

Ethical Climate, Job Satisfaction and Wellbeing: Observations from an Empirical Study of New Australian Lawyers

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ABSTRACT

It is clear from research that workplace environments can influence employees to behave ethically or unethically. To date, such research has focused on corporate workplace culture; legal workplaces have come under limited scrutiny. This Article reports on a study that expands that scrutiny by surveying perceptions of ethical climate in legal practices. The study breaks new ground by correlating perceptions of ethical climate with measures of psychological health, organizational learning culture, job and career satisfaction, and understandings of professionalism. Our findings are clear enough for legal practice managers, professional bodies, and regulators to take note of the organizational factors linked to sound mental health and job satisfaction and to develop interventions aimed at promoting these factors.

TABLE OF CONTENTS

INTRODUCTION	1036
I. REGULATORY REQUIREMENTS FOR INCORPORATED LEGAL PRACTICES	1039
II. MEASURING ETHICAL CLIMATE	1043
III. METHODOLOGY	1045
A. PARTICIPANTS	1046
B. METHOD AND DESIGN	1047

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IV. RESULTS 1049

 A. PARTICIPANT CHARACTERISTICS 1049

 B. ETHICAL CLIMATE INDEX: REANALYSIS OF DIMENSIONS 1050

 C. ETHICAL CLIMATE DIMENSIONS: RELATIONSHIPS WITH DEMOGRAPHICS AND WORKPLACE STRUCTURE 1052

 D. ETHICAL CLIMATE AND LEARNING ORGANIZATIONS . . . 1053

 E. JOB AND CAREER SATISFACTION AND ETHICAL CLIMATE 1055

 F. PSYCHOLOGICAL DISTRESS AND BASIC PSYCHOLOGICAL NEEDS 1056

 G. PROFESSIONALISM. 1058

 H. ETHICAL CLIMATE TYPES 1059

 I. IMPLICATIONS OF ETHICAL CLIMATE TYPES 1060

V. DISCUSSION 1063

VI. LESSONS LEARNT. 1065

CONCLUSION. 1068

INTRODUCTION

The idea that a person’s workplace environment might influence them toward (un)ethical behaviors is now well accepted.¹ Research into workplace culture² and its effect on employee ethical behavior relates primarily to corporate culture,³ but legal workplaces have come under scrutiny in a limited way. As early as 1991, Ted Schneyer examined U.S. law firms and introduced the notion that “a law firm’s organization, policies, and operating procedures constitute an ‘ethical

1. In light of the considerable body of scholarship on the effect of workplace culture on employees’ ethical decision-making, see Jennifer J. Kish-Gephart, David A. Harrison & Linda Klebe Treviño, *Bad Apples, Bad Cases, and Bad Barrels: Meta-Analytic Evidence About Sources of Unethical Decisions at Work*, 95 J. APPLIED PSYCHOL. (2010), and David M. Mayer, *A Review of the Literature on Ethical Climate and Culture*, OXFORD HANDBOOK OF ORGANIZATIONAL CLIMATE AND CULTURE 415, 415 (Benjamin Schneider & Karen M. Barbera eds., 2014).

2. “Ethical culture” and “ethical climate” are defined differently in the literature, but the concepts overlap. This Article uses ethical culture in the sense of it being a subset of organizational culture, “representing a multi-dimensional interplay among various ‘formal’ and ‘informal’ systems of behavioral control that are capable of promoting either ethical or unethical behavior.” Linda Klebe Treviño, Kenneth D. Butterfield & Donald L. McCabe, *The Ethical Context in Organizations: Influences on Employee Attitudes and Behaviors*, 8 BUS. ETHICS Q. 447, 451 (1998).

3. See Kish-Gephart et al., *supra* note 1.

infrastructure’ that cuts across particular lawyers and tasks.”⁴ Importantly, he noted that the ethical infrastructure of large law firms “may have at least as much to do with causing and avoiding unjustified harm as do the individual values and practice skills of their lawyers.”⁵ Two decades later, Schneyer re-examined the concept of ethical infrastructure to include “the policies, procedures, systems, and structures—in short, the ‘measures’ that ensure lawyers in their firm comply with their ethical duties.”⁶

In 2002, David Wilkins and Elizabeth Chambliss, focusing again on large U.S. law firms, proposed a research agenda for the empirical study of ethical infrastructure in large law firms, seeing its effective design and implementation as being “critical to the future integrity of private law practice.”⁷ In taking up this challenge, other scholars both in the U.S. and elsewhere have broadened the inquiry from a focus on formal ethical infrastructure alone to the wider picture of firm culture and organizational settings. Leslie Levin and Lynn Mather note that “[e]ach practice context contains its own combination of formal and informal constraints, which shape norms, values, and conduct of lawyers working within it,” seeing the combination of these factors as reflective of the broad practice culture.⁸ Moreover, they contend that the “economic, social, and organizational features” of particular practice contexts “deserve at least as much attention” as formal rules of professional conduct.⁹

The research on Australian law firms by Christine Parker and colleagues argued for a broader conception of ethical infrastructure, so as to incorporate both informal and formal management policies and work cultures and the active promotion of ethical dialogue and values (not just compliance with professional conduct rules).¹⁰ Parker and colleagues contend that large law firms should consciously design and implement ethical infrastructures “to both counteract pressures for misbehaviour and positively promote ethical behavior and discussion.”¹¹

Building on these analyses, Milton C. Regan suggested in a 2013 article that four components influence the ethical behavior of lawyers: (1) the individual lawyer; (2) a firm’s formal ethical infrastructure; (3) a firm’s broader ethical culture; and (4) a firm’s overall organizational culture, which includes “policies and

4. Ted Schneyer, *Professional Discipline for Law Firms*, 77 CORNELL L. REV. 1, 10 (1991).

5. *Id.*

6. Ted Schneyer, *On Further Reflection: How “Professional Self-Regulation” Should Promote Compliance with Broad Ethical Duties of Law Firm Management*, 53 ARIZ. L. REV. 577, 585 (2011).

7. Elizabeth Chambliss & David B. Wilkins, *Promoting Effective Ethical Infrastructure in Large Law Firms: A Call for Research and Reporting*, 30 HOFSTRA L. REV. 691, 716 (2002).

8. LAWYERS IN PRACTICE: ETHICAL DECISION MAKING IN CONTEXT 366 (Leslie C. Levin & Lynn Mather eds., 2012).

9. *Id.* at 369.

10. Christine Parker et al., *The Ethical Infrastructure of Legal Practice in Larger Law Firms: Values, Policy and Behaviour*, 31 UNSW L.J. 158, 160 n.6 (2008).

11. *Id.* at 158.

practices that we may not even think of as relating to ethics.”¹² Regan’s research highlights the importance of this final layer: Employees’ perceptions of organizational culture as a whole will influence whether they feel committed to the organization and as a consequence are motivated to comply with its rules, both ethical and otherwise.¹³

Ethical infrastructure was also a focus of a study on corporate lawyers in large law firms in the City of London. Steven Vaughan and Emma Oakley interviewed fifty-seven transactional lawyers and included questions about the ethical infrastructure of the firms, for example, “the extent to which ethics was the subject of training and education programmes . . . , and where or how the ethics of corporate lawyers was assessed by their firms.”¹⁴ Two issues stood out. First, ethics training was largely focused on specific “conduct rules, illegality and risk management” rather than on broader ethical concerns and the development of ethical judgment.¹⁵ Such training—however deficient—was offered most often (only) to lawyers new to the firm, for example trainees and new partners.¹⁶ Second, few firms gave weight to ethical issues in their recruitment or retention practices. Rather, “there was a belief among a number of interviewees that their firms only employed ethical lawyers, who in turn learned from other members of the firm.”¹⁷ These findings are consistent with Richard Moorhead and Victoria Hinchly’s study on corporate lawyers in private and inhouse practice: Infrastructure for ensuring ethicality is often limited, partly because ethical culture tends to be “assumed rather than actively fostered” and the belief that ethical standards are maintained by recruiting the “right” people remains commonplace.¹⁸

There is limited *empirical* research into the ethical infrastructure of legal practices. Likewise, research into the “ethical climate” of legal practices—“the shared perception of what is correct behavior, and how ethical situations should be handled”¹⁹—remains scant, despite it being commonplace in other institutional

12. Milton C. Regan, *Nested Ethics: A Tale of Two Cultures*, 42 HOFSTRA L. REV. 143, 146 (2013).

13. *Id.* at 168. See also Suzanne van Gils’ research, finding that employee identification with an organization increased moral decision-making only if the employee perceived the organization as having an *ethical* culture. Corroborating earlier research, the study showed “the relationship between the employee and the organization influences moral behavior above and beyond the effects of moral personal identity.” Suzanne van Gils et al., *When Organizational Identification Elicits Moral Decision-Making: A Matter of the Right Climate*, J. BUS. ETHICS 155, 163 (2015); see also Manuel Teresi et al., *Ethical Climate(s), Organizational Identification, and Employees’ Behavior*, 10 FRONTIERS IN PSYCH. 1356 (2019).

14. Steven Vaughan & Emma Oakley, ‘Gorilla Exceptions’ and the Ethically Apathetic Corporate Lawyer, 19 LEGAL ETHICS 50, 69 (2016).

15. *Id.*

16. *Id.*

17. *Id.* at 70.

18. Richard Moorhead & Victoria Hinchly, *Professional Minimalism? The Ethical Consciousness of Commercial Lawyers*, 42 J.L. & SOC’Y 387, 403 (2015); Vaughan & Oakley, *supra* note 14, at 70.

19. Bart Victor & John B. Cullen, *A Theory and Measure of Ethical Climates in Organizations*, 9 RES. IN CORP. SOC. PERFORMANCE & POL’Y 51, 51 (1987).

settings as an indicator of the health of ethical infrastructure.²⁰ The study presented in this Article seeks to contribute to our understanding of the ethical climate of Australian legal practices from the perspective of new lawyers entering these workplaces.²¹

We proceed as follows: Part I situates this new research in the context of significant (but now largely abandoned) changes made to legal practice regulation in Australia, which saw ethical self-assessment rolled out for newly created incorporated legal practices (“ILPs”). For a time, this requirement was seen as giving real content to the concept of ethical infrastructure. Part II discusses the current literature on measuring ethical climate, both more broadly and in relation to legal practices. Part III details the methodology used in the study, which involved 336 new lawyers as participants. Part IV reports the results of the study, which found correlations between participants’ perceptions of ethical climate and a number of other factors including the type of practice in which they worked, the learning culture in their organization, their psychological health, job and career satisfaction, and their understanding of professionalism. Parts V and VI discuss the implications of these findings, including that the perceived ethical climate of new lawyers’ workplaces affects them in significant ways, both directly and indirectly. We conclude suggesting legal practice managers, professional bodies, and regulators develop interventions that promote the organizational factors linked to sound mental health and job satisfaction.

I. REGULATORY REQUIREMENTS FOR INCORPORATED LEGAL PRACTICES

Partly in recognition of the importance of workplace culture, the Australian jurisdiction of New South Wales (“NSW”) targeted ethical infrastructure in legislative reforms. Amendments in 2001 to the *Legal Profession Act 1987*, replicated in the *Legal Profession Act 2004* (“LPA”), allowed law firms to incorporate as limited liability companies, but required such incorporated legal practices to have a legal practitioner director whose task was to ensure, through the development of “appropriate management systems,” compliance with the LPA’s obligations.²² Collaboration between the NSW Office of the Legal Services Commissioner and the legal profession resulted in an “education toward compliance” strategy in relation to these obligations: Directors of ILPs were required to complete a practice self-assessment process so as to evaluate compliance with ten specific objectives seen as necessary for sound legal practice.²³ The areas of concern covered by the ten objectives were: (1) Negligence; (2) Communication; (3) Delay;

20. See Kish-Gephart et al., *supra* note 1, at 6.

21. Paula D. Baron & Lillian C. Corbin, *Ethics Begins at Home*, 19 *LEGAL ETHICS* 281, 286–87 (2016) (noting that “the literature on ethical climate in law is still relatively undeveloped” and suggesting “we need to pay more careful attention to empirical indications of the ethical culture of law firms”).

22. *Legal Profession Act 2004* (NSW), s 140 (Austl.).

23. Susan Fortney & Tahlia Gordon, *Adopting Law Firm Management Systems to Survive and Thrive: A Study of the Australian Approach to Management-Based Regulation*, 10 *U. ST. THOMAS L.J.* 152, 153 (2012).

(4) Liens/File Transfers; (5) Cost Disclosure/Billing Practices/Termination of Retainer; (6) Conflict of Interests; (7) Records Management; (8) Undertakings; (9) Supervision of Practice and Staff; and (10) Trust Account Regulations.²⁴ Those objectives were “intended to help ILPs work out how to systemize professional ethical conduct, rather than [simply prescribing] detailed management systems and processes.”²⁵ Importantly, the regulator was authorized to conduct a compliance audit of an ILP, whether or not a complaint had been made in relation to the practice.²⁶ Thus, the regulator was empowered to audit proactively, allowing for prevention, not just cure.²⁷ Several other Australian jurisdictions (Queensland, Western Australia, Northern Territory, and the Australian Capital Territory) eventually adopted a similar statutory and regulatory approach.²⁸

Evaluation of what was seen as NSW’s “light touch,” “principles-based” approach to regulation showed that this regime had a significant impact on behavior.²⁹ Parker and colleagues conducted a preliminary evaluation based on an analysis of complaint rates, concluding that self-assessment “may well be guiding, encouraging, and requiring many practitioners consciously and systematically to think through practice management issues, including ethics management, for the very first time.”³⁰ U.S. scholars have described the implementation of this appropriate management systems requirement as “a watershed event” in law firm regulation.³¹ Susan Fortney evaluated the process in 2012, this time surveying legal practitioner directors. The majority of directors reported that the self-assessment

24. Christine Parker, Tahlia Gordon & Steve Mark, *Regulating Law Firm Management: An Empirical Assessment of an Innovation in Regulation of the Legal Profession in New South Wales*, 37 J.L. & Soc’y 466, 472 (2010). These objectives are current under the new regulatory regime. *Practice Management*, OFFICE OF THE LEGAL SERV. COMM’R, http://www.olsc.nsw.gov.au/Pages/lsc_practice_management/lsc_practice_management.aspx [<https://perma.cc/9ZMS-CGW6>] (last visited May 18, 2020). In relation to a similar regulatory regime in the United Kingdom (see below), Loughrey makes the important point that, in relation to large law firms, the areas targeted by the principles in the U.K. regulatory framework that relate to client care are likely an instance of over-regulation: the clients of large law firms are well able to look after themselves when it comes to service standards. Joan Loughrey, *Accountability and the Regulation of the Large Law Firm Lawyer*, 77 MOD. L. REV. 732, 758 (2014). Loughrey critiques the U.K. regulatory regime for not being stronger and clearer in its requirements relating to the public interest. *Id.* at 758, 760–61. But these are arguments going to the substance of what is regulated, as opposed to the method of regulation.

25. Parker et al., *supra* note 24, at 471.

26. *Legal Profession Act 2004* (NSW), s 670 (Austl.).

27. JOHN BRITON, BETWEEN THE IDEA AND THE REALITY FALLS THE SHADOW 12 (2015), available at <http://www.monash.edu/law/centres/clars/news-events/anzlec5-sustainable-legal-ethics> [<https://perma.cc/3PZB-X589>].

28. Steve Mark & Tahlia Gordon, *Innovations in Regulation—Responding to a Changing Legal Services Market*, 22 GEO. J. LEGAL ETHICS 501, 511 (2009); see John Briton & Scott Mclean, *Incorporated Legal Practices: Dragging the Regulation of the Legal Profession into the Modern Era*, 11 LEGAL ETHICS 241 (2008).

29. See Loughrey, *supra* note 24, at 748 (“Principles-based regulation sets behavioral standards and, as a regulatory technique, is designed to reduce the ability of the regulated to exploit regulatory gaps and engage in minimal technical compliance.”).

30. See Parker et al., *supra* note 24, at 495.

31. See Fortney & Gordon, *supra* note 23, at 154.

requirement “had a positive effect on different aspects of firm practice, most notably firm management, supervision and risk management, followed by a positive impact on client services.”³² Schneyer credits the NSW program with giving real content to the concept of ethical infrastructure by “identifying ten types of recurring problems that infrastructure should be designed to prevent or at least mitigate.”³³ It seems that the LPA requirement for self-assessment was a powerful regulatory tool for improving the ethical culture of these incorporated practices and by extension legal practices more generally.³⁴ In 2014, Fortney reported that “[r]egulators, bar leaders, and legal ethics experts around the world” were watching the NSW experience and taking note that the legislation “effectively pushed incorporated firms to develop their ethical infrastructures.”³⁵

A similar regulatory approach has been adopted in the United Kingdom pursuant to its *Legal Services Act 2007*.³⁶ The Solicitors Regulation Authority requires all Alternative Business Structures to appoint a Compliance Officer for Legal Practice (“COLP”)³⁷ who is tasked with ensuring the firm complies with its regulatory obligations.³⁸ Those obligations are contained in the Code of Conduct as principles,³⁹ allowing the regulator to reject a “one size fits all” approach in favor

32. *Id.* at 181.

33. Schneyer, *supra* note 6, at 585.

34. Nevertheless, the changes were reversed in subsequent legislation in 2015. We understand this as a consequence of pressure from large law firms.

35. Susan Fortney, *The Role of Ethics Audits in Improving Ethical Conduct in Law Firms: An Empirical Examination*, 4 ST. MARY’S J. LEGAL MALPRACTICE & ETHICS 112, 147 (2014). Unfortunately, a new *Legal Profession Uniform Law* (“LPUL”), in force in NSW and Victoria since July 2015, has taken a backward step in this regulatory space. The requirement (on ILPs) under the LPA to implement and maintain AMS has been discarded. There is now no positive obligation placed upon an ILP, or any other type of law practice, to implement AMS. Instead, a law practice may be given a “management systems direction” by a relevant regulatory authority to ensure that AMS are “implemented and maintained.” *Legal Profession Uniform Law 2015* (NSW), s 257 (Austl.). However, such a direction can only be made if the authority considers it reasonable after an examination or investigation of a law practice, or a compliance audit. *Id.* This means that a law practice will only know the standards with which it is expected to comply after an audit. See Tahlia Gordon & Paddy Oliver, *The Demise of Appropriate Management Systems*, LINKEDIN (May 11, 2015), <https://www.linkedin.com/pulse/demise-appropriate-management-systems-australian-law-firms-gordon> [<https://perma.cc/48EE-CZUC>]. This contrasts with the LPA scheme which successfully used AMS as a proactive tool to encourage compliance. John Briton, the former Queensland Legal Services Commissioner, has called for a return to the proactive use of AMS. See JOHN BRITON, *BETWEEN THE IDEA AND THE REALITY FALLS THE SHADOW* (2015), available at https://www.monash.edu/data/assets/pdf_file/0004/374872/Briton-Between-the-Idea-and-the-Reality-Falls-the-Shadow-revised-April-2016.pdf [<https://perma.cc/BS29-BJH2>]. Our research adds force to that call, but note, with respect to large law firms, Loughrey’s view that such a framework both over and under regulates. See Loughrey, *supra* note 24, at 760.

36. See *Legal Services Act 2007*, c. 29, pt. 5 (UK).

37. See *SRA Authorisation of Firms Rules, Rule 8*, SOLICITORS REGULATION AUTH., <https://www.sra.org.uk/solicitors/standards-regulations/authorisation-firms-rules/#rule-8> [<https://perma.cc/89BT-QFKZ>] (last visited May 18, 2020).

38. See *SRA Code of Conduct for Firms, Rule 9*, SOLICITORS REGULATION AUTH., <https://www.sra.org.uk/solicitors/standards-regulations/code-conduct-firms/#rule-9> [<https://perma.cc/NN5H-A8YH>] (last visited May 18, 2020).

39. See *SRA Principles*, SOLICITORS REGULATION AUTH., <https://www.sra.org.uk/solicitors/standards-regulations/principles/> [<https://perma.cc/A9T6-KPVD>] (last visited May 18, 2020).

of compliance-based regulation, which allows firms to best determine how to achieve the outcomes prescribed by the regulator.⁴⁰ COLPs are key players in this scheme, just as legal practitioner directors were in the New South Wales scheme. Sundeep Aulakh and Joan Loughrey's research,⁴¹ which involved interviews with COLPs from a diverse range of firms, shows that the COLPs interviewed "wielded significant authority, and were prepared to exercise it" to ensure compliance with regulatory norms.⁴² Overall, the authors concluded that the COLP role is an "increasingly important regulatory mechanism," and that COLPs "have a critical role to play in protecting and promoting professional values" in legal workplaces.⁴³

Another attempt to promote similar "voluntary reflection, discussion, learning, and, where necessary, change" occurred in the Australian jurisdiction of Queensland.⁴⁴ In 2008, the Queensland Legal Services Commissioner invited Queensland law firms to participate in what was described as a "Workplace Culture Check."⁴⁵ This check was one of a number of proactive attempts by the Queensland LSC to improve standards of conduct. It involved (non-incorporated) firms completing an online survey which included questions requiring them to examine aspects of their practice's ethical infrastructure and workplace culture.⁴⁶ Christine Parker and Lynn Aitkin analyzed data generated by this exercise.⁴⁷ Their findings are instructive though troubling: Where firms had formal ethical supports in place (such as designated ethics partners), the most senior lawyers were significantly more likely to be aware of those supports than were the most junior lawyers.⁴⁸ Further, junior lawyers in the sample "generally felt less personally able to raise, discuss, and resolve ethical issues than the most senior lawyers."⁴⁹ As Parker and Aitkin note, this lack of capacity to "give voice" to ethical issues is both highly consistent with other studies and suggestive that new lawyers soon learn that to succeed in the practice they must learn to conform to, rather than confront, the existing ethical culture.⁵⁰ New lawyers will often "adapt their personal identity and beliefs" so as to fit in and may eventually feel they

40. Sundeep Aulakh & Joan Loughrey, *Regulating Law Firms from the Inside: The Role of Compliance Officers for Legal Practice in England and Wales*, 45 J.L. & SOC'Y 254, 255–56 (2018).

41. *Id.*

42. *Id.* at 269.

43. *Id.* at 281.

44. Christine Parker & Lyn Aitkin, *The Queensland "Workplace Culture Check": Learning from Reflection on Ethics Inside Law Firms*, 24 GEO. J. LEGAL ETHICS 399, 401 (2011).

45. *Id.* at 399.

46. *Id.* at 408–09.

47. *Id.* at 399.

48. *Id.* at 426.

49. *Id.* at 429–30.

50. See, e.g., Hilary Sommerlad, *Researching and Theorizing the Processes of Professional Identity Formation*, 34 J.L. & SOC'Y 190 (2007); Lillian Corbin, *How Firm Are Lawyers' Perceptions of Professionalism*, 8 LEGAL ETHICS 265 (2005); Kimberly Kirkland, *Ethics in Large Law Firms: The Principle of Pragmatism*, 35 U. MEM. L. REV. 631 (2005).

must justify their adoption of the firm's norms because of all they have invested in the firm.⁵¹ Parker and Aitkin note the dangers this perpetuates, given that some junior lawyers will conform to the firm culture "without appropriate critical questioning" and eventually become more senior, without having had the opportunity "to participate in ensuring that the firm environment evolves and changes to meet new ethical challenges."⁵²

II. MEASURING ETHICAL CLIMATE

In 2010, Elizabeth Chambliss critiqued existing research into the ethical culture of legal practice as suffering from a normative bias and lacking an empirical foundation.⁵³ She called for a more rigorous methodology to address these deficiencies,⁵⁴ noting the need for theoretical development and the promise of organizational research methods such as mapping firm culture from the point of view of the lawyers working in the firm,⁵⁵ and identifying "the mechanisms by which firm leaders inspire commitment to collective firm goals."⁵⁶ While the research discussed above goes some way to address Chambliss' critique, as she implies, there is a broad spectrum of empirical research methodology that can be applied and further developed to enable a deeper investigation of legal practice culture and ethical behavior.⁵⁷

The most significant approach to studying the ethical *climate* of workplaces is necessarily empirical, with the most commonly used measure being Bart Irwin Victor and John B. Cullen's Ethical Climate Questionnaire ("ECQ").⁵⁸ The ECQ was developed in the 1980s to "tap respondents' perceptions of how the members of an organization typically make decisions concerning 'events, practices, and procedures' requiring ethical criteria."⁵⁹ The ECQ was first developed in line with then-current theories on moral development, most significantly Lawrence Kohlberg's stage-based model.⁶⁰

Although no longer considered to represent contemporary thinking on moral development and reasoning, Kohlberg's model remains influential.⁶¹ Kohlberg

51. Parker & Aitken, *supra* note 44, at 431–32.

52. *Id.* at 432.

53. See Elizabeth Chambliss, *Measuring Law Firm Culture*, 52 *STUD. L. POL. SOC'Y* 1 (2010).

54. *Id.* at 7–9.

55. *Id.* at 22, 25.

56. *Id.* at 22.

57. *Id.* at 18–26.

58. See Kish-Gephart et al., *supra* note 1 (citing research showing that ethical climate "is a more proximate predictor of unethical intentions or behavior than ethical culture"); Alexander Newman et al., *Ethical Climates in Organizations: A Review and Research Agenda*, 27 *BUS. ETHICS Q.* 475, 480–81 (2017).

59. John B. Cullen et al., *The Ethical Climate Questionnaire: An Assessment of Its Development and Validity*, 73 *PSYCHOL. REP.* 667, 669 (1993).

60. See LAWRENCE KOHLBERG, *THE PSYCHOLOGY OF MORAL DEVELOPMENT: THE NATURE AND VALIDITY OF MORAL STAGES: ESSAYS ON MORAL DEVELOPMENT* (Harper & Row 1984).

61. JONATHAN HAIDT, *THE RIGHTeous MIND: WHY GOOD PEOPLE ARE DIVIDED BY POLITICS AND RELIGION* (Vintage Books 2012).

proposed that moral development from childhood occurs in stages: Ethical reasoning is initially governed by fear of punishment, then by concern for others, and finally by concern for humanity as a whole.⁶² Kohlberg defined these three ethical levels as pre-conventional (characterized mainly by self-interest), conventional (characterized by interpersonal responsibility and a recognition of social order), and post-conventional (governed by principles and values).⁶³ In developing the ECQ, Victor and Cullen theorized that ethical climates in organizations “divide along dimensions similar to Kohlberg’s ethical standards.”⁶⁴ In their conception, organizations could be categorized as instrumental (egoism), caring (benevolence), or principled.⁶⁵

While the ECQ has been widely used outside legal practice, it has also been critiqued on both theoretical and empirical grounds.⁶⁶ Anke Arnaud argues that, while the ECQ captures a crucial component of the ethical decision-making process that is moral judgment, it is not broad enough to capture other important components of ethical decision-making, in particular, those aspects identified by James R. Rest.⁶⁷ Rest proposed that, for individuals to act ethically, they must engage in four basic psychological processes: Moral sensitivity (namely recognizing that an ethical dilemma exists), moral judgment (applying their moral decision-making framework to the recognized ethical problem), moral motivation (giving weight to ethical considerations over other considerations such as power or economic value), and moral character (the fortitude to follow through on what one has decided is the correct ethical course of action).⁶⁸ Arnaud theorizes that these “same psychological components that comprise individual ethical decision-making and subsequent action will also apply at the social system level.”⁶⁹

Arnaud developed an alternative questionnaire, the Ethical Climate Index (“ECI”), which would measure these components. According to Arnaud’s research, the ECI provides “a [more] reliable and valid indicator of the content and strength of the prevalent ethical values, norms, attitudes, feelings, and behaviors of the members of a social system.”⁷⁰ The ECI is based on Rest’s four-component model of moral behavior.⁷¹ It originally contained thirty-six items, although a short-form version of eighteen items was also developed based on the strongest three items in each category.⁷² Our study used this condensed version.

62. See KOHLBERG, *supra* note 60.

63. *See id.*

64. Cullen et al., *supra* note 59, at 667–68.

65. *See id.* at 668.

66. *See* Mayer, *supra* note 1, at 417; Anke Arnaud, *Conceptualizing and Measuring Ethical Work Climate. Development and Validation of the Ethical Climate Index*, 49 BUS. & SOC’Y, 345–46 (2010).

67. Arnaud, *supra* note 66, at 345.

68. *See* JAMES REST, MORAL DEVELOPMENT: ADVANCES IN RESEARCH AND THEORY (Praeger 1986).

69. Arnaud, *supra* note 66, at 348.

70. *Id.* at 351.

71. *Id.* at 346.

72. *Id.* at 356.

The theoretical and empirical basis of Rest's model is not uncontested.⁷³ We were therefore less attached to its particular partitioning of ethical climate and instead sought to examine whether the ECI could measure ethical climate in legal workplaces across a smaller and simpler set of empirically-derived dimensions. We looked to see whether the working environments of participants in our sample could be classified into ethical types according to participants' perceptions across these dimensions of ethical climate, as measured by the ECI.

In this regard, a separate meta-analysis of research into sources of unethical decisions at work found that the three most significant dimensions of ethical work climate for predicting (un)ethical behavior could be distilled to workplace environments where:

1. There is a focus on following rules that protect the company and others (the "Principled" climate), or
2. Employees' attention was focused on the well-being of multiple stakeholders, such as employees, customers, and the community (the "Benevolent" climate), or
3. There is a focus which promoted "an 'everyone for himself' atmosphere" (the "Egoistic" climate).⁷⁴

According to Kish-Gephart and colleagues, the stronger the "principled" and "benevolent" dimensions, and the clearer the communication of what constitutes acceptable behavior, the more likely it is that employees will make ethical choices.⁷⁵ Conversely, the stronger the "egoistic" dimension and the less clear the communication of acceptable and unacceptable behaviors, the greater the likelihood of unethical behavior.⁷⁶ Kish-Gephart and colleagues suggest that organizations interested in understanding how employees perceive their broad ethical environments should assess perceptions of these three ethical climate dimensions.⁷⁷ We followed this prescription.

III. METHODOLOGY

Our earlier qualitative work focused on new lawyers and how they found meaning and a sense of agency in their early experience of practice.⁷⁸ One of the

73. See generally Howard J. Curzer, *Tweaking the Four-Component Model*, 43 J. MORAL EDUC. 104 (2014); Kristen Bell DeTienne et al., *Moral Development in Business Ethics: An Examination and Critique*, J. BUS. ETHICS (2019).

74. See Kish-Gephart et al., *supra* note 1, at 21.

75. *Id.*

76. While these findings might read as support of Kohlberg's theory of CMD and step-by-step controlled cognitive processing in response to ethical challenges, Kish-Gephart and her co-authors note that cumulative data suggest that more impulsive, automatic cognitive pathways are at work "at least sometimes." *Id.* at 23. This finding supports the work of scholars who argue that individuals "respond to ethically charged situations in ways that are more automatic than deliberative." *Id.* at 22.

77. *Id.*

78. Vivien Holmes et al., *Practising Professionalism: Observations from an Empirical Study of New Australian Lawyers*, 15 LEGAL ETHICS 29 (2012).

experiences new lawyers reported as influential and significant was finding a comfortable convergence between their personal values and ethical frameworks and those modelled by colleagues.⁷⁹ The quantitative study we discuss here looks more closely at the interplay of broader factors influencing the ethical climate in which new lawyers find themselves. This study addressed two main questions:

1. Is the ECI a good and suitable measure of the ethical climate of the working environments of newly-admitted lawyers?
2. What are the antecedents and consequences of the different dimensions of ethical climate for newly-admitted lawyers?

A. PARTICIPANTS

The study was conducted as an online survey between November 2013 and July 2016. Participants were lawyers from all Australian jurisdictions, who had been practicing for between three and twelve months following their admission to practice. After excluding incomplete and invalid responses, we received valid responses from 336 participants.

Participants were recruited to the study through several methods. First, a list of newly-admitted lawyers was compiled from the public admission ceremony records of all Australian states and territories.⁸⁰ The names were matched against publicly-available contact information (such as details on a law firm's website or on the lawyer's public LinkedIn profile). At least three months after the admission ceremony, the potential participant was sent an email or letter inviting them to participate in the study. Second, graduates from the Australian National University's Graduate Diploma in Legal Practice program were sent an email invitation to participate in the study, as part of regular alumni correspondence.⁸¹ Third, invitations to participate in the study were distributed at events and conferences which were attended by newly-admitted lawyers. Finally, participants in the study were encouraged to invite their newly-admitted colleagues to participate.⁸²

79. *Id.* at 49.

80. The cohort is extensive. Records indicate that Australian Supreme Courts admitted 5750 lawyers in 2012 and current admission numbers are pushing towards 6000 per year. [Authors' communications with Supreme Court Registrars in all Australian states and territories].

81. The Graduate Diploma in Legal Practice ("GDLP") is a postgraduate practical legal training ("PLT") program offered by a number of providers, including Australian National University ("ANU"), across Australia. An accredited GDLP program provides graduates of a JD or LLB with the legal practice skills required for admission to practice in Australia. *See generally* LAW ADMISSIONS CONSULTATIVE COMMITTEE, PRACTICAL LEGAL TRAINING COMPETENCY STANDARDS FOR ENTRY-LEVEL LAWYERS (2015), available at https://www.lawcouncil.asn.au/files/web-pdf/LACC%20docs/Competency_Standards_for_Entry-Level_Lawyers_-_1_July_2015.pdf [<https://perma.cc/KS78-6HQZ>].

82. The vast majority of newly admitted lawyers in Australia will have completed a Graduate Diploma of Legal Practice after completing an Australian Law degree, though their numbers may include some foreign trained lawyers who have completed the requisite study to be admitted in Australia. The GDLP is offered by a number of providers in Australia, including ANU.

Seeking a representative sample was not the primary aim of this approach to participant recruitment. The study was not intended to provide a descriptive picture of newly-admitted Australian lawyers and establish patterns or norms about ethical climate across legal practices. Rather, we are interested in identifying relationships between measurable personal and organizational characteristics and how these patterns might explain the development and effect of ethical climate. As such, the primary motivation in recruitment was to obtain a sufficiently diverse sample so that valid inferential analyses could be conducted.

Participants who completed the survey were offered the opportunity to enter a draw for one of several \$100 AUD gift vouchers, which were drawn randomly every six months. Ethical aspects of this study were reviewed and approved by the Australian National University's Human Research Ethics Committee.

B. METHOD AND DESIGN

The survey was delivered online through an encrypted web-based platform. As mentioned above, we used the short-form of the ECI to obtain respondents' perceptions of the ethical climate of their workplace. In addition, the survey included other well-validated measures of participants' experience which were included in the analyses as potential correlates or predictors. These were:

- The twenty-one-item version of the Depression Anxiety Stress Scale ("DASS-21"),⁸³ a brief self-report measure of psychological distress, which has been used widely in previous research on lawyer and law student well-being, as well as in the clinical psychological literature;
- The twenty-one-item workplace form of the Basic Psychological Needs Scale ("BPNS"), which measures the extent to which the workplace helps the participant fulfill the needs of autonomy, competence, and relatedness.⁸⁴ These three needs are recognized in self-determination theory as essential antecedents to psychological wellbeing, thriving, and engagement;⁸⁵
- The twenty-one-item short version of the Dimensions of Learning Organizations Questionnaire ("DLOQ"), a measure of the extent to which the organization is perceived to be a *learning organization*, defined as a type of learning culture evidenced by flexibility and adaptability to challenge and change, a high sense of trust, a high regard for initiative, and reward and encouragement for participation in learning;⁸⁶

83. S. H. LOVIBOND & P. F. LOVIBOND, *MANUAL FOR THE DEPRESSION ANXIETY STRESS SCALES* (Psychology Found. of Austl., 2d ed. 1995).

84. See generally Edward L. Deci et al., *Need Satisfaction, Motivation, and Well-Being in the Work Organizations of a Former Eastern Bloc Country: A Cross-Cultural Study of Self-Determination*, 27 *PERSONALITY & SOC. PSYCH. BULL.* 930 (2001).

85. See *id.* at 931.

86. See generally Victoria J. Marsick & Karen E. Watkins, *Demonstrating the Value of an Organization's Learning Culture: The Dimensions of the Learning Organization Questionnaire*, 5 *ADVANCES IN DEVELOPING HUM. RESOURCES* 132 (2003).

- The ten-item Job Satisfaction Scale (“JSS”), a measure of overall job satisfaction, which was supplemented by a single-item career satisfaction item (i.e., the participant’s satisfaction at their career as a legal professional);⁸⁷ and
- A measure of how participants characterized legal professionalism, previously used by Tang and Ferguson.⁸⁸ This is a ranking scale of four items in each of six facets of legal professionalism (Table 1). Participants were instructed to choose ten out of the twenty-four items and rank these in order of their importance for their own sense of legal professionalism.

TABLE 1: SUMMARY OF ITEMS WITHIN EACH CATEGORY OF LEGAL PROFESSIONALISM ITEMS

Professionalism dimension	Attributes
Communication	Effective, courteous, and persuasive interactions with clients and colleagues.
Ethics	Upholding professional conduct rules, being honest and trustworthy, and being able to identify and anticipate ethical issues and avoid unethical situations.
Justice	A commitment to ensuring that the legal system can deliver justice, improve society, and give back to the profession and others.
Legal skills	Good knowledge of legal content and processes, having good technical legal skills, being confident in one’s own abilities but also knowing what one does not know.
Work ethic	Good teamwork, taking responsibility for one’s work, being prepared to make personal sacrifices for in one’s work, and being willing to ask for assistance needed.
Potentially problematic attitudes	Positive professional qualities in some situations which can become problematic or unethical if expressed inappropriately or too frequently. These include being willing to take all measures to give the client what they want, ensuring that one never appears weak in front of clients or colleagues, or always solving problems on one’s own without seeking assistance from others.

87. See generally Danny Hills, Catherine Joyce & John D. Humphreys, *Validation of a Job Satisfaction Scale in the Australian Clinical Medical Workforce*, 35 EVALUATION & HEALTH PROFESSIONS 47 (2012).

88. See Stephen Tang & Anneka Ferguson, *The Possibility of Wellbeing: Preliminary Results from Surveys of Australian Professional Legal Education Students*, 14 QUEENSL. U. TECH. L. REV. 27, 34 (2014); CAROLINE STREVENS & RACHAEL C. FIELD, EDUCATING FOR WELL-BEING IN LAW 64 (2019).

The survey also contained demographic questions (e.g., age, gender, date of admission) and questions about the work environment of the participant (e.g., location of practice, employer type, practice area, and how the participant was supervised).

IV. RESULTS

A. PARTICIPANT CHARACTERISTICS

A significant proportion of participants identified as female (62.2%); they were predominately young (median age 26) and working full time (90.8%). Well over half (64.2%) were working in private practice, with a third of all participants working in small firms. Details of the demographic data are set out below in [Table 2](#).

TABLE 2: SUMMARY OF PARTICIPANT CHARACTERISTICS

Gender	
Female	62.2%
Male	37.2%
Other	0.6%
Age	
Median	26.0
Mean	29.1
Standard Deviation	7.6
Hours of work per week	
Median	40.0
Mean	42.6
Standard Deviation	9.2
Type of practice	
Private Practice	
<i>Small</i>	31.9%
<i>Medium</i>	12.2%
<i>Large</i>	13.7%
<i>In-house (corporate counsel)</i>	5.7%
<i>Other private (specialized)</i>	1.2%
Total private practice	64.8%
Government	22.7%
Community ⁸⁹	9.3%
Other	3.3%

89. "Community" legal practice describes a category of independently operated and publicly-funded or not-for-profit community organizations providing legal and related services to the public, often focusing on vulnerable populations and people with special needs.

B. ETHICAL CLIMATE INDEX: REANALYSIS OF DIMENSIONS

The first object of inquiry was to revisit the factor structure of the ECI, rather than to assume the validity of the six-factor measurement model proposed by Arnaud.⁹⁰ We hypothesized that the ECI could measure a smaller, but more refined set of components relating to ethical climate than set out in Arnaud's application of Rest's theoretical framework.⁹¹

An Exploratory Factor Analysis ("EFA") was conducted on participants' responses on the ECI.⁹² Results from the EFA showed that the eighteen ECI items could be reduced to three factors, rather than the six factors as proposed by Arnaud.⁹³ We interpreted and labelled these three dimensions of ethical climate, as applied to our sample of newly-admitted lawyers, as follows:

1. **Power and Self-Interest:** The extent to which power, control, and instrumental outcomes are more important and valued than normative principles, such as honesty, ethicality, or relational values, and a corresponding preparedness to break rules to obtain benefit when necessary.⁹⁴
2. **Integrity and Responsibility:** The extent to which there is a sensitivity to behaving ethically and in the broader public interest; an adherence to formal ethical rules; an inclination to be compliant, conscious, and accountable to prescriptive requirements; and an awareness of ethical problems as they arise in the workplace.⁹⁵
3. **Ethic of Care:** The extent to which people in the workplace expressed empathy and understanding for each other and strove to develop positive and respectful relationships with others as an attentive professional.⁹⁶

An analysis of the degree to which individual ECI items contributed to each of the three factors suggest that there is considerable overlap between the original six ECI subscales,⁹⁷ and that it is possible—and, we submit, preferable—to use the ECI to measure three well-defined components of ethical climate.

90. Arnaud, *supra* note 66, at 351.

91. *Id.* at 347.

92. Exploratory Factor Analysis is a widely utilized statistical technique in the social sciences to identify the underlying structure of a set of variables and to categorize these variables into a smaller set of factors.

93. Arnaud, *supra* note 66, at 351.

94. The eigenvalue of this factor is 3.70, explaining 20.56% of the variance.

95. The eigenvalue of this factor is 3.60, explaining 20.02% of the variance.

96. The eigenvalue of this factor is 2.62, explaining 14.56% of the variance.

97. The Power/Self-Interest factor was cleanly composed of items from the Collective Moral Motivation ("CMM") and Focus on Self ("FS") subscales in Arnaud's original taxonomy. *See* Arnaud, *supra* note 66, app. at 354–56. The Integrity and Responsibility factor contained all three Moral Awareness ("MA") items, two of the three Collective Moral Character ("CMC") items and one Focus on Others ("FO") item. *See id.* app. at 354–56. The Ethic of Care factor contained all three Empathetic Concern ("EC") items, as expected, as well as the one remaining item from the FO and CMC subscales. *See id.* app. at 354–56.

The three ethical climate dimensions are similar in many respects to those noted by Kish-Gephart and colleagues as being predictive of ethical behavior.⁹⁸ We similarly characterized the Integrity/Responsibility and Ethic of Care dimensions as essentially positive, whereas the Power/Self-Interest dimension as potentially negative and harmful to lawyers.⁹⁹

To be clear, these factors do not represent distinct ethical types or categories. They are three separate components of perceived ethical climate which were measured by the ECI. Each participant's responses on the ECI are comprised of separate perceptions about the extent to which their workplace expresses a culture of integrity and responsibility, a culture of an ethic of care, and a culture of power and self-interest.

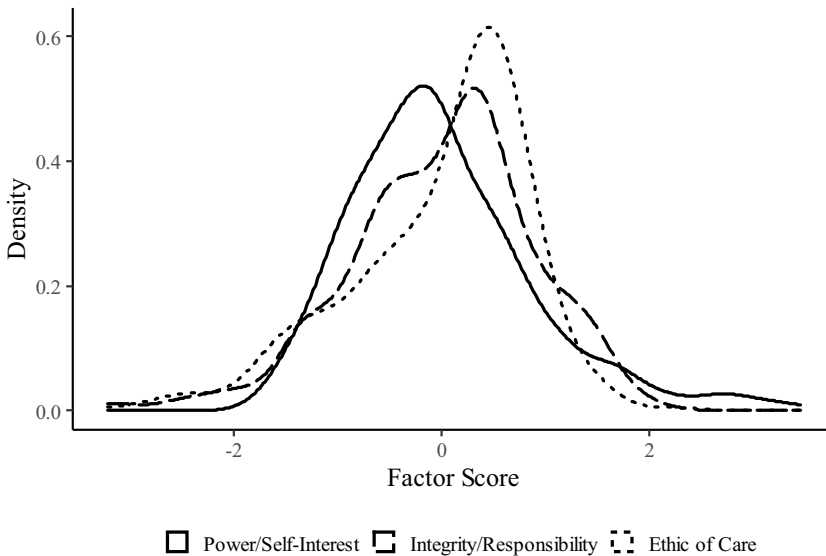


FIGURE 1: Distribution of participants' scores on the three dimensions of ethical climate identified from the ECI.

Figure 1 also shows that participants' perceptions on each of the three dimensions were distributed relatively normally (i.e., approximated a bell curve). The ethical climate dimensions are not "all or nothing" categories: participants perceived their workplace climate as containing *more* or *less* of each of these dimensions, which could be compared relative to how other participants in the survey assessed their workplaces.

Moreover, while the ECI was shown to clearly measure three distinct components of ethical climate, we make no claim that these are the only aspects of ethical

98. Other dimensions of ethical climate are likely to be observable in legal workplaces. The present analysis is not an exhaustive identification of the components of ethical climate but a re-analysis of what is able to be measured by the ECI. See Kish-Gephart et al., *supra* note 1, at 19.

99. *Id.* at 74.

climate. There would be many other components of ethical climate that are not measured by the ECI, but perhaps could be measured by another instrument.¹⁰⁰ There is ample scope for further methodological development, because the ECI was developed as a general measure of ethical climate.¹⁰¹ There may be dimensions of ethical climate peculiar to lawyers which are not yet adequately being measured. There would inevitably also be other aspects of ethical climate that questionnaire-based methods could not ever measure. The inclusion of quantitative measures of ethical climate such as this work is an important contribution to applied and theoretical legal ethics, but it is by no means the only approach to its empirical study.

C. ETHICAL CLIMATE DIMENSIONS: RELATIONSHIPS WITH DEMOGRAPHICS AND WORKPLACE STRUCTURE

We observed only one small positive relationship between age and the ECI dimensions: Older participants tended to perceive their workplace slightly more highly in the Integrity/Responsibility dimension of ethical climate.¹⁰² Apart from this finding, participants' gender or age had no statistically significant relationship on any of the three ECI dimensions.

We then examined whether the overt structural characteristics of participants' workplace would predict their perceptions of ethical climate, turning first to the broad type of participants' workplace (e.g., small private firm or government legal practice). At first glance (Figure 2), the average perceptions on the three ethical climate dimensions appear to differ according to the type of practice in which participants were working.¹⁰³ In-house lawyers, while a small category (19%), tended to perceive their workplace as being characterized by a higher preparedness to break rules to advance immediate interests or positions. This perception was substantially higher than the average across all lawyers in the sample and was also higher than lawyers in government practice and small or medium firms.¹⁰⁴ This high average rating on the Power/Self-Interest dimension was almost matched by a low perception on the Integrity/Responsibility dimension.¹⁰⁵ In-house lawyers' perceptions on the Ethic of Care dimension were close to average, that is to say similar to reports for other types of practice structures. By contrast, lawyers in community legal practices had significantly higher than average ratings on both the Integrity/Responsibility and Ethic of Care dimensions while ratings on the Power/Self-Interest dimension were average.¹⁰⁶ Lawyers in government practice only showed higher-than-average perceptions on the Integrity/

100. For instance, other measures could focus on the interrelationship between morality, legality, and ethics.

101. Arnaud, *supra* note 66, at 349.

102. For this relationship, the regression coefficient (β) is .163 ($p = .004$).

103. Higher scores indicate higher than average perceptions, and lower scores indicate lower than average perceptions. A score of 0 indicates the average across all lawyers in the study.

104. Contrast = .591, $p = .001$; Post-hoc: $p < .05$ (Bonferroni-adjusted).

105. Contrast = $-.402$, $p = .021$.

106. Integrity/Responsibility: Contrast = .702, $p < .001$; Ethic of Care: Contrast = .334, $p = .020$.

Responsibility dimension with the other two dimensions very close to the average.¹⁰⁷

Turning to the three subtypes of private legal practices, the biggest differences were observed between large law firms, on one hand, and small and medium firms on the other. Lawyers in large law firms had a similar, but less intense, pattern of ethical climate perceptions to in-house lawyers. They had on average higher Power/Self-Interest perceptions and lower Integrity/Responsibility perceptions.¹⁰⁸ Lawyers in small and medium firms had lower than average ratings on the Power and Self-Interest dimension.¹⁰⁹ There was a tendency to have slightly lower Integrity/Responsibility and Ethic of Care dimensions, but these were not statistically different from the average participant. This tendency to be lower than average to the positive dimensions (Integrity/Responsibility and Ethic of Care), as well as the negative Power/Self-Interest dimension, was unexpected: It seems that ethics was not “in the picture” much at all, in either a positive or negative way.¹¹⁰

Importantly, there was also considerable variability of ethical perceptions amongst lawyers *within* each type of practice.¹¹¹ Unsurprisingly, therefore, the direct influence of practice type on perceptions of ethical climate was relatively small. Practice type explained 11.6% of variance on the Integrity/Responsibility dimension, 7.1% of variance on the Power/Self-Interest dimension, and only 2.9% of variance on the Ethic of Care dimension. That is, between 88% and 97% of the variability in ethical climate perceptions between participants could not be explained by practice type alone. It would therefore be unwise to generalize from these findings to all (Australian) legal practices, although the sharp contrasts observed between some legal practice environments warrants further empirical inquiry.

D. ETHICAL CLIMATE AND LEARNING ORGANIZATIONS

Instead of focusing our attention on the structural or demographic determinants of ethical climate, these findings encouraged us to turn towards the relationship between lawyers' experiences and perceptions of other aspects of their work and workplace, and their perceptions of the ethical climate. The following analyses therefore examine the relationship between all three ethical climate dimensions and other measures included in the survey. No causal relationships are being established; there is likely to be two-way sources of influence on these variables.

107. Contrast = .275, $p = .006$.

108. Estimate = .288, $p = .020$. There was no significant difference on this measure between lawyers in large firms and in-house lawyers. Contrast = $-.235$, $p = .048$.

109. Medium Private Firms: Contrast = $-.297$, $p = .022$; Small Private Firms: Estimate = $-.224$, $p = .015$.

110. Contrasts: $p < .05$.

111. See the error bars in [Figure 2](#), which represent ± 1 standard error of the mean. The bigger the error bar, the less precise that the data obtained are likely to define the mean.

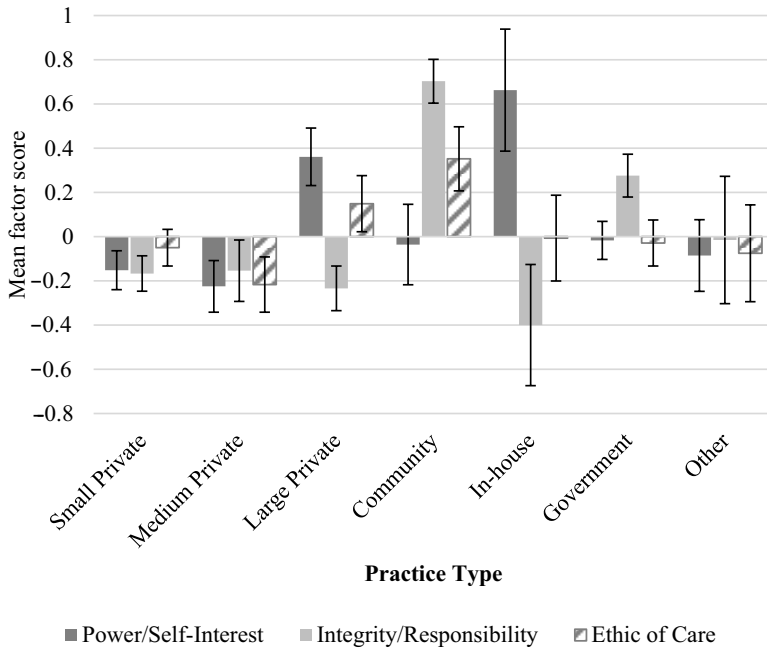


FIGURE 2: Mean factor scores for each of the three ECI dimensions, by practice type.

Of particular interest was the relationship between organizational learning culture, as measured by the DLOQ,¹¹² and the ethical climate dimensions.¹¹³ We hypothesized that there would be a clear association between the positive ethical climate dimensions and the extent to which the workplace was seen as a learning organization. A positive ethical climate enables organizational learning to take place and flourish, just as a learning organization represents a positive ethical climate in action.

Regression analyses showed that all three ethical climate dimensions were positively and independently correlated with the workplace being experienced as a learning organization. The Ethic of Care dimension was most strongly and positively associated with perceptions of a learning organization, while the Integrity/Responsibility dimension was also positively related.¹¹⁴ As expected, higher perceptions of Power/Self-Interest were associated with lower ratings of a learning organization.¹¹⁵ This model had good explanatory power: The three ethical climate dimensions accounted for a sizeable 56% of the variability in perceptions of organizational learning culture.

112. See Marsick & Watkins, *supra* note 86, at 2, for a description of the DLOQ.

113. Catherine L. Wang & Pervaiz K. Ahmed, *Organisational Learning: A Critical Review*, 10 THE LEARNING ORG. 8, 11–12 (2003).

114. Ethic of Care: $\beta = .538, p < .001$; Integrity/Responsibility: $\beta = .358, p < .001$.

115. $\beta = -.253, p < .001$.

A further analysis examined the additional effect of how participants were supervised in their work. As expected, both supervision structure and the three ethical climate dimensions contributed to a learning organization culture.¹¹⁶ Lawyers who worked with multiple supervisors reported the highest average ratings of their workplace as a learning organization (mean = 24.956, standard error (*SE*) = .290), and those with only informal peer supervision or no formal supervision had the lowest average perceptions (mean = 23.433, *SE* = .507; mean difference = 1.523, *SE* = .584, *p* = .029). Participants being predominantly supervised by one person had perceptions of a learning organization between these boundaries (mean = 24.383, *SE* = .263), although there was no significant mean difference with the other two formal supervision styles. This observed influence of supervisory structure on ethical climate perceptions was, however, small. This may be due to the unrefined, three-category way in which it was measured in this study, which could not capture the many variants and dynamics of the supervisor-lawyer relationship.

E. JOB AND CAREER SATISFACTION AND ETHICAL CLIMATE

A similar relationship existed between the ethical climate dimensions and job satisfaction as measured on the JSS.¹¹⁷ Higher ratings on the Power/Self-Interest dimension of ethical climate was related to lower job satisfaction, whereas Integrity/Responsibility ratings predicted higher job satisfaction.¹¹⁸ Ethic of Care perceptions were even more strongly associated with higher job satisfaction, signaling the importance of this often-overlooked aspect of legal ethics for lawyers to find their work meaningful, enjoyable, and sustainable.¹¹⁹

Each of the three basic psychological needs was also positively associated with job satisfaction (autonomy: $\beta = .334$; competence: $\beta = .233$; relatedness: $\beta = .152$, all *ps* < .005) when the Basic Psychological Needs Scale was added to the model. While each of the ethical climate dimensions remained as significant independent predictors of job satisfaction, they had less predictive influence when compared with the BPNS subscales.¹²⁰ Job satisfaction therefore depends on both perceptions of ethical climate and the meeting of the lawyer's own psychological needs. Both operate as concurrent (and likely interrelated) influences on job satisfaction.

Turning to the one-item measure of career satisfaction, a similar pattern was observed. All three ethical climate dimensions were statistically significant predictors in the same directions as before.¹²¹ However, after adding the measures of

116. $F(3, 318) = 3.557, p = .030, \eta_p^2 = .022$.

117. See Hills et al., *supra* note 87, for a validation of the JSS.

118. Power/Self-Interest: $\beta = -.308, p < .001$; Integrity/Responsibility: $\beta = .208, p < .001$.

119. $\beta = .417, p < .001$.

120. Power/Self-Interest: $\beta = -.144, p < .001$; Integrity/Responsibility: $\beta = .081, p = .025$; Ethic of Care: $\beta = .136, p = .001$.

121. Power/Self-Interest: $\beta = -.433, p < .001$; Integrity/Responsibility: $\beta = .523, p < .001$; Ethic of Care: $\beta = .394, p = .001$.

autonomy, competence, and relatedness, only the Integrity/Responsibility dimension remained as a significant predictor, while the needs of competence and autonomy were also positively associated with career satisfaction. This suggests that career satisfaction is influenced by ethical climate, but unlike job satisfaction, it is better explained by the meeting of competence and autonomy needs and a perception of a workplace culture of high integrity and responsibility.

F. PSYCHOLOGICAL DISTRESS AND BASIC PSYCHOLOGICAL NEEDS

Next, we examined the relationships between ethical climate perceptions and levels of psychological distress, an important inquiry given concern about levels of mental ill-health in the legal profession.¹²² We used the three DASS-21 scales (depression, anxiety, and stress) for this inquiry.¹²³ As shown in Table 3, higher perceptions of an ethical climate of Power/Self-Interest were predictive of higher scores on the DASS-21 depression scale.¹²⁴ Conversely, lawyers who perceived their workplace as having a higher Integrity/Responsibility dimension of ethical climate reported lower levels of depression and anxiety symptoms. Higher perceptions of an Ethic of Care were associated with lower levels on all three of the DASS-21 scales.

TABLE 3: REGRESSION ANALYSIS SUMMARY FOR THE EFFECT OF ECI DIMENSIONS ON THE DASS-21 SCALES¹²⁵

Ethical Climate Dimension	Depression		Anxiety		Stress	
	Estimate	<i>p</i>	Estimate	<i>p</i>	Estimate	<i>p</i>
<i>Power/Self-Interest</i>	1.161	.035	1.107	.150	1.080	.263
<i>Integrity/Responsibility</i>	-.821	.007	-.800	.002	-.939	.346
<i>Ethic of Care</i>	-.806	.003	-.839	.014	-.850	.020

122. This is a significant inquiry given the concern in the legal profession about the mental health of lawyers. See, e.g., Richard Collier, *Wellbeing in the Legal Profession: Reflections on Recent Developments (or, What Do We Talk About, When We Talk About Wellbeing?)*, 23 INT'L J. OF THE LEGAL PROF. 41 (2016); Lawrence S. Krieger & Kennon M. Sheldon, *What Makes Lawyers Happy? A Data Driven Prescription to Redefine Professional Success*, 83 GEO. WASH. L. REV. 554 (2015); Paula Baron, *Sleight of Hand: Lawyer Distress and the Attribution of Responsibility*, 23 GRIFFITH L. REV. 261 (2014).

123. The DASS-21 is a dimensional measure of the intensity and frequency of symptoms associated with each of the three types of psychological distress. Julie D. Henry & John R. Crawford, *The Short-Form Version of the Depression Anxiety Stress Scales (DASS-21): Construct Validity and Normative Data in a Large Non-Clinical Sample*, 44 BRITISH J. OF CLINICAL PSYCHOLOGY 227, 228, 238 (2005). It is not used here as a clinical diagnostic instrument.

124. Given the highly skewed distribution of DASS-21, these analyses were modelled using a negative binomial distribution with log link.

125. Significant effects ($p < .05$) are highlighted in bold.

Turning to the BPNS as a positive measure of psychological well-being, the Power/Self-Interest dimension of ethical climate was negatively associated with each of the three basic psychological needs (see Table 4). Conversely, both the Integrity/Responsibility and Ethic of Care dimensions were positively associated with all three needs. The relationship between Ethic of Care and these basic psychological needs was stronger, especially on the autonomy and relatedness needs. Interestingly, an Ethic of Care (which is an *other*-oriented and relational expression of ethical climate) was associated with participants' *own* agency and autonomy needs being met.¹²⁶ On the other hand, such autonomy may be undermined in a culture in which everyone's own self-interests are being pursued.

TABLE 4: REGRESSION ANALYSIS SUMMARY FOR THE EFFECT OF THE ECI DIMENSIONS ON THE BPNS SUBSCALES

Ethical Climate Dimension	Autonomy		Competence		Relatedness	
	Estimate	<i>p</i>	Estimate	<i>p</i>	Estimate	<i>p</i>
<i>Power/Self-Interest</i>	-.255	<.001	-.182	<.001	-.233	<.001
<i>Integrity/Responsibility</i>	.210	<.001	.217	<.001	.113	.014
<i>Ethic of Care</i>	.451	<.001	.261	<.001	.471	<.001

The next question was whether this direct effect of ethical climate on psychological distress could partially be explained by the extent to which the ethical climate helped participants fulfill their basic psychological needs. Three mediation analyses were run for each of the ethical climate dimensions with the total (General Psychological Distress) DASS-21 score as the dependent variable and the total BPNS score (overall psychological need satisfaction) as the mediator. The results suggest that, for each separate ethical climate dimension, there is a significant indirect effect, rather than a direct effect, of ethical climate on psychological distress.¹²⁷ Each strand of ethical climate influences levels of psychological distress to the extent that it helps or hinders participants' meeting of their basic psychological needs. In particular, participants' experience of competence was observed to be the best insulator against psychological distress, which is seen clearly in Table 5 when the BPNS subscales are added to the model above.

126. A person's need for autonomy, as conceptualized in self-determination theory, is met through an appropriately supportive environment that helps the person to express their innate agency. It is not the experience of being independent or isolated from others. See Edward L. Deci & Maarten Vansteenkiste, *Self-Determination Theory and Basic Need Satisfaction*, 27 RICERCHE DI PSICOLOGIA 23, 25 (2004).

127. Power/Self-Interest: $Z_{\text{direct}} = .109$, $p = .913$; $Z_{\text{indirect}} = 5.188$, $p < .001$; Integrity/Responsibility: $Z_{\text{direct}} = -1.58$, $p = .114$; $Z_{\text{indirect}} = -4.29$, $p < .001$; Ethic of Care: $Z_{\text{direct}} = -.429$, $p = .668$; $Z_{\text{indirect}} = -6.089$, $p < .001$.

TABLE 5: REGRESSION ANALYSIS SUMMARY FOR THE EFFECT OF THE ECI DIMENSIONS AND BPNS ON THE DASS-21 SCALES¹²⁸

Measure	Depression		Anxiety		Stress	
	Estimate	<i>p</i>	Estimate	<i>p</i>	Estimate	<i>p</i>
Ethical Climate Dimension						
<i>Power/Self-Interest</i>	1.066	.403	.985	.854	1.014	.848
<i>Integrity/Responsibility</i>	.923	.298	.891	.126	1.000	.995
<i>Ethic of Care</i>	.910	.279	.916	.325	.901	.211
Basic Psychological Needs (BPNS)						
<i>Autonomy</i>	.985	.478	.966	.112	.985	.482
<i>Competence</i>	.903	<.001	.919	<.001	.954	.028
<i>Relatedness</i>	1.002	.921	1.027	.162	1.006	.721

G. PROFESSIONALISM

We then examined whether ethical climate perceptions influenced how participants conceptualized legal professionalism. As a general measure of the kinds of professional qualities valued by participants, we counted the number of items in each of the six categories which were selected by the participant in their top-ten indicators of legal professionalism. Regression analyses were then performed including both the ECI dimensions and the BPNS subscales as predictors.¹²⁹

A higher Ethic of Care was associated with fewer of the potentially problematic professional attitudes being selected. To a lesser extent, competence need satisfaction also shielded against these items being chosen, while Relatedness had a very small influence on more of these problematic items being endorsed.¹³⁰ Justice-related attributes of professionalism were less likely to be selected as Power/Self-Interest perceptions increased. Interestingly, higher autonomy perceptions operated in the other direction, being weakly associated with fewer of these items being endorsed.¹³¹ Further, the inclusion of ethics-related professionalism qualities was weakly predicted by competence needs being met.¹³² Endorsement of the

128. Significant effects ($p < .05$) are highlighted in bold.

129. A Poisson distribution was used to model the counts of items selected.

130. Ethic of Care: $\beta = -.379, p = .010$; Competence: $\beta = -.108, p = .005$; Relatedness: $\beta = .070, p = .038$.

131. Power/Self-Interest: $\beta = -.136, p = .034$; Autonomy, $\beta = -.043, p = .017$.

132. Competence: $\beta = .026, p = .029$.

communication, legal skills, and work ethic attributes of professionalism was not predicted by any of the ethical climate dimensions or the BPNS.

H. ETHICAL CLIMATE TYPES

To assist with interpreting the three ECI dimensions together, further exploratory analyses were conducted to categorize participants' workplaces according to their perceptions across all three dimensions. In other words, we sought to see whether we could identify broad ethical climate *types* from participants' responses on the ECI. Consistent with how we assessed the structure of the ECI, we approached this empirically. A hierarchical cluster analysis (clustering participants together into distinctive categories or clusters) suggested that three clusters would be adequate to partition the sample using the three ECI dimensions. The final cluster centers derived from the analysis are shown in Figure 3. This figure shows how the prototypical member of each ethical climate type perceives their workplace on the ECI dimensions, which assists in describing the attributes of that type.

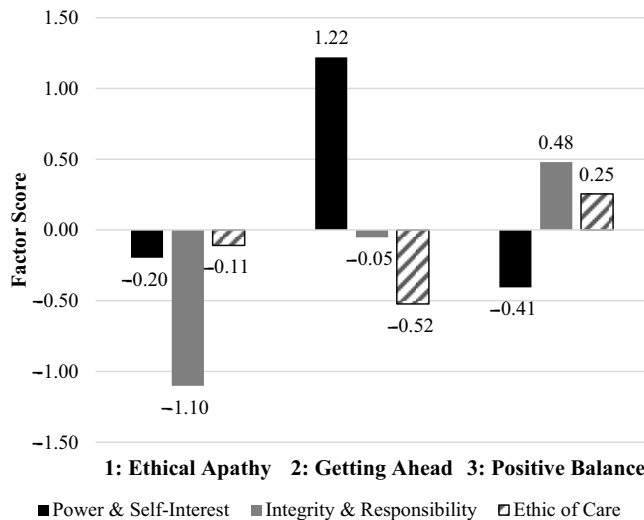


FIGURE 3: Cluster centers for the three ethical climate types identified.

The first ethical climate type (“Ethical Apathy”) described an environment in which lawyers perceived their workplace as significantly lower than average on Integrity and Responsibility, and around average for both the Power and Self-Interest and Ethic of Care dimensions of ethical climate. This ethical climate could be described as one of ethical apathy with low ethical awareness and motivation, and typical levels of self-interest and relational engagement. This suggests that there was no strong desire in these workplaces to build relationships and a community of care, but neither was there an inclination to direct energy towards self-interested instrumental outcomes at the expense of ethical norms. Just under

one-fourth (23%) of participants' workplaces could be classified into this type of ethical climate.

The second ethical climate type ("Getting Ahead") describes an individualistic and instrumental ethical climate, with high perceptions of Power and Self-Interest and low ratings of an Ethic of Care in these participants' workplaces. Perceptions of ethical Integrity and Responsibility were about average. Similar to the Ethical Apathy type, 22% of participants' workplaces were classified as a "Getting Ahead" climate.

While the first two ethical climate types were less than ideal, the third type ("Positive Balance") is more sanguine. Participants in this type perceived their workplace as moderately lower than average in the Power and Self-Interest dimension of ethical climate, but moderately higher than average on the Integrity/Responsibility dimension and slightly higher than average on perceptions of an Ethic of Care. Just over half of participants' workplaces (55%) belonged to this ethical climate type.

I. IMPLICATIONS OF ETHICAL CLIMATE TYPES

We then explored whether participants in each of these three ethical climate types differed in the measures of job and career satisfaction, organizational learning, psychological wellbeing, and professionalism.¹³³ The means of these scales are shown in [Table 6](#). A clear pattern is evident across these analyses. Participants who were in the Positive Balance ethical climate type had significantly higher levels of job and career satisfaction, higher levels of need satisfaction, and higher learning organization ratings compared with participants in the other two ethical climate types.

Moreover, for relatedness and job satisfaction, lawyers in a "Getting Ahead" climate also had significantly lower perceptions compared with lawyers in the "Ethical Apathy" type. There was, however, no difference between the three ethical climate types regarding the extent to which lawyers rated their own legal professionalism or identity as a legal professional, perhaps because they identified with their own particular understanding of professionalism.

Although the two negative ethical climate types (Ethical Apathy and Getting Ahead) are functionally very different, they had similar effects on most of the measures examined. Where there was a difference (such as with each of Autonomy, Competence, and Relatedness), the "Getting Ahead" type was slightly less favorable than the "Ethical Apathy" type, but both are detrimental to the development of positive ethical professionalism and wellbeing.

For a clearer indication of the effect of ethical climate type on psychological distress, we compared the proportion of participants in the moderate and above severity

133. For these analyses, we excluded participants who were at the periphery of each type (identified as participants with a distance > 2.5 from the mean of the cluster). Seven participants (2.1%) were accordingly excluded from these analyses.

TABLE 6: MEANS FOR BPNS SUBSCALES, JOB/CAREER SATISFACTION, DLOQ, AND PROFESSIONALISM MEASURES FOR EACH ETHICAL CLIMATE TYPE¹³⁴

Measure	Ethical Climate Type			Model <i>p</i>	Model η^2
	1: Ethical Apathy	2: Getting Ahead	3: Positive Balance		
Basic Psychological Needs Scale (BPNS)					
<i>Autonomy</i>	3.03 ^a	2.82 ^b	3.49 ^{ab}	< .001	.209
<i>Competence</i>	3.37 ^a	3.23 ^b	3.83 ^{ab}	< .001	.177
<i>Relatedness</i>	3.67 ^{ab}	3.45 ^{ac}	3.98 ^{bc}	< .001	.139
Organizational Learning (DLOQ)	3.16 ^a	3.04 ^b	3.84 ^{ab}	< .001	.290
Job Satisfaction (JSS)	3.63 ^{ab}	3.28 ^{ac}	4.09 ^{bc}	< .001	.249
Career Satisfaction	3.49 ^a	3.27 ^b	4.04 ^{ab}	< .001	.089
Perceived Legal Professionalism	58.05	56.20	60.58	.267	.008
Identity as a Legal Professional	62.12	60.77	66.56	.211	.010

category of each DASS-21 scale.¹³⁵ This categorization identifies an approximate proportion of participants who may be experiencing a level of distress (as measured in that scale) which is interfering with their everyday life, work, or relationships. [Figure 4](#) shows the percentage of participants in each ethical climate type who were demonstrating elevated levels of psychological distress. Binary logistic regression

134. Cells with the same subscript (i.e., *a*, *b* or *c*) were significantly different to each other (Bonferroni-corrected pairwise comparisons, $p < .01$). Means for the BPNS subscales, DLOQ, JSS, and “career satisfaction” item represent the item mean on a Likert scale scored from 1 to 5. The “perceived legal professionalism” and “identity as a legal professional” items were scored on a 0–100 visual analog scale.

135. DASS-21 scores can be converted to a severity category (Normal, Mild, Moderate, Severe, and Extremely Severe). These categories are a general indication of the frequency and intensity of symptoms in each category, and do not refer to the severity of a diagnosed disorder. For the use of the moderate and above categorization, see, for example, Wendy Larcombe & Katherine Fethers, *Schooling the Blues? An Investigation of Factors Associated with Psychological Distress Among Law Students*, 36 U. OF N.S.W. L. REV. 390, 404 (2013); Wendy Larcombe, Sue Finch & Rachel Sore, *Who’s Distressed? Not Only Law Students: Psychological Distress Levels in University Students Across Diverse Fields of Study*, 37 SYDNEY L. REV. 243, 252 (2015); Anneka Ferguson & Stephen Tang, *Determined To Be Professional, Ethical and Well*, in EDUCATING FOR WELL-BEING IN LAW 65 (Caroline Strevens & Rachael Field eds., 2019).

analyses showed that in almost all cases, lawyers in the Positive Balance climate were significantly less likely to have elevated psychological distress. For example, on the depression scale, lawyers in the Getting Ahead climate were almost 3.5 times more likely to have a moderate or above DASS-21 severity category compared with those in the Positive Balance climate.¹³⁶

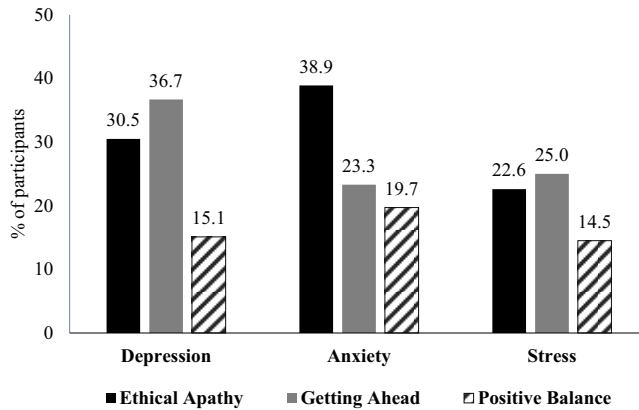


FIGURE 4: Percentage of participants in each ethical climate type who were categorized in the moderate, severe, or extremely severe category of each DASS-21 scale.

However, this relationship between ethical climate type and psychological distress could once again be significantly explained by the extent to which lawyers felt that their need for competence was being met.¹³⁷ That is, higher levels of Competence satisfaction tend to be found in lawyers in the Positive Balance climate type compared with the other two ethical climate types, and it is this experience of competence which protects against psychological distress. Figure 5 shows that, as participants' competence needs are increasingly met, the likelihood that they are in the moderate or above category for each of the DASS-21 scales decreases substantially. A very similar pattern is observed for the depression, anxiety, and stress scales.

These results yield a number of new insights and significant issues for the profession. Our findings suggest the perceived ethical climate of new lawyers' workplaces affects them in significant ways. The new lawyers' positive sense of professional wellbeing is enhanced in climates characterized by certain ethical perceptions, which is in turn influenced by the meeting of basic psychological needs, especially the need for competence. Newly-admitted lawyers' wellbeing suffers in both workplaces which are apathetic to ethical behavior and those

136. Odds Ratio = 3.332, $CI_{.95} = [1.747, 6.353]$, $p < .001$.

137. Adding the BPNS subscales to the logistic regression model, competence was the only significant predictor of having a moderate or above severity category in the Depression ($\beta = -1.20$, $p < .001$), Anxiety ($\beta = -1.11$, $p < .001$), and Stress ($\beta = -1.21$, $p < .001$) DASS-21 scales.

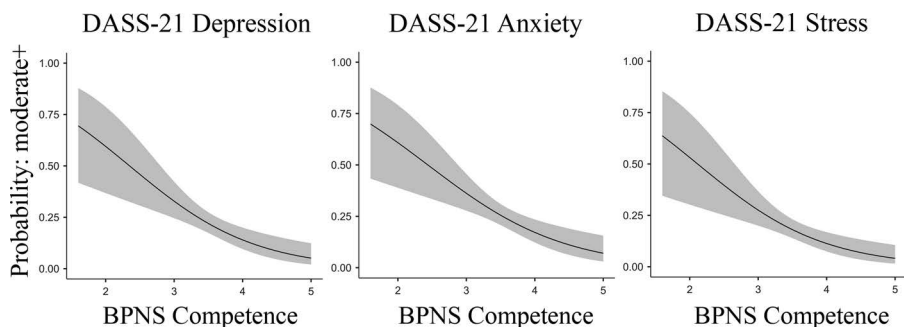


FIGURE 5: Probability of being in the moderate, severe or extremely severe DASS-21 category by levels of competence need satisfaction.¹³⁸

where personal ambition takes precedence over ethical conduct and relationships. These results raise the issue as to whether there is an optimal mix of the components of ethical climate which might have a positive effect on new lawyers' professional conduct. These questions are considered below.

V. DISCUSSION

This research suggests ethics is perceived by new lawyers as a lived culture in legal practice and not simply or primarily as a matter of personal disposition. This is consistent with the results of research in non-legal workplaces.¹³⁹ The research also indicates that particular perceptions of ethical climate are co-related to particular practice experience (practice type and learning culture), feelings of job satisfaction and of wellbeing, and understandings of professionalism. We can summarize our findings as follows.

First, a new lawyer's practice experience in the sense of the type of practice in which they work affects their perception of the ethicality of their workplace. Lawyers in private practice (small, medium, and large firms, and in-house roles) had significantly lower perceptions that their workplace was marked by the qualities of the Integrity/Responsibility dimension,¹⁴⁰ as compared with lawyers in government and community practice. In-house lawyers had significantly higher perceptions that their workplace was marked by the qualities of the Power/Self-Interest dimension,¹⁴¹ as compared with lawyers in medium and small firms.

These findings suggest that lawyers in private practice are less sensitive to rule-bound prescriptions. Further, for certain subsets of the private practice

138. The grey area in each chart shows the 95% confidence interval for the estimate.

139. See, e.g., Kish-Gephart et al., *supra* note 1; Mayer, *supra* note 1.

140. That is, qualities such as: a sensitivity to behaving ethically and adhering to formal ethical rules; and an inclination to be compliant, conscious of, and accountable to prescriptive requirements.

141. That is, qualities such as: power, control, and instrumental outcomes being more important to adhere to than normative principles such as honesty, ethicality, or relational values; and a preparedness to break rules to obtain benefit when necessary.

cohort, rule breaking is not out of the question. We repeat our caution, however, that practice type alone explains a relatively small variability in perceptions of ethical climate. We needed to look beyond structural characteristics to explain differences in perceptions of ethical climate.

Second, a new lawyer's perception that their workplace had a strong organizational learning culture (either in combination with, or separate from, a strong formal learning environment) affects their perception of the ethicality of their workplace. When lawyers perceived their workplace as exhibiting a high sense of trust, high regard for initiative, and encouragement for participation in learning, they had significantly higher perceptions that their workplace was also marked by the qualities of the Integrity/Responsibility dimension and the Ethic of Care dimension. They also had significantly lower perceptions that their workplace was marked by the qualities of the Power/Self-Interest dimension. Supervisory structure can also influence perceptions of ethical climate. Generally, the more supervisors participants had, the more positively they viewed the organizational learning culture and ethical climate of their workplaces.

These findings reinforce the importance of looking beyond mere structural characteristics to explain ethical perceptions and influences. It is imperative to also consider the very significant effect of non-structural qualities (such as workplace learning culture) on a practice's overall ethical climate. These non-structural qualities have the capacity to shape or override any direct influence of structural factors.

Third, a new lawyer's feelings about their own job satisfaction were related to their perception of their practice's ethical climate. When lawyers perceived their practice as being marked by the qualities of the Ethic of Care dimension, and to a lesser extent the Integrity/Responsibility dimension, they had elevated feelings of job satisfaction. Conversely, when lawyers perceived their practice as being marked by the qualities of the Power/Self-Interest dimension, they had deflated feelings of job satisfaction. Importantly, the meeting of psychological needs also plays a part in job satisfaction, which depends on both perceptions of ethical culture and having those needs met through the workplace culture and by other means. These findings are consistent with the observations of Kish-Gephart and her colleagues that higher job satisfaction is related to a lower level of unethical behavior in organizations.¹⁴²

Fourth, a new lawyer's career satisfaction is influenced by their perception of the workplace ethical climate and the meeting of their psychological needs, most significantly their need for competence within a climate of integrity and responsibility.

Fifth, a new lawyer's perception of their workplace ethical climate is predictive of their psychological wellbeing. If they perceive that climate to be characterized by power and self-interest, they are more likely to experience more

142. Kish-Gephart et al., *supra* note 1, at 12.

symptoms associated with depression. Conversely, when lawyers perceive their workplace ethical climate as having a higher Integrity/Responsibility dimension, they are significantly less likely to experience symptoms of depression and/or anxiety. Further, when lawyers perceive their workplace to be characterized by an Ethic of Care dimension, they are less likely to experience symptoms of depression, stress, or anxiety. However, ethical climate appears to have an indirect relationship to psychological distress: It influences psychological distress to the extent that it facilitates self-determination (the meeting of basic psychological needs), particularly the need of competence. Thus, psychological distress is more likely in some ethical climates because, amongst other things, in such climates a new lawyer feels less than competent.

These results support a conclusion that lawyers' mental wellbeing cannot simply be reduced to an individual's personal experiences disconnected from the ethical climate of the organization in which they work. Ethical norms have an important role in shaping the way in which basic psychological needs are met (or not met) in the workplace, with significant consequences for both wellbeing and ethical conduct. These findings are particularly significant in light of the extensive discussion amongst scholars and the legal profession about how to address mental ill-health in the profession.¹⁴³

Finally, a new lawyer's perception of their workplace ethical climate is predictive of their understanding of professionalism and of what it means to be a "professional": In particular, some problematic understandings of "professional" (such as being willing to take all measures to give the client what they want, and always solving problems on one's own without seeking assistance) are associated with ethical climates perceived to be high in Power/Self-Interest.

The study categorized participants' perception of their workplace ethical climate into three broad ethical climate "types": "Ethical Apathy," "Getting Ahead," and "Positive Balance." There was a significant correlation between these climate types and levels of job satisfaction and wellbeing, the Positive Balance type being the only one positively associated with satisfaction and wellbeing. We surmise that an "ideal" ethical climate might be found in a subset of the "Positive Balance" climate type, being a climate with very high Integrity and Responsibility ratings, very high Ethic of Care, and low Power and Self-Interest perceptions.

VI. LESSONS LEARNT

Responding to Chambliss' entreaty,¹⁴⁴ our study examined ethical culture from an empirical foundation. Consistent with meta-studies on other workplaces, we

143. See, e.g., Collier, *supra* note 122; Krieger & Sheldon, *supra* note 122; Janet Chan, *Conceptualising Legal Culture and Lawyering Stress*, 21 INT'L J. OF THE LEGAL PROF. 213 (2014); Baron, *supra* note 122; Christine Parker, *The "Moral Panic" Over Psychological Wellbeing in the Legal Profession: A Personal or Political Ethical Response?*, 37 U. OF N.S.W. L.J. 1103 (2014).

144. Chambliss, *supra* note 53.

found a clear awareness in participants of the ethical climate of their workplace. Our research is consistent with such research in supporting a surmise that the influence of these cultures on ethical awareness and ethical behavior is significant.¹⁴⁵ While we found Arnaud's Ethical Climate Index a good measure of these perceptions, we found our own reduction of the ECI to just three dimensions a much more manageable tool without the loss of nuance. For us, the dimensions of Power and Self-Interest, Integrity/Responsibility, and Ethic of Care neatly captured discernably different ethical dimensions in legal workplaces. Although these dimensions co-exist in a workplace, they are nonetheless descriptive of distinctive ethically-condoned behavior. Each of the dimensions has different antecedents and different consequences, and there are significant implications of this for legal practice management.

As to the antecedents, or what might be seen as the generators of particular work cultures, perceived norms vary in some significant degrees depending on the features of a practice, including whether the practice is private (especially whether it is in-house), community, or government. Norms also depend on the size of the practice with significant differences between those perceived in small, medium, or large law firms. But much more significant is the effect of non-structural factors, such as the practice's attitude and approach to learning and development. A positive organizational learning culture, in which learning is valued highly and there is a sense of trust, counteracts what might otherwise be negative ethical influences.

As to the consequences, the perceived ethical climate of new lawyers' workplaces affects them in significant ways, both directly and indirectly. Our research shows new lawyers have clear perceptions of their practice's norms (and this is so even where that perception suggests an ethical vacuum). Their positive sense of professional wellbeing is enhanced in climates characterized by both Integrity/Responsibility and Ethic of Care, with the latter significant in meeting their need for autonomy and relatedness. This wellbeing suffers serious detriments for those not only in workplaces strong in the dimension of Power and Self-Interest, but also in workplaces with little ethical awareness/motivation or relational engagement. We should also, of course, bear in mind other consequences (not tested in our research, but apparent from other inquiries)¹⁴⁶ that perceptions of ethical climate influence the ethicality of employee behavior.¹⁴⁷

Where does that leave the other influences on lawyer conduct, such as a lawyer's own values and the interventions of the regulatory regime? We have

145. See Newman et al., *supra* note 58, at 488–89; Craig van Sandt, Jon M Shepard & Stephen M. Zappe, *An Examination of the Relationship Between Ethical Work Climate and Moral Awareness*, 68 J. OF BUS. ETHICS 409 (2006). Importantly as van Gils noted, the influence may only be positive towards increased moral decision making, if the culture is perceived as ethical. Van Gils et al., *supra* note 13. Our findings as reported suggest in some workplace environments there is simply a perceived moral vacuum.

146. See Kish-Gephart et al., *supra* note 1.

147. See, e.g., *id.*; Teresi et al., *supra* note 13; Minna-Maaria Hiekkataipale & Anna-Maija Lämsä, *(A)moral Agents in Organisations? The Significance of Ethical Organisation Culture for Middle Managers' Exercise of Moral Agency in Ethical Problems*, 155 J. BUS. ETHICS 147 (2019).

surmised that the perceived ethical climate of a new lawyer's workplace influences their own understanding of what it means to be a professional. But might the reverse also be true? Might new lawyers looking for a comfortable ethical convergence between their own values and those of a legal practice be selecting workplaces that are a good value match for them and rejecting those that are not? Conversely, the danger may be that those who choose not to leave a practice whose values leave them uncomfortable may stay and come to conform to the prevailing norms without appropriate critical questioning.¹⁴⁸

This leads us to our final question of whether there is an optimal mix of the components of ethical climate that might have a desired effect on new lawyers' professional conduct. Should achieving a climate akin to the balanced ethical climate type (or an even more positive climate) be an aim of practice managers and regulators? The study reported here and our own earlier research certainly suggests that it is crucial to meet young lawyers' psychological needs for autonomy, competence, and relatedness.¹⁴⁹ It seems clear that an optimal ethical climate for achieving this is one exhibiting a balance of the Integrity/Responsibility and Ethic of Care dimensions. Not surprisingly, according to Kish-Gephart and her colleagues' research, the same type of ethical climate also facilitates ethical behavior.¹⁵⁰

How might such a legal practice workplace be created? An obvious preliminary diagnostic tool would be to use the ethical climate survey to uncover existing areas of concern. Kish-Gephart and her colleagues suggest that organizations interested in understanding how employees perceive their broad ethical environments should assess perceptions of ethical climate.¹⁵¹ Use of the ECI survey could promote dialogue between various levels in the organization about ethical concerns and how to address them.¹⁵² Dialogue is key to a positive organizational learning culture, which the research presented in this Article shows to be one antecedent of positive ethical climate dimensions. Such a culture is characterized by a high sense of trust, by high regard for initiative, by reward and encouragement for participation in learning activities, and by flexibility and adaptability to challenge and change.¹⁵³ It is, of its nature, relational. It allows for the appropriate critical questioning and discussion at all levels of the organization that Parker and Aitken noted as vital to a healthy ethical infrastructure.¹⁵⁴ It provides a safe place for new lawyers to learn (including learning

148. Parker & Aitken, *supra* note 44, at 431–32.

149. See Tony Foley et al., *Helping Junior Lawyers Thrive*, 89 L. INST. J. 44, 44 (2015).

150. Kish-Gephart et al., *supra* note 1.

151. *Id.* at 21.

152. Discussion/dialogue was one goal of the Queensland 'Workplace Culture Check' survey discussed in Parker & Aitken, *supra* note 44.

153. Victoria J. Marsick and Karen E. Watkins, *Demonstrating the Value of an Organization's Learning Culture: The Dimensions of the Learning Organization Questionnaire*, 5 ADVANCES IN DEVELOPING HUMAN RESOURCES 132, 142–44 (2003).

154. Parker & Aitken, *supra* note 44, at 431–32.

from failure), which is crucial to them developing competence and professional judgment.¹⁵⁵

Another tool to help instill the optimal ethical climate may be targeted regulation. Evaluation of NSW's "light touch" approach to lawyer regulation during its brief implementation showed that it had significant impacts on the ethical infrastructure of legal practices.¹⁵⁶ Its self-assessment requirement opened up discussion about ethical matters and positively affected firm management and supervision.¹⁵⁷ It seems from Aulakh and Loughrey's research that the then-new regulatory scheme in the United Kingdom may have similar results where Compliance Officers for Legal Practice support individual lawyers in their ethical deliberation and, in the process, reinforce professional values in their firms.¹⁵⁸ In sum, we endorse the use of such targeted regulation, including Briton's call for a return to the use of proactive regulatory tools,¹⁵⁹ as a means to healthy ethical climates and effective ethical infrastructures.

CONCLUSION

The research reported in this Article contributes to our understanding of the ethical climate of Australian legal practices from the perspective of new lawyers entering these workplaces. It also sheds light on the links between workplace ethical climate, mental wellbeing, and job and career satisfaction, such links being particularly significant given the challenges faced by the legal profession in addressing widespread mental ill-health and attrition of skilled people from its ranks.¹⁶⁰ We offer some suggestions for creating positive ethical climates which are also mentally healthy. While this area of research is ripe for further empirical enquiry, we believe the findings to date are clear enough for legal practice managers, professional bodies, and regulators to take note of the organizational factors linked to sound mental health and job satisfaction, and to develop interventions aimed at promoting these factors. The finding that this begins with improving ethical culture is significant.

155. See Holmes et al., *supra* note 78, at 42–49.

156. See generally Christine Parker et al., *Regulating Law Firm Management: An Empirical Assessment of an Innovation in Regulation of the Legal Profession in New South Wales*, 37 J.L. & Soc'y 466 (2010).

157. Fortney & Gordon, *supra* note 23, at 181.

158. See Aulakh & Loughrey, *supra* note 40.

159. Briton, *supra* note 27, at 1.

160. See, e.g., Collier, *supra* note 122; LAW COUNCIL OF AUSTL., NATIONAL ATTRITION AND RE-ENGAGEMENT STUDY (NARS) REPORT (2014), available at <https://www.lawcouncil.asn.au/docs/a8bae9a1-9830-e711-80d2-005056be66b1/NARS%20Report.pdf> [<https://perma.cc/KF2E-8UZW>]; KIERAN PENDER, INT'L BAR ASSOC., LEGAL POLICY & RESEARCH UNIT, US TOO? BULLYING AND SEXUAL HARASSMENT IN THE LEGAL PROFESSION (2019).