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The pursuit of (studying) happiness

Three professors examine what makes us contented, believe it can change lawmaking

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You are a criminal defense attorney with a client weighing two options: Accept a plea deal and an automatic five years in prison or go to trial and risk receiving a sentence of 20 years. Your client decides to go to trial.

Is the client wrong? According to three Illinois law professors and co-authors of a new book examining the impact of laws on happiness, the answer is no.

"Our research shows that 20 years in prison is not nearly four times as bad as five years," said Jonathan Masur, a professor at University of Chicago Law School.

That is among the conclusions in the new book "Happiness and the Law," written by Masur, John Bronsteen and Christopher J. Buccafusco of IIT Chicago-Kent College of Law.

The book — published by University of Chicago Press and released today — is the result of six years of work between the three professors as they set out to create metrics for evaluating laws based on happiness.

"If you think about why we have law, at all, the basic core reason is to make people's lives better," Bronsteen said. "If you want to think about how law affects people and how to make law better, you need to think about what it means to improve people's lives."

To study happiness, the professors combed pre-existing research

such as the General Social Survey, a survey founded in 1972 that tracks people's happiness and quality of life over many years by asking them to respond to questions about themselves.

"Our contribution in the book, then, is basically to take these findings and use them to challenge and update more traditional ways of thinking about legal problems — economically and philosophically," Buccafusco said.

The survey is an example of hedonic psychology, the attempt to quantify happiness.

"It's the notion that we can detect and discover what we would call 'subjective well-being,'" he said.

In the case of the hypothetical criminal defendant, Bronsteen, Buccafusco and Masur studied three sets of pre-existing data.

The first is research done by sociologists and criminologists on how prison affects someone's life after they are released. Studies show that former inmates often struggle to find employment, get married and remain healthy.

The second is research of hedonic psychologists that shows how being unable to find a job or a spouse or becoming ill can impact happiness.

Lastly, they studied the impact of life in prison and how the longer one spends incarcerated, the more they acclimate to prison hardships.

"When you put together what we know about what prison does to people and how those things affect

happiness, and then look at how our criminal justice system works, what we realized is that five years and 20 years (in prison) aren't actually all that different," Masur said.

What Bronsteen, Buccafusco and Masur propose in their book is for lawmakers to replace cost-benefit analysis with what they call "well-being analysis" in order to evaluate laws.

"Everyone, including the proponents of cost-benefit analysis, has acknowledged for a very long time that there are big problems with it," Bronsteen said. "But the people who defend it have always defended it by saying there's nothing else.

"When we came up with something else, that was very exciting."

To test the usefulness of well-being analysis, the authors reworked a 1998 Environmental Protection Agency cost-benefit analysis of a clean-water law by using data from various happiness studies.

Clean-water legislation might force, say, a paper company to change its waste disposal habits to something more environmentally sound yet more expensive, thus increasing the cost of the product.

They then researched the number of people who contract water-related illnesses.

"What you really want to know is ... how bad is it to get that illness, and you want to compare that to how bad it is to pay more money for those products," Bronsteen said.

They used the hedonic data — the "happiness studies" — to judge both the impact of the illness and the increased spending.

"Now we've got what we need," Bronsteen said. "We know the effect of money on happiness and we know the effect of illness on happiness and we can compare them."

The authors hope their research will change how laws are written.

"A lot of what we write about might initially sound a little pie-in-the-sky, but a lot of the data that you'd want to use to rethink law is out there already," Masur said.

"We show in one of the chapters of the book that you could start evaluating laws on a hedonic basis, instead of using money, tomorrow.

"We have the necessary information. It exists. ... We think this is something that policymakers could try out in the next five years."

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