The state of the Union under a failed Constitution

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The abandonment of ethics by the American legal profession through the adoption of the 'Lawyer's Amoral Ethical Role'. The resulting material decline in the Nation's moral standards. (Part 4 of 4)[1]

We have seen how the American Legal Profession's 'ethics' evolved from the ethics of righteousness and virtue to the current abandonment of ethics, euphemistically described as the 'Lawyer's Amoral Ethical Role'. Knowledge about the 'official acknowledgment' of this new 'Role' is not widespread, nor does the media report in outrage about it. The reason is that concealing the reality of the abandonment of ethics is a deliberate policy which helps the profession maintain its tyrannical control over the Nation. One of the purposes of these papers is to show the Nation just how that is done.

Federalist 103 described the various forms of deceit used by the profession on a day to day basis. Let us examine the particular forms used to (1) conceal the truth from the Nation, and (2) 'justify' the truth to itself and those who discover it. To achieve these ends the profession makes use of the following instruments of 'poly' deceit and 'color of law' deceit: (a) False assumptions, (b) Misdirection, (c) False statements (d) False language, (e) False logic, (f) The Big Lie, (g) Deliberate misinterpretation of the law, and (h) Aristotelean false argument.

Misguided believers or intentional deceivers?

As we review the overwhelming evidence of wrongdoing, deceit and tyranny against the legal profession we are again forced to inquire: *How can this be? Are we dealing with monsters who are willing to destroy their own Nation for the proverbial 30 pieces of silver, or is it something else?*[2] There are only two possibilities. Either the members of the legal profession know exactly what they are doing and are therefore ***intentional deceivers***, or as a function of extreme cognitive dissonance (which is perhaps some 'profession specific' form of ***amoralia***[3]) they have lost their ability to distinguish between right and wrong. If so they are misguided believers. The evidence supports both points of view for different groups of lawyers. It appears that those closest to the top of the leadership have become *misguided believers*. While many of those least in control of the profession's destiny who know the truth have become whether they like it or not, *intentional deceivers*.[4]

The first level of deceit: Publicly professed morality versus immoral reality.

The professed public morality

Every legitimate profession purports to maintain a commitment to the highest ethical standards. Doctors have a simple motto: *First do no harm*. The Army

established an honor system at West Point which teaches and adheres to the highest possible ethical standards.[5] Other professions establish 'mandatory' rules of ethical conduct for their members. But none publicly state the same high level of need for ethical standards as do the members of the legal profession. In Florida they do this in three ways:[6] (1) By *The Florida Supreme Court mandate* which proscribes ethical standards as a matter of law in the original Supreme Court decision that created the State Bar; (2) By the *Oath of admission* which requires all lawyers to swear to an oath of office in order to belong to the Bar; and (3) By *The Florida Bar Rules* enacted and mandated by the Florida Supreme Court to regulate the ethical conduct of lawyers. Let us examine these ways.

(1) The Florida Supreme Court mandate.

On June 7, 1949 in a case entitled *Petition of* ***Florida State Bar*** et al; 40 So. 2d 902, the Florida Supreme Court created the State agency/private agency[7] known as the Florida Bar, granting lawyers monopolistic control of what lawyers call 'the practice of law'.[8] It declared attorneys 'officers of the Court' and declared the Florida Bar 'an arm of the Florida Supreme Court'. Conscious of the criticism that this decision would be perceived as an attempt to enrich its members at the public's expense, it set forth some standards as a matter of law.

These standards require: '*that on the theory the he* (the lawyer) *is such an important factor in the administration of justice* ***this Court has held that a lawyer's responsibility to the public rises above his responsibility to his client****. The very nature of our democratic process imposes on him the responsibility to uphold democratic concepts* ***regardless of how they affect the case at hand****.' [40 So. 2d @ 908]* (Emphasis added). In the same opinion the Court went on to say that '*If he* [the lawyer] *does not approach the law as an avenue to perform a fine public service, work hard, live by faith and die poor, he should turn to some other business for food and shelter and raiment.*

(2) The oath of admission to the Florida Bar.[9]

The oath is mandatory and non-compliance is allegedly discouraged by the threat of potential disbarment for willful violation. It sets forth a list of sworn affirmations consisting of the highest possible moral goals. Among which the following are of particular interest:

1. I will support the Constitution of the Unites States and the State of Florida.
2. I will not counsel or maintain any suit or proceedings which shall appear to me to be unjust, nor any defense except such as I believe to be honestly debatable under the law of the land.

3. I will employ for the purposes of maintaining causes that are confided to me such means only as are consistent with truth and honor, and will never seek to mislead the judge or jury by any artifice or false statement of fact or law.
4. I will never reject, from any consideration personal to myself, the cause of the defenseless or the oppressed, or delay anyone's cause for lucre or malice. So Help me God.

(3) The Florida Bar Rules.
Chapter 4 of the *RULES REGULATING THE FLORIDA BAR IS* entitled *Rules of Professional conduct*. The Bar establishes in 40 pages of small print what it regards as the high moral level of conduct required for lawyers to remain in good standing with the Bar.

The immoral reality

The legal profession has since 1985 already officially acknowledged its 'amoral/immoral ethical role'. We therefore know that all of the above public assertions of high standards are meant for public consumption not actual practice. Let us look at specific situations.

(1) The Florida Supreme Court mandate.
Notwithstanding the law, lawyers seem to regard themselves as owing 100% of their responsibility to their client and zero responsibility to 'society'. Every single lawyer who was questioned by this writer on the issue declared himself both unaware of the law and unwilling to follow it, *even after agreeing that it was indeed the law!* Lawyers also unanimously stated that they were far more concerned with the potential exposure to a malpractice suit if they obeyed the law, than with any consequences from their own disciplinary authorities if they did not. The record indicates that since the 1949 mandate that created the Florida Bar there has never been ***a single case*** adjudicated[10] under Florida law in which anyone was ever prosecuted for regarding his responsibility to his client as exceeding his responsibility to society.

(2) The Oath of admission to the Florida Bar.
The evidence is clear that in practice the Oath of admission means little or nothing. The Florida Bar exercises an unconstitutional control over the disciplining of lawyers. It consistently stacks the cards against all complainants. It promulgates unconstitutional Rules. It does not even recommend changing those Rules when its own Special Commissions on Rules tells it to. When the Florida Supreme Court does make changes in the Rules, the Florida Bar Staff ignores changes with which it does not agree. That is precisely what the Florida Bar did on the matter of the 1989 Florida Supreme Court order striking the unconstitutional Bar Rule allowing Lawyers to be represented by other lawyers

and conduct a mini-trial at probable cause hearings on complaints against them.[11]
In this context about 97% of all complaints are consistently dismissed by the Bar for 'absence of probable cause'. Half the other 3% result in a slap on the wrist. So 1.5% or about one complaint in 70 may result in some appropriate punishment. These numbers are outrageously out of proportion with the result of complaints against all other professions. So much so that the statistical evidence is ***over ten trillion times*** more than sufficient in a court of law, to make a case for Florida Bar wrongdoing in the administration of disciplinary procedures. That evidence was presented to the Supreme Court by this writer in 1989. The Court did nothing.
Thus though they swear to do so, the evidence is overwhelming that lawyers:

- **Do not** support either their State or the US Constitutions. If they did they would not be unconstitutionally in control of all government or holding public office outside the judiciary.
- **Do not** refuse to counsel suits and proceedings that are unjust, or refuse to employ unjust defenses. The 'lawyer's amoral ethical role' mandates the opposite action.
- **Do not** employ means 'consistent with truth and honor' or refuse to 'mislead the judge or jury' by artifice or false facts or law' for the purpose of maintaining causes. That too is in conflict with the reality of the 'amoral'/immoral role they have chosen to play.
- **Do not** refuse to reject from 'consideration personal to themselves' the cause of the defenseless or oppressed, or refuse to delay causes for lucre or malice. That is their stock in trade. They have made the access to the law impossible for the vast majority of the Nation by unconstitutionally monopolizing the practice of law on pain of prison, for the sole purpose of financial 'considerations personal to themselves'. They have themselves created enormous populations of 'defenseless and oppressed' who are that way because the profession has shut off their access to justice.

(3)The Florida Bar Rules.
The evidence is also clear that the Florida Bar Rules, like the Oath of Office and the Supreme Court's mandated behavior, do not represent a compelling reason for conforming behavior or a source of sanctions for failure to obey.[12] Bar Rules may even be interpretable as condoning or even sanctioning lies by lawyers in defense of their clients. For example Bar rules call for ***'zealous representation'*** of a client. This writer has not been able to find

any specific definition of the words ‘zealous representation’ or ‘zealous advocate’.

However the words ‘zealous witness’ are defined in Black’s Law Dictionary as: *An untechnical term denoting a witness, on the trial of a cause, who manifests a partiality for the side calling him,* ***and an eager readiness to tell anything which he thinks may be of advantage to that side***. In lay person’s words: a willing, ready and able liar. The ‘plain meaning’ of the word zealous in the term ‘zealous representation’ is the same as its meaning in the term ‘zealous witness’. Thus the Bar rule requiring this behavior appears to be the quasi-official sanctioning by the Bar of lying and unethical behavior by lawyers.

The legal profession’s use of particular tools of deceit to conceal the truth of their tyranny and to ‘justify’ their unethical behavior.

It is important for the Nation to learn how to recognize the false arguments consistently made by the profession to conceal and maintain its tyrannical control over the people of this land and to ‘justify’ the unethical behavior of its members. Here is an incomplete list of the particular tools of deceit used by the profession for these purposes.

The Big Lie. The consistent false assertions from ‘authoritative sources’, such as the judiciary, the law schools, television programs sponsored by the profession, etc., that the profession is ethical constitutes the big lie. It works best when the people hearing it are not also constantly suffering a reality that enlightens them. The ***big lie*** includes within it other tools of deceit such as the ***false statement***, for it is merely the ‘false statement’ repeated continuously.

Secundum quid. That is the Aristotelean false argument identified by the use of an argument generally true but not in the specific case at Bar. All arguments by Professor Pepper to the effect that autonomy, equality and diversity are ‘social goods’ are secundum quid false arguments since the ‘social good’ they may do is outweighed by the evil they certainly do.

False Premise. The argument by Professor Pepper that a ‘conflict of interest’ may exist between a lawyer and his client is based on the false premise that the lawyer may be more ethical than his client. That premise is false in the overwhelming majority of cases.

Non sequitur. The argument that a potential ‘conflict of interest’ between the client’s ethics and the ethics of his lawyer should be resolved by the process of having the lawyer abandon all ethics is a ***non sequitur***, for it does not follow logically. There are many other solutions to this problem (such as withdrawing), that do follow logically but not this one. Both ***secundum quid*** and ***non sequiturs*** are examples of ***false logic***, another tool of deceit.

Conclusion

Federalists 104, 105, 106,and 107 have demonstrated that the legal profession

has formally abandoned all ethical standards but continues to assert it is ethical. The evidence is conclusive that these assertions, as well as the arguments that allegedly support them, are tools of deceit of one kind or another, and that as a result of the policy of abandonment of ethics the legal profession must take most of the responsibility for the material decline of the Nation's moral standards and the evil consequences that development has inflicted on the Nation.

PUBLIUS II
(Ronald Bibace)

About the author: *This writer is a constitutional scholar who wrote Federalists 86 through 99, in defense of the Constitution. He is like Madison, a non lawyer and like Hamilton an immigrant and naturalized American.*

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1. This Paper and Federalist #104-106, should be read as a single unit.
2. The evidence is so overwhelming that most people will agree with the conclusions established concerning the wrong doing involved. That is therefore not the issue.
3. *Amoralia* is defined in Campbell's Psychiatric Dictionary (ISBN 0-19-510259-2 7th ed.) as a psychiatric disorder resulting in *moral imbecility*.
4. When you are aware of the truth it is either that or leave the profession, as in fact may do.
5. Obviously subject to the limitations of the imperfections of man's nature. The Army code recognized but does not tolerate these imperfections. Punishment is meted out to those who fail to respect the Honor Code.
6. The specifics of the example come from the State of Florida. In general the same standards apply everywhere in all other States that have 'Unified Bars'.
7. This State agency raises money by 'taxing' Banks under the IOTA (Interest on trust Accounts) through its alleged powers. It also makes rules for all Floridians. It lobbies the Legislature unconstitutionally to push its agenda favoring lawyers. It acts as both a State agency and a private agency, putting on whatever hat suits it purpose and its ad hoc need.
8. An expression which defies accurate definition other than the vague circular definition of 'what lawyers do'. Legal scholars have often expressed the opnion that the vagueness of the definition alone renders the 'monopoly' of the 'practice of law' unconstitutional.
9. The Florida Bar has established a policy of printing the oath in every issue of its monthly Bar Journal magazine. Perhaps it hopes to remind its members that the oath exists since the profession's acknowledged policy is directly contradictory to that oath.
10. It is extremely unlikely that the issue has ever been raised at all.
11. The Bar facetously argues that the striking of an unconstitutional Rule only means that the stricken Rule is no longer mandatory and that it still has the right to exercise it on a discretionary basis.
12. Except for the most utterly egregious behavior. The approximate equivalent in the criminal field would be the refusal by prosecutors to diligently pursue any matters except murder cases supported by overwhelming evidence.