



Bringing Character to Life: Virtues in Law

AIDAN THOMPSON
ANDREW MAILE
with
DAVINIA RILEY



Introduction

The Jubilee Centre for Character and Virtues has sought to explore the place of character and virtues in professional education and practice through its 'Virtues in the Professions' research (2012–2020).

To date, the research has engaged more than 3,500 participants, across first year undergraduate students, graduates, and professionals with at least five years' of experience. The research considered the virtues important to teachers, doctors, lawyers, nurses, and business professionals, and emphasised the moral character and virtues of a person over any ethical duties or rules that are prescribed by a regulatory body. The research has considered each profession in its own right, as well as looking across the data for comparisons and contrasts between the professions.

The research has engaged students, lecturers, practitioners and regulatory and organisational bodies in reprioritising virtues in the training and practice of professionals. This booklet considers the practice of virtue in the law profession, summarises the key research findings, and looks at how and where virtue is being embedded in practice, or where more can be done.

The research that underpins this booklet is drawn from 966 law students and professionals. The aim of this booklet is to highlight the importance of developing professionals' abilities to authentically display and enact the virtues in the workplace that resonate with their

personal life. In prioritising the moral development of professionals, employers can move away from the limiting focus on technical skills and expertise, which absolve the opportunity for personal flourishing and a professional commitment that serves the greater good of society. The application of the findings to the workplace will be enhanced with a reflection from a leading authority in the field. It is hoped that professionals gain practical and actionable take-aways that will enrich their working lives by contributing to their professional purpose and sense of vocational flourishing.

'As a barrister, I am regulated by the Bar Standards Board (BSB), and they are the body responsible for dealing with barristers who fall short of the code of conduct, which can also be found in the BSB Handbook. This is the same with the Solicitors Regulation Authority for solicitors. However, the vocational course spends little time teaching the virtues of being a good lawyer and once in practice, demonstrating the virtues comes far more from experience, as well as being subject to your own personal judgement whilst working within the code of practice. The research is admirable in identifying the necessary virtues acknowledged by those within the legal profession.'

Davinia Riley, Barrister



Character and Virtues in Law

A traditional conception of a 'good' professional includes requisite technical competencies for the field **and** excellences of character, required for sound ethical decision-making (Carr, 2018).

Character encompasses positive emotional, behavioural and cognitive habits that motivate and foster human excellence (Kristjánsson, 2015). Virtues reflect intrinsically and morally good qualities that help guide ethically sound decisions and actions; examples include honesty, modesty and kindness.

Research by the Jubilee Centre has found that the moral virtues have been neglected in workplace settings over recent years, but that there remains an inherent interest in reinvigorating these for personal and professional good both by regulatory bodies and by pre- and in-service professionals themselves.

Whilst people are moved to pursue a career in law by the potential to create an impact in society, and to apply aptitudes for public speaking and problem solving, many of the participants in Jubilee Centre research admitted to being self-motivated by material benefits and status.

Research conducted by the Jubilee Centre in 2015–2017 asked 966 pre- and in-service law professionals to rank their most valued virtues, with regards to themselves, and to the 'ideal' professional. Participants were also given a series of moral dilemmas to respond to, and asked to justify their actions by way of sound reasoning.



Judgement

Fairness, honesty and judgement emerged as the top-ranked personal virtues among lawyers. Findings suggest that judgement is the most prominent character strength, and enables lawyers to balance tensions between role and autonomy, as well as tensions that arise between justice, fairness and finance.

Honesty is one of the most important virtues a lawyer must have. All lawyers are aware that their duty, above all else, is to the court. Although they have an obvious duty to their client, it is extremely important that the court is not misled, regardless of what your client informs you. If, for example, a client tells you something that is detrimental to their case, whilst you can still represent them, you must not put forward a version of events that you know not to be true. For student lawyers and in-service lawyers to acknowledge honesty as something that they hold personally dear to them indicates that those entering the profession understand the importance of being honest.

Davinia Riley, Barrister

The importance of virtues in law



Dealing with challenging cases and demanding workloads requires a range of virtuous behaviour including judgement, perspective and social intelligence.



Ethics education receives little attention in the curricula for undergraduate law students. At the vocational stage, ethics focusses narrowly on the application of professional codes of conduct. Thus, there is little opportunity for lawyers to cultivate context-sensitive ethical thinking.



Legal aid funding cuts and the associated absence of client power makes the need for good judgement and a sense of fairness more acute.

Barriers to virtue at work



There is a sense of anxiety and concern that business and finance pressures in legal practice are impacting on the prominence of virtues and professional ethics. The economic and commercial aspects of practice can lead to lawyers compromising on their ethical judgement.



The workplace is increasingly becoming the site where most legal ethics will be learned and experienced, and where the virtues of good legal practice will be acquired. Thus, neglect of virtue ethics in practice can weaken the professions capacity in responding to its moral role.



Rules and consequences do not empower the development of virtue-informed professional judgement. Rather, instrumental environments that endorse intense performance and financial pressures may corrode professionals' 'good' character.

There is a very strong sense of being virtuous at the Bar.

Davinia Riley, Barrister

Supporting organisational virtue



Empowerment and authenticity are assets to cultivate and nurture in the workplace. They enable individuals to express their personal character and virtues and require the purposeful fostering of individuals' character strengths.



Well-informed judgement requires 'good' character to be demonstrated and endorsed. The development of 'good' character leads to practical wisdom; this requires open-minded professionals who recognise diversity of circumstances and situations, and are thoughtful and decisive in their actions.

How does developing and embedding ethical codes of practice and organisational policies allow for positive virtuous organisational cultures?

It is important to have a framework within which to work that identifies the codes of practice one must adhere to. Without such codes, it is difficult to identify the necessary standard upon which to uphold a member of the legal profession. A framework also provides those who are in the profession with guidelines. Guidelines are important as

they identify the professional standards to which we should all adhere.

That said, developing a positive virtuous organisational culture relies on collegiality and experience. Adopting an 'open door' policy in the workplace is vital; members of chambers at all levels will often seek the views of their fellow colleagues



and it is important to know that you can count on the support of others. Asking others to share their experience about certain situations and dilemmas, and how they dealt with them, is invaluable as it allows for discussion on topics for which there may be no easy answer.

Davinia Riley, Barrister

Supporting professional virtue



Initial education and training programmes should develop and sustain motivations that relate to justice and fairness, so that these, and other virtues, can become embodied in professional life. Reflecting on ethical and virtuous legal practice are valuable elements to consider.



Emphasise and foster collaborations and collegiality. This often involves informal support such as mentoring, where junior colleagues can gain invaluable when senior colleagues act as role models and exemplars of professional virtue in the workplace.



Mentoring enables character to be taught and caught. In addition to setting an example, colleagues can share experiences of challenging ethical dilemmas they have faced, and considerations they weighed up in order to make a decision.

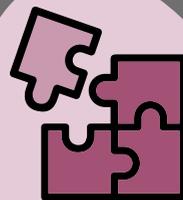


Colleagues who contribute valuably to the mentoring of junior lawyers should display exemplary behaviour and be properly recognised for their contribution and attributed the requisite status for the important role that they play.



Competition needs to be secured without price and exchange becoming the core values of the profession. Professional character and virtues must be viewed as no less important than financial profit and competitive advantage. This should be captured in internal communications, both formal and informal.





Have professional virtues been eroded in the work place?

There is a very strong sense of needing to be virtuous at the Bar. Your practice depends on your legal knowledge, persuasive argument, and your reputation before the judge and with fellow barristers. Barristers have a sense of pride in their reputations for upholding the law to the best of their abilities, therefore, having a reputation as one who does so with integrity is paramount. To have a reputation of being a barrister that was dishonest or lacked good judgement would be devastating.

How can they be reclaimed?

In short, focus on positive characteristics. When recruiting new pupils for our chambers, we always pose a moral dilemma which allows us to evaluate an application based not only on academic performance, but also on the virtues of being a 'good' barrister. I think there is recognition, certainly from a barrister's perspective, that good academic qualifications alone are not enough. It's important to have an equal emphasis on their character as much as their academic achievements. Having mentors who are accessible is important, as well as fostering an environment where new recruits or juniors feel there is somebody readily available for them to ask questions of.

Davinia Riley, Barrister

What are the most cited barriers standing in the way?

Becoming a lawyer is competitive. Being a lawyer is also competitive; whether it be solicitors competing for new clients, or barristers seeking to retain their instructing solicitors. As a result, solicitors and barristers are put under different but similar pressures, such as needing to bring in and retain business to generate income, build and maintain relationships, balance competing demands on one's time, and manage challenges around maintaining a healthy work-life balance. Not having the support of others, both inside and out of the profession, could easily lead to a decline in upholding professional virtues and standards in one's practice.

Final Comment

It is really important to focus on the grassroots of the profession: 'What does it mean to be a 'good' lawyer?' Identification of the core virtues of an ideal lawyer is important at all career stages, as this research has shown, but particularly for those training to enter the profession, so that they can get a sense of what will be asked of them. Enabling lawyers to create the time and space to speak to one another, and building relationships with those with more professional experience, either in their immediate workplace or outside of the workplace, can increase engagement with discussions of how the virtues are lived in practice. It is vital that this happens in a safe environment to help 'bring character to life' in the legal profession.

Davinia Riley, Barrister

Aidan Thompson is Director of Strategic Initiatives in the Jubilee Centre for Character and Virtues, University of Birmingham.

Andrew Maile is Research Fellow in the Jubilee Centre for Character and Virtues, University of Birmingham.

Davinia Riley is a Barrister at St Philips Chambers, Birmingham.



UNIVERSITY OF
BIRMINGHAM

Edgbaston, Birmingham,
B15 2TT, United Kingdom
www.birmingham.ac.uk

Designed and printed by

UNIVERSITY OF
BIRMINGHAM

creativemedia