

General Counsel's Role in Mitigating Organisational Burnout

PERNILLE STEEN PEDERSEN¹

Assistant Professor, Copenhagen Business School, Denmark

&

CONSTANCE E. BAGLEY²

CEO, Founder, and General Counsel, Bagley Strategic Advisors LLC, USA

We continue to witness high levels of stress and burnout among in-house counsel and managers. General counsel (also called 'lead in-house counsel') can play a pivotal role in mitigating burnout by promoting what Amy Edmondson calls 'psychological safety' — a shared belief within a team that taking 'interpersonal risk is safe'. We also discuss first author Pernille S. Pedersen's work on the corrosive effects of shame. We then draw on the five elements of the dynamic capability the second author Constance E. Bagley defined as 'legal astuteness' and apply them to psychological safety. We conclude by explaining how the general counsel can orchestrate firm-specific training and other practices as part of the top management team's and the board's efforts to change the workplace from one where the employees are, in the words of Jeffrey Pfeffer, literally 'dying for a paycheck', to one where employees can thrive.

Introduction

Completely burned out, depleted of energy, hard time sleeping and fast heartbeat? Maybe you are familiar with feelings of stress or discomfort when it comes to your work. If that is the case, you are not alone. Gallup's 2023 State of the Global Workplace report found that while the world is recovering from the impact of the COVID-19 pandemic, employees are still experiencing record-high stress levels (Gallup, 2023).

Burnout is a complex, nuanced type of individual stress syndrome (Cordes & Dougherty, 1993) that directly affects employees' well-being with devastating personal consequences. They can include physical health issues (e.g. fatigue, headaches), mental health problems (e.g. anxiety, depression), substance abuse (Cordes & Dougherty, 1993), and deteriorated social relations. It goes beyond the ordinary stress of a challenging week with tight deadlines or a tough negotiation; and it has serious implications for the effectiveness of the teams and organizations of which workers are a part (Maslach, Jackson, & Leiter, 1996: 20). (See De Beer, Christensen, Sørengaard, Innstrand, & Schaufeli for an analysis of various tools for assessing burnout syndrome, 2023.)

Stanford Professor Jeffrey Pfeffer was among the first to clearly document the connection between the well-being of a firm's employees and its enduring competitive success (Pfeffer, 1995, 1998, 2018). Pfeffer found that spending money on healthier workplaces increases productivity, profitability, and quality, and reduces turnover (Pfeffer, 2018). As Pfeffer put it, 'Achieving competitive success through people' (Pfeffer, 1995: 55) may be

¹ Assistant Professor, Copenhagen Business School (psp.bhl@cbs.dk), Porcelænshaven 18A, 2000 Frederiksberg, Denmark. Both authors gratefully acknowledge the helpful insights and research provided by Sue Schillaci and the document preparation assistance of Kaela Heaslip.

² Founder and CEO of Bagley Strategic Advisors LLC (constance@bagleystrategic.com); Visiting Professor of Law, Copenhagen Business School; former Professor and Senior Research Scholar in Law, Yale University.

a source of sustained competitive advantage. In other words, worker well-being matters not only out of kindness or benevolence, but also when it comes to achieving sustainable organizational results. (See also Business Roundtable (2019) (statement abandoning shareholder primacy in favor of a stakeholder approach, predicated on the belief that sustainable firm value creation and success over the long-term require ‘meeting the needs of all stakeholders’, including employees, instead of just maximizing shareholder returns).)

Although members of corporate management have increasingly begun to address their employees’ mental health (Greenwood & Anas, 2021), initiatives are predominantly directed towards individuals, who are offered mindfulness sessions, education on exercise and nutrition, and access to therapy apps (see, e.g. Roe, 2023), and not on organizational changes. According to one study, however, the only workplace wellness programs that improved employees’ well-being were those that involved volunteering (Amdur, 2024), which offer a communal opportunity to work with others. Despite the obvious importance of initiatives targeting the individual worker, we see a great need for offering research-backed suggestions for ways legal and business leaders can devise and promote firm-wide initiatives targeted at creating healthy and sustainable work cultures and supportive climates for both teams and creative workers, such as coders and artists, who work alone. In this regard, we assert that general counsel can play a pivotal role firmwide by helping to orchestrate firm-specific training designed to make the in-house legal team and the business managers aware of the importance of psychological safety as they together seek to navigate an increasingly uncertain legal and business environment characterized by rapid technological changes and ‘wicked problems’ in areas such as artificial intelligence (see, e.g. Savin & Bagley, 2023), climate change, shortages of rare minerals and other scarce resources, military and political conflicts, competition and antitrust, fin-tech, and privacy.

For this purpose, we mobilize the construct of psychological safety, proposed by Harvard Professor Amy Edmondson from the perspective of team learning behavior, and augment it with work by Professor Pernille Steen Pedersen of the Copenhagen Business School and others on shame and other psychological aspects of the workplace. Edmondson defines ‘psychological safety’ as a shared belief by members of a team of workers that ‘interpersonal risk is safe’ (Edmondson, 1999: 354), that is, that team members will be safe from ridicule, literally, being laughed at, if they suggest a course of action others may consider impracticable or even silly. This approach removes the focus from ‘fixing’ an individual who may feel ashamed by the response to their ideas from business leaders and fellow workers, and ultimately beaten down, to ‘reshaping’ the organizational culture to embrace psychological safety as a core firm value. This requires a shift in organizational focus from maximizing shareholder return without regard for employees to creating a firm culture that both (1) encourages the free exchange of ideas, however unorthodox they may sound, among employees, and (2) empowers individuals to speak up about the state of their mental health, such as feelings of failure, that may be contributing to discouragement and shame.

Although interest in the salutary effects of psychological safety remains high, Edmondson and Bransby (2023) point out that the ‘most glaring gap’ in the literature is how to create psychological safety in practice. To help fill that gap, we braid strands of the work by former Stanford, Harvard, and Yale professor Bagley (2008, 2015) on legal astuteness as a valuable dynamic capability (see generally Teece & Leih (eds.), 2015), with the psychological insights provided by work on psychological safety and shame, to form the foundation for concrete recommendations for actions business and legal leaders can take to mitigate burnout. We also explain the role lead in-house counsel can play in the ‘orchestration’ (Teece, 2007: 1320) of those actions.

The balance of this article is organized as follows. First, we present data on the urgency of enhancing an organizational focus on combatting stress and burnout both within the legal

profession and more broadly. Then, we introduce the three streams of research we seek to connect: Edmondson's work on psychological safety in teams, Pedersen's and others' work on shame, and Bagley's construct of legal astuteness as a valuable dynamic capability. After identifying the five elements of legal astuteness (Bagley, Roellig, & Massameno, 2016), we explain how those same five motifs can be integrated with the themes inherent in psychological safety to help design and nurture a firm culture in which all participants can have honest conversations about their mental well-being and work together more harmoniously. Finally, we present five proactive practices for mitigating burnout as part of a firm's overall strategy for sustainable and responsible business success.

The urgency of managing stress and burnout in the workplace

According to Deloitte's latest survey on well-being at work, conducted in partnership with Workplace Intelligence, unhappiness in the workplace is increasing and having a negative impact on productivity and the ability to preserve organizational talent in the long term. The survey showed that 80% of the respondents were 'facing obstacles', including heavy workloads and stressful jobs, that negatively impacted their well-being (Fisher, Silverglate, Bordeaux, & Gilmartin, 2023). Given the nature of the competitive, pressure-filled legal field, with its long hours, difficult tasks and clients, high expectations, and the pressure to win cases and achieve success, in-house lawyers and legal professionals are particularly vulnerable to burnout. A 2023 survey of almost 3000 lawyers reported that about 71% of those interviewed reported suffering from anxiety, 38% said they dealt with depression, 31% stated that they struggled with another mental health issue, and 49% reported feeling that mental health problems and substance abuse are at a 'crisis level in the legal profession' (Robert, 2023). The importance of mitigating burnout is also emphasized by a report by Axiom, which found that 57% of in-house legal professionals were 'open to finding new jobs' due to burnout and stress (Moran, 2022), resulting in what Bakouche (2023) dubbed the 'Great Resignation'. In addition, the legal profession suffers from what Edmondson and Besieux call a 'silence-culture' (Edmondson & Besieux, 2021: 270) where discussing stress and other mental-health issues seems to be taboo. For example, a global survey by the International Bar Association showed that 41% of lawyers would not discuss mental well-being concerns with their employers, fearing it might negatively impact their careers (International Bar Association, 2021: 9).

The Importance of Psychological Safety to Counteract the Pernicious Effects of Shame

Both authors believe that integrating psychological safety and an understanding of the pernicious effects of shame and ways to mitigate them are essential for a sustainable firm strategy and operations. In this part we argue that organizations should articulate an explicit organizational commitment to provide workers with psychological safety to counteract the pernicious effects of the shame, which may arise when workers feel that they are not living up to their own or their companies' high expectations. In the next part, we discuss the five elements of Bagley's (2008, 2015) construct of 'legal astuteness' as a valuable dynamic capability, and then bring all three strands of theory together to suggest the predicates for firm practices that can help convert aspirations for psychological safety and mitigation of shame into a valuable dynamic capability.

Psychological safety

Edmondson conceptualizes learning in groups 'as an ongoing process of reflection and action, characterized by asking questions, seeking feedback, experimenting, reflecting on results, and discussing errors or unexpected outcomes of action' (Edmondson, 1999: 353). A central argument in Edmondson's work is that performance and learning become inhibited when people believe there is a risk of rejection or embarrassment in the working environment (Edmondson, 1999, 2019), a lack of what she calls 'psychological safety'. Psychological safety requires 'a sense of confidence that the team will not embarrass,

reject, or punish someone for speaking up. This confidence stems from mutual respect and trust among team members' (Edmondson, 1999: 354).

Edmondson explained that in many organizations team members' fears of being embarrassed, rejected, or punished have become so prevalent and severe as to create 'an epidemic of silence', which is antithetical to the sharing of information (e.g. Edmondson, 2019). 'If conversations are engines of change, then focusing on the quality of conversations emerges as a vital area for both research and the development of new practices' (Edmondson & Besieux, 2021: 270). We whole-heartedly agree that the way members in a group speak with and listen to each other, including their willingness and ability to put themselves in another's shoes, will influence the interpersonal risks employees are willing to take (Pearsall & Ellis, 2011). A key means to facilitate the ability to 'put oneself in the colleague's shoe' is through conversations, but this often requires someone to take responsibility for facilitating such discussions constructively.

Shame

Shame has been characterized as a root master emotion attached to our survival in the group (Scheff, 2003). In the wider literature, shame is presented as a universal, self-conscious emotion associated with a negative evaluation of the self (Lewis, 1971; Lindsay-Hartz, de Rivera, & Mascolo, 1995; Tangney & Dearing, 2002), leading to defensive actions and a desire to hide, disappear, or escape from the situation (Tangney & Dearing, 2002). While guilt involves regretting and reproaching yourself for something you have done ('I have done something wrong'), shame involves who you are—your whole person: 'There is something wrong with me' (Pedersen, 2021). In its positive form, shame is the driver that navigates our relationships with other people and shapes how we interact with them. But if we feel intense shame, we may withdraw from social contact entirely (Lynd, 1958). This explains how shame can fester when an individual is working alone. When there is no safe working environment, an individual's anxiety of making a mistake can put extra pressure on the individual, so they not only feel that they need to work too much, but also feel ashamed when making mistakes or when they are not able to live up to their own potentially unrealistically high expectations.

Organizations need to provide a safe space where workers can take chances without fear of being punished or humiliated or ashamed, where they can bounce ideas off of others, especially those from different functional areas, and otherwise feel comfortable thinking out loud. As discussed further below, having a space for thinking out loud would also offer a mechanism for reducing shame by normalizing the fear of making mistakes and help eliminate the painful feelings that often accompany mistakes when they are kept secret.

Legal astuteness as a valuable dynamic capability

We will now introduce Bagley's (2008, 2015) construct of 'legal astuteness', which she defines as the ability of the top management team ('TMT') to work effectively with counsel to embed legal and ethical considerations into the firm's overall business strategy and to use legal advice and tools to enhance firm value and sustainable advantage in a manner that factors in the needs of all stakeholders, including employees. Drawing on the work of University of California at Berkeley Professor David Teece (e.g. 2007) on dynamic capabilities, Bagley argues that legal astuteness can be a valuable dynamic capability and a source of sustained competitive advantage. Teece developed the dynamic capability approach to explain how certain firms maintain a competitive edge by constantly modifying and re-inventing their managerial capabilities to address and meet the challenges and opportunities of high-velocity environments. Central to the dynamic capability of legal astuteness is the TMT's embrace of its responsibility for the legal and ethical aspects of the firm's strategy, culture, and performance. Just as war is too important to leave to the generals, legal matters are too important to leave to the lawyers (Bagley, 2005; Bagley, Roellig, & Massameno, 2016: 431).

Five elements of legal astuteness

To be legally astute the TMT (including the board) must 1) embrace a set of value-laden attitudes, 2) take a proactive approach, 3) exercise informed and sound judgment, 4) acquire context-specific knowledge of the law and the appropriate use of legal tools, and 5) ensure that their lawyers are strategically astute and understand the firm's business, including how it makes money, so they can communicate effectively with the business managers and collaborate in the development and implementation of firm strategies that ensure that the legal and business aspects of the firm are managed in a mutually consistent and reinforcing manner. The common language resulting from discussions among managers and counsel of matters with mixed legal and business ramifications will also help individuals from very different backgrounds develop mutual trust, which itself can be a source of competitive advantage (Barney, 1991).

Psychological safety as a dynamic capability

With the benefit of the lenses provided by Bagley's work on how the top management team and board can create sustainable competitive advantage by better integrating legal and business considerations when devising and executing firm strategy, we will next seek to demonstrate how a top management team's ability to create and maintain a culture of psychological safety may also be a valuable dynamic capability when the practices to support psychological safety are embedded in the overall business strategy and operations. The necessary 'orchestration' (Teece, 2007: 1320) of firm activities across functions requires the TMT (and board) to embrace and to articulate the critical importance of psychological safety to sustained firm success ('talking the talk', also called 'tone at the top'). Beyond the words spoken, the TMT (and board) must 'walk the walk', and 'dance the dance', by 1) adhering to a set of value-laden attitudes about the importance of ethics, integrity, and employee well-being as core firm values, 2) taking a proactive approach to employee well-being (including monitoring the 'psychological temperature' of its managers, employees, and solo creators), 3) exercising informed judgment about the effects of stress, shame, and other factors on employee creativity and mental well-being, 4) acquiring firm-specific knowledge about the predicates for psychological safety and shame and the practices that foster them, and 5) developing a common language across functional divisions so leaders, employees, and solo creators working with members of the firm and other stakeholders can understand and communicate effectively with each other.

Set of value-laden attitudes

As with legal astuteness, the value-laden attitudinal aspects of the firm-specific training for psychological safety should include explicit acknowledgment by the TMT and board of the importance of ethics, honesty, justice, fairness, and transparency (the so-called 'tone at the top'). This element also includes recognition of the importance of psychological safety and the creation of an atmosphere where an honest conversation about well-being is encouraged by firm leaders, including the lead in-house counsel.

Proactive approach

The proactive element is an institutional mechanism whereby workers can safely communicate stressors to their managers and team members without fear of retribution. It makes it possible to renegotiate workload without fear of being called a 'slacker', when the number of tasks has turned out to be overly burdensome or simply unworkable. It also encompasses the need for providing access to a therapist when appropriate.

Exercise of informed and sound judgment

Mark Roellig (2018), former General Counsel and Executive Vice President of MassMutual Financial, defines the exercise of good judgment as 'making effective, productive decisions or actions in multidimensional settings that are aligned with business objectives'. As David Field, Chief Legal Counsel and Director, People and Finance, at

Canon Oceania, put it: ‘Much of the growth trajectory of an in-house legal career involves getting more comfortable with one’s judgment in relation to “which rocks am I not going to pick up and look under?” and “that one is probably not going to kill us, I’m not going to worry about that one”’ (Thomson Reuters, 2023).

The judgment element emphasizes the capabilities of both lawyers and non-lawyers, including business partners and other stakeholders, to decide which types of arrangements are most likely to result in mutually beneficial relationships. This includes being able to evaluate whether the parties are operating on the same wavelength and share common values, goals, and assumptions about the task and the risks and potential benefits involved. It also entails the maturity to understand oneself and others and to have a sense of when one needs to ask for help.

Roellig (2018) views judgment as a capability that can be practiced and improved with firm-specific training. He cites multiple sessions he co-developed and co-taught with the second author Professor Bagley, including employee role playing of decision making in customized hypothetical situations.

Context-specific knowledge

Both managers, employees, and solo creators need to have knowledge concerning the symptoms of burnout and potential risk factors for burnout or commercial failure and ways of managing those risks. This element highlights the need for conversations to generate a sense of mutual respect as well as recognition and balancing of the potentially conflicting demands upon lawyers, managers, employees, and solo creators by their colleagues and other stakeholders.

Psychologically and strategically astute managers, employees, and solo creators

Just as legally astute TMTs and boards require strategically astute counsel who understand the firm’s business and can communicate with non-lawyers about a decision with mixed legal and business ramifications, so must the TMTs and boards of firms seeking to develop the dynamic capability of psychological safety strive to ensure that the firm’s managers, employees, and solo creative workers understand the importance of psychological safety and how it fits into the company’s overall business strategy. When communicating with each other, leaders and workers should try to avoid, or at least make sure they define, jargon that can impede the creation of a common language.

Five practices to foster a psychologically safe working environment

So how can lead in-house counsel apply the important insights from Edmondson’s, Pedersen’s, Bagley’s, and others’ work to both ‘nudge’ (Thaler & Sunstein, 2008) the firm’s leadership to accept psychological safety as a core firm value and to help orchestrate the practices necessary to animate that core value? In this part we braid the three strands—psychological safety, shame and other psychological aspects of the workplace, and elements of legal astuteness as a dynamic capability—to form a scaffolding for our presentation of five practices for creating a psychologically safe working environment where workers can not only talk, learn, and breathe but also, dare we suggest, thrive.

1) Create an understanding of the urgency of integrating psychological safety in the firm’s strategy:

We argue that creating a psychologically safe working environment must start at the top. This means that the TMT cannot just outsource the creation and maintenance of psychological safety to the Human Resources or People departments. The TMT and the board must both ‘walk the walk’ and ‘dance the dance’ when setting firm policies that affect employees’ well-being and setting the strategic agenda for the organization. Just as Bagley (2008) calls on managers to ask first whether a proposed action complies with the letter and spirit of the law before acting, and to reject a proposed action that would be illegal even if it would maximize shareholder value and the managers think they could take

the action without getting caught, so too when deciding what is in the corporation's best interest, the firm's leadership should consider not only how a decision might affect the shareholders but also how it might affect employees' well-being. We believe a personnel policy, with examples of what furthers well-being and mitigates against or contributes to burnout, can play a critical role in creating a sustainable management strategy. But this must be a living document. The lead in-house counsel has an important role to play in creating and amending such a document. A concrete way to promote this is to include in employment contracts a key performance indicator related to organizational health, including psychological safety, so both the board and executives take it into account when evaluating and compensating managers and in-house counsel.

2) *Encourage and normalize honest conversations about mental health:*

If employees do not dare to speak up and share their concerns about their mental health, it is hard for the firm to take proactive action to address them. Everyone (including leaders) should be encouraged to support each other by sharing experiences, including fears, mistakes, stressors, and successes, in a safe space where they know they will be labelled neither as scaredy cats, idiots or wimps nor as braggarts. That's what being part of a team is all about. This requires a certain degree of familiarity with each other. To promote this, we suggest an icebreaker initiative called 'Introduce yourself and your work in a maximum of two minutes' where everybody makes or posts a presentation, based on a medium of their choice (e.g. a poem, a video, or a PowerPoint), which is uploaded at the company's intranet.

To also signal how the TMT plays a pivotal role in creating and maintaining a culture of psychological safety, we recommend that the TMT and general counsel embrace behaviors and practices that support conversations about mental health and the virtue of doubt as an integral part of firm culture. Similarly, the TMT needs to create feedback loops to align the well-being of the employees with the success of the various business functions. None of this is static, however. The TMT must constantly scan the environment and take the psychological temperature of the humans in the organization. This could be done by quarterly surveys with questions measuring the workers' experiences of their workload, their work-life balance, and the like. Sometimes, simple questions like, 'What keeps you up at night?' or 'If you were given an extra half-day each week, what would you like to work on?', or 'If you could take one thing off your plate, what would it be?' can result in important insights.

3) *Use the lead in-house counsel to help orchestrate efforts to create psychological safety:*

General counsel can be strategic partners with the business leaders and the board, actively 'nudging' (Thaler & Sunstein, 2008) and supporting the TMT and the board as they work together with experts (as needed) to create a psychologically safe firm culture. The first step may be sharing with the business leaders research on the importance of psychological safety, perhaps by doing a presentation along with an expert speaker who is skilled at working in practical terms with psychological safety. Inspired by Teece, we emphasize the role the general counsel could play as orchestrator of the creation and delivery of psychological safety firm-specific training materials and programs (such as hypothetical scenarios that could be used for role playing) and other efforts within the organization. Like the music director and conductor of an orchestra, the general counsel would not be the featured soloist but could make sure that all the musicians can hear each other, that they feel appreciated, and that they have enough time to practice and are growing as musicians. If an orchestra member, after fair warnings (often by a subset of musicians weighing in along with the conductor) still is not playing up to the orchestra's agreed upon standards, then it is the music director's job to replace them.

4) Implement training on sound judgment specific to the firm:

To support the exercise of sound judgment, including deciding when to delegate a matter and how much oversight to maintain, we recommend that the general counsel offer training about judgment with cohorts of leaders, employees, and solo creators across multiple functions and product groups. This training must be specific to the firm and experiential. Training on judgment could involve workshops with various hypotheticals or dilemmas to strengthen the participants' ability to exercise good judgment, including when to ask for help. This may include 'what-if' discussions (Alliger, Cerasoli, Tannenbaum, & Vessey, 2015) or other techniques, such as use of the Socratic method, to enhance workers' ability to explain themselves and withstand pressure. Concrete work challenges or dilemmas from the workers could be integrated in the program, e.g. perhaps drawing inspiration from what we recommend below. Training on judgment will require the general counsel and the associate general counsel to work closely with an expert to help create materials embodying context-specific knowledge of the business, its legal issues, and the psychological pressures on the team, the solo creators, and the leaders. It is very powerful when the lead counsel or other leaders conclude the discussion of a hypothetical by describing what they did or wish they had done under the facts given.

5) Provide a space for thinking out loud as an antidote to the solitude of shame:

Shame thrives when we are alone and have only our harsh inner critic to negotiate with. Connection with others and the ability to think out loud about work-life issues without fear of being laughed at—key elements of psychological safety—also provide an important means of overcoming the shame and isolation that can metastasize into burnout. This has become even more urgent as more employees work remotely or alone as solo creators, such as designers, coders, or authors.

We suggest that the TMT provide a dedicated 'space' in the organization for thinking out loud. This could be a physical space with on-line video services and screens (such as TEAMS or Zoom) so people working remotely or alone can easily join and interact with those working in a central office. Alternatively, it could be a purely virtual space accessible to all employees and solo creators. The meetings can be short, and leaders should attend whenever possible. When Lee Augsburger was Chief Ethics and Compliance Officer at MassMutual Financial, he found that five-minute training sessions were often far more effective than longer programs.

To create a shared understanding of work preferences and demands and to normalize the experience of making decisions that did not lead to the desired results, we suggest an exercise called 'Share a personal work challenge', where anyone can discuss a work dilemma or scenario as part of and across teams or as a solo creator engaging with other members of the organization. The speakers would take turns briefly presenting a dilemma from their own work-life, structured by the following questions:

- What did you consider when making your choice?
- How did you feel?
- What worked?
- What didn't?
- Was there anything about your own reactions that surprised you?
- In retrospect, is there anything that would have made your decision-making process less stressful?

Specifically sharing what one experienced as a mistake can provide both learning and input so that others can contribute with suggestions for new options for action.

Conclusion

What if practitioners and scholars finally started taking seriously Pfeffer's (2010: 43) admonition that organizations concerned with sustainability 'should care as much about people as we do about polar bears—or the environmental savings from using better milk jugs' . . . (Pfeffer, 2010: 43)? Doing so would require a shift from approaching burnout mitigation as, at best, a responsibility of individual workers to accepting the need for firmwide cultural changes, led, and supported by, strong commitments from the TMT and the board. In this article we have situated burnout-mitigation as an imperative for the firm's leadership, aided (and, as needed, gently nudged) by the lead in-house counsel. We have suggested that the general counsel could be an important orchestrator of firm-specific training designed to make in-house teams, solo creators, and business managers not only more legally and strategically astute but also more aware of the importance of providing a psychologically safe working environment, and more adept at doing so. Thriving in business requires us to move from striving alone to thriving together and thereby counteracting shame, which may be an unwelcome travelling companion in an environment that fosters perfectionism. Humans are in the process of breaking down not only the natural systems needed to sustain the planet and the fellow creatures that inhabit it but potentially endangering the human race itself (see generally Bagley, Sulkowski, Nelson, Waddock, & Shrivastava, 2020). Instead of trying to push people to change who they are to fit into unrealistic business demands, such as being on-call 24/7, 52 weeks a year, and expecting them to perform perfectly in a chaotic world when faced with wicked problems, incomplete information, uncertainties and compressed time schedules, we recommend focusing on how business organizations can, and should, be adapted to fit the needs of what most management scholars and practitioners call firms' most valuable resource: its people.

Dr. Pernille Steen Pedersen is an assistant professor at Copenhagen Business School (CBS). Her research focuses on identifying and understanding triggers of work-related stress and how leadership can address stress-mitigation in a day-to-day practice. She has developed research-based tools for management and employees that outline how stress may be handled and prevented, by focusing on social relations and the reduction of shame in cooperative dialogues between management and the employees.

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Constance E. Bagley is currently CEO, Founder, and General Counsel, Bagley Strategic Advisors LLC, and Visiting Professor of Law, CBS LAW, Copenhagen Business School. She is a popular public speaker and author of multiple articles and books, including *Winning Legally: How to Use the Law to Increase Value, Marshal Resources, and Manage Risk* (Harvard Business Review Press), *The Entrepreneur's Guide to Law and Strategy* (5th ed. co-authored with Craig E. Dauchy, Cengage), and *Managers and the Legal Environment: Strategies for Business* (9th ed., Cengage).

Bagley Strategic Advisors is a boutique consultancy offering customized advice, master classes, workshops, and high level training for executives, including in-house counsel, and board members. Professor Bagley taught for multiple years in the executive programs for directors and lawyers at the Stanford, Harvard, and Yale Business Schools and at the Stanford Law School. She has extensive experience teaching and preparing materials for

in-house counsel, both in master classes for general counsel at firms like MassMutual, Prudential Financial, Microsoft, and CVS Health, and at the Practising Law Institute's Corporate Counsel Institute. She has coauthored multiple book chapters and articles with Mark Roellig, former General Counsel and Executive Vice President of MassMutual Financial, and coauthored a piece on compliance in the *Harvard Business Review* with Bruno Cova, former General Counsel of Fiat and Chief Counsel to the Administrator of Parmalat in the wake of its massive fraud.

References

- Alliger, G. M., Cerasoli, C. P., Tannenbaum, S. I., & Vessey, W. B. 2015. Team resilience: How teams flourish under pressure. *Organizational Dynamics*, 44(3): 176–184.
- Amdur, E. 2024. Workplace wellness programs disappoint. Here's why. *Forbes*. <https://www.forbes.com/sites/eliamdur/2024/01/17/workplace-wellness-programs-disappoint-heres-why/?sh=77071cce32ce>, January 17.
- Bagley, C. E. 2005. *Winning legally: How managers can use the law to create value, marshal resources, and manage risk*. Boston: Harvard Business School Press.
- Bagley, C. E. 2008. Winning legally: The value of legal astuteness. *Academy of Management Review*, 33(2): 378–390.
- Bagley, C. E. 2015. The value of a legally astute top management team: A dynamic capabilities approach. In D. J. Teece & S. Leih (Eds.), *The Oxford Handbook of Dynamic Capabilities*. Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780199678914.001.0001>.
- Bagley, C. E., Roellig, M., & Massameno, G. 2016. Who let the lawyers out?: Reconstructing the role of the chief legal officer and the corporate client in a globalizing world. *University of Pennsylvania Journal of Business Law*, 18: 419–507.
- Bagley, C.E., Sulkowski, A. J., Nelson, J. S., Waddock, S., & Shrivastava, P. 2020. A path to developing more insightful business school graduates: A systems-based, experiential approach to integrating law, strategy, and sustainability. *Academy of Management Learning & Education*, 19(4): 541–568.
- Bakouche, E. 2023. Combatting burnout: A guide for in-house legal teams. *Precisely*. <https://preciselycontracts.com/combating-burnout-a-guide-for-in-house-legal-teams/>, May 29.
- Barney, J. B. 1991. Firm resources and sustained competitive advantage. *Journal of Management*, 17(1): 99–120.
- Business Roundtable. 2019. *Business Roundtable redefines the purpose of a corporation to promote 'an economy that serves all Americans'*. <https://www.businessroundtable.org/business-roundtable-redefines-the-purpose-of-a-corporation-to-promote-an-economy-that-serves-all-americans>, August 19.
- Cordes, C. L., & Dougherty, T. W. 1993. A review and an integration of research on job burnout. *Academy of Management Review*, 18: 621–656.
- De Beer, L. T., Christensen, M., Sjørengaard, T. A., Innstrand, S. T., & Schaufeli, W. B. 2023. The psychometric properties of the Burnout Assessment Tool in Norway: A thorough investigation into construct-relevant multidimensionality. *Scandinavian Journal of Psychology*. <https://doi.org/10.1111/sjop.12996>, December 25.

- Edmondson, A. C. 1999. Psychological safety and learning behavior in work teams. *Administrative Science Quarterly*, 44(2): 350–383.
- Edmondson, A. C. 2019. *The fearless organization: Creating psychological safety in the workplace for learning, innovation, and growth*. Hoboken, NJ: John Wiley & Sons, Inc.
- Edmondson, A. C., & Besieux, T. 2021. Reflections: Voice and silence in workplace conversations. *Journal of Change Management*, 21(3): 269–286.
- Edmondson, A. C., & Bransby, D. P. 2023. Psychological safety comes of age: Observed themes in an established literature. *Annual Review of Organizational Psychology & Organizational Behavior*, 10(1): 55–78.
- Fisher, J., Silverglate, P. H., Bordeaux, C., & Gilmartin, M. 2023. As workforce well-being dips, leaders ask: What will it take to move the needle? *Deloitte*., June 20.
- Gallup. 2023. *State of the global workplace: 2023 report*. <https://www.gallup.com/workplace/349484/state-of-the-global-workplace.aspx>.
- Greenwood, K., & Anas, J. 2021. It's a new era for mental health at work. *Harvard Business Review*. <https://hbr.org/2021/10/its-a-new-era-for-mental-health-at-work>, October 4.
- International Bar Association. 2021. *Mental wellbeing in the legal profession: A global study*. <https://www.ibanet.org/document?id=IBA-report-Mental-Wellbeing-in-the-Legal-Profession-A-Global-Study>.
- Lewis, H. B. 1971. *Shame and guilt in neurosis*. New York: International Universities Press.
- Lindsay-Hartz, J., de Rivera, J., & Mascolo, M. F. 1995. Differentiating guilt and shame and their effects on motivation. In J. P. Tangney & K. W. Fischer (Eds.), *Self-conscious emotions: The psychology of shame, guilt, embarrassment, and pride*: 274–300. New York: Guilford Press.
- Lynd, H. M. 1958. *On shame and the search for identity*. New York: Harcourt Brace.
- Maslach, C., Jackson, S. E., & Leiter, M. P. 1996. *MBI: The Maslach burnout inventory: Manual* (3rd ed.). Palo Alto, CA: Consulting Psychologists Press.
- Moran, L. 2022. Nearly 80% of in-house lawyers report being stressed or burned out. *Legal Dive.com*. <https://www.legaldive.com/news/inhouselawyers-stress-burnout-axiom-flexibletalent-greatresignation-legaldepartments-mentalhealth/633958/>, October 12.
- Pearsall, M. J., & Ellis, A. P. J. 2011. Thick as thieves: The effects of ethical orientation and psychological safety on unethical team behavior. *Journal of Applied Psychology*, 96(2): 401–411.
- Pedersen, P. S. 2021. Stress and shame are closely linked – understand why. *Science Nordic*. <https://www.sciencenordic.com/denmark-health-stress/stress-and-shame-are-closely-linked--understand-why/1929987>, November 11.
- Pfeffer, J. 1995. Producing sustainable competitive advantage through the effective management of people. *Academy of Management Perspectives*, 9(1): 55–69.
- Pfeffer, J. 1998. *The human equation: Building profits by putting people first*. Boston, MA: Harvard Business School Press.
- Pfeffer, J. 2010. Building sustainable organizations: The human factor. *Academy of Management Perspectives*, 24(1): 34–45.

- Pfeffer, J. 2018. *Dying for a paycheck: How modern management harms employee health and company performance—and what we can do about it*. New York: Harper Collins.
- Robert, A. 2023. Mental health initiatives aren't curbing lawyer stress and anxiety, new study shows. *American Bar Association Journal*.
<https://www.abajournal.com/news/article/mental-health-initiatives-arent-curbing-lawyer-stress-and-anxiety-new-study-shows>, May 19.
- Roe, D. 2023. 'There's a lot of backlog to address': Why mental health in the legal profession is getting worse. *American Lawyer*.
<https://www.law.com/americanlawyer/2023/05/18/theres-a-lot-of-backlog-to-address-why-mental-health-in-the-legal-profession-is-getting-worse/>, May 18.
- Roellig, M. 2018. Judgment day. *Docket*. <https://docket.acc.com/judgment-day>, September 1.
- Savin, A., & Bagley, C. E. 2023. On a strategic management approach to the new EU risk-based compliance regulations. *International In-house Counsel Journal*, 16(64): 1–13.
- Scheff, T. J. 2003. Shame in self and society. *Symbolic Interaction*, 26(2): 239–262.
- Tangney, J. P., & Dearing, R. L. 2002. *Shame and guilt*. New York: Guilford Press.
- Teece, D. J. 2007. Explicating dynamic capabilities: The nature and microfoundations of (sustainable) enterprise performance. *Strategic Management Journal*, 28: 1319–1350.
- Teece, D. J., & Leih, S. (Eds.). 2015. *The Oxford handbook of dynamic capabilities*. Oxford University Press. <https://doi.org/10.1093/oxfordhb/9780199678914.001.0001>.
- Thaler, R. H., & Sunstein, C. R. 2008. *Nudge: Improving decisions about health, wealth and happiness*. New Haven, CT: Yale University Press.
- Thomson Reuters. 2023. 'Extreme' stress linked to high turnover of in-house counsel at ASX100 companies. <https://insight.thomsonreuters.com.au/legal/posts/extreme-stress-linked-to-high-turnover-of-in-house-counsel-at-asx100-companies>, September 25.