

INTRODUCTORY REMARKS TO PROFESSIONALISM AND PERSONAL SATISFACTION

CALVIN G.C. PANG*

*This essay expands on the author's remarks introducing a plenary session entitled "Professionalism and Personal Satisfaction" at the May 2003 AALS Clinical Legal Education Conference in Vancouver, British Columbia. The essay begins with the notion that while selflessness is something we admire in lawyers, the loss of self is problematic as illustrated in *The Remains of the Day*, Kazuo Ishiguro's novel about a butler whose zeal for technical professional excellence, unflinching loyalty, and sacrifice of the personal self leave an empty hull of a man. Even a more discerning sharing of self can be difficult where multiple sometimes conflicting demands pose tough unsatisfying choices. In preserving the self, is there a virtue to selfishness? Finally, the author notes the lack of imprimaturs within our legal institutions for the notion that personal satisfaction is part of becoming and being a lawyer, and that law teachers can counter this institutional silence by discussing and modeling this.*

In May, 2003, the AALS held its annual clinical legal education conference in Vancouver. The conference focused on the many meanings and implications of lawyer professionalism. Like all of our May conferences, this one featured plenaries which introduced "big ideas," and daily small group meetings to explore these ideas for meaning, relevance and applicability.

I co-facilitated a small group which, on the first day, discussed what "professionalism" meant. Several participants mentioned public service and obligations to others as important dimensions, if not, cornerstones of our profession. This gave rise to the question of whether "selflessness" was an underlying virtue, a defining characteristic of lawyers.

I expected the group to further hone in on the altruistic behavior, service ethic, and sacrifices lawyers undertake to advance justice and client well-being. Surprising me some, the group turned instead to the importance of self, urging the preservation of "self" in our work. The consensus of the group was that we *share* but do not surrender our "self" in the service of others, and that by doing so, we engage in an

* Associate Professor of Law, University of Hawaii.

expression, not a denial of “self.” Someone noted how the sharing of self inures a benefit to the sharer – far from consuming the self, the sharing expands and fulfills it. As the saying goes, “the more one gives, the more one gets.”

Although it comforts me to think this, the “math” is actually harder, and the results sometimes leave me uneasy. For example, the sharing of self has no linear result when multiple legitimate demands limit what one can share, leaving feelings of loss and inadequacy. Consider a Legal Aid attorney who struggles with fulfilling a long-made promise to attend his daughter’s championship softball game at the same time on a late Friday afternoon that an indigent family asks him to save it from an otherwise certain eviction.¹ Does he choose one over the other and live with the “carnage” of that choice? Does he stretch himself and risk an imperfect and potentially unsatisfactory response to both beneficiaries? Where then lies the fulfillment of self?

Or consider the lawyer who must decide whether to time his service of notice of hearing to opposing counsel in a way that satisfies the letter of the law but ensures that opposing counsel, whom the lawyer knows is on a vacation, will not get it in time to adequately respond.² Indeed, opposing counsel might miss the hearing altogether. That the lawyer is even considering this arises from the prior acts of opposing counsel who regularly gives no quarter, displays no civility, and would likely not hesitate to do exactly what the lawyer is contemplating. While irritated by opposing counsel’s attitude and tactics, and inclined to feed opposing counsel some of his own medicine, the lawyer is troubled because he sees himself as fair, considerate, and above what he considers “dirty tricks.” He relishes the chance to retaliate but senses a crucial personal cost in doing so. He finds some comfort in thinking about how a decision to proceed will benefit his client, at least in the short term, but he remains unsettled.

Here, the calculation of what is professionally responsible includes an element of selfishness, a desire for personal vindication. From the viewpoint of preserving the self, is there a virtue to being selfish, and to what extent does being “professional” mean shutting off personal feelings and motives? The hypothetical also raises the adage of being “true to self,” whatever that self, in all its moving and

¹ This hypothetical was posed by the opening plenary panel at the Vancouver conference to help us think about the hard choices we make when personal circumstances, feelings, expectations, and morals intrude into, or perhaps are intruded upon, by professional demands legitimately imposed by such sources as clients or potential clients, and standards of conduct.

² This is a variation of another hypothetical posed by the opening plenary panel.

competing parts, is. The vindication of one part of self may well mean the denial or violation of another, thus creating a complex equation of plusses and minuses. Giving more to get more isn't that easy.

These scenarios provide us a chance to contemplate the tension between personal feelings and professional decision-making, between personal responsibilities and professional obligations. Some people would choose one or the other; others might attempt the hard calculus of bridging the divide and weaving a single seamless cloth. In either case, we want to be "correct," not only in how we satisfy the technical requirements of professional codes and even personal credos, but in how we enrich our sense of self.

What is the place of personal satisfaction in professionalism? In the essays that follow, Larry Krieger from Florida State University makes the case for why this matters and will rely on empirical data that links a high incidence of pathologies in our profession and law schools with an overemphasis on competition, status, and monetary rewards. Ann Juergens from William Mitchell, describes what she stresses to students when raising personal satisfaction in her teaching and discussions on professionalism. These gifted teachers suggest different avenues to arrive at a common point: Larry identifies and adheres to values and motivations that enhance wholeness and Ann seeks connections and communities, and preserves authenticity by having and appropriately expressing true emotion. Both urge us to be attentive not only to the brain and heart, but also to the soul.³

While these clinicians stress different things, they converge at the same place, one that honors an inner rudder which orients them toward "the heart of the matter,"⁴ or the things that *really* matter. They pay attention to an upward self that yearns for meaning, purpose, and authenticity, and places work within a larger life journey.

Larry and Ann are attentive to the spiritual nature of their work.⁵

³ This was also the sentiment of a third panelist, Bob Seibel, who talked about the importance of having fun and experiencing joy as lawyers. He underscored this during our preparations by surprising us with a little postal package containing a toy hamster dressed as a convicted ex-corporate CEO. The toy hamster danced to the tune, "Money, Money, Money." All of us brought our hamsters to the plenary and had them "perform" as our finale.

⁴ During our presentation, Bob Seibel provided us with a musical interlude in the form of Don Hensley's "The Heart of the Matter." The song presents many thoughts – focusing on the wrong things, squandering important relationships, losing self, forgiving and seeking forgiveness, and finding redemption after loss. As teachers and lawyers who move constantly toward expertise and plateaus of proficiency, the song also serves to remind us that:

"The more I know, the less I understand

All the things I figured out, I have to learn again."

⁵ I wrote more generally about spirituality in the work of lawyers and law students in *Eyeing the Circle: Finding a Place for Spirituality in a Law School Clinic*, 35 WILLAMETTE L. REV. 241 (1999). Professor Lucia Ann Silecchia wrote compellingly about a the same

For each, their professional work is not only for procuring daily bread, but for finding daily *meaning*.⁶ While sometimes difficult, their work animates their lives, and brings joy to them and others. Their message, sometimes explicit, other times implicit, challenges their students, and hopefully transforms them.

Having teachers discuss and model the shaping of a meaningful life is important. For one, it raises the visibility of this often ignored point: that finding joy and personal satisfaction is part of becoming and being a professional. This “talking and walking” counteracts an institutional silence.⁷ Certainly, our Model Rules of Professional Conduct say nothing about personal satisfaction. Perhaps they shouldn’t. Viewing the rules as disciplinary brightlines, it would be unseemly to mandate personal satisfaction and sanction those who don’t achieve it. In addition, matters of personal satisfaction in our professional lives fit more snugly into the realm of personal credos, choices, and decisionmaking. Yet I find the silence in the Rules discomfiting because it deprives us of an important imprimatur. I am comforted only by my belief that the Model Rules never intended joyless, desiccated lives for its practitioners.

When I discuss professionalism and the Model Rules with my students, I ask them to imagine the lawyer conjured by the Rules. What we always get is someone who is loyal, generous, competent, discerning, courageous, resistant to crass self-gain, and committed to serving others. Perhaps the hope is that if you are all these things, you will derive personal satisfaction in your work. Someone who is all this is certainly worthy of admiration, and would probably draw some joy and satisfaction for having these qualities and infusing them into their work. But is it enough?

I think of James Stevens, the butler and protagonist in Kazuo Ishiguro’s *Remains of the Day*.⁸ This story represents to some in the

topic in her article, *Integrating Spiritual Perspectives with the Law School Experience: An Essay and an Invitation*, 37 SAN DIEGO L. REV. 167 (2000).

⁶ I lift this from Stud Terkel’s book, *WORKING*. Terkel wrote: “This book is about a search, too, for daily meaning as well as daily bread, for recognition as well as cash, for astonishment rather than torpor; in short, for a sort of life rather than a Monday through Friday death.” *STUDS TERKEL, WORKING* xiii (1985).

⁷ Larry Krieger wrote about an aspect of institutional silence in his article *Institutional Denial about the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112 (2002). In his article, Larry argues that far from engaging students in discussing how our professional activities should enhance personal integrity and joy, “[t]he interplay of [our] “dominant law school constructs ultimately teaches many students to put aside their personal life and health and accept persistent discomfort, angst, isolation, even depression as the cost of becoming a lawyer.” *Id.* at 118.

⁸ KAZUO ISHIGURO, *THE REMAINS OF THE DAY* (1989). This novel chronicles the career of butler James Stevens who heads the household of a British lord. Written as a

legal academy, a meditation on lawyer professionalism.⁹ Stevens dedicates his life to the service of his master and does so admirably. He would probably meet the spirit if not the requirements of our rules of professional conduct. He is loyal, excellent in the prosecution of his duties, even the most difficult ones, endlessly giving to his master, self denying, and at some levels, supremely courageous. His peers and his employer, Lord Darlington, regard him as the quintessential professional. Stevens is pleased with the quality of his work, has no doubts about the nobility of his calling, and derives pride from the service he so competently provides. Yet, his life is ultimately diminished because he believed too long that professional excellence was all he needed. This causes him to squander an invitation to love, fail to attend his father's death, and suppress his unease about his master's well-intentioned but misguided sympathies for an emerging Nazi Germany.

What the fictional Stevens lacked was an imprimatur to do the obvious: to love openly, to care enough for himself, to think richly about a world and a life that extend far beyond his duties. Seduced by the "dignity" that suffused the professional code of butlers, Stevens regards true living as untidy, distracting, and inconvenient. This diminution allows him to squeeze personal morals, values and judgment from his work, and ultimately constricts his map of professionalism.¹⁰ No model code nor other authority disabuses him of this. Likewise, lawyers lack or have too few external signposts that ward us from the processes – for example, our addictions to achievement, control, and overwork – that, without counterweights, quietly but surely separate us from a life of meaning.

As teachers, we are positioned to provide all sorts of imprimaturs for our students, and we do so by word, deed, and example. Because other socializing media, such as our written codes for lawyer conduct, fail to say enough to encourage wholeness in our students, we must do it. We must do so to help our students find deeply enduring rewards

collection of reflections by Stevens late in his career, the novel invites comparisons between butlers and lawyers.

⁹ Several articles have explored the relationship between Ishiguro's work and legal professionalism. Two oft-cited works are Rob Atkinson, *How the Butler was Made to Do It: The Perverted Professionalism of the Remains of the Day*, 105 *YALE L. J.* 177 (1995), and David Luban, *Stevens's Professionalism and Ours*, 38 *WM. & MARY L. REV.* 297 (1996).

¹⁰ In Stevens's case, this leads to tragedy, at least in the movie version starring Anthony Hopkins and Emma Thompson. While briefly under the spell of a fascist movement in England, Stevens's master, Lord Darlington, orders the firing of two Jewish women from the housekeeping staff. Although aware that this would lead to difficult, possibly fatal consequences (the movie suggests a deportation of the women to Germany) for the two maids, Stevens does little to protest his employer's decision, and implements the firing over the strong objections of the lead housekeeper whom he secretly loves.

in a profession that is difficult and challenging at so many levels. And we must do so because our clients deserve our best efforts which most likely and often occur when our practitioners live joyful, meaningful, and integrated lives.¹¹

I close with a reading from Steve Keeva's book, *Transforming Practices*¹² which warns of what happens if we don't provide the imprimatur, and fail to imbue our own work with things our panelists will speak of. An editor of the *ABA Journal*, Mr. Keeva wrote:

Caring, compassion, a sense of something greater than the case at hand, a transcendent purpose that gives meaning to your work – these are the legal culture's glaring omissions. [T]o a great extent, such qualities are missing from the academy and in most law firms, and they are conspicuously absent from many lawyers' mental maps. Without them, only one criterion remains by which to measure success, one that has nothing at all to do with your need to do meaningful work or to belong to a profession that stands for something worthwhile: money.¹³

We then drift away from being a profession to becoming no more than a business. However we define professionalism, we know it means more than the generation of lucre. It even means more than being technically excellent or following professional rules. There is a space that transcends all this, a space where meaning meets our work and transforms it.

Larry Krieger once wrote, "It is wholly unrealistic to expect that depressed or highly distressed lawyers will exemplify professional behavior, no matter how well they are schooled on their obligations."¹⁴ As clinical teachers, we are uniquely positioned to convey this message to our students loudly and often, as well as, to model behavior that demonstrates the synergy between self-satisfaction and a high level of professionalism. We are also positioned to help students understand and navigate the turbulence that sometimes accompanies the

¹¹ In her review of empirical studies regarding attorneys, Susan Daicoff summarized research findings about characteristics of an effective lawyer. Describing a study of attributes associated with lawyer success, she wrote: "[S]uccessful lawyers were more often rated as 'contented, fair-minded, sincere, ambitious, competitive, confident, outgoing, sophisticated, intelligent, capable, reasonable, and self-controlled.'" Less successful ones were more often . . . 'cautious, dissatisfied, vulnerable, defensive, depressed, frustrated and lonely.'" She noted that less successful lawyers appeared more "neurotic, hostile, and inhibited and less creative, imaginative, and interested in sentimental, 'softer' interests." Susan Daicoff, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 AM. U. L. REV. 1337, 1395 (1997) (citations omitted).

¹² STEVEN KEEVA, *TRANSFORMING PRACTICES, FINDING JOY AND SATISFACTION IN THE LEGAL LIFE* (1999).

¹³ *Id.* at 11.

¹⁴ Krieger, *supra* note 7, at 116.

discovery and fulfillment of the self, in all its complexity. Our own rudders may swivel imperfectly, but swivel they do. We needn't have all the answers, only the willingness to be a fellow sojourner.