

A WORLD-THREATENING FEELING: GRIEF, MORAL INJURY, AND INSTITUTIONAL LOSS IN RURAL COURTS

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INTRODUCTION

This Essay examines how rural courtroom dynamics and court processes have changed since the COVID-19 pandemic, including the impacts of the transition to remote hearings on attorneys and judges. Although this shift was initially experienced as a necessary, if not shockingly abrupt, stopgap measure, remote hearings for certain case types and in certain court settings

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have been largely and formally sustained in the years following the pandemic. This shift is often explained by state court administrators as a move toward efficiency and cost-effectiveness and as an especially promising form of access for rural jurisdictions amid rural attorney shortages, absent public transportation, and physical distance.

Rather than evaluate these claims,¹ I draw on empirical data to explore the deeper implications of postpandemic shifts, which many rural court actors experience as an externally mandated loss of meaning and connection. Honoring this interpretation requires a careful and perhaps uncomfortable accounting. It means we must acknowledge the dimensions of rurality that demand a unique, and uniquely successful, kind of engagement with litigants in rural Tribal and state courts. As I have demonstrated elsewhere, this success is premised in a mutual experience of rural place, which includes shared place attachments as well as a collective experience of rural marginalization; a deep and even multigenerational relationality between legal professionals and litigants; and, in the sovereign nations and states where I conduct research, an often cross-jurisdictional regard for access to justice.² We must also account for the costs of losing this engagement with litigants in the name of efficiency and access, including the weakened quality of justice delivery. And we must question the legal profession's tendency to reduce legal actors' distress to "stress" or "burnout" when a much deeper loss is at play. This Essay, then, is largely about grief. Attending to the grief of rural legal professionals is at once disruptive, in that it requires us to identify the systems and practices that are causing harm. It is also productive, engendering a shared recognition that has the potential to heal.

1. For a particularly robust analysis of virtual proceedings, I recommend Victor D. Quintanilla, Kurt Hugenberg, Margaret Hagan, Amy Gonzales, Ryan Hutchings & Nedim Yel, *Dialing into Zoom Court Unrepresented*, in *LEGAL TECH AND THE FUTURE OF CIVIL JUSTICE* (David Freeman Engstrom ed., 2023). Although outside the scope of this Essay, prepandemic shifts are noteworthy as well. These changes include the transition to electronic filing, new processing standards, and the elimination or reduction of court service days—all of which reduced direct interactions and opportunities for mentorship in local legal communities. My thanks to John S. Allen for this helpful point.

2. See generally Michele Statz, *"It Is Here We Are Loved": Rural Place Attachment in Active Judging and Access to Justice*, 49 L. & SOC. INQUIRY 247 (2024). See also Jack Karp, *A Mountain to Climb: The Inaccessibility of Rural Courts*, LAW360 (Dec. 1, 2023), <https://www.law360.com/pulse/articles/1770081/a-mountain-to-climb-the-inaccessibility-of-rural-courts> [<https://perma.cc/LEG6-43JV>]. I am not suggesting that nonrural legal actors do not have meaningful relationships with their colleagues or litigants. Nor do I believe that rural attorneys and judges are distinct among legal professionals—or across the professions more broadly—in experiencing increased postpandemic isolation. Rather, my data demonstrate that rural legal actors are acutely and disproportionately vulnerable to institutional loss and unresolved grief owing to the composition of many rural Tribal and state courts (as courts of general jurisdiction and often single judge courthouses), growing rural dockets and increasingly complex cases, and the failure of the legal profession to regard judges' well-being in a necessarily multidimensional way. I suspect urban counterparts who rotate across family, criminal, probate, or other court divisions, who more frequently engage with judicial colleagues, and who may have comparatively more opportunities for advancement in the judiciary may experience less of a sense of "emplaced" responsibility and loss.

Making sense of this grief requires language around suffering that may be unfamiliar to law scholars and practitioners. It also demands multiple and contingent conceptions of grief. For example, I focus on unresolved grief but contextualize it further as disenfranchised grief. This is because we cannot fully understand how rural legal professionals' grief is compounded and insufficiently addressed—in short, unresolved—without understanding why. The concept of disenfranchised grief further provides a framework to explain why certain losses are not or cannot be acknowledged, mourned, or socially supported.

Often, there is an acute sense of betrayal in the losses that rural legal practitioners may feel, specifically an instinct that this grief is a spatially distinct occupational hazard consistently overlooked by more urban colleagues, judicial branches, and law schools. I accordingly expand this analysis to include the concept of moral injury. Here, moral injury can be understood as originating at an individual level when a person perpetuates, fails to prevent, or bears witness to an act or practice that transgresses deeply held moral (or ethical) principles and leads to inner conflict.³ The formal acknowledgement of moral injury moves ethical dilemmas from abstract arguments toward closer consideration of the concrete individual and community costs of hidden distress.⁴ Not only does this acknowledgment equip us to call for more, or different, kinds of accountability, but it provides a path forward. It does this by situating grief and betrayal in relation to spirituality.

“Spirituality” is, of course, an ambiguous and contested term, and invoking it regarding the legal profession may be for many a nonstarter.⁵ Still, the concept of moral injury powerfully demonstrates the need to take a more multidimensional approach to health and healing—a necessary move if we fully recognize the costs of *not* doing so. Acknowledging the personal, interpersonal, moral, and sacred dimensions of distress importantly exceeds the legal profession's understanding of “well-being”—not to mention the transdisciplinary bio-psycho-social model of human behavior.⁶ Without challenging the normative, highly individualistic presumptions of “stress” and “burnout,” we risk authoring “ever more indignant or ever more eloquent descriptions of the suffering . . . while the suffering continues unabated.”⁷ The impacts of this on decision-making, advocacy efforts, and case

3. See Lindsay B. Carey, Timothy J. Hodgson, Lillian Krikheli, Rachel Y. Soh, Annie-Rose Armour, Taranjeet K. Singh & Cassandra G. Impiombato, *Moral Injury, Spiritual Care and the Role of Chaplains: An Exploratory Scoping Review of Literature and Resources*, 55 J. RELIGIOUS HEALTH 1218, 1219 (2016).

4. Chris J. Antal & Kathy Winings, *Moral Injury, Soul Repair, and Creating a Place for Grace*, 110 RELIGIOUS EDUC. 382, 383 (2015).

5. Arguably more has been written about religion and the law. See generally Russell G. Pearce, *The Religious Lawyering Movement: An Emerging Force in Legal Ethics and Professionalism*, 66 FORDHAM L. REV. 1075 (1998).

6. See Carey, *supra* note 3, at 1222 (discussing the transdisciplinary bio-psycho-social model of human behavior).

7. MARY WATKINS, *MUTUAL ACCOMPANIMENT AND THE CREATION OF THE COMMONS*, at xiv (2019).

outcomes—let alone the underexplored role of these factors in rural attorney and judge shortages—demand something new.

I. BACKGROUND: “I AM ON AN ISLAND”

My perspective is based on over seven years of mixed-methodological research on rural access to justice. From 2017 to 2021, I focused broadly on the experiences of diverse rural low-income litigants, attorneys, judges, and other relevant stakeholders across the upper Midwest.⁸ Since 2021, I have been conducting close collaborative research on active judging with over fifteen rural Tribal and state court judges and court personnel across the upper Midwest.⁹ This research includes formal qualitative interviews with collaborating judges, courtroom observation, observation of interactions between Tribal and state court judges,¹⁰ daily debriefs with collaborating judges, and litigant surveys. I also conducted interviews with another six rural Tribal and state court judges who did not formally partner on this research but who were keen to share their own experiences and perspectives.¹¹ Some collaborations with courts were largely remote, with interviews, observations, and surveys conducted over Zoom. This being rural research, however, even certain remote hearings led to in-person litigant surveys when individuals lacked the internet or necessary technology and so “attended” court from a tablet located in the law library of the courthouse, where I was already located. Other collaborations were almost entirely in person. Now, most interviews are hybrid, with the research accommodating each day’s docket and hearing format.

In 2023, my conversations with collaborating judges changed. A number of these judges had participated in my earlier research, so by then I had conducted anywhere from one to as many as eight formal interviews with each person over the years. Judges were tired and overwhelmed. Some were

8. See Michele Statz, *The Scandal of Particularity: A New Approach to Rural Attorney Shortages and Access to Justice*, 69 S.D. L. REV. 396, 409 n.50 (2024) [hereinafter Statz, *The Scandal of Particularity*]; Michele Statz, *On Shared Suffering: Judicial Intimacy in the Rural Northland*, 55 L. & SOC’Y REV. 5, 17 (2021) [hereinafter Statz, *On Shared Suffering*]; Michele Statz, Robert Friday & Jon Bredeson, “*They Had Access, but They Didn’t Get Justice*”: *Why Prevailing Access to Justice Initiatives Fail Rural Americans*, 28 GEO. J. ON POVERTY L. & POL’Y 321, 328 (2021) [hereinafter Statz, “*They Had Access, but They Didn’t Get Justice*”].

9. Although firmly acknowledging the immense procedural and substantive differences between Tribal and state courts—and, likewise, between many Tribal courts—my research necessarily regards rural place as an element that often supersedes jurisdictional divides. See Statz, *supra* note 2, at 9.

10. Notably, Minnesota and Wisconsin, two states where I conduct research, are Public Law 280 states, where, in 1953, criminal jurisdiction was shifted from a combination of Tribal and federal control to state and local government. See generally Pub. L. No. 280, § 2, 67 Stat. 588, 588 (codified as amended at 18 U.S.C. § 1162, 25 U.S.C. §§ 1321–1325, and 28 U.S.C. § 1360). The only non-Public Law 280 sovereign nations in Minnesota are the Red Lake Band of Chippewa (excluded from Public Law 280 at the outset) and the Bois Forte Band of Chippewa (the subject of retrocession in 1975), and, in Wisconsin, the Menominee Indian Tribe of Wisconsin (excluded at the outset). Owing to this status, as well as to what are often shared local histories, Tribal and state court judges tend to regularly interact.

11. See Statz, *supra* note 2, at 11–12.

thinking of stepping down from the bench or retiring early. “I lost my why,” one judge stated.¹²

In the past, many of these same individuals would enthusiastically describe cross-jurisdictional efforts to support access to data, funding and resources, or how they were innovating court procedures (and even courtroom configurations) to facilitate a better, more accessible experience for unrepresented litigants. One judge discussed her efforts to get hotspots and other technology to remote community members with Tribal and state court appearances during the pandemic. Now, individuals appear frustrated.

I feel like we’re not making a big difference. I talk to other judges who feel the same way, that we’re just . . . processing cases.¹³

A bunch of our Tribal judges are just burned out and have told me that they’re either retiring or not running for reelection It’s been hard to get new judges on the bench in Indian country It’s a gaping wound for us. It’s just painful.¹⁴

I don’t feel like people are getting justice right now, the way it could be.¹⁵

There are days where I leave here, and my commute [home] is about 50 miles. And I’ll ride in complete silence, because I honestly feel that if we had the time to build rapport with the folks that come before us it would . . . minimize the lack of trust that they already come in with, thinking that the system’s against them. And being a part of that system and that institution, I’m sure they leave probably the same way that we leave. That we really haven’t done much, haven’t gotten anywhere. You know what I mean? And is that truly justice?¹⁶

This noticeable shift in perspective and affect worried me. After all, amid the concomitant realities of rural marginalization, rising rates of self-represented litigants, and spatially irrelevant self-help supports, what makes a rural courtroom accessible is often *the judge*.¹⁷ The judges with whom I collaborate take seriously their influence on litigants’ knowledge and confidence, their responsibility in maintaining or rebuilding public trust in the court, and their role in the advancement of Tribal nations.¹⁸ To be unwell

12. Redacted Interview with District (Trial) Court Judge in Minnesota (Dec. 7, 2023).

13. Redacted Interview with District (Trial) Court Judge and Court Clerk in Minnesota (Nov. 13, 2024). Human Subjects approval for the research cited here was obtained from the University of Minnesota Institutional Review Board. I also abide by the strictest disciplinary ethics and the principles of Indigenous data sovereignty. This manuscript is based on the insights of over twenty-five judges and other legal professionals. Owing to the unique socio-spatial dimensions of rurality, disclosing these individuals’ roles alongside more specific regional locations could make them highly identifiable to the reader. For this reason, I limit each interview citation to the participant’s professional title, general professional location, and the date on which the interview was conducted.

14. Redacted Interview with Tribal Court Judge in Sovereign Nation (June 3, 2024). Recognizing sovereign nations as independent entities, I do not include state names in these citations.

15. Redacted Interview with District (Trial) Court Judge in Minnesota (Nov. 23, 2023).

16. Redacted Interview with District (Trial) Court Judge in Minnesota (Feb. 14, 2024).

17. *See* Statz, *supra* note 2, at 273.

18. *See id.*

or disenchanting—even to the point of stepping off the bench—posed an urgent threat to rural access to justice and sovereignty. It was also uncharacteristic of the judges I had grown to know and care about. These were individuals who approached the broader socio-spatial context of rural life, including professional isolation; a lack of anonymity; and, for many Tribal judges, additional responsibilities to community, kin, and Tribal council, in a deeply considered and committed way.

The attorneys and court personnel I interviewed over the years were similarly dedicated, even as they also navigated the personal and professional burdens of absent rural health and mental health care; educational, legal, and digital “deserts”; and depressed local economies.¹⁹ In the wake of the pandemic, their sentiments sounded familiar.

The relationship between [us] attorneys, it’s been remarkably strained. Pre-pandemic . . . we would sit down and hash out all of this, and it’s so much easier to talk about really hard things when we’re in the same room together than it is by Zoom or email. Attorneys are really struggling. . . . And there is the Wisconsin Lawyers Assistance Program, but calling there is unrealistic . . . they don’t have any clue what [we] go through.²⁰

This is the most sad I’ve been in the criminal justice system . . . and it’s because of people not getting the justice they need.²¹

So you have the layers of difficulty that clients are dealing with, and you have the whole structural things that are going on with the way we conduct business.²²

In 2023, I could not quite articulate what was happening, though rural court workers increasingly referenced broader structural changes with frustration. In Minnesota, for instance, individuals often mentioned the judicial branch’s oneCourtMN Hearings Initiative (OHI), which in 2022 determined that many types of cases and hearings would stay online in a stated effort to maximize efficiency, access, and court resources.²³ Many collaborating judges took clear offense at the presumption that remote proceedings would deliver these things in rural areas.²⁴ In their experience, public defenders and other attorneys who worked remotely across multiple rural courts were often late or double-booked. This meant litigants arrived

19. See generally Statz, *On Shared Suffering*, *supra* note 8; Statz, *The Scandal of Particularity*, *supra* note 8.

20. Redacted Interview with District Attorney in Wisconsin (June 4, 2024).

21. Redacted Interview with District (Trial) Court Clerk in Minnesota (July 8, 2024).

22. Redacted Interview with Private Practitioner in Minnesota (Nov. 13, 2023).

23. See *oneCourtMN Hearings Initiative (OHI)*, MINN. JUD. BRANCH, <https://www.mncourts.gov/Help-Topics/oneCourtMN-Hearings-Initiative.aspx> [https://perma.cc/L3AK-L5AB] (last visited Feb. 14, 2025).

24. The Minnesota Judicial Branch’s Justice for All Project’s *Strategic Action Plan* underscores remote hearings as a meaningful solution for unrepresented rural litigants. MINN. JUD. BRANCH, MINNESOTA JUSTICE FOR ALL PROJECT STRATEGIC ACTION PLAN 39 (2017), https://www.mncourts.gov/mncourtsgov/media/scao_library/documents/JFA-Strategic-Plan-FINAL.pdf [https://perma.cc/4PTY-JPHB]. However, elsewhere it recognizes that rural areas’ lack of local resources may hinder the effectiveness of the Branch’s “simplification effort[s].” *Id.* at 39.

at court with limited information from their advocates, and hearings had to be delayed while everyone waited for the attorney to log on.

Zoom limits an attorney's chance to connect with people. That time out in the hallway [before a hearing], it's so important. You saw the attorneys out there meeting with their clients today. But if everything's by Zoom, you don't have that opportunity. The attorney can't really connect with them and they don't understand the process.²⁵

Judges described additional pressure from the state judicial branch's weighted caseload system.

The judicial branch has cases that they are presuming will take a certain amount of time—to the point where, well, for our CHIPS[, Child in Need of Protection or Services,] cases, for instance, they're like, "Let's presume that this type of a hearing will take half an hour or 15 minutes." It takes as much time as it takes! But in terms of scheduling and weighted caseload, they're saying, "Well, this is this type of hearing and that should be taking you 15 minutes." They don't realize the issues that people are facing are more and more complicated.²⁶

I think that there's also kind of a push to standardize things with the One Minnesota Courts initiative. It's like they want people to be able to expect the same thing no matter where they are. And that's just not realistic [here]. And it's made it really difficult because there's a lot of pressure on judges and staff to get these cases processed and through.²⁷

I feel like we're just kind of going through these things, it's like fast, fast, fast. And the only thing I can do is look that person in the eye. . . . That's the only thing I can do to make connection with them and see maybe that they're understanding. . . . Everything gets thrown at them so fast. . . . I think everybody is at capacity. The attorneys and the service providers and no one has time. And it's gotten so easy to disconnect when you're on the screen.²⁸

These structural changes matter—and indeed, they were a constant reference point when judges, as well as many other rural court personnel and attorneys, described their frustration, distress, and feelings of inadequacy. But there was something bigger—a bigger loss—that emerged as conversations progressed.

I just can't [connect] through a screen. When I warmly welcome [parties], when I explain what I'm doing, when I'm patient and kind and respectful, I get great energy back because I know that's not what they were expecting. And I don't get that from Zoom. Same thing with local attorneys. For the most part, 95% of our attorneys I really enjoy. And the relationships are good. Between hearings when there's no one in the courtroom, we catch up on things.²⁹

25. Redacted Interview with District (Trial) Court Judge in Minnesota (Feb. 5, 2024).

26. Redacted Interview with District (Trial) Court Judge in Minnesota (Aug. 9, 2024).

27. Redacted Interview with Court Personnel in Minnesota (Apr. 9, 2024).

28. Redacted Interview with District (Trial) Court Judge in Minnesota, *supra* note 15.

29. Redacted Interview with District (Trial) Court Judge in Minnesota (May 29, 2024).

The amount of energy that I'm expending in the last few years on self-preservation is wearing. At some point when you're dealing with a little face on the screen, you kind of give up and . . . then I'm blaming myself, why am I giving up? And what I realized from Zoom is actually how little of what I actually do [as a judge] is intellectually and logically based. I didn't realize that I was such an emotional person until Zoom.

It's the absence of people. What I still do is [attempt] to create what was present when you were in person via Zoom—and the amount of energy that this takes! It's like banging your head against the wall because it almost always fails.

But you keep trying to do it, and all of a sudden you're realizing: I'm doing half of what I used to do, yet it's taking me three or four times the amount of energy. And that's when I started thinking, "Why is this?" . . . I came to realize it's [not] about logic. It's not about intellect. It was from emotional connection.

I see it all the time. The number of people that come into the courtroom that are just so scared. And then on the other side, the number of people that come into the courtroom that aren't scared at all, and both of those are crying for connection. . . . While I'm [as defendant] in that isolated position of standing in front of the court, confronting those charges, I would feel like I am on an island and that there is nobody that would ever understand what I'm going through.

And so that's what I'm talking about, because when I'm the bench, I feel the exact same way.³⁰

This Essay is not intended to explicate what part of rural legal professionals' experiences owe to the pandemic; to the attendant push by policymakers, scholars, and industry for more remote hearings in rural courtrooms; to diminishing public trust in the judiciary; or to increasingly marginalized and under-resourced rural areas more generally. All these things are deeply consequential to what I have witnessed. Ultimately, however, this Essay is about a wholly preventable loss of *connection*, and why we need an urgent, radical rethinking of legal work and legal health. This requires meaningfully attending to institutional loss.³¹

II. INSTITUTIONAL LOSS

What happens to judges, attorneys, and court staff when an institution is irrevocably changed and individuals lose confidence in the alternative? As my data suggest, many of the practices and procedures put in place during the pandemic were interpreted as necessary for an exceptional time. That these things have not been updated or restored and, for many courts, have been instead mandated and accelerated by external, predominantly urban judicial powers, is a destabilizing experience. It has precipitated real grief

30. Redacted Interview with District (Trial) Court Judge in Minnesota (Sept. 10, 2024).

31. Paul Massey, *Institutional Loss: An Examination of a Bereavement Reaction in 22 Mental Nurses Losing Their Institution and Moving into the Community*, 16 J. ADVANCED NURSING 573, 573 (1991).

which, as we know from the medical literature, is truly life-threatening.³² Based on my data, however, I believe this grief must be honored as something even more, namely as “a *world-threatening* feeling: to be so other that you barely exist in a place.”³³ As I demonstrate in this Essay, the distinct “othering” concomitant in this loss is activated and compounded by a profession that roundly fails to understand the meaning-filled world of rural practice.

The institutional loss that rural legal practitioners are experiencing is one of physical space but also the intimacy within it: the familiar actors, routine interactions, informal camaraderie, and shared knowledge and ethos.³⁴ Following Joseph Flies-Away and Judge Carrie Garrow, this sense of connectedness has a spiritual dimension: it is an adhesive, a stabilizer, an expression of how one does or does not feel related to the environment around themselves.³⁵ In rural courtrooms, this relationality is often place based and intergenerational. Many of the legal professionals I have interviewed over the years have deep, long-standing ties to the court and the people who move through it, whether as colleagues, mentors, or litigants whose families are personally known in rural sovereign nations and other communities.³⁶ To lose this intimacy threatens connections that prove pivotal to getting good facts, giving sound advice, making informed decisions, building confidence in the courts, and maintaining procedural fairness.³⁷

It also threatens the *why* of rural legal practice. This is the moral dimension of institutions, or what Didier Fassin calls “the heart of the state.”³⁸ At the intersection of the public sphere (legislation, allocation of resources, performance measures, the transformation of structures) and professional ethos (training, routines, principles of justice), we find legal professionals’ distinct practices, affects, values, and ethics.³⁹ In rural courts, this “heart” reflects a complex negotiation of external, largely urbanormative policies; diverse interpretations of justice; and the conscious accommodation of—and simultaneous vulnerability to—the personal and public harms of rural marginalization. To neglect the moral work of rural judges, attorneys, and court staff, as the legal profession has, means we must now do *grief* work.

Below, I chart a course for recognizing what institutional loss means to rural judges, attorneys, and court staff. This recognition requires

32. See generally Sidney Zisook & Katherine Shear, *Grief & Bereavement: What Psychiatrists Need to Know*, 8 *World Psychiatry* 67 (2009).

33. BILLY-RAY BELCOURT, *THIS WOUND IS A WORLD* 42 (Univ. of Minn. Press 2019) (emphasis added).

34. See generally Massey, *supra* note 31; DIDIER FASSIN, *AT THE HEART OF THE STATE: THE MORAL WORLD OF INSTITUTIONS* (Patrick Brown & Didier Fassin trans., 2015).

35. Joseph Thomas Flies-Away & Carrie E. Garrow, *Healing to Wellness Courts: Therapeutic Jurisprudence* +, 2013 *MICH. ST. L. REV.* 403, 424.

36. See generally Statz, *supra* note 2.

37. *Id.* at 24.

38. Didier Fassin, *Introduction: Governing Precarity*, in *AT THE HEART OF THE STATE: THE MORAL WORLD OF INSTITUTIONS*, *supra* note 34, at 1, 2–3.

39. See *id.* at 6.

accountability, discomfort, and attending to the spirit to support “the revitalization or generation of lost . . . connections.”⁴⁰ It also demands that we move from the profession’s prevailing, almost perfunctory conceptualization of “stress” and “burnout” to a nuanced understanding of grief and moral injury.

III. INTERRUPTING STRESS AND BURNOUT: A DEEP ACKNOWLEDGEMENT OF GRIEF

A. “*Grief denied is grief delayed*”⁴¹

“Grief” refers to an intense emotional experience that is a normal and automatic response to loss.⁴² Some losses that trigger grief are easily recognized by society and the grieving person, such as the death of a family member or a divorce. Others are more ambiguous and often go unrecognized, including infertility, the separation of families owing to immigration, migration or incarceration, or a person’s sudden decline in health.⁴³ In these instances, the emotional reaction to loss must be understood not as an individual pathology to be cured but as a relational disorder that occurs within a unique context.⁴⁴

Both recognized and unrecognized grief can manifest as physiological distress, separation anxiety, confusion, apprehension, loneliness, frustration, despair, regret and remorse. Intense grief impacts health and can become life-threatening through disruption of the immune system, self-neglect, suicidal ideation, and difficulty connecting or reengaging with others.⁴⁵ We also know that unresolved losses, including nondeath losses, create longer term impairments in self-regulation and functioning. Unresolved loss can leave an individual with a deep sense of incoherence in auto-noetic consciousness, or self-awareness and the ability to make sense of the past, organize the future, and situate something or someone in a specific time-space context.⁴⁶

The cumulative impacts of grief are hugely consequential to decision-making and the practice of law. Critically, however, the

40. Flies-Away & Garrow, *supra* note 35, at 407.

41. Sumit Kapoor, Christopher K. Morgan, Muhammad Asim Siddique & Kalpalatha K. Guntupalli, “*Sacred Pause*” in the ICU: *Evaluation of a Ritual and Intervention to Lower Distress and Burnout*, 35 AM. J. HOSPICE & PALLIATIVE MED. 1337, 1339 (2018).

42. See generally George A. Bonanno & Stacey Kaltman, *The Varieties of Grief Experience*, 21 CLINICAL PSYCH. REV. 705 (2001).

43. See J. William Worden, GRIEF COUNSELING AND GRIEF THERAPY: A HANDBOOK FOR THE MENTAL HEALTH PRACTITIONER 5–6, 8 (5th ed. 2018).

44. See *id.*

45. See *Grief*, AMERICAN PSYCH. ASS’N. DICTIONARY OF PSYCH., <https://dictionary.apa.org/grief> [<https://perma.cc/WTR8-8BH5>] (Apr. 19, 2018); APA PRESIDENTIAL TASK FORCE, AM. PSYCH. ASS’N, CULTURALLY INFORMED TRAUMA AND GRIEF RECOVERY TOOLKIT (2023), <https://www.apa.org/about/governance/president/grief-toolkit/culturally-informed-trauma.pdf> [<https://perma.cc/MN7J-4YJR>].

46. See DANIEL J. SIEGEL, THE DEVELOPING MIND: HOW RELATIONSHIPS AND THE BRAIN INTERACT TO SHAPE WHO WE ARE 406 (3d ed. 2020).

manifestations of unresolved loss are frequently misdiagnosed as symptoms of depression or anxiety and are inaccurately treated.⁴⁷ The meaningful processing and integration of these losses is further delayed or denied, and a person's grief continues to accumulate.

The grief across my data is largely unresolved grief, which is a form of grief that is severe and persistent. Unlike other grief reactions, which may lessen over time (normal grief) or grow more severe (complicated grief), unresolved grief is a kind of "stuckness" in which the individual continues to feel incapacitated by symptoms and an inability to cope.⁴⁸ Often, the person will evidence "disorganized" thoughts or behavior, representing a failure to integrate or fully recognize the reality of a loss.⁴⁹ The closest psychiatric diagnosis to unresolved grief is prolonged grief disorder, which is characterized as ongoing, pervasive, intense, and debilitating and occurs most frequently in people who are experiencing guilt surrounding their grief or traumatic grief.⁵⁰ Accordingly, it is helpful to understand unresolved grief alongside moral injury.

A common risk factor for unresolved grief is the absence of appropriate social support, which, of course corresponds to whether grief is recognized in the first place. This lack of support has deep implications for the legal profession, which overwhelmingly fails to honor the accumulation of grief among practitioners. When loss is described in the legal literature, scholars and practitioners tend to focus on encounters with individuals experiencing grief, such as clients contending with divorce and custody issues, discrimination, job loss, or debilitating injury; professional losses like a lost case or trial; or personal losses in the attorney's own life.⁵¹ Rarely is there acknowledgement of more subtle or nuanced loss experiences in legal work.⁵² This, argues Professor Danielle R. Cover, is because the legal profession tends to deny the ambiguity and unpredictability of the human condition, ignore loss, and encourage a 'get over it and move on' mentality: "[C]onsequently, a [legal professional] can be left feeling confused and

47. Anthony Papa, Nicole G. Lancaster & Julie Kahler, *Commonalities in Grief Responding Across Bereavement and Non-bereavement Losses*, 161 J. AFFECTIVE DISORDERS 136, 140 (2014).

48. See Nigel P. Field, *Unresolved Grief and Continuing Bonds: An Attachment Perspective*, 30 DEATH STUD. 739, 742 (2006).

49. See *id.*; PAULINE BOSS, AMBIGUOUS LOSS: LEARNING TO LIVE WITH UNRESOLVED GRIEF 23–24 (2000).

50. Jelena Kecmanovic, *Prolonged Grief Disorder Recognized as Official Diagnosis. Here's What to Know About Chronic Mourning.*, WASH. POST (Oct. 21, 2021), <https://www.washingtonpost.com/lifestyle/2021/10/21/prolonged-grief-disorder-diagnosis-dsm-5/> [<https://perma.cc/7ENN-TRDL>].

51. See Danielle R. Cover, *Good Grief*, 22 CLINICAL L. REV. 55, 56, 60 (2015).

52. *But cf.* Cheryl Ann Krause & Jane Chong, *Lawyer Wellbeing as a Crisis of the Profession*, 71 S.C. L. REV. 203, 244 (2019) (identifying imagined incompetence and debilitating self-doubt, diminished autonomy and professional independence, and the breakdown of connectedness and professional civility as impacting the deterioration of lawyers' mental health).

frustrated while difficult emotions accumulate in a way that may lead to emotional isolation and eventually burnout.”⁵³

As Professor Cover points out, the profession further reduces burnout to a matter of *stress*.⁵⁴ Without negating the stressful nature of high caseloads and high billable hour requirements, she writes:

Stress is also inadequate to explain attorney burnout because it implies some flaw in the actor[—]an inability on the part of the lawyer to handle the realities of [their] work environment or to find the source of the problem and ‘fix’ it. . . . More than just the result of stress, attorney burnout can be characterized as a symptom of accumulated, unresolved loss. [But because] lawyers are trained to use logic and rationality to approach problems, loss can go unrecognized and therefore unaddressed.⁵⁵

When held against the legal profession’s prevailing approach to mental health and well-being, Professor Cover’s attention to loss is almost subversive. It also helps explain the grief at the heart of rural legal actors’ “moral work,” namely the burdensome negotiation between professional ethos (logic and rationality) and structural shifts (increased isolation).

Consider again the interview excerpt of the Minnesota District (Trial) Court:

I’m doing half of what I used to do, yet it’s taking me three or four times the amount of energy. . . . And ultimately I came to realize it’s [not] about logic. It’s not about intellect. It was from emotional connection.⁵⁶

Here, the insufficiency of professional approaches to health and wellness appears in stark relief. When conventional predictors of well-being are income, law school rank, and partnership in a firm,⁵⁷ and when life-threatening conditions like depression, alcohol use disorder, financial stress, and suicidal ideation are presented as outcomes of stress rather than of loss,⁵⁸ it is understandable why rural legal actors’ grief remains consequentially unrecognized, even denied.

53. Cover, *supra* note 51, at 64–65.

54. *See id.*

55. *Id.* at 64–65.

56. Redacted Interview with District (Trial) Court Judge in Minnesota, *supra* note 30.

57. Krause & Chong, *supra* note 52, at 218.

58. *See generally* Nicole Black, *ABA Survey: Lawyers and Stress Go Hand-in-Hand*, MINN. LAW. (Aug. 10, 2021), <https://minnlawyer.com/2021/08/10/aba-survey-lawyers-and-stress-go-hand-in-hand/> [<https://perma.cc/QL7D-WPUB>]; Esther Dediashvili, *The Antidote to Lawyer Burnout*, THE IMPACT LAWS. (Mar. 18, 2021), <https://theimpactlawyers.com/articles/the-antidote-to-lawyer-burnout> [<https://perma.cc/8GHE-9FC7>]; Debra Cassens Weiss, *Surveyed Lawyers Report They Experience Burnout in Their Jobs More Than Half the Time*, A.B.A. J. (Mar. 9, 2022), <https://www.americanbar.org/groups/journal/articles/2022/surveyed-lawyers-report-they-experience-burnout-in-their-jobs-more-than-half-the-time/> [<https://perma.cc/XC3X-974Q>]. Although there is not space in this Essay to meaningfully discuss trauma in the court, it features prominently in the literature on burnout and stress. *See generally* STRESS, TRAUMA, AND WELLBEING IN THE LEGAL SYSTEM (Monica K. Miller & Brian H. Bornstein eds., 2013); Kevin O’Sullivan, Jill Hunter, Richard I. Kemp & Prue Vines, *Judicial Work and Traumatic Stress: Vilification, Threats, and Secondary Trauma on the Bench*, 28 PSYCH., PUB. POL’Y & L. 532 (2022).

B. Do-It-Yourself Wellness

Yet there is more to this story. However well-intentioned, the efforts of state and national bar associations, law schools, judicial branches, lawyer assistance programs, and professional task forces largely decontextualize legal professionals' experiences and instead foreground individual distress, recovery, and resilience.⁵⁹ This effectively puts the burden of recovery on the legal professional themselves rather than on structures and institutions, and interventions correspondingly focus on individual characteristics and coping processes instead of the ways in which cultural, community, and social factors may impact one's ability to adapt.⁶⁰ Exhorted to "diagnose, with specificity, the sources of their own discontent and distress and . . . reclaim and seek fulfillment of their fundamental needs,"⁶¹ legal professionals are routinely encouraged to adopt new or more productive habits, investigate and take advantage of available resources, incorporate mindfulness into daily life, exercise and stretch, and set boundaries around their availability outside work hours.⁶² As so many rural attorneys and judges shared with me, this "support" is experienced as irrelevant at best, and insensitive and oppressive at worst.

There are, of course, additional motivations for the profession's focus on individual well-being. For one, a healthy attorney is better for the client. It is likewise a matter of professional responsibility, writes Professor Cover: "If attorneys are unable to identify for themselves when their emotional condition is negatively influencing their ability to work or the quality of their work . . . [this can] lead to problems with grievance committees, malpractice claims, and maintaining employment in the long-term."⁶³ There is also an explicit correlation between individual well-being and productivity. "Happy

59. See generally Lucinda Soon, Almuth McDowall & Kevin R. H. Teoh, *Towards a Context-Specific Approach to Understanding Lawyers' Well-Being: A Synthesis Review and Future Research Agenda*, 31 PSYCHIATRY, PSYCH. & L. 550 (2023).

60. See generally *id.*

61. Krause & Chong, *supra* note 52, at 236. A corresponding argument here is that the implicit exoneration of legal institutions is by design. After all, "Western" legal frames actively reinforce and sustain imperial, colonial, and settler colonial programs while skillfully denying or disregarding their collective harms. I thank Michael Harralson for his insistence on this important point.

62. See ANNE M. BRAFFORD, AM. BAR ASS'N., WELL-BEING TOOLKIT FOR LAWYERS AND LEGAL EMPLOYERS (2018), https://www.americanbar.org/content/dam/aba/administrative/lawyer_assistance/ls_colap_well-being_toolkit_for_lawyers_legal_employers.pdf [<https://perma.cc/GCF5-VBBJ>]; James C. Coyle, *The Report of the National Task Force on Lawyer Well-Being and the Role of the Bar Admissions Community in the Lawyer Well-Being Movement*, BAR EXAM'R, Summer 2018, at 8; Amanda Robert, *Mental Health Initiatives Aren't Curbing Lawyer Stress and Anxiety, New Study Shows*, A.B.A. J. (May 19, 2023, 9:08 AM), <https://www.abajournal.com/news/article/mental-health-initiatives-arent-curbing-lawyer-stress-and-anxiety-new-study-shows> [<https://perma.cc/D7PA-P8DJ>]. When structural solutions are mentioned in this literature, they typically focus on reforming the business model of law firms and the elimination of the billable hour. Krause & Chong, *supra* note 52, at 213. For recommendations for judges and stakeholder groups to bolster judicial well-being, see David Swenson, Joan Bibelhausen, Bree Buchanan, Hon. David Shaheed & Kathryn Yetter, *Stress and Resiliency in the U.S. Judiciary*, 2020 J. PRO. LAW. 1, 18–32.

63. Cover, *supra* note 51, at 78.

lawyers are better lawyers,” writes Esther Dediashvili, arguing that mitigating attorney stress and burnout leads to higher talent retention, increased profitability, and organizational success in law firms, corporations, and government entities.⁶⁴ *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* from the National Task Force on Lawyer Well-Being goes so far as to identify lawyer health as “an important form of human capital that can provide a competitive advantage.”⁶⁵

Thus, even as the prevailing professional and scholarly literature identifies valuable tools for managing stress and improving health, these strategies are ultimately rooted within a culturally dominant and highly individualistic framework. They also implicitly exonerate the institutions and organizations that prioritize prevailing structures, practices, and profitability over the people within them. Perhaps unsurprisingly, in a 2023 study of lawyer stress and “suicidality,” Patrick Krill et al. incisively note:

To date . . . most efforts to reduce stress within the legal profession have tended to target the individual, e.g., through the provision of personal stress management tools and self-care resources. Where employers have attempted to address the more structural and systemic precipitators of stress . . . employees have generally rated their efforts as “highly ineffective.” Simply put, it would seem the legal profession has been better at alleviating the effects of stress than in throttling the causes.⁶⁶

Taken together, the profession’s focus on individual experiences of (and responsibility for) stress and burnout results in a sharp denial of grief. More consequentially, it signals a missed opportunity to honor the mutuality or collective dimensions of legal work. Even when recent law scholarship acknowledges the importance of connection, it is often presented in a very particular context, for instance, the increased incivility in adversarial settings. Here, proposed solutions are correspondingly narrow, “aiming not only to improve life for the individual lawyer but also to reaffirm the integrity of the law as a profession.”⁶⁷ This approach misses a wide swath of relationality that provides deep meaning, satisfaction, and well-being. It fails to see legal practitioners in community, whether communities of practice, of place, of interest, or of commitment, and it makes it impossible to recognize and account for the intimate losses wrought by institutional shifts.

C. *Disenfranchised Grief*

Finally . . . does grief then sit within us all, albeit often not acknowledged until it inevitably surfaces? Perhaps we need as a professional group to

64. Dediashvili, *supra* note 58.

65. BREE BUCHANAN & JAMES C. COYLE, NAT’L TASK FORCE ON LAW. WELL-BEING, THE PATH TO LAWYER WELL-BEING: PRACTICAL RECOMMENDATIONS FOR POSITIVE CHANGE 8 (2017), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/lawyer_well_being_report_final.pdf [<https://perma.cc/4YU2-AYGC>].

66. Patrick R. Krill, Hannah M. Thomas, Meaghyn R. Kramer, Nikki Degeneffe & Justin J. Anker, *Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk*, 11 HEALTHCARE 536, 544 (2023).

67. Krause & Chong, *supra* note 52, at 236.

acknowledge that. . . . Perhaps we also have a right and maybe a need ourselves to mourn⁶⁸

As I detail in this Essay, mandated or ad hoc shifts in court setting, practices, and procedures lead to a loss of valued relationships and, for many rural legal professionals, the lost potential to provide an experience of justice for one's neighbor.⁶⁹ That these losses are at once put into play and simultaneously disregarded by the same institutional structures contributes to the unresolved nature of grief and to powerful feelings of betrayal and regret. Honoring these emotions demands that we identify the grief experienced by rural lawyers and judges in still more accountable and nuanced terms than "unresolved" or "unrecognized," which is why I turn in this section to "disenfranchised grief." This, I believe, allows us to necessarily contextualize rural legal work as socio-spatial, historical, and, in the diverse rural courts where I work, rife with creative and productive relationships as well as complex vulnerabilities.⁷⁰

Most generally, disenfranchisement relates to the deprivation of a right or privilege (the right to vote, access to legal counsel) or a felt disconnection within a specific context (not sharing a sense of belonging in a school setting) owing to discrimination, oppression, and marginalization. Disenfranchised grief, then, is grief that people experience when a loss cannot be openly acknowledged, validated, or publicly mourned.⁷¹ It intrinsically recognizes the subjective qualities of unresolved grief, as when a person struggles to emotionally process and express grief because they do not recognize the grief or their right to grieve. It also illuminates the collective dimensions of grief, as when a person's opportunity to freely express their emotions and obtain expressions of compassion and support are diminished or negated.⁷² With this in mind, we can better interrogate which losses and relationships the legal profession defines as having the "legitimacy" of being grieved. We can also see how among professionals trained to approach problems with logic and rationality, it is perhaps unsurprising that when a loss does not accommodate these guidelines, it is reduced or denied.

68. Roger W. Byard, *The Right to Mourn: Post-Traumatic Stress and the Forensic Pathologist*, 61 MED., SCI. & L. 302, 303 (2021).

69. See generally Statz, *supra* note 2. Of course, as Ann Roche et al. point out, the "dual accountability" presented by close links and community expectations or responsibilities can also be significant sources of stress for Indigenous and other rural workers. Ann M. Roche, Vinita Duraisingam, Allan Trifonoff, Samantha Battams, Toby Freeman, Amanda Tovell, Donna Weetra & Nancy Bates, *Sharing Stories: Indigenous Alcohol and Other Drug Workers' Well-Being, Stress and Burnout*, 32 DRUG & ALCOHOL REV. 527, 530 (2013).

70. See generally Statz, *On Shared Suffering*, *supra* note 8.

71. See Renee Blocker Turner & Sarah D. Stauffer, *Disenfranchised Grief: The Complicated Interweave of Death and Non-death Losses*, in *DISENFRANCHISED GRIEF: EXAMINING SOCIAL, CULTURAL, AND RELATIONAL IMPACTS* 3, 8 (Renee Blocker Turner & Sarah D. Stauffer eds., 2024). See generally Kenneth J. Doka, *Disenfranchised Grief, in DISENFRANCHISED GRIEF: RECOGNIZING HIDDEN SORROW* (Kenneth J. Doka ed., 1989).

72. See generally *DISENFRANCHISED GRIEF: NEW DIRECTIONS, CHALLENGES, AND STRATEGIES FOR PRACTICE* (Kenneth J. Doka ed., 2002).

Accordingly, it is not enough to reflect on the significance of local relationships, as exemplified in a rural judge's routine and convivial exchanges with other members of the courtroom workgroup or with the parties before them. We must further acknowledge that when those relationships are fractured owing to a host of external pressures—including mandated Zoom hearings, an expedited docket, funding allocations that do not correspond with growing caseloads, broader efforts to undermine Tribal sovereignty, and the shuttering of treatment facilities—the likelihood that the judge's loss will be seen and supported is low to nonexistent.⁷³ This lack of meaningful acknowledgement reflects the disproportionate power of urban colleagues and administrative policymaking authorities, as well as these actors' incapacity or unwillingness to honor the pressurized and isolated environment they have created in the name of efficiency, cost-effectiveness, and access to justice.⁷⁴ As one District (Trial) Court of Minnesota judge stated:

To a certain extent, the role of the judge and the system is forever changed, never to return. And the majority of us that were in the system before that happened are going to end up miserable and probably just end up leaving unless you can figure out a way to modify it. And I'll be honest, I don't think that there is any real desire on the powers that be, starting with the Chief Justice, to look at it that way. You got a whole host of people that are believing that we are in the new age, that this [technology] is going to increase access.

The [courtroom] dynamic has changed and that affects everybody in a different way. . . . The change itself is being imposed to a certain extent. It's not voluntary. . . . [Does it] mean that those things are not possible anymore so that they'll never return? Or over time will we all adjust?

Along the way, there are going to be a lot of us that decide that we're not willing to wait for that to happen because the impact of the grief and the loss is such that the better or easier resolution [is] to individually just stop doing what I'm doing.⁷⁵

Not only does this socio-spatial inequity deny a rural practitioner an opportunity to process and express the grief they are feeling, but it may also result in the individual questioning their right to grieve in the first place, or feeling judged for having a grief response that is outside social, relational, or professional expectations.⁷⁶ “[Tribal] Council wants someone traditional, someone who knows the culture and practices,” stated one Tribal court judge.⁷⁷ “When they hire you, they want you to be super Indian. But the litigant might not want that, or the defendant. They might not even be

73. See generally Statz, *supra* note 2.

74. See Statz, “*They Had Access, but They Didn't Get Justice*”, *supra* note 8, at 326.

75. Redacted Interview with District (Trial) Court Judge in Minnesota, *supra* note 16.

76. See Turner & Stauffer, *supra* note 71, at 3.

77. Redacted Interview with Tribal Court Judge in Sovereign Nation (Oct. 4, 2024).

Native!”⁷⁸ She then cited heavy dockets, long work hours, and increasingly high-conflict cases:⁷⁹

Half the Tribe will be against me, whatever I decide. When I submitted my letter of resignation, I wrote that it was because of the health impacts of having COVID multiple times. Do you know how hard it is to say I was stepping down for my spiritual and mental health? That’s appealable! And then you get ripped over the coals again. . . . But I had to step down . . . I never had time for ceremony.⁸⁰

Notably, disenfranchised grief can cause an acute sense of guilt, as well as a sense of doubt regarding whether the suffering is real or appropriate.⁸¹ When held against the profession’s prevailing approach to well-being, it is unsurprising that many rural practitioners I interviewed appeared uncertain about how to situate their experiences.

Michele Statz (MS): And the thing I’ve been thinking a lot about is how many judges and attorneys are talking to me about their own health. Like, wellness.

Judge (J): Professor Statz, let me give you a little synopsis of what I think is going on. . . . [I]n Wisconsin, we’ve spent the better part of the last four or five years at the judicial level on “wellness,” and making sure to take care of yourself. I actually said at the last meeting, “If I have to talk about this one more time, I’m going to start saying, ‘I’m getting traumatized by talking about wellness.’”

MS: I’m sure they loved that.

J: (Laughs)

MS: Is it okay if I push a little further? Because I do think that there’s like some real grief at play. And I wonder if you think, this crisis moment potentially has everything to do with like justice simply not being served.

J: (Long pause) Yeah. Absolutely.

MS: Okay.

J: It’s exactly what it is. Yeah.⁸²

IV. ADDRESSING GRIEF AS MORAL INJURY

Recognizing grief is one thing; meaningfully addressing it is another. I accordingly turn to the concept of moral injury, or “the lasting psychological, biological, spiritual, behavioral and social impact of perpetrating, failing to prevent, or bearing witness to acts that transgress deeply held moral beliefs

78. *Id.*

79. *Id.*

80. *Id.*

81. See Sara Albuquerque, Ana Margarida Teixeira & José Carlos Rocha, *COVID-19 and Disenfranchised Grief*, FRONTIERS PSYCH., Feb. 2021, at 1, 3.

82. Redacted Interview with State Court Judge in Wisconsin (June 4, 2024).

and expectations.”⁸³ Significantly, moral injury encompasses doubt in one’s worldview and disrupted relationships with family and community.⁸⁴ Using this framework is helpful, as it recognizes the grief of not being able to act in ways that are in line with one’s core values—in the case at hand, this means not being able to provide a meaningful, socio-spatially specific experience of justice for one’s own community. It also moves ethical dilemmas to a closer consideration of the concrete individual and collective costs of hidden distress.⁸⁵

As my data demonstrate, we must fully appreciate that the loss at hand is not merely one of connection, but the severing of a connection that had enabled rural practitioners to effect justice in marginalized communities by broader institutional structures—structures that are ostensibly also operating in the name of justice.⁸⁶

Think about the poverty issues. And it’s not just on the reservation, it’s the whole area. We’re doing everything by Zoom, but people don’t have good internet service. And so maybe they are having to sit and wait for their court hearing to get called and, meanwhile, they’re burning up all their data on the phone that they can’t really afford. Or they’re missing work. . . . But attorneys love it because they can sit in their office and handle cases in three counties. And so that causes additional delays because they may not have even had a chance to talk with their attorney very much.⁸⁷

The reality is this: the court system cannot survive anymore, especially in the rural areas. . . . The rural north just feels like a forgotten group. Minneapolis-St. Paul, they’re not going to help us. Madison is not going to help us. They don’t care. Up here, I think in a year and a half, two years, it’s going to be a choice between the library and the police department. . . . And once you shut it down, it’s done. And you’re going to see the same thing with the ambulance and EMT service across the board. . . . And you can’t get people into treatment court because they don’t have [enough] attorneys. So everyone’s treatment courts are dwindling, the numbers go down. Everyone’s struggling. Overall, nothing’s working as well as it did. That’s the stress.⁸⁸

[As judge] you have a responsibility to serve the community that [has been in] chaos ever since 2020. And then when you’re in a role where you have a responsibility to serve your regular community members, it’s even worse—how much people are struggling. And then when you’re part of a

83. Brett T. Litz, Nathan Stein, Eileen Delaney, Leslie Lebowitz, William P. Nash, Caroline Silva & Shira Maguen, *Moral Injury and Moral Repair in War Veterans: A Preliminary Model and Intervention Strategy*, 29 *CLINICAL PSYCH. REV.* 695, 697 (2009).

84. See generally Soon et al., *supra* note 60; Jennifer H. Wortmann, Ethan Eisen, Carol Hundert, Alexander H. Jordan, Mark W. Smith, William P. Nash & Brett T. Litz, *Spiritual Features of War-Related Moral Injury: A Primer for Clinicians*, 4 *SPIRITUALITY CLINICAL PRAC.* 249 (2017).

85. See Antal & Winings, *supra* note 4, at 383–84.

86. See Statz, *supra* note 2, at 253.

87. Redacted Interview with Tribal Court Judge in Sovereign Nation (Apr. 3, 2024).

88. Redacted Interview with Attorney in Wisconsin (June 4, 2024).

big system that is perhaps responsible for some of the pain the community in general is feeling, I don't think that helps.⁸⁹

This is the uneasy “heart of the state.” Framing these perspectives through moral injury allows us to better situate rural practitioners’ affective experiences of grief, betrayal, and invisibility within a broader constellation of individual professional ethics and broader policies, funding mechanisms, performance measures, and profound socio-spatial inequities. It also requires a true accounting for the role of urban decision-makers and professional bodies in the losses experienced by their rural counterparts; the collective denial and misdiagnosis of these losses as “stress”; and the concomitant expectation that rural legal workers will heal themselves, even as they endeavor to sustain relationships and enact justice in increasingly isolated (and truly remote) court contexts.

A. Grief Work as Spirit Work

“But before we begin: How are your spirits doing?”⁹⁰

Although “moral injury” requires a kind of institutional reckoning, it also constructively recognizes the spiritual dimensions of rural legal work and offers answers to meet the deep grief of institutional loss. The literature on moral injury suggests not to attempt to “return” to what was before, but to find practices that facilitate grieving, collectively recognize the abandonment the sufferer feels, and restore patterns of relationality.⁹¹ This has compelling implications for the legal profession, particularly when we realize that the need for grief to be recognized exists in tandem with the need to recognize, and the need to be comforted follows the need to comfort. In other words, the communications themselves provide meaning and healing.⁹² This also suggests that by acknowledging their role in grief in addition to the grief itself, attorney and judicial policy-making authorities are presented a powerful opportunity to reconsider “one-size-fits-all” practice mandates; disrupt the prolonged nature of rural judges’ and attorneys’ unresolved grief; and honor—and perhaps even promote—the subjective, knotty, and meaning-filled relational qualities of lawyering and decision-making.

When a society [or profession] disenfranchises the legitimacy of grief among any group, the resulting intrapsychic function that inhibits the experience and expression of the grief affects, that is, sadness and anger, is shame. Grief covered by shame negatively impacts relationships with self

89. Redacted Interview with Tribal Court Judge in Sovereign Nation (Aug. 16, 2024).

90. Niibi Center, *Tribal Law and Policy Institute Judges Panel – 2nd Annual Anishinaabe Law Conference*, YOUTUBE (Aug. 27, 2024), <https://www.youtube.com/watch?v=O-7FVYk6zms> [https://perma.cc/7HD3-VS4Q] (showing Stephanie Autumn welcoming colleagues to the conference).

91. See generally Nancy J. Ramsay, *Moral Injury as Loss and Grief with Attention to Ritual Resources for Care*, 68 PASTORAL PSYCH. 107 (2019); ARTHUR W. FRANK, *THE WOUNDED STORYTELLER: BODY, ILLNESS, AND ETHICS* (2d ed. 2013).

92. See Harvey Peskin, *Who Has the Right to Mourn?: Relational Deference and the Ranking of Grief*, 29 PSYCHOANALYTIC DIALOGUES 477, 479–80 (2019).

and others and one's realization of the sacredness within oneself and one's community.⁹³

The collective dimensions of moral injury importantly exceed the legal profession's emphasis on the individual. For although it recognizes the spiritual harm an individual experiences, it also invites us to consider the spiritual work that occurs in relationship, whether in the courtroom or across law more broadly. After all, write Flies-Away and Judge Garrow, law and spirituality/spirit exist on the same axis.⁹⁴ If we identify this spiritual component as the thing that promotes balance, unity, and relationality, then we find that it is steadily being expressed and captured positively (via code or common law) and through conduct (via custom and common practices).⁹⁵ When applied here, what may be externally viewed as the relatively mundane interactions, practices, and court procedures that occur between rural legal professionals and community members can, and should, be honored as connections rife with spirit. They facilitate the deepening of relationships, greater public trust in the court, and a real experience of justice. In short, it is the why that is missing. This shared axis of law and spirit also promotes health and healing, including the health and healing of rural court workers. To recognize this is to begin addressing the moral injury of institutional loss.

J: One thing I like about being in a judicial role is listening to people and making them feel like I'm listening. . . . I just [had] a restraining order type of situation, and it included a mother, and at one point I was like, "That just sounds like a lot. It sounds like you're carrying a lot." She teared up and was like, "Nobody ever notices that." And I felt like . . . I can clock in and clock out based on that, you know? I feel good about that. It's relationships, right?⁹⁶

MS: There is still a powerful argument that remote hearings and faster processing of cases is better, that it provides more access. And I wonder how you would respond to that?

J: Well, I think those people that you treat cheap and easy are going to come right back through the system. I mean, if that's the approach that you have, you're not addressing anything. And so, if you dig down and you take a little bit more time, then you might find out about something that they need. I'll use the example of the truancy case that we had. We asked a few more questions and did it take time? Yeah. It was a longer hearing than Judicial Council would probably prefer that they be. But we were able to find out what services he needed in school, what he was having trouble with and find out what those gaps are. And so, if you're able to address it, that person's less likely to come back through the system. And in turn, then it decreases the cost to society that that person poses and the burden on the system later. And if you took time with them, then they felt like it was fair

93. Maria Yellow Horse Brave Heart & Lemyra M. DeBruyn, *The American Indian Holocaust: Healing Historical Unresolved Grief*, 8 AM. INDIAN & ALASKA NATIVE MENTAL HEALTH RSCH. 56, 65 (1998).

94. See Flies-Away & Garrow, *supra* note 35, at 426.

95. See *id.*

96. Redacted Interview with Tribal Court Judge in Sovereign Nation (June 10, 2024).

and so there's less problem later. And so it's like an investment. . . . But with [a remote attorney], they're not invested so much in the community if they're appearing from the Twin Cities by Zoom or something. I think people are more invested if they're part of the community and can be there. I think it also makes a big difference as far as people's perception for how they're treated by their attorneys. Because it's like, well, this person doesn't even care enough to meet with me in person.

Court Clerk: And being here helps with relationships so much. Just like, my relationships with local attorneys because they all know who I am. They know who I am.⁹⁷

CONCLUSION

As this Essay demonstrates, the legal profession has largely failed to acknowledge the unique losses experienced by rural attorneys and judges—or, correspondingly, to identify the elements of their work that provide meaning and purpose. Yet as I have consistently observed across my data, rural legal professionals already know what provides meaning and purpose—and it is resoundingly *not* a one-size-fits-all approach.⁹⁸ Instead, it is time, a shared understanding of place, and a deep, trusted connection. The loss of these connections, and the opportunity to enact justice through them, is the institutional loss at hand. It must be recognized as true and grieved as such, or else we risk the increasing exodus of rural judges and attorneys in already vast and consequential legal deserts.⁹⁹ Although these resignations may improve the health and well-being of individual legal actors, they have profound implications for rural justice—and, of course, for rural health.¹⁰⁰ This, then, signals the reverberating impacts of disenfranchised grief and moral injury—consequences that far exceed normative priorities like productivity, profitability, and client or case outcomes.

In other words, the grief many rural legal actors feel powerfully exceeds the losses they are narrowly presumed by the profession to experience. To overcome these more complex and collective losses—the phenomena at the heart of this article—rural legal professionals' grief must be recognized as real, appropriate, and consequential to their health and well-being. We must also recognize that the restoring of connections—which includes being

97. Redacted Interview with District (Trial) Court Judge and Court Clerk in Minnesota, *supra* note 13.

98. See Statz, *The Scandal of Particularity*, *supra* note 8.

99. See generally Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway & Hannah Haksgaard, *Legal Deserts: A Multi-state Perspective on Rural Access to Justice*, 13 HARV. L. & POL'Y REV. 15 (2018); Karp, *supra* note 2 (providing recent coverage of the growing shortages of public defenders, prosecutors, and judges in rural areas). Since 2023, three of the rural judges I formally collaborate with have resigned from their positions.

100. See generally Michele Statz & Paul Termuhlen, *Rural Legal Deserts Are a Critical Health Determinant*, 110 AM. J. PUB. HEALTH 1519 (2020); Michele Statz & Brianna Watters, *An Agenda for Addressing Health-Harming Legal Needs in Indigenous Communities*, 114 AM. J. PUB. HEALTH 1170 (2024).

allowed and supported to express loss—is an antidote to disenfranchised grief.¹⁰¹ It is itself a spiritual act.

101. *See* Albuquerque et al., *supra* note 81, at 2.