



**THE BRAHMAVIHĀRAS:**  
**MINDFULNESS MEDITATION**  
**TO SUPPORT LAWYER, LAW**  
**STUDENT, AND JUDICIAL**  
**OFFICER WELL-BEING**



By Jill S. Carnell

Four recent large-scale studies document the fact that physical, emotional, and psychological suffering in the legal profession is now a widespread epidemic. This suffering begins the moment a student begins law school, afflicts lawyers at every stage of their practice, and affects judicial officers in similar, as well as different, ways. At all stages and roles in our profession, we are becoming increasingly intoxicated, despondent, and self-destructive. There is, however, hope.

Current research shows that relief from such profound suffering may be achieved through simple techniques grounded in mindfulness meditation practices. Studies emerging from the growing lawyer well-being movement document the effectiveness of practices based on various forms of easy-to-learn and easy-to-practice mindfulness-based techniques. These mindfulness meditation practices, whose efficacy is supported by modern scientific research, are grounded in wisdom that has been known in the East for thousands of years.

This article will first survey the literature exposing the depth and breadth of suffering in the legal profession. Second, it will offer a brief history of mindfulness practices making their way into the legal profession. It will conclude with a discussion of the thesis project that I completed in September 2021 as the capstone to the Master of Arts in Mindfulness Studies degree I earned from Lesley University.

### WE ARE SUFFERING

The August 2017 report (“Task Force Report”) of the American Bar Association’s National Task Force on Lawyer Well-Being (“Task Force”) is the most comprehensive exploration of American lawyer well-being ever undertaken.<sup>1</sup> The task of addressing lawyer well-being is significant, and the Task Force summary of the situation is sobering. In the cover letter of the Task Force Report, Co-Chairs Bree Buchanan and James C. Coyle wrote:

The legal profession is already struggling. Our profession confronts a dwindling market share as the public turns to more accessible, affordable alternative legal service providers. We are at a crossroads. To maintain public confidence in the profession, to meet the need for innovation in how

we deliver legal services, to increase access to justice, and to reduce the level of toxicity that has allowed mental health and substance use disorders to fester among our colleagues, we have to act now. Change will require a wide-eyed and candid assessment of our members' state of being, accompanied by courageous commitment to re-envisioning what it means to live the life of a lawyer.<sup>2</sup>

This call to action began by defining "lawyer well-being" as "a continuous process whereby lawyers seek to thrive in each of the following areas: emotional health, occupational pursuits, creative or intellectual endeavors, sense of spirituality or greater purpose in life, physical

health, and social connections with others... This definition highlights that complete health is not defined solely by the absence of illness; it includes a positive state of wellness."<sup>3</sup>

The formation of the Task Force arose from concerns about the findings in two studies: (1) the 2016 Survey of Law Student Well-Being<sup>4</sup> and (2) the ABA/Hazelden Betty Ford Study<sup>5</sup> of 12,825 licensed, employed attorneys from nineteen states. In 2016, little solid research existed on the behavioral health of those practicing in the legal profession. The study found substantial rates of behavioral health concerns, including 20.6% screening positive for hazardous, harmful, and potentially alcohol-dependent

drinking,<sup>6</sup> 28% experiencing symptoms of depression, 19% experiencing symptoms of anxiety, and 23% experiencing symptoms of stress.<sup>7</sup>

Getting sworn into the practice of law is not the beginning of eroding well-being—lawyer well-being starts eroding the minute a person enrolls in law school and continues throughout their legal career. In 2016, Organ et al. published their report regarding law student well-being, which was comprised of a survey of over 3,300 law students at 15 American law schools. In it,

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the researchers found that 17% of students reported experiencing some level of depression, 14% experienced severe anxiety, 23% reported experiencing mild or moderate anxiety, and 6% reported serious suicidal thoughts in the past year.<sup>8</sup> In responding to questions about alcohol use, 43% reported binge drinking at least once in the prior two weeks, and 22% reported binge-drinking two or more times during that same period.<sup>9</sup> One-quarter were categorized as being at risk for alcoholism, so further screening was recommended.<sup>10</sup>

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In December 2020, the results of the first large-scale national survey of stress and resiliency in the United States judiciary was published. “Unlike the Lawyer Study and the Law Student Study published in 2016 that examined stress generally, the National Judicial Stress and Resiliency Survey items were designed to highlight the specific experiences of judges and the judicial setting.”<sup>11</sup> There are an estimated 18,000 judicial officers across the United States, and the study was based on 1,034 judicial officers who completed and returned the survey, who were 56.5% men and 42.8% women, 84.3% Caucasian/White, 5% Hispanic or African American, and less than 2% Native American, Asian, Pacific Islander/Hawaiian, and Multicultural.<sup>12</sup> Most were state court judicial officers (78.6%), followed by local (10.1%), administrative (8%), and federal, tribal, and military courts (about 2% or less).<sup>13</sup>

The judicial officers reported a variety of stressors, including most

frequently: the importance/impact of their decisions (79.7%), their heavy docket of cases (73.2%), presiding over cases litigated by unprepared attorneys (67.6%), self-represented litigants (62.5%), and dealing repeatedly with the same parties without addressing the underlying issues of their conflict (58.1%).<sup>14</sup> Judicial officers reported a variety of effects of this stress, including the top three: fatigue and low energy after hearing several cases in a row (38.8%), a variety of sleep disturbances (36%), and interference with attention and concentration (32.3%).<sup>15</sup>

Two trends in the responses regarding the effects of stress caused the authors of the study concern about depression and anxiety among the study participants. With regard to depression, these responses included: not having the initiative to do things (22.9%), preoccupation with negative thoughts (20%), feeling that work is no longer meaningful (17.8%), looking forward to the day’s work to end (16.7%), depressed

mood (15.3%), feeling that there is nothing to look forward to (12.6%), feeling increasingly numb to pleas of urgency (11.2%), and caring little about the outcome of most trials (6.9%).<sup>16</sup> In response to these findings, the authors stated, “Each of these criteria is concerning. The finding that over one in five judges meet at least one criterion for depressive disorder deserves our full attention.”<sup>17</sup> In addition, just over 2% of the judicial officers reported experiencing thoughts of self-harm or suicide, which means that 22 of those responding experienced thoughts of self-harm in the preceding twelve months.<sup>18</sup>

With regard to anxiety, fewer participants experienced anxiety than depression, but the numbers were still significant: increased health concerns, such as high blood pressure (27.6%), feelings of apprehension or anxiety (23%), experiencing intrusive thoughts of traumatic images of people or evidence (19%), difficulty asking a respected colleague for a critique of



work (13.3%), difficulty breathing (7.4%), and worrying about panicking or losing control (4.6%).<sup>19</sup> The authors found the percentage of participants experiencing feelings of apprehension or anxiety and those experiencing intrusive thoughts the most concerning.<sup>20</sup>

In June of this year, Jaffe et al. published results from the 2021 Survey of Law Student Well-Being, which asked many of the same, as well as some additional questions, as the 2014 study.<sup>21</sup> The 2021 study was comprised of just over 24,000 students from 39 American law schools, significantly more than the

have declined among students, and students reported an increase in the popularity of mental health apps as an additional resource.<sup>29</sup> Finally, the 2021 survey asked about trauma, with over 80% having experienced trauma in at least one category, roughly 70% having experienced two or more types of trauma,<sup>30</sup> and one in five respondents screening positive for PTSD.<sup>31</sup>

### **MINDFULNESS IN THE LEGAL COMMUNITY GOES MAINSTREAM**

My research found there is a nascent and positive view of the potential for mindfulness-based

**"One of the most intriguing and encouraging findings of the study arose from the section about stress management and resiliency activities, and it signaled that mindfulness practices have tremendous potential to gain a widespread following within the legal community."**

3,300 students from 15 American law schools in the previous study.<sup>22</sup> The authors acknowledge that it is difficult to know how the changes between the two studies may have been affected by COVID-19 as opposed to the effect of the lawyer well-being movement.<sup>23</sup> But, among the key takeaways, the authors of the study noted the near doubling of respondents with a diagnosis during their life of depression (32.7%)<sup>24</sup> and anxiety (39.8%),<sup>25</sup> an increase in those needing help for an emotional or mental health issue in the prior year (68.7%),<sup>26</sup> an increase in marijuana use,<sup>27</sup> and an increase in both suicidal thoughts during their lifetime (33%) and during the past year (11%).<sup>28</sup> Binge drinking, cigarette smoking, and sharing of prescription drugs appears to

practices to address the crisis in lawyer well-being. Indeed, the remainder of the 73-page Task Force Report recommendations include mindfulness-based practices for all stakeholders—judicial officers, regulators, legal employers, law schools, bar associations, lawyers, professional liability carriers, and lawyer assistance programs.<sup>32</sup> One of the most intriguing and encouraging findings of the study arose from the section about stress management and resiliency activities, and it signaled that mindfulness practices have tremendous potential to gain a widespread following within the legal community.

Swenson's study revealed that many judicial officers currently practiced or had an interest

Jill and Loretta took a break and practiced a yoga posture called “legs up the wall,” which activates the relaxation response (parasympathetic nervous system) and deactivates the stress response (sympathetic nervous system). Loretta supervised Jill’s internship at JLAP during the Mindfulness Studies program, which deeply informed her thesis work.



in practicing mindfulness.<sup>33</sup> Mindfulness was practiced “a few times a month” to “nearly daily” by 35.9% of participants, and 81.4% of participants were interested in it.<sup>34</sup> This suggests that training and support of mindfulness practices is something that will support judicial officers. Mindfulness was second only to asking for peer support.<sup>35</sup>

The practice of mindfulness meditation is not new to the legal community. In a 1989 law review article Professor Leonard Riskin wrote about a Mindfulness-Based Stress Reduction (MBSR) program offered to trial court judges.<sup>36</sup> Mindfulness meditation continued to spread throughout the legal community, including starting in 1998, various five-day contemplative retreats organized by the Center for Contemplative Mind in Society for law professors, lawyers, and law students from Yale and Columbia; conferences and continuing legal education programs by the American Bar Association, including a preconference mindfulness meditation workshop by the ABA

**"The practice of mindfulness meditation is not new to the legal community."**

Section of Dispute Resolution at the 2002 Annual Conference; various bar association programs in Boston, Maryland, and Northern California in 2000 and 2001; a mindfulness meditation and other contemplative practices series offered by City University of New York School of Law in 2001; and a group of lawyers who meditated together weekly in Kansas City.

The first law school course to include mindfulness meditation in the United States was offered in 1997 by Professor Cheryl Conner, Director of the Clinical Internship Program at Suffolk Law School.<sup>37</sup> An elective called *The Reflective Practitioner*,

it was meant to support the work of students enrolled in clinical placements and included an exercise to support developing compassion. In spring 2000, Professor Jacqueline St. Joan, Director of Clinical Programs at the Denver College of Law, offered a class to students in field placements, with the hope that she would “introduce students to the fundamentals of contemplative practice as threads to weave together personal and professional lives.”<sup>38</sup>

Rhonda Magee, professor of law at the University of San Francisco and a mindfulness meditation teacher, is a Fellow of the Mind and Life Institute. She incorporates her mindfulness meditation practice into her law school teaching and the practices she developed to incorporate her lived experiences as an African American woman.<sup>39</sup> This practice, which she calls ColorInsight, incorporates lovingkindness and compassion to help understand and work with issues concerning race.

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Richard Reuben, professor of law at the University of Missouri, is an expert in conflict resolution who founded the Mindfulness in Law Society. In an article about his role as a law professor, he wrote that his mindfulness meditation practice made him a better professor by supporting his present moment awareness, which allowed him to respond to his students rather than get tangled up in what he was going

to say next.<sup>40</sup> Scott Rogers writes in both academic and bar association journals about introducing law students to the practice of mindfulness meditation.<sup>41</sup> Rogers is the Founder and Director of the University of Miami's Mindfulness in Law Program, where he has been teaching mindfulness-based courses since 2008. In addition, he serves as the Co-President of the Mindfulness in Law Society. Charles Halpern was meditating and exploring how to cultivate inner wisdom and foster

mindful social activism in the 1980s as he practiced and taught law.<sup>42</sup> Finally, The National Judicial College offers a four-day Mindfulness for Judges training to support judicial officers in developing and using mindfulness meditation.<sup>43</sup>

In November 2017, four Indiana judicial officers attended the four-day Mindfulness for Judges training in Sedona, Arizona. One of which is Senior Judge Tom Felts, who wrote about the training and how he continues to practice:

Over the four days of the course we talked about mindfulness, including the neuroscience underlying mindfulness and the effect of mindfulness on work-related skills and behaviors. We practiced meditation in several ways (guided, solitary, etc.), practiced yoga, and had open and safe conversations about judicial stress (professional and personal) and how we could use what we learned to help us make better decisions...I initially actively practiced meditation daily for several months and now set aside meditation periods a couple of times a week. Additionally, I have incorporated the essence of meditation—clearing aside troublesome thoughts, searching for an inner calm—when I am running or biking by myself as well as in church before Mass begins. Situationally, when I am trying to make a difficult decision or search for a solution to a problem, both as a lawyer and as a judge, the ability to bring calm to my present situation through meditation tools is truly a blessing. It remains a challenge but definitely worth the effort.<sup>44</sup>

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## THE BRAHMAVIHĀRAS: ANCIENT PRACTICES WITH POTENTIAL TO HEAL MODERN WOES

As I completed my internship with JLAP and continued the coursework in the Master of Arts program (during Fall 2020 semester), it occurred to me that lawyers, law students, and judicial officers might also find support in the brahmavihāras. The brahmavihāras, sometimes called the “divine abodes” or “sublime attitudes,” are the Buddha’s heart teachings.<sup>45</sup> There are four of them: kindness or lovingkindness (*mettā*), compassion (*karuṇā*), empathetic joy (*muditā*), and equanimity (*upekkhā*), and each works in concert with the others.<sup>46</sup>

The brahmavihāras each have their own traits, while also working together to keep each in balance, a kind of Middle Way. Kindness is the bedrock of compassion and acts to protect compassion from edging toward either despair or partiality. Kindness ensures equanimity does not tip toward indifference. Compassion protects kindness from becoming sentimental and protects joy from forgetfulness. Compassion turns kindness into healing action. Joy tempers the raw edges of sorrow and pain and guards the compassionate heart from being overwhelmed with sorrow. Equanimity brings patience and steadiness to kindness and compassion and balances joy from becoming exuberant. Joy softens equanimity. And “[e]quanimity allows us to act without becoming preoccupied with the results and outcomes of our actions.”<sup>47</sup>

The brahmavihāras add emotional depth to mindfulness meditation practice. As I discovered through practice and study, mindfulness

meditation affected more than my mind, e.g., improving concentration, or making my lawyer brain “sharper” or less stressed. Mindfulness practices helped me to access a more embodied sense of present moment awareness, connecting the heart with the mind. I discovered that to be in balance, to find a Middle Way, I need both my heart and my mind to work together. Professor Rhonda Magee, as well as other scholars, like Leonard Riskin, write approvingly about the relevance and effectiveness of lovingkindness and compassion.

This idea led me to complete a creative thesis project, which is comprised of an academic support paper that dives even deeper into the data in this article and a seven-module asynchronous online course called *An Introduction to the Brahmavihāras: For Lawyers, Law Students, & Judicial Officers*. I hope you will consider engaging with the training program that I have created, which is freely available at [thought-kitchen.com](http://thought-kitchen.com).

The work we do is full of suffering, and to do it to the best of our abilities, we need support in reconnecting our hearts with our minds so we can integrate the wisdom of both into our way of being in the world. This is my offering to you, grounded in my love for each of you and for every being who is in community with us.

May our practice benefit all beings. 🙏

*Jill Carnell is an attorney who is dedicated to living a more contemplative life. After spending over 15 years in state and local government, she cofounded Thought Kitchen in August 2021, where she is chief contemplative officer.*





## FOOTNOTES:

1. National Task Force on Lawyer Well-Being, *The Path to Lawyer Well-being: Practical Recommendations for Positive Change* (August 14, 2017), <https://lawyerwellbeing.net/wp-content/uploads/2017/11/Lawyer-Wellbeing-Report.pdf>.
2. *Id.* at 1.
3. *Id.* at 9, 10.
4. J.M. Organ, D.B. Jaffe, & K.M. Bender, *Suffering in Silence: The Survey of Law Student Well-being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 *Journal of Legal Education* 116-156 (2016), <https://www.jstor.org/stable/26402424>.
5. P.R. Krill, R. Johnson, & L. Albert, *The Prevalence of Substance Use and Other Mental Health Concerns among American Attorneys*, 10 *Journal of Addiction Medicine* 46 (2016).
6. *Id.* at 48.
7. *Id.* at 51.
8. Organ et al., *supra*, at 136, 137.
9. *Id.* at 128.
10. *Id.* at 131.
11. D. Swenson, J. Bibelhausen, B. Buchanan, D. Shaheed, & K. Yetter, *Stress and Resiliency in the U.S. Judiciary*, 2020 *Journal of the Professional Lawyer* 3 (2020).
12. *Id.* at 6, 7.
13. *Id.*
14. *Id.* at 11.
15. *Id.* at 13.
16. *Id.* at 12.
17. *Id.*
18. *Id.*
19. *Id.*
20. *Id.* at 13.
21. David Jaffe, Katherine Bender, and Jerome M. Organ, "It Is Okay to Not Be Okay": *The 2021 Survey of Law Student Well-being*, University of Louisville Law Review (forthcoming, 2022), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4127297](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4127297)
22. *Id.* at 11.
23. *Id.* at 42.
24. *Id.* at 23.
25. *Id.* at 24.
26. *Id.* at 23
27. *Id.* at 20.
28. *Id.* at 27.
29. *Id.* at 43.
30. *Id.* at 27.
31. *Id.* at 43.
32. National Task Force on Lawyer Well-Being, *supra*, at 18, 52.
33. Swenson et al., *supra*, at 16.
34. *Id.*
35. *Id.* at 17.
36. See L.L. Riskin, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and Their Clients*, 7 *Harvard Negotiation Law Review* 33 (2002).
37. *Id.* at 39.
38. *Id.* at 40.
39. See, e.g., R.V. Magee, *Educating Lawyers to Meditate?* 79 *UMKC Law Review* 1-59 (2010); R.V. Magee, *Justice Begins with a Breath: A Life's Worth of Experiences Combine with Cognitive Science to Deepen the Case for Mindfulness in the Law*, 102 *ABA Journal* 24-25 (2016), <https://www.jstor.org/stable/24806704>; R.V. Magee, *The Way of ColorInsight: Understanding Race and Law Effectively Through Mindfulness-Based ColorInsight Practices*, 8 *Georgetown Journal of Law & Modern Critical Race Perspectives* 251-304 (2016); R.V. Magee, *Reflecting on Our Interconnectedness: MLK Offers Insight into 'Justice for All'*, 102 *ABA Journal* 26-27 (2016) <https://www.jstor.org/stable/24806925>;
40. R.V. Magee, R.V., "If you plant corn, you get corn": *On Mindfulness and Racial Justice in Florida and Beyond*, *The Florida Bar Law Journal* 36-39 (April 2016); R.V. Magee, *Reacting to Racism: Mindfulness Has a Role in Educating Lawyers to Address Ongoing Issues*, 102 *ABA Journal* 26-27 (2016), <https://222.jstor.org/stable/24807444>; R.V. Magee, *The Inner Work of Racial Justice: Healing Ourselves and Transforming Our Communities Through Mindfulness* (2019).
41. R.C. Reuben, *Bringing Mindfulness into the Classroom: A Personal Journey*, 61 *Journal of Legal Education* 674-682 (2012).
42. See S.L. Rogers, *The Mindful Law School: An Integrative Approach to Transforming Legal Education*, 28 *Touro Law Review* 1189-1205 (2012); S.L. Rogers, *Mindfulness in Law and the Importance of Practice*, *The Florida Bar Law Journal* 10-14 (April 2016).
43. C. Halpern, *Why Contemporary Lawyers are Practicing Meditation*, 61 *Journal of Legal Education* 641-646 (2012), <https://www.jstor.org/stable/42894254>.
44. The National Judicial College, *Mindfulness for Judges*, <https://www.judges.org/courses/mindfulness-for-judges/>.
45. Email from Tom Felts to Jill Carnell, September 13, 2022
46. T. Bhikkhu, *Head & Heart Together: Essays on the Buddhist Path*, (2010).
47. C. Feldman, *Boundless Heart: The Buddha's Path of Kindness, Compassion, Joy, and Equanimity*, (2017)
48. *Id.* at 3.