

Empathy and Pro Bono

From a young age, I have viewed prisoners poorly. This view was mainly fed by the views I held of my own family and, over the past 50 years, it has been a rarity to have a period without multiple family members serving time at Her Majesty's pleasure. Prisoners were incarcerated as a result of their hubris and emotional weakness. To a certain extent, I still hold these beliefs, but I am far more willing to take account of environmental factors and less willing to dehumanise prisoners to that extent – a direct result of my experiences on w360. Pro bono work can be viewed as a necessary ingredient ensuring the objective aim of justice, but I now prefer to view it as the legal profession's expression of empathy. Pro bono, at its core, is a public service provided as a result of a legal professional making an empathetic decision that benevolent behaviour is a part of a lawyer's professional identity and an integral part of achieving social justice.

For our first visit to Wandsworth prison, the preparation work that I conducted relating to joint enterprise helped me put into place investigation and preparation skills that I have learned whilst conducting pro bono type activities within the trade union movement and my time studying with the Open University. These skills were something I was eager to maintain and develop over the course of my study year. I wrote in my Open Studio journal that 'I need to remember to approach my interview preparation in the same way that I used to prepare for getting facts from members as a trade union regional officer' (Excerpt 1, 2020) These skills were further useful when, following our presentation to the prisoners, we were required to engage with them informally and obtain from them subjects of law that they wished to discuss. At this point, the plan I put in place in Excerpt 1, particularly relating to putting my clients at ease, allowed me to obtain greater detail from the prisoners on the subjects that they wished to discuss. Applying empathy to the reasons that they wished to know more about the subject enabled me to understand why they needed to know more and how then best to provide that information. It is for this reason that I now understand that in order to truly provide a pro bono service, you must maintain an empathetic approach.

The reason for my focus on empathy in this blog post is that it has long been something I wanted to ensure was part of my professional identity. In my Open Studio post of 28 January 2020 (Excerpt 2), I committed to making 'an effort to understand why people make certain

decisions. Ultimately, this will help me develop better arguments.' Whenever speaking with the prisoners, I made an effort to ensure that I was understanding of the prisoners' plights. This led to the prisoners revealing to me their stories, many of which involved tales of broken families. A lot of what they said I felt able to relate to. Consequently, I considered the meaning of social justice and I contemplated whether it has an objective definition. The prisoners' behaviours in response to their upbringings meant that an objective form of justice needed to be applied to them, for the benefit of society. But what if the rule did not achieve the aim? Is society better for it? Is society not better served by a subjective approach and a bespoke remedy? Then it hit me – this is the lawyer's role. If I wish to become a lawyer of substance, then I must partake in pro bono activities. If I truly wish for my personal identity to be that of a lawyer, then pro bono must form part of my professional identity. If I wish to be part of the justice system, then I must fight for true social justice!

Alexander Harris

Bibliography

Cases

R v Chan Wing-Siu [1985] AC 168

R v Powell (Anthony) and English [1999] 1 AC 1

R v Jogee [2016] UKSC 8

Open Studio

Harris, A. (2020) 'Extract 1', originally written 21 January 2020

Harris, A (2020) 'Extract 2', originally written 28 January 2020