

“ Service must be unmotivated and uninterrupted to completely satisfy the self.”  
- Bhagavata Purana, 1.2.6

The Latin phrase “pro bono publico” literally means “for the public good.” What the Supreme Court of Pennsylvania must now decide is whether this phrase, in the context of legal services, should refer to an effect or a motivation: Is it enough that low income individuals receive and benefit from such services, regardless of the stimulus, or must the attorney providing these services do so voluntarily and in a mood of pure altruism? While at first glance a focus on effect alone might seem preferable, more thoughtful consideration reveals that motivation is of paramount importance.

On its face, a pro bono quota would seem to benefit the public, the profession, and individual lawyers alike. Relative to the current voluntary system,<sup>1</sup> one would expect more clients of limited means to receive much needed legal assistance.<sup>2</sup> This surge in service might also raise the reputation of the legal profession,<sup>3</sup> moving the public to view legal “counselors” in as benevolent a light as it now does psychologists

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<sup>1</sup> See Pa.R.P.C. 6.1 (“A lawyer should aspire to render at least (50) hours of pro bono publico legal services per year.”); id. at [Cmt. 12] (“The Responsibility set forth in this Rule is not intended to be enforced through disciplinary process.”).

<sup>2</sup> See LEGAL SERVICES CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 13 (Sept. 2009), [http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting\\_the\\_justice\\_gap\\_in\\_america\\_2009.pdf](http://www.lsc.gov/sites/default/files/LSC/pdfs/documenting_the_justice_gap_in_america_2009.pdf) (summarizing seven state studies showing that less than one in five legal problems experienced by low-income individuals is addressed with the assistance of an attorney); see also THE RESOURCE FOR GREAT PROGRAMS, INC., PERSPECTIVES ON POVERTY & CIVIL LEGAL NEED IN BUCKS, CHESTER, DELAWARE, & MONTGOMERY COUNTIES: A 2009-10 ASSESSMENT FOR LEGAL AID OF SOUTHEASTERN PENNSYLVANIA 9 (March 2010), <http://www.lasp.org/file/legal-needs-assessment-ii.pdf> (finding that a Pennsylvanian legal aid organization reaches only a quarter of those eligible).

<sup>3</sup> Perhaps future generations of lawyers would be spared jokes, such as the following:  
Q: “What do you call a thousand lawyers at the bottom of the sea?”  
A: “A good start.”

and social workers. Finally, by spending more time helping those in need, lawyers themselves might simply feel better.<sup>4</sup> (In the opinion of many, such a shift in esteem is sorely needed.)<sup>5</sup>

Even assuming that these benefits materialized in the short-term, however, they would soon be subverted by operational and psychological realities. For one thing, any gains to the profession in terms of image would be more than offset by the tangible burdens of administration. Unlike other rules, which either require lawyers to refrain from certain activities, or push them to engage in other activities under specified circumstances, this rule would require *all* lawyers to render pro bono service on a *continuous* basis. Who would keep track of each lawyer's hours, and who would complain when one of them fell short of the quota? Is the state disciplinary board ready to hear these claims, and to take action against attorneys who have "unethically" failed to sufficiently serve the public?

A rigid quota would have other—more subtle but equally pernicious—effects as well. To be sure, the quantity of needy individuals receiving help might increase, but what of the quality of the services provided? It is one thing for lawyers to take up a cause on their own initiative, driven by selfless passion, but quite another to be mandated to do so under threat of discipline. What is more, lawyers themselves may

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<sup>4</sup> See Melinda Wenner, Study: Doing Good Makes You Feel Good, LIVE SCIENCE (04 May 2007, 07:37 AM ET), <http://www.livescience.com/4443-study-good-feel-good.html> (relating results of psychologist's study).

<sup>5</sup> See, e.g., Patrick J. Schiltz, On Being A Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession, 52 Vand. L. Rev. 871, 874-888 (1999) (citing various studies indicating that lawyers suffer from depression, anxiety, alcoholism and general career dissatisfaction at higher rates than either the general population or members of other professions).

not actually end up any happier. As the ancient Indian scriptural quote above reveals, for an act of service to truly satisfy the self, it must not only be beneficial in effect, but also noble in motive.

Though some might argue that leaving pro bono service to individual discretion risks leaving dire legal need unaddressed, requiring such service guarantees administrative collapse. Pro bono proponents should instead support publicity campaigns through local bar associations, or advocate for the reformation of law school curricula. At bottom, forcing lawyers into philanthropism is not only impractical, it also sullies the very concept of activity “for the public good.”