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The Image of a Lawyer: Some Remarks from the Perspective of the "Tripartite Crisis" as Seen by Susan Daicoff

Wizerunek prawnika. Kilka uwag z perspektywy zjawiska „tripartite crisis" w ujęciu Susan Daicoff

ABSTRACT

Conducting multi-aspect theoretical and empirical research on the proper understanding, determinants, and shaping of the image of contemporary lawyers, as well as their actual professional, moral, and psychological condition, has significant cognitive and practical justification. This article addresses the issue of the image of a lawyer, understood mainly as a way in which lawyers are perceived, presented, and evaluated not only by members of society or the media, but also by themselves. The considerations are inspired by (and take as their starting point) what Susan Daicoff identified as a "tripartite crisis", which can significantly impact the modern image of lawyers. The main objective of this paper is to formulate several basic comments (preliminary principles) for research on the image and professional, moral, and psychological condition of lawyers, as well as to highlight selected categories particularly important for their development, particularly those related to the relationship between professionalism and ethics. The article is primarily theoretical and legal in nature. The author addresses both scientific and conceptual ideas. Given the universality and utility of the issues discussed, the considerations may be of interest not only to national, but also to EU and international researchers in the science and practice of law, as well as to other social sciences, broadly interested in researching and improving the condition and image of lawyers, enhancing their self-awareness, professionalism, ethical conduct, and personal and professional satisfaction.

Keywords: lawyers' image; tripartite crisis of legal practice; lawyers' self-reflection, lawyers' personality; professionalism and ethics of lawyers

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INTRODUCTION

Conducting multi-aspect theoretical and empirical studies of proper understanding, determinants, and shaping the image of contemporary lawyers and their actual professional, moral, and psychological condition is considerably justified from a cognitive and practical perspective. Given especially the common critical opinions about lawyers, and even emphasising crises which have a negative impact on their image, especially when juxtaposed with the universal expectations towards the legal profession (given its status and social importance and the desired support by social trust) such as: (a) full commitment to the work being done and the greatest diligence in performing one's duties; (b) seeing the help and services provided to others (customer/public interest) – rather than one's profit – as a priority; (c) a sense of vocation (mission); (d) developing and observing high standards of conduct in professional and private life; (e) improving one's qualifications permanently.[1] These considerations are inspired by (and take as their starting point) what Susan Daicoff identifies, on the basis of empirical studies, as a "tripartite crisis of legal practice".[2]

The crisis under analysis is referred to in three areas. First, lowering the prestige of legal professions because of the general unpopularity of lawyers caused by their dishonesty, their predominantly material motives, and their neglect of the ethical standards required in public trust professions. The image of a lawyer in society is seen as a conflict- and discord-generating person rather than one making efforts to promote cooperation or the peaceful functioning of society. According to a study referred to by S. Daicoff, a typical lawyer personality is shaped by the personal traits and attitudes of a lawyer, which are characterised by a rash propensity for rivalry and domination, pragmatism, pessimism, materialism, cynicism, Machiavellianism, aggressive responses to stressful situations or focusing on "winning the case" with low interpersonal sensitivity and a lack of proper appreciation when making decisions concerning non-economic factors (e.g., relational, emotional or ethical, including their compliance with one's hierarchy of values – the integrity issue).[3] Second, the

[1] Cf. R. Sarkowicz, *Amerykańska etyka prawnicza*, Kraków 2004, pp. 18–20; P. Skuczyński, *Status etyki prawniczej*, Warszawa 2010, p. 52. See also P. Skuczyński's considerations on professionalisation, especially the six criteria of the profession and the mission of the profession (*ibidem*, pp. 52–75).

[2] S. Daicoff, *Comprehensive Law Practice: Law as a Healing Profession*, Durham 2011, pp. xv–xvi, 3–11. For more on the subject, see eadem, *Lawyer, Know Thyself: A Review of Empirical Research on Attorney Bearing on Professionalism*, "The American University Law Review" 1997, vol. 46, pp. 1337–1427.

[3] Eadem, *Comprehensive Law Practice…*, pp. 10–11. For more, see eadem, *Lawyer, Know Thyself: A Review…*, pp. 1337–1427; eadem, *Lawyer, Be Thyself: An Empirical Investigation of the Relationship between the Ethic of Care, the Feeling Decision-Making Preference, and Lawyer Wellbeing*, "Virginia Journal of Social Policy & The Law" 2008–2009, vol. 16(87), pp. 88–140. Cf. P. Skuczyński, *Integralność*, [in:] *Etyka zawodów prawniczych. Etyka prawnicza*, eds. H. Izdebski, P. Skuczyński, Warszawa

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emphasised crisis of legal practice refers to a decrease in the professional level of legal aid (despite the current trends towards narrow specialisations), which manifests itself in lawyers making mistakes too often, in abuse and their unlawful behaviour, and disrespectful attitudes towards their clients. Third, it is associated with high mental/health- and family-related costs, particularly distress and lack of sufficient professional satisfaction from the legal practice, with anxiety, neurosis, depression, addictions, workaholism and family problems occurring among them more frequently than in other professions. According to the findings of empirical studies, the specific nature of the lawyer's work, traditionally associated with a confrontational approach to the profession, focusing on efficiency in a narrow sense of the word (while neglecting interpersonal relations) and sometimes causing other people's suffering or conflicts of values[4] – all of this makes it difficult to achieve professional and personal satisfaction and often creates negative emotions and distress, adopting aggressive attitudes towards the environment and carrying professional problems into one's private life, which results in family issues, addictions, workaholism, anxiety, neurosis, and depression.[5]

Therefore, these three aspects of the "practice crisis of lawyers" concern not only lawyers' strictly professional attitudes and behaviours but are also linked to the quality of their social and familial relations and personal inner sphere (including, especially, their moral and mental condition), jointly affecting the formation of a negative image of contemporary lawyers. Given the above, this paper aims to formulate the basic notes (assumptions) for a study of the image of lawyers, particularly as a derivative of their professional, but also moral and mental condition, primarily by identifying selected personal (inner) categories, important as factors affecting it, associated mainly with the relation between professionalism and ethics. These categories include: the level of lawyers' self-reflection (self-consciousness) and their moral and professional integrity; the type of professional motivation; the

2006, pp. 105–112; A. Zienkiewicz, *The Lawyer Personality. Właściwości personalne prawnika a wykonywanie roli zawodowej*, "Archiwum Filozofii Prawa i Filozofii Społecznej" 2018, no. 1, pp. 94–102; idem, *Lawyer's Integrity: Some Remarks from the Perspective of a Holistic Approach to Legal Practice*, "Krytyka Prawa. Niezależne Studia nad Prawem" 2021, vol. 13(3), pp. 129–143.

[4] On the specific nature of traditional lawyer's practice, see J.K. Wright, *Lawyers as Peacemakers: Practicing Holistic, Problem-Solving Law*, Chicago 2010, pp. X–XIII.

[5] S. Daicoff, *Lawyer, Know Thyself: A Review…*, pp. 1337–1427; eidem, *Lawyer, Be Thyself…*, pp. 93–110; eidem, *Comprehensive Law Practice…*, pp. xv–xvi, 3–11; eidem, *Lawyer Personality Traits and Their Relationship to Various Approaches to Lawyering*, [in:] *The Affective Assistance of Counsel: Practicing Law as Healing Profession*, ed. M. Silver, Durham 2007, pp. 79–108; eidem, *Lawyer, Know Thyself: A Psychological Analysis of Personality Strengths and Weaknesses*, Washington 2004. Cf. L. Krieger, *What We're Not Telling Law Students (and Lawyers) That They Really Need to Know: Some Thoughts in Action Toward Revitalizing the Profession from Its Roots*, "Journal of Law and Health" 1998–1999, vol. 13(1), pp. 1–48; P. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, "Vanderbilt Law Review" 1999, vol. 52, pp. 871–948.

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method of defining success; the level of professional satisfaction; and the multi-aspect personal traits and preferences regarding the goals, scope and style of legal aid, which are the components of the so-called "lawyer's personality". This paper also aims to present the author's proposal for a model set of personal traits that constitute a lawyer's personality, manifested through specific attitudes and behaviours that shape the lawyer's image and influence how the legal profession is perceived by others. Moreover, the paper seeks to raise and ultimately answer the following broader research question: Can a broad discussion of these issues within the legal community, together with extensive academic research and greater attention to these personal (inner) categories in contemporary legal education and practice, positively affect lawyers' professional, moral, and mental condition (or at least reinforce the need for self-reflection) and, consequently, improve the image of lawyers?

This paper is theoretical and legal in nature and develops scientific and conceptual ideas. The following considerations primarily seek to formulate several basic assumptions (preliminary principles) for the study of the image of lawyers and their professional, moral, and psychological condition. The paper then presents an original proposal for a model catalogue of personal traits, understood in a broad sense as constituting a lawyer's personality, which should be consciously developed and cultivated by lawyers (and confronted with "the primary questions") in order to examine their impact on the performance of professional roles, as well as on clients, parties to disputes, participants in legal proceedings, and the broader social environment. This, in turn, helps to determine how those traits affect a lawyer's moral and professional integrity, individual image, and, more broadly, the image of the legal profession as a whole. The paper subsequently identifies selected categories that are of particular importance for shaping lawyers' image and their professional, moral, and mental condition, focusing principally on the relationship between professionalism and ethics. The paper concludes with final observations and an attempt to answer the general research question.

BASIC ASSUMPTIONS FOR RESEARCH CONCERNING THE IMAGE OF LAWYERS

When attempting to formulate several basic assumptions for the study of the image of lawyers, it seems prudent to point out at the start that it is mainly understood as a way of perceiving, presenting, and judging the legal profession not only by members of the society (including clients and parties to disputes) or the media but also by themselves (personally or by representatives of other legal professions). Therefore, one should stress the co-existence of diverse sets of entities which not only establish the image but also co-create, consolidate, and judge it and present it to the public at various levels of detail, reliability, professionalism, and the use of

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various forms of communication. When exploring the subject matter, one should perceive and take into proper account the diverse, specific factors affecting the actions of these individuals or more organised groups or institutions, which create a sort of subjective perception and judgment angles for the legal profession and its representatives (e.g., their needs, interests, expectations, experience, and the level of legal knowledge). Hence, two elementary issues and their relationships should be properly investigated and distinguished. On the one hand, the presented, consolidated, and developed image of lawyers and, on the other hand, the actual personal traits, attitudes, and behaviours of lawyer(s) (i.e., their actual and authentic identity). They can often differ significantly from each other. Therefore, when starting the research in this field, when seeking the optimal, particularly empirical methods, research techniques and tools, as well as sources of relevant knowledge, one should not overlook the complexity of the issue of the lawyer's image (of its various levels) and real difficulties, which can lead to certain distortions and cognitive errors caused by wrong acquisition and assessment of data, unjustified generalisation and stereotypes. A researcher should also predict the presence of potentially (as part of the market rivalry) exaggerated self-presentation, wrongful criticism or even information manipulation, which have an impact on a more or less adequate image of a lawyer in opinions expressed by individuals, groups, media, or those formulated by competing representatives of the legal profession concerning one another or oneself. One should note here that the image is additionally co-created and complicated by the co-existence of various selves, which often reveals significant differences between: (a) what kind of a person one is (real self); (b) what kind of a person one would like to be (ideal self); (c) what kind of a person one thinks he is (subjective self); (d) who he is in professional interactions (professional self); and (e) in private life (personal self).[6] As M. Piłat-Borcuch rightly points out, "The image of oneself is defined as a self-image, self-knowledge, self-consciousness; the personal self has a fundamental impact on one's whole life in all its dimensions. This image is a very important component of a personality, which determines the choice of goals and norms from among the repertoire of those offered by the society".[7] Given the above, the following seems to be a fundamental question (avoiding the stereotypes of manipulation or the so-called "first impression"): How is the presented or created image adequate or consistent with a lawyer's actual professional or moral-psychological condition?

A detailed analysis of all these research issues, which requires in-depth empirical studies, goes beyond the goal and the maximum acceptable text size. Further considerations will involve a basic issue relative to the subject area, significant for

[6] Cf. T. Mądrzycki, *Osobowość jako system tworzący i realizujący plany*, Gdańsk 2002, pp. 210–212.

[7] M. Piłat-Borcuch, *Pomiędzy tożsamością osobową a postawą społeczną*, "Zeszyty Naukowe Politechniki Śląskiej. Organizacja i Zarządzanie" 2013, no. 65, p. 320.

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developing or verifying/falsifying the image of lawyers, focused on the justifiability of reinforcing the need for self-reflection among lawyers and the proper tools for diagnosing individual personal traits and professional preferences of a lawyer (which subsequently produce the findings concerning a representative group of legal professionals). The study of the image and its adequacy should be based on a researcher and a lawyer getting to know the lawyer's personal traits which make up his/her lawyer's personality – so that a lawyer can consciously establish whether an attitude or behaviours in the professional sphere are consistent with his/her current and authentic identity (which, in turn, can be further transformed by them), normative requirements for the professional role and how they affect his/her individual image and that of a legal profession.[8]

Here, it is worth referring to three propositions that may be expressed as brief recommendations: (1) "get to know yourself"; (2) "be yourself"; and (3) "if needed, work on yourself". If properly implemented, these recommendations may have a positive impact on the quality and manner of the provision of legal services, lawyers' moral and professional integrity, and their level of professional satisfaction, which, in turn, may significantly enhance their image.[9] As J. Kozielecki rightly points out, "Nowadays, we increasingly often realise that a human personality is shaped not only by the family or school, but it is also affected by self-education and self-activity. A person is largely responsible for their character, intellect, emotional maturity and resistance to frustration and stress. Owing to scientific knowledge, one can develop rationally".[10]

PRIMARY QUESTIONS AND SELECTED PERSONAL CATEGORIES SIGNIFICANT FOR DEVELOPING A LAWYER'S PERSONALITY AND LAWYERS' IMAGE

In response to these propositions, it should be suggested that lawyers first seek to know themselves, at least through elementary self-reflection or introspection (based on answers to the so-called "primary questions"), which facilitate the picturing of the basic selves (the subjective, objective, or reflected self). They should also be encouraged to deepen that understanding by drawing on concepts that offer various, more or less comprehensive sets of categories comprising model personal traits that form part of a lawyer's personality and are manifested through specific

[8] Cf. P. Kaczmarek, *Tożsamość prawnika jako wykonawcy roli zawodowej*, Warszawa 2014, passim; idem, *Dystans do roli w zawodzie prawnika*, Warszawa 2019, passim.

[9] For more on this topic, see S. Daicoff, *Lawyer, Know Thyself: A Review…*, pp. 1337–1427; eadem, *Lawyer, Be Thyself…*, pp. 88–140.

[10] J. Kozielecki, *Koncepcje psychologiczne człowieka*, Warszawa 2000, p. 10.

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attitudes and behaviours. These traits, in turn, influence both the lawyer's image and public perception of the professional group.

The so-called "primary questions" should be addressed not only to lawyers but also to law students. They provide a valuable starting point for lawyers to gain a better understanding of themselves and to engage in deeper self-reflection, e.g., on their fundamental preferences relating to professionalism and ethics, their professional motivation, and their choice of, and approach to, legal practice. Their purpose is to emphasise the need to strengthen lawyers' self-awareness in order to identify ways of harmonising the ethical and social consequences of their professional practice.[11] As an example, and in order to increase lawyers' chance of achieving happiness, health, and ethical professionalism, J. Perry proposes that law students should reflect on, and attempt to answer, questions that may be described as "primary questions": (a) Why did I choose to study law? What was my motivation?; (b) How do law studies change me?; (c) Which legal profession should I pursue?; (d) Do I owe anything to society, and do I have any obligations to it (e.g., pro bono legal aid) having acquired specialist knowledge and skills, access to power and prestige?; (e) How will I try to keep the work-life balance?; (f) How will I eliminate conflicts between my hopes, dreams, desires and my obligations and requirements set by my superiors, clients and other people, who will have a right to expect me – as a representative of the system of justice – to promote the common good and to defend the ideals of justice for all, by acting in accordance with the law?[12] When referring to the professional condition, including the ethical formation of a lawyer, J. Perry indicates significant issues which he should also consider and apply to himself: (a) How is a lawyer, who plays the role of a guide, lead a client if he has made mistakes in his own life?; (b) How can a lawyer solve the client's problems or conflicts when there are many in his/her own life and they even escalate?; (c) How can a lawyer effectively help clients to improve their interpersonal relations or achieve a different lasting success in a case, if he/she wakes up every day thinking that this work does not bring joy, but only agony and misery?[13]

One also cannot miss the issue that the "lawyer's personality", which emanates from his/her specific behaviours and attitudes and, consequently, to his/her image,

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[11] Cf. J. Perry, *Thinking Like a Professional*, "Journal of Legal Education" 2008, vol. 58(2), p. 159, 164; P. Schiltz, *op. cit.*..., p. 872, 920.

[12] J. Perry, *Thinking Like a Professional*..., p. 160. R. Sarkowicz has similar comments when he points out that extremely dynamic changes in the contemporary society create constantly new legal and ethical issues, with the existing system of lawyers' norms not always being ready to solve them. Some of them are of a fundamental nature, they concern significant principles and dilemmas of practicing the profession. For more on this topic, see R. Sarkowicz, *O nie całkiem marginalnym problemie etyki prawniczej*, [in:] *Etyka prawnicza. Stanowiska i perspektywy*, eds. H. Izdebski, P. Skuczyński, Warszawa 2008, pp. 92–93.

[13] J. Perry, *Thinking Like a Professional*..., pp. 160–161.

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is influenced by one's preferences regarding the type of cases and clients. In order to provide the best legal assistance possible, it is important for lawyers to reflect on their attitudes towards clients and the types of cases they handle. This will help them tailor their services to meet the needs of both the client and themselves and prevent any conflicts that could lead to dissatisfaction with the legal services provided. It is crucial to avoid negative opinions about lawyers by ensuring that clients are satisfied with the legal aid they receive. Therefore, before agreeing to represent a particular client, a lawyer should conduct both a case screening and a client screening in light of the anticipated multifaceted reactions that such representation may give rise to. It turns out very frequently in social and legal practice that clients expect a multi-dimensional lawyer who will be able to get involved in their case, going beyond an ordinary legal analysis, especially when it includes a moral conflict, the need to be creative, or to provide emotional support.

At this point, one can, at least briefly, present the main elements of the author's proposed model catalogue, including the personal traits that constitute the personality of a particular lawyer.[14] The set of personal traits under analysis includes primarily: (a) mental characteristics, which usually define the personality type; (b) characteristics that cover the hierarchy of values and needs, beliefs, preferences, interests and aspirations, the way a professional success is defined, and other preferences, especially an attitude to moral norms, professional ethics, and integrity in the moral and professional sphere; (c) characteristics with respect to attitudes and patterns of behaviour; (d) characteristics that cover multifaceted limitations and resources (knowledge, skills, talents, experience), especially including the structure and level of various aspects of intelligence.[15] This individualised set of personal traits can have a significant impact on the style and process of cognitive and decision-making functions, the lawyer's conduct in the practice of his/her profession, and the quality of their relationships with other participants in the legal forum. The following issues can be defined in the model set of the relevant personal characteristics of a lawyer, which determine the way of providing the legal aid. The preferred style of decision making (feeling style of decision making vs thinking style of decision making) as well as interpersonal relations and source of the norm-related base for a decision (rights orientation vs ethics of care), which is particularly visible when resolving

[14] For more about the original, updated proposition of a model set, including personal characteristics that make up a legal personality, see A. Zienkiewicz, *Holizm prawniczy z perspektywy Comprehensive Law Movement*, Warszawa 2018, pp. 225–237.

[15] The general understanding of personal characteristics supports the "multiple intelligence" of a person, based on H. Gardner's Multiple Intelligences concept, who prefers individualisation of the intelligence profile and identifies its various types, which can be applied not only to lawyers but also to all participants of the legal forum. For more on the subject, see H. Gardner, *Intelligence Reframed: Multiple Intelligences for the 21st Century*, New York 1999; idem, *Multiple Intelligences: New Horizons in Theory and Practice*, New York 2006.

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problems or disputes.[16] The dominant style of decision-making by a lawyer should be linked to his propensity to respond to conflict in a specific manner (e.g., rivalry, avoidance, prevention, giving in, compromise, or cooperation).[17] They are linked in a special way to the level of preference for the importance of a relation in a dispute, which refers to the importance of its outcome (substantial result). A lawyer's important personal traits should also include the dominant manner of individual perception of circumstances, problems, and disputable issues.[18] A lawyer's preferred range of professional attitudes – whether he/she perceives his/her professional roles in a traditional (narrow) manner, focusing solely on the legal aspects of each case, or whether his/her approach is more holistic, taking into account both legal and relevant non-legal criteria, such as the economic, communicative, relational, psychological/emotional, social, ethical, and therapeutic dimensions – constitutes a particularly important factor shaping the "lawyer's personality".[19]

The range of a lawyer's attitudes in his/her professional practice should be strictly related to the approach to determining the goals of cases he/she takes, especially in resolving disputes and methods of accomplishing them. A lawyer's preferences concerning the choice and form of performing specific professional roles are an important category that shapes each lawyer's personal characteristics. Apart from the conventional role of representing the client in rivalry-oriented court proceedings or positional negotiations (depending on the individual position and goals in the legal practice), a lawyer can adopt various roles, e.g. an advisor, mediator, arbiter, a lawyer who prevents development or escalation of disputes (preventive lawyer), or a lawyer who sees the importance of the emotional aspect of a case, including

[16] For more on the subject, see A. Zienkiewicz, *Feeling versus Thinking Style of Decision-making – czynniki personalne sprzyjające kooperacji stron w procesie decyzyjnym prowadzonym w celu rozwiązania sporu*, [in:] *Zagadnienia stosowania prawa. Perspektywa teoretyczna i dogmatyczna*, eds. W. Dziedziak, B. Liżewski, Lublin 2015, pp. 243–254.

[17] On comparison of the main types of reaction to an interpersonal conflict: rivalry, avoiding, giving in, compromise, and cooperation, see A. Kalisz, A. Zienkiewicz, *Mediacja sądowa i pozasądowa. Zarys wykładu*, Warszawa 2014, pp. 20–21.

[18] Especially conflicts – like other social facts – are diverse phenomena, framed individually by each party, depending on their personality, preference and life priorities, hierarchy of values and needs, beliefs, education, socialisation, established attitudes, internalised norms, previous experience and the currently dominating feelings and emotions. For more on the so-called "framing", see R. Lewicki, D. Saunders, B. Barry, J. Minton, *Zasady negocjacji. Kompendium wiedzy dla trenerów i menedżerów*, Poznań 2005, pp. 45–67. Cf. A. Kalisz, A. Zienkiewicz, *Polubowne rozwiązywanie konfliktów w pomocy społecznej. Komunikacja, psychologia konfliktów, negocjacje i mediacje socjalne*, Sosnowiec 2015, pp. 95–97.

[19] For more on the holistic approach to legal practice, including elementary holism, proper, transformative holism, a holistic diagnosis of a dispute and client/part to a dispute, roles and competencies of a holistic lawyer and holistic resolution of disputes, approach to advising and judiciary, see A. Zienkiewicz, *Holizm prawniczy…*, pp. 139–413.

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restoration of positive interpersonal relations (the lawyer as a peacemaker).[20] On the other hand, a lawyer can adopt various forms of performing a specific professional role, e.g., a rivalry-oriented negotiator, integrational negotiator, facilitative, evaluative, or transformative mediator. A lawyer's personal characteristics are also shaped by a conviction about the acceptability, scope, and form of his/her cooperation in his/her various professional roles with other specialists (collaborative team) or people close to the client (e.g., members of the client's family, his/her friends, employer).[21] Finally, the major categories that constitute a lawyer's personal characteristics should include his/her preferences regarding the form of the lawyer-client relationship. A conscious decision regarding the model of cooperation and relationship with the client that he/she will want to implement as part of his legal practice should be a fundamental issue for every lawyer. An analysis of various types of lawyer-client approaches to a dispute can lead to the identification of competing models of cooperation (often existing in practice along a certain spectrum or sharing common parts), such as the client-centred model of decision-making, the lawyer-centred model of decision-making, the collaborative model of decision-making, the amoral professional role, moral lawyering, lawyering based on an ethic of care, or the wise counsellor.[22]

The identified categories of a lawyer's personal characteristics, co-shaping an individual "lawyer's personality", have an impact (together with other normative, subjective, or relational factors) on the manner of performing professional roles, which influences the clients entering relations with him/her, parties to disputes and other subjects of a legal forum and social environment.[23] Consequently, they can constitute one of the significant groups of factors that determine a lawyer's image, with a consequence for a wider opinion on lawyers. It must also be pointed out that a lawyer's goals and manner of practicing the profession impact his/her personality, which is not constant and can change.

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[20] For more, see idem, *Prawnik jako peacemaker – przeprosiny, przebaczenie, pojednanie w opanowywaniu sporów prawnych*, "Ruch Prawniczy, Ekonomiczny i Socjologiczny" 2019, vol. 81(4), pp. 43–57.

[21] For more on a lawyer's cooperation with a collaborative team in various types of cases and branches of the law, see S. Gutterman, *Collaborative Law: A New Model of Dispute Resolution*, Denver 2004, pp. 97–244, 435–443.

[22] For more on this topic, see R. Cochran, J. DiPippa, M. Peters, *The Counselor-at-Law: A Collaborative Approach to Client Interviewing and Counseling*, New York 2006, pp. 1–9, 169–189; S. Daicoff, *Comprehensive Law Practice…*, pp. 16–32; R. Sarkowicz, *Amerykańska etyka…*, pp. 57–72; T. Shaffer, R. Cochran, *Lawyers, Clients, and Moral Responsibility*, St. Paul 1994, pp. 5–54.

[23] One must note here that an individual scope and manner of practicing the legal profession is affected – apart from a lawyer's personal characteristics – by significant factors, at least of the following types: (a) normative (e.g., relevant valid legal acts or codes of ethics); (b) subjective (e.g., specific factual circumstances, type of case, object of a dispute or its causes); and (c) relational (manifesting themselves each time in a specific interaction with other entities, e.g. with a client, a judge, an opponent in a case, his counsel or other affecting persons from the closest or farther family, professional, social circles).

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It must be pointed out here that it is important not only for image-related issues but also for individual and interpersonal issues for lawyers to make themselves aware of the importance of relations between their ethics and professionalism, the type of professional motivation, the manner of defining a professional success, and the style of performing their profession (including the model of cooperation between a lawyer and a client), and, in consequence, their personal and professional satisfaction, and even the psycho-physical condition or the feeling of being a fulfilled (happy) person.[24] One should note the findings of empirical studies presented by L. Krieger (e.g., a proposition of self-determination theory to measure professional character formation[25]) concerning the relationship between achieving life satisfaction and motivations and values that have an impact on the manner of performing the legal profession and the role of a lawyer's moral integrity in achieving a good psycho-physical condition.[26] The author formulates and justifies the general conclusion that a lawyer's satisfaction and professional behaviour are inseparable manifestations of proper integration and motivation, whereas a deficit of satisfaction and a lawyer's unprofessional behaviour are associated with a lack of integrity and are not based on intrinsic values and motivations, their own beliefs, conscience, or humanity.[27] When considering relations between the type of a person's values and motivations and their level of happiness, L. Krieger identifies two types. The first type is associated with external motivation, based on such values (features) as acquiring money, luxury goods, popularity, influence, prizes, high places in rankings of various kinds, or impressing other people, which are supposed to alleviate anxiety or a sense of guilt. The second type involves internal motivation, concerning such values as personal development and self-consciousness, closeness (intimacy) of relations with others, and providing aid to them as well as caring about a community.[28] According to the author, if human choices and behaviours determine intrinsic values and motivation, a tendency appears to achieve satisfaction and well-being, whereas extrinsic values and motivation cause anxiety and distress in people.[29] Further studies reveal a relationship between the level of happiness, promoted by intrinsic values and motivation and adopting professional attitudes, and show that extrinsic values and motivation cause frustration and anxiety, causing a lowering of the professional level.[30]

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[24] Cf. P. Schiltz, *op. cit.*, pp. 871–948.

[25] For more on the topic, see L. Krieger, *The Most Ethical of People, the Least Ethical of People: Proposing Self-Determination Theory to Measure Professional Character Formation*, "University of St. Thomas Law Journal" 2011, vol. 8(2), pp. 168–193.

[26] See *ibidem*; idem, *The Inseparability of Professionalism and Personal Satisfaction: Perspectives on Values, Integrity and Happiness*, "Clinical Law Review" 2005, vol. 11, pp. 425–445.

[27] Idem, *The Inseparability of Professionalism…*, p. 426.

[28] *Ibidem*, pp. 427–429.

[29] *Ibidem*, p. 429; idem, *The Most Ethical of People…*, pp. 173–174.

[30] Idem, *The Inseparability of Professionalism…*, p. 429.

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L. Krieger claims that a lawyer driven by the good of a community or improvement of interpersonal relations will – in principle – create and achieve much more positive effects of his professional activity than a lawyer who does his/her job mainly to earn money, to impress others or to promote his/her own image.[31] The author stresses that lawyers who build their own careers and internalise their intrinsic values and motivations stand a greater chance of achieving satisfaction from their own work, generating better professional effects and relations with a client, collaborators and other lawyers.[32] On the other hand, lawyers motivated mainly by profit or striving to consolidate their image are susceptible to frustration, lower effectiveness and satisfaction, and even a complete lack of satisfaction from their work[33] The author points out that achieving personal and professional satisfaction by a lawyer is associated with his integrity, and this is a foundation of his/her professionalism and can be understood as a desired state of well-being, similar to a state of physical health, which should be the basic value for everyone.[34]

J. Perry's claims are similar, as he recommends that lawyers adopt a specific attitude: "Think like a professional". This requires recognising the particular importance of personal integrity in both the private and professional dimensions of a lawyer's life. Integrity is built through introspection and through the lawyer becoming aware of who he/she is as a person and as a member of various communities, as well as of his/her authentic expectations, goals, intuition, and feelings relating to the legal profession and the manner of practicing it. It is a necessary step towards achieving an ethical and fully satisfying legal practice.[35]

P. Schiltz also points to a significant connection between practicing the legal profession in an ethical manner and the lawyer's mental balance, health, and sense of professional satisfaction and happiness.[36] This author recommends a broad understanding of legal ethics (which dissociates itself from moral relativism) as compliance with the moral rules of attitudes and behaviours of a lawyer at his/her work and in private life, which match not only the rules of the legal deontological codes but also the unwritten, universal moral intuitions, based on the *pacta sunt servanda* principle and on the rule of conduct towards clients and other individuals in a way we would like to be treated in their place (in particular, fairly, responsibly, with sufficient empathy).[37] In order to maintain life balance, health and happiness,

[31] *Ibidem*, p. 429; idem, *The Most Ethical of People…*, pp. 173–174, 178–193.

[32] Idem, *The Inseparability of Professionalism…*, p. 430.

[33] *Ibidem*.

[34] *Ibidem*, p. 431.

[35] J. Perry, *Thinking Like a Professional…*, p. 159, 163.

[36] P. Schiltz, *op. cit.*, pp. 908–910. Cf. E. Łojko, M. Dziurnikowska-Stefańska (eds.), *Wartości a sukces zawodowy prawników. Granice kompromisu?*, Warszawa 2011.

[37] P. Schiltz, *op. cit.*, pp. 908–910. The author stresses that many law professors, who write about the law ethics, focus only on a lawyer's professional actions, whereas admission to the legal

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P. Schiltz clearly dissuades one (including based on personal experience) – frequently seen in law corporations – from seeing personal and professional success only as achieving a high material status or working for a large law firm, especially as part of the rivalry for maximum profits.[38]

These findings confirm the importance of reflecting on the relationship between a lawyer's ethics and professionalism, his/her personal and professional satisfaction, and even his/her health and well-being. To paraphrase P. Schiltz, lawyers should strive to become "happy, healthy, and ethical members of our otherwise unhappy, unhealthy, and unethical profession",[39] as, through their attitudes and behaviours, they shape not only their own image and reputation but also that of the legal profession itself and of other lawyers in society.

CONCLUSIONS

These three aspects of "the legal practice crisis" identified by S. Daicoff concern not only lawyers' attitudes and behaviours of a strictly professional nature but also aspects significantly related to the quality of their social and family relationships and their personal inner sphere (particularly their moral and mental condition). Together, these factors contribute to the negative image of contemporary lawyers.

Given the above, it appears justified to conduct multi-aspect studies based on the proposed preliminary assumptions concerning the determinants and shaping of the image of contemporary lawyers, as well as their actual professional, moral, and mental condition. At the same time, these considerations encourage lawyers to strengthen their self-reflection on important personal (inner) categories, particularly those associated with their type of legal personality and the relationship between professionalism and ethics.

Lawyers should be encouraged to engage more consciously in their personal development in accordance with the proposed demands: (1) "get to know yourself", 2) "be yourself", 3) "if needed, work on yourself". When properly implemented, these principles may positively influence the manner and quality of legal services provided, lawyers' moral and professional integrity, and their level of satisfaction, which may, in turn, significantly affect their image.

The presented analyses demonstrate that lawyers should be encouraged to adopt a professional attitude based on an appropriate understanding of professional

profession does not release one from the out-of-work moral responsibility towards the family, friends, society or – for a faithful person – to God. See *ibidem*, p. 910.

[38] See *ibidem*, pp. 920–951.

[39] J. Perry, *Thinking Like a Professional…*, p. 159, 164. For more, see J. Macfarlane, *The New Lawyer: How Settlement Is Transforming the Practice of Law*, Vancouver 2008, pp. 191–222; P. Schiltz, *op. cit.*, p. 872, 920.

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success and on treating inner values and motivations as its essential components. Such an attitude requires a lawyer not only to study legal ethics or decisions in disciplinary cases but also to recognise the importance of personal integrity in both the private and professional dimensions of life. This constitutes a significant condition for practicing the legal profession in an ethical manner, which supports him/her in achieving a good psychophysical condition, a sense of professional satisfaction, and even happiness.[40]

This concept highlights the legitimacy and usefulness of strengthening self-reflection and self-awareness among lawyers and even among law students with regard to their personal characteristics, particularly in the context of personal preferences for more or less holistic attitudes and manners of practicing their profession in order to seek the optimum ways of fulfilling them and harmonising the personal and social consequences of legal practice.[41]

Therefore, the question formulated in the introduction should be answered affirmatively. A broader discussion of this issue within legal circles, further academic research, and the incorporation of significant personal (inner) categories into contemporary legal education and practice may positively influence lawyers' actual professional, moral, and mental condition (or at least strengthen the need for self-reflection on this issue) and, consequently, contribute to improving their image.

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[40] J. Perry, *Thinking Like a Professional…*, p. 159, 163.

[41] J. Perry has similar opinions (*ibidem*, pp. 164–165). The author claims that preparing students for the right attitude should last at least three years and start during the first semester of the first year, when the students' idealism and enthusiasm are at their peak. Moreover, he presents the goals and scope of the issues discussed with the students at his classes, pointing to the role of therapeutic jurisprudence in legal education and formation of a lawyer. See also idem, *Therapeutic Pedagogy: Thoughts on Integral Professional Formation*, "Revista Juridica UPR" 2009, vol. 78(1), pp. 176–179. Cf. A. Zienkiewicz, *Therapeutic Jurisprudence*, [in:] *Filozoficzne i teoretyczne zagadnienia demokratycznego państwa prawa*, eds. M. Andruszkiewicz, A. Breczko, S. Oliwniak, Białystok 2015, pp. 173–180; idem, *Terapeutyczny wymiar prawa*, [in:] *Wymiary prawa. Teoria, filozofia, aksjologia*, eds. M. Herman, M. Krotoszyński, P.F. Zwierzykowski, Poznań 2018, pp. 99–111.

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ABSTRAKT

Prowadzenie wieloaspektowych badań teoretycznych i empirycznych nad odpowiednim rozumieniem, determinantami i kształtowaniem się wizerunku współczesnych prawników oraz nad ich faktyczną kondycją zawodową czy moralno-psychologiczną ma istotne uzasadnienie poznawcze i praktyczne. W toku rozważań w artykule poruszono problematykę wizerunku prawnika, rozumianego przede wszystkim jako sposób, w jaki przedstawiciele profesji prawniczej są postrzegani, przedstawiani czy oceniani nie tylko przez członków społeczeństwa czy media, lecz także przez samych siebie. Inspiracją i punktem wyjściowym dla podjętych rozważań jest zjawisko zidentyfikowane przez Susan Daicoff, określone mianem „potrójnego kryzysu praktyki prawniczej" (*tripartite crisis*), które może mieć istotny wpływ na współczesny wizerunek prawników. Głównym celem opracowania jest sformułowanie kilku podstawowych uwag (założeń wstępnych) dla badań poświęconych wizerunkowi oraz kondycji zawodowej i moralno-psychologicznej prawników, a także zwrócenie uwagi na wybrane kategorie, szczególnie ważne dla ich kształtowania, związane zwłaszcza z relacją pomiędzy profesjonalizmem i etycznością. Artykuł ma charakter przede wszystkim teoretycznoprawny. Autor podejmuje zarówno wątki naukowo-badawcze, jak i koncepcyjne. Mając na uwadze uniwersalność i użyteczność omawianych zagadnień, zaprezentowane rozważania mogą zainteresować nie tylko krajowych, ale też unijnych czy międzynarodowych przedstawicieli nauki i praktyki prawa oraz innych nauk społecznych, szerzej zainteresowanych badaniem, a także poprawą kondycji i wizerunku prawników, wzmacnianiem ich poziomu samoświadomości, profesjonalizmu i etyczności oraz satysfakcji osobistej i zawodowej.

Słowa kluczowe: wizerunek prawników; potrójny kryzys praktyki prawniczej; autorefleksja prawników; osobowość prawnicza; profesjonalizm i etyczność prawników