

Book Review

Erik A. Posner and Cass R. Sunstein, eds., *Law and Happiness*, University of Chicago Press, 2010, pp. 368, paperback \$25.00.

Reviewed by Laura Hodges Taylor

The former king of Bhutan governed his people—among the poorest in the world—by advocating an assessment of his kingdom’s success based on the concept of “gross national happiness.” The compendium of scholarly articles in *Law and Happiness* analyzes the research on what constitutes “happiness” and the factors that contribute to or impede the happiness of individuals, and proposes approaches for applying that learning to public policy and legal process. Each author brings a unique perspective to the study of “hedonics,” yet as a whole, the book yields a sophisticated overview of the role of happiness in Western society.

The modern Western world shares a general view of happiness as an entitlement that may be foreign to societies that prize self-sacrifice or believe that fate governs its people’s experience. The United States, one of the West’s youngest countries, was founded on the notion that citizens have the unalienable right to life, liberty and the pursuit of happiness. It seems natural, then, that an entire field has emerged to analyze and evaluate that pursuit and the duty of government to facilitate its success.

Posner and Sunstein have selected eleven essays that speak to the growing research about hedonics and the evolving consensus around the elements and nature of happiness. The progression of the articles takes us from psychology through economics and ultimately to the seemingly unrelated fields of taxation and crime, at each stop offering yet another view of the implications of the research on happiness and well-being. While none of the essays addresses legal rights, together they form the basis for further thought on how this research should inform policy and some elements of legal process.

Although the title, *Law and Happiness*, suggests that lawyers might find it helpful in managing their careers, this is a book for academics and policy-makers. One might expect to see a pithy summary of the book in the *Sunday New York Times Magazine*, where we have seen articles pronouncing that neither money nor love matters to humans, when you come down to it. Perhaps the most interesting feature of the collection is the sense one has, after having

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carefully considered each essay, that while there is some emerging common ground about the basics of hedonics and how humans experience both positive and negative impacts on well-being, the economists, philosophers and policy researchers who authored the articles do not converge on a single clear recommendation to policy-makers about how learning on hedonics should affect decision-making about governmental priorities or judicial outcomes. Ultimately, the reader is left with a greater understanding of the field and the issues, but unsure about the implications of that understanding.

Defining Happiness and Well-Being

The average well-read individual's knowledge of the field of happiness research, or hedonics, is likely limited to the raft of "common sense" truisms indicating that "money doesn't buy you happiness." Evidence is drawn in the press from the reported unhappiness of lottery-winners, the super-rich and "beautiful people." The contributors to the Law and Happiness conference, however, can point to a significant body of research and analysis that in fact supports not just the conclusion that greater resources do not, absent special circumstances, increase one's sense of well-being, but the correlative view that many changes that one predicts would have positive or negative effects on happiness do not for the most part have an enduring impact.

To reach this conclusion, however, researchers must establish the measurement tool that will reliably indicate how happy or satisfied one is. The first essay included in the book, "Well-Being and Public Policy" by Paul Dolan and Tessa Peasgood, takes the issue head-on and assesses the effectiveness and validity of self-reported well-being as a measure to be relied upon by public policy-makers, concluding that it is effective and provides useful information.¹ They contrast self-reported well-being with a measure that seeks to evaluate how well an individual's preferences have been met, using income as a proxy, and show that at best the traditional use of income as a measure of well-being is no better an approach than evaluating self-reported well-being.

Dolan and Peasgood, do not, however, delve deeply into the meaning of "happiness" or "well-being" or "satisfaction" with one's life. Their simplistic approach of self-reported well-being is challenged by Martha Nussbaum in her paper, "Who Is the Happy Warrior? Philosophy Poses Questions to Psychology." She evaluates the potentially one-dimensional and linear view of happiness, as put forth by the philosopher Jeremy Bentham for example, and the more qualitatively nuanced views of both the ancient Greek philosophers and more modern theorists. Bentham's approach suggests that happiness is

1. Much of the data concerning self-reported well-being comes from two sets of research: the General Social Survey in the United States conducted among 1,500 to 4,500 nationally representative respondents annually or biennially from 1972 through 2006; and the annual British Household Panel Survey, which has followed 10,000 nationally representative individuals since 1991. It is perhaps worth noting that even local census questionnaires may begin to survey their residents about their happiness, following in the footsteps of the city of Somerville, Massachusetts. *See* How Happy Are You? In a Boston Suburb, It's a Census Question; N.Y. Times, May 1, 2011 at 1.

a sensation that varies only in intensity (presumably unhappiness is equally quantifiable); accordingly, public policy should be geared toward maximizing the collective happiness of citizens. This Nussbaum rejects as overly simplistic. Instead, she turns to the Greeks, who viewed happiness as derivative of the activity that produced it. So, then, the pleasure of eating a piece of ripe fruit is different from the satisfaction of producing a delicious meal. In effect, she concludes that happiness research that relies on a single measure of well-being artificially equates the two sensations. She then takes this further, suggesting that the nature of one's happiness may be tied to the values one espouses: Activities that meet those values will yield a different—perhaps better—type of well-being. “A good life attaches a great deal of value to striving, longing and working for a difficult goal” (87). (The “Happy Warrior” is the subject of a Wordsworth poem and is described as happy “because he is active in accordance with all the virtues, and yet...has little if any pleasure, and a good deal of pain.”)

Nussbaum's framework feels intuitively right. And so the conclusion she must (and does) eventually reach is that a well-being based public policy approach is “so riddled with conception confusion and normative naïveté” that it must be much more developed before being adopted. Ultimately, she recognizes the value of policy that seeks to minimize pain that does not lead to “enrichment of the soul” (hunger, painful disease, violence, depression and other mental illness) and specifically mentions end-of-life care and physician-assisted suicide as contexts within which well-being provides a critical framework for determining policy. But in the end she takes us no further toward a new lens through which to design and evaluate policy decisions.

Factors of Happiness and Subjective Well-being

As noted above, certain findings in happiness research, especially those surrounding the disconnect between income and well-being, have been ballyhooed in the popular press and provided fodder for lively conversation at dinner parties. Yet those findings are not as obvious to the authors of several essays included in *Law and Happiness* as the current literature would suggest. Dolan and Peasgood, Nussbaum and others all reference the lack of correlation between income and happiness at a general level. Two papers, however, dig more deeply into the data and provide some insights into the analysis.

Betsy Stevenson and Justin Wolfers, in their paper, “Happiness in the United States,” examine changes in self-reported happiness among population groups over time, “slicing and dicing” the data in different ways to explore patterns and connections that could further our understanding of the elements of a happy life. As economists, Stevenson and Wolfers propose a series of models and equations to define the “rules” of happiness. These efforts are generally lost on those unfamiliar with economic modeling.

Stevenson and Wolfers offer econometric support for the proposition that, in spite of economic growth and real gains in income and education in the United States since the 1970s, average levels of happiness have not

increased over the same time. The authors go further, however, and show that happiness inequality (that is, differences in average levels of happiness) among population groups has shifted substantially over the past several decades, with inequality among racial and gender groups significantly reduced (much of the racial gap has closed and the gender gap has disappeared). However, they conclude that differences in happiness by education have grown significantly. In effect, this tells us, one's individual characteristics of race or gender matter less today to one's relative happiness than one's education. And yet one cannot take the connection between increasing levels of education and income and extrapolate to an increase in average national happiness. Instead, the within-group inequality in happiness is notable and invites further analysis to answer "the question of just what it is that is creating less inequality in the subjectively experienced lives of demographically similar people" (74). Whether these factors are more related to age, marital status, level of family autonomy, amount of leisure time or other attributes (a number of which are preliminarily explored by the authors, with some interesting findings) is left to others to determine.²

A single factor contributing to happiness is considered by Jonathan Haidt, Patrick Seder and Selin Kesebir in their essay, "Hive Psychology, Happiness and Public Policy." They point to the evidence that interpersonal connections (through friendship, marriage, community) contribute significantly to individuals' well-being, while isolation and separateness are found to lead to depression and anxiety. Their hypothesis is that communities that are highly integrated around common values, religion or family structures, or that mobilize against a common threat or for a common purpose, experience less chance of isolation and hence dissatisfaction. "Researchers have consistently found that being part of a group with which one strongly identifies is associated with greater well-being" (144). They offer as further evidence that Western nations experienced greater rates of depression as independent individualism became the norm in modern society. Troubling in this view is the possible conclusion that total personal freedom within society leads inevitably to unhappiness and the breakdown of society. The authors acknowledge this concern, adding that groups that are too "binding" experience higher suicide rates than average, and suggest this may be the result of pressure on individuals to meet group norms even while the individuals are unable to do so. Their recipe for addressing these risks may be the "moral community," which holds that individual members of groups that establish limits and standards are most likely to find well-being and satisfaction in their lives.

They next explore the rituals of groups, often around dancing or movement and music, that allow individuals to lose themselves in the group's ritual.

2. A somewhat depressing set of studies is reported by Dolan and Peasgood. These include an estimate by Michael Argyle that "only 15 percent of variance in life satisfaction is accounted for by circumstances" and the conclusion of David Lykken and Auke Tellegen from their study of twins that "55 percent of the variance in negative emotionality and 40 percent of the variance in positive emotionality was accounted for by genetics and that in the long run up to 80 percent of happiness is heritable."

Religious, cultural and traditional experiences (dancing, costuming, parades and celebrations, etc.)—and to some extent team sports or marching in protest rallies—are examples of activities where the individual transcends her own existence and becomes primarily a part of the whole, or the “hive.” Very religious people are happier than secular people, for instance. (The authors acknowledge in passing that transcendence can be achieved individually through such disciplines as meditation and yoga, but their focus is on the “hive” experiences that can have a significant effect on individual well-being.)

Haidt, Seder and Kesebir do warn of the dangers of “hive” psychology, referencing the fascist “spectacles” and calling to mind a mob’s loss of moral limits during lawless riots or looting, the willingness of individuals to participate in violent attacks against those that are “other” or ethnic cleansing. They propose social structures whereby people are “tightly bound into many crosscutting groups,” reminiscent perhaps of network structures or webs of connectivity that are emerging in the interaction of younger generations. Although the idea that social networks create powerful connections and can lead to a deep sense of contentment—even ecstasy—is appealing, the risks the authors identify (and the many instances in which the harm has been realized) make one wary of “hive” psychology as a basis for any governmental policy-making.

Implications for Public Policy

Christopher Hsee, Fei Xu and Ningyu Tang consider the disconnect between increased wealth and consumption and flat levels of happiness or satisfaction across generations, and offer recommendations for policy-makers. Their essay, “Two Recommendations on the Pursuit of Happiness,” starts with the research, cited by several of the authors represented in *Law and Happiness*, establishing that people are adaptive to their circumstances, accounting, for example, for the failure of overall life satisfaction to increase commensurately with income and/or wealth. They explore how to promote increased happiness as generations gain more wealth and enjoy greater consumption. Their paper focuses on ways of optimizing consumption to lead to greater well-being without necessarily increasing wealth, calling this “hedonomics.”

The authors point to the findings that some experiences are more “adaptation-resistant” and that the effect of wealth on happiness can be relative or absolute. Citing the notion discussed by Nussbaum that there are qualitative differences in pleasure, they add that there are qualitative differences in pain. Hsee, Xu and Tang offer real-world, everyday examples of these differences, showing not just that some experiences are positive on a daily basis (heat in winter), but also that some experiences are only positive until adaptation occurs (a gift), and other experiences are positive only relative to others (ownership of more goods such as jewelry). Similarly, negative experiences can be continuous (a long commute), or susceptible to adaptation (loss of job), and others only relative (having less of some goods such as jewelry). They posit that individuals (and policy-makers) do not make hedonomically optimal decisions because

they fail to take into account the level of adaptation that can be anticipated to occur under different circumstances, and they focus on increasing short-term happiness rather than on enduring increases.

Here we encounter concrete recommendations for public policy-makers. The authors propose that policy should promote long-term and sustainable increases in well-being and increases that are evaluable (i.e., those that do not require comparative increase in order to yield increased happiness). Focusing on these principles will, they assert, create increased happiness not just within a generation but across them. So, for example, a government might consider whether the cost of adding an additional lane to a major thoroughfare will shorten commute times and decrease congestion, increasing the overall happiness of commuters, rather than applying the same money to reducing tolls along the thoroughfare. Hsee, Xu and Tang believe the former expenditure will promote sustained improved well-being, while commuters will soon adapt to the latter.

It is interesting to note that the authors touch briefly on the questions of whether certain elements of happiness are not associated with income, wealth or consumption (assuming this is so) and on whether the sole measure of policy effectiveness is society's happiness level (averring it is not). I would have enjoyed a longer discussion of both issues.

A question raised by the continued interest in well-being or happiness research is whether more traditional methods by which economists have evaluated decision-making continue to have relevance in setting public policy. In their somewhat dense essay, "Happiness Research and Cost-Benefit Analysis," Matthew Adler and editor Eric Posner examine the effectiveness of self-reported well-being analysis and conclude that cost-benefit analysis remains valid as a tool for policy-making and for determining the value or utility of a proposed project.

They begin their analysis by establishing that self-reported well-being (at least in-the-moment) and well-being may not be the same in all cases. Like others, they recognize that the notion of well-being may include elements that may not lead directly to greater happiness. These could include a preference for good health, or having a family, for instance. They go on to point out that although "happiness scholars" do not appear to differentiate between well-being and self-reported well-being, these same scholars do not reach the logical public policy conclusion that the existing market economy should be replaced by a government that "would prevent people from choosing and would instead force them to be happy" (254). Thus, the authors conclude, there must be an alternative view of how happiness research should affect public policy.

Adler and Posner adhere to a framework of "weak welfarism" for analyzing public policy, arguing that "overall well-being is one of a possible plurality of fundamental considerations" (255), in contrast to utilitarianism, which "says that overall well-being is the sole moral consideration" (255). This approach

requires them to consider the meaning of “human welfare.” In doing so they accept that there is a list of factors representing well-being (this is the position of “objectivists”) as well as an alternative theory that well-being amounts to having one’s preferences met or is the equivalent of one’s mental state. Ultimately, Adler and Posner adopt a “full-information preferentialist” perspective on well-being. The “preferentialist” view holds that “individual well-being consists in those things that individuals, with full information and deliberating rationally, contemplating the prospect of living different lives, converge in self-interestedly preferring” (257). The “full-information” approach allows one to take into account both an individual’s mental state and measurable factors in evaluating well-being (260). The “full-information preferentialist” therefore can incorporate an objectivist’s “list of welfare goods” like Nussbaum’s or the WHOQOL index adopted by the World Health Organization, and can also consider the answers to open-ended questions developed by Hadley Cantril in the 1960s on 3,000 respondents’ personal aspirations and fears. The authors ultimately conclude that the cost-benefit analysis that is part of a “weak welfarism” construct, and that incorporates overall well-being, is an appropriate measure to incorporate into a policy decision-making process.

Finally, Adler and Posner confront what they call the “extreme claim,” that “the connection between money and [self-reported well-being] is slight or nonexistent” (270). (This claim, as the label implies, represents the logical extreme of certain happiness research, holding that adaptation means that increased income or goods do not generally affect self-reported well-being in the long run.) Whether or not money contributes to self-reported well-being, they conclude, it certainly facilitates attaining factors on the Nussbaum or WHOQOL lists: medical care, living in safer neighborhoods, education, etc. They consider the notion advanced by Hsee, Xu and Tang that in some cases money only has relative value (meaning only to the extent one has more than someone else with whom one compares oneself), and conclude that even if correct it does not establish the validity of the extreme claim. Ultimately, they find that compensating variations (the main element of cost-benefit analysis) exist so long as there are tangible values that affect well-being.

Having concluded that the extreme claim is untrue, and that cost-benefit analysis offers a rational approach to decision-making, Adler and Posner turn to the question of whether that method is a good framework for policy-makers. They note that happiness research has not yielded an alternative procedure for setting policy and evaluating projects, and after some debate about possible approaches conclude that the best option for improving policy-making and decision process is to modify cost-benefit analysis to include self-reported well-being. They point, for example, to the type of regression analysis proposed by Oswald and Powdthavee (see below) and others as evidence that “the more closely-linked [self-reported well-being] and people’s fully-informed preferences are, the stronger the case for using [self-reported well-being] based

results.” This suggests that preferences can inform and refine traditional cost-benefit analysis.

In closing, Adler and Posner reject the claim that policy and governments should seek exclusively to maximize well-being, but instead propose that a government should establish a means for measuring it that is based on informed preferentialism. Moreover, since they reject the extreme claim (and find that well-being literature does not prove it true), they also reject the conclusion that money has no relationship to well-being and assert that it facilitates certain elements of well-being that are preferential rather than associated with mental state. As with other authors in *Law and Happiness*, they suggest further research into further improvements to both self-reported well-being and cost-benefit analysis approaches.

Application of Happiness Literature to Legal Issues

It is at about the midpoint of *Law and Happiness* that we first encounter meaningful analyses of how the literature on hedonics applies to the legal system. Editor Cass Sunstein kicks off the discussion with a deep analysis in “Illusory Losses.” (It is perhaps noteworthy that we also shift focus firmly away from how to measure happiness and toward the measurement of, and compensation for, loss. Perhaps the book’s title should have been *Law and Unhappiness*.)

Sunstein’s paper is one of the longest, and examines the basis for making compensatory awards for pain and suffering. At the outset, he accepts the notion that self-reported well-being, with all its flaws, is reflective of actual (subjective) happiness as a state of mind. He refers to the research on forecasting, and posits that individuals are impaired in their decision-making about the adverse effects of loss or injury on self-reported well-being, just as Hsee, Xu and Tang note that it is true with respect to positive effects on self-reported well-being. People fail to take into account the level of adaptation an affected individual will experience, and similarly do not accurately value the effect of compensatory damages on the individual.

Sunstein explores these forecasting errors through a series of studies that show the levels of anticipated and actual well-being following a range of injuries, both physical (paraplegia, moderate disability) and emotional (romantic breakups, failures to be promoted or elected to office). In all these situations, individuals adapt much more quickly than they expected (and mis-remember their pre-injury state as less severe than it was). Like Hsee, Xu and Tang showed with respect to sustained improvements in well-being, Sunstein acknowledges that losses can be continuing and hence significantly less susceptible to adaptation and more likely to produce long-term loss of happiness. (Examples include depression or anxiety, chronic pain or discomfort and unemployment. Interestingly, separation from a spouse is equivalent to chronic pain, while one adapts to divorce.) He introduces the concept of focus on an injury or loss, which is constant for sustained conditions (like tinnitus, for example) but otherwise (say in the case of severed toes) eventually lost.

In calculating damages, economists have offered an assessment of what an individual would be willing to pay to avoid a negative effect, and an assessment of what an individual would need to be paid to accept the negative outcome. Sunstein exposes the weaknesses of both approaches, stemming in large measure from hedonic “forecasting errors.” Instead, he asserts that a damages calculation must measure the actual harm experienced. “How much would people, having experienced the loss, need to be paid to feel adequately compensated for that loss?” (161). This is not the selling price for the harm, but the amount required to make one hedonically whole. Sunstein also posits that, in addition to pain and suffering, or loss of hedonic value, one can suffer different losses including loss of the ability to perform or enjoy certain activities associated with expertise, with one’s job or with the valued aspects of one’s life. (Citing the philosopher John Stuart Mill, he writes “[n]o intelligent human being would consent to be a fool” [181].) These may be, like the elements of well-being put forth earlier by Nussbaum, capacities that make life meaningful, even if they do not give moment-to-moment happiness (like having children). However, he notes, it is difficult to value such losses.

In the end, Sunstein concludes that juries and judges can make the same errors as individual victims when assessing the impact of a loss (or benefit), because of forecasting errors, the impact of focus on a particular state, or lack of awareness of the sustained adverse effect of persistent harms. Moreover, he argues that capability loss should be evaluated separately from and in addition to pain and suffering and hedonic loss. Finally, he acknowledges that valuing losses in monetary terms is inherently difficult (even if one “measures” loss accurately). Ultimately, he proposes a sort of “civil guidelines” approach, somewhat like the criminal sentencing guidelines, incorporating all the learning about hedonics effects and capability loss (recognizing that the sentencing guidelines have not met with universal success).

Finally, he notes the implications of his analysis in the context of the legal process on government decision-making more broadly. He would focus on preventing or remedying continuing harms such as depression and chronic pain, and more deliberately attempt to minimize judgment errors when evaluating hedonic effects of certain actions or policies. He also notes that well-being should not be the only basis for decision-making. Instead, he supports decisions that will increase overall life satisfaction (for example, increased GDP is associated with longevity, health and opportunity, all of which are beneficial to society whether or not individuals adapt to their improved circumstances) and improved social welfare.

Peter Ubel and George Loewenstein also focus on compensatory damages in their essay, “Pain and Suffering Awards: They Shouldn’t Be (Just) about Pain and Suffering.” They point to the potential inaccuracies of self-reported well-being that can result from “priming” interviewees with suggestive interview questions, and the effects of in-the-moment focus, poor forecasting and scale recalibration. Instead, they argue for a focus on loss of capabilities in calculating damages. In support, they note that although individuals may

adapt to a physical impairment or disability and return to pre-injury levels of happiness, nevertheless people have a strong preference for being healthy and physically whole and it is the loss of that state that should drive damages. Further, they argue that pure hedonic measures of well-being miss not just loss of capability but also impairment of the ability for emotional and experiential variety, and such harms as the psychological effects of becoming a burden on others.

Ubel and Loewenstein carry Sunstein's recommended "civil guidelines" to a greater level of specificity, recommending ranking injuries based on their long-term adverse emotional, physical, social and job function and well-being. These rankings, which could be accompanied by a point system that links injuries to a range of damages, would eliminate the inconsistencies that result when judges and juries make differing determinations in similar cases. Ubel and Loewenstein would task juries with determining what injury in the ranking is most like that suffered by a plaintiff, and identify any extenuating circumstances that would raise or lower the award amount. (Interestingly, they propose that the rankings be determined by a panel of citizens, supported by experts—something like a different kind of "jury," perhaps.)

In "Death, Happiness and the Calculation of Compensatory Damages," Andrew Oswald and Nattavudh Powdthavee narrow the discussion of measuring harm to the emotional pain caused by bereavement. Their paper initially addresses the difficulty in assessing the financial value of damages when the loss relates to a "good" (that is, the pre-bereavement state) that appears impossible to value. (In discarding the willing-to-pay approach considered by Sunstein, for example, the authors imagine asking "What amount would compensate you for the death of your daughter?") Notwithstanding this difficulty, they propose an alternative approach to determining pain and suffering damages for loss of a loved one. They do so initially by seeking to balance the additional "happiness points" associated with increased income and the points lost as a result of the death.

Oswald and Powdthavee dispose of a number of issues plaguing other authors, such as the dissociation of happiness and income, the concept of adaptation and the inaccuracy of hedonic forecasting. In effect, they argue, their analysis applies in spite of the issues left unanswered by others. They offer a series of functions leading to a regression analysis that assesses the adverse effect of loss of a close family member (spouse, child or parent) by referencing the answers of respondents in the British Household Panel Survey to questions about well-being that together form a basis for measuring emotional and mental distress.

As with Stevenson and Wolfers's paper discussed above, the statistical constructs involved in this analysis are difficult for readers unfamiliar with statistics. Still, Oswald and Powdthavee's conclusions—that bereavement has a substantial negative effect on well-being, that the greatest effect is caused by death of a spouse, followed by that of a child and then a parent, that women suffer from bereavement more than men, and that all tend toward adaptation

over some period—make sense and are consistent with the other essays in this volume.

Other Matters of Note

The two final essays in *Law and Happiness* look at the relevance of happiness research to taxation and addressing crime. In “Happiness and Taxation,” David Weisbach examines the notion that absolute income may be less important to well-being than status (relative income), and establishes that if status concerns were added to the tax models currently employed in developing tax policy, the results are certainly affected. Given that tax models assume a very simple utility function (predicting that all people will maximize more consumption and less work), redefining utility to reflect “happiness,” which is much more variable and yields different results in differing situations, produces no obvious way to adjust tax policy accordingly. In effect, happiness literature has not yet yielded sufficient data to analyze and adapt existing models or develop new ones. After evaluating a number of possible tax policy adjustments, Weisbach concludes that hedonics research needs to “line up” better with normative models before decision-makers should make changes.

In the last paper of the book (perhaps envisioned as a second “bookend” to the opening essays discussing what does not lead to happiness), Mark Cohen analyzes the negative effects of general crime on well-being, and finds that an increase in local crime rates doesn’t necessarily lead to widespread unhappiness. In contrast, the impact on an individual of a specific crime (here, a home burglary) is significant, at least in the short-term. Cohen’s analysis is particularly interesting given that surveys find that crime generally ranks at or near the top of Americans’ concerns. Is this an example of accurate “forecasting” by individuals of their reaction to a crime committed against themselves, or an example of failure to forecast the unimportance of overall crime rates (where crimes are committed against others) to their well-being?

After confirming that self-reported well-being and similar measures are reliable bases for evaluating happiness, and reviewing an extensive set of studies relating to crime and crime rates in various jurisdictions, Cohen gathered well-being data from U.S. surveys and crime data from specific counties over a seven-year period, and proposes a utility function to examine how crime and life satisfaction are interrelated. He concludes that county-wide crime rates have a relatively small effect on well-being, and while perceived neighborhood safety may have a somewhat greater effect, after controlling for actual victimization that is also probably quite small. Perhaps his more important finding for purposes of legal policy and compensatory damages is that the average 12-month “compensating income value” to a victim of a home burglary is \$83,772, while estimates of willingness-to-pay to avoid the same are \$29,000.

None of us are going to conclude that we should be indifferent to the crime rates in our own neighborhoods. However, the disconnect between what we perceive to be the most important issues confronting us and our government

and what in fact matters most to our well-being in this single context raises a number of other questions about what else we don't understand about ourselves.

Conclusion

It is difficult to read these essays, backed as they are by substantial research and econometric analysis, without questioning both one's own beliefs about what is personally important and how government (and the legal process) should adjust to this new learning. So much of what I've learned from *Law and Happiness* conflicts with my deep-seated belief that the jury system reflects the fundamental American concept that a group of informed peers, acting rationally and without undue bias, will find the best result in any conflict. But how are they to make rational choices if individuals don't truly understand what makes them happy, except in the moment? If our own perception of happiness factors needs to be supplemented with an "objective" list for purposes of policy-making, who will develop it, and how do we get widespread acceptance of such a list? And to what extent can I get comfortable with the concept of a paternalistic government, "nudging" me toward what will give me life-satisfaction? Can and should policy really be made on the basis of such a broad and inherently conflicting set of research? Moreover, it's still unclear to me, stuck as I am in the here-and-now of actual client representation, how this research does or should relate to the legal profession and the practice of law.

Ultimately, I can avoid answering these questions. After all, the authors whose works make up this fascinating walk through happiness theory are actually asking those questions themselves. Like them, I look forward to further research that will allow a healthy debate—in government as well as around the dinner table—about how what we learn about how people function should change how we live together in a free society.