

'Finding Balance in *Pro Bono*'

Taking statements, seizing evidence, arresting, interviewing, and charging suspects. This was my previous life in the police. I enjoyed it; it gave me purpose. So much so, that it sparked a deeper interest in law that ultimately led me to study for the LL.B with the Open University (OU). But that experience also left another legacy, one which went unnoticed at the time and remained only barely acknowledged throughout the first years of legal study, a nagging doubt at the back of my mind, that I was only capable of working in prosecution.

This doubt had grown louder throughout the OU degree but thanks to electing W360 as an optional final year module, I can finally reflect on and articulate the central issue behind it. Namely, that "*criminal prosecution, as a mindset, has become engrained in my personally held professional ethics*" (Mander, 2022a).

Studying W360 seemed an obvious choice, matching nothing more than my interest in criminal law with the opportunity to participate in a *pro bono* criminal appeals project with the Freedom Law Clinic (FLC). However, it is no exaggeration to say that the experience has become a defining component of the degree.

Prior to the module, whilst I knew the literal meaning of the term *pro bono*, I was far from understanding its potential to impact lives, nor its essential role, providing the last and only legal hope for those convicted in a legal system decimated by funding cuts, enabled most effectively by the Legal Aid, Sentencing and Punishment of Offenders Act.¹

Casework concerned a client serving a lengthy custodial sentence. From the outset, my prosecution mindset was ringing alarm bells of guilt, but I silenced them, resolving to commit to the project. I soon recognised procedural irregularities in the way the police had conducted the investigation and channelled legal research efforts at these areas, developing additional skill and confidence in independent research through the

¹ Legal Aid, Sentencing and Punishment of Offenders Act 2012.

process. With each relevant case precedent I uncovered, I became more resolved to explore further, soon forgetting any notion of prosecution or defence, of guilt or innocence. Seeking only the just position, reconciling fact in accordance with law.

The casework passed by all too fast, and I was left reflecting that this particular client, who didn't qualify for legal aid, "*would have no access to appeal if the FLC were not working on his behalf, pro bono*" (Mander, 2022b). The reality is that many others inevitably face a similar position in our impoverished criminal justice system. It must be morally incumbent on all practitioners to provide access to justice within their sphere of influence. Looking ahead, I will utilise the skills developed at the FLC to continue *pro bono* work long after the module ends to support this aim.

On a personal note, I reflected that "[Without effective criminal defence] *there would be no one questioning the legality of police actions and the rule of law would be weaker for it*" (Mander, 2022c). Acknowledging that throughout FLC casework my professional ethical view had evolved from an overtly prosecution focus, towards professional legal neutrality, dispassionately applying fact to law. In support of upholding and fostering societal respect for the rule of law.

Pro bono casework has been a personal awakening. Not only have I developed as a practitioner, but I have managed to reconcile my professional ethics, appreciating first-hand the essential role that *pro bono* provides, enabling some measure of access to justice in a critically underfunded legal system. Finding balance in the realisation that it is the rule of law which motivates me, not the ideology of prosecution or defence in isolation.

References:

1. Other Sources

Mander, D. (2022a) 'FLC Reflection 03-02-22'. Portfolio for W360, Justice in Action, The Open University. Unpublished.

Mander, D. (2022b) 'FLC Reflection 03-03-22'. Portfolio for W360, Justice in Action, The Open University. Unpublished.

Mander, D. (2022c) 'FLC Reflection 07-03-22'. Portfolio for W360, Justice in Action, The Open University. Unpublished.