

## **Part One: My Laidlaw Development**

### ***Where I Began***

When I first applied for the Laidlaw programme, I had some inclination of the leader and academic I wanted to become. I had an interest in complex theoretical legal issues, and some experience of leadership in college and school societies, and from my general life. What I lacked was a specific understanding of how my leadership abilities could be developed and refined, and what intensive academic research actually looked like. Laidlaw gave me the opportunity to develop a depth of knowledge and understanding in my field that previously seemed unreachable, and to build confidence and competence in my own leadership abilities.

### ***Leadership in Theory***

Through a variety of leadership workshops – on everything from controlled breathing and presentation skills to time management – I developed an intricate theoretical knowledge of the skills and capabilities necessary to become a truly great leader. These workshops, which were heavily discussion-based and interactive, allowed me to develop an understanding of their subject matter by paying attention not only to the invited experts, but to the contributions of my peers – something that further strengthened my capacity to learn. Indeed, even the later, post-covid meetings held on zoom maintained this discussion focus, with everyone engaging in a genuine and open fashion.

Indeed, the social aspect of the programme allowed me to gain both new friends and an insight into other perspectives on academics and leadership. Through repeated interaction at the leadership workshops, which spilled over into genuine and meaningful friendships, I got to know the other scholars throughout the programme, as we became a genuine group of friends. This was strengthened by our group trip to the Laidlaw Conference in London last year, which proved an unforgettably enjoyable weekend, and was attended not only by our cohort, but by previous Laidlaw scholars, allowing these friendships to develop inter-generationally.

Of course, it was not always plain sailing. The material we were presented with in our leadership sessions was often genuinely challenging, and I found myself paying substantial focus to the preliminary materials we were sent to make sure I was fully prepared for the discussion. For example, an early session on differing types of leadership was far more accessible when attended in conjunction with having read Daniel Goleman's Harvard Business Review Article "Leadership That Gets Results"<sup>1</sup> which was sent to us in advance of the session. This detailed preparatory work was occasionally difficult to accommodate alongside a busy college schedule but was ultimately intensely rewarding and heightened the impact of our leadership workshops. Indeed, if I were to suggest an improvement to the programme, it would be to include more of this detailed preparatory reading, as often what we were provided with in advance of the sessions was only broad reading, and even more specific, detailed advance work would have been helpful.

### ***Leadership in Practice***

Over the course of my time in Laidlaw, I took on a variety of leadership roles in my life, all informed and influenced by the skills I had learned through my leadership training. In the College Historical Society, Trinity's premier debating society, I became the Correspondence Secretary, one of the most senior positions in the society. I also represented the society at both the European and World University Debating Championships – something which required a clear ability to present myself and the capacity to lead and inspire younger members. I noticed myself becoming not only better able to fulfil these tasks, but also more consciously aware of the skills I was employing, and how they could be improved. Developing this vocabulary was crucial for my personal development as a leader and occurred as a direct result of my leadership training.

I have come to conceive of myself as a democratic leader, focusing heavily on the needs and preferences of the groups I engage with, and working on constructive strategies for achieving these

---

<sup>1</sup> Daniel Goleman, 'Leadership That Gets Results' (2000) Harvard Business Review 78.

things. I do this by putting faith in those around me while simultaneously maintaining a realistic picture of what the situation requires and what my team members are capable of.

This ability to engage in self-reflective leadership is, I believe, one of the most difficult aspects of being a leader, and one that I could only learn through engaging with the Laidlaw programme.

### ***The Research Process***

My research presented both intellectual and practical challenges, which the skills I learned throughout the programme allowed me to overcome.

Primarily, I had to develop, for the first time, and a consistent and coherent research plan, bringing disparate strands of reading and writing together into my final argument. This was helped by my supervisor, Dr. David Kenny, who was exceptionally generous with his time and always on hand to offer advice and guidance. My project went through various iterations, and was dealt a blow when the corona virus induced lockdown meant I lost access to crucial statistics services that I had planned to use for completing the project, but both myself and Dr. Kenny worked to revise the research plan, producing a final research agenda that was insightful and intellectually stimulating.

While other skills may have initially seemed more mundane, they proved equally crucial to develop. For example, my work on the project showed me the importance of time management - and how difficult this skill can be to develop. Throughout both summers I had to pay close attention to the overall schedule of my work, allowing me to develop a consistent approach which made my goals achievable without overburdening myself with work. This became even more challenging in the second summer, when the helpful demarcation between time in the library and time at home melted away, and I was forced to develop a healthy approach to working from home. These skills improved through trial and error as the programme developed, and while they may have initially seemed like an afterthought, I now see developing an understanding of such basic skills as a core and important aspect of sustained research, as crucial as proper citations or close readings of texts.

All of this relates to one of the core attributes I developed throughout my time on the Laidlaw programme – an internal sense of strength and durability. Not only have I developed these capacities, but I have also come to understand their importance, both in carrying out research and acting as a leader. It is easy to find oneself in a position where wellbeing is neglected in favour of the much-lauded goal of productivity, and realising how crucial it is to maintain focus on my inner mental state has been a key lesson throughout the programme.

This has been aided by the various workshops on personal development we have received throughout the programme – such as the recent talk on emotional intelligence by Sarah Jones – but also by the direct experience I have gained through engaging with the programme. During my main research periods, I focused on starting and finishing at the same time each day, so that the work I had to do was clearly defined, and did not “spill over” into the other aspects of my life, reducing the likelihood that I would spend time stressing about work that needed to be done. This was difficult to observe, but paid off massively as I came to view my project in a positive light, with the clearly defined research times I had set out ultimately proving to give me ample time to work. I consequently felt excited by my work throughout and maintained a healthy relationship with my project and goals.

Maintaining social contact with others was also a crucial aspect of protecting my mental health during both research periods, as I made a clear and directed effort to make sure that I was not remaining solitary throughout my research. During the first summer, though Campus was naturally quiet as a consequence of the summer break, I made a positive effort to meet people for lunch and develop plans for my evenings, something that was aided by the strong social network I had developed through the Laidlaw programme more generally. Naturally, this was more difficult during the second summer as the corona virus lockdown left everyone substantially more isolated. Despite this, I quickly developed a routine of organising regular zoom calls and online activities with friends from the Laidlaw programme and beyond to break up the time spent working on my project.

Ensuring that I engaged with people beyond my academic research prevented me from feeling too isolated and added an enjoyable aspect to the extended research periods. Moreover, talking through issues with others helped me to develop ideas for my project beyond what I was able to work out on my own, and helped me to discover alternative approaches to the issues I was facing, feeding back into my project so that even social activities which appeared to be taking time away from my project benefitted the end result.

This positive outlook and healthy approach allowed me to cope with the shocks that came my way throughout the research periods, and its development was a key aspect of what I will take away from the Laidlaw experience.

### ***Where I am now***

The Laidlaw programme has left me a more capable leader, and with a clear understanding of the highs and lows of academic research. I have developed my capacity to deal with issues that come both from my own leadership responsibilities and the natural difficulty of extended scholarly engagement. The leadership training and development opportunities provided by the Laidlaw programme were instrumental in helping me grow as a person, and had an invaluable impact on my undergraduate career, and life as a whole.

## **Part Two: My Laidlaw Research**

### ***Overview***

During my two summers, I engaged in research on the relationship between “Critical Legal Studies” theory and property rights in constitutional case law in three jurisdictions: Ireland, America, and South Africa. This intense research was deeply intellectually engaging and invigorating, but involved a challenging process of sifting through detailed and often hard-to-find cases, along with, in the second summer, a detailed and mentally enriching engagement with complex philosophical materials and arguments. To give an indication of how the work progressed, presented below is a brief summary of

the key findings from both my case-law based research and the philosophical perspectives I considered.

### ***Ireland***

The Irish position is complex. While the constitutional text gives a seemingly strong protection to the right to property, tying property rights to a natural law conception of the individual's "rational being", in practice, the courts provide significant weight to the accompanying "social justice provision". The case law in Ireland can thus appear confused, with judges outlining the importance of property to the rational individual,<sup>2</sup> but giving the legislature significant leeway when it seeks to appropriate the property of citizens.<sup>3</sup>

There is, however, a more subtle way in which the Irish constitution's protection for property rights may limit redistributive policymaking. The (nominally) strong protection for property in the Irish constitution plays a role in preventing the legislature and executive from pursuing redistributive aims, with social-justice focused policy being pre-emptively struck down before legislation even comes before the courts.

The Irish position, therefore, sees the constitutional text's emphasis on property rights being largely overlooked by the judiciary, but the existence of a constitution that is in favour of property on its face could have broader impacts on redistributive policymaking, particularly from other branches of government.

### ***America***

---

<sup>2</sup> See, for example: references to "rational being" in *Re Article 26 and the Health (Amendment) (No 2) Bill* [2005] IESC 7.

<sup>3</sup> See, for example: *Shirley and Others v A O'Gorman Co. Ltd and Others* [2012] IESC 5.

Comparatively straightforward, American “Takings Clause”<sup>4</sup> jurisprudence sees the courts provide significantly stronger support to private property than is the case in Ireland. This jurisprudence has been conceptualised by some as operating off a metric of “fairness”,<sup>5</sup> but it is clear that in the majority of cases, American law favours protection of property over redistribution.

The constitutional text itself is clear that “just compensation” must be provided when private property is actively expropriated by the government, and this private property-oriented constitutional understanding can be seen to have impacts on redistribution. A notable (and famous) example of this attitude playing out in practice is during the so-called New Deal Crisis, where the Lochner-era Supreme Court struck down a variety of redistributive measures proposed by Roosevelt’s progressive government, leading to a failed attempt at packing the Court with more favourable judges.<sup>6</sup>

### **South Africa**

In contrast to the constitutional texts of Ireland and the United States, the South African Constitution has been described as “transformative”, attempting to establish a new, post-liberal legal order in the new South African state.<sup>7</sup>

The South African constitution provides for various socio-economic rights, including a right to adequate housing.<sup>8</sup> This, approach, focused on ensuring that vulnerable actors are protected by the

---

<sup>4</sup> 5<sup>th</sup> Amendment, US Constitution.

<sup>5</sup> Frank I. Michelman, ‘Property, Utility, and Fairness: Comments on the Ethical Foundations of Just Compensation Law’ (1967) 80 Harvard Law Review 1165.

<sup>6</sup> For illustrative case law from this era, see, for example: *Schechter Poultry Corp v United States* 295 US 495 (1935); *Louisville Joint Stock Land Bank v Randford* 295 US 555 (1935).

<sup>7</sup> Karl E. Klare, ‘Legal Culture and Transformative Constitutionalism’ (1998) 14 South African Journal of Human Rights 146.

<sup>8</sup> S 26, Constitution of South Africa.

state, stands in sharp contrast to American Takings case law, and even Irish jurisprudence, which has typically rejected the imposition of socio-economic duties on the state.<sup>9</sup> The South African legal position can thus be described as at least redistribution-encouraging, with the transformative nature of its constitutional order affecting many areas of property-based law-making and undermining the formalism of South African private law adjudication.

### ***Theoretical Impacts of Property Rights***

My Laidlaw project set out to consider these legal positions in light of the forceful theoretical critiques put forward by the Critical Legal Studies movement.<sup>10</sup> Of the relevant claims made by these scholars, a number of points stand out as directly related to the above.

Building on legal realist thought, Duncan Kennedy argues that the background rules of society imposed by the legal order have substantial impacts on the day-to-day operation of society. Further, he argues that in most legal orders (though particularly in the United States), these background rules are not accidental, but set up in such a way as to privilege the propertied and affirm individualist narratives.<sup>11</sup> Other scholars have discussed the importance of constitutions in setting the tone of the orders in which they operate, acting as “canonical texts” to be interpreted by powerful organs of government

---

<sup>9</sup> See: Gerry Whyte, ‘The Role of the Supreme Court in Our Democracy: A Response to Mr. Justice Hardiman’ (2006) 28 *Dublin University Law Journal* 26.

<sup>10</sup> For a biographical overview, see: Mark Tushnet, ‘Critical Legal Studies: A Political History’ (1990) 100 *Yale Law Journal* 1515.

See also: Alan Hunt, ‘The Theory of Critical Legal Studies’ (1986) 6 *Oxford Journal of Legal Studies* 1.

<sup>11</sup> See: Duncan Kennedy, ‘The stakes of law, or Hale and Foucault’ (1991) 15 *Legal Studies Forum* 327.

In the private law context, see: Duncan Kennedy, ‘Form And Substance In Private Law Adjudication’ (1975) 89 *Harvard Law Review* 1685.

to instrumental ends.<sup>12</sup> Going beyond this, radical scholars have implicated legal academia in the same legitimisation of regimes and narratives.<sup>13</sup>

My intensive investigation of the case law and related philosophical materials concluded that constitutional property rights form one of these “background rules”. As is seen from the substantive law discussed above, differing constitutional provisions can lead to vastly different legal regimes.

Societies (and judiciaries) which commit themselves to protecting the rights of property owners, and conversely those which commit to redistribution in their constitutions, make substantive commitments to the structure of the society they create. This can take the form of judges themselves adopting conservative or progressive attitudes in response to the content of their constitutions, as in the American and South African cases, which can be taken as two extreme ends of a spectrum. Further, even when judges push against the substantive content of their constitutions, the existence of constitutional property rights (or lack thereof) can be used by other actors within the law-making process to justify conservative or progressive policy lines, as in the Irish context.

### ***Research Implications***

The conclusions of my project have sobering implications for legal practice, both in Ireland and abroad. Little detailed alignment of case-law research and abstract theoretical critiques had been undertaken prior to my research, and I plan to develop my conclusions further, hopefully including empirical, political-science based methodologies in future. With the communication and organisational skills I have developed throughout the programme, getting my research into the public eye will be my next step – and one I feel the Laidlaw scholarship has ably equipped me to carry out. While my research

---

<sup>12</sup> See: Paul F Campos, ‘Against Constitutional Theory’ in Paul F Campos, Pierre Schlag and Steven D. Smith (eds) *Against the Law: Constitutional Conflicts* (Duke University Press 1996).

<sup>13</sup> Pierre Schlag, ‘Spam Jurisprudence, Air Law, and the Rank Anxiety Of Nothing Happening (A Report On The State Of The Art).’ (2008) 97 *Georgetown Law Journal* 803.

was not without difficulties, it ultimately came to firm and potentially influential conclusions which I look forward to building on going forward.

### **Part Three: Concluding Remarks**

The Laidlaw Programme allowed me to develop as a leader and individual and engage in genuinely exciting research on a topic I have a real passion for. When I applied for this scholarship, I could not have imagined the impact it would have on my life and learning. As I leave the programme behind, I know that I have grown in a variety of ways, and hope to give back to the programme where possible through volunteering in future. I have developed a close group of friends, and important academic contacts, but most importantly I have learned how to lead and study in a way that suits and works for me. For this, and everything else detailed in this report, I am indebted to the Laidlaw scholarship, one of the highlights of my time as undergraduate in Trinity.