

Misconceptions about Lawyers

Not sure when and how the bad reputation of lawyers started. And why, of all professions, does it seem to be one of the most ridiculed, for example, through those unending lawyer jokes?

Recently, this unflattering reputation was again highlighted on at least two occasions. The first is through a cover story in MacLean's magazine entitled, "Lawyers are Rats" featuring an interview with Philip Slayton, a former Bay St. lawyer and law school dean who wrote a book on the negative side of the profession, citing a handful of cases where lawyers were actually held liable for their unprofessional conduct. This understandably raised the ire of many lawyers and lawyers' organizations, who maintain that there are a few "bad eggs" in any profession, and thus should not be used to characterize the entire "basket".

The second is a speech delivered at a recent national conference of lawyers decrying a "crisis in the legal profession" for its growing inaccessibility to the majority of the population. While the ultra-rich individuals and corporations can easily afford lawyers, and the few low-income people who meet the unrealistic legal aid financial cut-offs are able to obtain legal aid certificates, the huge middle income population are still left unable to afford lawyers because of the perceived exorbitant cost of legal services.

Aside from airing my personal views on this matter, I wish to avoid sounding defensive on behalf of my fellow lawyers. Rather, this is simply meant to help clarify some misconceptions about the legal profession and hopefully assist in finding some solutions (as I also agree that problems do exist).

For instance, it needs to be emphasized that lawyers are bound by very strict rules of professional conduct. These include guidelines on how to deal with clients, colleagues, co-workers, judges and the public. Any violation of these guidelines or code of ethics is a potential ground for being administratively sanctioned by the Law Society. The fact that lawyers' actions are monitored by a regulatory body provides an extra layer of protection for the public who use the services of a lawyer. It also serves as some kind of an assurance that lawyers will think twice before doing anything that will prejudice their hard-earned license to practice the legal profession.

We also know that lawyers have gone to school for many years, spending precious time and money to be trained and to master their craft. Many lawyers may not only have their undergraduate and law degrees, but are also likely to have taken additional post-graduate studies and numerous continuing legal education courses. On top of these, they are required to pay professional and organization membership dues, professional liability insurance premiums and other fees required to practice the legal profession. So the next time you complain that a lawyer charges too much, it would perhaps help to remember some of these cost factors in the life of a legal professional. I do not mean of course, to justify the exorbitant rates that admittedly some

lawyers charge. However, there also needs to be some recognition that not all lawyers are earning megabucks but that there are many, for instance, who are still struggling to pay-off student loans years after they have graduated from law school. With respect to legal fees, many lawyers are considerate enough to adjust their rates or be flexible with payment terms, in accordance with the client's ability to pay.

Pro bono services are of course very much an integral part of the legal profession. These are provided by most, if not all lawyers in various ways: by rendering free legal advice or representation, by volunteering in the community, by taking active part in various political and social campaigns, etc.. For most, it is a way of paying back to society, especially if already gainfully employed and are able to render free legal services outside of their full time jobs.

Another little known aspect of legal services is the lawyer-client privilege. This means that when a lawyer-client relationship is established, communications between the lawyer and the client are treated in full confidence. Nothing can be disclosed to anyone unless the privilege is waived or the client expressly consents. There are a few exceptions to this principle however, such as when the communication is used to facilitate a crime. It must be noted as well, that lawyers are independent from the government (unless of course, they are employed by the government) or any other institution mandated to implement the law. Know therefore, that when you consult a lawyer, your personal information is protected by this rule of confidentiality.

Lawyers are generally good people. Many of them went to law school burning with idealism and zeal to uphold justice and to make a difference in society. But like any human being, they have their weaknesses as well as their strengths. Their perspective and way of doing things are also greatly influenced by their life experiences.

Let us then rest assured that there remains a whole lot of lawyers who are trustworthy, competent and passionate about upholding justice and the rule of law. They are far from being "rats" or "sharks" as those nasty lawyer jokes often portray.

Yes, jokes are simply meant to cheer people up rather than be taken seriously – but it is a whole different matter if they are used to propagate stereotypes and effectively dismiss the valuable contributions of an otherwise noble profession.

The author would also be interested to hear your views on this matter and may be reached at mdsantos@osgoode.yorku.ca.