

CONTENTS

List of Figures x
List of Tables xi
Preface xiii
Acknowledgements xiv

1 Good Legal Education 1

1.1 Introduction: Forget Money 1
1.2 Types of Law Degrees 2
1.3 Being Good Requires More Than Expertise 4
1.4 Coverage of This Book 6
1.5 Identifying a Good Law School 12
1.6 Questions to Ask Your Preferred Law School 15
1.7 Managing Your Mental Health 17
1.8 A ‘Structural’ Connection between Legal Education and Student Health: Rationality but Not Emotion 18
1.9 After You Graduate: Practical Legal Training 20
1.10 Entering Legal Practice 21

2 The Law Practice Landscape of Greater China: Choosing to Be a ‘Good’ Lawyer in a Good Law Firm 25

2.1 The Connection between Good Lawyering and Good Legal Communities 25
2.2 Common Themes in Major Examples of Poor Lawyering 26
2.3 Failures of Lawyers’ Regulation, Not Just of Lawyers’ Character 33
2.4 The Ethical Environment in Different Areas of Law and Types of Legal Practice 35
2.5 Questions New Lawyers Can Ask Law Firms When Assessing Their Worth 44
2.6 Inside the Ideal Commercial Law Firm 47
2.7 The Regulation of Not-So-Good Lawyering 51
2.8 Key Ethical Rules Affecting Lawyers in Greater China 65

3	Values, Ethics and Virtue in Lawyering	80
3.1	Inside the Law: First Do No Harm?	80
3.2	Do We Have a Choice about Our Behaviour?	82
3.3	The Legal Limit of <i>Role Morality</i> : Why 'Law' and 'Rules' Are Not Enough to Produce Good Lawyering	83
3.4	Determining a Priority between Law and Ethics	86
3.5	General Morality: Four Major Systems of Ethical Thought	89
3.6	Strengthening Chinese Relational Ethics: The Insights of General Morality within the Distinctions between the Ethics of Duty and Virtue Ethics	121
3.7	Conclusion: Strengthening Our Self-Respect	121
4	Connecting Character to Lawyers' Roles	125
4.1	Introduction: Character-Laden Law	125
4.2	Strengthening Underlying Character	125
4.3	Connecting with Your Own Sense of General Morality	127
4.4	Being and Remaining 'Positive' about Life As a Lawyer	128
4.5	Why Is Traditional Role Morality (Zealous Advocacy, a Dominant Legal Ethic) So Important for Many Lawyers in Western Lawyering Traditions?	130
4.6	Central Criticisms of Traditional Western Role Morality: The Case for General Morality	133
4.7	Virtue, Character and Responsibility As a More Stable Foundation for Modern Legal Ethics	137
4.8	Identifying Virtues	140
4.9	Can Virtue Ethics and Confucian Teaching Stand Up to Criticism?	142
4.10	Traditional Role Morality versus the Rest: Connecting Character and Attitudes to Positive and Preferred Lawyer 'Types'	147
4.11	Challenging Morality: Large Law Firms As a Special Case?	149
4.12	Conclusion	152
5	Truth and Deception	160
5.1	Introduction: Tools for Analysis	160
5.2	Key Issues in Truth and Deception: Hiding Embarrassing Documents	170
5.3	Hiding the True Purpose of a Legal Action	175
5.4	Criminal Lawyers Who Defend 'Guilty' People	184
5.5	Evading Tax	184
5.6	Conclusion: The Possible Consequences if Caught 'Lying'	195

6	Professional Secrets	197
6.1	Introduction: The Shrinking World of Secrets	197
6.2	Professional Secrecy Remains Important: State Secrecy, Confidentiality and Client Privilege	200
6.3	Confidentiality: Social Media	208
6.4	Keeping Quiet: Corruption	210
6.5	Conclusion	213
7	Conflicts of Loyalty and Interest	217
7.1	Introduction: What Is a Conflict of Interest and Why Are Conflicts So Difficult?	217
7.2	An Overview of Lawyer–Client Conflicts: Overcharging Your Clients	222
7.3	Client–Client (Concurrent) Conflict	232
7.4	Information Barriers	244
7.5	Acting against Former Clients: Successive Conflicts	248
7.6	Conclusion	251
8	The Morality of Competence	254
8.1	Introduction: Competence Requires Morality	254
8.2	Commercialism and Competent Legal Practice	255
8.3	The Hong Kong Advocates’ ‘Exit Clause’	257
8.4	Financial Competency	261
8.5	Bribery and Corruption Challenge Our Competency	263
8.6	Staying Competent	267
8.7	Conclusion: Moral Competency and Competent Morality	272
9	Practical Wisdom for Lawyers	276
9.1	Introduction: A Far Greater Authority	276
9.2	Strengthening General Morality through Law Schools and the Leadership of Bar Associations	278
9.3	Conclusion: Maintaining Physical and Moral Resilience inside Legal Workplaces	280
	<i>Appendix: Safety Nets for Lawyers</i>	283
	<i>Index</i>	286