



Pro Bono Practices and Opportunities in Nicaragua¹

INTRODUCTION

The provision of pro bono services in Nicaragua increased in recent years with both Non-Governmental Organizations (NGOs) and private law firms providing pro bono services to individuals and other organizations. However, underfunding, lack of information and lack of legislation promoting pro bono practices continue to inhibit growth in pro bono engagement.

OVERVIEW OF THE LEGAL SYSTEM

The Justice System

Constitution and Governing Laws

Nicaragua is a Civil Law jurisdiction with each of its bills and regulations subordinate to the provisions established by the Constitution. The Supreme Court of Justice (*Corte Suprema de Justicia*) is the institution responsible for the administration of Justice.

Courts

The applicable Courts and Jurisdictions for litigation in Nicaragua can be divided into: the Criminal Court, the Labor Court, the Civil Court, and the Family Court, for their respective matters. The Supreme Court of Justice is authorized to rule over any matter in its corresponding division.

The practice of law

The Supreme Court of Justice is responsible for the granting of licenses to practice law in Nicaragua which grants the individual the title of advocate or attorney (*abogado*). The requirements for obtaining such a license include having a bachelor's degree in Law and sworn references. The practices and representation of Nicaraguan attorneys in procedures is currently governed by the Organic Law of the Judicial Branch (*Ley Orgánica del Poder Judicial*) and the Law of Judicial Career (*Ley de Carrera Judicial*). The legal profession is subject to mandatory regulation under different governmental institutions that are subordinated to the judicial branch, such as the National Council for Administration and Judicial Career (*Consejo Nacional de Administración y Carrera Judicial*).²

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The right to legal assistance

Under Nicaraguan constitutional principles, access to justice must be free and everyone has the right to be represented by an attorney and to be granted an attorney chosen by the court when no other attorney has been appointed.³ Accordingly, regardless of the matter and the economic status of the victim or citizen, Nicaragua must grant access to justice with no cost to the interested party.

¹ This chapter was drafted with the support of Rafael Medina and Marcela Deras at Arias & Muñoz

² For more information, refer to Ley Orgánica del Poder Judicial in <http://www.poderjudicial.gob.ni/arc-pdf/LOPJ.pdf> (last visited on September 4, 2015).

³ For more information, refer to Constitución Política de Nicaragua in <http://www.ineter.gob.ni/Constitucion%20Politica%20de%20Nicaragua.pdf> (last visited on September 4, 2015).



State-subsidized legal aid

The Office of Public Defense (*Defensoría Pública*) is the institution responsible for the representation of any indigent Nicaraguan citizen or resident that requires legal representation in any type of proceedings.

Unmet needs and access analysis

While the Office of Public Defense is an effective institution, the need for additional public defenders is rising with the current workload of the public defenders exceeding capacity, creating the risk that the quality of the legal representation that is being provided.⁴

NGOs and Legal Aid

There are NGOs throughout Nicaragua that concentrate on providing the impoverished with legal representation. Some NGOs provide legal assistance with obtaining required documentation to proceed and represent victims. For example, the Nicaraguan Center of Human Rights (*Centro Nicaragüense de Derechos Humanos*) is an NGO that focuses on the defense of human rights and the representations of victims before state and private institutions. This entity has represented Nicaraguan citizens at the international Courts of Human Rights of the Inter-American system.⁵

According to the Constitution, any civil or commercial dispute can be resolved through arbitration or other alternative dispute resolution such as mediation or conciliation. Any person who wishes to resolve a dispute through the use of any of the mechanisms mentioned above is free to do so, but these mechanisms have barriers. One of the most significant barriers to the use of arbitration is the cost. The parties involved cover the cost of arbitration. Currently, there is no legal aid or pro bono available for people who desire to submit their dispute to arbitration. Given that access to justice is free in Nicaragua and everyone that does not have enough financial capacity has the right to be represented in the Nicaraguan Courts through the Public Defense (*Defensoría Pública*), these methods have not been used much and low income people find themselves in need of a different process.

PRO BONO ASSISTANCE

Pro Bono Opportunities

National Pro Bono opportunities

There is a wide range of pro bono practices throughout Nicaragua. Most of the major private law firms have pro bono programs covering a variety of subjects. Moreover, a great number of NGOs have been established for this purpose, whose work ranges from general legal advice and representation to representation in specific areas.

Among the NGOs, some of the best known are the practices established by the universities *Universidad Centroamericana* and *Universidad Politécnica de Nicaragua* and their faculties. These programs allow law students to provide legal services (for free) on a range of legal matters under the supervision of qualified attorneys. Other institutions provide specialized representation on various matters ranging from consumer rights to mediation processes.

⁴ For more information, refer to the webpage of Defensoría Pública at <http://www.defensoria.poderjudicial.gob.ni> (last visited on September 4, 2015).

⁵ For more information, refer to the webpage of Centro Nicaragüense de Dechos Humanos at <http://www.cenidh.org> (last visited on September 4, 2015).



Regional Pro Bono Opportunities

Many Nicaraguan NGOs and private law firms have made themselves available to specialized programs that provide pro bono legal assistance in a more standardized way and reach a wider range of applicants. Amongst these regional organizations, Nicaragua is a part of Lex Mundi Pro Bono Foundation, Red Pro Bono Internacional, Pro Bono en Defensa del Ambiente, Red Pro Bono de las Américas and Fundación Pro Bono (amongst others).

Barriers to Pro Bono

The exercise of legal representation in Nicaragua is limited only to those who have a valid license as a lawyer or attorney. Otherwise, there are no laws that restrict an attorney from providing pro bono legal services in Nicaragua. In particular, there is no mandatory or minimum fee schedule applicable.

One barrier to pro bono practices is the lack of advertising for the available pro bono services. While every private attorney, private law firm, and NGO that provides these services advertises the pro bono program on their own website, there is no official site or entity in charge of gathering and summarizing such information.

Finally, the greatest barrier that pro bono practices in Nicaragua face is the lack of financial aid or funding for these organizations. The underfunding of NGOs and the compromised funding of private law firms severely limits the volume of pro bono services that can be taken in by NGOs and private law firms, placing greater strain on the State's legal aid provision.

CONCLUSION

The practice of pro bono is very likely to continue developing over the next few years. The amount of hours provided as pro bono by private lawyers and law firms is rapidly increasing, while the regional NGOs are consistently becoming more visible amongst Salvadoran residents. The problems of underfunding and the lack of legislation promoting pro bono practices still remain, but more pro bono initiatives exist and the focus on providing free access to quality justice remains a priority in Nicaragua.

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