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Duty or Burden?: The Complex Reality of Mandatory Pro Bono for Young Lawyers

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ABSTRACT

Does required pro bono advocacy improve access to justice, or does it unfairly burden young lawyers? This article critically examines the double effect of compulsory pro bono work, analyzing how this work contributes to providing legal access for subordinate communities and how it overwhelms early-career lawyers. This study compares the advantages vis-à-vis the challenges that young lawyers face by examining pro bono mandates according to the policy purposes, societal benefits, and ethical requirements involved. Pro bono requirements are balanced with support structures, and the recommendations urge making the mandated service beneficial both for the public and those who engage in pro bono.

Keywords: Mandatory Pro Bono, Young Lawyers, Access to Justice, Legal Ethics, Nyaya Bandhu

I. PRO BONO ADVOCACY: DEFINITION, ROLE, AND HISTORICAL CONTEXT

A. Understanding Pro Bono Services:

“Pro bono Publico” (*‘for the public good’*) is a law service rendered at no charge to those unable to afford retained representation. Pro bono work is a longstanding tradition in legal ethics, to which lawyers must serve society (and especially those who are underrepresented or disadvantaged).³

State of Maharashtra v. Manubhai (1998)⁴ It’s a state’s responsibility to offer legal aid to the underserved, ensuring fair access to justice. It shows courts’ recognition of the necessity, and it may be that this nomenclature could be extended to include pro bono work, as an ethical duty of lawyers to justice to the marginalized population.

B. Role in the Dispensation of Justice, and Its Review.

Enhancing access to justice for those of the economically disadvantaged who cannot afford legal representation requires extensive participation in pro bono advocacy. Pro bono work

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³ LATHAM & WATKINS LLP, *Pro Bono Practices and Opportunities in India* (May 2019), <https://www.lw.com/admin/upload/SiteAttachments/pro-bono-in-india.pdf>.

⁴ *State of Maharashtra v. Manubhai*, (1998) (India).

closes this access gap and helps deliver on overarching societal objectives to level the playing field and ensure access to a fair system for all. Pro Bono services have historically been voluntary and have evolved from a mandatory ethical duty of a lawyer to upholding justice and equality.

C. Significance of the Article

This article examines whether obligatory mandatory pro bono services foster access to '*justice*' or if they create, instead, such excessive burdens on young lawyers poorly situated financially and professionally in their early days as lawyers.

D. Research Methodology

This paper utilizes a strictly doctrinal research approach. Doctrinal research, known as library-based research, primarily involves the study and analysis of legal statutes, case law, and academic writings. This method is ideal for exploring the theoretical and conceptual dimensions of law. It systematically presents legal doctrines and principles. In doctrinal research, primary sources include statutory materials, judicial decisions, and authoritative literature. Secondary sources like commentaries, articles, and legal summaries are also essential. The research process entails identifying, gathering, and critically evaluating these sources.

II. LEGAL FRAMEWORKS

- **The Legal Services Authorities Act, 1987 (India)**⁵It sets up the framework of providing legal aid to marginalized communities, strengthening pro bono advocacy by putting the state in the task of providing legal support
- **Bar Council of India Rules (Pro Bono Recommendations)**⁶Lack of a formal mandate for pro bono services, but an ethical obligation that includes encouragement for voluntary pro bono work by lawyers.
- **The Legal Aid, Sentencing, and Punishment of Offenders Act 2012 (UK)**⁷: It supports the argument for pro bono services with insight into how legal aid provisions are provided providing legal aid provisions.
- **Pro Bono Work Requirement in the United States:** For example, New York requires 50 pro bono hours per year to become a bar member, but it is regulated.

⁵ The Legal Services Authorities Act, No. 39 of 1987, INDIA CODE (1987).

⁶ *Bar Council of India Rules*, pt. VI, ch. II, § VII (India).

⁷ *Legal Aid, Sentencing, and Punishment of Offenders Act 2012*, c. 10 (U.K.).

- **South Africa's Legal Aid and Pro Bono Framework:** Sets several pro bono hours that lawyers are mandated to serve disadvantaged communities, and serves as a model for mandatory pro bono service.

*Bandhua Mukti Morcha v. Union of India (1984)*⁸Regarding bonded labor, the issue was confronted by the Supreme Court while making provisions for legal aid as a must for vulnerable groups to protect their rights, in this public interest litigation (PIL). This case works as a pro bono legal support that helps in facilitating justice for disadvantaged communities, which is under the pro bono mandatory work requirement in India.

III. MANDATES FOR PRO BONO WORK: EXPLANATION AND GLOBAL DEVELOPMENTS

Global development in mandatory and voluntary pro bono

Nowadays, over the past few years, there has been a turbulent development of pro bono formation in the legal field worldwide, with some jurisdictions forcing it and some choosing to adopt the voluntary approach. Some areas, such as *South Africa* and parts of *the United States*, have created legally responsible systems whereby lawyers must do a minimum number of hours in pro bono work, whereas other countries (*Canada, the United Kingdom, and Australia*) depend upon an incentive-based approach. The various models reflect each jurisdiction's different way of balancing between lawyers' professional autonomy and a commitment to expand the sphere of access to justice. This article examines these developments, comparing the outcomes of mandatory versus voluntary pro bono structures for access to legal services by underrepresented communities, and assessing these consequences for young lawyers.

Case Study: India's Nyaya Bandhu Program

A successful example of pushing pro bono work is the government's *Nyaya Bandhu initiative* in India. Knowing that India does not mandate pro bono work, Nyaya Bandhu exists as an institutionalized support structure of sorts, matching lawyers with members of underprivileged communities who require legal aid. Yet this program's success shows it is possible to catalyze public interest litigation and legal aid alongside a requirement for legal professionals to be structured without overburdening those very same professionals.⁹

⁸ *Bandhua Mukti Morcha v. Union of India*, (1984) 3 SCC 161 (India).

⁹ *Nyaya Bandhu (Pro Bono Legal Services)*, DISHA/NyayaBandhu/PBCs/02/2021 (efile: 6344), Ministry of Law and Justice, Dept. of Justice, Government of India, <https://www.probono-doj.in/static/pdf/Revised%20SOP%20on%20PRO%20BONO%20CLUBS%20at%20Law%20Schools.pdf>.

IV. REASONS FOR MANDATING PRO BONO SERVICES

Policy Objectives

Pro bono mandates aim to achieve several policy goals:

- Increasing access to justice for less privileged communities
- To fulfill the ethical and social responsibility of the legal profession
- The development of a legal culture that views public service as a duty, rather than a form of noble, optional charity. These mandates promote a more just and equal legal system by incorporating pro bono work into practice.

Global Comparative Analysis

The approaches taken toward pro bono work around the world differ greatly; for example, *Canada*, *Australia*, and the *UK* have adopted pro bono work more along incentive-based models than they have required it. In these jurisdictions, pro bono service is a matter of professional responsibility, although it is often encouraged through institutional incentives like tax benefits, peer recognition, and law firm-driven pro bono service initiatives that reward law firms with high pro bono service commitment. For example, Canadian law firms typically count pro bono hours in performance reviews, and some firms gain public acclaim for outstanding pro bono work. Just as *Australia* and the *UK* have similar programs honoring law firms and practitioners for providing substantial time to public interest work through processes of voluntary pro bono participation, so too does *Chile*. They show that pro bono doesn't require mandates and can be adopted widely by these countries because it is part of a cultural expectation of service that is confirmed by positive incentives.

By contrast, *South Africa* and the *United States* have used a more structured approach, either requiring or at least strongly encouraging lawyers to provide pro bono legal services. For example, in *South Africa*, lawyers serve a minimum number of pro bono hours, as part of a mandate to serve underserved communities. This mirrors the country's broader effort to right historical wrongs by making legal resources more available to everyone. There is no national mandate promoting pro bono work in the *United States*, but the *American Bar Association (ABA)* does recommend that each lawyer seek to do *50 hours of pro bono work* each year and that some states require pro bono commitment as part of bar membership requirements. They also illustrate an approach that is more about being regulated in pro bono work, based on the idea that clearly defined expectations can narrow the justice gap much more systematically in

favor of those on the disadvantaged end.¹⁰

V. ACCESS TO JUSTICE: THE CASE FOR PRO BONO MANDATES

Pro Bono Mandates and Justice Accessibility

The mandatory pro bono services help make the justice system more accessible by giving legal assistance, free of charge, to individuals and communities that may go unrepresented. Legal aid is an important source of legal services for marginalized populations that can have a great impact on reducing disparities in legal outcomes concerning the justice system.

Pro Bono Interventions: Case Studies and Examples of Successful Pro Bono Interventions

Many examples of successful pro bono programs can be seen as having a tangible impact. For instance, the *Legal Aid Society of New York* works with law firms to provide free legal services on housing, employment, and immigration rights cases and triumphs. In India, *Nyaya Bandhu* has helped link hundreds of lawyers with indigent clients to facilitate legal support for underrepresented areas.¹¹

VI. CONTEMPORARY TRENDS IN PRO BONO REFORMS

EU and U.S. Pro Bono Reforms

European Union Efforts: In the area of justice reforms in the EU, there has been growing access to justice, with a special emphasis on providing pro bono legal services to underrepresented groups. They are part of the EU's broader work to close justice access gaps and provide more equitable access to legal representation.

United States Guidelines:

The U.S. encourages its lawyers to do at least 50 hours of pro bono work a year specifically for underserved communities. While they're aspirational and not mandatory, because they're aspirational rather than mandatory, they shouldn't be put in a position where they're financially or personally taxing for young lawyers.¹²

India's Legislative Developments and Nyaya Bandhu Program.

Nyaya Bandhu Program: The Nyaya Bandhu idea by the Ministry of Law and Justice in

¹⁰ Robert Granfield & Fiona Kay, *Pro Bono Legal Work in Canada*, in *Global Pro Bono* (Cambridge Univ. Press 2020), <https://www.cambridge.org/core/books/abs/global-pro-bono/pro-bono-legal-work-in-canada/10C1D5453E5DEB4545BF343BE5968A17>.

¹¹ FAQ, *Pro Bono Legal Services*, <https://probono-doj.in/faq.html>.

¹² Mandatory Pro Bono Continues to Face Challenges, *Pro Bono Institute* (Apr. 30, 2024), <https://www.probonoinst.org/2024/04/30/mandatory-pro-bono-continues-to-face-challenges/>.

India aimed at connecting the advocates who were willing to give their services without charge with the marginalized community that necessitated legal aid. While India does not impose pro bono work, Nyaya Bandhu provides guidance on offering structured legal aid voluntarily, largely in rural or omitted parts of the country. This is an institutional model that will stimulate public litigation and facilitate legal aid within the legal system.

Institutional Support: Nyaya Bandhu points to how the state can encourage mandatory voluntary pro bono participation by legal professionals without causing too much of a burden on the legal professionals themselves, as an example, highlighting how access to justice can be expanded without overwhelming the lawyers.¹³

VII. CHALLENGES FACED BY YOUNG LAWYERS IN COMPLIANCE WITH MANDATED PRO BONO

- **Financial, Professional, and Psychological Pressure.**

Financial instability, high workloads, and intense professional pressures are common for young lawyers in the early stages of their careers. The extra, unpaid requirements may exacerbate these challenges by increasing demands on their financial health and work-life balance when they are already mandated to provide pro bono services.

- **Professional Growth & Time Management**

Meanwhile, the demands of pro bono work can make time management impossible for young lawyers still managing client commitments, billable hours, as well as career development. Some of the career-building skills and growth work for the more experienced people are sacrificed for unpaid work if their schedule is overrun, and they can't find time to do this.

- **Young Lawyers Testimonies**

These challenges are illustrated by insights from young lawyers. But many say they have an issue with pro bono hours because it aligns with their values, while the commitment to compulsory hours can be exhausting, especially in high-pressure legal environments where billable hours are valued.

- **Financial and Mental Impact**

Young lawyers often already struggle to balance work and life with managing student debt, and can feel overwhelmed by mandatory pro bono requirements that can result in financial as well as psychological strain. Unpaid pro bono work is tied to stress, and increased stress is

¹³ Pro Bono Department of Justice, *Pro Bono Legal Services*, <https://www.probono-doj.in/home/index>.

linked to lawyer burnout. Young lawyers are unlikely to remain involved in public interest work if they believe their unpaid pro bono work is not resulting in time savings or professional advancement. These challenges are acknowledged, offering support to the theoretical argument that pro bono models should do everything possible to achieve voluntary engagement, particularly in those early careers where financial stability might be lacking.¹⁴

VIII. CRACKING THE PROS AND CONS OF MANDATORY PRO BONO

- **Advantages and Disadvantages Analysis in Comparative Analysis**

Mandatory pro bono work has obvious advantages, such as a boost to the welfare of society and the building of young lawyers' skills; however, it has disadvantages too. On balance, the benefits of these mandates are balanced against the realities of financial and workload pressure on young lawyers and may erode the overall efficacy of these mandates.

- **Mandatory Pro Bono -Alternative Perspectives**

But critics say mandatory pro bono can backfire if young lawyers are overtired or can't handle the load. Voluntary pro bono, supported by incentives, is suggested to be a more sustainable approach, offering voluntary pro bono work to lawyers by capacity and availability.

- **Ethical Considerations**

Ethical questions about autonomy and choice in the profession are raised by compulsory pro bono. The intent is noble, but it can be mistaken as killing lawyers' freedom to set their mandates on how to spend their time or resources because it interferes with doing what they feel is best for the law, for their clients, or their firm.

- **Statistics on Pro Bono Hours and Impact:**

Pro bono data can show how big the pro bono reach is. For instance, *in 2022, the Thomson Reuters Foundation's annual review* showed that the average contribution of hours per lawyer by law firms with developed pro bono structures was a whopping 26.5 hours annually, greatly assisting access to justice. As with the data of the *Nyaya Bandhu program*, the value of the data of the Indian communities and the volume of cases serviced by the program of the Indian lawyers also require structured programs providing access to justice while respecting lawyers' capacities.¹⁵

¹⁴ Mandatory Pro Bono Continues to Face Challenges, *Pro Bono Institute* (Apr. 30, 2024), <https://www.probonoinst.org/2024/04/30/mandatory-pro-bono-continues-to-face-challenges/>.

¹⁵ 2022 Data, *Trust.org*, <https://pbi.trust.org/data/?year=2022>.

IX. GLOBAL PRACTICES AND LEGAL FRAMEWORK

Mandatory Pro Bono in Jurisdictions

Pro bono work is encouraged (but not mandated), but because India has no legal aid, the Bar Council cannot require any pro bono work, either. Other countries, such as South Africa and the United States, have more set-up frameworks where there are explicit rules in place and necessities for pro bono commitments. They all differ in enforcement, but all are looking to reach the masses to provide access to justice.

The Bar Council of India

There has been no insistence from the Bar Council of India that lawyers provide pro bono services and are only encouraging voluntary participation. Structured support for volunteers willing to volunteer is what Nyaya Bandhu programs do: they try to balance the need for legal aid with practical considerations for young lawyers.

Ethics of Compulsory Altruism:

“Compulsory altruism,” the ethical debate about whether or not mandatory pro bono compromises the voluntary spirit of these services. The essence of pro bono, some say, is that a lawyer’s desire to serve the public interest voluntarily and be compensated for doing so diminishes when serving the public interest. The spirit of altruism could be balanced with pro bono obligations, and maintain justice system goals of equitable access while pursuing volunteering for purposes.

X. POSSIBLE RECOMMENDATIONS

- **Suggestions as to how it supports young Lawyers**

Mandatory pro bono for young lawyers could become more viable if young lawyers were provided some financial incentives, like student loan forgiveness or tax deductions. Structured mentorship programs for early career lawyers could also guide them to pro bono work without losing out on professional development.

- **Reforms Towards the Goal of Balance of Burden and Access**

A flexible pro bono mandate with some options to opt out under certain conditions, or even a tiered requirement based on years of experience, could help shift some of the burdens to those who are newer to the profession. In many ways, these reforms would boost engagement with the segment of the bar with the most experience and the most potential to share more experience, as well as support the bar’s younger lawyers.

- **Writing Sustainable Pro Bono Models**

The notion of modifying pro bono models to create sustainable models that will partner with NGOs, law schools, and seasoned mentors to improve the effectiveness of pro bono services must be explored by law schools. The models should also lead with a long-term impact, meaning training and support systems that help new lawyers contribute without undue strain.

- **Incentives and Public-Private Partnerships:**

Tax incentives, student loan forgiveness, or even partnerships with NGOs and government agencies can fix a more sustainable pro bono system. As these recommendations are implemented, we will reduce the burden on young lawyers while maintaining high levels of community support. In addition, creating structured mentorship programs within pro bono initiatives could enable senior attorneys to mentor junior attorneys and thus improve the quality and substance of legal services they provide to underserved communities.

XI. RESULT AND DISCUSSION

The study intended to determine if mandatory pro bono work improves access to justice and examine the effects on young lawyers. Findings show that mandatory pro bono ensures better legal access for marginalized communities and achieves the primary purpose. However, it has financial, mental, and professional costs placed on early-career lawyers that are typically lacking in institutional support. Comparative analysis reveals that incentive-based voluntary models (UK, Canada) are superior to rigid mandates (South Africa, New York) in terms of long-term engagement. Such programs as India's Nyaya Bandhu find a middle ground. The debate identifies a strong need for policy reforms that will support young lawyers while also supporting public interest goals. Gaps include quantifiable data absent from stakeholders. Studies on future research should entail empirical surveys to measure the long-term effect of different pro bono models on access to justice as well as lawyer well-being. Sustainable engagement requires zeroing in on ethical duty as practical feasibility.

XII. CONCLUSION

The clear benefits of mandatory pro bono work include allowing for access to justice for underserved communities and encouraging social responsibility in young lawyers. But it also has obstacles, such as the financial burden placed on young lawyers and the stress of an additional time commitment that can lead to burnout for a lawyer. This requirement may impinge on the professional autonomy and generate major stress for those who are already managing the pressures of building their career.

We need a balanced model to make pro bono work sustainable. Incentivized pro bono programs with subsidies or reduced billable hours, for example, or hybrids of these, would cushion the punch for young lawyers and support public service. Also, providing adequate support and training will ensure that pro bono work is integrated meaningfully in their careers, while not necessarily harming their professional growth.

Mandatory pro bono programs need more research to determine their effectiveness and find solutions to new lawyers' difficulties. Pro bono work must be made sustainable and a part of the legal profession's commitment to justice, and legal institutions and policymakers must work together to develop frameworks that allow that to happen.
