

Corporations as Suppliers of Public Goods?

Reviewed by William A. Niskanen

THE MARKET FOR VIRTUE: THE POTENTIAL AND LIMITS OF CORPORATE SOCIAL RESPONSIBILITY

By David Vogel

173 pages; Washington, D.C.: Brookings Institution Press, 2005

DAVID VOGEL, A POLITICAL scientist and professor of business ethics at the University of California, Berkeley, has written a valuable analysis and summary of the massive literature on “corporate social responsibility” (CSR). His new book summarizes the evidence that bears on whether there is a business case for CSR, describes the demand for CSR by consumers, employees, and investors; describes the effects of CSR on working conditions in poor countries, on the environment, and on human rights; and concludes by making a case for an increased political role of corporations in promoting the goals of CSR.

THE BUSINESS CASE

Many corporate executives, apparently, want to be perceived as being socially responsible by the contemporary standards of their community. So they have made a case that CSR is essential to the business objectives of their corporations. For instance, Jeffrey Hollander, the CEO of household products maker Seventh Generation, claims that CSR is “the future of business. It’s what . . . companies have to do to survive and prosper in a world where more and more

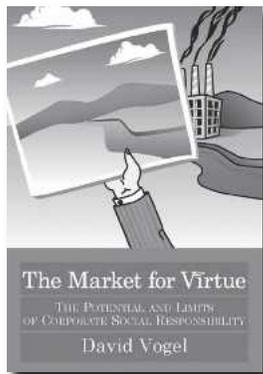
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of their behavior is under a microscope.”

A 2002 survey by PricewaterhouseCoopers reported that “70 percent of global chief executives believe that CSR is vital to their companies’ profitability.” Another survey reported that 91 percent of CEOs believe that CSR management creates shareholder value.

Vogel is quite dismissive of this apparent perception of business executives. He observes,

Unfortunately, there is no evidence that behaving more virtuously make firms more profitable. This finding is important because, unless there is a clear business case for CSR, firms will have fewer incentives to act more responsibly. . . . An extensive body of academic research examines the relationship between corporate responsibility and profitability Its central conclusion can be easily summarized: at best, it is inconclusive.



The reasons why those studies are so inconclusive are also apparent. In one survey of 95 empirical studies, for example, financial performance is measured in 70 different ways and corporate social performance in 27 different ways. The most widely used measure of CSR is a subjective ranking of five measures of corporate performance—two of which, employee relations and product safety and quality, are not indicators of social responsibility.

There is no general pattern, however, that the profits of corporations are *negatively* related to CSR activities. This leads Vogel to conclude,

It is possible for a firm to commit

resources to CSR without becoming less competitive. In brief, there is a place in the business system for responsible firms, but the market for virtue is not sufficiently important to make it in the interest of all firms to behave more responsibly. . . . Of the myriad factors that affect corporate earnings, CSR remains, for most firms most of the time, of marginal importance.

DEMAND FOR CSR The demand for CSR arises primarily from customers, employees, and investors. However, there is a large difference between expressed preferences and behavior.

In two surveys, more than 75 percent of American consumers report that they would avoid purchasing products made under poor working conditions and 65 percent state that they would pay more for products that protect the environment. One analyst, however, estimates that only 10 percent of American consumers are willing to pay more for green products. A 2004 European survey found that while 75 percent of consumers indicated that they would change their purchases based on social or environmental criteria, only 3 percent had actually done so.

In a 2004 survey of more than 800 MBAs, 97 percent stated that they would be willing to forgo an average of 14 percent of their expected income in order to “work with an organization with a better reputation for corporate social responsibility and ethics.” In another 2004 survey of MBAs, however, the 10 companies for which they would most like to work had little correspondence with those with a high CSR rating.

There are now about 800 “socially responsible investment” (SRI) funds that make it possible for investors to make a wide variety of investment preferences. According to Vogel, however,

The consensus of more than 100 studies of social investment funds and their strategies is that the risk-adjusted returns of a carefully con-

structured, socially screened portfolio is zero. In other words, share returns are neither harmed nor helped by including social criteria in stock selection.

One reason for this finding is that the SRI funds appear to be *too* inclusive. One survey of 600 SRI funds found that more than 90 percent of the *Fortune* 500 companies were included in at least one SRI portfolio. A high CSR rating, in addition, has been no protection against some other dimension of business performance that is not in the interest of shareholders. The oil company BP, for example, recently increased their “beyond petroleum” advertising about the time that it was revealed that the firm’s largest U.S. refinery was unusually unsafe. Enron was a favorite of the SRI funds, but—well, you know the rest of that story.

ACHIEVEMENTS Any summary of the aggregate effects of CSR on corporate performance may lead one to be skeptical or cynical about the whole idea. One should recognize, however, the selective achievements of CSR. Vogel dedicates three chapters to describing some of those achievements and the conditions that produced them.

Vogel highlights the following major examples of CSR achievements since the beginning of the 1990s:

- Nike monitors working conditions in its supplier factories in poor countries.
- Ikea requires its rug supplier in India to prohibit the employment of children and provides families with financial assistance to help keep their children out of the labor market.
- Starbucks guarantees coffee producers an above-world market price for their products.
- Home Depot no longer sells products harvested from old growth or endangered forests.
- BP has significantly reduced its greenhouse gas emissions.
- Shell has adopted policies to address human rights and environmental abuses associated with its investments in poor countries.
- Citibank has developed criteria for

assessing the environmental impact of its lending decisions in poor countries.

■ PepsiCo has withdrawn its investments from Burma because of human rights concerns.

■ McDonalds has adopted the European Union restrictions on the use of growth-promoting antibiotics for its suppliers of beef and chicken in the United States.

■ Chiquita has implemented stringent environmental practices for its suppliers of bananas in Central America.

■ Timberland allows its employees to take one week off with pay each year to work with local charities.

Many companies have followed the lead of the above companies to amplify the effects of most of these actions. Vogel tells an interesting story about each of the actions, but there are no obvious common conditions that explain the performance of the specific corporations.

WHAT I MISSED The primary issue that I hoped Vogel would address concerns the basic concept of corporate social responsibility. Why is a corporation regarded as socially responsible or virtuous if it spends funds owned by the shareholders for actions that do not increase shareholder value? In that case, why not distribute the funds to the shareholders and let them decide how to hand out the

Why not distribute the funds to shareholders and let them decide how to hand out the money?

money? Who appointed corporations to act as the agent of shareholders’ political preferences? Why is it considered virtuous not to invest in South Africa, Burma, Israel, or whatever other country with government policies someone does not approve, when the investment would increase the well-being of local employees and residents? The basic language with which Vogel addresses the issue begs those questions.

The other issue about which I would have valued Vogel’s analysis is the supply of corporate social responsibility. What

explains why some firms have a high CSR rating and other firms do not? Vogel drops some hints about this issue, but without pulling them together to identify the most likely explanations. My own guess is that the list of conditions associated with a high CSR rating would include the following:

■ Firms that sell retail products in North America and Europe with suppliers from poor countries.

■ Firms in which most of the management and staff are relatively young college graduates.

■ Firms in which the ownership is closely held, such that the management owns or controls most of the shares.

■ Firms in which there is substantial managerial discretion.

My hope is that a second edition of this book would have a chapter entitled, “The Supply of Corporate Social Responsibility.”

A FINAL BEEF Vogel concludes, unfortunately, on a jarring note. He wants virtuous firms to petition the government to force other firms to be similarly virtuous. Vogel asserts,

The definition of corporate social responsibility needs to be redefined to include the responsibilities of business to strengthen civil society and the capacity of governments to require that all firms act more responsibly. . . . Simply providing a good example is not enough. Responsible firms also need to support public policies that establish minimum standards for

their less virtuous competitors—not just to create a level playing field, but because such requirements are frequently necessary to accomplish the goals of CSR. . . . A firm that supports the establishment of minimum regulatory standards—but that has not reduced its own emissions—is arguably more virtuous than one that has voluntarily cut back greenhouse gas emissions but opposes additional regulatory requirements.

I have not read a more misguided policy proposal in some years. Virtue is an attribute of choice, not of ends; coerced virtue is an inherent contradiction. I dread the prospect of a swarm of lobbyists, wearing the mantle of virtuous corporations, descending on Washington to petition the administration and Congress to require their competitors to meet their own self-chosen standards. I expect the church of which I am a member to promote individual virtue but not to represent itself as an agent of the diffuse polit-

ical preferences of the members of the church or denomination. Similarly, I expect the corporations in which I have invested to maximize the return to their shareholders, consistent with the relevant laws, but not to represent themselves as an agent of the diffuse political preferences of their shareholders.

Neither churches nor corporations have a comparative advantage in politics. Both sacrifice some of their net social value by succumbing to the temptation to be political agents. **R**

Treating the Unserious Seriously

Reviewed by Ike Brannon

IN THE DEFENSE OF THE ECONOMIC ANALYSIS OF REGULATION

By Robert Hahn

128 pages; Washington, D.C.: AEI Press, 2005

ESTIMATING THE VALUE OF a statistical life (VSL) has become an industry unto itself. Hundreds of studies have been done using different techniques, countries, sampling methods, and methodologies. There have also been a number of meta-analyses attempting to make some sense of the morass.

The impetus for this research is policymakers' desire to have a value that they can assign to life-saving regulatory changes based on some aspect of reality so that their regulations can survive the rigors of cost-benefit analysis. There is a real demand from government agencies for some numbers that they can defend, and the Environmental Protection Agency, alone, has spent millions of dollars on grants to help researchers tackle the problem.

The debate over the issue of the appropriate VSL has been contentious. Some people (myself included) feel that the EPA has, at times, attempted to tilt the results of their research in favor of a high VSL by

de-emphasizing some studies and commissioning new ones when previous ones have not given them the desired (i.e., appropriately high) number.

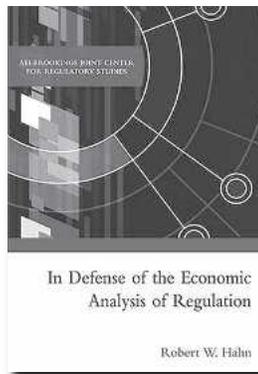
Their motivation for wanting to do so is straightforward: The higher the VSL, the easier it is for regulations to pass muster and survive the judgment of the Office of Information and Regulatory Affairs (OIRA). The people who work for agencies such as the EPA generally argue that government ought to err on the side of too much safety even when the required regulations may cost society greatly. They also suggest that companies are generally quite adept at adjusting to the myriad regulations and minimizing the costs of meeting them, and that the estimated costs of new regulations are often overstated.

Each side in this debate (and the people somewhere along the middle of the spectrum) offers studies to support its position, and in this cacophony a consensus is slowly starting to emerge. Robert Hahn has played an important role in this debate with his cogent and voluminous writings on regulatory economics and the merits of quantifying the results of regulation with cost-benefit

analysis. The various tables published by the Office of Management and Budget that do this have improved tremendously since the practice began, and it has shed light on the effectiveness of our regulatory state. The results have not always been pretty, but they represent a solid first step toward improving the situation.

However, a small contingent of regulators, professors, and gadflies rejects this debate entirely, arguing against the very premise of cost-benefit analysis. (See "The New Challenge to Cost-Benefit Analysis," Fall 2005.) They believe that the costs and benefits of a regulation are often difficult or impossible to quantify, that there are vested interests trying to impede regulations (and apparently none advocating regulations), and that the distribution of the benefits and costs are such that it is the poor and oppressed who benefit the most from the regulations deemed ineffective by the regulators. Given those myriad flaws, they argue, society should allow the regulators of the various government agencies, who are usually intimately familiar with the industry they are regulating, to use their own best judgment to issue the necessary regulations that would ensure the optimal amount of environmental and physical safety.

This group coalesces around an entity called the Center for Progressive Reform, and they have put Robert Hahn in their crosshairs, with good reason: If anyone represents the antithesis of what the opponents of cost-benefit analysis believe, it is he.



REGULATORY BIAS? *In the Defense of the Economic Analysis of Regulation* is Hahn's rebuttal to their attacks and

charges against him. By using an entire monograph to rebut their critiques, he perhaps gives them too much credit by addressing their work directly. There is little doubt to the objective reader that he has landed a telling blow with his tome.

People who have worked in the regulatory arena simply put no credence in claims of anti-regulatory bias. In reality, stopping the path of a regulation often takes Herculean political strength that simply cannot be mustered for some-

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The views expressed in this article do not necessarily reflect the views of the JEC or the U.S. Congress.

thing as arcane as the design of tire pressure monitors. The firestorm that even a slight delay in issuing a regulation can bring can be so intense as to deter the most dogged bureaucrat.

A coworker of mine at OIRA who opposed a mandate that all children flying be put in safety seats was told by an FAA official the day after a plane crash killed an infant that the child's blood was on his hands. When told that such a mandate would result in more children traveling long distances in less-safe automobiles, the regulator simply replied that the first "A" in FAA stands for "Aviation" and that what happens on highways is not that agency's responsibility.

As anyone who has worked on regulatory issues knows, government agencies are not staffed with objective bureaucrats. The sympathies and paths to career advancement and outside pressures tend to go in one direction, toward more regulation. What is more, scarcely anyone arrives at the EPA without a sense of mission that he is going to fix things. One of my coworkers explained to me on my first day working at OIRA that working at the EPA—the prime generator of regulations that go through OIRA—is more like a religion than a job for many. My acquaintances at the EPA do not disagree with that sentiment.

Most people at the EPA consider environmental groups such as the Natural Resources Defense Council to be their stakeholders. In my experience, they make no bones about it. They are as much beholden to those entities as the typical Hill staffer is to any other lobby—they are sympathetic to many of the things the environmental groups are trying to do, they form social relationships with each other, and hope to some day get a job with the groups when they leave the government.

On my first day at OIRA, I visited EPA headquarters to attend a meeting with a coworker just to see how things worked. The meeting was with a contingent of EPA staffers and began with the ranking EPA worker issuing a rather loud warning and glaring in our direction that the meeting was strictly off-the-record and

that everyone had better keep quiet about the proceedings. By the time my coworker and I had returned to our offices 45 minutes after the meeting had ended, the minutes of the meeting had been posted on the Web page of one of the environmental groups.

NECESSARY WORK Hahn's monograph is a careful defense of the utterly defensible. Having to spend pages to support the idea of discounting benefits that accrue in the future will seem to most readers of

ing out that the choice of a base year is irrelevant when making comparisons of real values.

Hahn is at his best in defending how economists quantify qualitative benefits as well as explaining in general how regulatory scorecards work. In this area, the complaints of the Progressive Reform contingent have some merit and need to be carefully addressed, and Hahn does just that. Many of the benefits of regulation do not come with a price tag on them; to tease out the true worth to society

of various improvements can be difficult or close to impossible to do in a way that satisfies everyone. When a proposed rule has considerable non-monetary benefits, regulators generally acknowledge this and take it into con-

sideration, even if the benefits do not appear in the cost-benefit league tables published by the OMB.

Economists, at their best, quantify the previously unquantifiable. What made John Morrall's *Regulation* article ("A Review of the Record," November/December 1986) so important was that he informed so many of us for the first time of the enormous opportunity costs that regulations imposed on the economy. Most of what has been done in this area since then has been, in essence, an elaboration of Morrall's early work, with a good deal of it being done by Morrall himself.

IMPROVING THE DATA Regulation in the United States often devolves into a contest between the regulators at the various agencies and OIRA, which theoretically has the final say over whether a regulation gets issued. The analysts at OIRA evaluate regulations to see whether they make sense from a cost-benefit perspective. It is an intensely political game, needless to say. During the last years of the Clinton administration, virtually no regulations proposed by federal agencies were ever returned by OIRA, an abrogation of duties that the administration defended by saying that they let the agencies know early on what would be acceptable to them. Frustrated OIRA analysts referred to this as "preemptive caving." Even during the best of times,

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Regulation to be utterly superfluous, much like defending the standardization of time zones. Economists who are unfamiliar with the literature may be dumbfounded that people actually believe that discounting applies to some investments but not investments in health or safety.

Another criticism of regulatory analysis that the people with the Center for Progressive Reform level at Hahn regards the range of values for VSL that he uses in his analyses. On this matter, Hahn uses a range between \$3 million and \$7 million. That actually covers the range of the mainstream on this issue—the EPA prefers the latter number and cites a meta-analysis by Kip Viscusi and Joe Aldy as support, while other agencies use a number closer to \$3 million, citing another meta-analysis done by Janusz Mrozek and Laura Taylor. In reality, the actual number used by the agencies is closer to the upper end of Hahn's range; when the cost-benefit analysis looks close, the tie always goes to the regulation. Indeed, Hahn shows the robustness of the cost-benefit analysis tables by calculating the costs and benefits with different discount rates and VSL estimates, and showing that the proportion of regulations passing muster does not vary more than five percentage points.

Other complaints of Hahn's work are even more egregious. Hahn finds it necessary to rebut complaints that he ignores the effects of inflation by carefully point-

the political will needed to combat a well-meaning but cost-ineffective rule is simply not there.

Even during the Bush administration, returning a rule is not easy. In 2002, an attempt to void a ridiculous Department of Agriculture rule designed to increase the prices of some obscure fruit grown in California in order to increase farmer income by \$20 million generated so much heat that it eventually resulted in a meeting between the head of the OMB and the head of the USDA on the issue, with the USDA getting its way.

There is a lot of research pertinent to

cost-benefit analysis, and agencies are finally starting to take serious the need to apply some rigor to the calculations of benefits and costs of regulatory actions. Thanks to the work of economists like Robert Hahn, the field is improving its ability to quantify vague but very real costs and benefits produced from regulations. The idea that we should not bother with any evaluation of our regulatory endeavors is a disturbingly luddite idea that does not deserve to be seriously considered. But Hahn, ever the scholar, gives it serious attention and dismembers it fully. **R**

that the representation provided to the indigent is often so incompetent that the defendants pay grievously for it—sometimes even with their lives. Given our knowledge that many prosecutors, eager to make a name for themselves, are sometimes careless in their indictments and inclined to pull out all the stops in their zeal to get convictions, the latter problem is especially disturbing. Rhode writes passionately about the failure of both our political leaders and the leaders of the legal profession to address these manifest shortcomings of our justice system. Several of her suggested reforms are right on the mark, but others, I believe, are dead-ends, and she fails to consider one change that could significantly improve Americans' access to justice.

Challenging the Lawyer Cartel

Reviewed by George C. Leef

ACCESS TO JUSTICE

by Deborah L. Rhode

252 pages, Oxford,

UK: Oxford University Press, 2004

SEVERAL YEARS AGO, AFTER having published an article that was critical of Michigan's statute against the unauthorized practice of law, I heard from a man who had a highly relevant story to tell. He, an accountant, had been asked for some help by his daughter. She had been involved in a long-running child custody battle, but could no longer afford legal assistance. To continue the custody battle, however, she had to file responses in court to the demands of her ex-husband. Rather than try to find the proper legal forms and prepare them herself, she asked her father if he could do it.

He went to the nearest law school and a librarian pointed him to the right book of forms. Preparing and filing the documents was rather easy and there was nothing amiss with his amateur lawyering—except that it was illegal. Even though his daughter could have done the paperwork herself legally, for him to do it was a violation of the state's unauthorized practice of law statute. This horrible violation came to the attention of the State

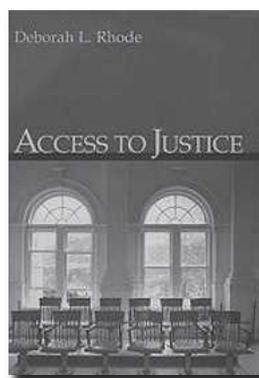
Bar of Michigan, which promptly filed suit, asking for not only an injunction against the man to forbid him from ever again trespassing on lawyerly turf, but also for monetary damages to cover the cost of the suit against him.

I do not know whether the bar ever extracted its pound of flesh, but what is important is the fact that providing legal help to another person, no matter how simple the matter and how properly done, is illegal unless performed by a licensed attorney. Why should the law criminalize such a harmless act?

The answer given by Stanford University law professor Deborah L. Rhode is that it serves the interests of the organized bar to stamp out competition, even if done competently, from anyone who is not a member in good standing of the legal profession. Her book *Access to Justice* makes a strong case that the American system of justice is badly deficient in that large numbers of people, overwhelmingly the poor and ill-educated, are priced out of the system and often denied justice.

Poor litigants in civil cases frequently go without any sort of legal counsel. Criminal defendants, of course, are entitled to a lawyer, but Rhode makes it clear

LAWYER CARTEL The book's main villain is the organized bar. Despite their



frequent recitations of concern for public welfare, Rhode makes it plain that bar associations act as cartels for the financial interest of their members. Like all cartels, the legal profession desires to suppress competition in order to raise prices. Bar associations used to insist that members adhere to strict fee schedules

and prohibited any kind of advertising until the Supreme Court ruled such anti-competitive practices illegal under the Sherman Act. They continue, as noted above, to go to absurd lengths to make sure that non-lawyers do not poach any business that could lead to a billable hour for a bar member.

The bar opposes group legal practice, which is common in Europe and allows non-wealthy people to afford professional legal help when they need it. The bar also opposes the creation of legal databases that would allow consumers access to valuable information about the merits and demerits of lawyers. It has tried to prevent the publication and sale of legal self-help books and computer programs.

Rhode ably describes the bar's many-pronged assault on marketplace developments it sees as threatening. While bar spokesmen invariably advance consumer protection justifications for their anti-

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competitive actions, Rhode correctly sees them as a smokescreen for self-interest.

There is one cartel-maintenance device she fails to mention, though. That is the high barrier to entry into the profession created by educational requirements. Under the laws of most states, would-be legal practitioners have to complete an accredited program of legal education before they are allowed to take the bar exam. To be accredited by the American Bar Association, a law school has to run a three-year program replete with many costly features. Moreover, no student can enroll in law school without first having completed an undergraduate degree. Those requirements mean that prospective lawyers must invest very heavily in education before they can ever collect a dime from anyone for legal services. Such a huge investment in formal education is excessive and induces many of those who do pass through the gates into the legal profession to have the attitude of one young lawyer whom Rhode quotes (apropos of his view of pro bono work): "I have paid back \$78,000 in eight years and still owe \$33,000. Why should I do anything for free?"

Low- or no-fee clients are out of the question for such lawyers. Lowering the barrier to entry by permitting legal education programs of shorter duration (and it is important to note that before the ABA flexed its muscles, many law schools had programs lasting only two year or less and that the majority of lawyers used to learn the law as apprentices without ever going to law school) would go far toward increasing the supply of practitioners willing to work for clients of limited means. Alas, lowering the educational barrier is not part of Rhode's solution.

RHODE'S SOLUTION There are several aspects of Rhode's solution to the access to justice problem that I can fully endorse. She would like to see civil courts streamlined to reduce costs and the need for professional legal assistance. Small claims courts should have their claims limits increased so that many more cases come under their jurisdiction. She also proposes that unauthorized practice of law prohibitions be "more narrowly tailored to fur-

ther the public's rather than the profession's interest." I believe that those laws should be repealed entirely and that we can rely on the law of contract and fraud to weed out incompetent and unethical practitioners, but Rhode is certainly moving in the right direction.

She would also take steps to increase the accountability of the legal profession. For example, "Courts and bar disciplinary agencies should impose more frequent and significant sanctions for frivolous claims, excessive fees, and incompetent representation," Rhode writes. And data banks, as mentioned above, would help consumers find good lawyers and avoid bad ones.

Other parts of her attack on the problem I find less appealing. Rhode advocates a substantial increase in federal legal aid expenditures. A tripling of the budget for civil legal aid would cost less than \$1 billion, she says. But that approach is susceptible to two cogent criticisms: (1) the same result of more legal assistance for the poor can be obtained by the lowering of barriers to entry, and (2) nothing in the Constitution authorizes Congress to appropriate money for that purpose. (Yes, Congress has already broken through the constitutional spending barriers, but that does not mean we should enlarge them.)

She also believes that pro bono legal service can and should be greatly expanded to help meet the needs of the poor. Rhode argues that pro bono work is a "professional responsibility" and that lawyers should either be required to make a significant commitment of time to such work or a monetary contribution in lieu thereof. The discussion of pro bono work is more extensive than any other part of her solution, but I think it is entirely mistaken and unworkable.

First, I do not see why individuals who desire to work in the legal profession (or any other occupation) have a free-floating obligation to donate their time or money to assist poor people. Lawyers no more have a professional responsibility to take on indigent clients than college professors have a professional responsibility to tutor children who are having trouble with basic English.

That libertarian objection aside, poor people are never going to be served well

by lawyers who have essentially been conscripted and are often working in unfamiliar areas of the law. A lawyer who does intellectual property law is not likely to be of great help to a person charged with selling cocaine. Some legal procedures are simple, but good representation usually involves much more than filling out documents. Even a well-intentioned and motivated pro bono lawyer is apt to overlook legal complexities when he is out of his element, let alone a lawyer who is grudgingly doing the minimum required to satisfy his obligation.

Instead of relying on pro bono work, the poor need help from people with expertise in the particular areas of the law where they have disputes—people who have something to lose if they do a poor job. Relying on donated time by lawyers who would prefer to be working (and billing) in their area of expertise is no better for the poor than relying on donated food and clothing. They are much better off entering into contracts for what they need.

DROP THE BARRIERS That brings me back to my point about barriers to entry. It really is not necessary to require seven years of formal education before the government will allow anyone to start learning how to assist people with legal problems. Like most work, lawyering is overwhelmingly learned on the job, not in classrooms. Legal secretaries and paralegals often have quite enough knowledge to provide the help that individuals need, but they are not allowed to give it on their own. Prior to being attacked and dismembered by bar unauthorized-practice committees, a number of legal-help businesses run by former secretaries and staffed by people lacking JDs (or even BAs) have operated quite successfully—both from a financial and customer-satisfaction standpoint. If we allowed the free market to work in the area of legal assistance, we would not need to worry about trying to squeeze enough pro bono time out of lawyers or more money out of taxpayers.

Like most lawyers, Rhode underappreciates the power of the free market to solve problems. Nevertheless, she has written a much-needed book on a serious flaw in our system of justice. **R**