

“It is also about helping people”

Women attorneys’ commitment to public service and incentives for pro bono work in Finland and Poland

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Introduction

Lawyers’ voluntary work, referred to as pro bono work, has recently attracted prominent attention among researchers of the American legal profession as the result of a growth in the pro bono activities of lawyers and law firms (e.g. Cummings & Sandefurt 2013; Dinovitzer & Garth 2009; Granfield 2007). The issue of lawyers’ commitment to public service through their legal services to the indigent has been regarded as lawyers’ professional obligation. This commitment can be undertaken through state-sponsored legal aid and free of charge through the pro bono work of lawyers. Legal aid refers to a legal service that is provided to individuals who cannot afford it and thus it is partially or fully covered by a state (Bojarski 2003). By contrast, pro bono work is completely free of charge—it is a legal service that lawyers undertake individually or within their law firm on behalf

of underprivileged clients and/or organisations on a voluntary basis (Bojarski 2003, 19). While voluntary work among lawyers has always been present, its current popularity is linked to the institutionalisation of pro bono activities by law firms (Cummings 2004).

In this chapter, I am specifically concerned with the issue of pro bono work among Finnish and Polish women attorneys. The issue of legal service to indigent people or/and organisations is also on the rise among lawyers and law firms in Finland and Poland (Latham & Watkins 2012, 72–75, 236–240). However, the phenomenon has not received enough attention among scholars in these two countries, and thus there is little knowledge about the conditions that encourage attorneys and other groups of lawyers to engage in services for the public good. The findings of this study can foster discussion on lawyers' and law firms' engagement in the provision of access to justice for the disadvantaged in Finland and in Poland.

This chapter rests upon two theoretical perspectives towards pro bono work, specifically pro bono as lawyers' professional ideal and obligation as well as a way to strengthen lawyers' own positions in the market for legal services. The first perspective is advocated by lawyers' associations, lawyers themselves and scholars. Researchers link the origins of this obligation to lawyers' merits of professionalism and their monopoly over provision of legal services granted to them by the state (e.g. Bennett 2001; Sossin 2008). In exchange for their prestigious social status and self-regulation, lawyers have been expected to contribute to the wellbeing of society through their provision of justice for disadvantaged individuals. The second perspective focuses on pro bono work as a source of professionally valuable resources, such as gaining legal skills and expanding networks, which are particularly important to novice and minority lawyers (Cummings 2004; Dinovitzer & Garth 2009; Granfield 2007). Thus, pro bono activities can reflect and reinforce structures of hierarchy in the

legal profession because they are more likely to benefit elite lawyers' professional standing (Dinovitzer & Garth 2009).

The chapter continues with background information on the organisation of legal aid in both countries, which provides important context for understanding women's experiences with voluntary work. Following this, I present the data and methods. The analysis is organised around three main incentives for pro bono work found among the interviewees, specifically a fulfilment of a professional ideal, an opportunity to do socially meaningful work and as a way to accrue professionally critical resources. In the conclusion, the implications of the findings and ideas for further research are discussed.

Legal aid in Finland and Poland

Finland and Poland differ in the organisation of legal aid. In Finland, legal aid is provided by 27 legal aid offices, which are divided among six districts: Turku, Vaasa, Eastern Finland, Helsinki, Kouvola and Rovaniemi (Latham & Watkins 2012, 73–74). Lawyers employed by these offices are called public legal aid attorneys and they give legal aid in all kinds of legal matters, such as in the area of contract law, family law, employment law and criminal law. In addition, private attorneys provide legal aid only in court cases and are reimbursed for their work on an hourly basis by clients or by a state (Latham & Watkins 2012, 73–74). Their provision of legal aid requires a contract with any of the legal aid offices.

By contrast, in Poland legal aid is provided by private legal advisors and attorneys through the so-called *ex officio* system (Bojarski 2003, 38). *Ex officio* cases can be of a civil, labour, family or criminal nature. Attorneys or legal advisors are appointed by a court made up of the members of the local Council of the Bar or the Council of Legal Advisors; however, only attorneys can provide legal aid in criminal

cases. While legal advisors have full legal jurisdiction over civil, labour and commercial cases, their representation in *ex officio* system covers only one percent of cases because most *ex officio* cases are criminal cases (Bojarski 2003, 17–19). Thus, attorneys provide most of the legal aid in Poland as they are required to take on *ex officio* criminal cases assigned to them by the court (Latham & Watkins 2012, 236–237).

Methodology

This chapter draws on interview data with 25 Finnish and Polish women attorneys from law offices located predominantly in Helsinki and Warsaw. The data was collected for a doctoral dissertation on women attorneys' careers in Finland and Poland in 2011 (Choroszewicz 2014). The interviews lasted from 35 minutes to two and a half hours. The interviewees practiced in law firms which differed in size and legal specialty. The majority of the Polish interviewees practiced law as generalists in their own solo practices. The majority of Finnish interviewees worked in middle-sized or large law firms as partners or senior associates. The Finnish interviewees were more likely to be specialised compared to their Polish counterparts. The interviewees ranged in age from their early 30s to their 80s.

The data was analysed drawing on thematic content analysis (Silverman 2006) around the following questions: How do the interviewees talk about voluntary work? What types of activities do they classify as such? Why do they engage in pro bono activity? The themes were then identified analysed in the light of theoretical perspectives on lawyers' pro bono work. Finally, the findings were compared among interviewees to explore the similarities and differences in their engagement in voluntary work. The interviewees' nationality is marked by the first initials, "F" for Finnish and "P" for Polish interviewees.

Empirical findings

Legal aid as a less popular form of commitment to public service

“Basically it [legal aid] is kind of safe income that we are not dependent on that what our client pays or not, but the fee is a lot less”. [F]

“Every month I get some ex officio cases which are very poorly rewarded. We get minimal fees for them [...] regardless of how much work or how many visits to the court they require. If I am not able to be present at court, I need to send a replacement, and the costs of an apprentice are two or three times higher than the fee of such a case so there is no monetary gain in such cases, only expenses. So I treat them as my pro bono work”. [P]

Polish and Finnish interviewees have different experiences with legal aid that is assigned to them by a court (Poland) or by a legal aid office (Finland). Polish interviewees report receiving ex officio cases of different kinds, such as criminal, civil, family or labour, on a monthly basis. Although any member of the Bar can be appointed in an ex officio case, the criteria of distribution are not clear to the Polish interviewees and thus invoke critique as they notice that some attorneys are more likely to be appointed legal aid cases than others. This feeling of inequality and frustration is shared not only by the interviewees but also by larger group of Polish attorneys (Bojarski 2003, 55).

In addition, Polish interviewees perceive their obligation to provide legal aid as distressful because of the arguably inadequate financial compensation of ex officio cases from the Polish state. These interviewees also relate their dislike of ex officio cases to the low status of clients and rather unwinnable character of their cases. Thus, they consider their work on these cases as the fulfilment of their

professional commitment to public service. However, if they have the opportunity, they delegate *ex officio* cases to their apprentices who, as they argue, can practice their legal skills. By contrast, the Finnish interviewees' accounts demonstrate that the provision of legal aid can be beneficial for some law offices in terms of regular and predictable income from these cases, even though the fees from legal aid are lower than that of legal services charged by private practices in Finland.

Pro bono as a more popular form of commitment to public service

Pro bono as a professional ideal

"I would even say it is our obligation [to do pro bono work] because there are so many bad things happening in this world. [...] If you have achieved a lot in your life you have a good opportunity to give something to others". [F]

"I learnt it from my older colleague with whom I used to work that you need to always have a case you work on not for money but in order to help someone. After all, it is a profession aimed at helping people even though it is nowadays mainly treated in terms of services. Therefore, one cannot forget that it is also about helping people". [P]

Interviewees of both nationalities stress specifically a sense of professional duty to serve their communities, which they argue that they have learnt from their mentors. This indicates that the interviewees have successfully embodied the professional ideal of lawyers' commitment to public service, which legitimises the profession itself (Bennett 2001; Dinovitzer & Garth 2009). Pro bono work seems to provide the interviewees with a sense of job satisfaction (Choroszewicz 2014, 82–85).

In addition, some interviewees' accounts demonstrate that larger law firms tend to provide an organisational infrastructure for pro

bono work by delegating particular employees to do some pro bono on behalf of a firm so that other lawyers can focus entirely on generating profits. In other firms, employers might encourage all employees to do some voluntary work which they can later report in rankings of law firms with regard to charity work. The following interviewees' accounts are indicative of this:

“It is rare that a law firm as a whole is engaged in pro bono work because honestly speaking someone needs to earn so that someone else can do some pro bono work. Generally it is so, at least in our firm, every one of us tries to do something pro bono even just for the sake of ordinary human decency. In other firms there are employees who are in charge of pro bono work, but honestly they are sustained by the rest of firm. The rest of firm earns money so that they can work pro bono”. [P]

“The firm has a commitment to do a certain amount of pro-bono work and we do that. We have been also giving free legal advice for the Bar Association for individual persons. But that is sort of done within the firms, but it is not like you do something individually and not in the name of the firm. Typically you do it in the name of the firm, and this is of course part of what we do”. [F]

Pro bono as an opportunity to do socially meaningful work

“Sometimes—maybe I should not admit it so openly—I take some cases for free. Those are people who do not have money for legal advice”. [P]

“Actually I started to do a little of it [pro bono] because I think now at this point I can even afford to do it, but I think once the kids are few more years older, then it will even become easier. [...] It makes you feel good, it gives a good conscience in a different way than just finalising a new transaction”. [F]

The accounts of some interviewees of both nationalities also indicate that they treat pro bono as a way to balance the pressure that is prevalent in their current workplaces to generate profits. One of the frustrations of corporate lawyers is linked to the shift in orientation of the legal profession from public service towards business service (Bennett 2011, 86–92; Wallace & Kay 2008, 1039–1040). This shift is more prominent in the case of corporate lawyers who serve predominantly corporate clients and thus have fewer opportunities to feel that they are making difference to others' lives. Pro bono work appears to provide the interviewees from large law firms with a sense of doing socially valuable work, which they do not necessarily have when serving corporate clients. Both Finnish and Polish interviewees emphasise their satisfaction with the opportunity to help others through pro bono activities. However, some interviewees from large law firms emphasise that doing pro bono work was impossible early in their careers when they needed to juggle a demanding career and family life (Choroszewicz 2016).

Pro bono as a source of professionally critical resources

“But once at my department, I found some information that an association needed volunteers to help accident victims. I got there in this way. [...] I worked there as a volunteer and at some moment we established a civil-law partnership outside that association. [...] I do not deny that I counted on the fact that some of the people I would meet there would later come back to me as my clients in this office”. [P]

Three Polish interviewees from small law offices mention that pro bono has opened up new career prospects. They started to give free legal counselling in law schools with an expectation of acquiring practical legal skills and accessing networks of potential clients and employers, which later they utilised to advance their careers. This finding supports the results of other studies that point to pro bono as

a source of professionally important resources, specifically to lawyers who are more likely to face limited opportunities for training and career development (e.g. Granfield 2007; Mather, McEwen, & Maiman 2001). The motivation for pro bono activity can be specifically prominent in cases of novice lawyers who want to practice their skills and thus gain professional recognition among their colleagues and potential clients (Dinovitzer & Garth 2009).

Conclusion

The findings demonstrated that the women attorneys show more positive attitude towards their commitment to public service when they have more control over it. The analysis also indicates that some voluntary activities such as individually chosen recipients of pro bono are more popular among the interviewees because of differences in prestige and job satisfaction they provide for lawyers. The Finnish interviewees seem more likely to endorse and engage in pro bono work because they are not obliged to give legal aid. They also experience the Finnish system of financial compensation for legal aid more positively than their Polish counterparts.

Pro bono appears as a more favoured form of lawyers' commitment to public service compared to legal aid. The motivation for pro bono among the attorneys of larger law firms includes an opportunity to fulfil a professional ideal and to engage in socially meaningful work. Lawyers' commitment to pro bono work is increasingly an issue of whole law firms that want to be able to demonstrate their commitment to public service in annual rankings of firms (Cummings 2004). Employers might also perceive pro bono activity as a part of novice lawyers' training (Cummings 2004). The incentives among the attorneys of small law firms for pro bono include, besides the ones mentioned above, an accrue-ment of professionally critical resources.

The insights into the women attorneys' incentives for pro bono also provide better understanding of the paradox of women lawyers' high career satisfaction despite their disadvantages in career advancement in the legal profession in general (e.g. Chiu 1998; Hull 1999) and in the studied countries (Choroszewicz 2014). Pro bono allows women to fulfil their interest to serve their communities, which seems to be positively reflected in their job satisfaction. This finding needs further research in order to analyse whether this interest of women motivates them to make career choices that carry professional and financial sacrifices or whether they are channelled by their employers to make these career choices which are often perceived as more appropriate for women lawyers due to the work nature and perceived work-life balance achieved in pro bono work (Biese & Choroszewicz 2018; Hearn, Biese-Stjernberg, Choroszewicz, & Husu 2016, 64–65). Finally, further studies on pro bono activities also need to examine men lawyers' incentives to do voluntary work in both countries to test whether the findings of other studies (Dinovitzer & Garth 2009; Granfield 2007) on women lawyers' greater endorsement and practical commitment to pro bono work hold in the European settings.

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