Practicing What We Teach: The Importance of Emotion and Community Connection in Law Work and Law Teaching

Ann Juergens
Mitchell Hamline School of Law, ann.juergens@mitchellhamline.edu

Publication Information

Repository Citation
http://open.mitchellhamline.edu/facsch/191
Practicing What We Teach: The Importance of Emotion and Community Connection in Law Work and Law Teaching

Abstract
Personal satisfaction and fine lawyering go hand in hand. Legal education and the legal system, however, do damage to that coupling. The author suggests that lawyers and law students can thwart personal dysfunction and professional dissatisfaction if we allow ourselves to express joy and sadness. To avoid being depleted by grief and rage, which cannot nourish satisfying law work over time, the article suggests that we attend to connections with others (all others). Lawyers who connect with their own communities may have more tools for crafting solutions for clients whose problems often implicate community. As teachers, the best way to communicate the power of this strategy is by living it and modeling it ourselves. The article suggests ways in which that can happen in the classroom, clinic and in individual interactions with students.

Keywords
professionalism, emotional intelligence, practice of law, community, legal education

Disciplines
Legal Education

This article is available at Mitchell Hamline Open Access: http://open.mitchellhamline.edu/facsch/191
PRACTICING WHAT WE TEACH: THE IMPORTANCE OF EMOTION AND COMMUNITY CONNECTION IN LAW WORK AND LAW TEACHING

ANN JUERGENS*

Personal satisfaction and fine lawyering go hand in hand. Legal education and the legal system, however, do damage to that coupling. The author suggests that lawyers and law students can thwart personal dysfunction and professional dissatisfaction if we allow ourselves to express joy and sadness. To avoid being depleted by grief and rage, which cannot nourish satisfying law work over time, the article suggests that we attend to connections with others (all others). Lawyers who connect with their own communities may have more tools for crafting solutions for clients whose problems often implicate community. As teachers, the best way to communicate the power of this strategy is by living it and modeling it ourselves. The article suggests ways in which that can happen in the classroom, clinic and in individual interactions with students.

Lawyers’ work at its best is arduous. Its intellectual content is challenging, for lawyers contend with the rule structures that regulate the affairs of our civilization, its citizens and the market. Though less recognized, the emotional content of law work is at least as taxing as the cerebral, because lawyers deal with the effects of law on peoples’ lives.1 At times the effect of law is to bring joy—as with the comple-

* Professor of Law, Co-Director of Clinics, William Mitchell College of Law, St. Paul, Minnesota. The author thanks Calvin Pang, Larry Krieger and Bob Seibel, her facilitator and co-presenters at the plenary session on “Professionalism & Personal Satisfaction,” given at the Association of American Law Schools’ Annual Conference of the Section on Clinical Legal Education, Vancouver, B. C., May 17, 2003. These remarks were shaped in discussions with them.

1 Legal education’s tradition of undervaluing the emotional labor of law work has been explored by other scholars, including those writing about therapeutic jurisprudence. See, e.g., Robert Eli Rosen, And Tell Tchaikovsky the News: The Wedding of Therapeutic Jurisprudence and Preventive Lawyering, 5 PSYCHOL. PUB. POL’Y & L. 944, 950 n.1 (1999) [citing Arlie Hochschild’s definition of emotional labor as “knowing about, and assessing as well as managing emotions, other people’s as well as one’s own.” from HOCHSCHILD, Preface, in EMOTIONS IN ORGANIZATIONS (1993)]; Marjorie L. Silver, Emotional Intelligence and Legal Education, 5 PSYCHOL. PUB. POL’Y & L. 1173 [arguing that law schools and the Socratic method suppress the use of emotion, that emotional intelligence is essential to creative problem solving, and that law schools should do more to develop the emotional intelligences of their students. Silver builds on Howard Gardner’s work in MULTIPLE INTELLIGENCES: THE THEORY IN PRACTICE (1993)]; Susan Daicoff, Making Law Therapeutic for Lawyers: Therapeutic Jurisprudence, Preventive Law, and the Psychol-
tion of a transaction or a vindication of rights or giving voice to the muted. Yet law is commonly engaged not with beauty, rather with problems caused by misunderstanding, greed and fear. Time and again, the effects of the law on peoples’ lives are troubling, grief-filled or violent.2

Law students must learn to handle this grief and joy, the emotional and rational aspects of lawyers’ work. They have an uphill battle. Research is revealing that lawyers are particularly prone to depression, addiction and emotional distress.3 Legal education, in fact, may be deleterious to the emotional well-being of law students and lawyers. It seems likely that legal education’s emphasis on mastery of the rational and its avoidance of emotions such as grief and joy are related to the finding that lawyers are under stress.

Several scholars are beginning to address lawyers’ difficulty in finding satisfaction.4 In another article in this volume Larry Krieger describes his law school course on the subject.5 He gives students research data that establish lawyers as more vulnerable than others to depression and addiction.6 Then he compares that with research showing that satisfied, emotionally healthy lawyers are generally not those with the highest incomes and status.7 Social science data, it
turns out, support the notion that lawyers who strive to contribute to the public good and relate closely with others enjoy greater work satisfaction and less depression than those who seek the external rewards of status and money.  

Professor Krieger makes the point that if attending to life satisfaction is important to good professional performance, then law schools should teach this to their students. Similarly, Bob Seibel from City University of New York spoke recently of how, during individual supervision sessions with clinical students, he finds time to explore with students what they enjoy most in their clinic work as attorneys.  

Both men actively teach students about sources of long-lasting satisfaction as they choose career paths.  

Yet this work on the subject of teaching the importance of personal satisfaction to professional excellence neglects to ask whether law teachers actually practice that which we exhort our students to do. This essay argues that as law teachers develop methods for addressing the emotional facets of lawyers’ work, we must also walk our talk. All of our analysis and teaching about the importance of intrinsic goals and a well-balanced life may be for naught if our students do not see that we live this way ourselves. This can be a challenge within the legal academy, where work is valued over health, thought is elevated over feeling, individual achievement is trumpeted and community accomplishment largely overlooked. This essay discusses the professional value in expressing emotion, and turns to community for help in absorbing the emotional challenge that lawyer life poses.  

Law teachers cannot ignore our own houses because we teach also by personal example, not only by explicit instruction. Professors

---

8 Krieger, Institutional Denial, id. at 119-122. Cf., Univ. of Mich. Law School, The University of Michigan Law School: A Report on the Class of 1991 Five Years After Graduation (unpublished report, copy on file with author) (finding that graduates working in public interest, legal services and government careers showed significantly higher levels of satisfaction with their work than those in private practice or corporate counsel positions).  


10 Let me hasten to acknowledge that while scientific study bolsters our knowledge of what brings personal satisfaction, real satisfaction is various and depends upon each person’s unique history. Representing low and middle income clients for almost 30 years has taught me that what brings one person joy may make another person miserable. For social science research identifying factors common to human satisfaction in life, see K.M. Sheldon, A.J. Elliot, Y. Kim and T. Kasser, What is Satisfying About Satisfying Events? Testing 10 Candidates’ Psychological Needs, 80 J. PERS. & SOC. PSYCH. 325 (2001) cited in Krieger, Institutional Denial, supra note 8 at 119.
are powerful models for students, whether we wish to be or not. Students watch us closely, first, to see that we know the material, that we are clear and intellectually sound in our legal instruction. But they also pay attention to what we seem to be as human beings: What motivates the professor to do this work, what makes it worth it to her over the long haul? Does that hard-working faculty member have any people with whom he is close outside of the law school, a partner in life, friends, children? Do the clever hypotheticals of a favorite teacher over time reveal values of love for fellow beings, or of mistrust?

If one accepts that students absorb implicit messages from their teachers while in their courses—whether clinic or classroom—then one naturally contemplates what those messages might be. In reflecting on my years of law teaching\footnote{I began teaching after eight years of law practice. I have taught law students for twenty-one years in a variety of settings, from Civil Advocacy Clinic (every semester), to large sections of required courses such as Civil Procedure and Professional Responsibility, to a required second-year lawyering skills and writing course, Advocacy.} I find that two key messages are largely absent from much of what we model in legal education:

- **Laugh when you are happy, cry when you are sad.** Don’t hide all emotion or you will come to feel none. Find people and work that allow this.
- **Grow roots deep into your own community.** This will prevent the erosion of the soil protecting your soul. It will deepen your work and sustain you.

The first message—“Laugh when you are happy, cry when you are sad”—I heard as a girl. My father used it in describing a person he trusted and respected. The expression confused me at the time. Healthy children do not need to be told to laugh when glad, to cry when sorrowful.

The wisdom in this obvious-sounding phrase did not reveal itself to me until law school. In the legal academy people no longer seem to behave according to the rubric. Professors wear and students fast develop rigid professional masks. Good analytic arguments seem to require that one’s sentient self disappear while making them. As one former law school dean put it more than thirty years ago:

- Legal education is an intensely cerebral pursuit. Inside the classroom, students listen as we dissect court opinions, ridicule fuzzy-headed thinking, stifle passions as unprofessional. We praise our students by telling them they ‘think like a lawyer,’ an ability requiring a wholly analytical matrix for dealing with problems. . . . Students soon conclude that if we—and society—are to judge them highly, they must prove themselves with their heads. . . . What con-
cerns me is the mind-set and the heart-set into which we mold our students: that it is better to be smart than passionate, that people who feel too deeply tend not to think too clearly, that a fine intellect can rationalize any position or state of affairs, no matter how outrageous or indecent or unjust.12

The impassive character that the academy mandates for law students is more painful for some to acquire than others. When I entered law school in 1973, the number of women entering law school was still low, though the number had jumped in two years from nine to sixteen percent of total law students.13 That first wave of women through the doors were under particular pressure to muffle their expressiveness. “Emotional” and “feminine” were synonyms. Reason and analysis were associated inexorably with masculinity.14 Lessons in responsiveness, kindness and collaboration learned over more than two decades from my mother and grandmothers were emphatically set aside.

This disassociation of competence from expressiveness in legal education is infuriating and wounds both lawyers and clients. The hidden costs of squelching emotion in the name of professionalism reveal themselves over decades. My observation from almost three decades of law work is that for many, the deliberate silencing of emotion leads to muteness of emotion. As one’s own ability to express feeling declines, it seems to follow that the ability to hear other people’s feelings atrophies too. Tendencies to overlook clients’ inner experiences are reinforced when lawyers are trained to respond primarily to the external facts of a clients’ “legal” situation. These oversights turn into misunderstandings of clients’ goals, missed opportunities to settle cases, contracts that do not reflect the real intentions of the parties, and other professional errors.

Over time, the adoption of a persona filled with reason but devoid of emotion does not sustain an effective legal practice. The excellent lawyer uses both qualities: one needs facility with deep emotion as well as with high reason in order to create satisfying solu-

14 See, e.g., Jane W. Coplin & John E. Williams, Women Law Students’ Descriptions of Self and the Ideal Lawyer, 2 PSYCH. OF WOMEN QTRLY 323 (1978) (presenting a study showing that women law students perceived ideal lawyers to be more rational and less emotional than themselves, and overall “quite masculine” on a standardized sex stereotype index).
tions for clients. Winning a trial may mean much less when a client is debased in the process of proving his damages; inking a contract may yield little fruit when it is built upon too narrow a grasp of the parties’ purposes.

The challenge for law teachers in the 21st century, then, is to show our students how to don the lawyer’s mask, but also to demonstrate how it may be made more yielding and transparent. How can a woman or man excel at law and still incorporate the ideas of wise childhood caregivers: i.e., that attending to the emotional content of communication is as critical to understanding as are the words themselves; that nurturing of others and self is as difficult and valuable as any activity there is?

The most powerful teaching tool we have is to model this integration. We can tell our students to allow their true selves to shine through the lawyer’s role, for their clients, colleagues and adversaries cannot make a fully human connection with a mask, rather only with the person behind it. Yet they will not believe that message if we do not also practice it. Take a moment right now and think to yourselves: when did I last let a student see that I was unhappy with client, adversary or students’ conduct? When did I let a student know I was thrilled by—not just pleasantly appreciative of—their clinic or class work? When, if ever, have I shed a tear at work in the presence of any other person?15 Do I behave as if I have no emotions other than a certain pride of intellect? Law students need teachers who comport themselves as persons with a full range of emotions, teachers who appreciate those emotions as tools for their work rather than as hindrances to be overcome.

Grow roots deep into your own community. This second message missing from legal education is premised on the idea that a lawyer’s life and work also require the tethers of connection to community to maintain relevance and satisfaction. In this arena, too, law students learn from glimpses of their professors’ relations with their own communities. Do they see citizens with community connections that enrich their work lives? Or do they learn from people whose lives outside of work could be non-existent, so little does it seem to affect them? Do we walk our “community” talk from the classroom and clinic?

15 It is interesting to note that attorneys’ weeping has been an issue in appellate litigation where a trial attorney cries while addressing the jury. Overall, if the emotion was spontaneous and genuine, rather than calculated and intentional, appellate courts have upheld verdicts in the face of what they term “emotional displays,” Deanna Olson v. Walgreen Co., 1992 Minn. App. Lexis 1098 (unpublished opinion); State v. Bailey, 647 P. 2d 170, 175 (Ariz. 1982); People v. Mellerson, 2001 NY Slip Op 40596U (unpublished opinion).
By community I mean not only immediate family, children, circle of close friends. I mean the wider net of civic, cultural and religious institutions, shopkeepers, libraries, schools, recreation centers and other organizations outside of work that make our lives richer. Most clinic client issues do involve our clients’ connections—or lack of them—to their communities. Housing, unemployment, family law, criminal cases, for example, all implicate community.

Larry Krieger’s data support the notion that a true community of one’s own provides a profound source of personal satisfaction.\(^{16}\) A grasp of community is also a source of better decisions for lawyers with their clients. Clinicians have developed a thoughtful literature on lawyers’ need for cross cultural competence in dealing with clients and adversaries.\(^{17}\) Most agree that cross-cultural competence requires first that the lawyer understand the lawyer’s personal cultural assumptions. And understanding one’s own culture requires examination of the threads that are woven into the fabric that is community.

As we follow this line of thinking, we should show students ways to understand not only their cultural fiber, but the cloth of their larger communities. Teachers might influence them to make work and life choices that build community for themselves and their families even as they remain sensitive to difference. What should they look for when choosing a place to live? What community assets might they want to access? What opportunities do their living and working places afford them for coming into community relation with others? I do not suggest that we undertake to counsel every student individually on these matters, simply that we let our students see how community connections support us. For when a lawyer has sought and understood the social sources of her own personal history, has opened to and bonded with a community—that person has a solid base for helping others in their struggle to become part of a community and to get along within community.

Last fall a student in our civil clinic was preparing a client for her

\(^{16}\) See Krieger, supra note 3 at nn. 8-17 and accompanying text.

direct examination in a housing court trial. A single mother with three children, the client had taken the bold step of suing her landlord to force repairs of electrical, structural and plumbing problems. The landlord—experience telling him that tenants like her could be scared off with a bit of bluster—blamed her children and housekeeping for the repairs. The dispute was headed for trial.

Toward the end of a practice direct examination, the student asked the client, “What do you want the judge to do for you?” He expected the client’s answer basically to repeat the prayer of her complaint—that she wanted the electrical outlets grounded, the toilet and tub leaks fixed, all of the repairs completed before she paid any further rent. Instead of giving the anticipated reply, the client began to cry. “I just don’t want to have to move!,” she sobbed. The student floundered, but managed to ask more about this answer. What we learned in the next fifteen minutes were the things—besides the flat itself—that the client feared losing. She wept at the thought of moving before April because she could not dig up her mature perennial garden until the ground thawed. She worried about the eighty-nine year old next door neighbor who depended upon her to shop for him when he could not get out. The public library nearby provided her children with a computer for homework that she could not afford at home.

Discussing the meeting with the student later, he realized that he had not thought much beyond the four walls of the client’s duplex when analyzing the problem she faced. In a pattern recognizable in many beginning lawyers, he had worked hard to put boundaries on her case and had limited his exploration to the “legally relevant” facts—in this case, the details of the repairs that were needed and the client’s communications with the landlord about those needs. The client, not unusually, had obliged the lawyer by not offering more in the way of facts than he let her know he needed. Also, she had become more aware of her wants and needs during the course of our legal effort.

Another reason for the student excluding so much, we learned, was that he had no personal context for understanding about the client’s garden, her connection to her elderly neighbor, the vital needs served by a public library. He lived with another student fifteen miles from the law school and knew little about his town and those who lived there. In fairness, many law students today have moved away from their communities in order to attend law school. Many do not

---

18 Details about student and client have been changed to protect their identities, but this remains a true story.

19 Many law professors also virtually move away from their home community in order
know their neighbors or where the city hall, recreation center or closest public library may be. They wouldn’t have time for community activities or for perennials even when they knew what they were.

This exchange with the client seemed to frighten the student a bit, as it revealed a set of concerns that he did not immediately grasp. His power as a lawyer was suddenly more tenuous, yet he did see at once that this simple fight for repairs was more laden with meaning than he had known. His effort for the client was newly inspired by this comprehension, even as I sensed that he did not really “get” the connections this client had knit around her and her children’s lives.

Tellingly, this student and many others do not seem to anticipate adding community connections to their lives following law school. Law students seem to have absorbed a message that embroidering one’s self into a “home” community is superfluous to becoming a competent lawyer. While it is understandable that much student energy is focused on finding a good work environment, the absence of a vision for community beyond private household and workplace is notable and distressing. Yet that is what students see in many of their law professors and peers, i.e., private household and workplace and not much in between. Is this what we now expect of professionals?

Law school often serves as a transition to new work and to new relations with community. Law professors, by virtue of proximity if nothing else, show their students ways of being involved—or not—with community. Clinical teachers may even more likely become the model for a new lawyer’s life because students see us more often outside the law school building. They may ride to court in the teacher’s car; drop papers by her house over the weekend; repeatedly set up meeting dates around the teacher’s schedule. We spend more time in one-on-one discussion with students during case supervision. They get glimpses of how we juggle home and law school, work and play, volunteer commitments and alone time. They can tell if work, home and community are integrated or fractured, if we are filled with chaos or peace. These opportunities are simply rarer in a class of 75 students than in a seminar-sized clinic.

Clinical teachers can teach students how lawyers with well-rooted local allegiances look for solutions for their clients that take community into account. Understanding that clients are woven into commu-
nities—or are not—and finding resolutions for individual clients that take the larger fabric into account come more easily when a lawyer has community of her own as a reference.

Finally, development of our own community connections is important because clinicians work often with people and organizations who are subjects of injustice. In fact, clinics often seek cases involving injustice as part of their teaching mission. Injustice generates grief and rage if we are staying alive to the situation. Yet grief and rage are not self-renewing; they are not long term healthy sources of inspiration for one’s work.

Still, righteous anger is a tried and true motivator for justice work. In a recent article, Abbe Smith puts outrage alongside respect and craft as the motivations that sustain long-term public defender practice.20 I agree with much of Smith’s analysis, but want to take it a step further. Respect for clients and joy in the craft of legal defense certainly add to the sources of energy for work with those at the bottom of the economy. But are respect and craft enough by themselves to alloy the daily dose of outrage? Smith’s analysis of how to sustain a stressful public defender law practice does not extend to how to sustain a meaningful and satisfying life.

Life satisfaction requires more than respect for clients and the joy of craft to balance the anger inherent in our work. Outrage can aid in sustaining a certain kind of practice, but it literally can shorten our lives as well.

This is where the two wanted messages of the need for emotional expression and for community merge. I do not counsel that we teach students to weep with sadness every day (though every week would not be unusual). I do not press us to express fury with students and clients and opponents on frequent occasion. Rather, lawyers working on justice issues should feel their profound sorrow and anger, but use the love and collective wisdom in community as a sort of wetland to filter the toxicity from the rivers of energy for our work.

I will close with a story of how my St. Paul community recently taught about converting grief and rage into constructive love. It was taught by example, and I have been thinking about the power of that lesson, a lesson that no one tried to teach, but one had to learn it just witnessing it.

Our 15-year-old son’s classmate was murdered—beaten to death—when he was in tenth grade. It was a case of mistaken identity. Ben had done no wrong and was two blocks from his home on a Monday evening when he was attacked by two young adults who be-

lieved he had shoved someone’s girlfriend. The only child of a low-income single mother, Ben was in the hospital for almost a week before he died. As you can imagine, serious anguish bubbled up followed by righteous anger. Some of our son’s peers spoke of wishing there was a death penalty in Minnesota or of “needing” to punch someone. Many adults responded with despair as well.

Ben’s extended family and school and the neighborhood where Ben lived put a quick stop to such talk, and began replacing it with other messages. Over the course of several weeks of mourning, they transformed the grief and rage of a public high school’s worth of teenagers and their parents into an outpouring of love and support. The perpetrators were asked to turn themselves in “so that they might come into relation with community once again.” There were 1000 people—many of them children—at Ben’s funeral, and after services and return from the cemetery all were fed from large bowls of homemade food. School administrators and teachers made sure that Ben’s classmates had a counselor available, they allowed for great individual difference in mourning behavior, and they talked with students over days about what this meant. Neighborhood meetings and vigils repeated the message that the family asked that no one seek revenge, that people embrace one another, support troubled souls such as those who committed this heinous deed, and make certain the cycle of violence was not continued.

I am not certain how Ben’s mother is doing right now. I am certain that she has many difficult days ahead. But I am also certain she knows that she and her family and the groups of people who surrounded her taught us a lesson in grace that has multiplied many times. She and her community took a hateful act and turned it into a lesson in love, an example of temperance under pressure, of mercy.

The justice system seems premised upon an approach almost the opposite of that that Ben’s mother took. That is, one purpose of law is to overcome our reluctance to act violently upon others. And so, for example, perpetrators of crimes are locked up and in many states may be killed by the government. This quality of law—to allow decisions to be made apart from a consciousness of the real violence they wreak upon the participants—can overcome students’ healthy emotional response to avoid violence. This makes the message of integrating law

21 The perpetrators of Ben’s murder were arrested, turned in by acquaintances. They pleaded guilty. They were, in fact, young men who had shown emotionally and behaviorally disordered conduct from the time they were in elementary school.

22 Cover, supra note 3 at 1613-5.

23 But not in Minnesota. . . yet. Minnesota is one of 12 states and the Dist. of Columbia that forbid the death penalty. Death Penalty Information Center, available at http://www.deathpenaltyinfo.org/state/ (last visited February 20, 2005).
and emotion all the more important. We want lawyers to remain healthy human beings in order to prevent unconscious cruelty, for oh, the law can be cruel.

All lawyers need means of transforming hate and fear so that we do not turn those emotions against others or against ourselves through depression or addiction. Law students need our guidance to learn to heed their feelings while engaged in lawyers’ work and in life. As we show law students that they need not disdain or fear their emotions, they also need ideas for how to expiate those feelings. In my experience, working and living within a web of connections to a community is one of the best ways to accomplish this. On days when the injustice in the world is most pressing upon me, it is not only the love of family, pride of craft and camaraderie of colleagues that holds me together for another day. It is also the neighbors who pay attention to my children while I am preoccupied, the local choir with whom I sing, the trees that line the streets where I walk and the people who care for those trees. It is the shopkeepers who engage me in small talk as I buy a bunch of bananas and who contribute food for neighborhood festival events, the teen-agers making videos in the park, and the elderly man who graciously accepts an arm down the icy library steps. Community is an oft-overlooked spring of love.

Ultimately, when work flows from love of what we are protecting or building, not only from anger or frustration at injustice, the source of the work inside of us is more likely to remain healthy and replenished.

Emotional health and sources of replenished energy are necessary foundations for maintaining professional excellence.