

*Call for Action*

# The Silent Epidemic

## **Well-Being and Personal Health of Legal Professionals in Times of Digital Transformation and Social Change**

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*Covid-19 is changing the world with unprecedented intensity and speed – it feels like our public lives will never be the same again. This pandemic should make us more aware of other threats lurking in the dark which could have an equally negative impact on society. The [Liquid Legal Institute](#) is tackling a sensitive issue that far too long has been taboo in the legal industry and that now, in times of digital transformation and fundamental social change, may turn out to become a silent epidemic: the declining well-being and personal health of lawyers and legal professionals.*

### **Only Healthy Lawyers Are Good Lawyers!**

The current Covid-19 pandemic will inevitably lead to a global recession the extent and duration of which cannot yet be foreseen. What is clear, however, is that this worldwide health crisis is already disrupting people's personal and professional lives more than they have ever experienced in their lifetimes. It is one of the biggest human catastrophes since the second world war, simultaneously bringing all areas of public life to a halt across the globe. For anyone losing family members or friends, or even just losing his or her job, the stress and anxiety caused by these losses and the uncertainty about the future are tremendous. People feel vulnerable, threatened by an invisible enemy that will cause unpredictable damage. A *perfect storm* heavily impacting mental health.

But why is this of special interest to lawyers? – The answer is straight forward and unsettling: Because even prior to Covid-19, the legal profession led the charts in terms of mental health issues! The additional stress caused by the virus aggravates an already

bad situation, and the mental health of lawyers is likely to continue to decline even after the pandemic has ended. Numerous studies<sup>1</sup> for the US<sup>2</sup>, starting as early as the 1990s and continuing up to recent years, are showing that lawyers suffer to a higher degree than the average population and other professions from stress, anxiety, depression, mental disorders, burn-out and even addiction. In 2006, suicide was the third leading cause of death among attorneys, after cancer and heart disease. The rate of death by suicide for lawyers is nearly six times the suicide rate for the general population, and nearly 40% of law students suffer from some kind of depression.<sup>3</sup> Lawyers are three times as likely to become addicted to alcohol or other substances than non-lawyers, and evidence suggests that almost half of them are unhappy with their career choice.<sup>4</sup>

There is no easy way to tell when a lawyer is suffering. They typically remain productive and generate high rates of billable hours – *until it is too late*. The declining health of lawyers uproots their personal and professional lives and affects their social environment. Friendships dissolve, marriages break apart, children are missing out on the quality time, the emotional closeness and the love they have a right to expect from their mothers and fathers.

Yet not only family and friends, also colleagues, employers, clients and society at large are affected by the declining health of legal professionals. Lawyers in crisis display poor leadership, relying mainly on hierarchy, commercial incentives and competitive pressure. Clients complain about poorly communicated services, delivered in a rude and arrogant fashion and at too high a price. Increasing healthcare costs of lawyers must be carried by the insurer community and by taxpayers. High rates of turnover and absenteeism create financial and reputational losses in law firms and in-house legal departments. While there are no numbers on the economic damage of lawyer addictions specifically, the National Safety Council offers an online tool to calculate the overall costs of substance abuse to employers, suggesting that annual addiction costs in a firm with 2.000 employees add up to 1.7m\$. In addition, professional errors of distraught lawyer may lead to costly grievances and malpractice suits.

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<sup>1</sup> National Task Force on Lawyer Well-Being (2017), 'Creating a Movement To Improve Well-Being in the Legal Profession'; American Bar Association (2016), 'The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys'; Johns Hopkins University (1990) 'Occupations and the Prevalence of Major Depressive Disorder'

<sup>2</sup> Interestingly, there are no German studies available on the topic. However, a multitude of personal accounts in magazines and on websites suggest that legal professionals in Germany are suffering to a similar extend from mental health problems as their American colleagues.

<sup>3</sup> Mauney, Stuart (2013) 'The Lawyers' Epidemic'; Ritter, Chris (2017) 'What Law Students Must Know About Suicide'

<sup>4</sup> David, Ted (2011) 'Can Lawyers Learn to Be Happy?', in *Prac. Law*, 57: 4, 29

## A Complex, Poly-Centric and Exponential Problem

Long working hours, isolation, self-generated pressure, a tendency toward perfectionism and a low tolerance for failure, high-stakes cases, exposure to dire life situations, dealing with difficult clients, pressure to earn large amounts of money, a hostile and competitive work environment – the list of reasons for personal health problems of legal professionals is long. Yet to uncover the systemic nature of this silent epidemic, we need to look at the issue holistically, identify the multiple layers and understand how they are intertwined and mutually reinforce each other.

**“What makes the compound interest effect [of our personal health account; RS] so pernicious is the exorbitant rise in our debt.”** *Fritjof Nelting*  
(in his article “Health Compass for Lawyers”, forthcoming in “Liquid Legal, Towards a Common Legal Platform”)

### Perfectionist Personalities and Pessimistic Mindsets

It is usually the highly ambitious, goal-oriented, over-achieving, rigid, perfectionist, and a bit pessimistic types that decide to study law - the ones that anticipate negative outcomes of events and concentrate on things that can go wrong.

### Win-Lose Teachings at Law Schools

Such perfectionist personalities and negative mindsets are aggravated by the legal educational system. Win-win does not exist in the study of law, courses and cases always presuppose conflicts of interest. In order to win, one must fight against the adversarial party, their gain is one’s own loss. Academic success is highly competitive – often enough, law students rip out crucial pages in library books in order to gain advantages over their fellow students.

### Financial Pressure

In the US and other countries, law students accumulate large amounts of debt during their education which creates financial pressure and leads to unrealistic expectations of six-figure salaries already in the first job. This pressure continues during their careers, when legal professionals base their self-esteem on the height of their income and try to earn more than their colleagues.

### Loneliness and Competitiveness

Lawyers usually work on their cases in isolation. Too often, their financial incentives promote keeping cases on their personal desks rather than sharing the burden. The image of the lone wolf may be exhilarating to some, but for the majority of legal professionals, the lack of collaboration creates a feeling of loneliness and causes depression. In many law firms, the old mantra of *up or out* still rules, and junior lawyers are well aware they need to outperform their internal competition to raise in the ranks and receive recognition.

### Work Stress

To be a successful lawyer, one needs to be energetic, motivated and creative. But offering individual services that are always tracked by the employer and billed to the clients by the hour causes constant stress at work, and this stress consumes people's energy and turns their motivation into despair, hopelessness and depression. Again, for some lawyers, the transparency of personal performance may be stimulating for a brief period of time, but in the long run, most of them will experience symptoms of burn-out, and not few seek refuge in alcohol and other drugs.

### Negative Social Image

Lawyers suffer from a negative social image, portraying them as self-interested 'fat cats' whom the public trusts even less than hair-dressers and building contractors.<sup>5</sup> In public opinion, lawyers' personal ethics are not only affected by their legal obligation to achieve the best possible outcome for all and any clients, including murderers, rapists and child molesters, but are also compromised by their insatiable greed for money and personal success.

### Bending the Needle of their Moral Compass

What does it do to a value-driven human being when the professional ask is to violate fundamental moral principles, e.g. to enforce a patent on live-saving medicine to prevent derivatives to become available at acceptable cost in developing countries; or to spend the night oil over weeks and months to develop a tax model that allowed for multiple reclaiming of capital gains tax that had only

**"The very nature of legal work forces one to go against one's own moral compass."**

*Dr. Barbara Chomicka*

*(author of "Expand the Legal Services Providers' Pie", forthcoming in "Liquid Legal, Towards a Common Legal Platform")*

been paid once in a Cum-Ex-scenario? It is pure stress – plus a type of negative emotion you cannot share with anyone else, since it would mean to admit that you sacrifice moral standards on the altar of financial gain.

### Anxieties Caused by Digital Transformation

In times of digitalization, human beings and humanity are put under additional pressure which aggravates the precarious situation of legal professionals. Latest since the financial crisis in 2007/08, corporate clients of law firms demand *more for less*, and also in-house counsel are facing increased pressure to take on more cases, work more efficiently and justify how they invest their time. It is true that digitalization also affects material law and creates new practice areas for lawyers, but these new service areas do not change the existing working style and thus do not improve the well-being of lawyers. And while digitalization, through the automation of work routines, does indeed

<sup>5</sup> Ipsos MORI (2016) 'Politicians are still trusted less than estate agents, journalists and bankers'; Ipsos MORI Veracity Index (2015) 'Trust in Professions'; Gallup (2015) 'Honesty/Ethics in Professions'

offer means to reduce the administrative workload and stress of lawyers, enabling them to focus on high-value activities, many law firms and in-house legal departments do not yet possess the competence and confidence to actually leverage LegalTech. Instead, lawyers rightly perceive that digitalization changes their existing business model, allowing Legal Process Outsourcers and online service providers to deconstruct work processes and offer due diligence, contracting and other high-volume services at lower costs. The result is increased anxiety: to many legal professionals, digital transformation equals to the fear of losing one's job.

### The Canary in the Coal Mine Dies

Why is it that younger generations of lawyers are as affected by mental health issues as their older superiors? One reason may be that current senior leaders in law firms or legal departments feel threatened by the disruptive changes of digitalization. They want to ride out the wave and leave change to the next generation. Such leaders will evade genuine discussions; they will actively discourage or even punish organizational change agents who put their finger on the threats to current business or operational models.

### Failure Is Not an Option

Anxiety, depression, and other forms of mental disorder and illness are still being stigmatized because they contradict the proclaimed self-image of lawyers as strong, efficient and high performing professionals – an image which the legal industry continues to advertise to its clients. Yet the longer we wait with acknowledging that the declining personal health of lawyers poses a serious social problem, the bigger the problem will get, affecting not only individual people, but society's ability to guarantee the rule of law as the basis of human civilization.

## **The LLI is Making the Case for “Lawyer Well-Being”**

We must break the silence to stop the mental health epidemic among lawyers!

The LLI will take a phased approach to tackle the complex, poly-centric and exponential problem of Lawyer Well-Being. Our ultimate goal is to increase the personal health of legal professionals and to enable them to live engaged, productive and happy lives – lives that will not benefit themselves and their employers, but all of us who rely on the rule of law to feel free.

**Phase 1:** Publish this “Call for Action” to increase awareness on the social issue of Lawyer Well-Being and to tell all legal professionals suffering from depression, anxiety, burn-out and stress-related illnesses: ***You are not alone!***

**Phase 2:** Interview Lawyer Well-Being experts and stakeholders to gain more insights and conduct an extensive empirical study among LLI members to understand the full extent of this silent epidemic: **Reveal reality!**

**Phase 3:** Bring together the various stakeholder that are interested and want to contribute to the topic of Lawyer Well-Being, and inspire LLI members to start additional projects and events: **Reverse the dynamic in collaboration – as a community!**

First ideas include the following:

A) Halt, Take a Deep Breath – and Smell the Roses!

The Covid-19 pandemic is revealing the fragility of our globalized world. Let us Westerners take a moment to acknowledge and be grateful for the privileged lives we live. And let us show solidarity with our fellow human beings who are less fortunate than us – those living in poor conditions in their homelands, fleeing from war and hunger, or suffering from physical or mental illness.

B) Revamp Legal Education

Any and all improvement of the well-being of legal professionals will have to start with revamping the way law is taught to students at the university. One of the insights generated by the [Common Legal Platform \(CLP\) Design Study](#) which the LLI commissioned from the [Hasso Plattner Institute \(HPI\)](#) in Potsdam in 2018 was that many lawyers still do not see the value of collaboration; instead, they believe that sharing knowledge with colleagues will reduce their professional and economic success in the market. We need to change this faulty perception by teaching the overall benefits of collaboration in law courses at the university. To that end, LLI is already collaborating with Prof. Dr. Stephan Breidenbach's initiative "The New School of Law".

“Combined knowledge and practice of artificial intelligence (AI) and emotional intelligence (EI) are essential to lawyers’ success in a highly digitalized world.” *Dr. Rainer Markfort*  
(in his article “AI + EI = Future”, forthcoming in “Liquid Legal, Towards a Common Legal Platform”)

C) Use Technology to Reduce Work Stress in the Office

LegalTech and virtual work environments can facilitate routine work and reduce the stress of lawyers and legal professionals. At the LLI, we have built a virtual working space based on Microsoft Teams which our members use to initiate and deliver projects. We need to educate and enable law firms and in-house legal departments to leverage innovative technology and to benefit from digitalization instead of fearing it.

D) Offer Professional Retreats, Personal Therapies and Well-Being Apps

The LLI also wants to assist colleagues who are already feeling distressed and are suffering from depression, anxiety and burn-out. We are planning to offer professional

several day long retreats in a nice and relaxing environment at which we discuss new ways of working that can help reduce workloads and alleviate stress. We are also collaborating with the [Gezeitenhaus](#), a German clinic with several locations providing personal therapies. And to cover the time in-between therapies, when doctors are not available, but help is needed, we are partnering with [enlyte](#), a well-being app that teaches mindfulness and provides several features to create a healthy work-life balance.

The goal of LLI's "Call for Action" is to establish Lawyer Well-Being as a priority on the agenda of in-house general counsels, partners in law firms and legal education leaders.

**In the current Covid-19 pandemic, ignorance and hubris allowed the disease to spread exponentially and cripple our communities. Let's not make that same mistake again – let's be smart and tackle the issue of Lawyer Well-Being while there is still time!**