

REFUGEE SOLIDARITY NETWORK

**Pro Bono for Refugee Protection:
A Practical Guide for Pro Bono Partnerships in
Emerging Refugee Host States**

December 2017

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Glossary

Attorney of Record:	An attorney who appears in court or receives pleadings and other formal documents on a party's behalf. This attorney is also known as counsel of record and is often listed as a representative of a law firm or association. Appearing on court documents allows the attorney to have direct access to protected client information and communications.
Billable Hours:	Most corporate law firms require their attorneys to meet a minimum quota of so-called billable hours. "Billable hours refers to time worked on business matter[s] that will be charged to a client" based on a negotiated rate. "Billable hours in the context of legal representation [are] often charged in tenths of an hour. Tracking software for billable hours is widely available." ¹
Co-Counsel:	One of several attorneys of record representing the same client or clients, often working on the case together. Co-counsel has a direct attorney-client relationship with the client, can appear in court on behalf of the client, and has direct access to client information and communications, because she is also an attorney of record.
Firm:	A law firm or legal firm; a private business providing legal services.
INGO:	An international non-governmental organization with offices or operations in a country other than its headquarters or incorporation. It is also defined as "any organization which is not established by inter-governmental agreement," ² "including organizations which accept members designated by government authorities, provided that such membership does not interfere with the free expression of views of the organizations." ³
Jurisdiction:	A system of laws that apply in a certain area (ex., a state in the United States or a country in the European Union).
NGO:	A non-governmental organization, independent from government in its establishment, management, and operation. It is also commonly referred to as a nonprofit organization or an association.
Non-Billable Hours:	Time at work that attorneys at law firms spend on activities that are not directly related to a client's case, such as meetings, phone calls/emails, or resolving technical issues.
Of-Counsel:	An attorney who works for the firm on some projects, but is not an associate lawyer or partner at the firm. Of-counsel does not have direct attorney-client relationship on a case.
Pro Bono:	A term describing work for a client of generally limited means, for which the lawyer or law firm does not receive payment from the client. The term pro bono publico is also sometimes used interchangeably. ⁴
Pro Bono Coordinator:	A person responsible for managing a firm or NGO's pro bono program; the pro bono coordinator acts as a link in communication between the NGO and partner lawyer or firm. ⁵
Pro Bono Partner:	A law firm that partners with an NGO to provide pro bono services.

¹ USLegal, *Billable Hours Law and Legal Definition*. See *infra*, Case Studies pg. 14.

² United Nations Economic and Social Council (ECOSOC), Resolution 288 (X) 27 February 1950.

³ ECOSOC, Resolution 1296 (XLV) of 25 June 1968.

⁴ *Infra*, pg. 6.

⁵ *Infra* Case Studies, pg. 14.

Refugee:	In the legal context, a refugee is an individual found to qualify for international protection. Most commonly, a refugee is found to have a well-founded fear of persecution due to the refugee's identity. Although the determination process is complete, a refugee may still need legal services aside from his or her status. The current paper, however, uses the term refugee in a general sense, as an umbrella term for individuals who have been granted protective status of any kind (refugee status, subsidiary protection, humanitarian residence, among others) and for those who are still awaiting status determination (typically called asylum-seekers, or international protection-seekers).
Removal Proceedings:	Administrative proceedings to determine whether an individual should be deported from the United States under US immigration law. These are typically conducted by an Immigration Judge at the Executive Office for Immigration Review (EOIR), also known as Immigration Court. The term removal also refers to deportation in European law. ⁶ However, unlike in the United States, most EU member states do not have specialized immigration courts, and the review of removal decisions instead takes place in general administrative courts.
Rights-Based Programming:	Programs developed with human rights principles as a guide and aimed at promoting human rights. In the context of services for refugees, these are programs that view refugees as having defined rights under international and national law, rather than providing services as an act of charity.
Status Determination:	The process through which an adjudicating body assesses whether the applicant qualifies under the applicable definition of protection. In some jurisdictions, this is referred to as the asylum procedure or process, or refugee status determination (RSD).
Volunteer Attorney:	An individual attorney, often working for a law firm, who volunteers to participate in the immigration legal matter through an organized partnership with a legal NGO without charging the client. Also referred to as pro bono attorney.

⁶ See, e.g., [EU Charter of Fundamental Rights](#), Art. 19 (2).

About RSN

Refugee Solidarity Network (RSN) was launched in 2014 with a mission to protect refugee rights by building the capacity of local partners in key host countries, advocating for innovative rights-based refugee assistance policies and programs, and raising awareness of the refugee experience. In its first phase, RSN focused on the world's largest host country of refugees, Turkey, as well as US policies concerning refugees, with a view to improving protection standards for refugees across the globe.

RSN collaborates with and supports its primary partner, Refugee Rights Turkey (RRT, or Multeci Haklari Merkezi in Turkish), to operate a Center for Refugee Rights that provides legal assistance and information to refugees while serving as a resource and training hub for lawyers from across the country.

In 2016, RSN established a partnership with the Center for Legal Aid – Voice in Bulgaria, a Sofia-based provider of free legal services to refugees. RSN has also consulted with a range of national and international actors in Greece, as part of research and capacity-building activities, leading to prospective partnerships there.

As part of RSN's mission to lend support to and build capacity of national NGOs providing legal assistance and other critical rights-based programming for refugees, RSN seeks to analyze structural ways in which the provision of quality legal services in focus locations can be expanded, both in theory and in practice. One area of interest for RSN and its partners has been state-funded legal aid systems, and how to address structural issues preventing such systems from serving more individuals. The paper's focus on pro bono partnerships are intended to be in complement to such ongoing efforts, not in lieu of.

The observations and analysis contained in this paper are therefore derived from RSN's capacity-building experience in the field and as a policy actor, having relied on desk research and interviews with practitioners experienced in delivering pro bono legal services. RSN thanks the respondent organizations that provided detailed information that allowed for the featured Case Studies.

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Introduction

This paper analyzes the significance, history, structure, and workings of pro bono partnerships between NGOs working to protect and serve immigrants (refugees and other non-citizens) and for-profit lawyers and law firms in the United States. The paper seeks to provide an understanding of this arrangement and facilitate discussion on the viability of adopting this model in other states, particularly those hosting significant numbers of refugees.⁷

The paper is intended for civil society operating in such states but more specifically legal practitioners, legal NGO workers, and other rights-based advocates that are involved, or interested in being involved in efforts to engage legal systems to protect this population, including by way of direct legal services and other strategic legal interventions. Therefore, the concept of pro bono legal services is already likely to be familiar to the reader.

In fact, pro bono partnerships already exist in many parts of the world, and several publications outline their basis and provide guidance for replication.⁸ However, this paper takes a unique approach in its context and intended use. The paper draws on the specific experience of the author organization, a US-based actor supporting programming in developing countries, particularly those that were traditionally viewed as “transit” countries but have increasingly become host states.

This paper presents pro bono partnerships in general and introductory terms, as a first step to bridge the US experience and that of developing states where emerging legal systems may be suitable to adapt US models. The paper is meant to provide a basis for understanding why such partnerships may be useful, how they can be perceived and marketed, and what the inner workings of such a partnership look like. RSN will continue to assess, in conjunction with partners, the particular characteristics of the local legal frameworks of interest, including the availability of resources, local legal rules and structure, that bear on the practical implementation of such partnerships. Forthcoming events and publications will address these elements of viability in more detail.

RSN’s exploration is in complement to other research, advocacy and capacity-building efforts focused on achieving well-funded and functioning state-funded legal aid schemes in all locations of interest. RSN recognizes the need for lawyers to be compensated for their time and efforts and therefore does not promote pro bono partnerships as the primary manner in which legal assistance can be offered to refugees. Similarly, RSN has begun undertaking research on mechanisms outside of traditional legal services which may be established or scaled up, specifically for the benefit of displaced populations in host states. This paper puts forth the starting point for legal aid NGOs and private attorneys in emerging legal systems to establish working relationships that will contribute to various efforts and projects that serve those most in need.

In sum, RSN will continue to take a multi-dimensional approach to helping ensure access to justice for displaced populations.

⁷ What constitutes a “significant” number is, of course, relative. The authors understand that host countries have varying levels of resources and development, making even a relatively small number of protection-seekers a significant challenge to a host state. The model discussed in this paper is intended to be adapted for a wide variety of host settings with an active legal community and a legal framework allowing for foreign nationals to be represented in the course of legal procedures.

⁸ See, e.g., PiLNet, [Pro Bono Handbook](#); Harvard Law School, [Pro Bono Guide](#).

Critical Context

This paper comes at a time of enormous significance. Global displacement figures in 2016 reached their highest levels since the Second World War.⁹

Worldwide, over 65 million people live away from their homes as refugees, of which approximately 40 million are internally displaced and more than 21 million are outside their countries of origin.¹⁰

The vast majority of those seeking international protection do so in states near in proximity to their own. It is often estimated and recalled that 85% of refugees worldwide live in developing countries.¹¹

International refugee law is enshrined in the 1951 Refugee Convention and the 1967 Protocol.¹² Basic tenets of refugee law include states’ adherence to the principle of non-refoulement and granting basic rights and entitlements to those who qualify for protection.

The basis for qualification rests in a well-founded fear of persecution in one’s home country due to one’s identity. Subsequent regional and national laws have expanded grounds for protection to go beyond indi-

vidual risk of persecution, obligating many states to also offer legal protection to individuals fleeing war or generalized violence.¹³

Although the fundamental elements of refugee law are universal, certain important details associated with the treatment of those seeking protection, such as reception conditions, including the right to legal representation, vary across jurisdictions.

Although the fundamental elements of refugee law are universal, certain important details associated with the treatment of those seeking protection, such as reception conditions, including the right to legal representation, vary across jurisdictions.

The US Constitution, for instance, does not guarantee the right to legal representation in civil cases.¹⁴

Because immigration matters, including seeking asylum affirmatively or defensively,¹⁵ are considered civil matters, they

do not trigger the constitutional right to legal representation.¹⁶

In Europe, the right to legal aid in civil cases is not outright guaranteed by law but incorporated into a more universal access to justice right,¹⁷ providing refugees with a more established right to legal representation.¹⁸

This distinction may be critical to understanding the concept explored in this study.

⁹ UNHCR, [Figures at a Glance](#) (September 2017).

¹⁰ *Id.*

¹¹ Charlotte Edmond, [84% of Refugees Live in Developing Countries](#), [World Economic Forum](#) (June 20, 2017).

¹² [Convention Relating to the Status of Refugees](#), July 28, 1951, 189 U.N.T.S. 150 (entered into force Apr. 22, 1954); [Protocol Relating to the Status of Refugees](#), Jan. 31, 1967, 606 U.N.T.S. 267 (entered into force Oct. 4, 1967).

¹³ E.g., Article I(2) of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (1969 OAU Convention); Conclusion III(3) of the 1984 Cartagena Declaration on Refugees (Cartagena Declaration). See also [Guidelines on International Protection No. 12](#), United Nations High Commissioner for Refugees (UNHCR’s commentary on the relationship between regional protection mechanisms and refugee law).

¹⁴ The 6th Amendment to the Constitution of the United States only recognizes a right to legal representation in criminal proceedings. US Const. amend. VI.

¹⁵ US law allows for two types of asylum claims: an affirmative and a defensive. Affirmative applications are made by applicants who are already in the United States and who voluntarily file an asylum application with the US Citizenship and Immigration Services (USCIS). In contrast, defensive applications arise when an individual is in removal proceedings and argues in Immigration Court that he or she should not be removed from the United States because he/she qualifies for asylum under US law. See, e.g., Katherine E. Melloy, *Telling Truths: How the REAL ID Act’s Credibility Provisions Affect Women Asylum Seekers*, 92 IOWA L. REV. 637, 648 (2007).

¹⁶ According to US immigration law, legal representation in immigration cases is a privilege and not a right. 8 U.S.C. § 1158(a)(4)(A) (2005).

¹⁷ The European Union Agency for Fundamental Rights describes this guarantee as follows: Article 6 (1) of the ECHR and Article 47 of the EU Charter of Fundamental Rights guarantee the right to legal assistance in civil proceedings. This allows individuals to access justice irrespective of their financial means. Legal aid is generally subject to a financial means and merits test. States can decide whether it is in the interest of justice to provide legal aid, taking into account: the importance of the case to the individual; the complexity of the case; and the individual’s capacity to represent him-/herself. European Union Agency for Fundamental Rights and Council of Europe, [Handbook on European Law relating to access to justice](#), pg 58.

¹⁸ The Reception Directive (DIRECTIVE 2013/33/EU) outlines the right of refugees to enjoy legal representation when detained (Article 9) and in the context of appeals (Article 26).

Commentators have argued that the lack of a right to representation in immigration proceedings in the United States has propelled the American legal community's adoption of pro bono services.¹⁹

While we acknowledge that the prevalence of pro bono partnerships for immigration legal services in the United States is in some way influenced by the very lack of a right to legal representation in immigration proceedings, this distinction cannot be the only basis for the model's widespread success.

Nor can the European approach, enabling the right of legal representation, be understood to adequately, in practice, meet the needs of refugees.

In fact, the right to representation in certain immigration proceedings as is currently legislated in most of Europe does not ensure adequate counsel for all (or even a fraction of those) who need it.²⁰

State-funded legal aid systems across the European Union have struggled to address the needs, while the quality of such assistance has been questioned.²¹

In addition, many EU member states employ complex schemes for assessing the applicant's eligibility, including the merits of their cases, before providing legal aid, which makes accessibility a common problem.²²

In this context, local legal NGOs are essential either to supplement the legal services offered under the state-funded legal aid program,²³ or, in a jurisdiction like the United States, to complement an inadequate supply of affordable legal representatives.²⁴

These NGOs carry out a number of other functions in addition to providing legal services, including capacity-building, training, monitoring, and advocacy.

While the jurisdiction and legal framework in relation to reception and entitlements may differ, NGO legal service providers share not only an essential place within the system, but also a common set of challenges, most notably with regard to limited capacities.²⁵

Pro bono partnerships between such NGOs and for-profit, fee-based legal service providers are intended to partially offset the inherent limitations in the capacity of free-of-charge legal service providers.

Such partnerships, widespread in the United States, play a critical role in filling systematic gaps.

Basic elements of Pro Bono

NGO legal service providers share not only an essential place within the system, but also a common set of challenges, most notably with regard to limited capacities.

The purpose of pro bono legal services is to give free legal assistance and representation to people who face difficulties in accessing legal aid, often due to an economic hardship.²⁶

Pro bono generally denotes legal work performed by lawyers in pursuit of a public cause, as opposed to for-profit economic interests.²⁷

This means that lawyers and legal professionals provide assistance on a voluntary basis at no financial cost to the client.²⁸

Despite the absence of payment from the client, the volunteer attorney still agrees to offer the same high-quality legal services at the same standards of professionalism as she would provide to a paying client.²⁹ Fee arrangements such as a reduced price, the offer of a free consultation, or a payment of legal fees that is delayed until the end of judicial proceedings are

19 Louis O'Neill, White & Case LLP, *Pro Bono in the United States*, Thomas Reuters Foundation News, *Pro Bono in the United States* (22 May 2015).

20 European Council on Refugees and Exiles, [Survey on Legal Aid for Asylum Seekers in Europe](#), (October 2010) (hereinafter Survey on Legal Aid); See also Mauritis Barendrecht, et al., *Legal Aid in Europe: Nine Different Ways to Guarantee Access to Justice?* Hiil.

21 "[T]he survey presents a mixed picture with regard to the availability of legal aid at all stages of the asylum procedure, including at the first instance. It is indeed worrying that in a majority of the countries surveyed legal aid is only ensured at the appeals stage." Survey on Legal Aid, *supra* note 20 at 8.

22 *Id.* at 30.

23 "It is clear that in many European countries today the involvement of NGOs in the provision of legal aid to asylum seekers is indispensable." *Id.* at 8.

24 National Immigration Law Center, [Blazing a Trail: The Fought for Right to Counsel in Detention and Beyond](#), pg. 6.

25 For information on legal NGOs' role within the EU asylum system, see (ECRE report). For further analysis of NGO resource limitations and capacity-building initiatives, see Carol J. De The Urban Institute, [Building Capacity in Nonprofit Organizations](#).

26 *Supra* PilNet note 8 at 17.

27 *Id.*

28 *Id.* While the official definition of *pro bono* characterizes this type of work as uncompensated, the general practice at most large law firms in the United States is to pay their attorneys indirectly for pro bono work by counting the hours they spend on pro bono cases under their billable hour requirement. See *infra* CASE STUDIES FOR ESTABLISHING AND OPERATING A PRO BONO PARTNERSHIP.

29 *Supra* PilNet note 8 at 17.

not pro bono services,³⁰ although they are sometimes described as *low-bono*. This type of legal assistance is, however, beyond the scope of the current paper.

Pro Bono in the United States

Involvement in pro bono work has a long tradition within the United States. According to Trust Law,³¹ in 2015, over seventy percent of lawyers at firms that responded to their survey completed at least ten pro bono hours, while the average for all respondents was seventy-three pro bono hours in 2015.³²

This amounts to almost two entire work weeks dedicated to pro bono service, which makes US lawyers' contribution to pro bono one of the highest globally.³³

According to Louis O'Neill,³⁴ Counsel at White & Case LLP,

"One important reason for this extensive pro bono work is that the [United States] has among the lowest government funding for civil legal services in the developed world.

Private attorneys step in to help address a massive social need.

And that help is strongly encouraged by the profession, as found in the American Bar Association's Model Rule 6.1,³⁵ which states that "Every lawyer has a professional responsibility to provide legal services to those unable to pay. A lawyer should aspire to render at least 50 hours of pro bono publico services per year."

*The Model Rule goes well beyond encouraging pro bono services, also calling on lawyers to "voluntarily contribute financial support to organizations that provide legal services to persons of limited means." Pro bono service is thus an inherent part of being a lawyer in the [United States]."*³⁶

30 *Id.*

31 Trust Law is the global pro bono program of the Thomson Reuters Foundation, aimed to "connect the best law firms and corporate legal teams around the world with high-impact NGOs and social enterprises working to create social and environmental change," according to its website.

32 Louis O'Neill, White & Case LLP *supra* note 19.

33 *Id.*

34 Mr. O'Neill, a former US Ambassador to Moldova, is also a recipient of the Legal Aid Society's 2000 Pro Bono Award, which he earned for working on appeals of criminal cases in the state of New York. See <http://www.louisoneill.com/biography.aspx>. For information about the award, see <http://www.legal-aid.org/en/mediaandpublicinformation/inthenews/legalaidsocietyhonorsoutstandingprobonoservice.aspx>.

35 The Model Rules of Professional Conduct are recommendations for how lawyers in the United States should behave ethically within their profession. The Rules were adopted by the American Bar Association (ABA) in 1983. Most American States have adopted them as their own. American Bar Association, [ABA Model Rule 6.1](#).

36 Louis O'Neill, White & Case LLP *supra* note 19.

37 *Id.*

Historically, pro bono attorneys have played a key role in numerous legal battles that have changed the laws and the social landscape of the United States—including landmark cases against discrimination based on race and sexual orientation.³⁷

While the US context has its unique dimensions, there are a number of universal arguments for this practice's replication.

Average Hours of Pro Bono Based on Firm Size

Source: Trust Law, Index of Pro Bono 2015



Arguments for Pro Bono

Addressing a Critical Need for Legal Representation

As outlined above, a refugee's right to legal representation varies depending on the jurisdiction where they file their application for protection. A most fundamental and critical distinction between the United States and Europe is that the European Union generally gives refugees a right to state-funded legal aid, while the United States does not.³⁸

Despite this important distinction, there is an acute need for pro bono services both in the United States and the European Union, and beyond.

A closer look at the data reveals the scope of this need. In some US states, over eighty percent of the poor and more than half of those with moderate-incomes have no access to legal representation in civil matters

of great importance, such as foreclosures, evictions, child support and custody, debt, and immigration.³⁹ In 2013, only fifty-nine percent of people facing removal proceedings had legal representation.⁴⁰

Worse yet, eighty-four percent of those in immigration detention did not have an attorney.⁴¹ Among the detained, the chance of winning in immigration court was twice as high for individuals who had lawyers than for those who were unrepresented.⁴²

People who had never been in detention and were represented in court had almost a five-times higher chance of success than those who had never been detained but did not have a lawyer.⁴³

In the European Union, there is a huge disparity among member states in the quality and accessibility of legal aid, despite the fact that low-income individuals have

a right to free legal aid under the law in civil cases. According to a recent report by the European Commission for the Efficiency of Justice (CEPEJ), the per-capita government expenditures on legal aid for 2014 ranged from 0,10 €⁴⁴ in Hungary to 73,53 € in UK-Northern Ireland.⁴⁵ EU border states had significantly lower per-capita legal aid budgets than the European average of 9 €, particularly relevant given the EU's steadfast adherence to the Dublin system.⁴⁶

Understanding the precise legal aid needs of any society can be a difficult endeavor, while comparative assessments remain even more challenging due to distinctions in the local context. However, the general conclusion is clear: the current availability of free legal aid in both the US and the EU is much more limited than the existing need for such services. Pro bono partnerships are one way to address significant identified needs.

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An Ethical Obligation

Ethical justifications offer another way of understanding why pro bono initiatives flourish in the United States and what may motivate legal communities to initiate greater pro bono services.

Since lawyers typically possess the exclusive right to practice law, commentators have frequently remarked that the legal career has a professional and an ethical obligation to provide pro bono help to those otherwise lacking access to the legal system.⁴⁷

Lawyers occupy a unique and privileged position in society, and act as guardians of the system of justice and power, which is especially true in democratic societies. As Stephen Parker puts it, "High standards of

38 *Infra* "Critical Context."

39 Commission on the Future of Legal Services, [Report on the Future of Legal Services in the United States](#), American Bar Association, pg. 12, (2016).

40 Columbia Law School Human Rights Institute and Northeastern University School of Law Program on Human Rights and the Global Economy, [Equal Access to Justice: Ensuring Meaningful Access to Counsel in Civil Cases, Including Immigration Proceedings](#), pg. 5.

41 *Id.*

42 Ingrid Eagly and Steven Shafer, [Access to Counsel in Immigration Court](#), American Immigration Counsel, pg. 3.

43 *Id.* These findings are based on the US Government's own data, compiled between 2007 and 2012.

44 0.10 € according to the US notation.

45 Council of Europe, [European Judicial Systems](#), CEPEJ Studies No. 23, pg. 72. The per-capita budget for legal aid in Bulgaria for 2014 was 0,67 €, in Greece 0,68 €, and in Turkey 1,33 € (the survey included several non-EU member states).

46 *Id.* The per-capita legal aid expenditures for 2014 were 2,37 € in Italy, 0,67 € in Bulgaria, 0,68 € in Greece, and 1,33 € in Turkey (the survey included several non-EU member states); For EU rationale on resuming Dublin returns to Greece: European Commission - Press Release Database, http://europa.eu/rapid/press-release_MEMO-16-4253_en.htm (December 2016).

47 Stephen Parker, "Why Lawyers Should Do Pro Bono Work," 19 *Law Context – A Socio-Legal J.* 5, 10 (2001).

behavior are expected of lawyers . . . because of the privileges that they enjoy and the unique role they play in a justice system."⁴⁸

Other commentators frame the issue as one of access to justice⁴⁹ or of supporting the fair application of the law.⁵⁰ David Udell describes access to justice in the following way:

In the civil justice system, it means that a person can learn about her rights and then give voice to them through a neutral and nondiscriminatory, formal or informal, process that determines the facts, applies the rule of law, and enforces the result.

Viewed through the lens of human rights, access to justice is the obligation of states to "construct a legal and institutional framework which facilitates access to independent and effective judicial and adjudicatory mechanisms and ensures a fair outcome for those seeking redress, without discrimination of any kind."⁵¹

Viewed through the lens of "legal empowerment," it is about "strengthening the capacity of all people to exercise their rights, either as individuals or as members of a community. It's about grassroots justice – about ensuring that law is not confined to books or courtrooms, but rather is available and meaningful to ordinary people."⁵²

Where states are unable or unwilling to ensure access to justice for all, it is up to the legal profession to address the need through initiatives such as pro bono work.⁵³

48 *Id.*

49 Namati, [Our Mission](#).

50 *Id.*

51 Special Rapporteur on Extreme Poverty and Human Rights, [Extreme Poverty and Human Rights](#), ¶ 11, Human Rights Council (Aug. 9, 2012)(cited by David Udell, [The Civil Legal Aid Movement: 15 Initiatives That are Increasing Access to Justice in the United States](#), Impact Center for Public Interest Law 73 (2016).

52 Open Society Foundations, [Legal Empowerment](#) (cited by David Udell, [The Civil Legal Aid Movement: 15 Initiatives That are Increasing Access to Justice in the United States](#), Impact Center for Public Interest Law, *Impact* 73 (2016).

53 *Infra* note 61 for information on access to justice in the context of the Sustainable Development Goals (SDG).

54 UN OCHA defines humanitarian aid as any "intervention to help people who are victims of a natural disaster or conflict meet their basic needs and rights." [Definition of Humanitarian Aid for Statistical Purposes](#), FINANCIAL TRACKING SERVICE.

55 "USD 4.54 billion required in 2016 (Agencies) USD 2.22 billion received in 2016," Regional Refugee & Resilience Plan, [Regional Quarterly Update](#).

56 UNHCR notes that the traditional model involving the "containment" of refugees inside camps and the provision of supplies to address their basic needs can no longer serve as the dominant approach. Given the long-term displacement of the majority of refugees around the world, "UNHCR concluded that the care and maintenance model was 'flawed in several ways' . . . and called for a new approach focused on livelihoods and self reliance [sic] to prepare refugees for a durable solution, 'wherever that might be.'" James Milner and Gil Loescher, [Forced Migration Policy Briefing 6 – Responding to Protracted Refugee Situations: Lessons from a Decade of Discussion](#), Refugee Studies Centre, pg. 6, University of Oxford (2011). This shift in focus necessarily entails more emphasis on legal aid programming, as self-reliance in a host country is practically impossible without legal status and a permission to work.

57 For a discussion on the history and varying approaches to development, see International Relations, [International Development](#); For an overview on access to justice as a contributing component to broader development efforts, see [OECD](#); *But see* DeVex, [Opinion: How the refugee crisis impact's Europe's development spending](#) (June 1, 2017) for a discussion of how many European nations have altered previous ODA spending due to spending on refugees.

immigration-related legal services, from housing and health to family matters and beyond. Engaging lawyers and local NGOs on this important topic may play a role in overall efforts to strengthen the legal community, and this will serve a long-term benefit for the host population vis-a-vis access to justice.

Focusing on long-term development initiatives that have a dual-purpose outcome are increasingly important. First, they combat growing resentment on the part of local populations that view refugees as benefiting from aid not available to nationals.⁵⁸

Additionally, such an approach recognizes the reality that refugees are likely to stay in their new homes and are able to contribute rather than take away resources. Pro bono partnerships will increase refugees' access to representation and thereby lead to increased regularization of status.⁵⁹

This will lend efforts to cut away at communities living in the shadows, which has been proven to have a net positive effect on economies and societies.⁶⁰

Where access to justice "for all" is recognized as a development goal, as it is in SDG Number 16, no specific mention is made to limiting the objective to only nationals of any given state.⁶¹ Therefore, ensuring that displaced populations may benefit from legal services will also serve the interests of meeting SDG targets, increasingly relevant in the lead-up to 2030.⁶²

However characterized, pro bono partnerships for refugee legal aid can play a broader development role in their contribution to more equitable and advanced societies.

Prestige for the Firm and Training for Its Lawyers

While pro bono partnerships undoubtedly benefit legal aid NGOs and refugee clients, such a service also provides several advantages for the participating law firm and their attorneys. Harvard Law School's *Guide: An Introduction to Pro Bono Opportunities in the Law Firm Setting* describes some of the main benefits that pro bono work brings to a firm as:

- Developing lawyering skills;
- Helping with the recruitment and retainment of new associates;
- Enhancing the reputation of the firm; and
- Strengthening community connections.⁶³

The Guide characterizes pro bono work as "an inexpensive and efficient way for the firm to professionally develop its young associates", recognizing that "[t]he nature of many pro bono cases often puts young associates in new situations—conducting client interviews, questioning witnesses during a deposition, or even appearing in court—that give them a kind of hands-on training that firms often cannot provide."⁶⁴

This experience enhances associates' litigation skills and allows them to work with clients directly, which, in most US firms, is not a type of work that young attorneys would have access to in their first couple of years with the firm.⁶⁵ Thus, the junior lawyer more quickly gains the ability to handle complex legal matters for well-paying clients, as well.⁶⁶

A well-established, firm-wide culture of pro bono can also build connections between partners at the firm and Board members from agencies serving local com-

Focusing on long-term development initiatives that have a dual-purpose outcome are increasingly important.

58 See e.g., Rana F. Sweis, [Resentment Grows Against Syrian Refugees in Jordan](#), NEW YORK TIMES (May 9, 2013); Samuel Okiror, [The Refugee Scandal Unfolding in Uganda](#), IRIN (July 25, 2017); [Helping Host Communities Help Syrian Refugees](#), IRIN (November 8, 2013).

59 Bridget Anderson and Sue Conlan, [Providing Protection: Access to early legal advice for asylum seekers](#), Irish Refugee Council (2014); Andrew I. Schoenholtz and Hamutal Bernstein, *Improving Immigration Adjudications through Competent Counsel*, 21 GEO. J. LEGAL ETHICS 55 (2008).

60 Marshall Fitz, Philip E. Wolgin, and Patrick Oakford, [Immigrants are Makers, not Takers](#), Center for American Progress (February 8, 2013); John Cassidy, [The Economics of Syrian Refugees](#), THE NEW YORKER (November 18, 2015)(citing ORSAM, [Effects of Syrian Refugees on Turkey](#) (August 1, 2015).

61 Goal 16 aims at promoting "just peaceful, and inclusive societies" based on the understanding that "the rule of law and development have a significant interrelation and are mutually reinforcing, making it essential for sustainable development at the national and international level." United Nations Department of Economic and Social Affairs, [Sustainable Development Knowledge Platform](#).

62 For a discussion on the interplay between SDGs and refugee displacement, see Shada Islam, [SDGs are also about tackling the Global Refugee Crisis](#), Friends of Europe, (September 21, 2015).

63 PiiNet, *supra* note 8 at 5.

64 *Id.*

65 *Id.*

66 *Id.*

munities.⁶⁷ The Board members, who are frequently also prominent members of the community, could at a future time refer potential clients to the law firm.⁶⁸

In addition, the practice of pro bono improves employees' morale and the reputation of the firm, both among law practitioners and the public.⁶⁹ This makes it easier for the firm to attract commercial clients.⁷⁰ In the United States,

[f]irms such as Hogan and Hartson, Holland and Knight, and Skadden, Arps, Slate, Meagher and Flom have earned a national reputation for their commitment to pro bono work. Conversely, many firms have discovered that the lack of a demonstrated commitment to pro bono or a formalized pro bono program hurts their ability to recruit and retain associates. Indeed, a respected pro bono program serves as a powerful enticement for prospective associates who have made it clear that they want to work in an environment that embraces pro bono service.⁷¹

In addition to the firm, pro bono service is also beneficial for the attorneys who provide it.

Unlike work on commercial matters, which can be quite impersonal, the pro bono experience is deeply fulfilling for many lawyers, in addition to giving them the chance to be involved in cases featuring a variety of legal issues and requiring diverse lawyering skills.⁷²

Steven Schulman, former National Pro Bono Counsel at the firm Latham and Watkins, summarized it thus: "Pro bono work is a win-win for the firm. We have the opportunity to provide legal services to those in our

community most desperately in need, and our attorneys get hands-on experience on a variety of significant legal matters."⁷³

The United States has a tradition of recognizing firms and individual lawyers for extraordinary pro bono service. The American Bar Association (ABA), for instance, accepts nominations every year for attorneys and firms that have most contributed to the public good.

"Pro bono work is a win-win for the firm. We have the opportunity to provide legal services to those in our community most desperately in need, and our attorneys get hands-on experience on a variety of significant legal matters."

The awards are given in several categories, ranging from community service by solo practitioners to pro bono practice at large firms.⁷⁴ One of the most prestigious awards for pro bono service is the ABA's

Pro Bono Publico Award, bestowed each year on five attorneys and legal institutions that have shown extraordinary dedication to pro bono services for poor and vulnerable people.⁷⁵

The Legal Services Corporation (LSC)⁷⁶ describes the Pro Bono Publico award as "very effective in promoting additional pro bono work, spotlighting great pro bono practices, and rewarding people who deserve the gratitude and admiration of our profession."⁷⁷ Other prestigious awards are given by the New York State Bar Association,⁷⁸ the State Bar of California,⁷⁹ and many other bar associations and law schools around the country.

From Why to How

There are several compelling arguments why pro bono partnerships for refugee legal aid can play an important role in the legal system and for society as a whole. The paper will now seek to achieve a practical understanding of how such partnerships can be structured and operated, establishing two distinct models before presenting case studies that illustrate each.

67 *Id.*

68 *Id.* at 5 - 6.

69 *Id.* at 6.

70 *Id.*

71 *Id.*

72 *Id.*

73 *Id.* at 6 - 7.

74 American Bar Association, [The Difference Makers Awards](#).

75 American Bar Association, [Pro Bono Publico Award](#).

76 The Legal Services Corporation (LSC) is the single largest funder of civil legal aid for low-income Americans in the nation. Established in 1974, LSC operates as an independent 501(c)(3) nonprofit corporation that promotes equal access to justice and provides grants for high-quality civil legal assistance to low-income Americans. LSC distributes more than 90% of its funding to 133 independent nonprofit legal aid programs with more than 800 offices. LSC promotes equal access to justice by awarding grants to legal services providers through a competitive grants process . . . LSC is headed by a bipartisan board of directors whose 11 members are appointed by the President [of the United States] and confirmed by the Senate. Legal Services Corporation, [About LSC](#).

77 Legal Services Corporation, [ABA 2016 Pro Bono Publico Award](#).

78 New York State Bar Association, [President's Pro Bono Service Awards](#).

79 The State Bar of California, [President's Pro Bono Service](#).

Two Models for Refugee Legal Aid NGOs and Pro Bono Partners

This graphic compares the working structure of the two models of pro bono partnerships.



Model #1

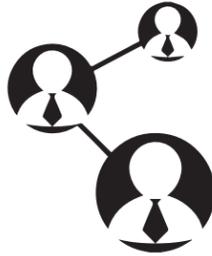
1. NGO's staff attorneys are notified of a pro bono client directly through the pro bono client or another organization.



2. The NGO reaches out to partner firms to distribute pro bono case lists. NGOs often visit individual firm offices to conduct pro bono trainings, or invite all partner firm members to trainings in the NGOs' offices. At these trainings, individual attorneys have a chance to look over case lists and volunteer for cases.



3. Qualified and trained volunteer attorneys express their willingness to take a case. The NGO connects the volunteer attorney directly with the client. The volunteer attorney often assumes full responsibility and becomes the attorney of record.



4. NGO staff attorneys provide ongoing guidance and supervision to the volunteer attorneys, in addition to the initial training on refugee/immigration law and available resources.



5. The volunteer attorney is in charge of the case and sees it through even if she leaves her firm, unless she chooses to give up representation. If this happens, the case either goes back to the firm or the NGO's staff attorneys finish it if the firm is unable to get a new volunteer attorney for the case.



6. If the volunteer attorney sees the case through from start to end, there is no need for the NGO to take back the case. Yet, there will always be supervision and guidance from the NGO until the case's completion.



Model #2

1. The NGO maintains links to volunteer attorneys, for the purposes of making referrals and/or other collaboration to address issues related to refugees and non-citizens.



2. If and when the NGO is made aware of individuals in need of direct services, they connect those individuals with the volunteer attorneys in their network. The NGO is not involved in the representation. This is commonly known as a referral and also sometimes called a "clearinghouse."



3. The NGO addresses systemic issues facing refugees and non-citizens, through litigation, advocacy, movement lawyering or other means. This is often done in partnership with volunteer attorneys.



Models for Organizing and Operating a Pro Bono Partnership

The internal organization and structure of pro bono partnerships between for-profit legal entities and legal NGOs vary. There are no fixed parameters or limitations in this regard. RSN analyzed a multitude of existing partnerships and observed a number of important elements that define their operation, identifying particular areas of interest for practitioners.

These include: hours and salary schemes, pro bono coordinator functions, internal structure of NGOs, identification of cases, initiation of partnerships/pairing, training, oversight and ongoing engagement during the life of the case, overall responsibility, and follow-up services after the case is finished.

To illustrate these topics, RSN presents a number of case studies under two general models for the organization and operation of pro bono partnerships.

RSN acknowledges that other models may exist and does not purport to define the full spectrum of such programs, but rather offers the current models to the target audience as possible options for their respective settings.

The internal organization and structure of pro bono partnerships between for-profit legal entities and legal NGOs vary. There are no fixed parameters or limitations in this regard.

Pro Bono Hours and Salary Schemes at US Firms

Many law firms in the United States require their lawyers to meet a certain number of billable hours per year, and encourage them to provide pro bono services by counting such work under each lawyer's billable hours.⁸⁰

While attorneys at most firms get paid a fixed salary that is not directly dependent on their billable hours, not completing the minimum billable hours required can put an attorney at risk of losing their job, while doing more than the minimum traditionally earns the attorney a bonus.⁸¹

80 See National Association for Law Placement, [A Look at Associate Hours and at Law Firm Pro Bono Programs](#) for an overview of the number of pro bono hours counted under billable hours in US firms.

81 *But see, e.g.,* Joel A. Rose, [How Does Associate Compensation Fit in with Today's Law Firm Economics?](#) describing a shift, over the past several years, to a bonus system based on merit rather than billable hours.

82 NALP, *supra* note 80, Table 5.

83 *Id.*

84 *Id.*; Chambers Associate, Skadden, Arps, Slate, Meagher & Flom LLP & Affiliates - [The Inside View](#).

85 Sally Kane, [How to Effectively Bill Time](#), The Balance (February 2, 2017).

86 See Annex I for an example of a pro bono coordinator job posting

While attorneys are nearly universally required to keep track of all their billable hours, regardless of whether those hours are pro bono or chargeable (paid for by the client), there is a range in how those billable hours are viewed by firms.⁸²

Some firms will cap the number of pro bono hours that can count toward an attorney's total billable hours.⁸³ Other firms will allow as many pro bono hours as possible to count for the attorney's billable hours.⁸⁴

Nonetheless, firms require a record of all pro bono hours even if they do not count toward the billable hour requirement, so that the firm can give its pro bono client an invoice showing how much time the attorney has put in and tracking what kind of services he or she has provided.⁸⁵

The Role of the Pro Bono Coordinator

In the United States, many legal aid NGOs and firms have a full- or part-time position for a pro bono coordinator, or manager of their pro bono practice.

While it is certainly possible to run a successful pro bono program without a pro bono

coordinator, having such a person on staff on both, or at least one side, greatly enhances the efficiency, effectiveness, and sustainability of the program, as the following examples illustrate.

Pro Bono Coordinators at NGOs

The responsibilities of the pro bono coordinator are numerous and multifaceted.⁸⁶ Most importantly, however, the coordinator acts as a single point of communication between the NGO and its pro bono partner law firms, which streamlines the partnership operations and greatly simplifies the work of other NGO staff.

The pro bono coordinator is generally responsible for facilitating new partnerships, developing training materials, organizing and leading trainings for volunteer

attorneys, answering questions from partner law firms, and often screening and pairing cases with volunteer attorneys, as well.

Many legal aid NGOs in the United States employ a pro bono coordinator, while those that do not generally delegate the functions of the position to their staff.

An example of the latter is The Political Asylum/Immigration Representation Project (PAIR) based in Boston, Massachusetts, which focuses exclusively on pairing volunteer attorneys from major law firms with low-income clients for the provision of immigration assistance.⁸⁷ PAIR has partnerships with over 100 law firms of different sizes for asylum and removal defense casework. In addition, it is currently working to establish pro bono partnerships with legal departments at corporations.⁸⁸

Each of PAIR's three full-time staff attorneys has an assigned share of partner law firms that the PAIR attorney communicates with and mentors. Since PAIR does not have a pro bono coordinator, each PAIR attorney simultaneously screens and selects appropriate cases for the volunteer attorneys from the law firms, serves as their mentor, works on his or her own cases, and gives trainings on asylum and immigration law.

The mentoring represents about 65% of the PAIR attorneys' work, while their own caseloads constitute 10-15%. The rest of the time, they lead trainings and complete administrative work.

While PAIR has been successfully using this model since 1989, the organization's Executive Director Anita Sharma explains that the lack of a pro bono coordinator makes her job and that of the staff attorneys "very stressful," because of the multiple responsibilities they need to juggle. Additionally, handling the tasks typically performed by a pro bono coordinator leaves PAIR's staff attorneys very little time for case work, which becomes a problem if they need to take over a pro bono case when a volunteer attorney is unable to complete it. Sharma states it would be "enormously helpful" to have a pro bono coordinator at the organization, if PAIR could secure funding for the position.⁸⁹

87 Political Asylum Immigration Representation Project, ["About Us"](#).

88 Businesses that specialize in non-legal services or goods, but have their own legal departments, whose lawyers (called *in-house counsel*) work exclusively for the company that employs them.

89 Anita Sharma, Phone Interview. April 3, 2017.

90 NALP, *supra* note 80. Of the large firms that responded, 57,5% had a pro bono committee, 50,2% employed a pro bono coordinator, and 16,1% put their department chair in charge of the program. These numbers add up to over 100% because firms could select more than a single option in the survey.

91 Hoffman has since been promoted to Public Service Partner. Crowell Morning, [Susan M. Hoffman](#).

92 Erica Winter, [Growing Trend In Large Law Firms Bearing Fruit as Public Interest Attorneys Make Partner](#), Law Crossing.

93 *Id.*

94 *Id.*

95 *Id.*

96 *Id.*

97 *See Id.*

Pro Bono Coordinators at Private Law Firms

According to a 2009 survey by the National Association for Law Placement (NALP), the absolute majority of large US firms with 701 attorneys or more had either a pro bono committee, a pro bono coordinator, or both in charge of their pro bono program.⁹⁰

Attorney Susan Hoffman, who has been heading the pro bono program at the Washington firm Crowell & Moring as a Public Service Counsel⁹¹ since 1988, explains that her firm initially decided to create the position for a number of reasons, "including elevating the visibility of pro bono in the firm. Also, the firm wanted an attorney in charge of initial case screening—to find cases that would make an impact, and that would make good use of the firm's resources."⁹² In her position, Hoffman does not work on commercial legal matters, instead focusing entirely on screening cases for the firm's volunteer attorneys and building relationships with legal aid NGOs.⁹³ This is fairly typical for lawyers in charge of pro bono practice at US firms.⁹⁴

Experience suggests that allowing the pro bono coordinator to focus entirely on public interest work increases the efficiency and impact of the firm's pro bono program and encourages NGOs to contact the firm about cases. Local NGOs have said to Hoffman "they love having a coordinator," and are more likely to call with a dedicated attorney . . . at the firm."⁹⁵

US firms most often fill the position of a pro bono coordinator in one of four ways: give it to an attorney from their own firm, hire a lawyer from another firm, "bring[] in a public interest attorney from a nonprofit or public defender's office, or . . . a lawyer from academia, who might do both trainings in the firm and handle its pro bono program."⁹⁶ There is also a growing trend of promoting pro bono coordinator attorneys to partners based on experience and good performance, just as a firm would generally do for its lawyers.⁹⁷

Ultimately, it is up to the firm to decide whether having a part- or full-time pro bono coordinator on staff would be beneficial to its pro bono program, as well as which NGOs to build relationships with and what types of cases to take on.

These decisions depend on the firm’s priorities and resources, its lawyers’ interests, as well as the number of pro bono hours available.

Pro bono work on immigration cases, for instance, is currently very popular with US firms, which is likely tied to the overwhelming need for free legal assistance in this area.⁹⁸

Many firms and NGOs limit pro bono aid to certain matters or parts of the case, for example, in immigration cases, to preparation for an asylum interview or a hearing before an immigration judge. Firms are free to decide and agree with NGOs about what types of aid they will provide, which gives the volunteer attorneys the flexibility to work around their busy schedules.

Model One – Partnerships for Direct Services

Most commonly, partnerships between NGOs and volunteer attorneys seek to increase legal service provision as the preferred means to protecting refugee rights. In this model, the NGO has expertise in the substantive area of the law and partners with pro bono lawyers to help increase its reach vis-à-vis direct beneficiaries. The following case studies illustrate this model in practice, and are meant to provide a more meaningful understanding of how such partnerships function.

Case Study One

Human Rights First is a 501(c)3, nonprofit, non-governmental organization that aims to uphold international human rights standards in the United States through its advocacy, representation, and policy work.⁹⁹ One way it contributes to this end is through the Refugee Representation program, which provides pro bono legal representation to asylum seekers in the United States.

Human Rights First’s clients face many complex and challenging issues, ranging from immigration detention and the risk of deportation while seeking asylum, to lengthy delays in the asylum process while separated from immediate family members, many of whom remain in danger in the home country.

Human Rights First leverages its resources and the capacity of its staff by partnering with volunteer lawyers to provide pro bono asylum representation to its clients. Human Rights First identifies cases, pairs asylum seekers with pro bono attorneys, and then mentors those attorneys through the asylum process.

Identification/Reception

Human Rights First receives cases in two ways. Primarily, asylum applicants directly contact Human Rights First’s offices in New York, Washington, D.C., Houston, and Los Angeles. They then fill out a request for legal assistance form and are later invited for an initial interview, aimed at determining whether they have a legitimate asylum claim. If there is such a claim, Human Rights First accepts the case into its Refugee Representation program.

The second way Human Rights First obtains its cases is through local immigration courts. There, staff screen asylum seekers in removal proceedings. Those with viable asylum claims are later invited for a full-length interview with Human Rights First, and possibly accepted into the Refugee Representation program.

Pairing

Human Rights First seeks out volunteer attorneys in various ways. According to Lesley Kirby, Operations Manager for the Refugee Representation team at Human Rights First, “Establishing partnerships with firms is a two-way street. We frequently meet law firm contacts through events or trainings, and we leverage those relationships to inquire if they would be interested in taking cases from us. Other times, law firms already have an interest in taking cases, and reach out to us directly.”

Human Rights First conducts a series of legal and social work trainings throughout the year in each of its offices. Additionally, Human Rights First holds two large annual trainings in the spring and fall, to which it invites all of its established pro bono partners, including law firms and law school legal clinics. Trainings are held in Human Rights First’s office or law firms’ offices in the area. As Kirby explains:

“These trainings are open to lawyers interested in taking a case and those who already have cases with [Human Rights First]. The trainings cover general asylum topics, as well as more specific issue areas, such as social services or specific client or case demographics. We sometimes include outside panelists in our trainings, such as immigration judges, asylum officers, and psychologists. Various staff members lead the trainings, depending on the topic, since Human Rights First does not have a dedicated pro bono coordinator on staff.”

⁹⁸ See, e.g., Hogan Lovells, [Springing to Action](#), Pro Bono statement about its lawyers’ pro bono assistance to refugees detained at US airports as a result of President Trump’s March 2017 Executive Order on Immigration.

⁹⁹ Human Rights First, [About Us](#).

During these trainings, Human Rights First distributes case lists to the attendees in an effort to place cases accepted for representation.

These lists generally include basic information about the client, the facts of the case, and its procedural history (without revealing identifying or confidential details).

Human Rights First also sends regular case offer emails to its robust network of law firm pro bono coordinators and counsel throughout the country.

If individual attorneys from firms are interested in taking on a case, they are matched with a client and assigned a mentoring attorney and legal services coordinator on staff at Human Rights First.

Supervision/Ongoing Support

The law firm pro bono attorney becomes the attorney of record on the case. Human Rights First staff mentor the pro bono attorney, and engage in ongoing consultations and technical assistance.

This means the volunteer attorneys can call upon their mentors to discuss case strategies, read over drafts of legal briefs and other documents, or ask questions on asylum and immigration law.

In addition to mentoring volunteer attorneys, staff attorneys at Human Rights First also engage in direct representation cases themselves from time to time.

Case Study Two

Kids in Need of Defense (KIND) is a nonprofit, non-governmental 501(c)3 organization with a large national network of trained pro bono attorneys who represent unaccompanied refugee and migrant children in the United States. This includes children who have been persecuted in their countries of origin, trafficked into the United States, and abused, abandoned, or neglected by their caretakers or guardians. The need for effective legal assistance for these children is the major concern that KIND tries to address through its pro bono recruiting program.¹⁰⁰

Identification/Reception

Children are referred to KIND by government contracted shelter facilities for unaccompanied children, social service providers, and other legal service providers. KIND helps children who have been released from

government custody during the pendency of their immigration proceedings in nine cities: Boston, New York, Newark, Baltimore, Washington, DC, Atlanta, Houston, Los Angeles and San Francisco.

KIND also assists detained children in Seattle. KIND staff screen the cases of the children who have no legal representation through intake interviews. Intake interviews are conducted with every child before their case is placed with a pro bono attorney.

Pairing

KIND has trained more than 24,100 attorneys and partnered with over 515 corporations, law firms, law schools, and bar associations.¹⁰¹ Firms often take numerous cases in their offices across the country and establish in-house expertise.

KIND facilitates several trainings at law firms during the year, where it also conveys the kinds of cases that require legal representation. The attorneys participating in the pro bono partnership program will have a chance to review these cases and request a case.¹⁰²

KIND also sends out available cases by email to contacts at law firms and legal departments of corporations on a regular basis. Many of the law firms have pro bono committees and/or a full-time pro bono counsel, with whom KIND works closely.

KIND also continues to build new relationships and find additional pro bono partners to assist with its caseload, so the list of pro bono partners never remains stagnant. However, there are some firms with which KIND has developed very close relationships.¹⁰³ Through these close relationships, KIND is also able to make targeted placements of cases based on the availability and interests of the partner law firms and corporations.

KIND also makes sure to thoroughly vet the pro bono attorneys that will be working with their child clients. The vetting process entails criminal history checks of all the attorneys. Attorneys at partner law firms refer most of KIND’s pro bono attorneys, so there is already an understanding of the attorneys’ qualifications and background.

Supervision/Ongoing Support

Once KIND trains the pro bono attorneys, KIND pro bono coordinators¹⁰⁴ mentor and supervise the volunteer attorneys throughout the case. KIND strives to ensure that all pro bono attorneys provide competent

¹⁰⁰ Kids in Need of Defense (KIND), [Who We Are](#).

¹⁰¹ *Id.*

¹⁰² Nirupa Narayan, Phone interview, August 22, 2016.

¹⁰³ *Id.*

¹⁰⁴ See Annex I for a description of the responsibilities of a pro bono coordinator at KIND.

representation through the provision of an intensive training and guidance program. KIND pro bono attorneys work directly with children to help them build their cases.

This means that pro bono attorneys become the attorneys of record, but can send legal drafts to and discuss strategies with their KIND pro bono coordinator, who will in turn provide feedback to the attorneys. KIND, however, does not co-counsel cases, so KIND staff attorneys will not appear in court with the pro bono attorneys.

Case Study Three

The Legal Aid Society (LAS) is a 501(c)3 legal services organization based in New York City.

LAS is a partially publicly funded NGO.¹⁰⁵ This gives it the unique quality of providing public legal aid with a mix of private nonprofit legal assistance, which includes immigration services among other types of legal help.¹⁰⁶

LAS has been an institution in New York City for many years; as a result, some of its relationships with law firms go back decades. However, when hoping to create new relationships with law firms, LAS engages them by reaching out to the pro bono leadership at the firm.

Subsequently, the pro bono coordinators from both LAS and these law firms meet to discuss areas of interest for pro bono work at the law firm, as well as the areas of need for LAS.

Therefore, the overall pro bono coordinating strategies look for scenarios that match interest and need.

LAS's extensive pro bono partnerships network and well-developed pro bono program have allowed it to access attorneys trained for the work. LAS partners with over three thousand volunteer attorneys and legal professionals, mostly from large New York City law firms and corporate legal departments, who handle approximately three thousand matters on behalf of LAS's clients each year from the civil, criminal, and juvenile rights dockets.¹⁰⁷

Identification/Reception

LAS's Immigration Unit first receives asylum and immigration cases when people from low income backgrounds request its services. Non-citizens

who are detained by Immigration and Customs Enforcement (ICE) are able to call directly for legal assistance/advice by contacting LAS's detention hotline. Non-citizens with immigration court cases can also go to LAS's Immigration Representation Project room at the federal court, or their office in New York City for screenings, which are held for one week per month. Once these cases are officially part of LAS's immigration docket, they can be referred to LAS's Pro Bono practice.

Pairing

LAS staff attorneys often refer cases for which they need additional assistance to the Pro Bono Department at LAS. This allows LAS to assist as many clients as possible and increase its capacity for providing legal services. LAS's pro bono leadership then contacts partner firms, usually those with longstanding relationships first, who have indicated an interest in a particular type of case. They also distribute a monthly list of available opportunities, which is also available on LAS's website.

Supervision/Ongoing Support

LAS's partnership method differs from other organizations' in that it integrates the pro bono attorneys with the civil legal services it provides, including on immigration, detention, deportation, and asylum cases. A LAS attorney who is familiar with the case and client is always assigned to every pro bono case. LAS feels this is important for both the client and the volunteer, and is a crucial component of the representation. Therefore, in most cases, LAS still remains the attorney of record, and partner law firms or volunteer attorneys are designated as of-counsel.

This also means that a LAS attorney is often serving as a mentor and stays on the case from "beginning all the way through until final disposition."¹⁰⁸

The LAS Immigration Unit also works with the aforementioned pro bono partners from various law firms. Pro bono attorneys have the opportunity to assist LAS immigration clients and provide legal immigration services at every level of representation. Pro bono attorneys take part in interviewing clients and witnesses, prepare immigration applications, research country conditions in asylum cases, draft pleadings and legal memoranda, prepare witness statements, and prepare witnesses and clients for trial.¹⁰⁹

In the past, LAS also held annual training programs for firm associates in order to disseminate information about the cases available for pro bono work. Over time, however, LAS found that attendance decreased when the topic of its trainings was so broad. Therefore, LAS currently focuses on providing trainings for individual firms on topics and programs of specific interest to them. It has also begun to utilize webinar trainings for events like clinics. LAS also does trainings for its pro bono partners on request, as it prefers to hold specialized trainings scheduled in advance after discussions with the partner law firms.

Depending on the nature of the case, once the pro bono attorney has completed her legal representation and services for a pro bono case, the case is closed and the client is sent a closing letter. LAS remains the attorney of record even after the pro bono attorney has ended her representation. If the client has other needs, he or she can still continue to direct inquiries to LAS. The volunteers normally only work on one assignment for a client. LAS has an agreement with the law firms that if their volunteer attorney is unable to continue on a pro bono case, the firm will assign the matter to another one of its attorneys.

Model Two – Partnerships Beyond Direct Services

NGO pro bono partnerships are equally important for NGOs that do not provide direct services themselves. Such partnerships can still be valuable in the field, as there are a number of other critical functions that contribute to upholding the rights of refugees.

This includes legislative and policy advocacy, impact litigation, and referrals. For the purposes of this paper we have grouped these non-direct service functions together as one model, recognizing that in future discussions the model may be broken down for further discussion and analysis. The referral component of this model has been discussed in more detail, having been associated with the term "clearinghouse." The clearinghouse is designed to "facilitate the efficient provision of pro bono legal advice ... [and] acts as an intermediary between people or organizations needing legal assistance and lawyers prepared and able to assist."¹¹⁰ "Clearinghouses" often go by other names, such as "Pro Bono Centers" or "Pro Bono Alliances," among others.¹¹¹

Although the term is used in varying contexts, clearinghouses often do not encompass internal staff attorneys who directly take on cases.

However, there may at times be pro bono coordinators on staff who lead or train the non-expert volunteer and pro bono lawyers. This training allows pro bono attorneys to take on the specialized pro bono work on behalf of the organization.¹¹²

Case Study One

The New York Lawyers for the Public Interest's (NYLPI), with its mission to advance equality and civil rights through the power of community lawyering and partnerships with the private bar, exemplifies our alternative model of pro bono partnership. NYLPI focuses on health justice, disability rights and environmental justice, although it also has demonstrated experience with immigration-related matters as well.¹¹³ Most importantly its internal organization and structure make it particularly of interest for this paper.

Non-direct service activities

NYLPI has four main project areas: Disability Justice, Health Justice, and Environmental Justice, as well as a Pro Bono Clearinghouse. The Clearinghouse facilitates pro bono legal assistance by matching the needs of low-income clients and nonprofit organizations with the expertise of pro bono and volunteer lawyers.

NYLPI has long-standing and well-established relationships with the full spectrum of legal actors across New York. The organization has over 90 member law firms and corporate legal departments.¹¹⁴ In just one year, this network across the legal community enabled NYLPI to place over 225 pro bono matters with volunteer lawyers.

NYLPI's Clearinghouse generally serves non-profit organizations, rather than individuals. The organizations are often community-based organizations that serve as a gateway or connection to under-represented or marginalized populations. NYLPI leverages its pro bono network to cater to the needs of each individual non-profit seeking legal assistance.

On many occasions, this involves transactional legal needs, ranging from non-profit formation and tax-exemption to assistance with employment-related issues.

For these kinds of issues, NYLPI serves as a connection-point for the entity or individual and the attorney. NYLPI frequently steps back after making the connection, leaving the volunteer attorney and client until the end point.

¹⁰⁵ The Legal Aid Society, [Frequently Asked Questions About the Legal Aid Society](#).

¹⁰⁶ The Legal Aid Society, [Civil Practice](#).

¹⁰⁷ The Legal Aid Society, [The Pro Bono Practice](#).

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

¹¹⁰ Louis O'Neill, White & Case LLP supra note 19.

¹¹¹ *Id.*

¹¹² Pro Bono Guide, supra note 7; Pro Bono Institute, [Global Due Diligence Manual](#).

¹¹³ New York Lawyers for the Public Interest, [Spring 2016 Pro Bono Matters newsletter](#).

¹¹⁴ New York Lawyers for the Public Interest, [Pro Bono Clearinghouse](#).

NYLPI's other projects, beyond the Clearinghouse, allow for it to be involved in addressing systemic issues that very often arise from the very organizations seeking assistance from the Clearinghouse.

For example, NYLPI staff attorneys have been involved in or even lead impact litigation, advocacy efforts, and public-awareness and outreach. All of these efforts rely on partnerships with law firms and corporate legal departments working in a pro bono capacity.¹¹⁵

Structure

Each of NYLPI's projects have staff attorneys that contribute to the organization's efforts to address systemic challenges. The total staff size is currently 35, with approximately half comprised of lawyers.

The Pro Bono Clearinghouse is made up of 3.5 staff persons.¹¹⁶ Generally, NYLPI works with member law firms that are chosen for projects based on their expressed interest area, specific expertise and experience in a particular subject matter.

Case Study Two

The National Immigration Project of the National Lawyers Guild (NIPNLG) has been in operation since 1971. The organization promotes justice and equality of treatment in all aspects of immigration law and the criminal justice system. It is headquartered in Boston, MA, with remote staff in Washington, DC, Durham, NC, and in Berkeley, CA.¹¹⁷

Non-direct service activities

NIPNLG does not carry out direct services for beneficiaries, however it carries out a number of critical activities and services that enable its members, mostly immigration legal practitioners, to do so. NIPNLG offers continuing legal education ("CLEs"),¹¹⁸ trainings, webinars, listservs, and direct technical assistance to its members.

It also supports grassroots campaigns led by immigrant organizations nationwide. Members and partners of NIPNLG rely upon its expertise to stay up-to-date on changes within the immigration law practice, as well as novel strategies for overcoming procedural and substantive challenges in the course of representation. In addition to supporting practitioners, the NIPNLG plays a leading role in addressing systemic issues within the immigration and criminal justice systems.

¹¹⁵ Marnie Berk, Phone Interview, November 20, 2017.

¹¹⁶ Marnie Berk, Email Interview, November 27, 2017.

¹¹⁷ National Immigration Project of the National Lawyers Guild, [Mission and History](#).

¹¹⁸ Most bar associations require attorneys to participate in a certain number of hours of education to maintain active membership in the bar. See American Bar Association, [Model Rule for Continuing Legal Education with Comments](#).

¹¹⁹ National Immigration Project of the National Lawyers Guild, [Impact Litigation](#).

¹²⁰ Pamela Goldstein, Phone Interview, November 17, 2017.

NIPNLG has brought and lead cases, in tandem with other legal organizations, that have compelled government agencies to produce critical information about law enforcement policies and practices.

NIPNLG often submits amicus briefs in the course of impact litigation seeking to address detected violations of non-citizens' due process and political rights.¹¹⁹

NIPNLG also engages in advocacy and policy efforts to address these intersectional issues of criminal justice and immigration, alongside immigrant-led grassroots organizations and other social movement collaborators.

NIPNLG does carry out a referral function, although it is not a core function of its work.¹²⁰

When the organization is approached by individual non-citizens in need of assistance, NIPNLG makes referrals to a list of trusted organizations that have service provision activities.

In addition, NIPNLG also serves as a source of guidance and expertise for detained non-citizens who do not have legal representation. This activity comes close to being a direct service, although it is limited to sending materials to unrepresented individuals in detention who contact the organization for legal support.

Structure

NIPNLG has full-time attorneys on staff that facilitate the above-mentioned services for members, and the organization's involvement in litigation and advocacy.

As of this publication, NIPNLG had 6 staff attorneys. The NIPNLG staff works together with volunteer attorneys from other civil rights organizations, as well as its member, and also on occasion corporate/commercial firms. The majority of its partnerships arise from some past collaboration.

Conclusion

The challenge remains clear: refugee outflows will continue, placing a strain on developing countries that were previously viewed as "transit" locations but are increasingly becoming host states. Local legal NGOs play a critical role in responding to refugee arrivals, especially where local legal frameworks continue to adapt in line with international trends.

Ensuring available quality legal assistance for refugees is a significant undertaking that must involve strengthening state-funded legal aid schemes and exploration of alternative mechanisms for access to justice.

Alongside the various efforts to modify refugee response, legal communities should consider establishing pro bono partnerships with legal NGOs. Such alliances may serve various interests and benefit several actors, including legal NGOs, participating lawyers and firms, the legal community on the whole, and refugee beneficiaries.

Local legal NGOs play a critical role in responding to refugee arrivals, especially where local legal frameworks continue to adapt in line with international trends.

Pro bono partnerships do not always look the same, and legal communities can consider establishing programs according to their circumstances. Such partnerships are widespread in the United States, which may be instructive for other refugee host settings in their format and structure despite significant differences in the legal context.

Ultimately, a creative approach to pro bono partnerships between local NGOs and the private bar can and will play an important role in refugee protection going forward.

Annex I: Pro Bono Coordinator Job Description

In a recent job posting seeking a pro bono coordinator, the legal aid organization Kids in Need of Defense (KIND)¹ lists the following requirements for the position. The KIND pro bono coordinator must:

1. Conduct or oversee legal intakes and the provision of know-your-rights information to child clients;
2. Match child clients with pro bono attorneys;
3. Recruit, train, and provide expert advice and guidance to pro bono attorneys representing unaccompanied children in immigration matters and related family law matters;
4. Develop and maintain updated guidance memoranda, sample filings, and legal training presentations;
5. Provide direct representation to a limited number of child clients, with a primary focus on facilitation of pro bono representation by volunteer corporate and law firm attorneys;
6. Foster and manage KIND relationships with law firms and corporate counsel in coordination with the Supervising Attorney for Pro Bono Programs in the New York office and the Director of Pro Bono Recruitment and Training at KIND Headquarters;
7. Manage all operations related to . . . grant[s], including case management, data entry and maintenance, metrics compliance, reports, and supervision of a half-time paralegal and legal interns;
8. Work collaboratively with colleague organizations within the Immigrant Children Advocates Relief Effort (ICARE) Coalition of which KIND is a member, including ensuring docket coverage at the immigration court, and cross-referrals of child clients;
9. Collaborate with KIND management in support of KIND's mission, and represent KIND at conferences, meetings, and other events as needed.²

¹ See pg. 17 for further information about KIND and its pro bono partnership model.

² KIND pro bono coordinator position listing from March 2017, distributed through email.



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