

Pro Bono Practices and Opportunities in Mexico

Excerpt from: A Survey of Pro Bono Practices and Opportunities in Selected Jurisdictions

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The Mexican legal system has several structures in place to guarantee that people of limited means have equal and free access to justice. Historically, the infrastructure for free legal services revolved around criminal defense, family rights, and land tenancy. In the early 1990's, faced with an economic downturn in the country, leaders, academics, lawyers, and students began fostering and promoting a *pro bono* culture, focusing on bringing equal access to justice to a more widespread group.

However, the dissemination of U.S.-style *pro bono* culture has not yet permeated the entire gamut of the legal profession. The push for a further-reaching *pro bono* culture among universities, non-profit organizations, and law firms exists, but realities of an underdeveloped economy pose a day-to-day challenge for its development. Although the *pro bono* culture has achieved significant growth in the past fifteen years, it is a slowly emerging movement that has mainly concentrated in the larger cities of the country.

I. *The Legal Profession and Legal Aid in Mexico*

Mexico is a federal republic composed of 31 states, with an elected president and bicameral legislature. The Mexican federal court system consists of the Supreme Court, 91 circuit courts of appeal, 49 courts of appeal, and 185 district courts. State judicial systems consist of trial-level courts and appeals courts with jurisdiction over family, criminal, civil, and administrative matters.¹

The Mexican Constitution in Article 17 provides Mexican citizens as well as foreigners in Mexican territory, who cannot afford legal defense, a right to free legal defense in certain situations.² Court costs in Mexico are absorbed by the government, so access to justice is free. However, in order to appear before a judge, a party must have engaged the services of a lawyer. Unless, as detailed below, the subject matter allows for a public defender, each person is responsible for paying his or her own lawyers. This is one of the principal barriers to justice in Mexico. Likewise, corruption and inefficiency pose problems in the judiciary. The conviction rate hovers around 1 to 2 percent, and a recent poll found that 68 percent of respondents had little or no trust in the judiciary.³

In 1998, the Federal Public Defense Law was enacted,⁴ creating a mechanism through which criminal defendants and underprivileged individuals are appointed a public defender (*defensor público*) to assist in their criminal or, in a few cases, civil court case.⁵ People of limited resources with legal needs who do not fall within the coverage offered by this law, including custody disputes, discrimination suits, or employment/disability pension issues, are forced to seek free legal assistance through other channels.

The most well-known sources of free legal services include the *Asociación de Servicios Legales, A.C.* ("ASL") handled through the Mexican Bar Association, and the independent legal aid programs in two of the country's top law schools, the *Universidad Panamericana* and the

¹ U.S. Department of State, 2009 Human Rights Report: Mexico at 7, <http://www.state.gov/g/drl/rls/hrrpt/2009/wha/136119.htm>.

² See Article 17 of the Mexican Political Constitution.

³ U.S. Department of State, 2009 Human Rights Report: Mexico at 7, <http://www.state.gov/g/drl/rls/hrrpt/2009/wha/136119.htm>.

⁴ *Ley Federal de Defensoría Pública*. published on May 28, 1998.

⁵ See Articles 1 to 4 of the *Ley Federal de Defensoría Pública*.

Instituto Tecnológico Autónomo de México. The ASL enlists the support of lawyers in some of the country's most prominent law firms. The law school programs are staffed with law students and law professors, all providing their services free of charge. Nonetheless, the *pro bono* culture is not yet fully ingrained in the legal community.

A. Free Legal Assistance and the Mexican Bar Association

In Mexico, the legal profession is regulated by the Federal Government through the Federal Professions Law.⁶ Thus, affiliation to the Mexican Bar Association,⁷ or any other professional bar association, is not mandatory. Nonetheless, due to its well-established reputation and prominent members, the Mexican Bar Association sets out non-binding ethical regulations to discipline legal professionals. Among these regulations is the obligation of each member to promote and provide *pro bono* legal assistance. The nonbinding nature of these regulations has made its compliance sporadic at best.

Faced with this problem, the Mexican Bar Association created the ASL in 2000 to provide a channel for its members to meet their *pro bono* commitment. This nonprofit entity is run by lawyers and support staff retained and funded by the Mexican Bar Association. The purpose of the ASL is to act as a clearinghouse for *pro bono* cases. This includes identifying the most needy groups, managing incoming caseload, distributing the caseload to the appropriate interested member, and following up with both the clients and the lawyers as the cases progress.

Legal aid through the ASL is only available to groups or communities that lack equal access to justice. The ASL identifies these groups and does field research on the NGOs that service them. In order to qualify for assistance from the ASL, the NGOs need to provide evidence that their target group or members fall under one of the following categories: (i) extreme poverty or illiteracy; (ii) physical or mental disability; or (iii) minority or discrimination. For example, the ASL supports groups for the blind or people with HIV/AIDS. Once the NGO has cleared the first filter, they have to apply to the ASL Board of Directors for approval. Once approved, they begin working together, based on verbal agreements; nothing is ever put in writing. Some of the types of cases that the ASL has recently referred to its members include: (i) family law issues, including violence against women; (ii) issues involving minor children; (iii) employment actions; (iv) mental and physical discrimination claims; and (iv) wills for needy people. Both the services of the ASL and the lawyer who takes the case are provided on a *pro bono* basis.

B. The Role of Universities

In addition to academic requirements, in order to obtain a law degree from an accredited Mexican University, the Federal Professions Law requires that law students complete 180 hours of social service.⁸ Most universities provide their students with a list of authorized governmental agencies, nongovernmental organizations ("NGOs"), and academic institutions where students may complete their requirement.

Private Mexican universities began developing clinical education programs, as well as legal aid justice centers, in the early 1990's. Their primary objective is to make the student body

⁶ *Ley Reglamentaria del Artículo 50, Constitucional, Relativo al Ejercicio de las Profesiones en el Distrito Federal*, first published May 26, 1945; most recently amended on December 22, 1993.

⁷ *Barra Mexicana Colegio de Abogados, A.C.*, founded in 1922.

⁸ See Articles 52 to 60 Federal Professions Law.

and faculty aware of the growing need for *pro bono* legal services. They see it also as an opportunity to train law students prior to their entrance into law firms. With the growing interest of the student bodies, alumni, and professors of the universities, what began as clinical education programs have become full-time *pro bono* legal aid centers.

The first law school to set up a *pro bono* center was the *Universidad Panamericana*, School of Law (“UP”). Its *Bufete Jurídico Gratuito Social, A.C.* was founded in 1992. It is staffed primarily by law students who chose the clinic to meet their social service requirement, and law professors who are qualified lawyers. They take on cases at any time in the litigation process, from trial court to constitutional appeals. They litigate cases before almost all the courts, including civil court, family court, commercial court, real estate court and criminal court. The decision to take on a case depends on several factors, including the social-economic situation of the individual, the jurisdiction of the case, the viability of the claim, and the ethical repercussions. UP recently opened a new clinic at its Bonaterra campus, the Centro de Acceso a la Justicia.

The second school to follow the trend was the *Instituto Tecnológico Autónomo de México*, School of Law (“ITAM”). Its *Centro de Acceso a la Justicia* was founded in 1994. It is staffed primarily by law students, professors, and honorary members (practicing attorneys who wish to join the initiative). They provide counseling and legal support in many fields, including domestic relations actions (divorce, custody, child support), adoption, civil contracts, intellectual property, property rights, and wills and estates.

The recent trend of combining legal education with hands-on assistance that Mexican Universities have taken exposes law students and select lawyers to the realities of the country. In doing so, the universities are closing the gap between the traditional legal services model and a modern, more community-aware *pro bono* practice.

II. *Pro Bono in Mexico*

A. The Growth of the Pro bono Movement

In addition to helping indigent people find legal aid, the Law Schools and the ASL are actively promoting *pro bono* awareness amongst Mexico’s leading lawyers and law firms. With the support of U.S. organizations such as Appleseed⁹ and the Cyrus R. Vance Center for International Justice,¹⁰ they are encouraging lawyers to individually commit to *pro bono* service.

Project Appleseed is a nonprofit network of public interest justice centers throughout the U.S. and Mexico. In Mexico, they work through *Fundación Appleseed México, A.C.* (“FAM”),¹¹ whose purpose is to offer free legal services to those sectors and social groups that represent a collective interest, without any ideological or political affiliation, with the sole purpose of achieving the greater good.¹² FAM has created the Red Pro Bono, consisting of a network of affiliated law firms, lawyers, and legal clinics who assist as needed.¹³ Additionally, FAM has brought on board leaders in the legal and business community as members of its board of directors.

⁹ See <http://www.appleseeds.net> for more information.

¹⁰ See <http://www.nycbar.org/VanceCenter/Projects/PBDA.htm> for more information.

¹¹ See <http://mexico.appleseednetwork.org/> for more information.

¹² *Id.*

¹³ See <http://mexico.appleseednetwork.org/Proyectos/tabid/304/Default.aspx> for more information.

The Cyrus R. Vance Center for International Justice of the New York City Bar helps promote and develop international access to justice. Their most notable project is the Pro Bono Declaration for the Americas, which is intended as both a statement of principle and a plan of action for expanding the commitment of lawyers to provide legal services to the poor and underprivileged in the Americas.¹⁴ Mexico was one of the countries involved in the Declaration, through some of its most reputable lawyers, law firms, and law schools. Those who have already signed the Declaration are committed to bringing more lawyers on board.

B. Pro Bono Opportunities in Mexico

The three long-standing reputable organizations that already have well-established *pro bono* practices in Mexico are the clinics at UP and ITAM, and the ASL. As detailed above, all three groups have established infrastructures, run much like legal aid centers in the United States, and welcome the assistance of lawyers, law firms, or companies that are trying to get involved in *pro bono* activities.

The programs backed by FAM and the Cyrus Vance Center, are in the early stages of development, and will likely become more well-known in the years to come as more lawyers and law firms participate.

III. *Conclusion*

Mexico has been increasingly exposed to the *pro bono* practices of the world. As the practice of law becomes more international, both the private and public sectors recognize the importance of embracing a more proactive *pro bono* culture among its lawyers and law firms. While not ingrained in the law firm culture yet, the exposure of students through the law school clinics has created a wave of young professionals who are aware of the current state of *pro bono* infrastructure, and are pushing for new structures in their firms. The signing of the Pro Bono Declaration of the Americas by sole practitioners, members of the judiciary, and important law firms is a good indicator that this movement is growing.

International awareness has begun to illuminate the current deficiencies and future possibilities. While the commitment to *pro bono* is certainly growing in Mexico, it remains concentrated in its most affluent cities, Monterrey and Mexico City. This leaves uncharted territory for the movement to continue to expand in a country where many need an opportunity for access to justice.

¹⁴ See http://www.nycbar.org/VanceCenter/PBDA/PBDA_English.pdf for more information.