

### International Pro Bono Work Raises Unique Challenges

**By Stephen Joyce**

Lawyers outside the U.S. seeking pro bono opportunities face several obstacles, including rules about state-sponsored legal aid, advertising prohibitions, and difficulties finding appropriate cases.

Those issues limit global law firms' pro bono activity abroad, even as the firms expand deeper into non-U.S. markets.

But the outlook for international pro bono work is improving.

The emergence of clearinghouses that help identify pro bono opportunities, changes in legal assistance policies, and stepped-up policies aimed at identifying suitable pro bono projects may lead to increased lawyer participation rates around the world.

Despite the challenges, global law firms encourage and in some instances require their non-U.S.-based lawyers to participate in pro bono activity at the same levels as their U.S.-based colleagues, a development largely embraced by those lawyers practicing outside the U.S.

"I think there's the same thirst" for pro bono work outside the U.S., "as long as you provide the right opportunities," Steven Schulman, leader of Akin Gump Strauss Hauer & Feld LLP's worldwide pro bono practice, told Bloomberg Law.

Others agreed. "The lawyers are eager. I just have to find them the right clients," Suzanne Turner, Dechert LLP pro bono partner, told Bloomberg Law.

### Restrictions Hinder Projects

International pro bono opportunities are limited for a number of reasons, lawyers who specialize in pro bono programs said.

In Germany and some other European countries, for instance, law firms generally can't offer pro bono counsel to nationals who qualify for state-financed legal help.

"A lot of countries throughout Europe and Asia have robust systems of state-funded legal aid, and there are restrictions on the private bar's ability to take on pro bono work for free on behalf of individual clients otherwise entitled to legal aid," Wendy Atrokhov, Latham & Watkins LLP public service counsel and director of global pro bono told Bloomberg Law. In the U.S. it's common for privately-funded pro bono programs to offer legal assistance to individuals, including victims of domestic violence and other underserved populations.

Firms typically don't work with individuals in those countries, but can offer their services to charities and nonprofits.

Opportunities to work with individual clients are increasing, however. Some European governments, including the United Kingdom, are reducing financial support for state-financed legal aid at the same time that poorer populations, including the recent surge of undocumented immigrants, are increasing, lawyers said. That development is evolving, and could lead to a more pronounced role for the private bar in individual pro bono cases.

Gibson Dunn & Crutcher LLP is currently collaborating with the Paris bar and several French nonprofit organizations aimed at making private bar lawyers more accessible to individuals in need of a pro bono lawyer, Katie Marquart, Gibson Dunn pro bono counsel and director, told Bloomberg Law.

In addition, new lawyers have a strong desire to perform pro bono work, and U.S. law firms are expanding internationally, increasing pressure for pro bono work from the private bar.

## **Role of Third Parties**

In the U.S., law firms often rely on legal aid organizations to screen pro bono opportunities and organize legal clinics which are then staffed by law firms. Historically, few legal aid groups performed that function in the European, Asian and Middle Eastern legal markets.

“The challenge in some of these other countries is that while there might be great need, there is not necessarily an infrastructure in place to easily connect the lawyers willing to help and the people or organizations needing help,” said Dechert’s Turner, who runs her firm’s pro bono program across its 27 offices worldwide.

But several clearinghouses and similar organizations—A4ID, iProBono, PILnet and TrustLaw among them—have emerged in recent years, helping to fill that void. “Having these organizations come on line outside the United States has been so helpful because it does fit more within the traditional model in the U.S.,” Atrokhov said.

PILnet, for instance, maintains an email clearinghouse list matching nongovernmental organizations in need of legal assistance with law firms’ pro bono coordinators. And TrustLaw matches member law firms or in-house legal departments with projects benefiting NGOs.

Another problem: Some jurisdictions have legal advertising rules that complicate law firms’ ability to publicize their willingness to accept legal engagements for free.

“So the only way you can promote what you’re doing is to publicize it somehow, but that’s the sensitivity. You don’t want to do it in a way that violates the prohibition on legal advertising,” Atrokhov said.

“The work doesn’t really come to you. You have to go out and pursue it in a very proactive way to make it happen,” she said.

## **Government Pro Bono**

Conducting pro bono work outside the U.S. presents other challenges as well, including determining which projects may qualify for pro bono assistance.

Many firms base their pro bono programs on guidance published by the Washington-based nonprofit Pro Bono Institute, though lawyers said their firms might make minor adjustments to the PBI policy to accommodate jurisdictional requirements or conform to firms’ pro bono practices.

The Pro Bono Institute statement of principles and an associated questions and answers document say law firms may provide legal services to governments or government agencies in matters primarily designed to address the needs of persons of limited means or to secure or protect civil rights, civil liberties or public rights.

That has led some firms to develop pro bono work projects aimed at helping the governments of poor and developing countries. Other firms, however, stated a reluctance to offer such free legal advice, arguing that governments are typically commercial clients.

“There are instances where doing pro bono work for a government agency would be appropriate and instances where it would not be appropriate,” Elyn Haikin Josef, Vinson & Elkins LLP Houston-based pro bono counsel, told Bloomberg Law. “It’s not a perfect science,” she said.

Akin Gump, in an effort to enhance government leaders' roles as natural resource stewards, advised African government officials on best practices in negotiating oil and gas deals.

McDermott Will & Emery LLP provided assistance to a project designed by the nonprofit Lawyers Without Borders that aimed to assist Kenyan women and children understand their inheritance rights.

## **Link to Commercial Clients**

Many global law firms partner in the U.S. with their commercial clients to perform joint pro bono activities, and some firms are leveraging those partnerships to create multi-jurisdictional pro bono alliances. Pro bono specialists forecast those partnerships will strengthen and widen over time.

DLA Piper, for instance, has partnered with General Electric Co. in many jurisdictions around the world, including on a project offering legal writing courses at the University of Zambia School of Law, DLA Piper partner Nicolas Patrick told Bloomberg Law.

The firm has also worked with American International Group Inc. across national borders, Claire Donse, DLA Piper head of pro bono (international) told Bloomberg Law.

McDermott, meantime, paired with its long-time client Caterpillar Inc. to staff its Kenyan inheritance-rights project, Elizabeth Lewis, McDermott pro bono and community service partner, told Bloomberg Law.

One potential barrier to in-house legal counsel participating in international pro bono projects is professional liability.

To secure assistance from corporate in-house legal departments, DLA Piper negotiated with its professional indemnity insurer an agreement that extends coverage to in-house lawyers working on pro bono work with the law firm, Patrick said.

## **Remote Pro Bono**

And lawyers abroad sometimes participate in U.S. projects from locations worldwide, providing research and other assistance that can be performed remotely.

That's a way to get more people in the firm involved "when there aren't opportunities readily available in their home market," particularly as global law firms continue to expand and shift U.S.-trained lawyers among non-U.S. offices, Akin Gump's Schulman said.

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