

Christian Legal Society National Conference 2025

Called to Do Justice: Examining the Mission of Christians in the Law

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CLE Outline and Materials

Copies of all of the Rules cited from the ABA Model Rules of Professional Conduct and sections of Professionalism Aspirations are included in the materials.

Part I: What Is Justice? Examining Legal Ethics and Christian Ethics in Cooperation.

1. What do we mean by doing justice? Consider some definitions.

- A. Augustine: “give everyone his due.” *City of God*, 951 (19.21).
- B. Aquinas also used this definition in his writing. See Martens, Matthew T. *Reforming Criminal Justice*, 51 and n. 38.
- C. Aristotle also described justice as giving others what is due to them, and divided justice into categories of corrective justice and distributive justice.¹
- D. John Rawls, perhaps the most influential philosopher in the 20th century on the subjects of justice and social contract theory, defined justice as fairness. He included the idea of equitable distribution of rights and opportunities in the category of justice.
- E. Summary:

Human philosophy has promoted various theories of justice. Some people equate justice with fairness. Some claim that a just society is one where there is a social contract between members who consent to be governed in a certain kind of political order. Yet others say that justice is achieved by laws that produce the greatest good for the greatest number of people. Another approach distills justice into fundamental principles that seek to preserve personal liberty and to minimize the adverse effects of social and economic inequalities. Other people believe justice is attained by the application of natural law, which is based upon virtue ethics.

Lugosi, Charles. “Justice as a Virtue” Feb. 10, 2025.

Reflection: In exploring secular and Christian traditions on doing justice, we necessarily must consider the division between what each person ought not to do to his or her neighbor (do not cheat, do not injure, do not deprive the other of what is due to him or her) and what each actively ought to do (how should I address my neighbor’s poverty or other disadvantage?).

¹ See Bix, Brian H. *Jurisprudence*. 9th ed. Carolina Academic Press 2023. 101.

2. Who is called to do justice? Lawyers have an ethical obligation to seek and to foster justice in their communities similar to the Christian call to do justice.

Biblical foundations for the responsibility of men and women to do justice on earth.²

- i. Covenant responsibilities (e.g., Genesis 9:1-7)
- ii. Community responsibilities (Jeremiah 22:3; Exodus 23:3, 6-7; see note.³)
- iii. Individual performance (Micah 6:8. “He has told you, O man, what is good; and what does the LORD require of you but to do justice, and to love kindness, and to walk humbly with your God?”)

Notice that justice is often prioritized in the Scriptures in consort with other moral obligations, especially mercy and steadfast love. Justice is not a concept that is pursued in isolation from other qualities, as if a society could be just without being merciful.

- i. “Thus says the Lord of hosts, Render true judgments, show kindness and mercy to one another, do not oppress the widow, the fatherless, the sojourner, or the poor, and let none of you devise evil against another in your heart.” Zechariah 7:9-10. *See also* Micah 6:8; Matthew 23:23-24; Luke 11:42.
- ii. Accountability: just like the religious authorities confronted by Jesus, law school professors, judges, and lawyers will also be held accountable for neglecting their most important responsibilities to prioritize justice, mercy and faithfulness just as others will be. Matthew 23:23-24.⁴

B. ABA Model Rules of Professional Conduct

Preamble to the ABA Model Rules: “[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.”

“[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered

² All quotations from the Bible are from the English Standard Version (ESV), Copyright © 2025 Crossway, unless otherwise noted.

³ “Thus says the Lord: Do justice and righteousness, and deliver from the hand of the oppressor him who has been robbed. And do no wrong or violence to the resident alien, the fatherless, and the widow, nor shed innocent blood in this place.” Jeremiah 22:3. “You shall do no injustice in court. You shall not be partial to the poor or defer to the great, but in righteousness shall you judge your neighbor.” Leviticus 19:15. “[N]or shall you be partial to a poor man in his lawsuit. ... You shall not pervert the justice due to your poor in his lawsuit. Keep far from a false charge, and do not kill the innocent and righteous, for I will not acquit the wicked.” Exodus 23:3, 6-7. “It is not good to be partial to the wicked and so deprive the innocent of justice.” Proverbs 18:5.

⁴ “Woe to you, scribes and Pharisees, hypocrites! For you tithe mint and dill and cumin, and have neglected the weightier matters of the law: justice and mercy and faithfulness. These you ought to have done, without neglecting the others. You blind guides, straining out a gnat and swallowing a camel!”

by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.”

“[7] Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.”

Rule 6.1: Voluntary Pro Bono Publico Service. “Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least (5) hour of pro bono publico legal services per year.”

Rule 6.1 then details how those hours should ideally be prioritized: service to those of limited means, organizations designed to address the need of those of limited means (not merely legal needs but other needs), and those “seeking to secure or protect civil rights, civil liberties or public rights[.]”

[In short, the aspirations of the legal profession prioritize serving those who do not have access to essential legal services and those who are working to improve the justice of the legal system for all.]

Reflection: We can easily recognize that we have an individual moral obligation to be just in our dealings with others (not cheating or defrauding them) and to avoid committing acts of injustice against others (not actively injuring them). However, the Scriptures and Christian tradition also recognize a community obligation to foster justice. The community is collectively responsible for the practice of justice or the neglect thereof. The ethical aspirations of the legal profession likewise call all legal practitioners to seek to improve the practice of justice in their communities.

Part II: The Importance of Structures and Institutions in Doing Justice.

Lawyers do not merely use legal systems to achieve certain results. They also contribute to building and preserving them. The way we structure and use a system can have effects over generations.

Professor Robert Cochran illustrates this point through the work of one of his former students, Jon Derby, who spent a summer searching through land records in Honduras to determine the property rights of indigenous peoples:

Jon's assignment illustrates that all sorts of law practice—including title searches—are crucial components of justice. Jon's title searches were not the only important business law work in these cases. Decades before, the Honduran business lawyers who drew up the original deeds were serving justice. Indeed, all the lawyers who took part through the centuries in building the land recording structure generated a system that can provide justice.

Robert F. Cochran, Jr. *The Servant Lawyer*, 47.

Reflection: Are we using the legal system in our various areas of practice in ways that contribute to the ability of future generations to effectively achieve justice?

Constitutional Law and Structures Created by Substantive Law

1. The Rule of Law – its foundations and its necessity for doing justice

- A. The Rule of Law is an essential foundation for justice. A society observing the rule of law is characterized by willful obedience to just laws that are rooted in truth, justice and righteousness.

For society to enact justice and preserve stability and order, it is necessary both that the laws be just and that people typically obey them out of respect for the rule of just laws.

- B. Inherently just moral laws – what is the ground of our agreement as members of society that these laws are just?
- C. Rule of Law contrasted with “Rule by Law.”

Contrasts societies governed by the Rule of Law (aligned with moral and divine principles) with Rule by Law societies (characterized by legal positivism and moral relativism).

Legal positivism has largely replaced moral and virtue foundations in the modern use of law. Legal positivism enables the use of law without regard to justice. This is better terms a “Rule by Law” society where whatever the government enacts as law or chooses to do with legal authority is expected to be accepted for its own sake.

Legal positivism and relativism imperil justice because the law can easily be used as a tool for any ends, without regard to virtues such as justice. Such a system without moral foundations for law tends toward exploitation and injustice.

- i. Justice is the defining characteristic in a society governed by the authentic Rule of Law. Injustice is the defining characteristic in a Rule by Law society. The evidence is found in the fruits of the legal system.

The fruits of an authentic Rule of Law society include the following traits:

Constitutional limits are placed on the power of government, to permanently guarantee and protect the inherent rights and freedoms of an individual's conscience and religion.

There is equality, so that no one individual or faction is above the law.

All human beings, at all stages of life, from conception to natural death, have equal absolute inalienable rights to life, liberty, to own and to enjoy property free from government intrusion and security of the person.

- D. Western societies claim they are morally superior to other societies because they believe their legal system adheres to the Rule of Law. They justify this claim by their belief in the theory that justice is attained thorough a fair procedure.

In these societies, the breaking of a law initiates a collective communal response to restore the societal harmony and balance through a process.

- i. If this process is fair, the result is perceived to be just.
- ii. The reality is that fairness is not enough. The process described above can wrongfully convict the innocent.
- iii. The wrongful conviction of a morally or factually innocent individual is unjust. If a critical step in the process is not rigorously followed, such as by diminishing the priority of searching for the truth, or suppressing evidence, then the process has only the form of justice, but not its substance. If the laws upon which prosecution is based are immoral and unjust, then unjust persecution occurs.

- E. In all societies, there are common universal behaviors that are globally rejected as repugnant and merit removal to protect the balance between freedom and public safety and security. One example of a wrong is murder, such as the killing of an innocent human being by another human being who seeks to personally benefit to achieve a selfish purpose. Another example of a right is self-defense, the killing

another human being to save an innocent human being from imminent harm or death.

Despite these occasional common elements, there are irreconcilable differences in Western societies that result in dysfunctional justice systems when legal positivism reigns supreme.

2. Due Process and Ethical Responsibilities

- A. Commitment to a system that seeks justice: Rules of professional ethics and the common law tradition recognize an institutional duty of prosecutors to seek justice in the process of the criminal law, rather than being focused only on winning cases.

ABA Model Rule 3.8 Special Responsibilities of a Prosecutor

Ethical duties of prosecutors reveal the objectives of the system – not convictions, but fairness and justice.

“A prosecutor has the responsibility of a minister of justice and not simply that of an advocate. This responsibility carries with it specific obligations to see that the defendant is accorded procedural justice, that guilt is decided upon the basis of sufficient evidence, and that special precautions are taken to prevent and to rectify the conviction of innocent persons.”

Comment 1 to ABA Model Rule 3.8 Special Responsibilities of a Prosecutor

Even from the institutional perspective, we note that prosecutors are not merely advocates but also “ministers of justice” charged with protecting the rights of the accused as well as the rights of the public. *State v. Bradford*, 618 N.W.2d 782, 798 (Minn. 2000) (quotation omitted); see *Adair v. State, Dep’t of Educ.*, 709 N.W.2d 567, 576 (Mich. 2006) (noting that attorney general’s office, as prosecutor’s office in which justices’ spouses were employed, operated under “traditional credo” that office prevailed when “justice is done,” not merely when it won cases).

In re William Allan JACOBS, 791 N.W.2d 300, 302 (Minn. App., 2011).

- B. Matthew Martens, in *Reforming Criminal Justice*, emphasizes the importance of due process as the means by which we achieve accurate outcomes in the administration of the justice system.
 - i. His discussion is focused upon the criminal justice system, but draws upon Christian tradition and the foundations of government authority in ways that apply to the legal system broadly. Romans 13:1-11.
 - ii. We cannot avoid the fact that the government must use force to retrain evil in many cases. Even the use of arrest powers or a sentence of jail time are

examples of using force. The government is authorized to use force to restrain evil. How shall such use of force be applied justly?

- C. Five principles for the operation of the justice system, grounded in love of neighbor and the government's obligation to be accurate in its use of force:
- Accuracy – make every effort to be accurate
 - Due Process – the means by which we aim for accuracy; each person must receive a fair and consistent process that uses all reasonable means to achieve accuracy.
 - Impartiality – the process must be overseen by those, such as judges, who will ensure the process functions as intended and is not manipulated or partial.
 - Accountability for the servants of the law – impartiality and ethical cooperation with the requirement of due process must be enforced in order to be dependable.
 - Proportionality (for example, the punishment should fit the crime)
 - Works both ways: punishment and consequences (accountability) that take the crime seriously, but don't abuse the person convicted by excessive punitive measures.

Consistency of process serves as a check upon abuse of power and unjust outcomes. We cannot guarantee an accurate outcome in every single case, no matter what approach we employ, but we can insist upon a process that uses all reasonable means to try to achieve accurate outcomes.

Enforcement of Private Agreements and Property Rights | Regulation of Industries

3. Justice as the Foundation: Law, Fairness, and Prosperity in a Nation

Legal systems can promote and achieve justice through tools such as contract enforcement, protection of property rights, and the regulation of market activity. Legal frameworks have affected market dynamics and societal outcomes - sometimes reinforcing justice and other times revealing structural shortcomings.

A. Justice as a Guiding Principle

- i. Let us look at the United States as a country embedded with the principle of justice. The concept of justice amongst the persons living on the land we call America was an integral part of their culture, both through human relationships and relationships with the land itself. *See*, Harvard University, The Pluralism Project, *Historical Perspectives, First Encounters: Native Americans and Christians*, https://pluralism.org/files/pluralism/files/first_encounters-native_americans_and_christians_0.pdf (2020).
- ii. Likewise, justice (or lack thereof) in Europe due to the rule and tyranny of monarchies, was a well-established part of the lives of persons fleeing from oppression and persecution in Europe. *See*, Martyn Whittock, *Mayflower Lives*,

2019. When indigenous persons first encountered the early Europeans fleeing oppression, these notions of justice formed the basis for their initial relationships. *See, Historical Perspectives, First Encounters: Native Americans and Christians*. The image of a welcoming Thanksgiving feast persists as a memory of the two cultures sharing and learning to ensure the survival of those inexperienced at living on the land.

- iii. So strong is this image of doing what is right and treating people equally that Americans have continued this tradition, making much of their economic consumer purchasing activity, pre- and post-Thanksgiving, a driver of their nation's economy. *See, University of Southern California, Marshall School of Business, A Q&A with Lars Perner on Black Friday Economics*, <https://www.marshall.usc.edu/posts/a-qa-with-lars-perner-on-black-friday-economics>.
- iv. Thus, justice was not an afterthought; it was a foundational concept embedded in the land and its people - both Indigenous and immigrant.

European perspectives on property rights, contract enforcement, and regulation of market activity were also brought and firmly established here. *See, Mayflower Compact, see also, Magna Carta*. We likely all have learned about the evolution of those early relationships and tragic harms experienced. While we have all studied the tragic evolution of these early relationships, what emerged was a legal adherence to English common law and a deep suspicion of royal and governmental tyranny. *See, e.g., Declaration of Independence; U.S. Constitution*, pmbl. It is worth noting that much of the Indigenous people's understanding of justice was lost in that process.

B. Justice as a Foundation for Law and Economy

- i. Classical economic theory, emerging alongside the establishment of the U.S., emphasized the importance of justice in economic transactions. *See, Adam Smith, The Theory of Moral Sentiments*, Part II, § II, Ch III, p. 86, ¶ 4 (1759) ("If [justice] is removed, the great, the immense fabric of human society . . . must in a moment crumble into atoms."). In Smith's, *The Wealth of Nations*, he further argued that free markets, guided by an "invisible hand," promote prosperity and fairness. *See, The Wealth of Nations*, Ch II, (1776).
- ii. While classical economists like Smith emphasized justice in economic life, articulating that it and freedom *enable* a flourishing market society, the country's lawmakers supported this school of thought by constructing, interpreting and enforcing legal frameworks to ensure that markets could operate. For example, early American courts developed and enforced contract law doctrines such as freedom of contract and consideration, which enabled private exchange and promoted economic reliability, thereby institutionalizing classical liberal ideas in U.S. law.
- iii. We are all familiar with *Lochner v. New York*, the U.S. Supreme Court case where hourly work-limit requirements for bakery workers were struck down. *See, Lochner v. New York*, 198 U.S. 45 (1905). This case is emblematic of the

Supreme Court's endorsement of freedom of contract as a constitutionally protected liberty, especially where economic regulations were deemed to interfere with private agreements, the emphasis being that it would not be fair to the parties to the agreement for the government to interfere. *See, Lochner at 53.*

- iv. This classical approach to economic regulation shifted during the Great Depression, as societal conceptions of justice evolved. *See, West Coast Hotel v. Parish*, 300 U.S. 379 (1937). This decision marked the end of the Court's strict adherence to classical economic principles and the beginning of greater judicial deference to legislative efforts to regulate the economy in the public interest. *See, Cass R. Sunstein, Lochner's Legacy*, 87 Colum. L. Rev. 873, 876-883 (1987).

Since 1937, the Courts' deference to a rational regulation in the public's interest has been a prominent feature of judicial interpretation. However, this deference has been in constant tension due to the rise of neoclassical economic theory. Neoclassical concepts - rational actors in the market, efficiency, and maximizing social wealth - found their way into evolving legal frameworks. *See, generally, Richard Posner, The Economic Approach to Law*, 53 Tex. L. Rev. 757 (1975). Posner and others extended neoclassical economic theory into legal discourse and scholarly work. Most notably, the U.S. Supreme Court embedded these neoclassical concepts into how agencies promulgated regulations.

- i. In *Chevron U.S.A. v. Natural Resources Defense Council, Inc.* case, the Court reviewed an Environment Protection Agency regulation that interpreted a term under the Clean Air Act. The Court upheld the agency's interpretation, holding that courts must defer to reasonable agency interpretations. *Chevron* at syllabus. Thus, while courts extended significant deference to judicial judgments made in the public interest, there emerged an implicit expectation - particularly in the domain of administrative regulation of economic activity - that agency actions be justified on economically rational grounds. *See, Chevron*. However, the recent overruling of *Chevron* reveals ongoing tension. *See, Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), overruling *Chevron* and holding that courts must independently assess whether agencies act within their statutory authority.
- ii. In *Loper Bright*, the Court appears to be shifting back to classical economic principles requiring explicit legislative statements to permit regulation of business relationships. This shift may reflect skepticism toward agencies' politicized decisions or recognition of neoclassical theory's limits in delivering justice. *See, Loper*, J. Gorsuch concurring, stating, "Today, the Court places a tombstone on *Chevron* no one can miss. In doing so, the Court returns judges to interpretive rules that have guided federal courts since the Nation's founding."
- iii. We are reminded of the well-known question posed in Micah 6:8, "What does the Lord require of you?" Does it say prioritize efficiency, act only in accordance with how rational actors would in the market? The answer is clear; the priority above all else is "[t]o act justly and to love mercy and to walk humbly with your God." Micah 6:8. When we feel tension towards that goal and realizing our

economic outcomes, we must yield to his Word, receiving the fruitfulness that it supplies as a result of obedience.

- iv. Likewise, Isaiah 58:6-10 tells us that we must carry out efforts to remove injustice. *See*, Isaiah 58:6-10, stating "Is not this the fast I choose, to loose the bonds of injustice, to undo the throngs of the yoke, to let the oppressed go free, to break every yoke . . . offer your food to the hungry and satisfy the needs of the afflicted." The words found in Isaiah also have a reward. *See, Id.* at v. 8-9. "[Y]our light will break forth like the dawn, and your healing will quickly appear; then your righteousness will go before you, and the glory of the Lord will be your rear guard. **Then you will call, and the Lord will answer; you will cry for help, and he will say: Here am I.** (emphasis added).
- v. If a reward is not enough, heed the words of Amos, the prophet when he denounced economic exploitation of the poor for gain. *See*, Amos 55:11-12. Justice must precede and serve as the basis of our economic decisions.

C. Justice and the Prevention of Redress of Exploitation

Let us turn our attention to where justice revealed structural shortcomings in the U.S. legal system and economic health of the nation. We can look at two well-known cases, *Plessy v. Ferguson*, 163 U.S. 537 (1896) and *Brown v. Board of Education*, 347 U.S. 483 (1954).

- i. In *Plessy*, the U.S. Supreme Court upheld state laws requiring racial segregation under a doctrine called "separate but equal". This decision institutionalized racial discrimination into every aspect of everyday life for all citizens. We are aware that the Court's decision had a substantial, negative long-lasting impact on its citizens in many ways, including economically. *See*, RSF: The Russell Sage Foundation Journal of the Social Sciences, Volume 7, Number 1, *Introduction to the Issue*, John A. Powell, Samuel L. Myers, Jr., Susan T. Gooden, February 2021, <https://muse.jhu.edu/pub/207/article/783892/pdf>, p. 2.
- ii. This decision was later overturned by the Court in its decision, *Brown v. Board of Education*, in which the Court declared that racial segregation in public schools violated the Equal Protection Clause of the Fourteenth Amendment. *See, Brown v. Board of Education*.
- iii. We see that the *Plessy* Court used the law to perpetuate injustice, and the *Brown* Court used it to rectify the harm. These cases highlight how legal doctrines have been tools for both reinforcing and redressing inequity.
- iv. The tension between justice and property rights - seen in the enslavement of human beings, isolation through segregation, and labor laws - shaped the country's legal and economic trajectory. *See, The Struggle for Equality - Abolitionists and the Negro in the Civil War and Reconstruction*, James McPherson, Princeton University Press, 1992. This tension continues to influence

how the nation interprets justice in the context of property, labor, business, and societal equity.

Biblically, we do well to remember 1 Corinthians 6:12, in which Paul, the Apostle, stated that "'I have the right to do anything,'" you say - but not everything is beneficial. 1 Corinthians 6:12 (NIV). His words are a guide to remember that laws must be tethered to justice in order to survive divine scrutiny. Slavery, segregation, and other racial codes were legal precisely because the notion of justice did not extend to all persons.

Part III: Doing Justice Where You Are: An Ethical Call to Action in Our Communities.

“Justice is a virtue, for it is foundational to interpersonal, intercultural, intersocial and legal relationships between human beings. Just behavior starts on an individual basis between two people, and exponentially increases when that just behavior permeates an entire society to create a justly governed nation state.” Lugosi.

1. How and Where Are You Applying the Call to Do Justice?

A. Who Needs Our Service Most?

- i. Although the Scriptures call for us to do justice fairly for everyone in society, it is clear that there is a special emphasis placed on being alert to the needs of the most vulnerable: widows, orphans, the poor, outcasts, children, etc.
- ii. Naturally, the most vulnerable are the ones who will feel the effects of injustice first and have the least ability to adapt or compensate.

“What may seem a minor problem to someone with a sustainable income can create a chain reaction of setbacks and losses for a person near the poverty line. Linda Tirado tells an all too common story of how being unable to afford a few hundred dollars to get a vehicle out of impound for a parking violation led to her and her husband losing their jobs and housing.” Bushnell, Anthony, “The Gospel for Legal Aid.” JOURNAL OF CHRISTIAN LEGAL THOUGHT (Winter 2017), citing Tirado, Linda. “Why Poor People Stay Poor.” *Slate*, Dec. 5, 2014. Available at: http://www.slate.com/articles/life/family/2014/12/linda_tirado_on_the_realities_of_living_in_bootstrap_america_daily_annoyances.html

- iii. The value of our work for people who are disadvantaged is enormous. Providing *pro bono* services and participating in legal aid can often make the difference between a client maintaining a job or housing or losing both. Sometimes even a few hours of legal advice and assistance makes all the difference.
- iv. Stability and meeting basic needs are crucial issues for maintaining other virtues and moral goods in society. People who lose their housing, lose their jobs, or suffer setback after setback when trying to establish a steady income

are often unable to focus on anything except sheer survival. William and Catherine Booth founded the Salvation Army because they realized the deprivation and instability among the people they were ministering to interfered with the deeper mission they wanted to share. The Booths even founded a legal aid ministry to help address the legal problems that often derailed those struggling for stability in their lives. Booth, William, *In Darkest England and the Way Out*, 218-224; see also Pickert, Kate. "A Brief History of the Salvation Army." *TIME*, Dec. 2, 2008. Available at: <http://content.time.com/time/nation/article/0,8599,1863162,00.html>

B. Whose Needs Are Already at Your Door?

- i. Moral proximity guides our ethical obligations: we cannot meet all the needs in the world, but we do have some ability to meet the needs in our local communities. Start with those around you in your city. See Martens, *Reforming Criminal Justice*, 64-69 (discussing moral proximity as an ethical guide to prioritizing service).

C. What about client interests in various areas of representation?⁵

- i. Lawyers often act not on their own behalf but on behalf of clients who direct the goals of the representation and choose the priorities they want to pursue. How does a lawyer's pursuit of justice function in the context of serving the interests of a client?

Can a lawyer advise a client against a goal or course of action simply because the lawyer believes it will cause other injustice?

ABA Model Rule 2.1: Advisor "In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to the law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation."

Rule 1.4(a)(2): must "reasonably consult with the client about the means by which the client's objectives are to be accomplished"

Rule 1.4(b): (explain matters to a client so they are enabled to make informed decisions).

What must a lawyer do if the client insists upon a course of action that the lawyer does not want the client to pursue?

Rule 1.2(a): "a lawyer shall abide by a client's decisions" and "shall consult with the client as to the means by which they are to be pursued."

⁵ All rules referenced in this section refer to the ABA Model Rules of Professional Conduct, Copyright © 2025 The American Bar Association.

Rule 1.2(b): “representation ... does not constitute an endorsement of the client’s political, economic, social or moral views or activities.”

Rule 1.3: Diligence (the lawyer must act with diligence about the representation; coupled with Rule 1.2(a), this would include diligence about pursuing the client’s goals and using the means approved by the client).

If a client’s requested course of action would be prohibited by ethics rules or other laws, or if the lawyer is otherwise unable to participate in that course of action because of a conflict of interest or moral objection, the lawyer must inform the client!

Rule 1.4(a)(5): must “consult with the client about any relevant limitation on the lawyer’s conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.”

Rule 1.7(a)(2): a “conflict of interest exists if” the representation would “be materially limited” by responsibilities to other clients *or* “a personal interest of the lawyer.”

Rule 1.7(b): (conflicts of interest prohibit representation unless competent and diligent representation can still be provided and the client gives informed consent confirming in writing).

A lawyer must refuse to engage in dishonesty or manipulation of the legal process and refuse to be complicit in behavior that violates criminal laws or may bring immediate violent harm to others. However, if no ethical rule or law prohibits the client’s choices then a lawyer must abide by a client’s decisions about a matter or withdraw from the matter.

Rule 1.2(d): (may not counsel the client or assist the client in any conduct that is criminal or fraudulent).

Rule 1.6(b)(1)-(3): a lawyer may breach confidentiality and reveal information learned from a client to prevent reasonably certain death or great bodily harm, or to prevent a client from committing crime or fraud and to mitigate financial or property losses stemming from the same.

Rule 3.1 Meritorious Claims and Contentions.

Rule 3.3 Candor toward the Tribunal

Rule 3.4 Fairness to Opposing Party and Counsel

Rule 4.1 Truthfulness in Statements to Others

Reflection: Where a lawyer has a moral conflict with the effects of a client's proposed course of action, it is entirely within the scope and aspirations of the ethical rules for a lawyer to discuss and reflect on the issues with the client and explore whether the lawyer and the client can come to agreement. This process of informing the client of a moral disagreement or ethical/legal limitation on the lawyer's services can be an invitation to reason together and develop a more just approach to a case. The process of laying out informed consent in writing may help clarify moral and ethical guidelines for the client's case, rather than simply ending in irreconcilable division.

2. Complications in How Institutions and Systems Are Used to Achieve Justice.

- A. The necessity of accountability.
- B. Some uses of organizational power or authority can be self-defeating if they undermine the ability of the institution to function effectively.
- C. C.S. Lewis emphasized that justice should also restrain people from abusing or manipulating systems in an unrestrained pursuit of outcomes at any cost:

“The most dangerous thing you can do is to take any one impulse of your own nature and set it up as the thing you ought to follow at all costs. There's not one of them which won't make us into devils if we set it up as an absolute guide. You might think love of humanity in general was safe, but it isn't. If you leave out justice you'll find yourself breaking agreements and faking evidence in trials ‘for the sake of humanity’ and become in the end a cruel and treacherous man.”

C.S. Lewis, *Mere Christianity*, 1952

3. Growing into Our Callings.

Justice is the responsibility of every lawyer and of every individual who seeks to live a righteous life. We are to defend the rights of the weak and powerless. We are to rescue the innocent. We are to protect the vulnerable and the oppressed. Proverbs 24:11. In doing so, we act in love with righteousness, and achieve justice, one case at a time, one day at a time.

Righteousness flows from being in a right relationship with God and with the people in your life. When God's laws and commandments are obeyed, we are then in a right relationship with God and others. The closer we come to obeying God's laws in our lives, the closer we come to mirroring the attributes of God. For all of God's ways are just, for he does no wrong, and he is righteous and true. Deuteronomy 32:4.

It is God's character which exemplifies the moral standards of righteousness, truth and justice. By drawing near to God, in communion with God, our acts of righteousness exemplify the virtue of justice. Genuine righteousness is more than just obeying the laws of God. Righteousness must flow from our inmost being, from our heart. Righteousness comes from our daily walk with God. When people choose to be separated from God and to follow their own desires, they risk walking a path of

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unrighteousness that ultimately leads to acts of injustice, which conflicts with God's laws and commands. Only genuine repentance and God's divine mercy, will restore those who are lost back to the path of righteousness.

God leads by example. God practices unfailing love, acts of justice and does right upon the earth. In these things, God has set his heart. Jeremiah 9:24 That is why the virtue of justice must be in the heart of all righteous human beings, and revealed by our actions, for faith alone will not make us righteous in the eyes of God. James 2:14-26.

Recommended Resources

Works on Pursuing Our Calling in the Law

The Lawyer's Calling, Joseph Allegretti. Paulist Press 1996. ISBN: 978-0809136513

The Servant Lawyer, Robert F. Cochran, Jr. IVP Academic 2024. ISBN: 978-1514007228

Just: A Journey into the Mercy of God, Brooke Jackson. Hosanna Revival 2025.

ISBN: 978-1-954053-51-9

That's Why They Call It Practicing Law, David B. Kempston 2017.

ISBN: 978-0578190211

Redeeming Criminal Justice: A Christian Proposal, Matthew T. Martens. Crossway 2023. ISBN: 978-1433581823

Bushnell, Anthony, "The Gospel for Legal Aid." JOURNAL OF CHRISTIAN LEGAL THOUGHT (Winter 2017).

Works on Discovering and Growing into Our Calling

The Call, Os Guinness

Strong and Weak, Andy Crouch