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Introduction to the special issue on judicial and lawyer well-being and stress

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This special issue of *Psychiatry, Psychology and Law* is dedicated to supporting the well-being of judicial officers and lawyers. The interdisciplinary lens of contributing scholars from psychiatry, psychology and law, as well as judicial officers and practitioners, expands our understanding of the diversity, prevalence and impact of stress on the judiciary and legal practitioners. Our contributors' collective efforts aim to promote the mental and physical health of judicial officers and lawyers, for the benefit of our wider communities.

We are pleased to introduce this special issue, to which we have brought editorial perspectives from the jurisdictions of Australia, New Zealand and the United Kingdom (UK). A landmark report published 15 years ago (Kelk et al., 2009) revealed high levels of psychological distress and risk of depression in Australian law students and practising lawyers, in comparison to community norms and other tertiary student groups. Since then, recognition has continued to grow of the individual and systemic stressors experienced by those working in the law in Australia and New Zealand.

This is reflected by numerous initiatives in these respective jurisdictions, such as the National Wellness in the Law Forum most recently held in 2024 (University of Melbourne, n.d.) and the research collaboration Law in Distress (Law in Distress, 2024). The UK has been described as coming 'late to the party' (Jones et al., 2001), relative to other jurisdictions such as Australia and the United States of America (USA). However, over the past five years, well-being amongst the legal profession has gained prominence, particularly with the publication of numerous studies (for example, Judiciary of England and Wales, 2021; LawCare, 2021).

Given local and international concern regarding legal professionals' welfare and the number of relevant manuscripts received by the journal, it is timely to gather perspectives and research within a special issue. We invited original papers from members of multiple professions who have deeply reflected upon health impacts that often flow from the challenges of judging and lawyering. Many of the articles are founded on empirical studies and

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thereby offer robust evidence for crafting responsive strategies from within, and beyond, the legal profession.

The majority of articles focus on either judicial officers or lawyers but all offer insights of universal relevance to those in the legal arena, across jurisdictions. Several studies examine the nature of specific areas of practice, such as criminal defence and personal injury. Two focus on vicarious trauma while a third considers the benefits of a ‘trauma informed’ legal workplace. Others are attuned to the psychosocial effects of the COVID-19 pandemic upon the legal community. In broad terms, all are concerned with compassion towards, and alleviation of the psychological suffering of legal professionals. All authors are committed to preventing, detecting and reducing the impact of stress that often occurs in legal occupations.

We might be inspired by the reflections of Professor Ron Paterson regarding the role of compassion in professional life (Paterson, 2010). He inquired whether one can legislate for compassion, and this may be equally relevant to developing preventive strategies for the well-being of our legal professionals. His specific focus was on whether New Zealand’s Code of Health and Disability Services Consumers’ Rights should include the right to have services provided with compassion. His concluding observations suggested that if legislation is not the solution, there may be other avenues for integrating compassion into professional practice. He suggested: teaching trainees about the nature of suffering and value of kindness; acting as role models for humane conduct; and creating leadership by professional regulators that values compassionate responses. These themes are echoed by many of the contributors to this special issue.

Our exploration opens with a reflective editorial by Pauline Spencer and Jamey Hueston regarding the importance of compassion to give purpose and motivation to judicial officers who face a ‘gruelling diet’ of high workload, intense time pressures and often

distressing cases involving litigants with various mental, physical and emotional difficulties. They reflect on their experience of approaching the judicial task with compassion – sympathetically *and* with a desire to help – in problem-solving courts, and the dramatic impact it can have on all those involved. Moving beyond specialist courts, they explore the wider applicability to traditional court lists of what they identify as the ‘three pillars’ of compassionate practice: (1) procedural fairness; (2) judicial engagement; and (3) other therapeutic jurisprudence approaches and court programs. What is needed, they suggest, is specific judicial education so that we may move closer to the ‘Compassionate Court’.

A compassionate court may also benefit judicial well-being and protect against the sources and impacts of stress in judicial practice that are illuminated in the empirical analysis by Carly Schrever, Carol Hulbert and Tania Sourdin. This is the third and final report of findings from Australia’s first empirical and psychologically-grounded research project investigating occupational stress in the judiciary. Interviews with 59 judicial officers from five Australian courts revealed that judges and magistrates do experience high satisfaction with their roles. Those who felt the most job satisfaction prioritised their personal well-being. Yet their workload and ‘feelings of injustice’ resulted in stress, and, according to most participants, the sources of stress were increasing. Drawing on these findings to identify novel insights into the lived experience of judicial stress and well-being, the authors raise the need for adequate resources and leadership to address judicial stress.

It is important to appreciate the effects of stress and illness upon performance. From the USA, a survey provides empirical evidence from a wider pool of 122 court personnel, including judges, lawyers and court administrative staff. Anna Fine, Katie Snider and Monica Miller’s study reports that stress was negatively related to employees’ cognitive and job performance, job satisfaction and health

outcomes. Also, the authors discuss the COVID-19 pandemic's influence upon perceived job performance.

When compassion is absent in the legal arena, the scene may be set for bullying. The next article narrows the focus to examine the 'taboo' subject of judicial bullying and its effects upon lawyers who provide publicly-funded criminal defence. Based on historic reports of judicial bullying, the analysis of interviews of lawyers from five Australian jurisdictions reveals the profound impact of bullying upon lawyers' health and careers. Ray Nickson and Alice Neikirk identify two strategies to mitigate the risk of judicial bullying (case-load management and creating opportunities for debriefing). They examine Victoria's formal strategies to avert such misconduct and lawyers' strategies to reduce risk and safeguard themselves. Victoria is the only Australian jurisdiction so far to have taken steps to address judicial bullying but hopefully it will not be the last.

Also from Victoria, Tina Popa, Christina Platz, Kate Jackowski, Hayleigh Young, Lisa Heap and Yingyi Luo discuss the issues that many personal injury lawyers face. Derived from interviews with Victorian personal injury lawyers, the authors critique the legal system itself while suggesting preventive strategies at individual, organisational and systematic levels that, inter alia, would help to destigmatise help-seeking, promote access to specialist support and address specific factors relating to the nature of this type of legal work.

Several other studies highlight the stigma, or perceived stigma, that accompanies help-seeking by unwell legal practitioners. Stigma is a significant barrier to initiating a pathway to recovery according to interviews with 151 attorneys from the USA that were analysed by Kirsten Black, Luke Wiley and David Ross. The authors' findings suggest that reform is needed regarding both workload norms and the notion that high stress within the profession is normal.

Oftentimes lawyering and judging involves exposure to traumatic material. Legal

professionals may be significantly disturbed by exposure to the trauma of others. Two articles analyse the Victorian High Court's decision regarding a lawyer's psychiatric injury from secondary trauma in '*Kozarov*' (*Kozarov v The State of Victoria* (2022) 273 CLR 115). Kylie Burns, Carly Schrever and Prue Vines contemplate the decision's significance for state liability for judicial officers who are harmed through exposure to traumatic material, highlighting the likely complexity of such claims, particularly considering issues of judicial independence and judicial immunity. Russ Scott and Ian Freckelton additionally analyse the Victoria Court of Appeal decision in '*Bersee*' (*Bersee v State of Victoria* (2022) 70 VR 260), with suggestions for safeguards for both lawyers and judicial officers.

The theme of trauma is again raised, through the contribution of Clare Pike and Amanda Rebar. They inquire about the benefits of creating trauma-informed workplaces, specifically for Legal Aid lawyers. Six lawyers offered their insights from two Australian states, increasing our appreciation of the health benefits of training, manageable workloads, meaningful supervision and mental health leave. The authors make additional concrete suggestions for optimum workplaces for our Legal Aid lawyers.

For a broader understanding of existing research on lawyers' well-being, we turn to Lucinda Soon, Almuth McDowell and Kevin Teoh's study of the research on the concept of lawyers' well-being and the relevance of work context. Comprising the first study to systematically review the past 50 years of global literature on lawyers' well-being, they synthesise 145 publications from the scholarly and grey literature. It reports on the dominant research priorities and gaps in the literature, with recommendations for theory development and concrete reforms in the workplace. This provides critical perspectives on the positive elements of well-being, which has received less scholarly attention, and demonstrates the importance of research within specific work

settings, such as those examined in earlier articles in this special issue.

The topic of compassion both opens and closes this special issue of *Psychiatry, Psychology and Law*. While Spencer and Hueston reflected upon a humane approach in judicial court-craft and its potential benefits for the entire courtroom and well-being, a case commentary illuminates how a New Zealand disciplinary tribunal provided a merciful approach to one of its own – a lawyer who struggled within her legal practice due to her reproductive health challenges. The New Zealand Lawyers and Conveyancers Disciplinary Tribunal decision inspired discussion of the benefits of creating a health pathway within New Zealand’s regulatory scheme for legal practitioners, similar to the safeguards that are afforded to registered health practitioners. Kate Diesfeld, Marta Rychert, Lois Surgenor, Olivia Kelly and Kate Kersey observe that the humane approach expressed within this decision can inspire wider systemic and legislative reforms to alleviate the physical and emotional distress that sometimes results in disciplinary proceedings for lawyers.

The scholarship within this special issue demonstrates that protection of the well-being and prevention of stress of judicial officers and lawyers can be expressed in many forms. This can range from the pro-therapeutic and rehabilitative approaches when disciplining individual practitioners to creating health-promoting strategies for our legal colleagues across their careers. The change agents include the legal profession as a whole, regulators, legislators, decision-makers and employers, as well as judicial officers and practitioners themselves.

Ferguson, in her keynote address to the National Wellness for Law Forum 2024, noted that a balanced lifecycle in the law, among other things, requires ‘a big picture, long term view of the benefits of sharing knowledge and insights’ (Ferguson, 2024). We hope that this special issue has demonstrated such benefits to those who read it, including scholars and legal professionals alike. In this vein, in a

concluding message to her keynote address, Her Honour further urges us all to do the following:

[L]et’s keep talking but let’s also do more in the next stage; the stage beyond talk. Let’s do that based on evidence obtained through meaningful research. Let’s focus on prevention rather than cure. Let’s look through the lens of collective and individual responsibility. Let’s keep in mind that culture, systems and structures can play a large part in giving us the best opportunity to thrive. (Ferguson, 2024)

The range of topics within this special issue continues these critical conversations, while also providing research evidence to inform responsive and preventative action and signalling the need for future research on behalf of those who work within the justice system. We thank the reviewers of these contributions to the special issue and the contributors for their enduring commitment to our judicial officers, lawyers and legal personnel.

Ethical standards

Declaration of conflicts of interest

Kate Diesfeld has declared no conflicts of interest.

Kathryn Hollingsworth has declared no conflicts of interest.

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Stephen Tang has declared no conflicts of interest.

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Ethical approval

This article does not contain any studies with human participants or animals performed by any of the authors.

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