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Pro Bono Conference in Chile

By William J. Dean

An international conference, "Pro Bono Work: A Lawyer's Commitment to the Community," was held in Santiago, Chile last month. Organized by Fundación Pro Bono, in collaboration with the Colegio de Abogados de Chile, the Association of the Bar of the City of New York (association) and the Chilean-North American Chamber of Commerce, attendees came from Chilean law firms, bar associations, universities and non-governmental organizations (NGOs) and also from similar organizations within the United States, Australia, South Africa, Argentina, Brazil and Peru.

Purpose

The purpose of the conference was to reflect on voluntary legal services as an opportunity for lawyers to assume their social responsibility for the benefit of the lawyers to community and to promote collaboration between lawyers and NGOs so as to reinforce the important work of these organizations through providing legal assistance.

The Santiago conference traces its origins to the international Conference on Crisis in Access to Justice, hosted in 2000 by the association under the leadership of Michael A. Cooper, a partner at Sullivan & Cromwell, and, at the time, president of the association. At that conference, Joan Vermeulen, former executive director of New York Lawyers for the Public Interest, and now executive director of the city bar fund's newly established Cyrus R. Vance Center for International Justice Initiatives, discussed with Martin Bohmer, Dean of the Palermo Law School in Buenos Aires, ways to promote pro bono legal services in Argentina. These discussions led to a conference in Buenos Aires in fall 2001 to share the pro bono experiences of the New York bar with leaders of the Argentine bar and representatives of the law school and NGO community.

The June 2002 report of the association's Committee on Inter-American Affairs on the Buenos Aires conference discusses pro bono legal services in Latin America: Members of the private bar in Argentina, as in most of Latin America, are not new to pro bono work. On the contrary, individual lawyers and firms have historically provided services on an ad hoc basis to institutions and needy persons. Nevertheless, institutionalized pro bono efforts within law firms are extremely limited. Similarly, Latin American bar associations and other bodies governing the conduct of lawyers have yet to include in their ethical rules or guidelines to the profession any guidance regarding the provision of pro bono legal services... In Latin America, the strength and variety of the NGO community varies significantly from country to country. However, in all but a few instances, there is little contact between leading law firms and the NGO community. This lack of contact is partially due to the legacy of military dictatorships and periods of political fragmentation in which "establishment" law firms and NGOs were generally on opposite sides. Some who lived through periods of military rule are

burdened with a residue of mistrust that complicates collaborations between some NGOs and leading law firms. Even so, many in the NGO community and leading law firms now recognize that, by working together, they can potentially perform complementary roles for the betterment of their societies.

According to Juan Pablo Olmedo, executive director of Fundación Pro Bono, “One of the considerations that gave rise to the pro bono initiative in Chile, as in other countries of the region, was the conviction that there exists profound interest among the legal profession for voluntary work, thus contributing to the promotion and integration of a modern legal culture in our societies.”

The Santiago Conference was well-attended by leaders of the Chilean bar. Prior to the start of the conference, lawyers from abroad visited law firms in Santiago to exchange ideas on pro bono with Chilean lawyers. Already, 24 law firms, and lawyers at two major accounting firms, have entered into a commitment with Fundación Pro Bono. The commitment provides, in part:

We deem that the voluntary rendering of legal volunteer services or Pro Bono work is a relevant contribution to be made by attorneys to the country’s efforts in order to guarantee an equal access to justice.

We acknowledge pro bono work as an efficient tool through which attorneys can comply with their professional duty as justice servants and collaborators in its administration.

We commit our wills to foster the introduction of pro bono work into our law firms through the development of an institutional policy that supports and values pro bono work, and the implementation of enabling mechanisms for its practice.

Voluntary or Mandatory?

Conference presentations informed both the Chilean hosts and visitors. Mary C. Daly, James H. Quinn Professor of Legal Ethics and Fordham University School of Law, and a member of the Standing Committee on Professional Discipline of the American Bar Association, discussed questions the ABA has asked itself. Should pro bono be voluntary or mandatory? Even though barely 20 percent of unmet civil legal needs of poor people in the United States are being met, the ABA answer is “voluntary.” What is the ABA target minimum of pro bono hours? “[Fifty] hours annually for each lawyer, the equivalent of one work week,” Ms. Daly said.

Mr. Cooper spoke of how law firms in the United States “have become institutions of great talent, influence and wealth.” With growth has come a social responsibility; “If every lawyer has an individual professional responsibility to facilitate the access of the poor to legal services, law firms have an institutional responsibility to support their partners and associates in discharging their respective, individual professional obligations...When lawyers choose to work together in an organization, the organization must function in such a way as to facilitate, not frustrate, their individual ethical obligations”.

Chile: Corporate Lawyers Key

Prior to the conference, Chilean lawyers had expressed particular interest in pro bono opportunities for corporate lawyers. To discuss possibilities in this area, corporate partner Edwin S. Maynard of Paul, Weiss, Rifkind, Wharton & Garrison, spoke of his firm's participation in the Volunteers of Legal Service in Microenterprise Project. In the first six months of last year, 53 Paul, Weiss lawyers and eight paralegals provided business law assistance to 43 microentrepreneurs in Harlem. Corporate lawyer Francesca Lavin at Cleary, Gottlieb, Steen & Hamilton discussed her firm's VOLS-arranged match with Acción New York. Acción works with Hispanic microentrepreneurs in New York. In addition to providing representation on business law matters, Cleary lawyers conduct workshops for microentrepreneurs. Topics have included "Como Estructurar Su Negocio" (How to Structure Your Business), "Que Debe Usted Buscar al Firmar o Negociar un Contrato" (What to Look for When Signing or Negotiating a Contract) and "Asuntos de Impuestos Relacionados a Negocios Pequeños" (Tax Issues Relating to Small Businesses). A number of Cleary lawyers working in the project, she said, come from Latin America. Pedro Pablo Gutierrez, a partner at Carey & Cía, announced that his firm was preparing a publication for aspiring Chilean microentrepreneurs on legal information they need to know before starting a business. A bank will distribute the publication. In stage two of the project, lawyers at the firm plan to provide direct representation on business law matters to microentrepreneurs.

Guillermo Morales of the firm of Morales, Noguera, Valdivieso & Besa said in his presentation that when working in New York City at White & Case, "I discovered many things not evident to me before. While we have unbilled work in Chile, pro bono work is not institutionalized at firms here. We need to change from mere individual efforts to a more formal pro bono program. But we do not want to use pro bono work to congratulate ourselves: rather, to share with others and to retain our youthful-idealism."

An Argentine lawyer described two important pro bono cases being undertaken there. Keeping a school for gifted children open and requiring members of the Senate to make publicly available their financial worth when they begin their term of office. Fundación Pro Bono, in its first annual report, discussed cases taken by participating law firms. The cases include the assistance of a firm in preparing a legal brief setting forth the rights of prisoners in Chile, requiring the executive power, through judicial proceedings, to assist disabled persons; and developing a proposal to optimize the system of tax advantages for donations to non-profit organizations in Chile.

Pro Bono Effort in Americas

In the keynote address to the conference, E. Leo Milonas, President of the Association of the Bar of the City of New York and a partner at Pillsbury Winthrop, spoke of the determination of the attendees "to build a pro bono movement throughout the Americas, from the Bering Straits to the Straits of Magellan." He said the situation of poor people in the United States is "nothing short of a human catastrophe." For example, in the Bronx, 29 percent of residents live in poverty. Discussing pro bono efforts in the United States, he said, "While we may see the glass as half-empty, knowing that only an estimated one-fifth of the legal needs of the disadvantaged are being met, others see a significant resource." The statistics, he pointed out, are impressive – the 100 largest firms in the United States contributing a total of 1.7 million pro bono hours in one year.

Laura Novoa, of the firm of Philippi, Yrarrázaval, Pulido & Brunner, is an attorney with broad experience in mining, corporate and finance. She spoke of the moral obligation to undertake pro bono work, “I was taught by the founders of my firm to have solidarity with the weak. Lawyers should undertake this work in an honest philanthropic spirit, not for commercial or marketing reasons. Every single member of a law firm should respond to society in an ethical way. The quality of mercy should be our inspiration. As lawyers, we, in turn, receive a wonderful benefit from these experiences.”

In the same spirit, Francisco Orrego Bauzá, president of Fundación Pro Bono, and a partner at Chadwick & Cía, spoke of pro bono as something which comes from the heart – in Spanish, “viene del corazón.”

S. Todd Crider, a partner at Simpson, Thacher & Bartlett, who chairs the association’s Committee on the Vance Center for International Justice Initiatives, delivered closing remarks at the conference:

This pro bono initiative offers a potential multiplier effect. If a leader or group of leaders succeeds in achieving sustained progress in institutionalizing pro bono at a firm, in addition to the work of one, there will be many others who will do it. When one firm shows commitment to pro bono, others will follow suit. It offers the advantage of reintegrating a privileged profession in the reality of one’s society. This is an unpredictable advantage, as unpredictable as human reactions of emotions, sympathy and solidarity when confronted with the needs of others...As lawyers we have the obligation to tear the veil of ignorance that separates us from hidden injustices and then respond to what we see.

The Future

In post-conference reflections, Mr. Olmedo of Fundación Pro Bono looked to the future:

The comparative experience with pro bono work, as discussed at the conference, confronts Chilean lawyers with a new challenge: the participation of pro bono work in public interest law. The shortcomings of our society in areas such as transparency of state administration, discrimination, violence against women, children rights, among others, present collective needs that urgently require pro bono action.

The responsibility that comes with the commitment we have undertaken obliges us to create a harmonious, institutional and systematic meeting place where social concerns and needs can be heard and met by the private sector, involving other social actors such as universities and non-governmental organizations as well, and not forgetting the valuable efforts and contributions of individual persons. In other words, a pro bono chain at the national level.

For Ms. Vermeulen of the Vance Institute, “It has been a privilege to work with our Chilean colleagues. What they have accomplished over the past eighteen months in involving law firms and lawyers in this effort is very impressive. We look forward to continuing to work with them, and in collaborating in efforts in Argentina, Brazil, Peru and Panama.”