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Authentic Happiness, Self Knowledge & Legal Policy

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I. AUTHENTIC HAPPINESS

This Article analyzes three questions: can, how, and should legal policy help people in their individual quests for authentic happiness.[1] These questions immediately raise another, namely what is authentic happiness? Psychologist Martin Seligman introduced the phrase "authentic happiness" in the preface to his book of the same title: "[a]uthentic happiness comes from identifying your most fundamental strengths and using them every day in work, love play, and parenting."[2] What is authentic about authentic happiness is that "[w]hen well-being comes from engaging our strengths and virtues, our lives are imbued with authenticity."[3] Authentic happiness is thus about more than just experiencing a string of moments that feel good. An example of authentic happiness is being engaged in some activity that is valued, regardless of the presence or absence of positive subjective feelings.[4] "Feelings are states, momentary occurrences that need not be recurring features of personality . . . . [S]trengths and virtues are the positive

* Harold E. Kohn Chair Professor of Law, James E. Beasley School of Law, Temple University. Thanks to Claire Hill, participants of Self and Other: Cognitive Perspectives on Trust, Empathy and the Self Conference, University of Minnesota Law School, Apr. 6-7, 2007, audiences from the Law & Emotions conference held at Boalt Law School, University of California, Berkeley Feb. 8-9, 2007, and members of the 2006 Fifth International Positive Psychology Summit for their helpful comments, discussions, questions, and suggestions.

1. *See, e.g.*, Eduardo Porter, Editorial, *All They Are Saying Is Give Happiness a Chance*, N.Y. TIMES, Nov. 12, 2007, at A20 (advocating public policy based upon proposed measures of happiness and unhappiness).
2. MARTIN E. P. SELIGMAN, AUTHENTIC HAPPINESS: USING THE NEW POSITIVE PSYCHOLOGY TO REALIZE YOUR POTENTIAL FOR LASTING FULFILLMENT, at xiii (2002).
3. *Id*. at 9.
4. Christopher Peterson et al., *Orientations to Happiness and Life Satisfaction: The Full Life Versus the Empty Life*, 6 J. HAPPINESS STUD. 25, 27 (2005).

characteristics that bring about good feeling and gratification."[5] As opposed to a pleasure, a gratification requires utilizing one's "strengths to rise to an occasion and meet a challenge."[6] Psychologist Mihaly Csikszentmihalyi pioneered the study of flow,[7] which is defined as "the state of gratification that we enter when we feel completely engaged in what we are doing."[8] People who experience flow often report that it felt like time had slowed down if not stopped entirely.

Seligman and fellow psychologist Edward B. Royzman classified traditional theories of happiness into three categories: (1) hedonism, which views happiness as experiencing positive subjective feelings; (2) desire theory, which views happiness as fulfilling subjective desires; and (3) objective list theory, which views happiness as achieving items from some objective list of worthwhile pursuits or things.[9] Authentic happiness conceives of three kinds of happy lives: a pleasant life, pursuing pleasurable feelings; a good life, utilizing one's character strengths to achieve gratification and engagement; and a meaningful life, utilizing one's character strengths in the service of something larger than oneself.[10] A full life is a life that is at once pleasant, good, and meaningful. So, authentic happiness combines all three traditional theories of happiness in the sense that a pleasant life conceives of happiness in a hedonic sense, a good life conceives of happiness in a desire sense, and a meaningful life conceives of happiness in an objective list sense.

In 1998, when Seligman was President of the American Psychological Association, he proposed that it was time for science to analyze positive emotions and coined the phrase "positive psychology,"[11] which "is the scientific study of the

5 . Seligman, *supra* note 2, at 9.

6 . *Id*.

7 . *See generally* Mihaly Csikszentmihalyi, Flow: The Psychology of Optimal Experience (1990).

8 . Seligman, *supra* note 2, at 113.

9 . Martin E. P. Seligman & Ed Royzman, *Happiness: The Three Traditional Theories*, Authentic Happiness, July 2003, http://www.authentichappiness.sas.upenn.edu/newsletter.aspx?id=49.

10 . Seligman, *supra* note 2, at 262–63; Seligman & Royzman, *supra* note 9.

11 . *See, e.g.*, Shelly L. Gable & Jonathan Haidt, *What (and Why) is Positive Psychology?*, 9 Rev. Gen. Psychol. 103, 103 (2005); Martin E. P.

strengths and virtues that enable individuals and communities to thrive."[12] Positive psychology consists of three pillars: positive emotions, positive traits, and positive institutions.[13] As with emotions generally, one can classify positive emotions by when they occur into "contentment with the past, happiness in the present, and hope for the future."[14] Positive traits include "strengths and virtues, such as the capacity for love and work, courage, compassion, resilience, creativity, curiosity, integrity, self-knowledge, moderation, self-control, and wisdom."[15] Positive institutions, "such as democracy, strong families, and free inquiry . . . support the virtues, which in turn support the positive emotions."[16] Clearly, legal policy can foster positive institutions.[17]

Seligman, Paul R. Verkuil, who is a former dean of Cardozo Law School, and another co-author, applied positive psychology to conclude that lawyer unhappiness is caused by their pessimism, large law firm junior associates' low decision latitude, and the zero-sum nature of the adversarial system.[18] Of course, their last cause of unhappiness of lawyers does not explain unhappy transactional attorneys who put deals together or unhappy litigators achieving positive-sum settlements. Several legal scholars recently

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Seligman & Mihaly Csikszentmihalyi, *Positive Psychology: An Introduction*, 55 AM. PSYCHOL. 5, 5 (2000); Martin E. P. Seligman et al., *A Balanced Psychology and A Full Life*, 359 PHIL. TRANSACTIONS ROYAL SOC'Y LONDON: BIOLOGICAL SCI. 1379, 1379 (2004).

12. Positive Psychology Center, http://www.ppc.sas.upenn.edu (last visited May 2, 2008).

13. *Id.* Recently, Seligman revised his theoretical view of positive psychology to include three additional pillars: positive relationships and accomplishment, achievement, and success in and of itself. Martin E. P. Seligman, Panel Discussion at the 2007 Gallup International Positive Psychology Summit: The Future of Positive Psychology (Oct. 5, 2007).

14. Positive Psychology Center, http://www.ppc.sas.upenn.edu (last visited May 2, 2008).

15. *Id.*

16. SELIGMAN, *supra* note 2, at xiii.

17. Peter H. Huang & Jeremy A. Blumenthal, *Positive Institutions, Law, and Policy, in* HANDBOOK OF POSITIVE PSYCHOLOGY (Shane J. Lopez ed., 2d ed. forthcoming 2008); Peter H. Huang & Jeremy A. Blumenthal, *Positive Law and Policy, in* ENCYCLOPEDIA OF POSITIVE PSYCHOLOGY (Shane J. Lopez ed., forthcoming 2008).

18. Martin E. P. Seligman et al., *Why Lawyers are Unhappy*, 23 CARDOZO L. REV. 33, 34 (2001).

examined what might make lawyers affirmatively happy.[19]

Two Australian law professors claimed that we should evaluate laws by how they impact happiness rather than justice.[20] Like a few other scholars, they argued that empirical data from happiness research supports very progressive taxation.[21] But, a tax law scholar found current empirical data from happiness research to be lacking in providing support for a progressive consumption tax.[22] One of these law professors attempted to apply positive psychology to corporate governance,[23] in support of a case for shareholder empowerment.[24] Other legal scholars have been quite skeptical of using positive psychology in a

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19 . Peter H. Huang & Rick Swedloff, *Lawyer Happiness and Unhappiness in Law Firm Settings*, 58 SYRACUSE L. REV. 335 (2008).

20 . Mirko Bagaric & James A. McConvill, *Goodbye Justice, Hello Happiness: Welcoming Positive Psychology to the Law*, 10 DEAKIN L. REV. 1, 3 (2005). *See generally* Tim Kasser, *Personal Aspirations, the "Good Life", and the* Law, 10 DEAKIN L. REV. 33 (2005) (providing commentary by a leading happiness researcher); David Myers, *Comment on Goodbye Justice, Hello Happiness: Welcoming Positive Psychology to the Law*, 10 DEAKIN L. REV. 27 (2005) (same).

21 . Thomas D. Griffith, *Progressive Taxation and Happiness*, 45 B.C. L. REV. 1363, 1363 (2004); Mirko Bagaric & James A. McConvill, *Stop Taxing Happiness: A New Perspective on Progressive Taxation*, 2 PITT. TAX REV. 65, 67 (2005); *see also* Marjorie E. Kornhauser, *Educating Ourselves towards a Progressive (and Happier) Tax: A Commentary on Griffith's Progressive Taxation and Happiness*, 45 B.C. L. REV. 1399, 1399 (2004); Diane M. Ring, *Why Happiness?: A Commentary on Griffith's Progressive Taxation and Happiness*, 45 B.C. L. REV. 1413 (2004). *See generally* ROBERT H. FRANK, FALLING BEHIND: HOW RISING INEQUALITY HARMS THE MIDDLE CLASS (2007); ROBERT H. FRANK, LUXURY FEVER: MONEY AND HAPPINESS IN AN ERA OF EXCESS (1999); RICHARD LAYARD, HAPPINESS: LESSONS FROM A NEW SCIENCE (2005).

22 . David Weisbach, *What Does Happiness Research Tell Us about Tax Policy?* 1 (Univ. of Chicago Law & Econ., Olin Working Paper No. 342, July 9, 2007).

23 . James A. McConvill, *Positive Corporate Governance*, 6 J. BUS. & SEC. L. 51, 57 (2006). *See generally* JAMES MCCONVILL, THE FALSE PROMISE OF PAY FOR PERFORMANCE: EMBRACING A POSITIVE MODEL OF THE COMPANY EXECUTIVE (2005).

24 . *See generally* James McConvill, *Shareholder Empowerment as an End in Itself: A New Perspective on Allocation of Power in the Modern Corporation*, 33 OHIO N.U. L. REV. 1013 (2007) (arguing that increasing shareholders' participatory role in corporations is desirable because it would lead to more happiness); James McConvill, *Executive Compensation and Corporate Governance: Rising Above the "Pay-for-Performance Principle*, 43 AM. BUS. L.J. 413, 433 (2006); James McConvill, SHAREHOLDER PARTICIPATION AND THE CORPORATION: A FRESH INTER-DISCIPLINARY APPROACH IN HAPPINESS (2006); James McConvill, *The Separation of Ownership and Control Under A Happiness-Based Theory of the Corporation*, 26 COMP. LAW. 35, 52 (2005); James McConvill, *Piercing the "Decision-Making Sphere": Happiness as the Key to "Real" Shareholder Participation*, 16 EUR. BUS. L. REV. 831 (2005).

shareholder setting because there is no empirical data that supports this application, shareholders have disparate notions of happiness, and this application does not consider the costs of shareholder participation.[25]

There are now several undergraduate textbooks about positive psychology.[26] There is also a rapidly increasing number of trade books about happiness authored by economists, epidemiologists, historians, psychologists, philosophers, and sociologists.[27] Most of these popular books and the happiness research upon which they are based view happiness in terms of self-reported subjective well-being (SWB). SWB entails a hedonic view of happiness.[28] Two

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25 . Harry G. Hutchison & R. Sean Alley, *The High Costs of Shareholder Empowerment as an End in Itself* (forthcoming 2008); Harry G. Hutchison & R. Sean Alley, *Shareholder Empowerment as an End in Itself in the Mirror of Authority* (forthcoming 2008); Harry G. Hutchison & R. Sean Alley, *Against Shareholder Participation: A Treatment for McConvill's Psychonomicosis* 2 BROOK. J. CORP. FIN. & COM. L. 41 (2007) (critiquing McConvill's argument); Professor Bainbridge on Law, Politics, Religion, Culture & Food, http://www.ProfessorBainbridge.com (last visited Mar. 31, 2006); Posting of Gordon Smith to Conglomerate, http://www.theconglomerate.org/2006/03/the_happiness_o. html (Mar. 31, 2006) (raising three critical questions about McConvill's argument); Posting of Brett McDonnell to Conglomerate, http://www.theconglomerate.org/2006/03/the_happiness_o.html#c15744737 (Apr. 3, 2006 09:48) (raising three other important questions about McConvill's argument).

26 . *See generally* MARTIN BOLT, PURSUING HUMAN STRENGTHS: A POSITIVE PSYCHOLOGY GUIDE (2004); ILONA BONIWELL, POSITIVE PSYCHOLOGY IN A NUTSHELL (2006); ALAN CARR, POSITIVE PSYCHOLOGY: THE SCIENCE OF HAPPINESS AND HUMAN STRENGTHS (2004); WILLIAM C. COMPTON, INTRODUCTION TO POSITIVE PSYCHOLOGY (2004); CHRISTOPHER PETERSON, A PRIMER IN POSITIVE PSYCHOLOGY (2006); C. R. SYNDER & SHANE J. LOPEZ, POSITIVE PSYCHOLOGY: THE SCIENTIFIC AND PRACTICAL EXPLORATIONS OF HUMAN STRENGTHS (2006).

27 . DAN BAKER ET AL., WHAT HAPPY WOMEN KNOW: HOW NEW FINDINGS IN POSITIVE PSYCHOLOGY CAN CHANGE WOMEN'S LIVES FOR THE BETTER (2007); GREGG EASTERBROOK, THE PROGRESS PARADOX: HOW LIFE GETS BETTER WHILE PEOPLE FEEL WORSE (2003); CAROL GRAHAM & STEFANO PETTINATO, HARDSHIP AND HAPPINESS: OPPORTUNITY AND INSECURITY IN NEW MARKET ECONOMIES (2001); JONATHAN HAIDT, THE HAPPINESS HYPOTHESIS: FINDING MODERN TRUTH IN ANCIENT WISDOM (2005); RICHARD LAYARD, HAPPINESS: LESSONS FROM A NEW SCIENCE (2005); DAVID LYKKEN, HAPPINESS: THE NATURE AND NURTURE OF JOY AND CONTENTMENT (2000); DAVID G. MYERS, THE AMERICAN PARADOX: SPIRITUAL HUNGER IN AN AGE OF PLENTY (2001); DAVID G. MYERS, THE PURSUIT OF HAPPINESS: DISCOVERING THE PATHWAY TO FULFILLMENT, WELL-BEING, AND ENDURING PERSONAL JOY (1993); DANIEL NETTLE, HAPPINESS: THE SCIENCE BEHIND YOUR SMILE (2005); ALOIS STUTZER & BRUNO FREY, HAPPINESS AND ECONOMICS: HOW THE ECONOMY AND INSTITUTIONS AFFECT HUMAN WELL-BEING (2002); BERNARD VAN PRAAG & ADA FERRER-I-CARBONELL, HAPPINESS QUANTIFIED: A SATISFACTION CALCULUS APPROACH (2d rev'd ed. 2007).

28 . *See, e.g.*, WELL-BEING: FOUNDATIONS OF HEDONIC PSYCHOLOGY (Daniel Kahneman et al. eds., 1999); Daniel Kahneman & Alan B. Krueger, *Developments in the Measurement of Subjective Well-Being*, J. ECON. PERSP.,

economists provide a sample of recent examples of utilizing empirical data from happiness research.[29] An economist and a psychologist analyzed how to utilize SWB measures in policy contexts.[30] Two economists recently provided empirical evidence that in the United States and member countries of the European Union over the last thirty five years, women's SWB has declined both absolutely and relatively to men's SWB.[31] Another economist proposed applying happiness research to immigration policy.[32] But, a policy analyst recently questioned the reliability of current happiness research and the clarity of its policy implications even were that research deemed to be reliable.[33] Philosophers have also examined recent psychological research about SWB.[34] Several pyschologists have proposed societal measures of SWB and subjective ill-being.[35] Two

Winter 2006, at 3.

29 . Rafael Di Tella & Robert MacCulloch, *Some Uses of Happiness Data in Economics*, J. Econ. Persp., Winter 2006, at 26.

30 . *See* Paul Dolan & Mathew P. White, *How Can Measures of Subjective Well-Being Be Used to Inform Public Policy?*, 2 Persp. Psychol. Sci. 71, 76–78 (2007).

31 . Betsey Stevenson & Justin Wolfers, The Paradox of Declining Female Happiness, Sept. 17, 2007 (unpublished manuscript, *available at* http://bpp. wharton.upenn.edu/betseys/papers/Paradox%20of%20declining %20female%20happiness.pdf); *see also* Alan B. Krueger, *Are We Having More Fun Yet? Categorizing and Evaluating Changes in Time Allocation*, Brookings Papers on Econ. Activity (forthcoming, on file with author) (finding no major shift in time allocation toward more or less unpleasant activities for men or for women, but a gradual downward trend in how much time men spent in unpleasant activities); David Leonhart, *A Reversal in the Index of Happy*, N.Y. Times, Sept. 26, 2007, at C1 (reporting on gender happiness gap).

32 . *See* Isabel Sawhill, *Do Open Borders Produce Greater Happiness? An Underanalyzed Question*, 2006 Brookings Trade Forum 245, 249 (2006).

33 . Will Wilkinson, *In Pursuit of Happiness Research: Is It Reliable? What Does It Imply for Policy?*, Pol'y Analysis, Apr. 11, 2007, at 1, 12. *But see* Jacolyn M. Norrish & Dianne A. Vella-Brodrick, *Is the Study of Happiness a Worthy Scientific Pursuit?*, Soc. Indic. Res. (forthcoming 2008) (defending scientifically studying happiness).

34 . *See, e.g.*, Valerie Tiberius, *Well-Being: Psychological Research for Philosophers*, 1 Phil. Compass 493, 494 (2006); Erik Angner, Subjective Measures of Well-Being: A Philosophical Examination (June 8, 2005) (unpublished Ph.D. dissertation, University of Pittsburgh) (on file with author, *available at* http://etd.library.pitt.edu/ETD/available/etd-08192005-130324/) .

35 . *See generally* Ed Diener, *Guidelines for National Indicators of Subjective Well-Being and Ill-Being*, 7 J. Happiness Stud. 397 (2006); Ed Diener & Martin E. P. Seligman, *Beyond Money: Toward an Economy of Well-Being*, 5 Psychol. Sci. Pub. Interest 1 (2004); Ed Diener, *Subjective Well-Being: The*

economists cautioned against designing policy to maximize aggregate measures of SWB.[36]

Alan Greenspan, former Chairman of the Board of Governors of the Federal Reserve, claimed that measuring fear and euphoria could revolutionalize economic forecasting.[37] Psychologist Daniel Kahneman, 2002 economics Nobel Laureate and his economist colleague, Alan Krueger, advocated supplementing traditional economic objective measures of well-being, such as economic variables,[38] with various measures of happiness and SWB.[39] They proposed a particular measure called a U-index, defined as the proportion of time that an individual self-reports spending in an unpleasant emotional state, which they defined as one where the most intense self-reported feeling is negative.[40] More generally they and three psychologists have advocated National Time Accounting (NTA) to measure social well-being based upon self-reported evaluations of time usage.[41] Several economists have offered a number of criticisms of NTA.[42]

There are two perspectives from which to measure SWB, namely that of an experiencing self or a remembering self.[43] Measurements of experiencing SWB can be conducted in real-time as they are experienced, as with the so-called "gold standard" of the Experience Sampling Method (ESM).[44] Measurements of experienced SWB can also be performed after they are experienced, as with the Day Reconstruction Method (DRM).[45] Measures of experienced SWB include psychologist Michael W. Fordyce's emotions questionnaire,[46] and the Positive and Negative Affect Schedule (PANAS) that consists of ten positive affects and ten negative affects.[47]

Different from either of these measures of experienced SWB are measures of evaluative SWB, such as the Authentic Happiness Inventory Questionnaire,[48] psychologist Ed

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Science of Happiness and A Proposal for A National Index, 55 AM. PSYCHOL. 34 (2000); Daniel Kahneman et al., *Toward National Well-Being Accounts*, 94 AM. ECON. REV. 429 (2004).

36 . *See* Bruno S. Frey & Alois Stutzer, *Should National Happiness be Maximized?* 3 (Inst. for Empirical Research in Econ., Univ. of Zurich, Working Paper No. 306, 2007), *available at* http://www.iew.unizh.ch/wp/iewwp306.pdf; Bruno S. Frey & Alois Stutzer, *Maximizing Happiness?*, 1 GERMAN ECON. REV. 145 (2000).

37 . Alan Greenspan, Former Chairman, Federal Reserve Board, Sept. 18, 2007, Interview on The Daily Show, http://www.youtube.com/watch?v=OtI-FDlrWf8 (last visited Feb. 16, 2008).

Diener's Satisfaction with Life Scale,[49] and measures of global subjective happiness.[50] A recent evaluative measure of SWB is the Gallup World Poll's ladder of life satisfaction, which asks respondents:

> [T]o imagine a ladder with steps numbered from 0 at the bottom to 10 at the top. Suppose we say that the top of the ladder represents the best possible life for you and the bottom of the ladder represents the worst possible life for you. If the top step is 10 and the bottom step is 0, on which step of the ladder do you feel you personally stand at the present time?[51]

Measurements of evaluative SWB entail a cognitive as well as an affective component, while measurements of experienced SWB entail only an affective component.

Authentic happiness is a form of happiness as self-

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38 . Alan Krueger & Daniel Kahneman, Interview by Gallup World Poll, http://www.youtube.com/watch?v=ZgvheHMaPtI (last visited Feb. 16, 2008).

39 . Gallup World Poll, Well-Being Defined, http://www.youtube.com/watch?v=oGCKHX4Lr9o (last visited Feb. 16, 2008).

40 . Daniel Kahneman & Alan B. Krueger, *Developments in the Measurement of Subjective Well-Being*, J. Econ. Persp., Winter 2006, at 3.

41 . Alan B. Krueger et al., *National Time Accounting: The Currency of Life*, *in* National Time Accounting and Subjective Well-Being (Alan B. Krueger ed., forthcoming).

42 . *See generally* National Time Accounting and Subjective Well-Being (Alan B. Krueger ed., forthcoming).

43 . Daniel Kahneman & Jason Riis, *Living and Thinking About It: Two Perspectives on Life*, *in* the Science of Well-Being 285, 285-86 (Felicia Huppert et al. eds., 2006).

44 . Joel M. Hektner et al., Experience Sampling Method: Measuring the Quality of Everyday Life 277 (2006).

45 *. See, e.g.*, Daniel Kahneman et al., *A Survey Method for Characterizing Daily Life Experience: The Day Reconstruction Method*, 306 Science 1776 (2004).

46 . Seligman, *supra* note 2, at 15; Michael W. Fordyce, *A Review of Research on The Happiness Measures; A Sixty Second Index of Happiness and Mental Health*, 20 Soc. Indicators Res. 355 (1988).

47 *. See generally* Seligman, *supra* note 2, at 33; David Watson et al., *Development and Validation of Brief Measures of Positive and Negative Affect: The PANAS Scales*, 54 J. Personality & Soc. Psychol. 1063 (1988).

48 . Authentic Happiness Inventory, http://www.authentichappiness.sas.upenn.edu/ (last visited Feb. 16, 2008).

49 . Seligman, *supra* note 2, at 63; Ed Diener et al., *The Satisfaction with Life Scale*, 49 J. Personality Assessment 71 (1985).

50 . Seligman, *supra* note 2, at 46; Sonja Lyubomirsky & Heidi S. Lepper, *A Measure of Subjective Happiness: Preliminary Reliability and Construct Validation*, 46 Soc. Indicators Res. 137 (1999).

51 . Gallup World Poll, The State of Global Well-Being 5 (2007).

validation,[52] with its roots in Aristotle's notion of eudaimonia.[53] Buddhism entails a similar conception of genuine, mature, or true happiness that involves inner peace and personal meaning.[54] Authentic happiness is also related to economic interpretations of meaning,[55] measures of life engagement,[56] measures of meaningfulness,[57] measures of purpose,[58] measures of personal expressiveness,[59] measures of psychological well-being,[60] measures of self-concordance,[61] measures of self-determination,[62] measures of subjective vitality,[63] personal growth scales,[64] regeneration through autonomously regulated tasks,[65] and

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52 . PETER WARR, WORK, HAPPINESS, AND UNHAPPINESS 10-11 (2007).

53 . *Id.*; SELIGMAN, *supra* note 2, at 112; *see also* Richard M. Ryan & Edward L. Deci, *On Happiness and Human Potentials: A Review of Research on Hedonic and Eudaimonic Well-Being*, 52 ANN. REV. PSYCHOL. 141, 145 (2001).

54 . *See, e.g.*, Dalai Lama & Howard C. Cutler, THE ART OF HAPPINESS: A HANDBOOK FOR LIVING (1998); MARVIN LEVINE, THE POSITIVE PSYCHOLOGY OF BUDDHISM AND YOGA: PATHS TO A MATURE HAPPINESS (2000).

55 . Niklas Karlsson et al., *The Economics of Meaning*, 30 NORDIC J. POL. ECON. 61 (2004).

56 . Michael F. Scheier et al., *The Life Engagement Test: Assessing Purpose in Life*, 29 J. BEHAV. MED. 291 (2006).

57 . SELIGMAN, *supra* note 2, at 260. *See generally* Authentic Happiness, http://www. authentichappiness.sas.upenn.edu/ (last visited Feb. 12, 2008) (website containing studies, newletters and questionnaires relating to and explaining authentic happiness).

58 . Laura A. King et al., *Positive Affect and the Experience of Meaning in Life*, 90 J. PERSONALITY & SOC. PSYCHOL. 179, 179-80 (2006).

59 . Alan S. Waterman, *Two Conceptions of Happiness: Contrasts of Personal Expressiveness (Eudaimonia) and Hedonic Enjoyment*, 64 J. PERSONALITY & SOC. PSYCHOL. 678 (1993).

60 . Carol D. Ryff & Corey L. M. Keyes, *The Structure of Psychological Well-Being Revisited*, 69 J. PERSONALITY & SOC. PSYCHOL. 719 (1995).

61 . Kennon M. Sheldon & Tim Kasser, *Coherence and Congruence: Two Aspects of Personality Integration*, 68 J. PERSONALITY & SOC. PSYCHOL. 531 (1995).

62 . Ian McGregor & Brian R. Little, *Personal Projects, Happiness and Meaning: On Doing Well and Being Yourself*, 74 J. PERSONALITY & SOC. PSYCHOL. 494, 505-506 (1998).

63 . Richard M. Ryan & Christina M. Frederick, *On Energy, Personality, and Health: Subjective Vitality as a Dynamic Reflection of Well-Being*, 65 J. PERSONALITY 529 (1997).

64 . Carol D. Ryff, *Happiness is Everything, Or is It? Explorations on the Meaning of Psychological Well-Being*, 57 J. PERSONALITY & SOC. PSYCHOL. 1069 (1989).

65 . Glen A. Nix et al., *Revitalization through Self-Regulation: The Effects of Autonomous and Controlled Motivation on Happiness and Vitality*, 35 J. EXPERIMENTAL SOC. PSYCHOL. 266 (1999).

self-validation through meaning rather than affect.[66]

It is unclear what exactly those who self-report happiness and other forms of affect have in mind when they respond to survey questions. Thus, an important research agenda is to better understand how authentic happiness is related to existing measurements of happiness and more generally positive and negative affect. For example, the Gallup-Healthways Well-Being Index recently found that:

> Among the top 10 days with highest levels of reported negative experiences, many were days that coincided with bad news from the financial markets. For instance, on Jan. 28, when the Commerce Department reported a drop in new home sales, 13% of respondents reported a lot of stress or worry without enjoyment or happiness during their day. About the same percentage of respondents reported a lot of stress or worry in March following the collapse of Bear Stearns and the subsequent intervention by the Fed. On April 2, when Federal Reserve Chairman Ben Bernanke made comments about a possible U.S. recession, 14% of Americans surveyed reported a lot of stress or worry.[67]

It remains unclear how exactly the above large amount of self-reported "stress or worry without enjoyment or happiness" translates into changes in authentic happiness.

II. SELF-KNOWLEDGE: SIGNATURE STRENGTHS AND SELF-CONCORDANCE

Seligman and another psychologist Christopher Peterson led a team of "top scholars in youth development, positive psychology, and biological and psychological classification (Systemics)"[68] in an exhaustive review of conceptualizations of positive human characteristics going back in time, across cultures, and across intellectual / religious / philosophical disciplines.[69] This three-year project culminated in the identification of twenty-four human character strengths that are universally valued and malleable.[70] Additionally, each of

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66 . Michael L. Hughes, *Affect, Meaning and Quality of Life*, 85 SOC. FORCES 611 (2006).

67 . Raksha Arora & James Hartner, *Nearly Half as Many Americans Struggling as Thriving: Happiness and Enjoyment Tend to Peak on Weekends and Holidays*, Apr. 29, 2008, http://www.gallup.com/poll/106906/Nearly-Many-Americans-Struggling-Thriving.aspx.

68 . VIA Institute on Character, History, http://www.viastrengths.org/AboutVIA/History/tabid/129/Default.aspx (last visited June 3, 2008).

69 . VIA Institute on Character, About VIA, http://www.viastrengths.org/AboutVIA/tabid/59/Default.aspx (last visited June 3, 2008).

70 . *Id.*

these strengths have roots in social science. These strengths nest within six general categories: Wisdom, Courage, Temperance, Humanity, Justice, and Transcendence.[71] Each of these strengths is linked to an individual's sense of self, valued for its own sake, and valued by almost every culture.[72] Wisdom and knowledge consists of the cognitive strengths of creativity, curiosity, open-mindedness, love of learning, and perspective.[73] Courage is divided into the emotional strengths of bravery, persistence, integrity, and vitality.[74] Humanity is comprised of the interpersonal strengths of love, kindness, and social intelligence.[75] Justice is made of the civic strengths of citizenship, fairness, and leadership.[76] Temperance involves the strengths of forgiveness and mercy, humility/modesty, prudence, and self-regulation.[77] Finally, transcendence contains the strengths of awe, appreciation of beauty and excellence, gratitude, hope, humor, and spirituality.[78]

This classification system "is intended to be the opposite of the DSM (the Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association, which serves as a classification scheme of mental illness)."[79] The Values in Action Institute (VIA) Inventory of Strengths is a self-report questionnaire of two hundred forty items that measures to what extent adult respondents possess each of the twenty-four strengths of character.[80] This on-line survey requires approximately thirty minutes to complete, generates a report of one's top five strengths, and compares one's scores to the hundreds of thousands of people who have also taken the survey.[81] There is a separate VIA

71 . VIA Institute on Character, The VIA Classification of Character Strengths, http://www.viastrengths.org/VIAClassification/tabid/56/Default.aspx (last visited June 3, 2008); *see also* CHARACTER STRENGTHS AND VIRTUES: A HANDBOOK AND CLASSIFICATION 16–31 (Christopher Peterson & Martin E. P. Seligman eds., 2004).

72 . CHARACTER STRENGTHS AND VIRTUES, *supra* note 71, at 18–20, 23.

73 . *Id*. at 29.

74 . *Id*.

75 . *Id*.

76 . *Id*. at 30.

77 . *Id*.

78 . *Id*.

79 . SELIGMAN, *supra* note 2, at 11 (emphasis omitted).

80 . VIA Strength Survey, http://www.viasurvey.org/. (last visited Feb. 20, 2008).

81 . *Id*; Authentic Happiness, http://www.authentichappiness.sas.upenn.

Strength Survey for children.[82]

So, what is the point of learning one's signature strengths? Martin Seligman eloquently states a reason for knowing one's signature strengths: "I do not believe that you should devote overly much effort to correcting your weaknesses. Rather, I believe that the highest success in living and the deepest emotional satisfaction comes from building and using your signature strengths."[83] Seligman's belief is related to a similar human resources and personnel management philosophy of developing people's strengths as opposed to working on their weaknesses.[84] A specific example of such empirical self-knowledge of strengths is law professor Susan Daicoff's analysis of research about lawyer psychology to conclude that there is a distinctive lawyer personality type.[85]

Identifying your strengths can help you find new work that is personally fulfilling and meaningful or alter your current work to become more personally fulfilling and meaningful.[86] Management and organizational behavior researcher, Amy Wrzesniewski, considered a trichotomy of how people can experience their work: as a job, career, or calling.[87] If you experience your work to be a job, then you are motivated by a paycheck, see that job to be a chore or necessity, expect very little from your job, and look forward to a vacation and the weekend.[88] If you experience your work to be a career, then you are motivated by advancement, see that career to be a contest, expect power and prestige from your career, and look forward to upward mobility.[89] If you experience your work to be a calling, then

edu/ (last visited Feb. 20, 2008).

82 . *See* Seligman, *supra* note 2, at 232–44; *see also* Authentic Happiness, http://www.authentichappiness.sas.upenn. edu/ (last visited Feb. 20, 2008).

83 . Seligman, *supra* note 2, at 13.

84 . Marcus Buckingham, Go Put Your Strengths to Work: 6 Powerful Steps to Achieve Outstanding Performance (2007); Marcus Buckingham & Donald O. Clifton, Now, Discover Your Strengths (2001).

85 . Susan Daicoff, Lawyer, Know Thyself: A Psychological Analysis of Personality Strengths and Weaknesses (2004); Susan Daicoff, L*awyer, Know Thyself: A Review of Empirical Research on Attorney Attributes Bearing on Professionalism*, 46 Am. U. L. Rev. 1337 (1997) .

86 . Seligman, *supra* note 2, at 166.

87 . Amy Wrzesniewski et al., *Jobs, Careers, and Callings: People's Relations to Their Work*, 31 J. Res. Personality 21 (1997).

88 . *Id*. at 22, 24.

89 . *Id*.

you are motivated by that calling itself, see that calling to be a passion, expect a better world and fulfillment from your calling, and look forward to more work.[90]

There is another sense in which self-knowledge can help improve your happiness, namely by determining which of a number of strategies that researchers have found empirically lead to sustainable increases of happiness[91] best fit you. Empirical and experimental research has provided evidence that intentional activities creating sustainable increases of self-reported happiness include: avoiding over-thinking and making social comparisons,[92] committing to goals,[93] cultivating optimism,[94] developing coping strategies,[95] expressing gratitude,[96] having more flow

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90 . *Id*.

91 . *See, e.g.*, Martin E. P. Seligman et al., *Positive Psychology Progress: Empirical Validation of Interventions*, 60 AM. PSYCHOL. 410 (2005); Kennon M. Sheldon & Sonja Lyubomirsky, *Achieving Sustainable Gains in Happiness: Change Your Actions, Not Your Circumstances*, 7 J. HAPPINESS STUD. 55 (2006).

92 . *See, e.g.*, Sonja Lyubomirsky & Lee Ross, *Hedonic Consequences of Social Comparison: A Contrast of Happy and Unhappy People*, 73 J. PERSONALITY & SOC. PSYCHOL. 1141 (1997).

93 . *See, e.g.*, Richard M. Ryan & Edward L. Deci, *Self-Determination Theory and the Facilitation of Intrinsic Motivation, Social Development, and Well-Being*, 55 AM. PSYCHOL. 68, 75 (2000).

94 . *See, e.g.*, MARTIN E. P. SELIGMAN, LEARNED OPTIMISM: HOW TO CHANGE YOUR MIND AND YOUR LIFE (1991). *But see,* Manju Puri & David T. Robinson, *Optimism and Economic Choice*, 86 J. FIN. ECON. 71, 91–95 (2007) (proposing a novel measure of optimism and finding that although moderate optimists exhibit reasonable financial behavior, extreme optimists display imprudent financial behavior and habits); Jason M. Satterfield et al., *Law School Performance Predicted by Explanatory Style*, 15 BEHAVIORAL SCI. & L. 95, 98 (1997) (finding empirically that pessimistic law students had higher grade point averages and greater executive board membership on law reviews than optimists); Tali Sharot et al., *Neural Mechanisms Mediating Optimism Bias*, NATURE, Nov. 1, 2007, at 102 (providing evidence of neurobiological basis of optimism, which may lead to poor planning in the case of extreme optimism); Robert Lee Hotz, *Except in One Career, Our Brains Seem Built for Optimism*, WALL ST. J., Nov. 9, 2007, at B1 (reporting on recent neuroscientific research that, except for lawyers, a positive outlook improves one's well-being only in moderation).

95 . *See, e.g.*, COPING: THE PSYCHOLOGY OF WHAT WORKS (C. R. Snyder ed., 1999).

96 . *See, e.g.*, ROBERT A. EMMONS, THANKS!: HOW THE NEW SCIENCE OF GRATITUDE CAN MAKE YOU HAPPIER 11 (2007); Robert A. Emmons & Michael E. McCullough, *Counting Blessings Versus Burdens: An Experimental Investigation of Gratitude and Subjective Well-Being in Daily Life*, 84 J. PERSONALITY & SOC. PSYCHOL. 377 (2003); Kennon M. Sheldon & Sonja Lyubomirsky, *How to Increase and Sustain Positive Emotion: The Effects of Expressing Gratitude and Visualizing Best Possible Selves*, 1 J. POS. PSYCHOL. 73 (2006).

experiences,[97] learning to forgive,[98] meditating,[99] nurturing social relationships,[100] physically exercising,[101] practicing acts of kindness,[102] practicing spirituality,[103] and savoring life's joys.[104] It should be clear from introspection and intuition that people will not find all of these alternative programs for constructing happiness equally conducive and effective for their personalities, strengths, and situations.

For example, some categories of people will find that counting their blessings helps increase their happiness, but other types of people will find that counting their blessings does not help to increase their happiness, or actually reduces their happiness. Therefore, self-knowledge in general and knowledge of your strengths in particular enables you to choose happiness-increasing activities that fit you personally. This idea of tailoring happiness interventions to fit you is related to the idea that not one-size-fits-all students in (legal) education.[105] Professor Sonja Lyubomirsky has developed a person-activity self-diagnostic tool that an individual can complete in fifteen to thirty minutes to generate a shortlist of four happiness-increasing activities that best fit a person.[106] Her questions are based on

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97 . *See, e.g.*, Mihaly Csikszentmihalyi & Maria Mei-Ha Wong, *The Situational and Personal Correlates of Happiness: A Cross-National Comparison*, *in* SUBJECTIVE WELL-BEING: AN INTERDISCIPLINARY PERSPECTIVE 193 (Fritz Strack et al. eds., 1991).

98 . *See, e.g.*, Alex H. S. Harris & Carl E. Thoresen, *Extending the Influence of Positive Psychology Interventions into Health Care Settings: Lessons from Self-Efficacy and Forgiveness*, 1 J. POS. PSYCHOL. 27 (2006).

99 . *See, e.g.*, W. Paul Smith et al., *Meditation as an Adjunct to a Happiness Enhancement Program*, 51 J. CLINICAL PSYCHOL. 269 (1995).

100 . *See, e.g.*, Shelly L. Gable et al., *What Do You Do When Things Go Right? The Intrapersonal and Interpersonal Benefits of Sharing Positive Events*, 87 J. PERSONALITY & SOC. PSYCHOL. 228 (2004).

101 . *See, e.g.*, Stuart J H Biddle & Panteleimon Ekkekakis, *Physically Active Lifestyles and Well-Being*, *in* THE SCIENCE OF WELL-BEING 141 (Felicia A. Huppert et al. eds., 2006).

102 . *See, e.g.*, Jane Allyn Piliavin, *Doing Well By Doing Good: Benefits for the Benefactor*, *in* FLOURISHING: POSITIVE PSYCHOLOGY AND THE LIFE WELL-LIVED 227 (Corey L. M. Keyes et al. eds., 2003).

103 . *See, e.g.*, ROBERT A. EMMONS, THE PSYCHOLOGY OF ULTIMATE CONCERNS: MOTIVATION AND SPIRITUALITY IN PERSONALITY (2003).

104 . *See, e.g.*, FRED B. BRYANT & JOSEPH VEROFF, SAVORING: A NEW MODEL OF POSITIVE EXPERIENCE (2006).

105 . *See generally* LANI GUINIER, BECOMING GENTLEMEN: WOMEN, LAW SCHOOL, AND INSTITUTIONAL CHANGE (1997).

106 . SONJA LYUBOMIRSKY, THE HOW OF HAPPINESS: A SCIENTIFIC APPROACH TO GETTING THE LIFE YOU WANT 69–79 (2007).

systematic empirical research about four different kinds of motivation, namely intrinsic motivation from inherent enjoyment and interest, identified motivation to express important values and beliefs, introjected motivation to avoid guilt or anxiousness, and external motivation to please others or for a reward.[107]

The reason for emphasizing intentional activities and outlook as opposed to circumstances in generating happiness, is that psychological research reveals that of the variance in people's happiness, 50% can be attributed to genetics, only 10% to circumstances, and the remaining 40% to intentional activities and outlook.[108] However, economists and legal policymakers have tended to focus on changing such objective circumstances as one's income to improve one's well-being. This difference between economists and psychologists is aptly summarized by economist Robert Frank, who has incorporated psychological findings into his economic research:

> Psychologists may misapprehend the income-happiness link because they tend to work with analysis-of-variance models, which emphasize the proportion of variance attributable to various casual factors. In contrast, economists tend to work with statistical regression models, which emphasize the change in outcome that results from a given change in a casual factor. The regression approach calls our attention to the fact that even though income doesn't explain a high proportion of the variance in happiness, a given change in income is nonetheless associated with a fairly large change in happiness. And for our purposes, that's the important practical point: Significant increases in relative income give rise to significant increases in subjective well-being.[109]

In fact, arguably the most often cited finding about happiness is the so-called "Easterlin paradox" which is named after economist Richard Easterlin who first alleged

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107. *See Id*. at 77 & 323 n.2; *see, e.g.*, Edward L. Deci & Richard M. Ryan, *The "What" and "Why" of Goal Pursuits: Human Needs and the Self-Determination of Behavior*, 11 Psychol. Inquiry 227, 236 (2000); Kennon M. Sheldon & Andrew J. Elliot, *Goal Striving, Need Satisfaction, and Longitudinal Well-Being: The Self-Concordance Model*, 76 J. Personality & Soc. Psychol. 482, 490 (1999); Kennon M. Sheldon & Linda Houser-Marko, *Self-Concordance, Goal Attainment, and the Pursuit of Happiness: Can There Be an Upward Spiral?*, 80 J. Personality & Soc. Psychol. 152 (2001); Sheldon & Kasser, *supra* note 61, at 534; Chris Tkach & Sonja Lyubomirsky, *How Do People Pursue Happiness?: Relating Personality, Happiness-Increasing Strategies, and Well-Being,* 7 J. Happiness Stud. 183 (2006).

108. Sonja Lyubomirsky et al., *Pursuing Happiness: The Architecture of Sustainable Change*, 9 Rev. Gen. Psychol. 111, 116 (2005).

109. Frank, Falling Behind, *supra* note 21, at 24.

that empirically there is no link between the level of economic development of countries and their average levels of happiness.[110] Easterlin also claimed that there exists a satiation level of wealth after which countries did not experience increased SWB. Finally, Easterlin declared that there is no evidence that at any point in time, across nations, higher levels of gross domestic product are correlated with higher level of average happiness. These assertions are all the more surprising because it is the case that for any given moment in time, richer people are happier than poor ones in any given country. A large cottage industry of literature purports to explain this so-called paradox.[111] Two leading explanations to reconcile these findings appeal to: (a) the phenomenon of hedonic adaptation whereby people behave as if they are on a hedonic treadmill,[112] or (b) people's happiness depend on their relative as opposed to absolute levels of income.[113] Acceptance of Easterlin's empirical conclusions has led many people to question policies of economic growth.[114] But,

110 . *See, e.g.*, Richard A. Easterlin, *Does Economic Growth Improve the Human Lot? Some Empirical Evidence*, *in* NATIONS AND HOUSEHOLDS IN ECONOMIC GROWTH: ESSAYS IN HONOR OF MOSES ABRAMOVITZ 89 (Paul A. David & Melvin W. Reder eds., 1974); Richard A. Easterlin, *Diminishing Marginal Utility of Income? Caveat Emptor*, 70 SOC. INDICATORS RES. 243 (2005); Richard A. Easterlin, *Income and Happiness: Towards a Unified Theory*, 111 ECON. J. 465 (2001); Richard A. Easterlin, *Feeding the Illusion of Growth and Happiness: A Reply to Hagerty and Veenhoven*, 74 SOC. INDICATORS RES. 429 (2005).

111 . *See, e.g.*, Andrew E. Clark et al., *Relative Income, Happiness, and Utility: An Explanation for the Easterlin Paradox and Other Puzzles*, 46 J. ECON. LIT. 95 (2008); Rafael Di Tella et al., *Happiness Adaptation to Income and Status in an Individual Panel* (Nat'l Bureau of Econ. Research, Working Paper No. 13159, 2007); Daniel Kahneman et al., *Would You Be Happier If You Were Richer? A Focusing Illusion*, 312 SCIENCE 1908 (2006).

112 . *See, e.g.*, Samuel R. Bagenstos & Margo Schlanger, *Hedonic Damages, Hedonic Adaptation, and Disability*, 60 VAND. L. REV. 745 (2007); John Broonsteen et al., *Hedonic Adaptation and the Settlement of Civil Lawsuits*, COLUM. L. REV. (forthcoming); Ed Diener et al., *Beyond the Hedonic Treadmill: Revising the Adaptation Theory of Well-Being*, 61 AM. PSYCHOL. 305 (2006); Stephen Wu, *Adapting to Heart Conditions: A Test of the Hedonic Treadmill*, 20 J. HEALTH ECON. 495 (2001).

113 . *See, e.g.*, Robert H. Frank, *Does Absolute Income Matter?*, *in* ECONOMICS AND HAPPINESS 65 (Luigino Bruni & Pier Luigi Porta eds., 2005); Ruut Veenhoven, *Is Happiness Relative?*, 24 SOC. INDICATORS RES. 1 (1991).

114 . *See, e.g.*, Carol Graham, *Insights on Development from the Economics of Happiness*, 20 WORLD BANK RES. OBSERVER 201 (2005); Christopher K. Hsee et al., *Hedonomics: Bridging Decision Research with Happiness Research*, 3 PERSP. PSYCHOL. SCI. 224 (2008).

recently some researchers question whether there is even really a paradox.[115] In particular, two economists, Betsey Stevenson and Justin Wolfers, analyzed a number of rich datasets that spanned a number of recent decades and for a greater number of countries than Easterlin originally did.[116] They found that a clear and positive link exists between national income and average levels of subjective well-being across countries. They also found no evidence of a satiation wealth level beyond which countries failed to have improved SWB. Finally, they found that greater economic development is associated with more people reporting enjoyment, smiles, and laughter.[117]

III. LEGAL POLICY

Because happiness research, like information, generally is a public good, there is reason for policymakers to subsidize research about happiness and facilitate its dissemination. In particular, legal policymakers can help people develop self-knowledge through a variety of techniques. These range from educational campaigns, government sponsored websites, and monetary incentives, such as subsidies and tax breaks for self-assessment tools. Policymakers can also encourage, subsidize, or even force experimentation with different employment possibilities in order for people to learn whether they can utilize their signature strengths in various employment possibilities. Examples of such experimentation include the Amish tradition of rumspringa,[118] hospital rotations for interns and residents, junior year abroad program for college students,

115 . *See, e.g.*, Claude S. Fischer, *What Wealth-Happiness Paradox? A Short Note on the American Case,* 9 J. Happiness Stud. 219 (2008).

116 . Betsey Stevenson & Justin Wolfers, *Economic Growth and Subjective Well-being: Reassessing the Easterlin Paradox*, Brookings Papers on Economic Activity (forthcoming Apr. 2008), *available at* http://bpp.wharton.upenn.edu/jwolfers/Papers/EasterlinParadox.pdf; *see also* Angus Deaton, *Income, Health, and Well-Being around the World: Evidence from the Gallup World Poll*, J. Econ. Persp., Spring 2008, at 53.

117 . Stevenson & Wolfers, *supra* note 116; *see also* Justin Wolfers, *The Economics of Happiness, Part 6: Delving into Subjective Well-Being,* Freakonomics, Apr. 25, 2008, http://freakonomics.blogs.nytimes.com/2008/04 /25/the-economics-of-happiness-part-6-delving-into-subjective-well-being/ #more-2549.

118 . Rumspringa is a period for Amish teens to experiment with non-Amish traditions. *See, e.g.*, Devil's Playground (Cinemax Reel Life 2002) (documenting teenagers during rumspringa).

pass/fail or no-credit options for elective courses, and rotating among practice specialties for law firm junior associates.

Research about happiness even from a purely hedonic perspective that does not involve authentic happiness can have legal and policy implications. For example, there is evidence that getting enough deep sleep has beneficial impacts upon happiness and health.[119] Thus, policies that make it easier for people to have more deep sleep can be justified by not only increased safety and reduced accidents,[120] but also making people happier and healthier. Examples of such policies range from government subsidization of simple plastic tooth guards to prevent teeth grinding during sleep to laws requiring that doctors have scheduled minimum off-duty time between working shifts.[121] Another example of the possible health benefits of happiness include the finding that happier nations report lower levels of hypertension, based upon data from a sample of fifteen thousand randomly selected people in sixteen countries.[122]

Recent empirical and experimental research analyzes how and which exogenous and endogenous variables are correlated with various measures of happiness. Happiness research examines whether, and if so, then how, happiness is related to health, wealth, and other observable objective variables. Interdisciplinary studies have linked various measures of happiness to such biological and physiological variables as cardiovascular functioning,[123] hypertension,[124]

119 . *See generally* WILLIAM C. DEMENT, THE PROMISE OF SLEEP: A PIONEER IN SLEEP MEDICINE EXPLORES THE VITAL CONNECTION BETWEEN HEALTH, HAPPINESS, AND A GOOD NIGHT'S SLEEP (1999).

120 . *Id*. at 217–36 (noting safety concerns caused by lack of sleep).

121 . *See, e.g.*, N.Y. COMP. CODES R. & REGS. Tit. 10, § 405.4(b)(6)(4)(iv) (2005).

122 . *See generally* David G. Blanchflower & Andrew J. Oswald, *Hypertension and Happiness Across Nations* 15 (Nat'l Bureau of Econ. Research, Working Paper No. 12934, 2007).

123 . *See generally* Andrew Steptoe et al., *Positive Affect and Health-Related Neuroendocrine, Cardiovascular, and Inflammatory Processes*, 102 PROC. NAT'L ACAD. SCI. 6508 (2005).

124 . Blanchflower & Oswald, *supra* note 122.

immune function,[125] longevity,[126] neural correlates,[127] and sleep efficiency.[128] Cross-sectional, experimental, and longitudinal studies offer evidence that happiness is not only correlated with career success, but often precedes measures of career success,[129] job satisfaction, and income.[130] Similarly, there is evidence from cross-sectional, experimental, and longitudinal studies that happiness is not only linked with, but also engenders success in such other domains besides work as friendship, health, and marriage.[131]

Most people, when asked, will say that happiness is an important objective for themselves and their children. But what do people mean by happiness? Of course, people often also state that by happiness they do not just mean hedonic pleasure, but also personal meaning. It is correspondingly also important for policymakers to differentiate between merely hedonic notions of happiness and eudaimonic notions of happiness. The word happiness can mean not only hedonistic pleasure, but also more complex and nuanced concepts such as fulfillment, meaning, and purpose. Surely, only hedonists want an exclusively hedonic type of happiness. Similarly, parents want more for their children than that their children excel at only hedonism. Instead, most parents would like to raise their children to grow up to become adults leading full, meaningful, and purposeful lives. Analogously, the goal of legal policy should be to help

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125 . *See generally* Sheldon Cohen et al., *Emotional Style and Susceptibility to the Common Cold*, 65 PSYCHOSOMATIC MED. 652 (2003); Sheldon Cohen et al., *Positive Emotional Style Predicts Resistance to Illness After Experimental Exposure to Rhinovirus or Influenza A Virus*, 68 PSYCHOSOMATIC MED. 809 (2006).

126 . Sheldon Cohen & Sarah D. Pressman, *Positive Affect and Health*, 15 CURRENT DIRECTIONS PSYCHOL. SCI. 122, 122–23 (2006); Sarah D. Pressman & Sheldon Cohen, *Does Positive Affect Influence Health?*, 131 PSYCHOL. BULL. 925, 928–31 (2005). *See generally* Laura Smart Richman et al., *Positive Emotion and Health: Going Beyond the Negative*, 24 HEALTH PSYCHOL. 422 (2005).

127 . *See generally* Heather L. Urry et al., *Making a Life Worth Living: Neural Correlates of Well-Being*, 15 PSYCHOL. SCI. 367 (2004).

128 . *See generally* N. A. Hamilton et al., *Sleep and Psychological Well-Being*, 82 SOC. INDICATORS RES. 147 (2006).

129 . *See generally* Julia K. Boehm & Sonja Lyubomirsky, *Does Happiness Promote Career Success?*, 16 J. CAREER ASSESSMENT 101 (2008).

130 . *See generally* Ed Diener et al., *Dispositional Affect and Job Outcomes*, 59 SOC. INDICATORS RES. 229 (2002).

131 . Sonja Lyubomirsky et al., *The Benefits of Frequent Positive Affect: Does Happiness Lead to Success?*, 131 PSYCHOL. BULL. 803, 823–825 (2005).

individuals achieve not only a hedonic sense of happiness, but also to foster individual fulfillment, growth, meaning, and purpose. So, in what follows, happiness refers to not just pleasure or positive affect, but also meaning and purpose.

Thus, a first reason for legal policymakers to care about happiness is that people themselves do. But a second reason is that happiness is a public good that generates positive externalities. For example, preliminary findings have linked positive health and positive affect, suggesting that happiness is partly a public health issue.[132] A third reason is that some aspects of happiness involve aggregation or coordination problems. For example, people report high levels of stress from commuting, but may find it difficult to find work located closer to home. Urban planners and policymakers may be able to abate this problem by providing incentives for employers to locate closer to employees.[133]

Another example of a domain where policymakers can influence happiness and health is food consumption and obesity.[134] People often eat more than they should, and admit to eating more than they wanted (from a health standpoint).[135] This is a puzzle if we believe that people

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132 . *See generally* Cohen & Pressman, *supra* note 126 (suggesting a correlation between positive affect and lower morbidity, decreased symptoms, decreased pain, and increased longevity among community-dwelling elderly); Sarah D. Pressman & Sheldon Cohen, *Use of Social Words in Autobiographies and Longevity*, 69 PSYCHOSOMATIC MED. 262 (2007) (suggesting an indirect relationship between social word use in autobiographies and longevity); Richman et al., *supra* note 126 (reporting correlations between increased hope and decreased likelihood of having or acquiring a disease, and increased curiosity with a decreased likelihood of hypertension and diabetes mellitus); Pressman & Cohen, *supra* note 126 (same); Richman et al., *supra* note 126 (same). *See also* Martin E.P. Seligman, *Positive Health*, 57 APPLIED PSYCHOL. (Supplement) 3 (2008) (proposing a new field of positive health).

133 . *See* Alois Stutzer & Bruno S. Frey, *What Happiness Research Can Tell Us About Self-Control Problems and Utility Misprediction*, *in* ECONOMICS AND PSYCHOLOGY: A PROMISING NEW CROSS-DISCIPLINARY FIELD 169, 188–89 (Bruno S. Frey & Alois Stutzer eds., 2007); Alois Stutzer & Bruno S. Frey, *Stress That Doesn't Pay: The Commuting Paradox* (Aug. 17, 2007) (unpublished manuscript, on file with the University of Basel) .

134 . *See generally* David Burnett, Note, *Fast-Food Lawsuits and the Cheeseburger Bill: Critiquing Congress's Response to the Obesity Epidemic*, 14 VA. J. SOC. POL'Y & L. 357 (2007) (arguing against legislation banning lawsuits against fast food restaurants for contributing to the obesity epidemic).

135 . *See generally* Heather Bednarek et al., *Gluttony and Sloth:*

always know what they like and choose to desire what they like. But, much of people's eating activity is mindless, subject to context, cues, environmental factors, mood, and situational influences, instead of being the consequence of deliberative consideration, mindfulness, and rational analysis.[136] Marketing professor Brian Wansink has proposed a number of strategies for government and industry to jointly combat obesity,[137] including marketing nutrition,[138] and de-marketing obesity.[139] An economist has argued that economic prosperity weakens people's self-control and reduces their well-being in many contexts, including food consumption.[140] A pair of economists critically reviewed this argument, provided and reviewed evidence of a negative correlation between happiness and body mass index, and stressed instead of self-control, the importance of relative concerns in body weight.[141] Of particular concern is childhood obesity, not only because much of people's eating habits are formed in their youth, but also because the social stigma attached to being an obese child can have serious adverse emotional and health consequences.[142]

A final and more speculative illustration of how legal policymakers can foster authentic happiness is to consider whether and how to utilize research about meditation and happiness.[143] A recent study involving a seven-week loving-

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Symptoms of Trouble or Signs of Bliss? A Theory of Choice in the Presence of Behavioral Adjustment Costs, Contributions to Econ. Analysis & Pol'y, Feb. 15, 2006, at 6.

136 . Brian Wansink, Mindless Eating: Why We Eat More Than We Think (2006); Mindless Eating Home Page, http://mindlesseating.org/.

137 . Cornel, Nutrition Works, http://www.nutritionworks.cornell.edu/ features/index.cfm? Action=Course&CourseID=96# (last visited June 3, 2008).

138 . *See generally* Brian Wansink, Marketing Nutrition: Soy, Functional Foods, Biotechnology, and Obesity (2005).

139 . *See generally* Brian Wansink & Mike Huckabee, *De-Marketing Obesity*, 47 Ca. Mgmt. Rev. 6 (2005).

140 . Avner Offer, *Body Weight and Self-Control in the United States and Britain Since the 1950s*, 14 Soc. Hist. Med. 79 (2001); *see also* Avner Offer, The Challenge of Affluence: Self-Control and Well-Being in the United States and Britain Since 1950 (2006).

141 . Andrew J. Oswald & Nattavudh Powdthavee, *Obesity, Unhappiness, and the Challenge of Affluence: Theory and Evidence*, 117 Econ. J. 441, 452 (2007).

142 . Rebecca M. Puhl & Janet D. Latner, *Stigma, Obesity, and the Health of the Nation's Children*, 133 W. Psychol. Bull. 557, 577–78 (2007).

143 . *See generally* Visions of Compassion: Western Scientists and Tibetan

kindness meditation intervention for professional adults found significant and sustained increases in a number of well-being measures over their baseline and over a control waitlist group.[144] A brain imaging study suggested that long-time practitioners of concentration meditation developed abilities to effortlessly concentrate.[145] One study found that experimental subjects who received training in a meditation exercise in addition to a personal happiness enhancement program, significantly improved on several SWB measures compared to subjects who only received instruction on the personal happiness enhancement program and control subjects who received no instruction.[146] A randomized, placebo-controlled clinical trial study found that a sixteen-week training program in transcendental meditation improved blood pressure and insulin resistance as well as reduced several risk factors for coronary heart disease.[147] A randomized, controlled study of a well-known and widely used eight-week clinical training program in mindfulness meditation in a work environment with healthy employees found positive demonstrable effects on brain and immune function.[148] Another clinical intervention study with cancer patients found that increased mindfulness over time was related to decreased mood disturbance and reduced stress.[149]

Professor of law Leonard Riskin has considered benefits

BUDDHISTS EXAMINE HUMAN NATURE (Richard J. Davidson & Anne Harrington eds. 2001); Shauna L. Shapiro et al., *Meditation and Positive Psychology*, *in* HANDBOOK OF POSITIVE PSYCHOLOGY 632 (C. R. Snyder & Shane J. Lopez eds. 2005).

144 . Michael A. Cohn, Positive Emotions Induced by Meditation Build Personal Resources and Contribute to Better Lives, Presentation to the Global Well-Being Forum (Oct. 6, 2007).

145 . Julie A. Brefczynski-Lewis et al., *Neural Correlates of Attentional Expertise in Long-Term Meditation Practitioners*, 104 PROC. NAT'L ACAD. SCI. 11483, 11487 (2007).

146 . W. Paul Smith et al., *Meditation as an Adjunct to a Happiness Enhancement Program*, 51 J. CLINICAL PSYCHOL. 269, 269 (2006).

147 . Maura Paul-Labrador et al., *Effects of a Randomized Controlled Trial of Transcendental Meditation on Components of the Metabolic Syndrome in Subjects with Coronary Heart Disease*, 166 ARCHIVES INTERNAL MED. 1218, 1218 (2006).

148 . Richard J. Davidson et al., *Alternations in Brain and Immune Function Produced by Mindfulness Meditation*, 65 PSYCHOSOMATIC MED. 564, 564 (2003).

149 . Kirk Warren Brown & Richard M. Ryan, *The Benefits of Being Present: Mindfulness and Its Role in Psychological Well-Being*, 84 J. PERSONALITY & SOC. PSYCHOL. 822, 822 (2003).

of mindfulness meditation to law students, lawyers, and their clients,[150] as well as benefits of mindfulness meditation for alternative dispute resolution and mediation.[151] Another legal scholar has proposed a more controversial, spiritual, and transformative view of how American lawyers can benefit from the practice of meditation.[152] A recent case study and lawyer narrative suggested that meditation can help community lawyers advocating for economic justice.[153]

A standard policy response to studies that link happiness with meditation is to support additional empirical and experimental research. Another traditional policy response to such research is to widely disseminate these findings to the public. But in addition to, or in lieu of, these policy responses based upon simple orthodox microeconomics, there are policy response that are based upon behavioral economics. A more interventionist policy response is to provide financial incentives, such as tax credits or deductions, to employers, health insurance providers, and individuals for engaging in meditation training. An even more interventionist policy response is to require that employers (above a certain size), health insurance providers, and public schools offer (possibly partially state funded or subsidized) optional meditation training programs. Finally, presumably the most interventionist (feasible) policy response is to require that meditation training programs be offered in public elementary and/or high schools.

How interventionist should policymakers act in this and any other context is a specific instance of a broader, lively, and recent debate among some (behavioral) economists and

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150 . *See generally* Leonard L. Riskin, *Awareness in Lawyering: A Primer on Paying Attention*, *in* The Affective Assistance of Counsel: Practicing Law as a Healing Profession 447 (Marjorie A. Silver ed., 2007); Leonard L. Riskin, *The Contemplative Lawyer: On the Potential Contributions of Mindfulness Meditation to Law Students, Lawyers, and their Clients*, 7 Harv. Negot. L. Rev. 1 (2002); Leonard L. Riskin, *Knowing Yourself: Mindfulness*, *in* The Negotiator's Fieldbook 239 (Andrea Kupfer Schneider & Christopher Honeyman eds., 2006) .

151 . *See generally* Leonard L. Riskin, *Mindfulness: Foundational Training for Dispute Resolution,* 54 J. Legal Educ. 79 (2004).

152 . *See generally* William S. Blatt, *What's Special About Meditation? Contemplative Practice for American Lawyers*, 7 Harv. Negot. L. Rev. 125 (2002).

153 . Angela P. Harris et al., *From "The Art of War" to "Being Peace": Mindfulness and Community Lawyering in a Neoliberal Age*, 7 Cal. L. Rev. (forthcoming 2008).

legal scholars about when and whether some form of paternalism is desirable or justifiable.[154] Much of this debate focuses on people being subject to cognitive biases and utilizing heuristics as rationales for some type of paternalism. A noteworthy exception to such cognitively-based paternalism is a recent consideration of emotional paternalism.[155]

A behavioral economist and his co-author who is a legal scholar have recently written a trade book about so-called libertarian paternalism which seeks to help individuals improve their decision-making by influencing their choices via judicious choice architecture.[156] The originators of the phrase "libertarian paternalism" define it as "an approach that preserves freedom of choice but that authorizes both private and public institutions to steer people in directions that will promote their welfare."[157] By "choice architecture" they mean how choices are described, framed or presented, what happens if people make no active choice, which choices are offered, and similar contextual aspects of decision environments. A related concept is that of asymmetric paternalism,[158] which seeks to help those individuals with problems making choices, without unduly burdening those people who have no problems with making choices. The originators of the phrase "asymmetric paternalism" explain that it is asymmetric because it "creates large benefits for those who make errors, while imposing little or no harm on those who are fully rational."[159]

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154 . *See, e.g.*, Richard A. Epstein, *Behavioral Economics: Human Errors and Market Corrections*, 73 U. Chi. L. Rev. 111 (2006); Edward L. Glaeser, *Paternalism and Psychology*, 73 U. Chi. L. Rev. 133 (2006); Christine Jolls et al., *A Behavioral Approach to Law and Economics*, 50 Stan. L. Rev. 1471 (1998); Jeffrey J. Rachlinksi, *Cognitive Errors, Individual Differences, and Paternalism*, 73 U. Chi. L. Rev. 207 (2006); Cass R. Sunstein & Richard H. Thaler, *Libertarian Paternalism Is Not an Oxymoron*, 70 U. Chi. L. Rev. 1159 (2003); and Richard H. Thaler & Cass R. Sunstein, *Libertarian Paternalism*, 93 Am. Econ. Rev. 175 (2003).

155 . Jeremy A. Blumenthal, *Emotional Paternalism*, 35 Fl. St. Univ. L. Rev. 1 (2007).

156 . *See generally* Richard H. Thaler & Cass R. Sunstein, Nudge: Decisions About Health, Wealth, and Happiness (2008).

157 . Thaler & Sunstein, *supra* note 154, at 179.

158 . Colin F. Camerer, et al., *Regulation for Conservatives: Behavioral Economics and the Case for "Asymmetric Paternalism,"* 151 U. Pa. L. Rev. 1211 (2003).

159 . *Id*. at 1212.

As expected, many scholars have put forth anti-paternalism arguments.[160] A detailed evaluation of this important debate is the subject for another time.[161] But, three quick points are worthy noting here. First, I was once asked upon the start of a talk with discussion of some ideas related to paternalism,[162] why the word "maternal" typically evokes positive connotations and emotions, but the word "paternal" usually evokes negative connotations and emotions. A member of that audience suggested that one reason is that mothers frame their interventions (e.g., "let me help you do that") differently than fathers do (e.g., "do this and don't do that"). Another member of the audience volunteered that dads and moms generally engage in different substantive types of parental interventions, perhaps due to a traditional sexual division of labor or outdated gender stereotypes.[163] Surely, differing perceptions about what being maternalistic versus being paternalistic mean reflect cultural and social conventions about gender roles. Interestingly, an on-line dictionary and thesaurus defines maternalism as "1. the quality of having or showing the tenderness and warmth and affection of or befitting a mother" and "2. motherly care; behaviour characteristic of a

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160 . *See e.g.*, Claire A. Hill, *Anti-Anti-Anti-Paternalism*, 2 N.Y.U. J.L. & Liberty 444 (2007) (considering and rejecting arguments for libertarian paternalism based upon findings that people sometimes lack self-control and make mistakes); Gregory Mitchell, *Libertarian Paternalism Is An Oxymoron*, 99 Nw. U. L. Rev. 1245 (2005) (arguing that upon close inspection the attempt by libertarian paternalism to reconcile the traditionally opposed concepts of libertarianism and paternalism fails to succeed); Douglas Glen Whitman & Mario J. Rizzo, *Paternalist Slopes*, 2 N.Y.U. J.L. & Liberty 411 (2007) (arguing that recent versions of paternalism exhibit considerable theoretical and empirical vagueness, therefore making them vulnerable to slippery slope concerns due to altered economic incentives, biases toward simple principles, deference to perceived authorities, enforcement needs, and reframing of the status quo); Glen Whitman, *Against the New Paternalism: Internalities and the Economics of Self-Control*, Pol'y Analysis, Feb. 22, 2006, at 1 (critiquing paternalism that is based upon the notion that a person consists of multiple selves).

161 . Peter H. Huang, Law and Human Flourishing: Happiness, Affective Neuroscience, and Paternalism, Presentation to the Law and the Emotions Conference, University of California, Berkeley, School of Law (Feb. 9. 2007).

162 . Peter H. Huang, Incorporating Emotional Rational Actors into Behavioral Law and Economics: Implications for Securities Regulation and Family Law, Remarks at the Olin Law and Economics Workshop, Georgetown University Law Center (Feb. 12, 2001).

163 . *See, e.g.*, Rhona Mahony, Kidding Ourselves: Breadwinning, Babies, and Bargaining Power (1996).

mother; the practice of acting as a mother does toward her children."[164] In contrast, another on-line encyclopedia defines paternalism, as "the interference of a state or an individual with another person, against their will, and justified by a claim that the person interfered with will be better off or protected from harm."[165] Therefore, in what follows, the word paternalism is utilized following convention, but a better gender-neutral term is that of parentalism, which should evoke more neutral connotations and emotions than either maternalism or paternalism does.[166]

Second, a recent and robust defense of so-called light paternalism embraces the metaphor of therapy for policies attempting to steer people towards better decisions without actually imposing those decisions, thus preserving individual autonomy by not being heavy-handed.[167] If we are to seriously think of (behavioral) economists as therapists who have a professional code of ethics, then it is disturbing that part of the paper vigorously defending light paternalism is a section entitled "Harnessing Decision Biases to Improve Decision Making"[168] in which there is a discussion of "a variety of behavioral regularities that can be exploited by the economist/therapist."[169] The notion is aptly summarized by the first sentence of that section: "[r]edirecting patterns of behavior that usually hurt people to help them instead is a common pattern among light paternalistic interventions."[170] But, there is a clear danger in advocating that therapists exploit their clients, even if that exploitation is for the good of their clients. An alternative view of policy as therapy that resonates with positive psychology is to design policy that

164 . WorldWeb Online, http://wordwebonline.com/en/MATERNALISM (last visited June 3, 2008).

165 . Stanford Encyclopedia of Philosophy, http://plato.stanford.edu/entries/ paternalism; *see also* Peter Suber, *Paternalism*, *in* Philosophy of Law: An Encyclopedia 635 (Christopher B. Gray ed., 1999) (stating that paternalism "comes from the Latin *pater*, meaning to act like a father, or to treat another person like a child.").

166 . Suber, *supra* note 165, at 632 (observing that parentalism "is a gender-neutral anagram of 'paternalism'").

167 . George Loewenstein & Emily Haisley, *The Economist as Therapist: Methdological Ramifications of "Light" Paternalism*, *in* The Foundations of Positive and Normative Economics: A Handbook 210, 215 (Andrew Caplin & Andrew Schotter eds., 2008).

168 . *Id*. at 225–29.

169 . *Id*. at 225.

170 . *Id*. at 225.

draws upon the new field of positive therapy.[171]

Third, a standard if not the prototypical example of so-called asymmetric, libertarian, light, or soft paternalism is that of defaults. The story told is that because anyone can and is free to opt out of a default, there is no restriction of anyone's freedom of choice and not much cost in moving to a non-default choice, especially if people can opt out of a default by one click of a computer mouse or check of a box. But, there is a lot of empirical behavioral economics and psychological evidence across many decision-making domains that defaults matter because they are sticky. We stick to defaults because we are lazy, mindless, or perhaps believe defaults possess a particular legitimacy. Hence the claim that defaults do not restrict anybody's choices is at best just plain factually incorrect and is at worst simply disingenuous whether intentional or not. As a robust empirical matter, defaults only do not restrict how a small number of people choose, namely those few people who actually opt out of those defaults. Now it might be hard to avoid having defaults, that is force people always to actively choose, but all that means is that the choice of which defaults to have in place is often quite contentious and therefore will be hotly contested.

CONCLUSIONS

Legal policy obviously can help people in their individual quests for authentic happiness.[172] There is also an already large and growing body of evidence that people make systematic mistakes in predicting what makes them happy.[173] Recent affective neuroscience research provides evidence of a disjunction between two brain systems, those

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171 . STEPHEN JOSEPH & P. ALEX LINLEY, POSITIVE THERAPY: A META-THEORY FOR POSITIVE PSYCHOLOGICAL PRACTICE (2006).

172 . *See* Margit Tavits, *Representation, Corruption, and Subjective Well-Being*, 41 COMP. POL. STUD. 48, 48 (2008) (finding that high levels of corruption lead to significantly lower levels of reported SWB based upon cross-national data from sixty eight countries and survey data from sixteen European democracies).

173 . *See generally* Samuel R. Bagenstos & Margo Schlanger, *Hedonic Damages, Hedonic Adaptation, and Disability*, 60 VAND. L. REV. 745 (2007); DANIEL GILBERT, STUMBLING ON HAPPINESS (2006); Jeremy A. Blumenthal, *Law and the Emotions: The Problems of Affective Forecasting*, 80 IND. L.J. 155 (2005); Bruno S. Frey & Alois Stutzer, *Mispredicting Utility and the Political Process*, *in* BEHAVIORAL PUBLIC FINANCE 113 (Edward J. McCafferey & Joel Slemrod eds., 2006).

of wanting and liking.[174] Such differences between what people want and what they like offer the possibility that policy interventions might help people achieve outcomes they like if they suffer from mis-wanting.[175] As to whether legal policy can help individuals achieve authentic happiness, evidence of happiness interventions means that legal policy can help individuals adopt such interventions. As to how legal policy can do so, there is a continuum of possibilities, ranging from simply funding research, disseminating it, making it financially easier to adopt such activities, and public provision of opportunities for engaging in happiness boosting activities.

Finally, the more difficult normative question is whether policymakers should facilitate authentic happiness. Do many people only want a hedonic notion of happiness as opposed to authentic happiness? Would most people like authentic happiness if they were to achieve it? Recent research indicating that authentic happiness is correlated with better emotional, mental, and physical health mean that policymakers can appeal to neoclassical microeconomics based positive externalities and public goods justifications for encouraging authentic happiness. But, there are perils and limitations of having policymakers facilitate authentic happiness because such policies are particularly susceptible to abuse given the open-ended things policymakers might deem as being necessary or helpful to promoting authentic happiness. One method to discipline policymakers in their behavior is to demand both ex ante and interim empirical

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174. *See generally* Kent C. Berridge, *Food Reward: Brain Substrates of Wanting and Liking*, 20 NEUROSCI. & BIOBEHAV. REV. 1 (1996); Kent C. Berridge, *Pleasure, Pain, Desire, and Dread: Hidden Core Processes of Emotion*, *in* WELL-BEING: THE FOUNDATIONS OF HEDONIC PSYCHOLOGY 525 (Daniel Kahneman et al. eds., 1999); Kent C. Berridge, *Pleasure, Unfelt Affect, and Irrational Desire*, *in* FEELINGS AND EMOTIONS 243 (Antony S.R. Manstead et al. eds., 2004); Kent C. Berridge, *What is the Role of Dopamine in Reward: Hedonic Impact, Reward Learning, or Incentive Salience?*, 28 BRAIN RES. REV. 309 (1998); Kent C. Berridge & Elliot S. Valenstein, *What Psychological Process Mediates Feeding Evoked By Electrical Stimulation of the Lateral Hypothalamus?*, 105 BEHAV. NEUROSCI. 3 (1991); Piotr Winkielman & Kent C. Berridge, *Irrational Wanting and Subrational Liking: How Rudimentary Motivational and Affective Processes Shape Preferences and Choices*, 24 POL. PSYCHOL. 657 (2003) .

175. Colin F. Camerer, *Wanting, Liking, and Learning: Speculations on Neuroscience and Paternalism*, 73 U. CHI. L. REV. 87, 102 (2006) (suggesting that gaps between what individuals want and what individuals like justify mild forms of paternalism).

research evidence of policy efficacy in promoting authentic happiness as opposed to a merely higher hedonic happiness. Elected government officials clearly have incentives to implement policies that raise hedonistic forms of happiness. But, authentic happiness is another matter. An analogy is to parenting to placate or please children as opposed to what's really in children's best interests.

Ultimately, legal policy's ability to influence and transform how people think could be the most important method to increase people's levels of authentic happiness. The least intrusive and most fundamental way in which legal policy might be able to most effectively and positively affect society is by broadly disseminating information based upon positive psychology research in addition to providing individuals financial incentives and support required to comprehend, act upon, and apply such insights. Legal policy can raise people's self-knowledge by promoting, sponsoring, and providing tax deductions for utilization of self-assessment tools. In order for learning information about positive psychology and your signature strengths to help you achieve greater authentic happiness, you must apply that data to your life. An analogy is to health information that people have, but do not act upon, such as the importance of physical exercise,[176] and portion control in eating.[177] In other words, legal policy to be effective must and should not only inform people, but help transform people in their attitudes, feelings, habits, perceptions, and thinking about what is authentic happiness. For example, legal policy can foster the view that learning to meditate is a personally valuable skill that parents and society can provide its youth. Then parents and the public in general may seek out meditation instruction for children. Just as most elementary schools and even daycare centers now offer computer instruction, they can also provide children with meditation classes.[178]

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176 . John J. Ratey, Spark: The Revolutionary New Science of Exercise and the Brain (2008).

177 . Wansink, *supra* note 136.

178 . *See, e.g.,* Lisa Desmond, Baby Buddhas: A Guide for Teaching Meditation to Children (2004); David Fontana & Ingrid Slack, Teaching Meditation to Children: The Practical Guide to the Use and Benefits of Meditation Techniques (2007).

PETER H. HUANG, "AUTHENTIC HAPPINESS, SELF-KNOWLEDGE AND LEGAL POLICY," 9(2) MINN. J.L. SCI. & TECH. 755-784 (2008).