

# ACCESS TO JUSTICE IN PUERTO RICO

## SYMPOSIUM CONFERENCE

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## INTRODUCTION

ONE DISPIRITING ASPECT OF AMERICA’S RECENT POLITICAL CAMPAIGNS HAS been the almost complete silence surrounding access to justice. Even more dispiriting has been the complete absence of concern about that silence. Inadequacies in the delivery of medical services under the *Affordable Care Act* have generated endless debates. The inadequacy of legal services has passed almost unnoticed. One of the only exceptions was in Puerto Rico, where gubernatorial candidates participated in a 2016 access to justice forum.<sup>1</sup>

The lack of national policy discussion is not for lack of a problem. According to the World Justice Project, the United States ranks twenty-eighth of one hundred thirteen countries in the civil justice aspect.<sup>2</sup> Based on a number of surveys of low-income individuals, the Legal Services Corporation has estimated that over four-fifths of the legal needs of the American poor remain unmet, a figure

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<sup>1</sup> Embajador Microjuris al Día, *Candidatos a la gobernación hablan sobre el acceso a la justicia*, MICROJURIS (Sept. 15, 2016), <https://aldia.microjuris.com/2016/09/15/candidatos-a-la-gobernacion-hablan-sobre-el-acceso-a-la-justicia/> (last visited May 31, 2017).

<sup>2</sup> JUAN CARLOS BOTERO *ET AL.*, THE WORLD JUSTICE PROJECT: RULE OF LAW INDEX 2016, THE WORLD JUSTICE PROJECT 153 (2016), [https://worldjusticeproject.org/sites/default/files/documents/RoLI\\_Final-Digital\\_o.pdf](https://worldjusticeproject.org/sites/default/files/documents/RoLI_Final-Digital_o.pdf).

that has not budged over the last three decades.<sup>3</sup> Funding for direct legal services for low income individuals comes to just \$5.85 per eligible person per year, and may drop still lower under the Trump administration.<sup>4</sup> Other developed democracies devote three-to-ten times more funding to civil legal aid than the United States.<sup>5</sup> Even our grossly inadequate resources are not equally distributed. According to a recent report by the American Bar Foundation, “[s]tates differ substantially in the resources available to support civil legal assistance, in the kinds of services that are available, and in the groups served by existing programs[;]”<sup>6</sup> in effect, “geography is destiny.”<sup>7</sup>

Nowhere is the challenge greater than in Puerto Rico. It faces a combination of poverty, funding constraints, and language barriers that place the justice system out of reach to many who need it most. An estimated 75% of litigants lack legal representation.<sup>8</sup> The discussion that follows explores the extent of the problem and the most promising responses. It proceeds in four parts. Part I begins with background on the economic crisis in Puerto Rico. Part II explores what is known about access to justice in the Commonwealth. Part III surveys organizations that provide legal aid. Part IV proposes strategies to improve access to justice through simplification of legal processes, assistance to *pro se* litigants, non-lawyer services, pro bono contributions, funding innovations, evaluation, and education.

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3 LEGAL SERVICES CORPORATION, DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 1-13 (2009), <http://www.americanbar.org/content/dam/aba/migrated/marketresearch/PublicDocuments/JusticeGapInAmerica2009.authcheckdam.pdf>. One 1989 national survey found that about forty-three percent of low income households reported experiencing a legal problem in the last year and that for about four-fifths of those problems, no legal assistance was available. ROBERT L. SPANGENBERG *ET AL.*, THE SPANGENBERG GROUP, INC., REPORT: NATIONAL SURVEY OF THE CIVIL LEGAL NEEDS OF THE POOR 17 (1989).

4 LEGAL SERVICES CORPORATION, FISCAL YEAR 2017 BUDGET REQUEST 2 (2017), available at <http://www.lsc.gov/media-center/publications/fy-2017-budget-request> (last visited May 31, 2017). For Trump administration proposals to cut the budget for the federal legal services corporation, see Sharon LaFraniere & Alan Rappeport, *Popular Domestic Programs Face Ax Under First Trump Budget*, N.Y. TIMES (Feb. 17, 2017), [https://www.nytimes.com/2017/02/17/us/politics/trump-program-eliminations-white-house-budget-office.html?\\_r=0](https://www.nytimes.com/2017/02/17/us/politics/trump-program-eliminations-white-house-budget-office.html?_r=0) (last visited May 31, 2017).

5 Earl Johnson Jr., *Lifting the “American Exceptionalism” Curtain: Options and Lessons from Abroad*, 67 HASTINGS L.J. 1225 (2016), <http://www.hastingslawjournal.org/wp-content/uploads/Johnson-67.5.pdf>.

6 REBECCA L. SANDEFUR & AARON C. SMYTH, AMERICAN BAR FOUNDATION, ACCESS ACROSS AMERICA: FIRST REPORT OF THE CIVIL JUSTICE INFRASTRUCTURE MAPPING PROJECT (2011), [http://www.americanbarfoundation.org/uploads/cms/documents/access\\_across\\_america\\_first\\_report\\_of\\_the\\_civil\\_justice\\_infrastructure\\_mapping\\_project.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/access_across_america_first_report_of_the_civil_justice_infrastructure_mapping_project.pdf).

7 *Id.*

8 Leysa Caro González, *Crítico el acceso a la justicia*, EL NUEVO DÍA (Feb. 14, 2016), <http://www.elnuevodia.com/noticias/locales/nota/criticoelaccesoalajusticia-2162271/> (last visited May 31, 2017).

## I. ECONOMIC CHALLENGES FACING PUERTO RICO

Since 1898, when Spain ceded Puerto Rico to the United States following the Spanish-American War, the Island has had a relationship with the United States “that has no parallel in our history.”<sup>9</sup> Over the course of the twentieth century, residents gained the right of self-government and the United States citizenship, and experienced considerable economic growth, but remained economically vulnerable. The population under the poverty line exceeds 45% of the Island’s 3.4 million inhabitants, compared with 16% for the United States generally.<sup>10</sup> The median household income approximates \$19,000; the corresponding United States median is three times higher.<sup>11</sup> Puerto Rico also suffers from 12% percent unemployment, significantly higher than the national average of 4.7%.<sup>12</sup> The labor participation rate hovers around 40%, which is substantially lower than the national average of approximately 60%.<sup>13</sup>

The situation has worsened over the last decade. Puerto Rico’s economy has shrunk by more than 10% due to multiple factors: an *investment/housing bust*, the 2008 global recession, *bank distress*, increasing oil prices, and a phase out of section 936 of the Internal Revenue Code, a federal tax incentive that applied only to Puerto Rico.<sup>14</sup> As the recession deepened, the government spent beyond its means and inflated its debt from 62% of Gross Product in 2000 to 100% in 2010.<sup>15</sup> Unable to borrow more money and restructure its debt, the Government faced a liquidity crisis in 2016 that compelled Congress to act.

The Federal Government’s response to the crisis bears heavily on any efforts to increase funding for access to justice. In June 2016, Congress approved the *Puerto Rico Oversight, Management, and Economic Stability Act* (PROMESA, Spanish for “promise”) to establish a Financial Oversight and Management Board.<sup>16</sup> With members appointed by the President and Congress, the Board

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<sup>9</sup> Examining Bd. of Engineers v. Flores de Otero, 426 U.S. 572, 596 (1976).

<sup>10</sup> DEP’T OF THE TREASURY, PUERTO RICO’S ECONOMIC AND FISCAL CRISIS 1, [https://www.treasury.gov/connect/blog/Documents/Puerto\\_Ricos\\_fiscal\\_challenges.pdf](https://www.treasury.gov/connect/blog/Documents/Puerto_Ricos_fiscal_challenges.pdf).

<sup>11</sup> *Id.*

<sup>12</sup> Compare AUTORIDAD DE ASESORÍA FINANCIERA Y AGENCIA FISCAL, INDICADORES ECONÓMICOS DE PUERTO RICO 1, <http://www.bgfpr.com/spa/economy/documents/PRIEo22217AAFAF.pdf>, with *Data-bases, Tables & Calculators by Subject*, BUREAU OF LABOR STATISTICS, U.S. DEP’T OF LABOR, <https://data.bls.gov/timeseries/LNS14000000> (last visited May 31, 2017).

<sup>13</sup> Jens Manuel Krogstad *et al.*, *Puerto Rico’s losses are not just economic, but in people, too*, PEW RESEARCH CENTER (July 1, 2015), <http://www.pewresearch.org/fact-tank/2015/07/01/puerto-ricos-losses-are-not-just-economic-but-in-people-too/> (last visited May 31, 2017).

<sup>14</sup> DEP’T OF THE TREASURY, *supra* note 10, at 1; ANNE O. KRUEGER *ET AL.*, PUERTO RICO – A WAY FORWARD 4-6 (2015), <http://www.bgfpr.com/documents/FinalUpdatedReport7-13-15.pdf>.

<sup>15</sup> Carlos Márquez & José L. Carmona, *The Age of Consequences*, CARIBBEAN BUSINESS 16 (July 28, 2011).

<sup>16</sup> Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), Pub. L. No. 114-187, 130 Stat. 549 (codified at 48 U.S.C. § 2101 (2016)).

exerts broad powers, including authority to draft, approve, and revise a fiscal plan and budget if the Governor and Legislature fail to comply with the Board's requirements.<sup>17</sup> Any law to fund access to justice initiatives would need the Board's approval. The crisis has already affected funding for the Judicial Branch, and forced budget cuts of almost 14% since 2014.<sup>18</sup> Filing fees have also increased 21%, and measures such as an access to justice fund have been delayed.<sup>19</sup>

## II. CHALLENGES IN ENSURING ACCESS TO JUSTICE

The Puerto Rico Constitution, like its American counterpart, guarantees the right to "assistance of counsel" in criminal but not civil cases.<sup>20</sup> Its Ethics Canon also directs lawyers "to strive toward the attainment of adequate assistance of counsel for every person."<sup>21</sup> To that end, "the lawyer must accept and perform any reasonable commission to render legal services gratuitously to indigent persons, especially insofar as the defense of the accused and the assistance of counsel for indigent persons are concerned."<sup>22</sup> The Canon also requires lawyers "to aid in establishing the proper means to furnish adequate legal services to all persons who cannot pay for them."<sup>23</sup> What these requirements entail in practice and how they are enforced remains unclear, and it does not appear that lawyers face disciplinary actions for failure to provide uncompensated representation.<sup>24</sup>

Puerto Rico also allows *pro se* representation, and the Judicial Branch provides some resources through *pro se* centers and its webpage. However, courts are not required to provide legal orientation for *pro se* litigants, and can reject this form of representation depending on the case and the party asserting the right.<sup>25</sup> Litigants who are allowed to represent themselves are held to the same standards of conduct as lawyers, even though they lack the same preparation.<sup>26</sup>

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<sup>17</sup> *Id.* § 2141 (c).

<sup>18</sup> OFICINA DE GERENCIA Y PRESUPUESTO, PRESUPUESTO APROBADO 2016-2017: TRIBUNAL GENERAL DE JUSTICIA, available at <http://www2.pr.gov/presupuestos/PresupuestoAprobado2016-2017/PresupuestosAgencias/010.htm>.

<sup>19</sup> For filing fee increases, see Junta Editora 2015-2016, *Acceso a la justicia: del verbo al hecho – Una mirada a la problemática actual en Puerto Rico*, 55 REV. DER. P.R. 69, 110 (2016). For delayed initiatives, see Liana Fiol Matta, *La justicia en tiempos de retos: Lección Magistral*, 55 REV. DER. P.R. 1, 9 (2016); see also *infra* text note 31.

<sup>20</sup> See CONST. PR art. II, § 11; see also Caro González, *supra* note 8.

<sup>21</sup> CÓD. ÉTICA PROF. 1, 4 LPRA Ap. IX, § 1 (2012 & Supp. 2014).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See the discussion of pro-bono representation in the text accompanying *infra* note 36.

<sup>25</sup> 4 LPRA Ap. IX, § 1 (2012 & Supp. 2014).

<sup>26</sup> Junta Editora 2015-2016, *supra* note 19, at 89.

Moreover, *pro se* litigants cannot also have assistance of counsel, which restricts their access to *unbundled* legal services.<sup>27</sup>

In 2003, the Puerto Rico Supreme Court created an Access to Justice Commission, which released a report with a strategic plan a year later. It called for expanding the use of technology, creating a permanent fund for access to justice, and improving judicial procedures.<sup>28</sup> Some progress has occurred along these lines. For example, the judiciary's website provides information on *pro se* representation and a directory of lawyers. In 2013, the Legislature finally enacted the Puerto Rico *Access to Justice Fund*, which aims "to provide resources to nonprofit organizations that provide free legal aid for cases involving civil matters . . . [to] low-income individuals."<sup>29</sup> The fund is subsidized by *Interest On Lawyer Trust Accounts* (IOLTA). As in the United States, IOLTA uses interest on deposits that lawyers hold for clients. However, the Fund is not yet operational, and the extent of its potential resources remains unclear.<sup>30</sup>

The challenges facing Puerto Rico in ensuring access to justice remain substantial. As noted earlier, an estimated 75% of parties lack legal representation, and some estimates place the number much higher.<sup>31</sup> Data on the types of cases that proceed without assistance are lacking, but experts suggest that those most vulnerable include immigrants, prison inmates, the elderly, tenants, property-owners facing foreclosure, and special education beneficiaries.<sup>32</sup> Language barriers compound the problem. An estimated 80% of Puerto Ricans are not fully fluent in English.<sup>33</sup> As a Commonwealth, Puerto Rico is subject to federal laws, and federal court proceedings are conducted in English. The number of attorneys available for these proceedings is small, which makes them "even more in-

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<sup>27</sup> See Federico Hernández Denton, *Acceso a la justicia y Estado de Derecho*, 81 REV. JUR. UPR 1129, 1134 (2012).

<sup>28</sup> See COMISIÓN DE ACCESO A LA JUSTICIA, TRIBUNAL SUPREMO DE PUERTO RICO, INFORME FINAL: PROPUESTA PLAN ESTRATÉGICO (2004), [http://www.probonopr.org/wp-content/uploads/2013/05/Informe\\_de\\_Acceso\\_a\\_la\\_Justicia1.pdf](http://www.probonopr.org/wp-content/uploads/2013/05/Informe_de_Acceso_a_la_Justicia1.pdf).

<sup>29</sup> Access to Justice Fund Act, Act No. 165 of December 26, 2013, 4 LPRA §§ 694-702 (2010 & Supp. 2016).

<sup>30</sup> Direct Message from Ramón Luis Nieves, author of S. 479, 17th Leg., 2nd Sess. (P.R. 2013), to authors (Feb. 14, 2016, 1:55 PM PST) (on file with authors).

<sup>31</sup> News reports estimate that 153,153 cases out of 204,204 cases in 2014, or about 75% of cases lacked representation, see Caro González, *supra* note 8. The governor of Puerto Rico has suggested that the number may be as high as 400,000. See, e.g., Alex Figueroa Cancel, *Evalúan iniciativas para mejorar el acceso a la justicia*, EL NUEVO DÍA, Feb. 4, 2017.

<sup>32</sup> Caro González, *supra* note 8 (quoting Ariadna M. Godreau-Aubert).

<sup>33</sup> Charles Hey-Maestre, *The Problem of Access to Justice in Puerto Rico: A New Alternative to Provide Voluntary Legal Assistance in Civil Cases through the Website voluntariadolegalpr.org*, 55 FROM THE BAR 3 (Fall 2015), <http://www.fedbar.org/Image-Library/Chapters/Puerto-Rico/Newsletters/Fall-2015.aspx> (footnote omitted).

accessible for the majority of the population.”<sup>34</sup> Efforts to change the District Court’s proceedings to Spanish have failed.<sup>35</sup>

A final challenge is the lack of a pro bono culture. Again, comprehensive data are lacking. However, one survey found that although between 44% to 65% of Puerto Rican lawyers had provided pro bono services in the past three years, it was unclear how much they provided and how much it benefitted indigents.<sup>36</sup> Only 4% had done so through the bar association’s pro bono program, and only 11% had represented a client through court-appointed programs. Few lawyers had worked with the government or nonprofits that provide pro bono services.<sup>37</sup> Among the small number of attorneys who had represented clients through court appointments, almost half believed that the appointment system was unreasonable because burdens disproportionately fall on those who have criminal law experience or who practice in areas with low concentrations of bar memberships.<sup>38</sup>

Lawyers in the largest, most profitable firms could do more to set the right example. Only one firm, McConnell Valdés, discloses specific details about its contributions in terms of pro bono hours and the number of participating lawyers.<sup>39</sup> In the latest year for which data was disclosed, only four of about a hundred of its attorneys contributed more than twenty-five hours annually. On average, each attorney donated only ten hours per year in the first decade of the firm’s program.<sup>40</sup> That falls considerably short of the average of 54.3 hours among the top 200 American firms.<sup>41</sup>

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34 *Id.*

35 *See, e.g.*, Compact for Permanent Union Between Puerto Rico and the United States, S.J. Res. 215, 94<sup>th</sup> Cong. (2<sup>nd</sup> Sess. 1976), <https://www.fordlibrarymuseum.gov/library/document/0010/6283030.pdf>; Tom Bryan, *Corrada Llama “Vestigio Colonial” Uso Inglés en Tribunal Federal*, EL MUNDO (July 20, 1978).

36 Embajador Microjuris al Día, *Hallazgos de investigación sobre servicios pro bono en Puerto Rico*, MICROJURIS (Nov. 1, 2013), <https://aldia.microjuris.com/2013/11/01/presentan-hallazgos-de-investigacion-sobre-los-servicios-pro-bono-en-puerto-rico/> (last visited May 31, 2017).

37 *Id.*

38 Caro González, *supra* note 8.

39 *See Puerto Rico’s Largest Law Firms*, CARRIBBEAN BUSINESS BOOK OF LISTS 183 (2016); compare *Pro Bono Program*, MCCONNELL VALDÉS LLC, <http://www.mcvpr.com/citizenship>, with O’NEILL & BORGES LLC, [www.oneillborges.com](http://www.oneillborges.com), and FIDDLER GONZÁLEZ & RODRÍGUEZ, P.S.C., [www.fgrlaw.com](http://www.fgrlaw.com), and PIETRANTONI, MÉNDEZ & ÁLVAREZ LLC, [www.pmalaw.com](http://www.pmalaw.com), and FERRAIOULI LLC, [www.ferraiouli.com](http://www.ferraiouli.com) (last visited May 31, 2017).

40 *McConnell Valdés ofreció más de 1,700 horas pro bono en el año fiscal 2012-2013*, MICROJURIS (Dec. 11, 2013), <https://aldia.microjuris.com/2013/12/11/mcconnell-valdes-ofrecio-mas-de-1700-horas-pro-bono-en-ano-fiscal-2012-2013/> (last visited May 31, 2017); *see also* ARTURO J, GARCÍA-SOLA & ANTONIO ESCUDERO-VIERA, *THE PRO BONO PROGRAM: MAKING A DIFFERENCE FOR TEN YEARS* (2016), [http://www.mcvpr.com/media/news/410\\_Pro%20Bono%2010%20Anniversary%20Publication%20for%20Web.pdf](http://www.mcvpr.com/media/news/410_Pro%20Bono%2010%20Anniversary%20Publication%20for%20Web.pdf).

41 *Doing your bit for society, or advancing your legal skills – whichever way you look at it, pro bono does a world of good*, CHAMBERS ASSOCIATE, <http://www.chambers-associate.com/where-to-start/pro-bono> (last visited May 31, 2017).

### III. ORGANIZATIONS PROMOTING ACCESS TO JUSTICE

Numerous nonprofits provide legal assistance in Puerto Rico. These include the Legal Aid Clinics from the three law schools, the *Sociedad para Asistencia Legal* (Legal Aid Society, SAL) for criminal cases, and *Servicios Legales de Puerto Rico* (Legal Services of Puerto Rico, SLPR), Pro-Bono, Inc., and San Juan's *Programa de Ayuda Legal* (Legal Aid Program, PAL) for civil cases.<sup>42</sup> Many "intermediary institutions such as advice and ombudsperson agencies to assist with routine needs"<sup>43</sup> also provide services in Puerto Rico. The government administers *procuradorías* for women, the elderly, the handicapped, medical patients, and veterans, as well as a broader Ombudsman to "channel the constitutional right to seek the resolution of grievances."<sup>44</sup>

SLPR is the largest legal aid organization. In the most recent year for which data are available, SLPR employed 125 attorneys and served 72,708 individuals whose incomes did not exceed 125% (or in some instances 200%) of the poverty line.<sup>45</sup> Of the 25,000 cases closed in 2015, most were family (45%), consumer (13%), and housing (10%) cases.<sup>46</sup> SLPR's funding comes mainly from the Legal Services Corporation, a Congressionally funded non-profit.<sup>47</sup> In 2016, SLPR received approximately \$11 million in funding.<sup>48</sup> Since the LSC disburses funds based on the population below the poverty line, and Puerto Rico leads the United States in the percentage of population below this line, for twenty years SLPR received the most funding of any of the LSC's 134 programs.<sup>49</sup> Like all of those programs, however, SLPR has experienced a recent drop in funding, a reduction compounded by the declining share of Puerto Rico's poverty population in comparison with other jurisdictions.<sup>50</sup>

<sup>42</sup> *Servicios Legales Gratuitos*, RAMA JUDICIAL DE PUERTO RICO, <http://www.ramajudicial.pr/servicios/servicioslegales.htm> (last visited May 31, 2017).

<sup>43</sup> For a general discussion of such institutions, see Deborah L. Rhode, *Whatever Happened to Access to Justice?*, 42 *LOY. L. A. L. REV.* 869, 879 (2009) (footnote omitted).

<sup>44</sup> *Directorio de Agencias*, PORTAL OFICIAL DEL GOBIERNO DE PUERTO RICO, <http://www2.pr.gov/Directorios/Pages/DirectoriodeAgencias.aspx> (last visited May 31, 2017); *Sobre nosotros*, OFICINA DEL OMBUDSMAN PUERTO RICO, <http://www.ombudsmanpr.com/sobre-ombudsman/sobre-nosotros> (last visited May 31, 2017).

<sup>45</sup> Junta Editora 2015-2016, *supra* note 19, at 84 (citing Interview with Benjamin García, Subdirector of Servicios Legales de Puerto Rico, in Ponce, P.R. (Nov. 10, 2015)); *State Profile: LSC-Funded Programs in Puerto Rico*, LEGAL SERVICES CORPORATION, <http://www.lsc.gov/state-profile?st=PR> (last visited May 31, 2017).

<sup>46</sup> *Id.*

<sup>47</sup> The Legal Service Corporation Act, Pub. L. No. 93-355, 88 Stat. 378 (codified at 42 U.S.C. §§ 2996a-2996l) ("State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico") *Id.* at § 2296a.

<sup>48</sup> *State Profile*, *supra* note 45.

<sup>49</sup> Charles S. Hey Maestre, Speech by the Legal Services of Puerto Rico, Inc. before the Puerto Rico Senate's Legal and Veterans' Affairs Commission regarding Senate Bill 479, 4 (May 20, 2012).

<sup>50</sup> *Id.*

No published information is available about which kinds of civil cases receive priority in these aid organizations or about how those decisions are made. Nor is it clear how law school clinics select clients, although some information suggests that they lack a formal income cutoff and consider the educational value of the matter.<sup>51</sup> Many commentators have expressed concerns that income cutoffs curtail access to justice for the middle class individuals who constitute an estimated twenty-five percent of the Commonwealth's population and are unable to afford lawyers.<sup>52</sup>

To expand access to unserved individuals, Puerto Rico's legal aid organizations have increasingly invested in online services. SLPR offers information on a variety of topics and allows potential clients to seek aid online by filling out a form and describing their legal problem in no more than three sentences.<sup>53</sup> Likewise, SAL, which handles criminal cases, provides online responses to frequently asked questions (FAQs) and other relevant materials, including court decisions. The FAQs section is limited, however, and only indicates what to do if individuals are stopped or arrested by the police.<sup>54</sup> Although SAL also provides a directory of offices handling indigent criminal representation, it does not allow users to seek legal services online.<sup>55</sup> The three law school clinics, on the other hand, provide little to no information online regarding their services and how to apply for them. By contrast, *Pro-Bono, Inc.* allows users to apply for help online and also allows lawyers to volunteer as pro bono attorneys.<sup>56</sup> It does not, however, provide any information or guidance on legal issues and the user interface appears dated.

To improve online assistance, multiple legal organizations have recently collaborated to create a website called *ayudalegalpr.org*.<sup>57</sup> Through an interactive tool, users can select their type of problem, input their zip code, and access a directory of nearby legal aid organizations. For those who are unable to hire an attorney, the site also offers guides and forms to facilitate *pro se* representation.

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<sup>51</sup> Junta Editora 2015-2016, *supra* note 19, at 84 (citing Interview with Luz H. Rodríguez, Professor of the Legal Aid Clinic at the Pontifical Catholic University of Puerto Rico, in Ponce, P.R. (Dec. 17, 2015)).

<sup>52</sup> *Id.* at 85 (citing Ileanxis Vera Rosado, *Aumenta la clase de los nuevos pobres*, ELVOCERO.COM, (July 30, 2014), [www.elvocero.com/aumenta-la-clase-de-los-nuevos-pobres/](http://www.elvocero.com/aumenta-la-clase-de-los-nuevos-pobres/) (last visited May 31, 2017)); *id.* at 87-88 (citing Michael R. Anderson, *Access to Justice and the Legal Process: Making Legal Institutions Responsive to Poor People in LDCs*, INST. OF DEV. STUDIES 17 (2003), <http://www.ids.ac.uk/files/dmfile/Wp178.pdf>).

<sup>53</sup> *Solicitud de servicio en línea*, SERVICIOS LEGALES DE PUERTO RICO, INC., <http://solicitudweb.slpr.org/> (last visited May 31, 2017).

<sup>54</sup> *Preguntas Frecuentes*, SOCIEDAD PARA ASISTENCIA LEGAL DE PUERTO RICO, <https://www.salpr.org/preguntas-frecuentes/> (last visited May 31, 2017).

<sup>55</sup> *See Oficinas*, SOCIEDAD PARA LA ASISTENCIA LEGAL DE PUERTO RICO, <https://www.salpr.org/oficinas/> (last visited May 31, 2017).

<sup>56</sup> *See Solicitud de servicios*, PRO-BONO, INC., <http://www.probonopr.org/solicitudes/> (last visited May 31, 2017).

<sup>57</sup> AYUDALEGALPR.ORG, <http://ayudalegalpr.org/> (last visited May 31, 2017).

The site's user interface is simple and friendly. For example, under a toolbar labeled *Know your legal situation*, users can download forms, consult a *legal library*, contact organizations that work on the subject matter, and *find legal aid*. The difficulty, however, is that some sections of the site can be overwhelming. For immigrants, the most helpful tool is a seventy-six page manual.<sup>58</sup> Less would be more.

#### IV. STRATEGIES

Puerto Rico faces daunting challenges, including inadequate data about the most cost-effective responses. One key priority should be a partnership between researchers, courts, and service providers to gain a better sense of unmet needs and the strategies best able to address them. In the absence of such information, the following recommendations should necessarily be taken as provisional, particularly since one of the authors has limited familiarity with Puerto Rico's legal landscape. But with those caveats, it seems appropriate to close with some proposals worth considering.<sup>59</sup>

As the American Bar Association has recommended, the civil justice system should aspire to ensure a range of high quality, coordinated, and uniformly available law-related services to the low income and other vulnerable populations who cannot realistically afford counsel.<sup>60</sup> That will entail informing individuals of their legal rights and options for assistance and providing access to cost-effective services to protect those rights. To that end, the first strategy is to promote court reform, and to maximize opportunities for self-help and legal assistance from less expensive service providers than lawyers. A second strategy is to increase pro bono assistance. A third set of initiatives should focus on innovation, evaluation, and education: experimentation with new sources of funding and triage systems; research that can identify what works best for whom in what circumstances, and outreach to the public and the profession about the urgency of reform.

##### A. Court Reform, Self-Help, and Non-lawyer Service Providers

When lawyers, former lawyers turned educators, and judges strategize about access to justice, their understandable tendency is to focus on access to lawyers.

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<sup>58</sup> PROBONO DE SERVICIOS DE ORIENTACIÓN AL INMIGRANTE, MANUAL DE INMIGRACIÓN: CONOZCA SUS DERECHOS (2d ed. 2015-2016), [http://ayudalegalpr.org/files/CE6D35A7-BoDD-E05A-5001-17185067F894/attachments/0F8750A3-3E42-43AE-8441-B4EAF4E8D1B8/manual-de-inmigracin\\_conozca-sus-derechos-2da-edicion.pdf](http://ayudalegalpr.org/files/CE6D35A7-BoDD-E05A-5001-17185067F894/attachments/0F8750A3-3E42-43AE-8441-B4EAF4E8D1B8/manual-de-inmigracin_conozca-sus-derechos-2da-edicion.pdf).

<sup>59</sup> For further suggestions, see DEBORAH L. RHODE, TROUBLE WITH LAWYERS 47-59 (2015); Scott L. Cummings & Deborah L. Rhode, *Access to Justice: Looking Back, Thinking Ahead*, 30 GEO. J. LEGAL ETHICS \_\_\_ (forthcoming 2017).

<sup>60</sup> AM. BAR ASS'N, ABA PRINCIPLES OF A STATE SYSTEM FOR THE DELIVERY OF CIVIL LEGAL AID 1 (2006), [http://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendant/s/ls\\_sclaid\\_atj\\_tencivilprinciples.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendant/s/ls_sclaid_atj_tencivilprinciples.authcheckdam.pdf).

But such a lawyer-centric approach is as much part of the problem as the solution. It is often excessively expensive, and not what the public wants or needs. A recent study by the American Bar Foundation found that of people experiencing a *civil justice situation* that could have benefitted from legal assistance, only 9% described their problem as *legal* and only 8% consulted a lawyer.<sup>61</sup> Interestingly, cost was not the major barrier to seeking such help; it figured in only 17% of cases.<sup>62</sup> Rather, the most common reason for failing to obtain legal assistance was some variant of “I don’t need any.”<sup>63</sup> Other research similarly suggests that most people prefer to resolve disputes through informal, out-of-court processes.<sup>64</sup> Such processes may often be more cost-effective than judicial intervention, and may enable participants to craft outcomes that better address their underlying problems. They also reach middle-income as well as poor people, who are priced out of other justice processes and ineligible for legal aid.

Accordingly, Puerto Rico would benefit from more effective channels of informal dispute resolution, not only in courthouses, but also in neighborhood, workplace, commercial, and online settings. The Puerto Rico Supreme Court’s recent strategic plan for access to justice recognized as much, and identified promoting such alternative dispute resolution methods as one of its five major goals for 2016-2019.<sup>65</sup> But care must be taken to ensure basic fairness. Mediation for parties with substantial power disparities is unlikely to promote substantive justice.<sup>66</sup>

For matters that call for legal remedies, people need more procedural simplification and *pro se* assistance. The goal should be what Richard Zorza has termed, “The Self-Help Friendly Court,” which would reduce complexity, employ plain language, take greater advantage of technology, improve online assistance, and train judges and staff in aiding litigants.<sup>67</sup> As Hon. Fern Fisher has noted, too

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61 REBECCA L. SANDEFUR, AMERICAN BAR FOUNDATION ACCESSING JUSTICE IN THE CONTEMPORARY USA: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY 3-4, 7 (2014), [http://www.americanbarfoundation.org/uploads/cms/documents/sandefur\\_accessing\\_justice\\_in\\_the\\_contemporary\\_usa\\_aug\\_2014.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa_aug_2014.pdf).

62 *Id.* at 13.

63 Rebecca L. Sandefur, *What We Know and Need to know About the Legal Needs of the Public*, 67 S. C. L. REV. 443, 450 (2016).

64 CHRISTINE PARKER, JUST LAWYERS: REGULATION AND ACCESS TO JUSTICE 184-89 (1999). For preferences, see MICHAEL ZANDER, THE STATE OF JUSTICE 29-32 (2000); HAZEL G. GENN, PATHS TO JUSTICE: WHAT PEOPLE DO AND THINK ABOUT GOING TO LAW 217-18 (1999). For online dispute resolution, see Ross Todd, *Look Ma, No Judge*, AMERICAN LAWYER, Aug. 7, 2014, at 34.

65 See RAMA JUDICIAL DE PUERTO RICO, *Imperativo estratégico II: Acceso a la justicia y educación*, in PLAN ESTRATÉGICO DE LA RAMA JUDICIAL DE PUERTO RICO 2016-2019, PUNTOS CARDINALES DE LA JUSTICIA 22 (2016), <http://www.ramajudicial.pr/orientacion/informes/rama/Plan-estrategico-2016-2019.pdf>.

66 DEBORAH L. RHODE ET AL., LEGAL ETHICS 731-33 (7th ed. 2016).

67 Richard Zorza, *The Self-Help Friendly Court: Designed from the Ground Up to Work for People Without Lawyers*, THE NATIONAL CENTER FOR STATE COURTS (2002), [http://www.zorza.net/Res\\_ProSe\\_SelfHelpCtPub.pdf](http://www.zorza.net/Res_ProSe_SelfHelpCtPub.pdf); Russler Engler, *Turner v. Rogers and the Essential Role of the Courts in Delivering Access to Justice*, 7 HARV. L. & POL’Y REV. 31, 58 (2013).

often legal documents are written for college-level audiences, not the vast majority of Americans of limited means.<sup>68</sup> So too, having procedures in English in the federal district court for Puerto Rico makes no sense for an overwhelmingly Spanish-speaking population.<sup>69</sup>

Courts also need strategies for helping unrepresented parties without compromising judicial neutrality. Models are increasingly available. The American Judicature Society and the State Justice Institute have published guides to make legal proceedings more equitable and accessible to parties without lawyers.<sup>70</sup> The Self-Represented Litigation Network has also published materials compiling best practices and innovative approaches.<sup>71</sup> Some court systems have established special magistrate courts for *pro se* cases, or employed staff attorneys to assist *pro se* litigants.<sup>72</sup> Others have hot lines, *pro se* clerks offices, *lawyers of the day programs* and self-help centers that are worthy of replication.<sup>73</sup> As former Chief Justice Hernández Denton has also suggested, Puerto Rico could modify ethics canons to allow lawyers to provide unbundled services that would assist *pro se* litigants without assuming the burden of full legal representation.<sup>74</sup> Although some lawyers and judges have expressed concerns that this form of limited assistance would institutionalize second-class justice, the question is always, *compared to what?* Limited representation is surely preferable to no representation at all, which is often the only alternative now available. Equally important are reforms in unauthorized practice laws (UPL) that prevent assistance from qualified non-lawyers irrespective of its quality and cost-effectiveness.<sup>75</sup> Such assistance should only be prohibited in cases of documented consumer injury.

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68 Fern A. Fisher, *Access to Justice in Times of Crisis*, 86 REV. JUR UPR 809 (2017).

69 See Hey-Maestre, *supra* note 33.

70 Cynthia Gray, *Proposed Best Practices for Cases Involving Self-Represented Litigants*, in REACHING OUT OR OVERREACHING: JUDICIAL ETHICS AND SELF-REPRESENTED LITIGANTS, AMERICAN JUDICATURE SOCIETY AND STATE JUSTICE INSTITUTE 51-57 (2005), <http://www.courts.ca.gov/partners/documents/ReachingOutOverreaching.pdf>.

71 SELF-REPRESENTED LITIGATION NETWORK, CORE MATERIALS ON SELF-REPRESENTED LITIGATION INNOVATION 27 (2006), <http://www.courts.ca.gov/partners/documents/SRLN-materials.pdf>.

72 For the New York Magistrate Court, see Lois Bloom & Helen Hershkoff, *Federal Courts, Magistrate Judges, and the Pro Se Plaintiff*, 16 NOTRE DAME J.L. ETHICS & PUB. POL'Y 475, 493-97 (2002). For the San Antonio staff attorney assistance program, see Anita Davis, *A Pro Se Program That Is Also "Pro" Judges, Lawyers, and the Public*, 63 TEX. B. J. 896 (2000).

73 Engler, *supra* note 67, at 42; see also SHELDON KRANTZ, THE LEGAL PROFESSION: WHAT IS WRONG AND HOW TO FIX IT 97-98 (2013).

74 Hernández Denton, *supra* note 27.

75 For the broad scope of current prohibitions, see RHODE, THE TROUBLE WITH LAWYERS, *supra* note 59, at 40-42. For an argument that such prohibitions should be modified, see *id.*; Deborah L. Rhode, *What We Know and Need to Know About the Delivery of Legal Services by NonLawyers*, 67 S. C. L. REV. 429 (2016); Deborah L. Rhode & Lucy Buford Ricca, *Protecting the Profession or the Public?: Unauthorized-Practice Enforcement*, 82 FORDHAM L. REV. 2587 (2014).

Puerto Rico should follow the lead of courts that have weighed the public interest in determining whether to ban non-lawyer services.<sup>76</sup> The Commonwealth should also consider adopting a licensing system that would allow qualified non-lawyers to offer personalized aid on routine matters. Such a system could include consumer protections concerning qualifications, disclaimers, ethical standards, malpractice insurance and discipline.<sup>77</sup> Many administrative agencies already allow non-lawyer and no evidence suggests that their performance has been inadequate.<sup>78</sup> The same is true in other nations that permit non-lawyers to provide legal advice and assist with routine documents.<sup>79</sup> Washington and New York have already taken steps in this direction, and other states are considering licensing schemes.<sup>80</sup> The Washington Supreme Court has allowed limited license legal technicians (LLLTs) to handle out-of-court family matters without a lawyer's supervision.<sup>81</sup> New York's Supreme Court has adopted a pilot program that allows trained non-lawyer *navigators* in specific housing and civil court locations to assist *pro se* litigants.<sup>82</sup>

Such approaches may be a tough sell in a jurisdiction already saturated with lawyers. Puerto Rico, like the United States generally, has a striking disconnect between supply and demand: the public is over-lawyered and underrepresented. There are too many attorneys for the jobs available and too few for the groups that need them most. Adding more lay competitors may compound the profession's problem in the short run, but in the long run, both the bar and the public

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<sup>76</sup> See *Unauthorized Practice of Law Committee of Supreme Court of Colorado v. Employers Unity, Inc.*, 716 P.2d 460, 463 (Colo. 1986); *Cultum v. Heritage House Realtors, Inc.*, 694 P.2d 630, 633 (Wash. 1985) (allowing real estate brokers to fill in standard form agreements).

<sup>77</sup> Steven Gillers, *How to Make Rules for Lawyers: The Professional Responsibility of the Legal Profession*, 40 PEPP. L. REV. 365, 417 (2013).

<sup>78</sup> Herbert M. Kritzer, *Rethinking Barriers to Legal Practice*, 81 JUDICATURE 100 (1997); RHODE, TROUBLE WITH LAWYERS, *supra* note 59, at 42-43.

<sup>79</sup> Julian Lonbay, *Assessing the European Market for Legal Services: Developments in the Free Movement of Lawyers in the European Union*, 33 FORDHAM INT'L L.J. 1629, 1636 (2010) (discussing legal advice providers in Scandinavian states); Herbert M. Kritzer, *Rethinking Barriers to Legal Practice: It is Time to Repeal Unauthorized Practice of Law Statutes*, 81 JUDICATURE 100, 100-01 (1997).

<sup>80</sup> See COMMITTEE ON NONLAWYERS AND THE JUSTICE GAP, NEW YORK STATE COURT NAVIGATOR PROGRAM, NAVIGATOR SNAPSHOT REPORT (2014), <http://nylawyer.nylj.com/adgifs/decisions15/022415report.pdf> (report on New York pilot program training non-lawyers demonstrating measurable benefits); WASH. ADMIS. TO PRAC. R. 28 (2015) (licenses authorizing the limited practice of law for non-lawyers in Washington). For other states, see ABA COMM. ON THE FUTURE OF LEGAL SERVICES, REPORT ON THE FUTURE OF LEGAL SERVICES IN THE UNITED STATES 23-24 (2016), [http://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport\\_FNL\\_WEB.pdf](http://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf).

<sup>81</sup> Stephen R. Crossland & Paula C. Littlewood, *The Washington State Limited License Legal Technician Program: Enhancing Access to Justice and Ensuring the Integrity of the Legal Profession*, 65 S. C. L. REV. 611, 612-13 (2014); Brooks Holland, *The Washington State Limited License Legal Technician Practice Rule: A National First in Access to Justice*, 82 MISS. L. J. 75, 90-92 (2013).

<sup>82</sup> Jonathan Lippman, *The State of the Judiciary 2014: Vision and Action in Our Modern Courts*, NEW YORK STATE UNIFIED COURT SYSTEM 8 (2014), <https://www.nycourts.gov/ctapps/soj2014.pdf>. For discussion, see ABA COMM. ON THE FUTURE OF LEGAL SERVICES, *supra* note 80, at 20-22.

would benefit from a more flexible licensing and training structure. Three years in law school is neither necessary nor sufficient for many of the routine tasks where unmet needs are greatest.<sup>83</sup> Medicine has done a much more effective job than law in offering a range of service providers with varying levels of expertise to match varying complexity in needs. The bar should move in this direction by permitting greater variety in legal training. Law schools could offer one, two, and three year programs to train students for different forms of practice and clients with different financial constraints.<sup>84</sup> Such reforms are necessary if the goal is truly promoting public, not professional interests.

*B. Pro Bono Programs*

A second priority should be supporting a stronger pro bono culture. As one of the article's authors has written previously:

[C]ourts and bar ethical codes have long noted [that] the State grants lawyers special monopoly privileges that impose special obligations. As officers of the court, lawyers bear some responsibility for ensuring fundamental fairness in its processes. Because lawyers occupy such a central role in our justice system, there is also particular value in exposing them to how that system functions, or fails to function for the have-nots. Pro bono work offers many attorneys their only direct contact with what passes for justice among the poor. Giving [the lawyers]... some experience with poverty-related problems and public interest causes can lay crucial foundations for change. . . . Volunteer service [also] offers ways for lawyers to gain additional skills, trial experience, and community contacts. Such career development opportunities, on behalf of causes to which attorneys are committed, are often their most rewarding professional experiences. Many lawyers report that they would like to do more pro bono work but are in institutions that do not support it. ABA surveys find that young lawyers' greatest source of dissatisfaction in practice is its lack of connection to the public good. Pro bono service can supply that connection.<sup>85</sup>

To that end, courts, bar associations, and law schools should work together to promote pro bono participation. One possibility is to require a minimum amount of service for all practicing lawyers, with a financial buyout for those who lack the time, expertise, or inclination for service. Buyout contributions should go to support designated legal aid providers.<sup>86</sup> Such a requirement would have the added advantage of equalizing the burdens of court-appointed counsel and reducing the unfairness of the current system. If such a requirement is politically implausible, greater efforts should focus on encouraging voluntary contributions and enhancing the perceived fairness of court appointments. Continuing

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<sup>83</sup> RHODE, *THE TROUBLE WITH LAWYERS*, *supra* note 59, at 54 (footnote omitted).

<sup>84</sup> *Id.* at 137-41.

<sup>85</sup> *Id.* at 54-55 (footnotes omitted).

<sup>86</sup> *Id.* at 54. For an argument supporting such a requirement, see *id.* at 41-45.

legal education credit could be available for service.<sup>87</sup> Pro bono malpractice insurance, as proposed by former Chief Justice Hernández Denton, might also help.<sup>88</sup> The Supreme Court and local bar associations should require lawyers to report their pro bono assistance, and clients should consider lawyers' involvement when selecting counsel.<sup>89</sup> Employers should adopt best practices, including adequate supervision, billable hour, and evaluation of pro bono work.<sup>90</sup> Law schools should ensure that all students have exposure to access to justice issues through curricular, clinic, and pro bono programs. The Supreme Court could also follow the lead of the New York Court of Appeals and require applicants to the bar to complete a specified number of hours of pro bono service or clinic work as a condition of admission. In the long run, nurturing such a pro bono culture would serve both professional and public interests.

## V. INNOVATION, EVALUATION, AND EDUCATION

Clearly, Puerto Rico should continue on its current path of innovative approaches towards access to justice. It should encourage technological developments and more user-friendly online assistance. It should also seek new funding sources to support improvements in legal processes and increases in civil legal assistance. One possibility is a tax on legal services above a certain amount. Although a few states now have such taxes, the proceeds go to general revenue, not to legal aid.<sup>91</sup> Directing them to legal services and *pro se* assistance makes more sense. Experts have long noted the lack of convincing justifications for exempting legal services from taxation, particularly if the tax covers only expenditures above a certain amount, in order to protect clients of limited means.<sup>92</sup> The risk that taxation would cause legal business to move to other jurisdictions has not materialized in the few states that now have such a tax.<sup>93</sup> And because Puerto Rico has a Spanish-speaking civil legal system, the ability of lawyers and clients

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<sup>87</sup> See Junta Editora 2015–2016, *supra* note 19, at 114; Hernández Denton, *supra* note 27, at 1135.

<sup>88</sup> Hernández Denton, *supra* note 27, at 1136.

<sup>89</sup> For example, California legislation requires pro bono contributions as a condition of any state contract for legal services exceeding \$50,000. CAL. BUS. & PROF. CODE § 6072 (West 2013).

<sup>90</sup> For other best practices, see RHODE, THE TROUBLE WITH LAWYERS, *supra* note 59, at 55.

<sup>91</sup> The states are: (1) Delaware (DEL. CODE ANN. tit. 30, § 2301 (2008)); (2) Hawaii (HAW. REV. STAT. §§ 237-7 to -13 (2008)); (3) New Mexico (N.M. STAT. ANN. §§ 7-9-1 to -4 (2008)); (4) South Dakota (S.D. CODIFIED LAWS §§ 10-45-1 to -5.2 (2008)), and (5) Washington (WASH. REV. CODE ANN. § 82.04.290 (2008)).

<sup>92</sup> Kirk J. Stark, *The Uneasy Case for Extending the Sales Tax to Services*, 30 FLA. ST. U. L. REV. 435, 458 (2003). A Massachusetts proposal would have exempted a consumer's first \$20,000 of legal expenditures per year. See Alan R. Romero, *Including Legal Services in State Sales Taxes*, 29 HARV. J. ON LEGIS. 280, 283–84 (1992).

<sup>93</sup> See Alan R. Romero, *Including Legal Services in State Sales Taxes*, 29 HARV. J. ON LEGIS. 280, 283–84 (1992).

to move business stateside is limited. At the very least, the taxation strategy demands closer scrutiny.

Courts, bar associations, service providers, and law schools also need to work together to evaluate access to justice initiatives. We currently know far too little about what needs are most urgent and what responses would be most cost effective.<sup>94</sup> For example, identifying the cases in which lawyers are most critical could help legal aid organizations and pro bono programs set priorities, triage cases, and match potential clients with the right level of service provider. Such a triage system should consider the merits of the claim, the resources of the parties and the significance of the issues. Its design and evaluation should ensure meaningful participation of the communities whose rights are at stake.

We also need more assessment of pro bono work. As one of us has noted elsewhere, too many programs seem to operate on the assumption that any unpaid service is a good in itself.<sup>95</sup> In a recent survey of law firm initiatives, none made any formal efforts to assess the social impact of their work or the satisfaction of clients and non-profit partners that referred cases.<sup>96</sup> Many firms operate with a *spray and pray* approach: they spread services widely and hope that something good will come of them.<sup>97</sup> Something usually does, but it is not necessarily the best use of resources. The same is true of nonprofit legal organizations that serve the poor. To ensure cost-effective strategies, all service providers need to make efforts to assess social impact and client satisfaction with their efforts. Only through better research can we identify needs that are falling through the cracks and quality concerns that should be addressed.

Finally, we must do much more to educate the public and the profession about the urgency of these issues. At least part of the problem of access to justice stems from the lack of widespread recognition that there is a serious problem. As one of the author's has previously written:

Although the vast majority of Americans support provision of legal services to those who cannot afford it, four-fifths also incorrectly believe that the poor are entitled to counsel in civil cases. Two-thirds think that low-income individuals would have no difficulty finding legal assistance, a perception wildly out of touch with reality.<sup>98</sup>

Most Americans are also poorly informed about the particular challenges facing Puerto Rico, and its inadequate representation in the political processes

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<sup>94</sup> For the lack of research, see Rhode, *What We Know and Need to Know About the Delivery of Legal Services by NonLawyers*, *supra* note 75, at 440.

<sup>95</sup> Scott L. Cummings & Deborah L. Rhode, *Managing Pro Bono: Doing Well by Doing Better*, 78 *FORDHAM L. REV.* 2357, 2378-79 (2010) [hereinafter Cummings & Rhode-*Managing Pro Bono*]; Cummings & Rhode, *Access to Justice: Looking Back, Thinking Ahead*, *supra* note 59.

<sup>96</sup> Cummings & Rhode-*Managing Pro Bono*, *supra* note 95, at 2401-05 (2010).

<sup>97</sup> Deborah L. Rhode, *Rethinking the Public in Lawyers' Public Service: Pro Bono, Strategic Philanthropy, and the Bottom Line*, 77 *FORDHAM L. REV.* 1435, 1446 (2009).

<sup>98</sup> RHODE, *THE TROUBLE WITH LAWYERS*, *supra* note 59, at 46 (footnotes omitted).

that affect its fate. Lawyers and legal researchers need to do much more public outreach and writing for nonacademic audiences in ways that put a human face on legal needs. They also need to convey the cost effectiveness of legal services. A large body of research suggests that every dollar invested in legal aid on matters such as evictions and domestic violence saves taxpayers down the line in social costs caused by homelessness and family violence.<sup>99</sup> Publicizing that work could help make access to justice seem like an economic as well as social priority.

This is not a modest reform agenda. But it is an urgent one for the nation in general and Puerto Rico in particular. The ideal of equal justice is deeply embedded in American legal traditions and routinely violated in legal practice. Our nation prides itself on its commitment to the rule of law, but prices it out of reach of the vast majority of its citizens. We must do better, and we are grateful for the opportunity provided by this symposium to strategize about how to make that happen.

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<sup>99</sup> For a sample of this research, see section titled *Civil Aid Is a Good Investment of Dollars* in LEGAL SERVICES CORP., FISCAL YEAR 2017 BUDGET REQUEST, *supra* note 4, at 8-9; PERMANENT COMMISSION ON ACCESS TO JUSTICE, REPORT TO THE CHIEF JUDGE OF THE STATE OF NEW YORK, STATE OF NEW YORK UNIFIED COURT SYSTEM (2015), [http://www.nycourts.gov/accesstojusticecommission/PDF/2015\\_Access\\_to\\_Justice-Report-V5.pdf](http://www.nycourts.gov/accesstojusticecommission/PDF/2015_Access_to_Justice-Report-V5.pdf); Laura K. Abel & Susan Vignola, *Economic and Other Benefits Associated with the Provision of Civil Legal Aid*, 9 SEATTLE J. SOC. JUST. 139 (2011); ACCESS TO JUSTICE STUDY COMMITTEE, BRIDGING THE JUSTICE GAP: WISCONSIN'S UNMET LEGAL NEEDS, STATE BAR OF WISCONSIN 9 (2007), <https://www.wisbar.org/aboutus/reports/Documents/bridgingthegap.pdf>. For homelessness, see BOS. BAR ASS'N ON THE CIVIL RIGHT TO COUNSEL, THE IMPORTANCE OF REPRESENTATION IN EVICTION CASES AND HOMELESSNESS PREVENTION: A REPORT ON THE BBA CIVIL RIGHT TO COUNSEL HOUSING PILOTS (2012), <http://www.bostonbar.org/docs/default-document-library/bba-crtc-final-3-1-12.pdf>. For domestic violence savings, see JENNIFER S. ROSENBERG & DENISE A. GRAB, SUPPORTING SURVIVORS: THE ECONOMIC BENEFITS OF PROVIDING CIVIL LEGAL ASSISTANCE TO SURVIVORS OF DOMESTIC VIOLENCE, INSTITUTE FOR POLICY INTEGRITY, NEW YORK UNIVERSITY SCHOOL OF LAW (2015), <http://policyintegrity.org/documents/SupportingSurvivors.pdf>; Amy Farmer & Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 CONTEMP. ECON. POL'Y 158, 169 (2003); Jane C. Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women*, 11 AM. U. J. GENDER SOC. POL'Y & L. 499, 511-12 (2003).