

## Good Lawyers, Gone Good?

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[Why Good Lawyers Matter](#) (David L. Blaikie, Honourable Thomas Cromwell and Darrel Pink, eds., 2012).

A bad news lawyer story is nothing new. As Deborah Rhode keenly observed over ten years ago: if one listens to the critics, it is easy to get the impression that “lawyers belong to a profession permanently in decline.”<sup>1</sup> Current Canadian headlines only affirm Rhode’s observation. On a near-daily basis, we are gloomily advised of a spate of lawyerly crises. Ongoing problems with access to justice, lawyer incivility, lack of diversity and, most recently, shortages in articling (mandatory apprenticeship) positions, all loom large. Reading the newspaper can be demoralizing to newcomers and seasoned practitioners alike.

The recently published collection of essays in *Why Good Lawyers Matter* provides a timely counterweight to some of this doom and gloom. To be sure, there are real, pressing problems facing the Canadian legal profession. Thankfully, *Why Good Lawyers Matter* does not ignore this reality. Rather than “offer an apology” for the legal profession, the central idea behind *Why Good Lawyers Matter* is “to provide a well-informed and accessible reflection on what lawyers should do and why.” The result is a colorful array of thoughtful ruminations on the topic of lawyering.

From the beautifully written foreword by George Elliot Clarke, a Canadian poet and playwright, to the final essay addressing “the fundamental ideals of the legal profession” authored by leading Canadian jurist, Justice Stephen T. Goudge, it is clear that this is no ordinary book on legal ethics. One of the major strengths of *Why Good Lawyers Matter* lies in its success in bringing together a wide range of perspectives on the legal profession. The book features an impressive list of Canadian legal ethics scholars as well as a number of practicing lawyers, judges, and a journalist.

The book is organized into three sections of four essays, each section animated by one fundamental question about lawyering. Part I, structured around the question “What is a Lawyer?”, probes more deeply into some of the often easily-tossed public assumptions about lawyering. Practitioners Daphne Dumont and Augustus Richardson offer candid insights on how legal practice has changed in the last few decades and on the role of settlement in increasing access to justice, respectively. Professor Stephen Pitel then explores the public perception of “lawyers as liars” and how this perception might be improved. Finally, Professor Adam Dodek examines how lawyers exercise power in Canadian society and provides an account of what might be justifiably meant by references to “powerful lawyers” in public discourse.

Part II asks “What Role Do Lawyers Play?” Like Part I, the second section moves easily through a variety of topics. Journalist (and professor of journalism) Dean Jobb offers another perspective on the perpetual image problem faced by lawyers in an essay entitled “Why We Love to Hate Lawyers.” In their essays, Justice Patrick Healy and lawyer Melina Buckley consider Part II’s guiding question through the lens of criminal law practice and public interest litigation, respectively. Providing some theoretical anchoring is Professor Alice Woolley, whose contribution “Why Do We Regulate Lawyers?” sets out “two analytical frameworks for understanding why the legal profession is highly regulated and for critiquing that regulation” and examines lawyer regulation in relation to its ability to: (1) “foster lawyers’ public role in a pluralist legal system” and (2) “address the imperfections in the market for legal services.”

Finally, the future of lawyering in Canada is the focus of Part III, entitled “What Role Should Lawyers Play?” Justice Stephen Goudge and retired Chief Justice of Ontario, Roy McMurtry, each provide a “call to arms” asking Canadian lawyers to embrace their unique role in contributing to the public interest and the fundamental ideals of the profession which underlie this role. Co-authors Professors Jocelyn Downie and Richard Devlin outline a profile for a *great* (not just

merely “qualified”) Canadian lawyer and propose a pathway to achieving this ideal. Professor Trevor Farrow offers his own contribution in “Post-9/11 Lawyers,” using the events of 9/11 to reflect on “what impact our core democratic values have on the lawyering project.”

As noted above, the diversity of the essays in *Why Good Lawyers Matter* is a clear strength of the collection: the book does not speak in one voice, nor should it. The motivating question of the collection—what lawyers should do and why—does not permit easy or singular answers. If anything, this collection left me wanting to hear even more perspectives on Canadian lawyering. We hear nothing, for example, from a dedicated client standpoint: that is, there are no client-authored essays discussing how clients experience the lawyer-client relationship. A detailed examination of the role that lawyers play in relation to Canada’s aboriginal communities would have also been a welcome and important addition. One book, of course, can only do so much and *Why Good Lawyers Matter* offers much food for thought. The fact that I desired a broader conversation about lawyering does not evidence a fundamental flaw in the book. It might, however, suggest the value of a second installment in which the conversation can be broadened even further.

*Why Good Lawyers Matter* also does a good job of balancing the provocative with the pragmatic. The collection does not shy away from speaking in proud, lofty terms about the profession of law nor does it shrink away from exposing the ways in which lawyers have failed to live up to their ideals. However, rather than rest on grand pronouncements (or denouncements), the essays contain a level of detail and scrutiny that provides a welcome amount of concreteness to the discussion. The collection is also infused with a spirit of pro-activeness: contributors do not merely describe what is, but take on the harder issue of what should be and offer thoughts about how to get there. The reader is given an account that is positive and feasible without being Pollyannaish.

Although *Why Good Lawyers Matter* stands as a uniquely Canadian counterpart to other seminal essay collections on lawyer professionalism,<sup>2</sup> many of the issues explored in the book will be familiar to lawyers practicing in other jurisdictions. Legal professions worldwide have been grappling for some time with massive changes in legal practice and, in particular, changes resulting from globalization, increased commercialization, and the emergence of new technologies. The three fundamental questions about lawyering that structure *Why Good Lawyers Matter*—“What Is a Lawyer?”, “What Role Do Lawyers Play?”, and “What Role Should Lawyers Play?”—resonate far beyond Canadian borders.

Likewise, although this collection is explicitly aimed at “a general audience,” it should be, in my view, recommended reading for law students, lawyers, and legal academics. In taking a step back from specialized academic analysis, *Why Good Lawyers Matters* offers an accessible and broad take on the state of the legal profession in the 21<sup>st</sup> century. In doing so, the collection pushes lawyers and would-be lawyers to confront fundamental questions about what it means to be part of the legal profession and, ultimately, encourages us to take responsibility for shaping the profession of which we are a part.

1. Deborah Rhode, *In the Interests of Justice: Reforming the Legal Profession* 1 (2000). [?]
2. See, e.g., *Lawyers’ Ideals/Lawyers’ Practices: Transformation in the American Legal Profession* (Robert L. Nelson et al. eds., 1992). [?]

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