

# My Life in the Law and its Management Challenges

*As a lawyer involved in litigation, Peter Crossley shows how Christianity has profoundly shaped our law, notably the idea that the weak, poor and marginalised have inherent dignity and are entitled to equal treatment under the law. He commends Mediation as an alternative to the Courts, with humility by both parties hopefully leading to an amicable resolution. He advocates the modern management practice of servant leadership as exemplified by Jesus.*

## Introduction

Let me begin with a bit about myself. I was born and brought up in what was then apartheid South Africa. My parents were both English, my father being from Yorkshire and my mother from Epsom in Surrey. My father was medically advised to emigrate to a warmer climate having been badly wounded, and a German Prisoner Of War, during World War Two.

I was sent away to a Methodist boarding school in Kwazulu/Natal, at that time a strict disciplinary institution if ever there was one. However, during a mission at the school run by a remarkable organisation called Africa Enterprise – led by an equally remarkable man called Michael Cassidy – I came to faith in our Lord Jesus Christ. I like to believe that he has been my guiding light ever since.

I came to university in England in my mid-20s and have long outstayed

my welcome since then! Having read law, I went on to qualify as a solicitor working for a good number of years for a firm in the City. In the early 1990s my wife and I decided on a complete change – we ‘emigrated’ to Yorkshire. I joined a firm initially in Bradford and then moved to its Leeds office. From about 1998 I was asked to spend more time in the firm’s London office and so began an almost weekly commute from the North, which has continued ever since. I became the head of the firm’s litigation or disputes practice and in 2004 its Managing Partner. In 2010 I led our firm into a merger with a mainly US law firm and became European and Middle East Managing Partner of the combined firm. I stepped down in 2016 and returned to the coal face, working for clients in the firm’s international arbitration practice.

## The Practice of the Law and Litigation

In his profound and groundbreaking book, *Dominion*<sup>1</sup>, distinguished

historian Tom Holland records the story of the Christian faith in what has come to be known as the West. Holland explores the development of Christian convictions and how the Western world has come to be predominantly shaped by that world, specifically the belief that all people are of equal and infinite value to God. Some have considered that we are the inheritors and successors of Roman and/or Greek thinking but Holland claims that is not entirely the case, because of the Christian revolution across the last 2,000 years. Christianity has profoundly shaped the moral and cultural foundations of the Western world, even in ways that secular societies often overlook or deny. We in the West are like fish swimming in Christian waters, whether we realise or accept it or not. Holland argues that Christianity introduced radical moral concepts that overturned ancient norms – such as the idea that the weak, poor, and marginalised have inherent dignity.



Kearnsey College Methodist boarding school  
Photo: Zululand Observer



I beseech you, in the bowels of Christ, think it possible that you may be mistaken.

Oliver Cromwell, writing to the General Assembly of the Church of Scotland, 1650

Picking up on Tom Holland's thesis, the development of what we generally refer to as the English common law, which was significantly altered in the centuries following the Norman invasion, was profoundly influenced by the Christian faith and principles – not least by the import into our law of so called equitable principles, such as the Christian principle to temper justice with mercy, not strictly applying the law if injustice will result. Centuries earlier, it was the great Roman lawyer and politician, Marcus Tullius Cicero, who once wrote: *"We are the slaves of the law in order that we may be free"*, a statement which captures the essence of what the purpose of the law in society should be about.

I have spent a lot of my life working in the area of civil disputes. Our legal system and procedures are designed to ensure a level playing field between litigants, everyone being subject to the same rules. Sadly, and particularly in recent decades, that playing field has been distorted by those who have money to spend on lawyers and those who don't, with legal aid being insufficient to redress the imbalance for the majority of people.

It was once said that diplomacy is the pursuit of war by other means. Well, in essence litigation is the peaceful pursuit of legal entitlement through an agreed third party mechanism, i.e. the Courts or by way of agreed arbitration.

## Alternative Dispute Resolution and Mediation

I want to concentrate on what is a relatively new form of dispute resolution process loosely called Alternative Dispute Resolution, which has formed an important part of my practice in recent years. The alternative process referred to is that instead of going to court or arbitration one follows a form of structured negotiation, often led by a neutral third party called a Mediator. This process could just as accurately and more positively be called Negotiation Dispute Resolution, a title favoured by our present Master of the Rolls, Sir Geoffrey Vos.

Mediation is a voluntary, confidential process used to settle a dispute between two or more people, or organisations. The Mediator appointed by the parties to the dispute is an independent and impartial third person, whose role is to help the parties talk through the issues, negotiate, and come to a mutually agreeable solution. Unlike a Judge or Arbitrator, the Mediator has no authority to force the parties to do or agree anything. Crucially, the parties remain in control of the process, all of which is without prejudice and 'off the record'. You can mediate before taking legal action or while legal action is ongoing.

In many disputes, each side spends hours of negotiation preparation

building their respective positions, negotiation strategies and understanding of their own cases, all of which is vitally important. However, often too little effort is expended on challenging one's own position and its premises, let alone on seeking to develop a real understanding of the other side's. An ability to challenge one's own beliefs rather than only seeking to confirm/affirm them is a key part of negotiation preparation, the objective being to innovate and expand options and ideas for a resolution with the opposing side. Mediation presents an opportunity for each party to do this.

Closely allied to this is the importance of: (i) avoiding entrenched positions and focusing too much on the 'who's right and who is wrong' principle; (ii) commercial and legal preparatory work for the talks that follow; and where applicable (iii) acknowledging the objective of safeguarding commercial relations and seeking to avoid arbitration/litigation (if possible).

The belief and conviction in your own case can lead any party to forget that the other side hold an equal conviction in the merits and worth of their own case. Understanding the other side's viewpoint of their case will assist concentrating on the real issues at stake. The Christian faith encourages a humility which makes us prepared to admit we may be wrong or that there can be some strength in another's

position. Of relevance is 1 Peter 5:5: *"And all of you must clothe yourselves with humility in your dealings with one another, for God opposes the proud, but gives grace to the humble."*

In order fully and properly to prepare for any negotiation, whether taking place directly with the other side, or in some form of more structured process such as a contractual negotiation exercise or a mediation, this is the frame of mind clients and lawyers need to develop. It's really about preparation for dialogue, not adversarial battle. In either court litigation or arbitration, developing a strong partisan opinion is vital if one is to prevail in such process, where there is going to be a definitive determination in respect of each side's arguments. By contrast, in any negotiation including mediation there is not at any point going to be any such decision-making on the issues by anyone. Accordingly, there comes a point in negotiation when each side needs to put the factual and legal merits to one side in the interests of focusing on what is required to resolve and settle the dispute.

Ultimately, there is the prize of the resolution of the dispute in a timely and efficient manner which can benefit all parties involved. It is difficult to find any party who does not prefer a dispute to be at an end at the time of their choosing – rather than continuing on to trial or an arbitration hearing

in accordance with a timetable set by others. Negotiation places the power to make the crucial decisions in the hands of the decision-makers rather than the court or arbitral tribunal. The fundamental point is that negotiators are in control and manage their risks themselves, even when they appoint a Mediator or neutral third party to assist them with their endeavours.

It is unfortunate that the word 'compromise' has developed a negative association with perceived weakness and/or with not standing up for one's principles/values etc. Compromise is an entirely worthy objective developed as part of an overall negotiation strategy. In a message directed at young people, emphasising the value of practicality and wisdom while staying true to one's beliefs, President Barack Obama once explained: *"There are times where compromise is necessary, even whilst holding on to what you believe. That's part of wisdom ..."*. Compromise can often mean agreeing to disagree in relation to key components of the dispute, whilst nevertheless managing to conclude a settlement agreement.

In the greatest sermon ever preached, Jesus states a preference for the settlement of disputes rather than going to court. *"Settle matters quickly with your adversary who is taking you to court. Do it while you are still together on the way, or your adversary may hand you over to the judge ..."* (Matthew 5: 25)

## Management in a professional services firm

As I described above, I was privileged to spend 12 years in a relatively full-time management role. As is the case in many businesses, including ours, achieving success is mostly about the management of people – how you recruit them, look after them, and help them develop their careers.

Management guru Peter Drucker once said that whereas management is about doing things right, leadership is about doing the right things.<sup>2</sup> The old approach/style of management 'command and control' does not work any more and true leadership, as exemplified by Jesus, is ultimately about the service of others. In the Greco-Roman culture, humility and service were not considered virtues. Leadership was associated with power, dominance, and status. The idea of a leader serving others was counter-cultural and even seen as weakness.

Jesus introduced a new paradigm of leadership based on servanthood, humility, and sacrifice. He taught that 'the first shall be last' and modelled this by washing his disciples' feet and ultimately dying on the cross, the most humiliating form of execution at the time. His actions redefined greatness – not as being served, but as serving others. (See Mark 10:43–45).



Jacopo Robusti (Tintoretto), *Christ Washing the Disciples' Feet* (1548–1549), Museo del Prado, Madrid

Photo: Wikipedia

Jesus' teachings laid the foundation for modern leadership principles that value empathy, humility, and service. This shift influenced Western leadership ideals, where servant leadership became a respected model. Jim Collins' book *Good to Great: Why Some Companies Make the Leap... and Others Don't*<sup>1</sup> is widely regarded as a leadership and management classic. Collins explores how companies/firms can transition from being merely good to truly great — and sustain that greatness over time. He emphasises that great companies are led by what he terms as 'Level 5 Leaders' — individuals who combine deep personal humility with intense professional will. They're ambitious for their company, not themselves. Collins's approach is entirely consistent with the leadership model and style laid down for us by Jesus.

In business, you have to bring people with you and at least achieve a consensus concerning overall strategy if not complete unanimity. This is particularly the case in a professional services firm in which all of the shareholders (partners) work full-time in the business. Building an environment in which effective teamwork and collaborative working are second nature and embedded in the culture of the organisation is a significant part of achieving success. 'Is he or she a good team player?', with all that that implies, is a relevant question for everyone in the organisation — from the most senior people to the more junior. Aiming for as flat a structure as possible, rather than unnecessary management hierarchy, in which the views of all are respected and taken into account, is what in my experience will materially assist any firm to become a great place to work and thrive.

Jesus spent a large part of his ministry explaining the nature and extent of his revolutionary Kingdom. I once looked through scores of websites of companies/firms in different sectors seeking to understand how they each described their values/cultures. 'We are a people business in which we encourage respect for all', or some such assertion, is commonplace. Remarkably, I could not find one whose message is inconsistent with the principles, values and 'code' which Jesus set forth for us. Whether each such business, or indeed any of us, acts consistently with those principles is another matter — but the essence of what Jesus laid out for us makes sound business sense. In the right supportive environment, with ongoing appraisal and with proper encouragement, people thrive and develop as key members of the business.

### **'People do not leave businesses or organisations. People leave people.'**

The culture of any organisation inevitably depends on its management and those with the greatest responsibility. The behaviours of the senior leadership team shape what is acceptable. If one wants a values-driven organisation, which every business claims it does, the whole approach must be set from the top down — and consistently.

The toughest part of leadership for me as a Christian was and is the necessity sometimes to take tough and difficult decisions concerning people. Whenever that is required, and whilst such challenging decisions have to be made, my objective is to seek to implement the decisions in the most generous and sympathetic way possible. My Christian faith definitely assisted in these challenging situations, helping to develop sound, though unfortunately not infallible, judgment. Inevitably I made mistakes. On two separate occasions I went against the view of an individual's line manager, deciding

that the person concerned should be given another chance. On the first occasion I was proved right, but on the second seriously wrong!

I have always regarded the nature of the relationship between the individual and the organisation he or she works for as being akin to a joint venture, in which each 'side' brings something to the equation. So that when that relationship breaks down it is almost always the fault of both. Too often the attitude of those within the business is immediately to claim: 'He/she is useless' etc, whereas the reality can often be that the business bears plenty of the blame.

Whenever it is the employee who wishes to leave, getting to the bottom of why that has happened can be crucial to learn lessons. In my experience, people do not leave businesses or organisations. People leave people — so often there will have been a breakdown in a relationship which has caused the individual to become dissatisfied, alienated or semi-detached. Addressing those kind of issues in an open and transparent way is the key to avoid losing the firm's best people and there is no better basis for doing so than seeking to follow the tenets of the Christian gospel in all of those situations — where there is room for forgiveness, a new start and the avoidance of arrogance or standing on one's supposed rights.

By actively seeking to live out the principles of our Christian faith — with integrity, compassion, humility, and service — we establish the foundation for strong, respectful, and trustworthy relationships. These values guide our interactions, foster mutual understanding, and to help us navigate challenges with grace and the right objectives in mind. This enables us to establish and maintain good relationships in our business and personal lives. 🙏

1. Published by Little, Brown in 2019.
2. Quoted in *The Essential Drucker*, Collins, 2010.
3. Published in 2001 by Random House.



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