one thing—a change in geography, a particular job.

84 Jessica Bernstein-Wax, supra note 83, at 39.

85 GILBERT, supra note 29, at 223-28.
Maybe spend a little time in class or in special programs talking about how to make decisions. Discuss the sorts of heuristic errors that affect the decisional process. Talk about career and salary expectations and non-practice options. Make students aware of the extensive literature on work-life balance. This will increase the likelihood that students will more accurately choose how to make their future selves happy.

**B. Ennobling the Profession**

When people believe the work they are doing is meaningful, they are happier; when work loses its meaning and workers do not feel they are making a difference, they are more dissatisfied. One of the most important ways to make law students feel that they matter is to make them feel as though they have embarked on a noble journey. This is no easy task in an era of lawyer jokes and references to ambulance-chasers, and when public opinion polls show respect for lawyers ranking only ahead of used car salespersons.

We honor our students’ choice of law as a career by offering courses, and content within courses, that show lawyers as justice seekers, justice givers, and problem solvers. History has provided us examples of hero-lawyers, lawyers who have served their clients

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86 Aaron S. Haas, Comment, *The Rationality of Law Students’ Career Choices*, 2006, at 6-7, http://lsr.nellco.org/harvard/students/papers/8 (“Many law students choose to work at firms even though they know or suspect that they will not be happy there . . . First, many students enter law school without a strong idea at all of what they want to do after graduation. As a result, their job preferences are particularly unstable and open to external influence. Second, law firms try early and often to persuade students to work for them, by offering high initial salaries, fun summer experiences, and other temptations. Finally, peer pressure and the norms of law school and the legal profession pull students towards the firm track.”).


and their communities well.\textsuperscript{89} We need to tell their stories. We need to inspire. We need to emphatically reject the notion of law as an amoral profession. Take law students back to the aspirations in the personal statements they wrote for their applications to law school.\textsuperscript{90} Remind them of their heroes.

\textbf{C. Happy Lawyers and Good Lawyering}

A happy lawyer is often a good lawyer. As the work of numerous scholars demonstrates, empirical research supports the connection between satisfaction in life and the promotion of values that manifest as professional behavior in lawyers.\textsuperscript{91} Also, happiness is contagious to some extent.\textsuperscript{92} If our students are happy lawyers in practice, the clients will like them more and want to be around them.

The connection to others, including colleagues in the legal community and clients, inspires lawyers to do their best, have integrity, have empathetic imagination, and work hard (legal translation: “zealously represent”) the interests of others. And aren’t those really the qualities that feed the better purposes of our profession?

\textsuperscript{89} Doug Linder, Trial Heroes; Bending Toward Justice (2000), http://www.law.umkc.edu/faculty/projects/ftrials/trialheroes/heroeshome.html.
\textsuperscript{90} GERALD F. HESS & STEVEN FRIEDLAND, TECHNIQUES FOR TEACHING LAW 332 (1999).
\textsuperscript{91} Lawrence S. Krieger, \textit{The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness}, 11 CLIN. L. REV. 425, 428 (2005) (“Maslow described people experiencing the fulfillment of growth motivation to be psychologically mature, and he observed in them the following character traits that exemplify professionalism: self-governance and individuality; universal, holistic thinking; undistorted perception of reality; superior awareness of truth; service orientation and desire for the good of others; and highly democratic personality.”). See also Sonya Lyubomirsky, et al., \textit{The Benefits of Frequent Positive Affect: Does Happiness Lead to Success?}, 131 PSYCHOL. BULL. 803 (2005) (reporting studies that show the relationship between happiness and success is not that those who are more successful are happier, but that the causal relationship runs from happiness to success).
\textsuperscript{92} JONATHAN HAIDT, \textit{The Happiness Hypothesis} (2005).