

It's all in the **MIND**



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After attending a 'mindfulness' retreat for lawyers in the US, **Elaine Quinn** shares the benefits of experiencing "the fullness of what a lawyer is – a lawyer of both the head and the heart"

“**M**indfulness is presence. Mindfulness practice opens our presence, expands it, makes it more spacious, more generous and more creative. It can then hold ... more difficult emotions and situations,” says Norman Fisher, a Zen Buddhist priest and mindfulness teacher.

This definition and explanation of the practice of mindfulness sank in deeply as I sat on a meditation cushion in the grand hall of the Garrison Institute in Garrison, upstate New York, with 74 other members of the legal profession. Fisher was one of the teachers at the 'Mindful lawyering retreat: a meditation retreat for law professionals and students', which took place last May at the institute, a not-for-profit, non-sectarian organisation that explores the intersection of contemplation and engaged action in the world.

As participants, we had committed to spending three days sitting, eating, walking and generally cohabiting in relative silence and meditation. While most of the attendees were North Americans who had travelled from various states in the US (only three of us had travelled across the water from Europe), our backgrounds, though in law, were quite diverse. There were attorneys, senior judges, mediators, academics, and those who had left the profession (often in disillusionment) but who maintained a keen interest in the subject.

Fields of legal practice encompassed family, criminal, corporate litigation, environmental, public interest and elder abuse law, to name just some. Despite the multiplicity of backgrounds, we all shared a common interest in experiencing, as it was aptly put during the retreat, “the fullness of what a lawyer is – a lawyer of both the head and the heart”. There seemed to be silent agreement that contemplative practice – mindfulness meditation in particular – was a path towards getting there.

What a feeling!

A woolly concept for many, mindfulness has been described as being “not about feeling better, it is about being better at feeling”. The [Oxford online dictionary](#) describes mindfulness as “a mental state achieved by focusing one’s awareness on the present moment, while calmly acknowledging and accepting one’s feelings, thoughts, and bodily sensations, used as a therapeutic technique”.

While it’s a capacity inherent in every person, deepening that capacity and becoming more reliably and consistently ‘present’ requires systematic practice – usually through meditation.

at a glance

- Mindfulness meditation practice and its potential application for legal practitioners
- A potential way of dealing with job stress and dissatisfaction
- Could mindfulness assist lawyers in acquiring new skills of 'deep and open listening'?
- Answering the sceptics



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PICT: iSTOCK

The reported benefits of mindfulness meditation practice are numerous and varied. These include reduced stress, improved well-being, increased immune functioning, boost to memory and focus, increased relationship satisfaction, and enhanced self-insight, morality and intuition.

Its effects on the brain are inspiring a burgeoning field of study. An article in the January 2015 *Harvard Business Review*, entitled ‘Mindfulness can literally change your brain’, brought together data from more than 20 studies and identified that at least eight regions of the brain were consistently affected by the practice of mindfulness meditation. These include the anterior cingulate cortex

(associated with self-regulation) and the hippocampus (associated with emotion and memory). The article concludes that, while more research is needed to document these changes over time and to understand underlying mechanisms, the converging evidence is compelling.

All cried out

Charles Halpern, one of the retreat teachers, is founder of the [Initiative for Mindfulness in Law](#), an innovative programme exploring the benefits of mindfulness to legal education and law practice at Berkley University, California. “Lawyers survive in a sea of interconnected relationships. Emotional intelligence (EQ) is

absolutely necessary,” he says.

Mindfulness builds the muscle of EQ.” Halpern is adamant that the present time is fertile ground for the practice of mindfulness and that it is teachable and learnable.

It is useful to consider the benefits of mindfulness in the context of statistics about stress and dissatisfaction in the legal profession. A survey carried out in 2012 by LawCare in Britain and Ireland revealed that almost 75% of the 1,000 lawyers who responded were more stressed than they had been five years earlier. Lawyers operate and work within the context of complex human situations – predominantly situations of conflict and stress – and attempt to apply a

body of external laws, rules and practices to resolve those situations and conflicts. This is within a framework of time, financial and other external pressures.

Little is done to educate and train lawyers – whose work tends to focus on the external and to rely on ‘thinking’, ‘judging’ and ‘action’ – about the equal value and benefits of focusing on the internal, and relying on ‘not thinking’, ‘not judging’ and ‘not acting’. This is exacerbated by the fact that analytical personality types, with a tendency to process information intellectually and look for guidance from external sources, are attracted to the field of law.

Teaching at the retreat, Halpern recounted how the experience of practising mindfulness meditation had transformed the experience of some of his students, who worked at a poverty law clinic as part of their studies. The students often found the experience of helping clients in desperate situations facing multiple crises in their lives – such as evictions, divorce, domestic abuse and drug-addicted children – overwhelming. The students were vulnerable to burnout, depression and fatigue but, through contemplative practices, they found the ability to deal with the situations in a different way. With an increased ‘presence power’, they were better able to simply sit and listen to the problems being recounted with full, non-judgemental attention.

The skill of deep and open listening is a cornerstone benefit of practising mindfulness, and it is a profound addition to any lawyer’s skill set. There are often situations, the poverty law clinic being an example, when there are no, or very limited, legal solutions to the human dilemmas that people face. However, the act of providing a space for that human dilemma to be witnessed and listened to – with openness and without judgment – may have therapeutic benefits beyond those that can be measured in legal or financial terms.

Losing my religion

The fact that lawyers are more sceptical than most is perhaps the key reason why mindfulness has been slower to take off in the legal profession. Aside from the frustrating woolliness of the concept, and the challenge of finding appropriate language to describe it and its effects (a challenge that stems from the fact that mindfulness is essentially an experimental process and not an academic concept), there are wider concerns about the idea of introducing practices, traditionally seen as having a strong religious or spiritual association, into a secular setting. Norman Fisher says: “These teachings are those

of humanity, even though they may have originated 2,600 years ago. They can be taught in secular settings.”


Daniel J Siegel (clinical professor of psychiatry at the UCLA School of Medicine and founding co-director of the [Mindful Awareness Research Centre](#)) says: “Often times, people hear the word ‘mindfulness’ and think ‘religion’, but the reality is that focusing our attention in this way is a biological process that promotes

health as a form of ‘brain hygiene’ – not a religion. Various religions may encourage this health-promoting practice, but learning the skill of mindful awareness is simply a way of cultivating what we have defined as the integration of consciousness.”

Writing in the year-end report for the Initiative for Mindfulness in Law, Halpern says: “Legal education and the legal profession, like society at large, are in a period of

transition. Lawyers and law students today face unprecedented challenges, from upheaval in the legal market, to seismic shifts in health care, financial markets, the environment and other sectors. In order to thrive and effectively service their clients in this time of uncertainty, legal professionals need new skills, and I believe deeply that one of them is mindfulness, the ancient practice of moment-by-moment, non-judgemental awareness.”

These words, written in the context of the American legal system, apply equally in a global context, because the difficulties and issues described by Halpern are faced by legal professionals in jurisdictions across the world, including Ireland.

After the retreat, there was a sense that Halpern, and others like him advocating the potentially transformative effect of mindfulness on the legal profession, are laying the foundation and paving the way for an urgently needed movement within the law that can, hopefully, only gain momentum. 

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FOCAL POINT

applications for the legal profession?

The impact of mindfulness is already widely recognised and appreciated in the fields of medicine, psychology, education and business, but the legal profession has been slower to accept and integrate its transformative effects.

Some benefits of mindfulness are obvious, but others, no less important, are less so because they are more subtle. Legal academics cite these additional potential benefits as follows:

- Increasing the ability to transcend the dominating influence of the traditional adversarial mindset to allow awareness of other perspectives,
- Developing the skill of deep and open listening,
- Developing negotiation skills by training in maintaining a delicate balance in understanding, emotion and behaviour – all necessary for making wise decisions,
- Fostering the ability for calm deliberation,

which promotes better decision-making in difficult situations,

- Cultivating trial advocacy skills by developing internal abilities to, for example, remain ‘centred’ in challenging moments in court and to retain authenticity,
- Enhancing the performance of traditional legal tasks, such as learning, understanding and manipulating rules of law, drafting documents and litigating cases,
- Enhancing ethical practice through, for example, developing the self-reflection skills important for judgement (mindfulness makes it more likely that one will adopt universal norms such as honesty and fairness),
- Making the practice of law more meaningful and satisfying generally,
- Expanding focus to include broader orientations towards lawyering (for example, restorative justice, therapeutic jurisprudence, collaborative law and other healing, peace-making perspectives).

look it up

Literature:

- Congleton, Christina, Britta K Hölzel, and Sara W Lazar, ‘Mindfulness can literally change your brain’, *Harvard Business Review* (8 January 2015)