

BOOK REVIEWS

"Kill All the Lawyers"

A Devastating Look at How Law School and Law Practice Do the Job

Reviewed by Kathryn Sarvak, Esq..

This book leads to the singular conclusion that the term "happy lawyer" is, in fact, an oxymoron. You may see yourself as the exception, but the author respectfully disagrees: you are either an unhappy lawyer secretly longing to throw off the chains of a profession holding you back from a meaningful and balanced lifestyle, or you are sadly delusional, blinded or worn down by a system designed to keep you blissfully unaware of the parasitic destruction of your true self. In this book, Litowitz examines

a nightmarish situation for young lawyers: a boring and expensive education; a crushing debt burden; a pointless but mandatory bar exam; exhausting jobs with little opportunity for partnership; shocking rates of anxiety, depression and alcoholism; all amid an atmosphere of public hatred. What gets lost in the equation is the very thing that makes law attractive in the first place—the chance to use one's intellectual ability to secure justice for a client (p. 15).

The basic premise of the book is that lawyers, particularly young lawyers, are profoundly unhappy, and that the profession, from law school through senior partnership, is the root cause. After laying the groundwork of the pressures upon young lawyers, including an anxiety-ridden education, crushing debt, and disillusionment with the reality of what it means to pursue justice, the author examines six causes of dissatisfaction. His arguments about the first cause—law school—caught me off guard because I enjoyed law school. At least, I thought I did. Now, however, I wonder how the law school experience might have skewed my opinion. Litowitz questions whether the traumatic anxiety of the Socratic method is an appropriate teaching tool; whether the case method of teaching creates a pro-litigation disposition while sacrificing practical skills; and whether the lack of political and philosophical diversity creates dispassionate graduates, destroying

social conscience, and transforming "bright ambitious, young students ... into apolitical and cynical beings [who are] systematically taught to distrust their own feelings as naïve, unrealistic, utopian" (pp. 45, 48).

His criticism of law school segues smoothly into the second challenge to happiness, the bar exam, begging the question: Why don't law schools adequately prepare graduates to pass the bar exam? After all, not many graduates would take the bar exam without first signing up for an intensive bar review course (BAR/BRI's 2007 course fee is \$2100) and yet, "if the state bar authorities truly believe that the material on the bar exam is a measure of attorney competence, then they should insist that law schools teach this material so that students don't have to pay extra to learn it" (p. 59). Litowitz questions the ideology behind the bar exam, stating, "State bar examiners

The Destruction of Young Lawyers: Beyond One L.
Douglas Litowitz, University of Akron Press, 2006, \$19.95, 163 pp.

have never been in the business of ensuring competence; they have always been in the business of preventing a free market among attorneys ... " According to Litowitz, "there is not a single shred of documentary evidence that the bar exam protects the public" (p. 56) and he argues that, in light of the minimal oversight afterwards of attorneys who do pass the bar, the exam's role as a public safety measure is a mere façade, masking its ideological intent "to limit admission to the bar and to create a sense of hierarchy and submission in prospective lawyers" (p. 65), rather than establishing a minimum standard of competence in rudimentary legal skills. Harsh criticism, and yet his arguments are grounded upon compelling logic that deserves consideration.

Subsequent barriers to legal happiness include the structure and content of law firm practice, and the "paradox of technology," in which the very machines designed to save time drown us in paperwork, endless revision, billing details, and the general overproduction

of law. The hyper-complexity of law, the obsession with profitability, ethical ambiguity, and the sacrifice of personal life contribute to the mental dysfunction of the profession. It is a pretty bleak picture on the whole.

Litowitz is up against substantial obstacles. He acknowledges that law school reform would take decades, and the ritual of the bar exam is so firmly entrenched as to be virtually unchallengeable. Nonetheless, he writes persuasively that lawyers owe it to their profession to encourage reform, and he does not just present generalities, but offers concrete solutions and suggestions. This book leaves the reader persuaded there just might be a better way, and wondering why it feels so subversive to consider the possibilities.

To be honest, it is not the most enjoyable book to read: the type is small and the issues discouraging. The angry tone of the book is established early on, including an unexpected, unnecessary encounter with a few expletives within the first twenty pages. Even the author's press photo on the back of the book exudes a sense of resentment and seething fury. I developed a distaste for the book by the end of chapter one, and if not for the obligation to write this review, may not have even finished the book. Litowitz, however, makes some interesting points, and ultimately, I found the book deeply thought-provoking. You should read it. It might surprise you, it might infuriate you, but I doubt that it will bore you.

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