

Does Mindfulness Enhance the Study and Practice of Law?

By RHONDA V. MAGEE*

Introduction

IN HER BLOG, *Seeking Serenity, When Lawyers Go Zen*, author Amanda Enayati reflects on an interview with U.S. Supreme Court Justice, Stephen Breyer, in which the Justice briefly discussed a practice that supports him in maintaining his physical wellbeing and provides a background resource for his demanding work at the highest level of the legal profession.¹

The Justice hesitates to call his practice meditation.²

But he does not hesitate to describe how it benefits him in the effort to remain healthy, reduce stress, and be more effective in his professional role:

To say that I am a meditator is overstating it . . . I don't know that what I do is meditation, or even whether it has a name. For 10 or 15 minutes twice a day I sit peacefully. I relax and think about nothing or as little as possible. And that is what I've done for a couple of years . . . And really I started because it's good for my health. My wife said this would be good for your blood pressure and she was right. It really works. I read once that the practice of law is like attempting to drink water from a fire hose. And if you are under stress, meditation—or whatever you choose to call it—helps. Very often I find myself in circumstances that may be considered stressful, say in oral arguments where I have to concentrate very hard for extended periods. If I come back at lunchtime, I sit for 15

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1. Amanda Enayati, *Seeking Serenity: When lawyers go zen*, CNN BLOGS: THE CHART (May 11, 2011, 11:15 AM), https://caljudges.org/mwp/docs/20110511_Seeking_Serenity.pdf [<https://perma.cc/E4SV-SQ4B>].

2. *See id.*

minutes and perhaps another 15 minutes later. Doing this makes me feel more peaceful, focused and better able to do my work.³

The Justice's discussion of his relaxation practice is brief. But what it lacks in length is more than matched by what it serves forth in powerful testimony: Justice Breyer was engaged in full-time work on this country's highest bench at the time,⁴ in a field that demands highly focused analytical and ministerial work, but his practice of pausing and letting go of thought—a practice that would indeed be called a form of meditation by untold numbers of people—left him feeling not only more peaceful but more effective in his work.⁵

Meditations like Justice Breyer's are just one of many practices that fall beneath the umbrella of mindfulness—a broad array of practices and principles that support paying attention in particular ways, on purpose and with openness, and lead to a more flexible way of being in our professional roles. Part I of this essay illuminates how I came to discover and commit to daily practices of mindfulness as a support for enriching my personal and professional life. Part II discusses how I implemented these practices in association with other legal professionals. Part III describes how I brought these practices to law students in classes and co-curricular offerings at the University of San Francisco School of Law (“USF Law”), culminating in the Center for Contemplative Law and Ethics.⁶ Part IV touches on empirical studies supporting the benefits of teaching mindfulness to law students. I conclude with an invitation to all who seek to enhance their personal and legal pursuits to explore the benefits of mindfulness in their lives.

I. My Journey to Mindfulness

How I discovered mindfulness is a story I've told often. As a child in a family going through divorce, I spent some of my earliest days in the home of my grandmother, who had been called to the Christian ministry by the time I'd come along. “GranNan” would get up every day before dawn and center herself for the work ahead. She would spend thirty minutes or more in silence. Her practices were no doubt grounded in prayer and Bible study—like Justice Breyer, she would not have called this meditation—but what stood out for me as a child and stayed with me into my early adulthood, was

3. *Id.*

4. *See About the Court*, SUP. CT. OF THE U.S., <https://www.supremecourt.gov/about/biographies.aspx> [<https://perma.cc/Y28A-26G3>].

5. Enayati, *supra* note 1.

6. Suzanne Taye Kelley, *Introducing the Center for Contemplative Law and Ethics*, UNIV. OF S.F. SCH. OF L. (Nov. 15, 2022), <https://www.usfca.edu/news/introducing-center-contemplative-law-and-ethics> [<https://perma.cc/3G2C-ACBR>].

the unfailing regularity and consistency of her commitment. This was simply how she started her day—every day. And no matter what challenges she was experiencing—and in her life, as a Black woman who witnessed the restoration and legalized justification of White Supremacy in the South across the early twentieth century, there were many—she would emerge from those practices uplifted and ready. On more days than not, she'd be singing a gospel song! By no means was she deluded as to the challenges that she faced. But through these practices, she found ways of keeping her head up. Despite limited resources, she kept doing what she could.

Fast forward to 1993 when I had just received a fine, traditional education in law at the University of Virginia, moved to San Francisco where I studied for and passed the bar, and found myself with a couple of months to spare before the start date of my first job. I was well-equipped to work hard and achieve my goals, but what I lacked was the ability to use this free time to pause, relax, and reset. I found that even though I had the time, I had been studying so hard and for so long that I had somehow lost the ability to take a break, turn off the thinking-processing-judging mind, and just enjoy life. I realized that despite all I'd learned—in law school, in graduate school studying advanced sociology before that, and along the way, training to become a Lieutenant in the U.S. Army—the one thing that I had not learned was how to focus and self-regulate my own emotions and mind. That realization led me to explore meditation practices. I recalled how GranNan started her day with intention and devotion. Eventually, I decided to explore how I might, in my own way, dedicate myself to doing the same. And those early explorations proved so valuable in my days as a practicing lawyer and eventually, as a law professor, that I found myself exploring ways of deepening my practice.

II. Mindfulness in the Practice of Law

For me, committing to the regular, daily practice of meditation and the cultivation of mindfulness only happened after I had found a small group of lawyers—yes, lawyers—with whom I was invited to meditate once a month, starting in 2003. The group consisted of about fifteen members of the legal profession involved in a range of practice areas, including criminal, real estate, environmental, immigration/asylum, ADR/mediation, and beyond. There was a magistrate judge or two, as well as a few law professors, teaching in areas including property, ethics, and refugee/asylum law. Sponsored by the Center for Contemplative Mind in Society, we'd meet in the home of one lawyer or another (usually in Berkeley where most of them lived). And with

the benefit of meditation master and poet Norman Fischer,⁷ who served as our teacher and guide, the members of that group inspired one another to take our practices off the mat, so to speak, and into the world.

By 2007, we were co-leading retreats for lawyers at places like the Spirit Rock Meditation Center.⁸ In 2013, we sponsored a conference and workshop at the University of California, Berkeley, School of Law, bringing together law professors and practitioners to share what they had learned and to inspire the development of contemplative law.⁹ Those efforts spurred the organized commitments of law professors across the country, and the Mindfulness in Law Society was born.¹⁰

Justice Breyer retired in early 2022 (clearing the way for his former clerk, Ketanji Brown Jackson,¹¹ to ascend to a seat on the U.S. Supreme Court in his place), and thus he no longer needs the professional support of a mindfulness regimen. But the tradition of mindfulness continues on as many in our profession of half a million lawyers—serving as judges, advocates, and professors—report receiving similar benefits from meditation and other forms of mindfulness-based support.¹² And its developments continue, embraced by both the Association of American Law Schools, whose Balance in Legal Education section has incorporated mindfulness since its founding;¹³ and the American Bar Association, whose Commission on Lawyer Assistance¹⁴ challenged legal employers to sign a “Wellbeing Pledge”¹⁵ in 2020, which led to the founding, in that year, of the Institute for Wellbeing in

7. See *About Norman Fischer*, EVERYDAY ZEN FOUND., <https://everydayzen.org/about/norman-fischer/> [https://perma.cc/7CUR-GC3Q].

8. See *The Law Program*, THE CTR. FOR CONTEMPLATIVE MIND IN SOC’Y, <https://www.contemplativemind.org/programs/law> [https://perma.cc/8LQD-3G9H] (where we taught “Effective Lawyering: The Meditative Perspective” co-sponsored by the now-defunct Center for Contemplative Mind in Society).

9. See generally *Workshop on Mindfulness in Legal Education*, BERKELEY SCH. OF L., <https://www.law.berkeley.edu/workshop-on-mindfulness-in-legal-education/> [https://perma.cc/TL23-TQUM].

10. See generally *MINDFULNESS IN L. SOC’Y*, <https://www.mindfulnessinlawsociety.org/> [https://perma.cc/36RQ-UL5S].

11. SUP CT. OF THE U.S., *supra* note 4.

12. See, e.g., Enayati, *supra* note 1.

13. *Section on Balance & Well-Being in Legal Education*, THE ASS’N OF AM. L. SCHS. (May 22, 2007), <https://www.aals.org/sections/list/balance-well-being-in-legal-education/> [https://perma.cc/Q78E-XUZG].

14. See *Commission on Lawyer Assistance Programs*, A.B.A., https://www.americanbar.org/groups/lawyer_assistance [https://perma.cc/TX6P-LEWM].

15. *Well-Being in the Legal Profession, Well-Being Pledge Campaign*, A.B.A., https://www.americanbar.org/groups/lawyer_assistance/well-being-in-the-legal-profession/ [https://perma.cc/LK2D-4ZXY].

Law.¹⁶ These are just a few of many examples of the invaluable support that these practices have provided to so many since mindfulness burst onto the legal scene.

III. Mindfulness in the Study of Law

As I explored the benefits of mindfulness, often in conjunction with other legal professionals, one question remained: Could practices supporting the development of a mindfulness mindset actually help law *students* in particular? It will surprise few of my readers to know that I believe they can. As many know, my own slow empiricism research, scholarship, teaching, and service have been instrumental in galvanizing the movement to include mindfulness in legal education, professional development, and leadership.¹⁷ This work is both an outgrowth of my experience and an inspiration for the ongoing conviction: mindfulness meditation and related applications and practices can assist in a broad range of professional wellbeing, ethics, and excellence goals that are meaningfully translated to the experience of law students in the twenty-first century.

I have explored the efficacy of mindfulness for law students in classes I've offered at USF Law. In 2008, I joined forces with colleagues Professor Tim Iglesias¹⁸ and Adjunct Professor Judi Cohen¹⁹ to co-create a variety of mindfulness-based offerings for our law students and the broader community. We offered brown bag lunches to discuss mindfulness and its implications for law schools and related communities. We offered in-person (and now online) drop-in sessions, weekly meditation sessions, and introductory mindfulness sessions in the 1L Orientation program. In 2009, we offered our first Contemplative Lawyering class at USF Law.²⁰ It was among the very

16. See *How It All Began: The Evolution from the National Task Force to the Institute for Well-Being in Law*, INST. FOR WELL-BEING IN L., <https://lawyerwellbeing.net/how-it-all-began/> [<https://perma.cc/G7JL-99TN>].

17. See, e.g., Rhonda V. Magee, *Educating Lawyers to Meditate?*, 79 UMKC L. REV. 3 (2010) (lead article); see Rhonda V. Magee, *The Way of ColorInsight: Understanding Race and Law Effectively Through Mindfulness-Based ColorInsight Practices*, THE GEO. J. OF L. AND MOD. CRITICAL RACE PERSP. 1, 20–21 (2015); see also Susan L. Brooks, *Fostering Wholehearted Lawyers: Practical Guidance for Supporting Law Students' Professional Identity Formation*, 14 UNIV. ST. THOMAS L.J. 3 (2018) (citing Rhonda V. Magee, *Legal Education and the Formation of Professional Identity: A Critical Spirituo-Humanistic—"Humanity Consciousness"—Perspective*, 31 N.Y.U. REV. L. & SOC. CHANGE 471 (2007)). Compare with Melanie Bradley, *Goethe's "Delicate Empiricism": Assessing its Value for Australian Ecologists*, 27 AUSTL. J. OF ENV'T EDUC. 81, 81 (2011) (defining delicate empiricism, which is comparable to slow empiricism).

18. See *Tim Iglesias, Professor Emeritus*, UNIV. OF S.F. SCH. OF L., <https://www.usfca.edu/law/faculty/tim-iglesias> [<https://perma.cc/GU5M-8WW9>].

19. See *Judi Cohen, Lecturer*, BERKELEY L., https://www.law.berkeley.edu/our-faculty/faculty-profiles/judi-cohen/#tab_profile [<https://perma.cc/3G9G-CL6R>].

20. See Rhonda V. Magee, *supra* note 17, at 16 (2010).

first of its kind.²¹ The class was very well-received, with a waiting list from the first offering, and has been offered continuously every year since. Students' experiences have been remarkable and unique. The opportunity that mindfulness meditation presents for students to get to know their mental and emotional habits and patterns more intimately is more challenging than they ever imagined it would be. Over the years, students have consistently rated the course as one of the most rewarding that they have ever taken.

Offering this course has been a tremendously enriching experience for me as well. Over the years, I have continued to deepen my own personal practice alongside my offerings to USF Law students and other members of our community. I discovered the importance of grounding mindfulness offerings in the ethical foundations of the practices common to the cultural settings of their origins for millennia.

Relatedly, and consistent with my specific role as a law professor, mindfulness practices and engagement have helped me address deeper jurisprudential concerns, including what many perceive as *alienation* that often deepens for those who undertake the study of law—alienation from our ourselves, including our deepest values and emotions, and from one another, our communities, and our planet. Expanding my own consciousness through the perspective of mindfulness supported my efforts to explore more fully the ethical demands of justice in an ever-changing, diverse world. The practice helped me to address my own version of alienation as a member of the profession and navigate some of the challenges that arise as the legacies of historical discrimination and exclusion that I faced as a Black woman working at the intersection of the two formidable professions of academia and law.

These experiences provide a foundation for my efforts to contribute in unique and meaningful ways to the development of culturally and trauma-sensitive mindfulness-based interventions, in legal education and beyond.²²

As the recently appointed Director of the USF Center for Contemplative Law and Ethics (the "Center"), I look forward to working with others to bring professional identity enrichment together with cultural competency development. This will deepen our ability to address the hardest problems we face with ethical clarity and deepen culturally responsive lawyering among law students and alumni. The foundation for the Center's uniquely dynamic offerings includes mindfulness-based, socially engaged practices which have been scientifically shown to increase personal, professional, and social

21. *See id.*

22. *See generally* RHONDA V. MAGEE, *THE INNER WORK OF RACIAL JUSTICE: HEALING OURSELVES AND TRANSFORMING OUR COMMUNITIES THROUGH MINDFULNESS* 1–8 (Tarcherperigee, 2019) (garnering the following awards: the Garrison Institute's 2019 "Insight+Impact" Award and the inaugural Reed Smith "Excellence in Wellbeing in Law" Award (2021); award sponsored by the Institute for Wellbeing in Law).

wellbeing for us all.

IV. Empirical Support for Implementing Mindfulness in Legal Education

Over most of the past twenty years, empirical evidence provided few answers when exploring the benefits of mindfulness. There was no published study based on law student experiences until someone decided to do something about it. And that's when my friend and colleague, Professor Richard Reuben of the University of Missouri, Kansas City,²³ joined forces with expert empiricist Kennon Sheldon.²⁴ In 2013, Richard began conferring with a group of law professors who were introducing mindfulness at a variety of universities and exploring the possibility of a first-of-its-kind study.²⁵ The results, published in 2019, were encouraging: Participants in an eight-week introductory mindfulness course, “leading up to first semester exams . . . were less stressed, more focused, and happier heading into exams than when they started the training in the middle of the first semester.”²⁶ This study reinforced my belief that mindfulness is worth integrating into legal education and strengthened my resolve to deepen our skillful means of doing just that.

In alignment with the research in other settings,²⁷ and consistent with my experience, the case is clear: mindfulness *does* help support law students across a range of backgrounds, goals, and experiences to enhance their personal and professional development—both in law school and in the broader sense that greater wellbeing enhances one's whole life.

23. See Richard C. Reuben, UNIV. OF MISSOURI SCH. OF L., <https://law.missouri.edu/person/richard-c-reuben/> [<https://perma.cc/TX2C-76PL>].

24. See generally Ken Sheldon, College of Arts and Science, Psychological Sciences, UNIV. OF MO., <https://psychology.missouri.edu/people/sheldon> [<https://perma.cc/9KJG-L76N>].

25. Richard C. Reuben & Kennon M. Sheldon, *Can Mindfulness Help Law Students with Stress, Focus and Wellbeing? An Empirical Study of 1Ls at a Midwestern Law School*, 48 SW. L. REV. 241, 241 (2019) (thanking the “Dream Team” of interdisciplinary scholars—including this piece's author—for helping adapt the traditional Mindfulness Based Stress Reduction program to the law school context).

26. *Id.* at 242–43; see also *id.* at 253 (finding that the research project sought to evaluate the impact of the Course on participants' performance; the results were statistically insignificant).

27. Camila Caballero et al., *Greater Mindfulness is Associated With Better Academic Achievement in Middle School*, INT'L MIND, BRAIN, AND EDUC. SOC'Y AND WILEY PERIODICALS, INC. 1, 1 (2019) (“Greater mindfulness correlated significantly with better academic achievement as measured by grade point average and standardized tests of mathematics and literacy, greater improvement in academic performance from the prior school year, better attendance, and fewer suspensions. The relation between mindfulness and academic achievement was similar across demographic characteristics.”).

Conclusion

And so, just like Justice Breyer, I typically pause to meditate twice a day, in my case, for ten to twenty minutes, early in the morning, to assist in focusing and setting the tone of the day, and once again in the evening, as part of my preparation for a good night's sleep. These and related practices—walking, journaling, mindful communication, and more—have traveled with me through my earliest days of legal practice into teaching legal education, engaging in service, and undertaking leadership roles. Mindfulness practices have helped me strengthen myself when needed, across a range of roles. They have helped me increase my understanding and life-long learning, maintain a sense of connection, and deepen my sense of personal fulfillment. And each of these experiences—when combined with the awareness that is the foundational skill of mindfulness meditation—have supported me in maintaining a sense of wellbeing across my career.

But please don't take my word for it! The efficacy of these practices can be found in one's own experiences and actions. I encourage students, fellow faculty, staff, and alumni of USF Law to join in these efforts. Get involved with the Center. Take the course in Contemplative Lawyering. Join our community of dedicated meditators in a mindfulness meditation and reflection session. Whether you are practicing law, serving on the bench, getting involved in policy work, or serving as a leader (and we are all serving as leaders somewhere!), I invite and encourage you to explore the possibilities for yourself, and to drop us a line letting us know what you find along the way.