



Pro Bono Practices and Opportunities in the Philippines¹

INTRODUCTION

Due to widespread poverty and frequent human rights violations, the Philippines presents numerous opportunities for lawyers to engage in pro bono work.

OVERVIEW OF THE LEGAL SYSTEM

Constitution and Governing Laws

The Philippine legal system is unique because it combines civil law, common law, Muslim law, and indigenous law.² The 1987 Philippine Constitution (the “*Constitution*”) provides the basis for the country’s law and was established after a period of martial law, which was declared by President Ferdinand E. Marcos in 1972 and lasted until 1986.³

The Courts

Types and levels of courts

The Constitution delineates the powers granted to the Philippine Supreme Court, and lower courts (the Court of Appeals, regional trial courts, and special courts), which together comprise the Philippine court system.⁴ The Philippine Supreme Court is unique in that it has rule-making power in the protection and enforcement of constitutional rights, court proceedings, practice of law and legal assistance to the underprivileged under Article VIII, Section 5(5) of the Constitution.⁵

The two special courts are the Court of Tax Appeals and the “Sandiganbayan.”⁶ The Court of Tax Appeals serves as an appellate court to review tax cases and has exclusive jurisdiction to review by appeal decisions made by the Commissioner of Internal Revenue, regional trial courts in local tax cases, and the Secretary of Agriculture, among others.⁷ It also has jurisdiction over related criminal offences in certain situations.⁸ The Sandiganbayan (the People’s Advocate) is a special appellate collegial anti-corruption court created to maintain integrity and honesty in government.⁹ The regional trial courts are second-level courts and are divided into 13 judicial regions. Certain branches of the regional trial courts

¹ This chapter was drafted with the support of Picazo Buyco Tan Fider & Santos

² Trade Chakra, Legal System in Philippines, <http://www.tradechakra.com/economy/philippines/legal-system-in-philippines-235.php> (last visited on September 4, 2015).

³ Milagros Santos Ong, Update: Philippine Legal Research, § 3 (2015), available at <http://www.nyulawglobal.org/globalex/philippines1.htm> (last visited on September 4, 2015).

⁴ *Ibid* at § 3.3.

⁵ Renato Bautista Jr., The Philippine Legal System (March 31, 2010), available at <http://suite101.com/article/the-philippine-legal-system-a212057> (last visited on September 4, 2015).

⁶ The Lawphil Project, Philippine Court System, <http://www.lawphil.net/courts/courts.html> (last visited on September 4, 2015).

⁷ Santos Ong, n2 at § 3.3.

⁸ *Ibid*.

⁹ Santos Ong, n2 at § 3.3.



handle different types of cases exclusively.¹⁰ Regional trial courts have jurisdiction over a variety of civil matters depending on the amount of damages at issue.¹¹

There are also first-level courts in each city and municipality, namely the Metropolitan Trial Courts, the Municipal Trial Courts in Cities, the Municipal Trial Courts, and the Municipal Circuit Trial Courts.¹² In 2008, these courts were granted jurisdiction to hear small claims cases. There are also Shari'a Courts, which are special courts created by the Code of Muslim Personal Laws.¹³

The Philippines also has a system known as the "Katarungang Pambarangay" or "Barangay Justice System."¹⁴ This operates at the level of the barangay, which is a local government unit (similar to a town or village) and is based on traditions used to mediate local disputes.¹⁵ It is run by appointed government officials, but has limited jurisdiction.¹⁶

Appointed judges

All members of the judiciary in the Philippines are appointed by the President from a list of nominees submitted by the Judicial and Bar Council (the "JBC").¹⁷ The JBC is supervised by the Supreme Court and serves the primary purpose of screening potential appointees to the judiciary.¹⁸ Alongside the Chief Justice (the *ex-officio* Chairman), the Secretary of Justice and representatives of Congress, who serve as *ex-officio* members, the JBC also comprises a representative of the Integrated Bar, a professor of law, a retired member of the Supreme Court and a representative of the private sector.¹⁹

All applicants for positions within the judiciary must complete training at the Philippines Judicial Academy.²⁰ Appointments of members of the Supreme Court are also made by the President from a list of nominees provided by the JBC, and must be made within 90 days of a position becoming vacant.²¹ The Supreme Court is composed of a Chief Justice and 14 Associate Justices who serve until the age of 70.²²

¹⁰ Ibid. The types of cases include criminal, juvenile, domestic relations, agrarian and urban land reform.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Stephen Golub, Non-state Justice Systems in Bangladesh and the Philippines: Paper Prepared for the United Kingdom Department for International Development, p.12 (2003), available at <http://www.gsdr.org/docs/open/DS34.pdf> (last visited on September 4, 2015). See also Republic Act No. 7160, the Local Government Code of 1991, Chapter 7, Title One, Book III.

¹⁵ Ibid.

¹⁶ Ibid at p.12-13. For example, it can only hear disputes arising between people in the same or neighboring barangays, and cannot hear criminal cases where the penalty exceeds certain limitations.

¹⁷ Article VIII, Section 8 of the Constitution; Santos Ong, n2, at § 3.3.

¹⁸ Ibid.

¹⁹ Santos Ong, n2, at § 3.3. See also the 1987 Philippine Constitution, Article VIII, Section 9 available at (<http://www.lawphil.net/consti/cons1987.html>) (last visited on September 4, 2015).

²⁰ The PHILJA (created by the Supreme Court on March 12, 1996) was established by Administrative Order No. 35-96, and institutionalized under the Republic Act No. 8557. The Philippine government website, The Judicial Branch, available at <http://www.gov.ph/about/gov/judiciary/> (last visited on September 4, 2015). See also The 1987 Philippine Constitution, Article VIII, Section 8 available at (<http://www.lawphil.net/consti/cons1987.html>) (last visited on September 4, 2015).

²¹ Santos Ong, n2, at § 3.3. See also The 1987 Philippine Constitution, Article VIII, Section 8 available at (<http://www.lawphil.net/consti/cons1987.html>) (last visited on September 4, 2015).

²² Ibid. See also the 1987 Philippine Constitution, Article VIII, Sections 4 and 11, available at (<http://www.lawphil.net/consti/cons1987.html>) (last visited on September 4, 2015).



The Practice of Law

Education

Rule 138, sections 5 and 6 of the Rules of Court contain the academic requirements which candidates must fulfill in order to be allowed to take the annual Bar examination.²³ Section 5 (as amended by Bar Matter No. 1153, March 9, 2010) provides that the candidate must have studied law for four years and successfully completed all prescribed courses (e.g. civil law, commercial law, criminal law, legal ethics) for the degree of Bachelor of Laws or its equivalent, in a law school or university, officially recognized by the Philippine Government or by the proper authority in the foreign jurisdiction where the degree has been granted.²⁴

Section six states that the pre-law requirement, is a four-year high school course and a Bachelor's degree in arts or sciences, with a major, field or concentration (non-mandatory) in political science, logic, English, Spanish, history or economics.²⁵

Licensure

In the Philippines, there is no distinction between solicitors and barristers as all candidates who wish to practise law must take the Bar examinations to be admitted. After fulfilling the academic requirements successfully, the candidate can file an application to take the Bar examinations, provided he or she is "a citizen and resident of the Philippines, at least 21 years of age and of good moral character".²⁶

After passing the Bar examinations, the successful candidate is entitled to take the oath of office, receive his or her certificate of membership to the Philippine Bar and finally, sign the roll of attorneys at the Supreme Court.²⁷ Only then does the candidate officially become a lawyer and can use the title of "Attorney". Once admitted, the lawyer must remain in good standing by maintaining membership in the Integrated Bar of Philippines (the "IBP") and by complying with the requirements on Mandatory Continuing Legal Education ("MCLE").²⁸

Foreign lawyers cannot engage in the practice of law in the Philippines and therefore must be represented by a member of the IBP in all matters connected with such practice.²⁹

Demographics

Aproximately 50,000 attorneys have qualified for and passed the Bar examination and taken the attorney's oath,³⁰ which equates to five attorneys per every 10,000 people in the Philippines.³¹

²³ Santos Ong, n2 at § 6.

²⁴ Ibid. See also Rules of Court, Rule 138, Section 5 (as amended by Bar Matter No. 1153, March 9, 2010).

²⁵ Ibid at Section 6.

²⁶ Rules of Court, Rule 138, Section 5 available at (http://www.lawphil.net/courts/rules/rc_138_bar.html) (last visited on September 4, 2015).

²⁷ International Bar Association, n29. See also Rules of Court, Rule 138, Sections 17 to 19 available at (http://www.lawphil.net/courts/rules/rc_138_bar.html) (last visited on September 4, 2015).

²⁸ Ibid. See also Bar Matter No. 850 (August 22, 2000).

²⁹ Ibid. See also Rules of Court, Rule 138, Section 2 available at (http://www.lawphil.net/courts/rules/rc_138_bar.html) (last visited on September 4, 2015) and the 1987 Philippine Constitution, Article XII, Section 14 available at (<http://www.lawphil.net/consti/cons1987.html>) (last visited on September 4, 2015).

³⁰ IBP History, <http://ibp.ph/history.html> (last visited on September 4, 2015).

³¹ Based on a population of 92,337,852 as of May 1, 2010 (<http://www.nso-ncr.ph/>) (last visited on September 4, 2015).



Legal Regulation of Lawyers

The practice of law in the Philippines is primarily regulated by the IBP. The IBP is a mandatory Bar Association created by the Philippine Supreme Court in the 1970s.³² All Philippine lawyers are required to join the IBP and cannot practise law in the Philippines without doing so.³³ The IBP's stated mission consists of three fundamental objectives: (1) to elevate the standards of the legal profession; (2) to improve the administration of justice; and (3) to enable the Bar to discharge its public responsibility more effectively.³⁴ Generally, lawyers in the Philippines are classified by the following fields of law: civil law, commercial law, labor law, land law, taxation law, criminal law, political law, and international law.³⁵

While paralegals are not recognized as legal professionals under Philippine law, they do play an increasingly significant role in addressing immediate legal issues and disputes involving community members' rights.³⁶ Community based paralegals are trained in the relevant laws for a particular specialization, thereby enabling them to relay that information to community members in need.³⁷ Paralegals can also provide legal literacy education, refer and assist community members in accessing government and other legal services, and mobilize community support around local issues.³⁸ Finally, paralegals may appear in some municipal courts on behalf of clients if there are no available lawyers and before quasi-judicial bodies.³⁹

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

The Philippine Bill of Rights provides that "free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty".⁴⁰

State-Subsidized Legal Aid

There are a number of governmental programs offering legal assistance to indigent persons in the Philippines. The Public Attorney's Office (the "PAO"), an agency under the Department of Justice, was established to provide free legal representation to individuals who either have no income or are below certain income thresholds in civil, criminal and administrative cases.⁴¹ The PAO, in its effort to fulfil the

³² IBP History, <http://ibp.ph/history.html> (last visited on September 4, 2015).

³³ Ibid.

³⁴ IBP Mission, <http://ibp.ph/mission.html> (last visited on September 4, 2015).

³⁵ IDE-JETRO, available at http://d-arch.ide.go.jp/idedp/IAL/IAL000500_006.pdf (last visited on September 4, 2015).

³⁶ American Bar Association, Access to Justice Assessment for Philippines Mindanao, 32 (January 2012), available at http://www.americanbar.org/content/dam/aba/directories/roli/philippines/philippines_access_to_justice_assessment_2012.authcheckdam.pdf (last visited on September 4, 2015).

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Philippine Bill of Rights, available at [The 1987 Philippine Constitution, Article III, Section 11](http://www.lawphil.net/consti/cons1987.html) (<http://www.lawphil.net/consti/cons1987.html>) (last visited on September 4, 2015).

⁴¹ Carlos P. Medina, Legal Aid Services in the Philippines, available at <http://juniorstud.blogspot.co.uk/2005/01/legal-aid-services-in-philis.html> (last visited on September 4, 2015); Department of Justice, Public Attorney's Office, <http://www.chanrobles.com/legal3dojpao.html> (last visited on September 4, 2015).



constitutional mandate (set out at subparagraph a. above) provides legal representation, as well as mediation and various other legal services.⁴² Other government based agencies provide free legal assistance in a specific area of the law, e.g. agrarian reform.⁴³ The Philippine courts may also appoint lawyers to provide free representation to indigent defendants in criminal cases.⁴⁴

The IBP also provides legal assistance to indigent Filipinos.⁴⁵ In part to meet its third stated objective of discharging its public responsibility more effectively, the IBP's National Committee on Legal Aid runs the IBP Legal Aid Program, which includes 83 local legal aid committees throughout the Philippines.⁴⁶ This committee provides free legal counselling and advice to those who qualify, and also drafts necessary documentation for them.⁴⁷ Free legal representation before the courts, quasi-judicial or administrative bodies, is provided to individuals who qualify for representation under "the double M tests." Such tests consider the "means" of the individual and the "merits" of the case.⁴⁸ Applicants can go to the National Committee on Legal Aid offices in the IBP Building in Doña Julia Vargas Avenue, Ortigas Center Pasig City or go directly to any of the 83 local legal aid committees.⁴⁹

Eligibility Criteria:

Immigration Status

Indigent aliens qualify for assistance under the same qualifications of financial means as native Filipinos.⁵⁰ However, for citizens with limited resources there is a policy of giving preference to "deserving citizens".⁵¹

Financial Means

To qualify for legal assistance it is necessary to prove indigence, which is defined by varying criteria depending on the residence of the person seeking aid. The PAO states that an applicant must have a net income of less than PHP 14,000 a month (US\$ 309) if a resident of Metro Manila, less than PHP 13,000 (US\$ 287) if a resident of another city, or less than PHP 12,000 (US\$ 265) if a resident of any other place.⁵² This test is applied without consideration of land ownership which plays no part in determining the right to legal aid.⁵³

Merits (likelihood of case succeeding)

A case is considered meritorious if an assessment of the law and evidence regarding the matter suggests that the legal services provided will contribute to the cause of justice.⁵⁴ Cases that do not fulfil this criteria are those that have no chance of a successful outcome or are brought with the sole intention of harassing

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Medina, n41.

⁴⁶ National Committee On Legal Aid, <http://www.ibp.ph/ncla.html> (last visited on September 4, 2015).

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ The 2nd Indorsement of the Undersecretary of Justice, dated March 25, 1974. Public Attorney's Office, available at <http://www.pao.gov.ph/28/Persons-Qualified-for-Legal-Assistance> (last visited on September 4, 2015).

⁵¹ Public Attorney's Office, Memorandum Circular no. 02 Series of 2010 available at http://www.pao.gov.ph/UserFiles/Public_Atorney's_Office/file/DOWNLOAD%20M_C_%20No_%202.pdf at § 3 (last visited on September 4, 2015).

⁵² Public Attorney's Office, n51. See also Implementing Rules and Regulations of Republic Act No. 9406, Section 24.

⁵³ Ibid.

⁵⁴ Ibid.



or injuring the opposing party or to cause oppression or harm.⁵⁵ Defendants of criminal cases are considered meritorious given the presumption of innocence until proven otherwise.⁵⁶

Cases not handled

PAO lawyers are not allowed to handle cases where they would be representing conflicting interests or the prosecution of criminal cases in court.⁵⁷ As a matter of policy, PAO lawyers should also refrain from undertaking the defence of persons accused of violating *Batas Pambansa* Blg. 22 (an anti-bouncing checks law) and adoption cases except when either parent of the person to be adopted is the petitioner-adopter and provided that he/she passes the indigency test.⁵⁸ There appear to be no equivalent restrictions for IBP lawyers providing free legal aid. Only applicants already receiving adequate legal assistance from another source will be denied IBP legal assistance.⁵⁹

Applicant Type

Only qualifying individual clients may take advantage of the free legal assistance offered by PAO.⁶⁰ The same appears to be true for the IBP legal assistance program.⁶¹

Mandatory assignments to Legal Aid Matters

A court may assign a case to an attorney to provide professional legal aid to a party if upon investigation it appears that the party is destitute and unable to employ an attorney and the services of counsel are necessary to secure the ends of justice and to protect the party's rights. It is the duty of the attorney so assigned (*counsel de officio*) to render the required services, unless he or she is excused therefrom by the court for sufficient cause shown.⁶² Furthermore, a lawyer cannot decline, except for serious and sufficient cause, an appointment as *counsel de officio* or a request from the IBP or any of its chapters to provide free legal aid.

Subject to availability of funds, the court may, in its discretion, order an attorney employed as *counsel de officio* to be compensated in such sum as the court may fix in accordance with the Rules of Court. Whenever such compensation is allowed, it shall not be less than PHP 30 US\$ 0.66 in any case, nor more than the following amounts: (1) PHP 50 (US\$ 1.11) in light felonies; (2) PHP 100 (US\$ 2.21) in less grave felonies; (3) PHP 200 (US\$ 4.42) in grave felonies other than capital offences; and (4) PHP 500 (US\$ 8.84) in capital offences.

Furthermore, the National Committee on Legal Aid has a discretion to award a portion of the reward from successful litigation to the attorney.⁶³

In 2014 the PAO assisted a total of 7,514,325 clients and handled 783,569 cases.⁶⁴

While the IBP obligates lawyers to render services to indigent parties, they have not been successful in disseminating information about their legal aid programs to the citizens that the programs are intended to

⁵⁵ Ibid. See also Implementing Rules and Regulations of Republic Act No. 9406, Section 25.

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid. See also PAO Memorandum Circular No. 18, Series of 2002, Article II, section 7.

⁵⁹ IBP Guidelines on Legal Aid available at <http://www.ibp.ph/d10.html> at § 24 (last visited on September 4, 2015).

⁶⁰ Public Attorney's Office, How to Avail of Services of the PAO located at <http://www.pao.gov.ph/24/How-to-avail-of-services-of-the-PAO> (last visited on September 4, 2015).

⁶¹ IBP Guidelines, n60.

⁶² Rules of Court, Rule 138, Section 31 available at (http://www.lawphil.net/courts/rules/rc_138_bar.html) (last visited on September 4, 2015).

⁶³ IBP Guidelines, n60.

⁶⁴ See <http://www.pao.gov.ph/138/Accomplishment-Report-2014> (last visited on September 4, 2015).



serve. In particular, for the most marginalized who live in rural areas, these citizens are often unaware of the IBP's legal aid programs and believe that lawyers only concentrate their practice in city centers. While the PAO also provides legal services to the poor and citizens are more aware of them, the average caseload per public attorney lawyer numbers is in the hundreds, so the quality of service is likely to suffer.

Unmet Needs and Access Analysis

There is a lack of information and satisfactory reporting on whether the current legal aid scheme in the Philippines meets the needs of indigent and marginalized individuals and NGOs. However, given the very low number of lawyers per capita in the Philippines and the fact that many citizens (in particular, marginalized individuals who live in rural areas) are not aware of what legal aid programs are available, it is likely that the current scheme does not sufficiently service the legal needs of the Philippine people.

Alternative Dispute Resolution

The PAO can provide mediation and conciliation services as part of its free legal assistance.⁶⁵

PRO BONO ASSISTANCE

Pro Bono Opportunities

Widespread poverty in the Philippines makes the provision of legal aid as well as pro bono legal services particularly important.⁶⁶

Private Attorneys

The Constitution and the Code of Professional Responsibility for Lawyers (the “**Code**”) both reflect the principle that attorneys should provide legal representation to indigent individuals.⁶⁷

The Constitution states that “free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.”⁶⁸ In a section titled “A Lawyer Shall Not Refuse His Services to the Needy,” the Code requires that absent serious and sufficient cause to decline representation, lawyers must accept certain pro bono cases assigned to them.⁶⁹ In 2009, the Supreme Court introduced a requirement that all “practising lawyers”⁷⁰ provide a minimum of 60 hours per year of free legal aid or pro bono services in all cases involving “marginalized and poor litigants” (the “**Rule on Mandatory Legal Aid Service**”).⁷¹

The Rule on Mandatory Legal Aid Service and its implementing rules were supposed to take effect on July 1, 2009. On June 23, 2009 the Supreme Court issued a resolution deferring its implementation until December 31, 2009, to take effect on January 1, 2010 provided its implementing rules had been

⁶⁵ See <http://www.pao.gov.ph/25/List-of-Services> (last visited on September 4, 2015).

⁶⁶ US Department Of State, Background Note: Philippines (February 5, 2015) available at <http://www.state.gov/r/pa/ei/bgn/2794.htm> (last visited on September 4, 2015).

⁶⁷ Code of Professional Responsibility, Canon 14, Rule 14.02.

⁶⁸ Philippine Bill of Rights, n40.

⁶⁹ Code of Professional Responsibility, n68.

⁷⁰ For exclusions to who qualifies as a “practising lawyer”, see Rule on Mandatory Legal Aid Service, Bar Matter No. 2012 dated February 10, 2009 at Section 4.

⁷¹ Patrick Hume SJ, Pro Bono: Still Relevant for Access to Justice (November 2009), available at <http://www.workingnotes.ie/index.php/item/pro-bono-still-relevant-for-access-to-justice> (last visited on September 4, 2015). See also Rule on Mandatory Legal Aid Service, Bar Matter No. 2012 dated February 10, 2009 at Section 5 available at (<http://www.ibp.ph/d11.html>) (last visited on September 4, 2015).



published.⁷² However, according to the Office of the Bar Confidant, such implementing rules have not yet been promulgated and the Rule on Mandatory Legal Aid Service has not yet been implemented.⁷³

Under the Rule on Mandatory Legal Aid Service, continuation of practice by an attorney depends on being issued a compliance certificate by the IBP attesting to the minimum of 60 pro bono hours.⁷⁴

Non-Governmental Organizations (“NGOs”)

A variety of NGOs and private law firms, also provide free legal services to indigent individuals and disadvantaged groups, and promote certain public interest causes.⁷⁵ Member organizations of a coalition called the Alternative Law Groups (the “ALG”) provide free legal services to poor and marginalized groups and communities in the Philippines, and seek to enable greater access to justice for these groups. They also engage in matters relating to public issues, such as the environment, gender equality and human rights.⁷⁶ ALG programs are generally aimed at promoting the pursuit of the public interest, respect for human rights, and social justice. The work of the participating organizations includes impact litigation, policy reform efforts, education initiatives to inform marginalized groups about their legal rights and concerns, and an effort to create groups of paralegals in communities and organizations that can provide legal assistance from within.⁷⁷ Member groups of the coalition often maintain relationships with law schools to carry out these objectives.⁷⁸

University Legal Clinics and Law Students

Law students have also played a role in providing pro bono legal services. In the Philippines, law students who have completed a required amount of study and are supervised in a clinical legal education program may represent clients without compensation in civil, criminal or administrative cases.⁷⁹ Philippine law schools, including the Ateneo de Manila Law School in Makati City and the University of Philippines College of Law, have set up clinical programs through which their students and alumni may provide free legal assistance.⁸⁰ Foreign law schools have also provided such assistance.⁸¹

Historic Development and Current State of Pro Bono

Historic Development of Pro Bono

The absence of effective access to justice by the poor and marginalized presents one of the most prominent opportunities for pro bono work in the Philippines. A number of NGOs committed to

⁷² Supreme Court Notice dated September 18, 2012.

⁷³ Based on an oral inquiry on July 16, 2015 with the Office of the Bar Confidant of the Supreme Court of the Philippines.

⁷⁴ Rule on Mandatory Legal Aid Service (n72) at Sections 5 and 7.

⁷⁵ Baker & McKenzie, Working in the Philippines, available at <http://www.bakermckenzie.com/careers/philippines/> (last visited on September 4, 2015); Chan Robles Law Firm, Pro Bono, available at <http://lawfirm.chanrobles.com/index.php/component/content/article/78-the-firm/89-pro-bono-services> (last visited on September 4, 2015); Medina, n41.

⁷⁶ Medina, n41.

⁷⁷ Ibid.

⁷⁸ Ibid.

⁷⁹ Medina, n41.

⁸⁰ Ateneo Law School http://law.ateneo.edu/?page_id=67 (last visited on September 4, 2015).

⁸¹ YFILE, Osgoode Students Provide Pro Bono Legal Service in the Philippines, available at <http://www.yorku.ca/yfile/archive/index.asp?Article=8607> (last visited on September 4, 2015). In 2007, students from the Osgoode Hall Law School of York University in Canada traveled to the Philippines as part of an effort to provide pro bono legal assistance to developing nations. While there, they hosted a forum addressing the legal issues regarding the Philippine’s worst oil spill.



empowering the poor and marginalized have emerged to help meet these needs.⁸² For example, one such project aims to help farmers obtain access to justice where they have been falsely and arbitrarily accused of crimes by wealthy landowners or elite land claimants.⁸³ The project, led by a Philippine lawyer, also seeks to provide paralegal training to local women so that they may monitor court cases, gather evidence, write affidavits, and help farmers navigate the legal system.⁸⁴

Some of the most urgent legal issues in the field of environmental law include large-scale mining, destruction of marine resources, and indiscriminate logging due to the increasing demand for land and natural resources.⁸⁵ These practices frequently occur to the detriment of the poor and marginalized, causing community displacement, increasing urban migration, usurpation of indigenous people's ancestral rights, illegal land conversion, dwindling food production and depletion of freshwater resources, militarization and other human rights abuses, air and water pollution, and other environmental disasters. In 2010, a pro bono environmental lawyer helped climate change activists take their fight against flooding to the Philippines Supreme Court.⁸⁶

Gender equality issues also present pro bono opportunities. While the Philippine government has passed a number of laws addressing women's development and gender equality issues, the recognition of certain rights - particularly in the realm of reproductive health - is still unresolved and is an area for potential advocacy.⁸⁷

In addition to these opportunities, extra-judicial executions have been a significant problem in the Philippines. The Philippines has experienced an unprecedented surge in extra-judicial executions since 2005,⁸⁸ prompting extensive investigations by the United Nations, Amnesty International and Human Rights Watch.⁸⁹

Smaller organizations have also engaged in both research and service projects aimed at protecting human rights in the Philippines. For example, the Center for Constitutional Rights, based in New York, has collaborated with the GABRIELA Network, an organization that works in support of women's rights both in the US and the Philippines. The Asia Foundation, funded in part by the United States Agency for International Development, has also run numerous programs, including a project to train judges and

⁸² Aurora E. Bewicke, *Asian Developments in Access to Counsel: A Comparative Study*, 10 NW. U. J. INT'L HUM. RTS. 27 (2011), available at <http://scholarlycommons.law.northwestern.edu/cgi/viewcontent.cgi?article=1124&context=njihr> (last visited on September 4, 2015).

⁸³ *Ibid.* (referencing Rosselynn Jae de la Cruz, Legal Consultant, AKBAYAN Citizens Action Party).

⁸⁴ *Ibid.*

⁸⁵ WWF, *Environmental Problems in the Philippines* available at http://wwf.panda.org/who_we_are/wwf_offices/philippines/environmental_problems_in_philippines/ (last visited on September 4, 2015).

⁸⁶ Purple S. Romero, *Pro Bono Lawyer Leads Landmark Court Challenge in Philippines*, TRUSTLAW, (June 29, 2010), available at <http://www.trust.org/trustlaw/news/pro-bono-lawyer-leads-landmark-court-challenge-in-philippines/> (last visited on September 4, 2015).

⁸⁷ International Labour Organization, *Gender Equality in the Philippines* (November 2014), available at http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-manila/documents/publication/wcms_173283.pdf (last visited on September 4, 2015).

⁸⁸ Seth Mydans, *Rights Groups Say Military Is Behind Killings in Philippines*, New York Times, August 25, 2006, available at <http://www.nytimes.com/2006/08/25/world/asia/25filip.html?pagewanted=print> (last visited on September 4, 2015) (stating that there has been an increase from 2005 to 2006); See UNHCR, *Extrajudicial killings have a corrosive effect on civil society and political discourse in the Philippines*, says UN independent expert at the end of visit (February 21, 2007), available at <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/7B6094F7150CDC99C125728A003B12B1?opendocument> (last visited on September 4, 2015).

⁸⁹ *Ibid.* Human Rights Watch has released several reports in the last several years, the most recent being in 2015. Amnesty International releases yearly reports, the most recent being in 2013.



prosecutors in an effort to develop a more accountable judiciary,⁹⁰ and a project to increase confidence in election results, which included creating a voter's guide and bringing in election monitors.⁹¹ Additionally, Romeo Capulong, a prominent human rights lawyer and judge serving on the UN Tribunal for the Former Yugoslavia, started the nation's first public interest firm, Public Interest Law Center in the 1980s.⁹²

Current State of Pro Bono including Barriers and Other Considerations

As in any developing country with an intermittently unstable government, attorneys may experience some barriers to performing pro bono legal services in the Philippines.

Laws and Regulations Impacting Pro Bono

Article 2208 of the Civil Code of the Philippines (Republic Act. No. 386) enumerates the instances when a court may award (reasonable) attorney's fees and expenses of litigation (other than judicial costs) in favour of a prevailing party in a case. However, the Supreme Court has ruled that the award of attorney's fees is an exception rather than the general rule and attorney's fees are not to be awarded every time a party wins a suit.⁹³

There is no statutory minimum legal fee schedule in the Philippines, however the Code of Professional Responsibility provides that a lawyer shall not charge rates lower than those customarily prescribed unless the circumstances so warrant.⁹⁴

It is difficult for foreign lawyers to offer pro bono services in the Philippines, since non-Filipino lawyers are not permitted to offer advice as to Philippine law, and foreign law firms are not allowed to have offices in the Philippines. Also, very few domestic law firms have associations with large foreign firms or foreign lawyers. These restrictions have been criticized, and some have argued that the country should open itself to cross border practice, particularly in light of globalization.

In-house counsel may engage in pro bono services if this is permitted by the terms of their employment.

It is uncommon for law firms to take out professional indemnity insurance in the Philippines and consequently, in most cases pro bono services would not be covered by such insurance.

Socio-Cultural Barriers to Pro Bono or Participation in the Formal Legal System

Perhaps the biggest obstacle for pro bono service is the fact that citizens are not aware of their resources and what services are available to them. According to the American Bar Association's 2012 report on the Mindanao region in the Philippines, the cost of hiring a private lawyer is estimated to range from 10,000 PHP (US\$ 232.56) to 50,000 PHP (US\$ 1,162.79). This is out of reach for most citizens who earn on average PHP 1,403 (US\$ 32.63) per month.

Pro Bono Resources

The following organizations may provide pro bono opportunities for lawyers to participate in:

- Sentro Ng Alternatibong Lingap Panligal: <http://www.saligan.org/> (last visited on September 4, 2015). Provides litigation support, legal literacy and alternative legal education, paralegal information, policy advocacy, research and publication, and internships for law students.
- Balay Alternative Legal Advocates for Development in Mindanaw, Inc.: <http://balaymindanaw.org> (last visited on September 4, 2015). Provides legal services to marginalized sectors and communities in Mindanao, conducts capacity building interventions on local legislation and dispute resolution, and advances legal issues of different marginalized sectors and communities.

⁹⁰ The Asia Foundation, Philippines Overview, available at <http://asiafoundation.org/country/overview/philippines> (last visited on September 4, 2015).

⁹¹ Ibid.

⁹² Public Interest Law Center, http://palomapolo.com/unrest/public_interest_law_center.html (last visited on September 4, 2015).

⁹³ Article 2208 of the Civil Code of the Philippines (Republic Act. No. 386).

⁹⁴ Rule 2.04, Code of Professional Responsibility.



Legal clinics which provide pro bono services include:

- The Office of Legal Aid at the University of the Philippines, College of Law: http://law.upd.edu.ph/index.php?option=com_content&view=category&id=64:what_is_office_of_legal_aid_ola&Itemid=73&layout=default (last visited on September 4, 2015). Provides free legal assistance to indigent litigants and is actively involved in public interest cases.

CONCLUSION

There is a great need for pro bono legal assistance in the Philippines and to educate the population on the availability of pro bono legal services. Because of the potential barriers to providing such assistance, the best opportunities may be found by reaching out to, and supporting, groups that are already well-established in the Philippines. A potentially promising area for near term investment and growth could be community paralegals and law schools, as these avenues serve as valuable resources and options for citizens in the Philippines where access to lawyers may be unavailable for a variety of reasons.

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Pro Bono Practices and Opportunities in the Philippines

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