

Tentative Schedule of Topics and Readings

T, 9/29
3:30-5:20

The Legal Profession and Work for Social Justice: Entering the Profession

Aspirations: Why Did You Choose Law School? Legal Education and Its Impact on Ideals. Debt and Social Justice Ideals. The “Big Questions”: What is “justice”? “social justice”? “access to justice”? “public interest”? “cause lawyering”? Your personal experiences.

- Mahoney, Calmore, Wildman, SOCIAL JUSTICE: PROFESSIONALS, COMMUNITIES, AND LAW: CASES AND MATERIALS (West 2003)(MCW), pp. 1-34
- Focus questions on the course website

T, 10/6

The Legal Profession and Work for Social Justice: Entering the Profession (cont.)

Envisioning Social Justice LawyeringThe “Big Questions”: What is “justice”? “social justice”? “access to justice”? “public interest”? “cause lawyering”? Your personal experiences.

- Mahoney, Calmore, Wildman, SOCIAL JUSTICE: PROFESSIONALS, COMMUNITIES, AND LAW: CASES AND MATERIALS (West 2003)(MCW), pp. 34-60
- Focus questions on the course website

T, 10/13

The Legal Profession, Legal Services, and Access to Justice (Part I)
(Beginning with this session, all or most of the remaining class sessions will be facilitated by student groups)

Funding for Civil Legal Services: The Big Picture. Background on the Legal Services Corporation, the Interest on Lawyers Trust Accounts (IOLTA) program.

- MCW, pp. 61-115
- *Brown v. Legal Foundation of Washington*, 538 U.S. 216, 123 S.Ct. 1406, 155 L.Ed. 2d 376 (2003)(skim to understand basic result, not for intense doctrinal discussion)

Also of interest:

- Improving Access to Justice: Legal Services Funding and Private Bar Involvement in Public Interest Lawyering Around the World.
<http://www.pili.org/en/content/view/122/26/>
- David Luban, *Taking Out the Adversary: The Assault on Progressive Public-Interest Lawyers*, 91 Cal. L. Rev. 209-246 (2003)

T, 10/20 Funding for Criminal Defense and the Role of the Criminal Defense Attorney

Criminal defense lawyers play a vital, but controversial role in our system of criminal justice. How does our current system of funding for criminal defense services exacerbate the inherent tensions in the role of the criminal defense lawyer? How do individual criminal defense lawyers define their role?

- *Gideon v. Wainwright*, 372 U.S. 335, 83 S.Ct. 792, 9 L.Ed.2d 799 (1963)
- Robert C. Boruchowitz, *How to Deal with the Denial of Counsel in Misdemeanor Cases Post-Shelton*, Washington State Bar News, January 2004
<http://www.wsba.org/media/publications/barnews/2004/jan-04-boruchowitz.htm>
- Seattle Times series: An Unequal Defense: The Failed Promise of Justice for the Poor, April 4 though April 6, 2004. See
<http://seattletimes.nwsourc.com/news/local/unequaldefense/>

Also of interest:

- Website of the WA Office of Public Defense, Standards for Public Defense Services
<http://www.opd.wa.gov/Trial%20Defense/Criminal%20Trial%20Defense%20Services.htm>
- WSBA Committee on Public Defense, Making Good on Gideon's Promise
<http://www.wsba.org/lawyers/groups/websiteposting42707.pdf>
- Jacqueline McMurtrie, *Unconscionable Contracting For Indigent Defense: Using Contract Theory To Invalidate Conflict Of Interest Clauses In Fixed-Fee Contracts*, 39 Mich. J. of L. Ref. 773 (2006) (if you do nothing more, read the letter quoted on page 795 of the article)
- ACLU Website: settlement of lawsuit against Montana
<http://www.aclu.org/crimjustice/indigent/10248prs20050608.html>
- Michigan Defenders <http://www.sado.org/publicdefense/>
- Texas Taskforce on Indigent Defence <http://www.courts.state.tx.us/tfid/>

T, 10/27 The Legal Profession, Legal Services, and Access to Justice (Part 2)

Alternatives to LSC and IOLTA funding: Non-profit Agencies, Social Justice Law Firms, Shifting Attorney Fees. The Access to Justice Effort in Washington State. Establishing a right to counsel in civil cases

- MCW, pp. 116-152
- Access to Justice in Civil Cases: Funding for Legal Services for the Poor and Waiver of Fees, on course website
- The Washington State Civil Legal Needs Study, Executive Summary (on course website). Full report available at:
<http://www.courts.wa.gov/newsinfo/CivilLegalNeeds%20093003.pdf>

Also of interest:

- In contrast to the broad right to counsel in criminal cases, the U.S. Supreme Court has recognized a civil right to counsel only in limited contexts. Advocates around the country are trying to change that.
 - John Nethercut, “*This Issue Will Not Go Away*”: *Continuing to Seek the Right to Counsel in Civil Cases*, Clearinghouse Rev. J. of Pov. L. and Policy, Nov.-Dec. 2004, pp. 481-490 and update to follow

T, 11/3

Social Justice Lawyers in Context

Reflections on Social Justice Lawyering; Working with Communities and Organizations
Who do we represent and how? What are our criteria for success?

- MCW, pp. 153-206

T, 11/10

Personal Identity, Role, and Values: Becoming a Lawyer, Staying Yourself, Part 1

Law school & professional socialization

- MCW, pp. 206-225
- *Note: Making Docile Lawyers: An Essay On The Pacification Of Law Students*, 111 Harv. L. Rev. 2027 (1998)

T, 11/17

Personal Identity, Role, and Values: Becoming a Lawyer, Staying Yourself, Part 2

The adversary system. How to stay committed to social justice when you join the system.

- MCW, pp. 225-270

T, 11/24

TBA

T, 12/1

TBA

T, 12/9

Making Access to Justice Every Lawyer's Issue

How can every lawyer work on ATJ issues, no matter where they work?

Ways in which work settings (judiciary, public vs. private; corporate vs. solo, etc.) interact with personal goals to shape what lawyers can do to further access to justice.

“Equal justice under law”. What role do courts play in access to justice? An examination institutional commitments and innovations.

- MCW, pp. 693-725