



***“THE ROLE OF THE LEGAL PROFESSION
IN ADVANCING ACCESS TO JUSTICE”***

REMARKS OF SAMUEL W. SEYMOUR
President, New York City Bar Association

Conference: Pro Bono and the Legal Profession: Strengthening Access to Justice
Santiago, Chile – April 7, 2011

[WELCOME](#)

Thank you. It is an honor and a pleasure for me to be here among so many leaders of the legal profession from across the Americas to discuss a subject that is of great importance to me professionally and personally – the role of lawyers in advancing access to justice. I hope that the message I carry today will inspire us all to continue this valuable collaboration.

[INTRODUCTION: PILLARS OF THE PROFESSION’S RESPONSIBILITY](#)

It is difficult to overstate the importance of the role of the legal profession in a democratic society. Justice, after all, is one of the foundations of a democracy, and we in the



legal profession are the guardians of justice. When we speak for those without voice, when we fight for a fair and honest judicial system, when we strive to improve the law and our profession, we are protecting and strengthening justice. Constructing a just society is not, of course, easy; in every era, in every country, there have been challenges along the way. In my country, it was corruption in New York City's government and judiciary that led to the founding of the New York City Bar Association in 1870. A more recent example is my country's treatment this past decade of detainees in the name of the war on terror.

But the legal profession has risen and can continue to rise to the challenges. The world desperately needs us to speak out and take action to make the world a more equitable place.

One way of looking at our responsibilities is to focus on what we might call the fundamental pillars of the profession's responsibility in a democratic society:

1. The Ethical Responsibility of Lawyers to Guarantee Access to Justice
2. Laws and Policies that Address Social Needs
3. A Fair and Equitable Judicial System
4. Access to the Legal System



This morning, as we open this important gathering, I would like to share some thoughts with you about how lawyers can serve to strengthen these pillars. My thoughts are drawn from the experiences of the New York City Bar Association.

[THE NEW YORK CITY BAR AND THE PILLARS](#)

The New York City Bar is a voluntary association of lawyers and law students. We have more than 23,000 members. Not all of them are New York City or even U.S. lawyers; in fact, we count lawyers from more than 50 nations among our members. The City Bar is active in promoting legal and justice reform and is involved in several initiatives to expand access to justice, promote international human rights, and provide pro bono representation in areas including immigration, AIDS, and homelessness. As Antonia mentioned, the Cyrus R. Vance Center for International Justice, a co-sponsor of this conference, is part of the City Bar.

The first pillar I mentioned is the Ethical Responsibility of Lawyers to Guarantee Access to Justice. This requires us to look at how we behave as lawyers. Unfortunately, as countless surveys (and jokes) tell us, the public does not always believe that lawyers deserve their highest esteem.



If we as lawyers, then, are going to lead, if we are going to try to improve the world, we have to start with ourselves. We cannot expect others to view us as any kind of principled authority if we do not behave ourselves in accordance with the strictest possible standards of ethics, as individuals, and collectively as a profession. This is a tenet of what we have all come to know as the Pro Bono Declaration for the Americas (PBDA), which recognizes the ethical responsibilities of lawyers to devote some portion of their skills and time to providing assistance to the poor and marginalized. We will discuss the PBDA, which the City Bar supports wholeheartedly, this afternoon.

The New York City Bar engages in several activities that "elevate the standard of integrity, honor and courtesy in the legal profession," as our Constitution charges us to do. We issue opinions interpreting New York's ethical rules, to provide general ethical guidance to the bar. We comment on and propose ways of updating laws and legal and judicial codes of ethics, and educate the public about lawyers' obligation to behave ethically. We also run a hotline with lawyers on duty every day to answer questions from lawyers regarding their own prospective conduct.



The second pillar is Laws and Policies that Address Social Needs. Perhaps now more than ever, the legal profession has an obligation to participate in formulating policies that promote the rule of law and democracy, both at home and abroad. Democracy is on the rise. Almost all countries in Latin America and Caribbean are now democratic, where 30 years ago there were only 3.¹ Democracies, especially those in their infancy, can, however, be fragile. As lawyers we have an obligation to protect and support democracies, and to lead by example.

Since its founding, the New York City Bar has spoken out, often loudly, about important issues where policy and law intersect. Recently, for example, the Association has taken a leading role in advocating reform of government ethics laws, adoption of same-sex marriage and lowering barriers facing formerly incarcerated persons as they re-enter society. We have played a major role in addressing due process and fundamental fairness issues that have arisen in connection with the war on terrorism, including filing amicus briefs in the United States Supreme Court in cases involving challenges by people who were detained as enemy combatants.

¹ UNDP Report on Democracy in Latin America (2005; 2009)



On the international front, in matters originating in Latin America, the Association has participated as an amicus before the Inter-American Commission and Court on Human Rights in a variety of matters, on issues including access to public information, freedom of expression, judicial independence, and due process. We also arrange for lawyers to work with think tanks, NGO's, legislators, and government officials, in the U.S. and abroad, in joint, cross-border efforts to foster policies supportive of democracy and the rule of law.

The third pillar is guaranteeing a Fair and Equitable Judicial System. The City Bar's Committee on the Judiciary evaluates candidates for judicial office in New York City. It engages in a laborious process of evaluation that has a reputation for fairness and accuracy. The Association also closely monitors the activity of state and federal courts and frequently recommends changes in court rules and procedures. It advocates for improvements in the judicial system to ensure fairness and equity. It also advocated for, and supported the creation of, New York's independent Commission on Judicial Conduct, which hears complaints about judicial conduct and has the authority to sanction and even remove a judge from office.

Of course there is still more we can do. We all have to be vigilant in opposing government actions that threaten to undermine the independence of the legal profession and its



commitment to attorney-client confidentiality. The Association has spoken out against such legislation and will continue to fight it.

The fourth pillar is enhancing and ensuring Access to the Legal System. This pillar is closely linked to the second pillar, guaranteeing a fair and equitable judicial system, because a judicial system cannot be said to be fair and equitable unless everyone is given meaningful access to it.

The common wisdom in the United States is that the judicial system favors the wealthy; that the poor are unable to access the system readily. I wish I could say that our only problem was changing the public's perception, but unfortunately, there is a great deal of truth to this perception. For example, in 2010 in New York, approximately 98 percent of tenants fighting evictions and 95 percent of parents fighting for child support went to court without lawyers. In 2005, 18% of detained asylum seekers represented by counsel were granted asylum, while in the same year, only 3% of unrepresented asylum seekers were granted asylum.

The unmet legal needs of the poor are huge because government funding for legal aid is so meager. At the City Bar we regularly advocate with federal, state, and city governments for appropriate levels of funding for legal aid programs.



The gap between the meager government resources that are available for legal aid and what is needed must be filled by pro bono lawyers. The Association has created a number of innovative programs to expand pro bono legal assistance to the poor.

For example, through the City Bar Justice Center, we recruit and train volunteer attorneys to:

- Advise low-income consumers and individuals facing foreclosure of their rights and responsibilities regarding outstanding debts;
- Represent immigrants who have suffered torture and other forms of repression in their home countries and are seeking political asylum in the United States; and
- Help immigrant victims of domestic violence seek freedom from their abusers and attain legal status in the United States.

Other projects of the City Bar Justice Center include:

- Training law enforcement, community-based organizations, and NGOs about the legal remedies available to victims of human trafficking and representing victims of trafficking in obtaining legal immigration status and public benefits;



- Holding clinics for seniors and for homeless people to provide them with legal help;
- Providing direct representation and advocacy services to cancer patients, cancer survivors, and their families, and
- Providing low to middle-income micro-entrepreneurs with the legal services necessary to start businesses.

Again, there is more we can do. In the U.S. we need to continue to pressure our government to provide more funding for legal aid. We need to encourage more lawyers to volunteer their services, facilitate training, and run worthwhile programs that make the most of our resources. We need to encourage law firms and corporate legal departments to promote pro bono work among their attorneys, and law schools to continue to provide enriching, hands-on experiences for tomorrow's "citizen lawyers".

CONCLUSION

Over the last 140 years, the New York City Bar Association has pursued justice around the world with the understanding that without justice there can be no democracy. Across the Americas the



profession has made great strides over the past decade in promoting and institutionalizing pro bono legal services. I am proud of the work the New York City Bar Association has done in this area and look forward to hearing what you have done. However, our work is far from over. I therefore also look forward to hearing your views at this conference about what we should do next. Finally, I look forward to our further strengthening our friendship and professional relationships as we work together at this Conference.