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Defining wellness in legal education: A reply to Kawamata

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Abstract

This article responds to Oscar Kawamata's thought-provoking criticisms of the conception of law student well-being that I previously advocated in this journal. Kawamata argues that my objective model of well-being is unrealistic and unhelpful from his perspective as a law student, proposing instead a subjective account grounded in Buddhist philosophy. While acknowledging Kawamata's valid concerns, I suggest that an idea of well-being with objective elements is still preferable to a purely subjective conception. Put simply, well-being does not just consist in changing your mind; sometimes, you need to change your life as well.

Keywords

Wellness, well-being, legal education, contentment, Buddhism, freedom, Sartre

In 2020, I published an article in the *Alternative Law Journal* entitled 'What is wellness? The role of human values'.¹ Early last year, I was surprised and delighted to receive an email from Oscar Kawamata, a University of Queensland law student, sharing with me a draft response he had written from a student standpoint. Kawamata's excellent article was subsequently also published in this journal.² The present article responds to some of his criticisms.

The main aim in my original article was to criticise some views of well-being that are common in the literature on legal education and offer an alternative account. The target of my criticisms was subjective views of well-being that define it either as the absence of psychological distress or as the presence of life satisfaction or positive affect.

I advanced two main objections to these accounts of well-being.³ First, these accounts are thin in the sense that they tell us what well-being is without explaining what its causes are or what measures are needed to achieve it. They therefore offer limited guidance as to how we can successfully improve well-being among law students.

Second, subjective accounts of well-being are dangerous insofar as they can mask the underlying causes of psychological distress. Defining well-being in terms of subjective experiences encourages responses that target those experiences without addressing their structural origins. This might include, for example, teaching law students stress management techniques while failing to change their stressful study environments.

My response to these problems was to offer an alternative definition of well-being as 'participating in the various dimensions of human flourishing in a balanced and integrated way'.⁴ This is an objective definition as it focuses not on subjective feelings, but rather whether someone's life is actually going well. This is measured by their access to basic modes of human flourishing such as health, pleasure, friendship, play and so on.

The notions of balance and integration play an important role in my theory.⁵ The notion of *balance* captures the idea that there is more than one dimension of human well-being. A life that is devoted to one aspect of well-being to the

¹Jonathan Crowe, 'What is wellness? The role of human values' (2020) 45(4) *Alternative Law Journal* 261.

²Oscar Kawamata, 'Legal education, wellness and Buddhism: A student's response to Crowe' (2023) 48(1) *Alternative Law Journal* 67.

³Crowe (n 1) 262.

⁴Ibid 262, 265.

⁵Ibid 264–5.

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exclusion of all others is unbalanced and unlikely to bring satisfaction and contentment.

Integration, on the other hand, reflects the idea that the components of a person's life plan should form a coherent and integrated whole. The law school experience often undermines both balance and integration for law students, making them feel like they are losing sight of those things that give their lives enjoyment and meaning.

Kawamata's response interrogates my argument in some valuable and thought-provoking ways. He suggests that my model of well-being is unrealistic and unhelpful from his perspective as a law student. He then proposes a subjective conception of well-being grounded in Buddhist philosophy that avoids some of my criticisms.

Kawamata gives a frank and insightful description of his experience as a high achieving law student facing mental health issues.⁶ Objectively, he achieved many of the conventional yardsticks of law student success, such as high grades, a prestigious clerkship, and an active social life. Nonetheless, he continued to struggle with anxiety and self-doubt.

Kawamata draws on his experiences to generate some objections to my account of well-being. First, he objects that my account is not what people normally mean by well-being.⁷ He argues that if we compare a prisoner in solitary confinement who finds inner peace and happiness with an outwardly successful legal professional who experiences suicidal thoughts, most people would judge it is the former and not the latter who is truly well.

Second, Kawamata contends there is no necessary connection between my objective account of well-being and subjective satisfaction.⁸ I maintain that the two generally go together, but Kawamata counters that everyday experience tells otherwise. Finally, Kawamata suggests that my focus on objective values could itself undermine student well-being by making students who experience psychological distress feel guilty for not living a flourishing life.⁹

I think Kawamata's two examples – the prisoner who finds inner peace and the legal professional with suicidal thoughts – are telling as to the disagreement between us. Let us start with the prisoner. Kawamata suggests somebody in solitary confinement could attain subjective well-being when they realise the external world is impermanent and true contentment lies within. He draws here on a Buddhist conception of enlightenment.

This reminds me of a similar example advanced by Jean-Paul Sartre. Sartre argues in *Being and Nothingness* that even a prisoner remains absolutely free – not because they are free to get out of prison, but because they are free to choose their values and commitments.¹⁰ Later, he compares the situation to someone faced with an unclimbable rock. The rock is an obstacle only to

someone who wishes to climb it; for anyone else, it is no barrier.¹¹

Freedom, for Sartre, is not a matter of changing your circumstances, but of changing your mind. However, this conception of freedom has been criticised – most famously by Sartre's contemporary, Maurice Merleau-Ponty – for its unrealistic and stoical character.¹² It gives the prisoner no concrete tools to critique or challenge their situation, but rather places the onus on them to adapt by changing their subjective outlook.

What about Kawamata's second example, the successful legal professional? The point is supposed to be that this person has all the objective markers of well-being but is nonetheless clearly unwell. Here, however, Kawamata anticipates my reply.¹³ The legal professional may have the conventional markers of success in the law, but these do not necessarily align with objective well-being; specifically, their life may lack balance and integration.

What, then, is the solution to the legal professional's predicament? For Kawamata, as for Sartre, the answer is to change their mind; once they accept the impermanence of life, they can attain true well-being. I suggest, by contrast, that the answer is not to change their mind, but to change their life. Why is this a better response?

I will give a positive and a negative reason. The positive reason is that this response is empowering – it enables the person to address their well-being by changing their circumstances. A thick objective account of well-being gives people the tools to diagnose why their life is not going well and assess what might make a practical difference.

The changes required might not be easy. In the case of the legal professional, they might require a change of job or even career. Some people might find that to improve their well-being they need to leave a long-term relationship or distance themselves from a toxic family member. However, it is even more unlikely that a person will make these kinds of difficult life changes if they lack an explanation of why they are important.

This leads me to the negative reason. Kawamata's subjective conception of well-being, due to its grounding in Buddhism, is not thin;¹⁴ it therefore avoids my first criticism of other subjective approaches. However, I still worry about my second objection: namely, that such a conception masks the underlying causes of distress.

It is common for people in toxic life predicaments to engage in avoidant coping as an alternative to confronting the situation directly. They may think that if they can just change their mind – that is, their attitude or outlook – then they can cope. This strategy may seem to work in the short term but can be extremely harmful in the long run.

Kawamata responds to this challenge by noting that '[d]elusion and resignation are not the same as true

⁶Kawamata (n 2) 67–8.

⁷Ibid 68.

⁸Ibid.

⁹Ibid 69.

¹⁰Jean-Paul Sartre, *Being and Nothingness*, tr Sarah Richmond (Routledge, 2020) 631.

¹¹Ibid 637.

¹²Maurice Merleau-Ponty, *Adventures of the Dialectic*, tr Joseph Bien (Northwestern University Press, 1973) 189–91.

¹³Kawamata (n 2) 68–9.

¹⁴Ibid 70.

satisfaction'; they do not lead to 'true' or 'lasting' subjective well-being.¹⁵ He goes on to acknowledge that external conditions such as 'abusive relationships or vicious overwork' may prevent 'genuine happiness' even on a Buddhist model.¹⁶

This comes close to recognising that happiness is not just a matter of changing your mind; you must change your life as well. However, if this is so, then what do we gain by insisting on a purely subjective conception of well-being? What we need, I suggest, is a pluralistic idea of well-being that recognises the importance of mental and physical health, but also the role of external conditions in ensuring or inhibiting a flourishing life.

This is the kind of view that I develop in my article. Kawamata's Buddhist account, meanwhile, emphasises the importance of inner peace. However, he also recognises the role of external factors, such as physical well-being and healthy relationships, even going so far as to suggest that 'true' or 'lasting' well-being depends on these considerations.¹⁷ Ultimately, perhaps, there is less distance between our positions than it might at first appear.

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¹⁵Ibid 71.

¹⁶Ibid.

¹⁷Ibid.