

Pro Bono Practices and Opportunities in Guatemala¹

I. Introduction

Historically, Guatemala has not had a strong tradition or requirement for the provision of pro bono legal services by individual lawyers or private law firms. The provision of pro bono legal services in Guatemala has been led by non-profit organizations and by special practice programs included as part of law schools’ curricula. However, in the last three years there have been more private law firms interested in providing pro bono legal services. An example of this advancement is the incorporation of Fundación Pro Bono Guatemala, which was founded by 12 private law firms in 2018. As of this date, Fundación Pro Bono Guatemala has not been officially registered in Guatemala as a non-profit organization due to government regulatory delays; however, it has partnered with international and local institutions and has provided greater opportunities for pro bono legal services to be provided by private law firms.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	<p>1. Describe the laws/rules that regulate the provision of legal services?</p>	<p>The legal profession in Guatemala is governed by the bar association, <i>Colegio de Abogados y Notarios de Guatemala</i>. The bar provides rules on professional ethics and requirements for admission to the bar.²</p> <p>In addition to the code of ethics provided by the bar association, attorneys are regulated by law under <i>Ley de Colegacion Profesional Obligatoria</i>.³ This law codifies the nature and scope of the legal profession in Guatemala, as well as the requirements for becoming a legal professional. It also codifies the ethical standards and principles to which the <i>Colegacion Profesional</i> should adhere.</p> <p>Attorneys’ fees in Guatemala are regulated by Decree 111-96.</p>
	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>In order to practice law in Guatemala, attorneys need a legal degree and also need to pass an exam.</p> <p>Attorneys will then apply for and be sworn into the bar association, <i>Colegio de Abogados y Notarios de Guatemala</i>, which was established by Decree 72-2001 (<i>Ley de Colegacion Profesional Obligatoria</i>) of the Congress of the Republic of Guatemala. Attorneys will then be registered and sworn in by Guatemala’s Supreme Court of Justice.⁴</p>

¹ This chapter was drafted with the support of Cindy Arrivillaga of Arias Law.

² See <http://ariaslaw.com/boletines/Codigo%20de%20Etica%20de%20Guatemala.pdf> (last visited on May 1, 2019).

³ Decreto 72-2001.

⁴ Decree 2-89. Article 196.

https://www.rgp.org.gt/docs/legislacion_registral/Ley%20del%20Organismo%20Judicial.pdf (last visited on May 1, 2019).

		<p>As stated above, the only bar association is the <i>Colegio Abogados y Notarios de Guatemala</i>, and an attorney can only practice law in Guatemala if they are licensed by the bar association and Guatemala’s Supreme Court of Justice.</p> <p>Under Article 87 of the Guatemalan Constitution, a foreign lawyer’s degree can be recognized by the <i>University of San Carlos de Guatemala</i> for purposes of practicing in Guatemala.⁵ A foreign lawyer would then need to take and pass a bar exam in Guatemala or provide 1,600 hours of social service before applying to the bar.⁶</p>
(b)	Pro Bono Practice and Culture	
	<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>Article 12 of the Constitution says a “defense of the person and his [or her] rights are inviolable” and that each person has a right to be heard in a legal process.</p> <p>The provision of pro bono legal services in Guatemala, unlike the right to legal assistance,⁷⁸ is not specifically accounted for in any regulations, nor is it required.</p>
	<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>Lawyers in Guatemala are not required by to work a minimum number of pro bono hours. However, the Pro Bono Declaration of the Americas (“<u>Declaration</u>”) has been signed by several legal organizations in Guatemala, including <i>Colegio de Abogados y Notarios de Guatemala</i>.⁹</p> <p>The Declaration commits lawyers to practicing 20 hours of pro bono legal services each year.¹⁰ At this time, this is a purely aspirational figure and not a requirement for legal practice in Guatemala.</p>
	<p>3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?</p>	<p>There is no requirement by the bar association for aspiring lawyers to complete a minimum number of</p>

⁵ See https://www.constituteproject.org/constitution/Guatemala_1993.pdf?lang=en (last visited on May 1, 2019).

⁶ Constitution of the Republic of Guatemala. Article 87. (https://www.constituteproject.org/constitution/Guatemala_1993.pdf?lang=en (last visited on May 1, 2019) and <http://rye.usac.edu.gt/index.php?inco=1> (last visited on May 1, 2019).

⁷ See <http://ariaslaw.com/boletines/Codigo%20de%20Etica%20de%20Guatemala.pdf> (last visited on May 1, 2019).

⁸ Decree 129-97. Article 3. <http://www.idpp.gob.gt/publicaciones/leyesidpp.aspx> (last visited on May 1, 2019).

⁹ See https://www.vancecenter.org/wp-content/uploads/2019/01/Signatarios_1-17-18.pdf (last visited on May 1, 2019).

¹⁰ See <https://www.vancecenter.org/wp-content/uploads/2018/03/english.pdf> (last visited on May 1, 2019).

		hours of pro bono legal services in order to become licensed lawyers.
	4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?	<p>The main areas of law which require or present opportunities for the provision of pro bono legal services in Guatemala are:</p> <ul style="list-style-type: none"> • Immigration/Asylum/Migrants. • Servicing unmet needs within the poorer communities. • Labor matters. • Family matters. • Violence against women. • Criminal matters. • Legal reforms.
	5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?	<p>The main providers of pro bono legal services in Guatemala are NGOs, private and public institutions, universities and private law firms:</p> <ul style="list-style-type: none"> • Some local NGOs and other non-profit institutions in Guatemala provide legal services for refugees, migrants and immigrants.¹¹ There are also private and public institutions providing legal services on labor, civil, family, violence against women and criminal matters. Additionally, there are non-profit institutions that provide pro bono legal services attending to cases of corruption and the promotion of legal reforms. • These institutions include: Casa del Migrante Nazareth; Pastoral de Movilidad Humana¹²; Acción Ciudadana¹³; Grupo de Apoyo Mutuo¹⁴; Instituto de Estudios Comparados en Ciencias Penales¹⁵; Fundación Sobrevivientes¹⁶; Bufete Popular Universidad Rafael Landívar¹⁷; Bufete Popular Universidad Mariano Gálvez¹⁸; Bufete

¹¹ See list of NGOs and their contact information on <http://www.refugeelaidinformation.org/guatemala-pro-bono-directory> (last visited on May 1, 2019).

¹² See <http://movilidadhumana.com/tag/guatemala/> (last visited on May 1, 2019).

¹³ See <http://accionciudadana.org.gt>. (last visited on May 1, 2019).

¹⁴ See <http://grupodeapoyomutuo.org.gt/> (last visited on May 1, 2019).

¹⁵ See <https://iccp.org.gt> (last visited on May 1, 2019).

¹⁶ See <http://www.sobrevivientes.org> (last visited on May 1, 2019).

¹⁷ See <http://principal.url.edu.gt/index.php/academia/bufete-popular> (last visited on May 1, 2019).

¹⁸ See <https://derecho.umg.edu.gt/> (last visited on May 1, 2019).

		<p>Popular Universidad de San Carlos de Guatemala; Bufete Popular Universidad Rural¹⁹; and Institute of Criminal Public Defense²⁰.</p> <ul style="list-style-type: none"> • The Bufete Popular is a compulsory student program at the four universities named above where students provide pro bono legal services to those who cannot afford to pay for legal services and often in conjunction with a regional or international NGOs. The main legal services provided by these programs are labor, civil and family matters. • Regional organizations that help asylum-seekers and refugees include the Inter-American Commission for Human Rights and the Inter-American Court of Human Rights.²¹ • Private law firms provide pro bono legal services. They are contacted directly by non-profit entities. Since 2018, The Fundación Pro Bono Guatemala has acted as a clearing house for pro bono legal services and has made alliances with local and international organizations, such as The Cyrus R. Vance Center for International Justice and La Red Pro Bono de las Américas. Through Fundación Pro Bono Guatemala, many private law firms in Guatemala have been able to provide pro bono legal services, mainly for refugees, migrants and immigrants. • Private lawyers (acting individually) may provide pro bono legal services, though it is difficult to find information on what services can be provided if at all.²²
(c)	Obstacles to Provision of Pro Bono Legal Services	
	1. Do lawyers require a license to provide pro bono legal services?	No additional licensure is required to provide pro bono legal services beyond the requirements for all legal practice.

¹⁹ See <http://urural.edu.gt/wp-content/uploads/2016/12/GUIA-PRACTICA-BUFETE-2017.pdf> (last visited on May 1, 2019).

²⁰ See <http://www.idpp.gob.gt/> (last visited on May 1, 2019).

²¹ See <http://www.refugeelegalaidinformation.org/guide-access-regional-human-rights-americas> (last visited on May 1, 2019).

²² See e.g. <https://www.gov.uk/government/publications/guatemala-list-of-lawyers> (UK government’s list of local counsel in Guatemala, which also provides for whether the lawyers will engage in pro bono services; however, the type of service is not specified and are only done on “case-by-case” basis).

	<p>Students can provide pro bono legal services (through authorized institutions such as Bufete Popular) under the supervision of licensed attorneys. The pro bono legal services provided by law students are limited to labor²³, civil²⁴ and family²⁵ matters.</p>
<p>2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?</p>	<p>No additional licensure is required for foreign lawyers to provide pro bono legal services beyond the requirements for all legal practice.</p>
<p>3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?</p>	<p>Lawyers are not required to have special indemnity insurance for the provision of pro bono legal services.</p>
<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>Article 10 and 11 of the Lawyer’s Professional Code of Ethics prohibit directly or indirectly soliciting clientele and limit publication of legal services to business cards.²⁶ Thus, there is not an opportunity to advertise pro bono legal services directly by attorneys or law firms in Guatemala.</p> <p>However, pro bono legal services are usually promoted by the universities, <i>Bufete Popular</i> or other non-profit institutions that include them as part of their services. For instance, Fundación Pro Bono Guatemala as a clearing house of pro bono legal services may promote its services, indirectly promoting pro bono practices in participating law firms.*</p> <p>*This last statement is the opinion of local counsel. In their opinion, this would still align with Professional Code of Ethics.</p>

²³ Decree 1441. Article 321. <https://www.gov.uk/government/publications/guatemala-list-of-lawyers> (last visited on May 1, 2019).

²⁴ Decree 54-77. http://ww2.oj.gob.gt/archivodeprotocolos/index.php?option=com_rubberdoc&view=doc&id=98&format=raw&Itemid=140 (last visited on May 1, 2019).

²⁵ Decree Law 206. Article 10.

²⁶ See <http://ariaslaw.com/boletines/Codigo%20de%20Etica%20de%20Guatemala.pdf> (last visited on May 1, 2019).

	<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>There is no “Continuing Legal Education” or equivalent credit for pro bono hours worked in Guatemala.</p>
<p>(d) Sources of Pro Bono Opportunities and Key Contacts</p>		
	<p>1. Describe any governmental sources of pro bono and/or other legal services in Guatemala.</p>	<p>The government in Guatemala is focused on providing legal assistance for indigent persons, rather than providing pro bono legal services.</p> <p>Right to legal assistance for indigent persons is established under Article 12 of the Constitution²⁷ and Article 89 of the Civil and Commercial Code²⁸.</p> <p>The Institute of Criminal Public Defense (“IDPP”) is the country’s public criminal defender’s office.²⁹ A recent article suggests that IDPP is woefully understaffed for the amount of work, especially when it comes to serving underrepresented indigenous peoples.³⁰</p>
	<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Guatemala.</p>	<p>Please refer to (b).5, as discussed, the main sources of pro bono in Guatemala are NGOs, private non-profit entities and legal clinics run through universities.</p> <p>Private lawyers also provide pro bono legal services. Since 2018, Fundación Pro Bono Guatemala has acted as a clearing house and connected national and international organizations—such as the Cyrus R. Vance Center for International Justice and La Red Pro Bono de las Americas—with private law firms.</p>
	<p>3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?</p>	<p>Local and foreign lawyers can register with The Fundación Pro Bono Guatemala in order to be made aware of pro bono opportunities. The relevant email address is: fundacionprobonogt@gmail.com</p>

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²⁷ See https://www.constituteproject.org/constitution/Guatemala_1993.pdf?lang=en (last visited on May 1, 2019).

²⁸ See <https://www.wipo.int/edocs/lexdocs/laws/es/gt/gt007es.pdf> (last visited on May 1, 2019).

²⁹ See <http://www.idpp.gob.gt/> (last visited on May 1, 2019).

³⁰ See <https://www.univision.com/noticias/criminalidad-y-justicia/guatemala-has-15-public-defenders-to-serve-65-million-indigenous-residents> (last visited on May 1, 2019).

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