

Pro bono: a valuable lesson in ethical development

I was drawn to the Justice in Action module not only because I was keen to put the law I'd learnt to a practical purpose, but also this provision of unmet legal need presented an opportunity to contribute to social justice. As David Millar commented: 'social justice requires the equal distribution of some social benefits ...on the basis of need' (p.87) I commented in my portfolio: 'Pro bono really resonates with me as I'd love to use my LLB to do good... to use my legal knowledge to help those who need it.' (Extract 1)

I applied to work for the Open Justice Law Clinic, carrying out legal research and providing advice for clients. I was astonished by the scale of difficulties presented, which often resulted in life- changing circumstances for the clients. Ethically I found the work rewarding, especially in light of recent legal aid spending cuts, and I was satisfied with this contribution to social justice.

I was also accepted onto the Freedom Law clinic, offering advice to clients seeking to have their case reviewed by the Criminal Case Review Commission. The course gave practical experience including the management of large volumes of case papers and important skills refined by working in a diverse team. It also raised invaluable questions not only on social justice but also, perhaps less expectedly, on ethical considerations.

We were tasked to look into issues with the trial of a very serious offence which resulted in lengthy sentence. Initially I commented in my portfolio: 'I'm so excited about this real-life exposure to criminal law, to fight for a fair trial and the rule of law' (Extract 2). However, I have since wondered if this was a slightly naïve approach, with the reality of criminal law much more nuanced.

Firstly, the Freedom clinic provided a different insight into social justice from that of the Open Justice clinic. While the latter focussed on individuals unable to access legal advice due to financial or educational constraints, it was clear from the Freedom Clinic's case notes that significant resources had been expended in the clients' previous trials. Instead, the threat to social justice was experienced as a result of apparent wrongful conviction, and a resulting difficulty accessing funded representation.

Secondly, I was interested to discover a significant internal ethical conflict, as while acknowledging the importance of the right to a fair trial, I did experience concerns about

the societal value of releasing the client. I had spent my studies training myself to analyse and question information, before reaching my own conclusion. I therefore naturally found myself evaluating the case notes to determine the client's guilt. However in criminal law it is for the court, not the lawyer, to determine guilt. I enjoyed the struggle of the actively turning off my own judgement to focus on the facts of the trial, of remembering that, as Fried wrote 'it is morally right that a lawyer adopt as his dominant purpose the furthering of his client's interests' (Fried, p.1060)

By gaining insight into very different legal experiences, my pro bono activities have provided an excellent learning environment for the skills needed to constructively deal with the ethical challenges ahead. As Jonathan Haidt blogged for The New York Times: 'if we want to encourage reasoned argument over moral issues, the best environment is a safe place where people can explore ideas, knowing there is a communal standard of respect for others' views.'

The exposure pro bono provides to different kinds of social justice and ethical issues has proved invaluable as I forge my own path into the legal profession.

Olivia Leeper

Articles:

Haidt, J. (2012) 'Reasons Matter (When Intuitions Don't Object)' *The New York Times* <http://opinionator.blogs.nytimes.com/2012/10/07/reasons-matter-when-intuitions-dont-object/?_r=0>

Fried, C. (1976) 'The lawyer as friend: The moral foundations of the lawyer-client relation', *Yale Law Journal*, vol. 85, p. 1060.

Leeper, O (2019) 'Extract 1' originally written 28/10/19

Leeper, O (2020) 'Extract 2' originally written 10/01/20

Books:

Miller, D. (2003) 'Political Philosophy: A Very Short Introduction', Oxford University Press