



Advocatus: rethinking busyness

“Don’t you know how busy and important I am? I’ve got so much to do.

Ask me out to dinner on Friday night, I can’t go, I’ve got too much to do.”

SONG BY TOM ROSENTHAL, 'BUSY AND IMPORTANT'

Over the years of attending swearing-in speeches for new judicial officers, I've enjoyed playing a one-person game of bingo. Prior to the swearing-in speech, I remind myself of a few oft-heard phrases in such speeches and give myself a point if that phrase, or some variation of it, is repeated in the swearing-in speech. Examples include: 'your family shares in your achievements today', and 'your Honour will be greatly missed by the solicitor branch of the profession'. My favourite in respect of judges who came from the Bar is 'your Honour quickly developed a busy practice.' It is very rare to hear a swearing in speech for a judge who came from the private Bar which does not highlight the judge's busy or extensive practice prior to judicial appointment. Of course, frequently references are also made to the new judge's skill as an advocate, but it is revealing that the descriptor 'busy' is used as a code-word for 'high quality'.

Barristers are most often described as busy when speaking of themselves. Proving the truth of the saying that the busiest people are never too busy to take time to tell others how busy they are, busy barristers love to tell anyone and everyone about their busyness. Anyone who has ever considered sitting outside the Law Courts Building in Queens Square wearing a cardboard sandwich board saying 'Qualified barrister – work wanted' knows there is nothing more likely to make one feel an utter failure than to listen to over-committed colleagues moan about how busy they are.

Busyness is frequently proclaimed as a point of pride in resumes on chambers website by barristers speaking in the third

person about themselves: 'X maintains a busy practice', 'Y has a busy duty judge practice', 'Z has a busy commercial practice' etc. A common response to the query, 'How are you?' around Phillip Street is 'Busy!' With busyness viewed as the ultimate status symbol among barristers, it is surprising that none of the new sets of chambers popping up around Phillip Street have yet named themselves 'Busy Chambers'.

Barristers seem to think that being busy, and advertising that busyness, is attractive to solicitors bearing briefs on the grounds that it signifies their worth. Scarcity then creates demand. That's all well and good, until one appreciates that briefs generally demand availability rather than scarcity on the part of the barrister. There's a delicate balance when being asked by a solicitor in connection with a potential new brief, 'How busy are you at the moment?' One of course wants to signify availability and willingness for the brief, without also suggesting that one is able to drop everything at a moment's notice for the work (or worse still, create the impression that there is no work to be dropped).

At one level, a focus upon busyness is entirely understandable and appropriate. Having a steady workflow is obviously vital to fiscal security, at least for the majority of us whose sole or major source of income is barristerial work. There is an obvious relationship between the quality of a barrister's work and the level of demand for his services. Good barristers will always be in demand, and busy barristers can become better barristers as experience hones their skills. Busy barristers may also be more efficient, having no time for procrastination.

However, focussing on busyness as a goal or a marker of talent breeds an unhealthy attitude to work. It encourages barristers to focus on filling up all their available time, to the neglect of quality of work and commitments outside of work. Telling new barristers that they should never refuse any work unless they are in court at the same time encourages them to overload themselves to breaking point. Instead, they should be advised to accept as much work as they can that allows them to discharge their existing commitments within a standard working day well, and otherwise say no, rather than filling every waking minute of a week with competing commitments.

A busy practice is not a substitute for a quality practice, in the sense of consistently producing high quality work on each brief. A barrister who is underdone for a hearing may reason that she has been very busy lately and excuse her lack of preparation on that score, but no-one else, least of all the judge hearing the case or client whose case it is, will care that the busy-bee barrister has been buzzing about in different courts when it comes to the crunch in the case at hand.

Why not aspire towards diligence in the work we have rather than towards being busy? That breeds the satisfaction of having done a job well, without the extra stress caused by competing demands, and leaves time to enjoy life as well as breathing-room for all of life's unexpected travails such as Covid-tests and sick pets requiring veterinary care. After all, as the actress Lily Tomlin observed, if you win the rat race, you're still a rat.

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