

Pro Bono in Civil Litigation: International Experience and Proposals for Uzbekistan

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Abstract: This article explores the international experience of pro bono cases in civil litigation, with a focus on best practices and successful models from various countries. It examines the challenges and opportunities in implementing robust pro bono systems and considers how these lessons can be applied to the Uzbek legal context. The study concludes with specific proposals for developing and strengthening pro bono practices in Uzbekistan's civil litigation landscape.

Keywords: pro bono, civil procedure, lawyer, free legal services, voluntary activity, international pro bono.

The term "pro bono", which is widely used today, is an institution that has already been formed in the field of law in many developed countries. In particular, in countries such as the United Kingdom, the United States, South Korea, Australia, France "pro bono" has its own stages of development and its own special structure and today, based on the experience of these countries, a new term "international pro bono" is used in the field of law.

The term "pro bono", which is short for pro bono publico, is a Latin term that means "for the public good"[1]. The term usually refers to the provision of free legal services by lawyers to people who are unable to pay for legal services. If we look at the history of this institute, many sources state that the provision of legal services to those unable to hire a lawyer was reflected in British law as early as the 15th century. According to another source, this pro bono practice was common in early America: "As far back as 1770, just a few years before the United States came into being, John Adams (later the country's second president) took on the pro bono defense of British soldiers prosecuted for what became known as the Boston Massacre. He also did less-remembered pro bono work for needy members of his community. Pro bono was already established as an accepted practice at the birth of this country, and Adams' effort – even though some roundly criticized him for it at the time – shows its deep roots in this country" [2]. In today's American society, pro bono is very well developed. It is noteworthy that in the United States, pro bono is carried out by non-governmental organizations and is supported by the government. In particular, the National Center for Law and Economic Justice, which has been operating since 1965, provides legal services aimed at improving welfare programs. Examples of such organizations include the Child Protection Fund, the Farmers Legal Action Group, the National Veterans Legal Services Program, the National Senior Citizens Legal Center, the National Health Law Program, and the Southern Poverty Law Center. The United States Department of Justice publishes a list of pro bono legal service providers by state. This list is controlled by the following organizations: The Executive Office for Immigration Review (EOIR), Office of Policy, Office of Legal Access Programs (OLAP).

The American Bar Association Standing Committee on Pro Bono and Public Service explains, "When society confers the privilege to practice law on an individual, he or she accepts the responsibility to promote justice and to make justice equally accessible to all people. Thus, all lawyers should aspire to render some legal services without fee or expectation of fee for the good of the public"[2].

If we analyze the essence of the Pro Bono Institute in more detail, South Korean lawyers are required to complete at least 30 hours of pro bono work per year; however, the local bar associations can reduce

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this requirement to 20 hours. Those who have a good reason not to fulfill the requirement may pay to a pro bono fund ~~₩~~20,000–30,000 (US\$17-26) per hour instead [3].

Lawyers in the United States are recommended under American Bar Association (ABA) ethical rules to contribute at least 50 hours of pro bono service per year. Some state bar associations, however, may recommend fewer hours. Rule 6.1 of the New York Rules of Professional Conduct strongly encourages lawyers to aspire to provide at least 50 hours of pro bono service each year and quantifies the minimal financial contributions that lawyers should aspire to make to organizations providing legal services to the poor and underserved. In contrast, other states, such as Illinois, do not have recommended hours, yet require annual disclosure of voluntary pro bono hours and contributions made to pro bono organizations [4].

The need for pro bono work is evident: In 2017, 86% of low-income Americans received inadequate or no legal help for civil legal problems[5]. Such data show how important the institution of pro bono is to American society. The Legal Services Corporation is an independent nonprofit established by Congress in 1974 to provide financial support for civil legal aid to low-income Americans. The Corporation currently provides funding to 132 independent nonprofit legal aid organizations in every state, the District of Columbia, and U.S. Territories. The fact that investing in civil legal aid allows for access to justice, which is America's core value, is reflected in the first line of the U.S. Constitution and in the last words of the Pledge of Allegiance [6]. LSC-funded programs help people who live in households with annual incomes at or below 125% of the federal poverty guidelines – in 2021, that is \$16,100 for an individual, \$33,125 for a family of four. Clients come from every ethnic and age group and live in rural, suburban, and urban areas. They are the working poor, veterans, homeowners and renters, families with children, farmers, people with disabilities, and the elderly. Women - many of whom are struggling to keep their children safe and their families together - comprise 70% of clients.

In the United States, pro bono is also used effectively by law schools. In particular, some schools have designated pro bono programs, staffed by professionals who help match students with outside organizations that do pro bono work. Other schools provide administrative support for student groups engaged in pro bono work while others lack an organized school-wide program but rely on student groups to form and run projects. At least 39 law schools require students to engage in pro bono or public service as a condition of graduation. These schools may require a specific number of hours of pro bono legal service as a condition of graduation (e.g. 20-75 hours) or they may require a combination of pro bono legal service, clinical work and community-based volunteer work. [7]

What are the advantages of using pro bono for law schools?

Firstly, this programs help students develop professionalism and an understanding of a lawyer's responsibility to the community.

Secondly, facilitates student involvement in the community.

Thirdly, increasing their knowledge and marketability, gaining practical experience, developing skills, enhancing their reputations and exploring alternative career opportunities.

If we talk about the role of pro bono in English society, everyone, not just those who can afford a lawyer, has access to justice and the legal system. This is necessary to ensure that our right to a fair trial is upheld, as required by Article 6 of the Human Rights Convention. In England, 2 terms are used to secure this right: “legal aid” and “pro bono”. So what's the difference between these terms? Legal aid is a form of government funding to subsidise access to lawyers for those who can't afford them. Before the changes to the legal aid system public funding was available for a wide range of legal disputes. However, substantial cuts now mean that it's only available in limited scenarios. Legal aid can help meet the costs of legal advice, family mediation and representation in a court or tribunal.

You'll usually need to show that:

- ✓ your case is eligible for legal aid
- ✓ the problem is serious



✓ you cannot afford to pay for legal costs

You could for example get legal aid if:

- you or your family are at risk of abuse or serious harm, for example domestic violence or forced marriage
- you're at risk of homelessness or losing your home
- you've been accused of a crime, face prison or detention
- you're being discriminated against
- you need family mediation
- You're adding legal arguments or bringing a case under the Human Rights Act [8].

However, unlike legal aid, for which lawyers' time is funded by the Government, pro bono work is legal advice provided free of charge. so pro bono is done by non-governmental organizations. To give an example of such organizations, The LawWorks Coordination Center has been operating in the UK since 1997. He processes the applications of those in need of assistance and transfers their cases to a specialist who is part of the team of lawyers serving this center. If we describe this organization in more detail, LawWorks is a charity working in England and Wales to connect volunteer lawyers with people in need of legal advice, who are not eligible for legal aid and cannot afford to pay and with the not-for-profit organisations that support them. LawWorks is the registered operating name of the Solicitors Pro Bono Group.

Another such organization is the Law Society. The Law Society is the independent professional body for solicitors.

This organization actively support and facilitate their members' involvement in pro bono initiatives. Their members provide a huge amount of important free legal advice to individuals, charities and community groups throughout England and Wales. Examples of such organizations include the UK's In-House Pro Bono Group and the GC100.

How do lawyers benefit from pro bono?

Volunteering your time and expertise to support vulnerable people can help to:

Increase job satisfaction

Develop your legal, advocacy and leadership skills

Broaden your communication and interpersonal skills

Boost morale and relationships with your colleagues

Expand your networks and raise your personal profile. [9]

If we look at the experience of Uzbekistan in this regard, our national legislation provides for free legal assistance only in criminal cases and only from the state budget. However, foreign experience shows that the role of non-governmental non-profit organizations in this regard is significant and not only criminal case, but also civil cases. According to the Law of the Republic of Uzbekistan on Advocacy, when a person is exempted from payment of legal assistance due to his/her insolvency, remuneration of attorney's labor participating in a criminal case is carried out at the state expense in the manner established by the Cabinet of Ministers of the Republic of Uzbekistan.

The President of the Republic of Uzbekistan Shavkat Mirziyoyev in his decree of May 12, 2018 "On measures to radically increase the efficiency of Advocacy Institute and expand the independence of lawyers " stressed development of free voluntary legal assistance (pro bono) by advocacy structures and lawyers to the population in need of social protection. [10]

On September 6, 2019, in accordance with the Resolution of the Cabinet of Ministers No. 741 "On measures to further improve the system of legal information and legal assistance to the population", a



non-profit organization "Madad" was established to provide free legal advice and practical legal assistance. Unfortunately, this organization cannot protect the rights of citizens in court, it can only provide free legal advice.

At the Tashkent Law Spring Forum in Tashkent on April 25-27, 2019, Fred Houston, Regional Director for Central Asia of the International Organization for Legal Development (ODIHR), spoke on "Pro bono and state-funded legal aid: ensuring balance". Mr. Fred Huston, one of the former Soviet republics, praised Georgia's experience. In his view, Pro bono in Georgia is much closer to perfection, covering many areas - from criminal law to civil disputes. In Georgia, the state provides special legal assistance to citizens not only in matters related to criminal cases, but also in the settlement of family disputes. There is a very advanced example of law in this regard. The legal service is set up in such a quality way that if you go to a lawyer, he will definitely take an hour to listen to you and give you the advice you need. Provides complete, quality legal assistance. This is a very serious and robust system. Lawyers working in this system do not deal with an outsider client. They only support the category of customers listed. In general, Pro bono in this country is managed centrally. This is important because a lawyer who is busy with Pro bono should definitely be provided and encouraged.

He said Pro bono is also a very important practice in staff training. In the United States, young lawyers work as a lawyer who provides free legal assistance to citizens by the state for 5-6 years before starting their own firm. It will be a great school for them. [11]

As well as, the draft "Concept for the development of the Bar in the Republic of Uzbekistan", posted on the portal for the discussion of normative legal acts of the Republic of Uzbekistan on April 10, 2020, also expressed views on free legal services. In particular, implying the following Creating an effective mechanism for the appointment of lawyers in order to provide protection at the expense of the state, based on international experience:

- the system of free legal aid under the Ministry of Justice of the Republic of Uzbekistan specially authorized to organize, control and coordinate independent body - the establishment of a free legal aid center;
- introduction of quality control mechanisms for free legal aid;
- procedural in the selection and appointment of attorneys to provide defense at public expense the human factor in this process, taking into account the consequences and measures of responsibility development and implementation of an automated system that excludes interference;
- if the defense attorney is participating in the case on the basis of an agreement, the defense attorney at the expense of the state establishing a ban on unreasonable appointments. [12]

The draft Decree of the President of the Republic of Uzbekistan Shavkat Mirziyoyev "On the Development Strategy of the New Uzbekistan for 2022-2026" was recently submitted for public discussion and The Development Strategy of New Uzbekistan for 2022-2026, which will be approved in accordance with this Decree, also contains a paragraph on the subject. Defined in the direction of the strategy to make the principles of justice and the rule of law in our country the most basic and necessary condition for development special attention should be paid to the following two aspects:

- Implementation of the principles of true equality and adversarial proceedings of the parties in court proceedings;
- Expanding the scope of free legal aid.

One of the most effective ways to achieve these goals is to harmonize them. That is, if we provide free legal assistance to a party in need of social protection in court, who can not pay for the legal services provided by a lawyer, we will also contribute to the equality of the parties in the process. By effectively using the experience of foreign countries mentioned above, we can achieve the goal set in the Development Strategy by developing the institution of pro bono in our society.



Proposals for Developing Uzbekistan's Legislation

Based on the analysis of international experiences, the following proposals are suggested for developing Uzbekistan's legislation regarding pro bono cases in civil litigation:

1. Establish a legal framework: Introduce specific legislation that recognizes and regulates pro bono legal services, defining what constitutes pro bono work and setting standards for its provision.
2. Mandatory reporting: Implement a system where law firms and individual lawyers are required to report their pro bono hours annually, promoting transparency and encouraging participation.
3. Tax incentives: Introduce tax benefits for law firms and lawyers who engage in a certain number of pro bono hours per year, incentivizing participation in pro bono work.
4. Pro Bono Clearinghouse: Establish a national pro bono clearinghouse to match clients in need with willing lawyers and law firms, facilitating easier access to pro bono services.
5. Law school clinics: Encourage the development of law school clinics that provide pro bono services, allowing students to gain practical experience while serving the community.
6. Continuing Legal Education (CLE) credits: Offer CLE credits for lawyers who engage in pro bono work, integrating pro bono service into professional development.
7. Public-private partnerships: Foster collaborations between the government, NGOs, and private law firms to create sustainable pro bono programs.
8. Ethical guidelines: Develop clear ethical guidelines for pro bono work, ensuring high standards of service and protecting both clients and lawyers.
9. Judicial support: Encourage the judiciary to actively support pro bono initiatives, potentially through court-annexed pro bono programs.
10. Awareness campaigns: Launch public awareness campaigns to inform citizens about their rights and the availability of pro bono legal services.

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