

This article is dedicated to all the senior lawyers who have inspired and helped me. Thank you for your wise advice, for picking up the phone when I call and inspiring me with your selfless efforts, especially while doing *pro bono* work (and of course, who prefer not to be named). To all young lawyers, I hope you will be inspired as much as I have. I would like to share my experience with you.

Confessions of a Criminal Practitioner

Partners in Crime

For in the final analysis, our most basic common link, is that we all inhabit this small planet, we all breathe the same air, we all cherish our children's futures, and we are all mortal.

John F. Kennedy

In the context of this article, I would like to add to President Kennedy's quote – to my fellow brothers and sisters in the profession, as criminal lawyers, we all are on the same side. We are not likely to end up on opposing sides in a trial. In other areas of my work such as insurance claims and divorce matters, many a time, we do end up on opposite sides, and in contentious cases, it is often not the best platform to forge friendships with our fellow lawyers. In criminal matters, however, no such impediment exists thus allowing camaraderie amongst criminal lawyers. I am happy to say that in my experience as a young criminal lawyer, help is always available from the criminal Bar. And help can come while hanging out in the Bar Room or waiting for Pre-Trial Conferences or even when you least expect it. This was recently made most poignant to me by my experiences with three senior lawyers.

One evening, I was instructed on a criminal matter. The accused and his relative (who instructed me) were both from another country, and I was only told that the accused would be charged the next morning. However, there were some issues that I was not familiar with. First, I did not even know where the accused was held in remand! I then called lawyer A on his mobile. Although he was busy, he made time to talk. He gave me three numbers to call so as to find out where the accused might have been held. He also advised me on the sentencing range. The next morning, on my way to Court, I realised there might be an issue on bail

as the accused was a foreigner. When I walked into the Bar room, I saw lawyer B having his morning coffee. He readily gave me some useful advice on the bail issue.

I proceeded to Court 26 and waited, having been told by one of the officers that the accused would eventually arrive. After waiting in anticipation for one hour, I was informed that the accused was pleading guilty – in another Courtroom! I rushed upstairs. As I entered the correct Courtroom, the Statement of Particulars was being read to him and he was about to plead guilty. After introducing myself to the Judge, the matter was stood down for a few minutes. The accused informed me that he wanted to plead guilty immediately and did not want any further delay. I had to make an oral mitigation immediately. During mitigation, the learned Judge raised some issues which I did not have the answers to. Lawyer C, whom I hardly knew, was sitting next to me and knew my predicament. He scribbled some notes (a few times) during my exchange with the Judge that proved to be very useful. The accused received a fair sentence. I thanked lawyer C for his spontaneous and unsolicited help. His reply was apt, "No problem. We are all on the same side."

Crime and Punishment

A man was walking along a deserted beach at sunset. As he walked he could see a young boy in the distance; as he drew nearer he noticed that the boy kept bending down, picking something up and throwing it into the water. Time and again he kept hurling things into the ocean. As the man approached even closer, he was able to see that the boy was picking up starfish that had been washed up on the beach and, one at a time he was throwing them back into the water. The man asked the boy what he was doing, the boy replied, "I am throwing these washed up starfish back into the ocean, or else they will die through lack of oxygen.

“But”, said the man, “You can’t possibly save them all, there are thousands on this beach, and this must be happening on hundreds of beaches along the coast. You can’t possibly make a difference.”

The boy looked down, frowning for a moment; then bent down to pick up another starfish, smiling as he threw it back into the sea.

He replied, “I made a huge difference to that one!”

Author Unknown

What is the value of a person’s life? Does it depend on how rich or famous the person is? It would appear that, society, by and large, pays attention if you are either wealthy or well-known. Let me ask you another question. What is the value of a criminal’s life, especially someone facing the gallows? Is it worth anything? Is he worth helping?

I grew up in a small town called Taiping in Malaysia. In the 80s, when I was in secondary school, I had an experience which left an indelible mark on me. One day, after school, my friends and I were taking a carefree stroll towards a stall to have lunch. We had to cut through the local hospital to get there. The hospital facilities were very spread out, separated by narrow roads, open space and trees. As we were walking, suddenly we heard a honk from a young man on a motorcycle with an elderly Malay man as a pillion. It turned out that the rider was trying to get the elderly man to the emergency ward as he was very sick. However, the old man was frail and weak, and could not hold on to the man while they were riding. The motorcyclist stopped and asked us to help while he tried to get an ambulance. We helped the old man rest under a tree. He was breathing heavily and it looked like he was having a severe asthma attack. There were about seven of us watching and waiting anxiously for help to arrive. In a matter of minutes we witnessed the old man’s gradual loss of breath. His eyes looked weak and his mouth was half open. He was helpless, which matched our feelings – we were all helpless and did not know what to do. Shortly after that, he breathed his last. That was the first time I had watched someone die. Although the seven of us were from different backgrounds, at that moment, we saw something we will all inevitably face – death. We did not know the man’s name, where he lived or what his education level was – but we wanted to help him. We wished we could have done something to save his life. Was he a bad or good person? Was he rich or famous? It did not matter. I just wished I could have done something to make a difference.

This eye-opening incident was one of the reasons I volunteered to help a senior lawyer in a LASCO¹ case. I remember his words to me – “Let’s try to save his life”. Little did he know how much those words resonated with me. As criminal lawyers, we are well placed to make a difference in someone’s life. We will not be able to help everyone, but we can certainly help someone.

Crime Does Not Pay?

It is only with the heart that one can see rightly; what is essential is invisible to the eye.

Antoine de Saint-Exupery

Someone once quipped, “Obviously crime pays, or there’d be no crime”. In many criminal cases, the accused’s motivation to commit the crime is almost always because of money or something related to it. What should be the lawyer’s main motivation to help the accused? Should it always and primarily be about money? Perhaps we should find better and higher reasons.

What makes us human? It is our ability to be compassionate, to feel for others and to care. I believe, deep down, all of us desire to help others. There is good in all of us. What is stopping you? Is it time or money? Whatever it is, make that sacrifice. No matter how hopeless a case looks, you can make a difference. At the very least, you can care. To all the young lawyers who are hesitant about doing any criminal *pro bono* work* and are saying to themselves, “I don’t know much about criminal law”, please remember it is not really about your knowledge. As John C. Maxwell said, “People don’t care how much you know until they know how much you care”. What is essential is invisible but can be truly felt in the heart.

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*I shared my experience about doing *pro bono* work in my previous article “Confessions of a Pro Bono Lawyer” – Special Supplement to Singapore Law Gazette, July 2012.

Note

1 Legal Assistance Scheme for Capital Offences