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## Chapter Three: Understanding Current Models for Social Justice Lawyering and Considering Alternatives

Many lawyers use their legal education as a tool to promote social justice and impact society or their community. Perhaps you are reading this guide because you are interested in social justice and you are considering a law degree. You may even have well-defined interests and know exactly the group or issue you want to advocate for as a lawyer. Or you may have more general notions of using your legal education to “do good” and perhaps have greater economic opportunities. Whatever your interest in pursuing social justice work, you are now considering law school. Deciding to become a lawyer is a serious commitment that requires years of hard work and perseverance. While it is not an easy or inexpensive proposition, there is a large and increasing need for more [social justice lawyers](#). <sup>1</sup>



Becoming a social justice lawyer requires much persistence, flexibility, and creativity. While a small percentage of lawyers will work full-time jobs in the public sector in pursuit of their social justice interests, others committed to particular social causes or populations may create their public interest employment by starting their own law practices. Since not every lawyer who hopes to do social justice is equipped to start their own law practice or can obtain social justice employment, many lawyers contribute to social justice by occasionally taking on a case without charging the client for their services (which is called pro bono work) or making financial contributions to social justice causes. There are many paths to advance social justice and ultimately you will decide which one to follow based on your own financial and personal considerations.

To give you a better perspective about how you may want to think about your social justice career in the legal profession, this section offers a general overview of where lawyers work. It provides brief descriptions of the practice settings where lawyers advance social justice work and gives you a better sense of the availability of opportunities in those sectors. This section also introduces you to a few alternatives to law school that may allow you to advance social justice in the legal profession if you choose not to become a law student. There are many challenges and opportunities for social justice lawyers. Understanding more about where lawyers practice may help you determine whether law school is right for you.

## Lawyer Demographics

According to the American Bar Association, there were [1.3 million](#) lawyers in the United States in 2015. Despite the outcry about too many lawyers, that figure represents only 4% of the United States population. Nevertheless, there media has properly reported the difficulty new lawyers have in finding jobs in today's market. It is very competitive. But the practice of law is varied and diverse. Not all lawyers have the interest or the opportunity to devote their professional careers to advancing social justice. Approximately 75% of all lawyers work in private law firms;

8% work in private industry; 8% work in government jobs; 3% are judges; 1% work in education; 1% work in private nonprofits; and 1% work as public defenders or legal aid lawyers.

“If a student is contemplating going to law school, I would definitely recommend it as the legal hiring market is beginning to bounce back. Law is still one of the most fulfilling positions in the United States.” – Alberto, 2L

Much of what determines where a lawyer works depends on that individual’s personal preferences. A lawyer’s social and professional network is what largely determines the lawyer’s field of practice. Social and professional networks are largely influenced by where a lawyer attended law school, the socio-economic status of the lawyer’s spouse or family members, and the lawyer’s work experience. Lawyers interested in using their degree to advance social justice often have to weigh their professional passion against financial obligations to their family, education debt, employment prospects, and geographic preferences.

The personal considerations of a career as a social justice lawyer must be balanced with the professional fulfillment that accompanies social justice work. While there are opportunities to make a good salary doing social justice work, attorneys beginning their careers in social justice usually have smaller paychecks than their counterparts. Depending on your needs and your passion for social justice work, you may not consider it a sacrifice to earn a lower income to do the work you love. To help you determine what type of work you would feel comfortable undertaking, and to get a sense of the salary range that may help you meet your financial obligations, here we describe several social justice practice scenarios.

## **Civil Legal Aid & Public Defender Lawyers**

Much social justice lawyering can be traced to attorneys who work as civil legal aid lawyers or public defenders. These lawyers are funded by government and other public sources to represent

indigent individuals and vulnerable populations such as the elderly, the disabled and veterans. Legal aid lawyers address civil legal matters including housing, employment, domestic relations, public benefits, and consumer issues. Public defenders work to fulfill the indigent population's constitutional right to counsel in criminal cases.

Only 1% of all lawyers have the opportunity to work in these positions. They are highly coveted and difficult to secure given the few positions available. Their salaries start at about \$40,000 but can grow to over \$100,000. Since the primary funding source for legal aid and public defender offices is the government, there are many restrictions regarding the causes and clients that these lawyers can serve. For example, public defenders and legal aid attorneys are not permitted to file class action lawsuits because of governmental restrictions on the use of public funds. Additionally, and for the same reasons, legal aid and public defender lawyers are, with some exceptions, not permitted to provide assistance to individuals without legal immigration status.

Despite the governmental restrictions on the work, the need for public defenders and civil legal aid lawyers is great. Civil legal aid organizations receiving federal funding report turning away approximately 50% of the individuals who qualify for their free services. Public defenders report overwhelming caseloads and an inability to devote significant resources to their cases. Despite these challenges, lawyers who work in legal aid settings report high job satisfaction because they are able to assist those without any ability to hire a lawyer. If your vision of social justice is to help the most economically disenfranchised, working in civil legal aid or as a public defender may be the right path for you.

## **The Non-Profit Lawyer**

Aside from civil legal aid lawyers and public defenders, nonprofit organizations also hire lawyers to engage in social justice work. Nonprofit organizations are funded through grants,

private donations and often some limited government money. They are generally focused on one particular social justice issue such as education, health care, AIDS, etcetera. Nonprofit models are extremely diverse. Some nonprofits are very similar to government-funded legal aid organizations, providing free legal services to people in their target population (those living with HIV/AIDS, the elderly, immigrants, etc.). Some non-profits do very little direct client work and instead engage in policy-advancing activities such as impact litigation, lobbying, outreach and education. The range of nonprofit organizations that employ lawyers is too numerous to list but it includes entities that advocate on behalf of civil liberties, human rights, the environment, LGBT rights, immigrant rights, and a multitude of other social justice causes. Many of these organizations are located in larger cities such as Washington, D.C., New York, San Francisco, Philadelphia, Los Angeles, and Chicago.

The salaries of lawyers' who work in these organizations range from \$40,000 to \$90,000 and are primarily subsidized by foundations and individual donations. Executive directors and other high level administrators may earn above \$100,000. The salaries and availability of employment in these types of organizations depend on each organization's donor base. Lawyers who work in these settings should expect to engage in fundraising activities and donor solicitation as a component of their jobs. Only 1% of all lawyers work for private nonprofit organizations. These lawyers similarly report finding great fulfillment in their work.

## **The Government Lawyer**

Some lawyers find opportunities to engage in social justice work in the government sector. While not all government jobs for lawyers advance social justice, there are many opportunities in this field to advance public policy interests. Federal, state, and municipal governments all hire attorneys to develop and implement laws that preserve the safety and well-being of our society. Government offices employ lawyers to enforce laws in the offices of the

state attorney general, the county district attorney and the city attorneys. Government lawyers also include policy makers, legislative aides, lobbyists and politicians. Administrative agencies similarly involve lawyers who investigate cases, represent families that come into contact with the foster care system, assist the elderly as conservators, and advocate for workers for fair wages.

Many social justice advocates find meaningful careers in the government sector. Government lawyer salaries largely depend on geography and the type of government entity who is the employer. The federal government reports salaries as low as \$20,000 and as high as \$155,000. Government employers have traditionally provided consistent work schedules as well as desirable health and retirement benefits. Approximately 8% of lawyers work in the government sector and report less career transition than civil legal aid lawyers or public defenders. In the last few years, governments have experienced layoffs, however, these jobs are still considered more stable.

## **The Plaintiffs' Lawyer**

Some of the most financially successful social justice lawyers are plaintiff lawyers who primarily represent an individual or a group of individual clients against corporate or government interests. They are able to do so and maintain a private, rather than a non-profit, practice because they bring actions using laws that require the losing side to pay attorney's fees to the winning side. Common areas of practice for these lawyers include employment discrimination cases, consumer cases, special education cases, civil rights cases, social security disability income cases and worker's rights cases.

The income of these lawyers is largely determined by each lawyer's expertise, the financial viability of the defendant and the lawyer's client volume. Interviews with such lawyers reveal that in a good year, an attorney can produce enough income to sustain a law practice through months without income. The salary range for plaintiff lawyers is not documented in the

aggregate but reports of attorney's fees awards indicate that a plaintiff's lawyer can earn \$0 to millions of dollars each year.



These lawyers generally operate their practices by suing defendants under statutes that provide that the losing party will pay for the attorney's fees of the prevailing party. Since these cases require a high investment of time and money from the law firm, these lawyers generally offer their services only in cases with a high likelihood of success. This is particularly true if the attorney offers to take the case on a contingency fee basis. In contingency fee cases, the attorney gets paid only if she wins the case. These types of cases often can have high payouts, but the judgment can take years to collect.

If your vision of social justice is to use the law to represent individuals against more powerful interests and you can budget for infrequent attorney fees awards, then becoming a plaintiff's

lawyer may be a career track to consider. If you, the nonprofit you work for, or your client are not able to finance such litigation, this may not be the best practice setting for you.

## The Community Lawyer

Another practice setting in which you can pursue social justice goals is working independently as a community lawyer. “Community lawyering refers to the work of a public interest lawyer who works primarily at the intersection of law and organizing and who views her or his work as reflecting the needs and interests of a particular community.”<sup>2</sup>

Also called “cause lawyering,” community lawyering is a vital means by which justice can be promoted. Examples of active community lawyers include [Bryan Stevenson](#), who advocates in the criminal justice system and [Luz Herrera](#), who is committed to provide legal service to individuals of modest means.

Community lawyers offer affordable legal services to the average legal services consumer. Many individuals who do not qualify for free legal services or who cannot find a lawyer to take on their case on a contingency fee agreement still need a lawyer but cannot afford a lawyer at market rates. The community lawyer offers more affordable alternatives to legal services consumers. Community lawyers advance the delivery of legal services to populations that otherwise could not hire them is by limiting the scope of their services and/or lowering their rates.

### *Unbundling Legal Services*



Unbundling legal services refers to an attorney's agreement with her client not to engage in full service representation, but instead to limit the scope of the relationship. In an unbundled legal services scenario, a lawyer may still charge the market hourly rate but instead of taking on the entire case, she will agree to attend only a three-hour court hearing or only to prepare documents and not take on the entire case. In an unbundled relationship, attorneys must work closely with their clients to ensure that the client is able to represent herself when the attorney is not engaged. Proponents of unbundling warn that this limited engagement merely narrows the scope of the attorney-client relationship; it does not limit the lawyer's fiduciary obligation to his client. Unbundling legal services has become especially popular in the family law context, where most litigants represent themselves but may consult with lawyers for legal advice to prepare their pleadings or make court appearances as necessary.

### ***Low Bono***

Attorneys who wish to take a greater role in their clients' cases may make their services more available by offering "low bono" rates. Low bono rates refer to a legal fee charged by an attorney that is lower than the market rate. This fee can be hourly or fixed, but the main characteristic of low bono is a reasonable rate for both the lawyer and her client. If priced right, this type of arrangement permits clients to have greater access to the professional services of a lawyer. What constitutes a low bono rate will vary based on the market but it generally represents a rate that is at least 40% lower than the prevailing rate.

Community lawyers employ low bono and unbundled legal services to serve low- and middle-income clients who do not qualify for legal aid but who cannot afford market rates for legal services. These individuals who need lawyers generally earn \$8 to \$25 per hour. These community law practices are designed to better serve the needs of populations who cannot pay market rates but doing so does require difficult balancing between increasing access to legal services generally and developing a viable law practice. A community lawyer will advance social justice by making law more accessible, but she must also develop a business plan that will allow her to make a living.

If you are entrepreneurial, have an interest in increasing access to legal services for a specific community, and are happy maintaining a modest income lifestyle, a community law practice may be a good setting for you. These particular practices work well for lawyers with ties to immigrant or other underserved populations. While self-employment can be a more difficult path than working in a job that generates a consistent paycheck, the opportunities to engage in social justice work as a community lawyer are limitless.

## The Pro Bono Lawyer

Private and government sector lawyers whose daily work does not focus on social justice work may nevertheless find fulfillment by engaging in pro bono work. Pro bono refers to the delivery of legal service to a client without charging a fee. It is different than the free work provided by legal aid and public defenders because it is the law firm and not the public who subsidizes the cost of the work for the client.

All lawyers have the option to offer pro bono legal services if they wish. The American Bar Association recommends that every lawyer devotes 50 hours to pro bono work per year. Recently, New York and California recently instituted pro bono hour requirements for bar admission. While lawyers are not required to offer pro bono work, many bar associations, law

schools and other institutions in the legal profession acknowledge pro bono contributions by providing special recognition to attorneys who donate their time.

The type of pro bono work that attorneys take on often depends on the attorney's personal preferences and the law firm's ability to subsidize the work. Attorneys employed by large law firms who can afford to subsidize pro bono work, may take on larger cases such as class actions or more complicated litigation. Most attorneys in large law firms take on pro bono work only after meeting their law firms' billable hour requirements. Law firms with smaller budgets may not be able to subsidize pro bono or may take on more cases that address personal legal service needs.

Pro bono work has advanced numerous social justice causes, but law firms and lawyers also utilize the work as a marketing tool. Many large law firms co-counsel complicated cases with nonprofit organizations or civil legal aid organizations. Good press about successful pro bono work makes business sense for many law firms that receive a great deal of attention for advancing a social justice cause. If your personal preferences or economic needs lead you to employment in a private law firm, consider engaging in pro bono work to advance social justice.

### **The Law School Alternative**

If you are determined to be a social justice lawyer but are still unsure about attending law school, you may consider an apprenticeship or a study program in a law office or judge's chamber that leads to bar admission. The states of California, Maine, New York, Vermont, Virginia, Washington, and Wyoming allow prospective lawyers to sit for the bar exam after working under the supervision and mentorship of an experienced lawyer with good standing in that state.



The requirements vary by state. The California program requires that a lawyer with at least five years of work experience and in good standing commit to teach and mentor a prospective lawyer for a period of four years. That sponsoring lawyer must make periodic reports to the admissions committee as they request. In addition to passing the moral character determination and meeting other criteria that law students also have to comply with, the prospective lawyer must pass a first-Year Law Students' Examination before being allowed to continue in the program. If the prospective lawyer satisfies all requirements and passes all the pre-admission tests, he is allowed to sit for the bar exam. The law office or judge's chamber program may be a way to bypass law school but it is also important to recognize that at least in California, such programs produce fewer lawyers who pass the California bar than do ABA-accredited law schools.

Still, the law office study program may be a viable option primarily for individuals who cannot afford to stop working full-time. These law study programs tend to be viable options for individuals who live in remote areas or who are already immersed in the legal field and have a strong network of mentors. These mentors must be committed to teaching the prospective lawyer not only how to pass the bar exam but how to become competent lawyers. The key to success in these types of programs turns on the commitment of both the prospective lawyer and the attorney

sponsor. If you have decided not to attend law school but still want to become a lawyer, the apprenticeship or law study program may be worth exploring.

### **The Lay Advocate**

There is a great need for lawyers to engage in social justice work. However, if you choose not to pursue a law degree, consider looking into government agency rules that allow lay advocates to provide limited legal assistance to individuals. Some of the administrative law areas where lay advocacy is common include immigration, tax, public benefits and workers' rights. Some states also license brokers to handle real estate transactions and legal document assistants to complete paperwork in areas of family law, evictions and bankruptcy. With some exceptions, these advocates are not conferred the full benefits of being a lawyer who can practice law before any tribunal within her jurisdiction. Most are limited in their function by unauthorized practice of law statutes.

However, recently the state of Washington introduced Limited Licensed Legal Technicians (LLLT). As of the Fall of 2014, these LLLTs will be allowed to provide legal advice and assistance to legal services consumers. The current program limits the LLLT's work to family law but anticipates permitting these limited licensed individuals to practice in additional areas as this program moves beyond its pilot period. Washington is currently the only state offering such a program but the American Bar Association and other states are currently considering similar alternatives. It is unclear how far limited license practices will evolve in the coming decade but we know that the reach of such a license will always be more restrictive than that of a lawyer.

Whether research or pure luck brought you to this guide, it is important that you know there are various practice settings in which social justice conscious lawyers practice. Your task is to

continue to seek out more information on these different practice areas by finding attorneys in your community who you can talk with, observe, and perhaps even shadow for a few days. As you prepare to think about a career as a social justice lawyer, you might also review the requirements for bar admission in the state where you intend to practice. After all, our communities need more accessible social justice lawyers.

*Notes:*

1. 1. William Quigley, William Quigley, [Letter to a Law Student Interested in Social Justice](#), DePaul Journal for Social Justice, Volume 1, Number 1, Fall 2007.
2. Community Lawyering and Pro Bono Service, Cutting Edge Law,  
<http://www.cuttingedgelaw.com/page/community-lawyering-and-pro-bono-service>