
RECENT DEVELOPMENTS IN THE PROVISION OF *PRO BONO* LEGAL SERVICES BY ATTORNEYS IN SOUTH AFRICA**D Holness***

A system of justice that closes the door to those who cannot pay is not deserving of the name.**

SUMMARY

This paper focuses on legal service delivery for the indigent by attorneys in private practice acting *pro bono* in civil rather than criminal matters. In this regard there have been and continue to be considerable gaps between the proper access to civil justice imperatives of constitutional South Africa and the status quo which has existed from the advent of a democratic South Africa until the present. Law as a vehicle for necessary positive change in the daily lives of South African residents is pertinently considered within the country's woefully unequal socio-economic climate. This paper considers the role which *pro bono* work by private attorneys is playing and should play in promoting a more just and equitable society through proper access to justice. It explores the current position in South Africa as well as the position in selected foreign jurisdictions regarding *pro bono* services by attorneys in private practice in civil matters. Part of the discussion focuses on the question of whether *pro bono* work should be voluntary or mandatory. The merits of introducing a *pro bono* obligation are critically analysed by looking at the effect on both legal practitioners as well as those receiving the *pro bono* services. Having defined *pro bono* work, the practical need for *pro bono* work by lawyers in private practice is highlighted due to the dearth of legal aid in civil matters for indigent South Africans. Possible constitutional imperatives for the provision of free legal services in civil matters are highlighted. An important part of the paper is a reflection on some of the *pro bono* work being conducted by private firms of attorneys. The paper

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** Wachtler 1991 *Hofstra L Rev* 744.

concludes with suggestions on means for establishing a more effective *pro bono* system in South Africa.

KEYWORDS: legal service delivery; indigent; attorneys; *pro bono*; civil matters; private practice; constitutional; South Africa; socio-economic; access to justice; foreign jurisdictions; voluntary; mandatory; legal aid; free legal services