

**SOCIAL RESPONSIBILITY AND
PROFESSIONAL ETHICS
(REMARKS AT AN INTERNATIONAL PRO BONO SEMINAR
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In recent years, law firms in developed countries have grown enormously and have become institutions of great talent, influence and wealth. I have no doubt that with that growth has come a social responsibility.

The practice of law is universally regarded as a profession. A sense of social obligation is inherent in the very notion of a profession. Nearly a century ago, a great legal scholar and Harvard Law School Dean, Roscoe Pound, defined a “profession” as a “group pursuing a learned art as a common calling *in the pursuit of public service*—no less a public service because it may incidentally be a means of livelihood” (emphasis added). Perhaps one need not go quite so far as Dean Pound in relegating to secondary importance the ability to earn a living through a profession, but the point is that without the element of public service, no individual and no group has the right to call themselves “professionals.”

Law firms also have a social responsibility in a utilitarian as well as a moral sense. If individual lawyers have an individual professional responsibility to facilitate the access of the poor to legal services, law firms have an institutional responsibility to support their individual partners and associates in discharging their respective, individual professional obligations.

Under the Code of Professional Responsibility in force in New York, “[a] lawyer has an obligation to render public interest and pro bono work” (Ethical Consideration 2-25). That proposition is stated in aspirational language. It is not a disciplinary rule, and therefore a lawyer who does no public interest or pro bono work is not subject to professional discipline by the governing authorities such as a censure, reprimand or suspension from practice.. But the proposition is nevertheless a powerful statement of obligation.

A lawyer who is a partner or associate in a law firm is necessarily dependent on the firm's cooperation and support if he or she is to fulfill that individual obligation. If a lawyer is told that he may not work on pro bono matters, or that he may do so only on nights or weekends, or may do so only if he bills 2,500 hours on matters for paying clients, that lawyer will not have the time to discharge his personal pro bono obligation—except at a sacrifice that the lawyer should not have to make. Similarly, if a lawyer is told that he may work on pro bono matters but may not utilize the law firm's resources (such as stenographic and reproduction services) to do so, the lawyer's ability to do pro bono work may be crippled.

I personally believe that the privilege to practice law and to earn a livelihood doing so carries with it the obligation to use one's talents and resources to help the disadvantaged, and that this concomitant responsibility falls on the shoulders of law firms as well as individual lawyers and, in a sense, *independently* of the ethical obligations of individual lawyers. But I think it can be argued equally plausibly that the responsibility of firms is *derivative* of the obligations of individual lawyers, that 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.

Much pro bono work can be done by lawyers whether they practice individually or as part of a law firm., such as assisting the elderly poor in securing public benefits or representing a poor tenant in a housing eviction proceeding. But there are some types of pro bono work that require such a large commitment of time, effort and resources that only law firms can undertake those representations. The classic example of such a matter is litigation against a governmental body that is exceeding its legal authority or failing to discharge its responsibilities under the law.

Law firms must accept a moral obligation, an institutional obligation, to increase the access of the poor to legal services. If they fail to do so, they will subvert the professional responsibility of their individual partners and associates.

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