

Provision of Legal Aid for Asylum-Seekers,
Refugees, and Others Forcibly Displaced in Asia

Country-Level Memorandum: Philippines



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LAW OFFICES

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STATE FUNDED LEGAL AID

Eligibility, Nature, and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

Under relevant law and policies of the Philippines, the Target Group¹ is eligible for legal aid.

The Target Group's eligibility for legal aid is enshrined in both the domestic and international framework of laws and policies adhered to by the Philippines.

At the international level, the Philippines is a State Party to several treaties and protocols relating to the protection of the Target Group, which provisions include the right of access to courts and legal assistance. The Philippines is a State Party to the 1951 Convention Relating to the Status of Refugees (the "1951 Convention") and its 1967 Protocol, as well as the 1954 Convention Relating to the Status of Stateless Persons (the "1954 Convention"). Unless a person falls under those excluded from the said conventions, he or she would be eligible for legal assistance.

At the domestic level, the Philippines has likewise crafted and implemented protection mechanisms for the determination of the status of the Target Group, as well as provide accommodations to them with respect to documentary requirements. Through Department of Justice (DOJ) Department Circular No. 058-2012, the Philippines adopts the definitions of refugees and stateless persons in the 1951 and 1954 Conventions, and the persons excluded therefrom. Notably, DOJ Department Circular No. 058-2012 recognizes that the right of the Target Group to legal assistance begins, not upon determination of a person's status as a refugee or stateless person, but from the moment of application. Section 10 of the said Department Circular provides:

"SECTION 10. Rights of an Applicant. - The Applicant has the right to legal counsel. He is entitled to have the services of an interpreter, if necessary, at all stages of the refugee status determination and for the purposes of the preparation of the written application and for the interview. The Applicant shall not be denied access to the UNHCR."²

An "Applicant" is defined in the Department Circular as someone who has submitted, for himself or herself, or on behalf of a child or incapacitated person, the formal written claim to refugee or stateless status, which triggers the determination procedure.³ Among

¹ Target Group consists of asylum seekers, refugees, and stateless persons.

² Department of Justice, Establishing the Refugee and Stateless Status Determination Procedure [DEPARTMENT CIRCULAR No. 58] sec. 10 (October 18, 2012).

³ *Id.*, sec. 2 (f-g).

the rights of an Applicant are the right to legal counsel, the right to an interpreter, and access to the United Nations High Commissioner for Refugees (UNHCR).⁴

Clearly, therefore, the Target Group has the right to legal aid even while their status as a refugee or stateless person is pending determination.

In 2022, the Philippine Supreme Court approved the Rule on Facilitated Naturalization of Refugees and Stateless Persons. The Rule reformed or streamlined the judicial naturalization process for refugees and stateless persons.⁵ Among the basic principles observed under this Rule is the principle of non-discrimination and affording refugees and stateless persons the same respect and dignity as Philippine citizens.⁶ Moreover, even unaccompanied children who are refugees and stateless persons shall be referred to the appropriate government agencies and/or non-government organizations for, among others, access to legal services, including the filing of their petition for naturalization.⁷

While the Target Group is free to engage any legal counsel of their choice, the Philippines also provides for the fulfillment of the right to counsel by mandating the Public Attorney's Office (PAO), an agency under the DOJ, to provide free legal representation to indigent individuals.⁸ While the term "indigent" is not explicitly defined in the law, the PAO has recognized the entitlement of the Target Group to free legal assistance in its 2021 Revised PAO Operations Manual. Chapter II, Article 5 thereof outlines and enumerates members of the Target Group who are qualified for legal assistance pursuant to Memoranda of Agreement/Understanding, Department of Justice Directives and special laws, to wit:

"xxx

20. Qualified refugees and displaced peoples within the Philippines (Memorandum of Understanding between the PAO and the UNHCR, dated January 8, 2013 [renewed on May 7, 2019]);

20. Asylum seekers, refugees and stateless persons in the Autonomous Region of Muslim Mindanao (ARMM) (Memorandum of Understanding between the PAO, the Regional Human Rights Commission [RHRC], and the United Nations High Commission for Refugees [UNHCR], dated June 21, 2013);

⁴ *Id.*

⁵ Supreme Court of the Philippines, Rule on Facilitated Naturalization of Refugees and Stateless Persons [A.M. No. 21-07- 22-SC], Primer, p. 4 (February 15, 2022).

⁶ *Id.*, sec. 4.

⁷ *Id.*, sec. 4.

⁸ An Act Reorganizing and Strengthening the Public Attorney's Office (PAO), Amending for the Purpose Pertinent Provisions of Executive Order No. 292 Otherwise Known as "The Administrative Code of 1987", as Amended, Granting Special Allowance to PAO Officials and Lawyers and Providing Funds Therefore, Republic Act No. 9406, sec. 2 (2007).

xxx”⁹

The 2021 Revised PAO Operations Manual does not define what would make refugees or displaced peoples “qualified” to receive legal assistance. A copy of the Memorandum of Understanding between the PAO and the UNHCR does not appear to be publicly available as well. Nevertheless, it may be inferred that the qualified refugees or displaced persons should, at the minimum, be those who fit the parameters under the relevant Conventions, and are qualified for legal aid under the guidelines issued by the PAO, as will be explained in additional detail in succeeding sub-sections.

In 2021, the PAO renewed and reinforced its pledge to render assistance to refugees, through a Memorandum of Understanding (MOU) with the UNHCR. First ratified in 2013, the MOU has undergone four (4) renewals.¹⁰ In the main, the said MOU covers the Target Group, consisting of asylum seekers, refugees, and other persons of concern (POC).¹¹

On October 12, 2017, multiple government agencies, including the DOJ and the PAO, signed the Inter-Agency Agreement on the Protection of Asylum Seekers, Refugees and Stateless Persons in the Philippines (the “Inter-agency Agreement”), which aims to streamline the provision of services to the Target Group.¹² The Inter-agency Agreement recognizes legal assistance as a right that POCs are entitled to,¹³ and includes legal services to be among the services provided to them.¹⁴ The Inter-agency Agreement further recognizes that such services should be conducted in a “gender responsive, culture sensitive, and child-friendly manner.”¹⁵ As the provisions refer to POCs in general, the Inter-agency Agreement emphasizes that all members of the Target Group (even

⁹ Revised Public Attorney’s Office Operations Manual, Office Order No. 244 Series of 2016, Chap. II, art. 5, as amended (December 14, 2021) [hereinafter 2021 Revised PAO Operations Manual].

¹⁰ UNHCR, UNHCR, PAO Renew Agreement on Free Legal Aid for Refugees, available at <https://www.unhcr.org/ph/23593-unhcr-pao-renew-agreement-on-free-legal-aid-for-refugees.html> (last accessed June 29, 2021).

¹¹ The UNHCR considers the following as persons of concern:

1. Refugees – those fleeing conflict or persecution
2. Returnees – those who return home after being forced to flee
3. Stateless persons – those who are not considered as a national by any State under the operation of its law
4. Internally displaced – those who are on the run in their home country and have not crossed a border to find safety
5. Asylum-seekers – those whose requests for sanctuary have yet to be processed.

UNHCR Philippines, Persons of Concern to UNHCR, available at <https://www.unhcr.org/ph/persons-concern-unhcr> (last accessed July 27, 2021).

¹² Department of Foreign Affairs, PH Gov’t Agencies Sign Agreement to Protect Asylum Seekers, Refugees and Stateless Persons, Oct. 18, 2017, available at <https://dfa.gov.ph/authentication-functions/78-newsroom/dfa-releases/14318-ph-gov-t-agencies-sign-agreement-to-protect-asylum-seekers-refugees-and-stateless-persons> (last accessed July 25, 2021).

¹³ Maria Luisa J. Sebastian, Establishing a Binding and Obligatory Framework for the Protection for Asylum Seekers and Refugees in Accordance with the State’s International Obligations 12, available at <https://libpros.com/wp-content/uploads/2020/05/4-SEBASTIAN-ML-Dissertation.pdf> (last accessed on July 28, 2021) (citing Inter-Agency Agreement on the Protection of Asylum Seekers, Refugees, and Stateless Persons in the Philippines, sec. 10).

¹⁴ *Id.* at 11 (citing Inter-Agency Agreement on the Protection of Asylum Seekers, Refugees, and Stateless Persons in the Philippines, sec. 10).

¹⁵ *Id.* at 11 (citing Inter-Agency Agreement on the Protection of Asylum Seekers, Refugees, and Stateless Persons in the Philippines, sec. 1).

those not yet recognized as refugees or stateless persons) have the right to legal assistance.

Executive Order No. 163, series of 2022 (E.O. No. 163-2022) later institutionalized the Inter-Agency Committee on the Protection of Refugees, Stateless Persons and Asylum Seekers (the “Inter-Agency Committee”), assigning it the central role of assuring the provision of relevant service and assistance, pursuant to the Inter-agency Agreement.¹⁶ E.O. No. 163-2022 provides that the State shall closely monitor and ensure full protection of the rights of POCs, which shall include, among others, legal assistance and access to courts.¹⁷ The Inter-agency Committee, which is comprised of, among others, the secretaries of various departments and headed by the Secretary of Justice, has the duty to, among others, improve access to courts.¹⁸

Scope of State Funded Legal Aid

Legal assistance is available to the Target Group at all stages of the determination for status as a refugee or stateless person.

DOJ Department Circular No. 058-2012 does not provide a temporal limitation on the rights of an Applicant; as such, it may be said that the Applicant’s right to counsel, translation/interpretation services, and others, would cover all stages of the determination process.

Briefly, the determination process includes the initial application, an interview by a Protection Officer designated by the Refugee and Stateless Persons Protection Unit (RSPPU) of the DOJ, a decision rendered by the Secretary of Justice, a request for reconsideration in case the application is disapproved, and eventual finality. The decision or resolution on the request for consideration may also be subject to judicial review.

DOJ Department Circular No. 058-2012 also covers the cancellation, cessation, or revocation of refugee or stateless status.¹⁹ It also includes the removal of refugees or stateless persons from the Philippines upon the grounds provided therein.²⁰

As part of its general duty to provide legal assistance to qualified persons, which include the Target Group, the PAO may assist in asylum and determination procedures by preparing affidavits, notices, pleadings and motions, as well as administering oaths, as may be necessary.²¹

¹⁶ Office of the President, Institutionalizing Access to Protection Services for Refugees, Stateless Persons, and Asylum Seekers [Executive Order No. 163], sec. 3 (February 28, 2022).

¹⁷ *Id.*, sec. 1.

¹⁸ *Id.*, sec. 4-5.

¹⁹ DEPARTMENT CIRCULAR NO. 58, *supra* note 2, sec. 22-29.

²⁰ *Id.*, sec. 30.

²¹ 2021 Revised PAO Operations Manual, *supra* note 9, Chap. XI, art. 3.

The PAO may offer instant counselling and legal advice. The client shall have access to the services of a PAO lawyer either through phone or in person, which shall be acted upon promptly; should the issue require further research, clients may call back or return within three (3) working days.²²

Further, in accordance with Chapter X of the said Manual, the PAO may also assist in the handling of appeals, upon request of the litigant.²³

The PAO is also able to render assistance to the Target Group in non-asylum related matters.

More than eight (8) years from the first effectivity of the MOU with the UNHCR, the PAO has provided legal services for over five thousand (5,000) judicial and quasi-judicial cases to asylum seekers, including assistance on criminal, civil, labor, administrative, as well as immigration and detention proceedings.²⁴

For detained asylum seekers, PAO may provide legal representation for the applicant in various stages of the criminal procedure, from the filing of the information, arraignment, trial, pre-trial, up until the promulgation of judgment. This encompasses criminal cases covered by the Rules on Summary Procedure, as well as those under regular procedure. Further, under Chapter X, it shall be the duty of PAO lawyers to file a petition for the issuance of a Writ of Habeas Corpus on behalf of an incarcerated refugee before the appropriate Family Court or Regional Trial Court.²⁵

For judicial procedures, the PAO is authorized to conduct mediation and conciliation proceedings, with the goal of assisting the parties to reach an amicable settlement.²⁶ Meanwhile, for non-judicial procedures, the PAO is obliged to designate lawyers in certain police stations nationwide to render assistance to those undergoing police interrogation or persons under detention and inquest proceedings.²⁷ PAO lawyers may likewise conduct jail visits to interview prisoners concerning their legal problems.²⁸ Furthermore, the PAO may engage in information dissemination and legal consultation through outreach activity programs.²⁹

The counselling, documentation, legal advice, and oath administration services rendered by the PAO are not limited to asylum matters; as these are part of the PAO's general duties, it can be said that these services are available to the Target Group for other issues not related to determination of refugee or stateless person status.

²² *Id.*, Chap. XI, art. 2.

²³ *Id.*, Chap. X., art. 1.

²⁴ UNHCR, *supra* note 10.

²⁵ 2021 Revised PAO Operations Manual, *supra* note 9, Chap. X, art. 6.

²⁶ *Id.*, Chap IX, art. 5-6.

²⁷ *Id.*, Chap XI, art. 1, sec. 2.

²⁸ *Id.*, Chap XI, art. 1, sec. 2.

²⁹ *Id.*, Chap XI, art. 1, sec. 2.

Eligibility Criteria

The criteria for the Target Group’s eligibility for legal aid are based on the provisions of the 1951 and 1954 Conventions, and domestic laws and regulations.

In keeping with its international commitments, the Philippines is obliged to ensure the free access to courts, which includes the provision of legal aid services, to those who fall under the definition of “refugee” or “stateless person” in the 1951 Convention and the 1967 Protocol, and 1954 Conventions, respectively. In relation thereto, the 2021 Revised PAO Operations Manual recognizes the Target Group as being qualified for legal assistance. Apart from these, there does not appear to be any other criteria being utilized by the State in order to determine eligibility of the Target Group for legal aid. Notably, among the guiding principles of DOJ Department Circular No. 058-2012 in the determination of refugee or statelessness status is “xxx non-discrimination in the application of the Conventions, on account of race, religion, political opinion, or country of origin.”³⁰

The PAO, as a general rule, requires that a person, to qualify for legal assistance, must pass a two-fold test of merit and indigency. A case submitted to the PAO will be regarded as meritorious if it appears, based on pertinent laws and the evidence, that the “legal services of the office will assist, or be in aid of, or be in furtherance of justice, taking into consideration the interests of the parties, and those of society”.³¹ On the other hand, a litigant shall be considered indigent if he or she is able to prove³² that his or her net income does not exceed a certain threshold.³³

The Target Group’s eligibility for legal assistance from the PAO is anchored on the MOU with the UNHCR. Chapter II, Article 5 of the 2021 Revised PAO Operations Manual provides for a separate enumeration of those entitled to legal assistance by virtue of such agreements, which includes the aforementioned MOU.³⁴ Notably, unlike Article 4 of the said Chapter, which enumerates the cases that may be provisionally accepted by the PAO, Article 5 does not include an explicit qualification that legal assistance to the persons enumerated therein is subject to the condition that they qualify as indigents. However,

³⁰ DOJ DEPARTMENT CIRCULAR NO. 58, *supra* note 2, sec. 3.

³¹ 2021 Revised PAO Operations Manual, *supra* note 9, Chap. II, art. 2.

³² “1. Latest Income Tax Return or pay slip or other proofs of net income; or

2. Certificate of Indigency from the Department of Social Welfare and Development, City Social Welfare and Development Office, or the Municipal Social Welfare and Development Office having jurisdiction over the residence of the applicant; or

3. Certificate of Indigency from the Punong Barangay/Barangay Chairman having jurisdiction over the residence of the applicant.” *Id.*, Chap. II, art. 3.

³³ “1) If residing in cities or municipalities within the National Capital Region (NCR), persons whose individual net income does not exceed Twenty-four Thousand Pesos (P24,000.00) a month;

2) If residing in other cities outside the NCR, persons whose individual net income does not exceed Twenty-two Thousand Pesos (P22,000.00) a month; and,

3) If residing in municipalities outside the NCR, persons whose individual net income does not exceed Twenty Thousand Pesos (P20,000.00) a month.” *Id.*, Chap. II, art. 3.

³⁴ *Id.*, Chap. II, art. 5.

in a panel discussion during the 2014 International Forum on Legal Aid, Hon. Persida V. Rueda-Acosta, the current Chief Public Attorney of the PAO, clarified that, pursuant to the MOU, the PAO renders assistance to the Target Group provided that they qualify as indigents.³⁵ As such, it would appear that the Target Group would still need to pass, as a general rule, the merit and indigency tests to qualify for free legal assistance from the PAO.

It should be noted, however, that under Chapter II, Article 1 of the 2021 Revised PAO Operations Manual, the PAO is not strictly limited to representing indigents; rather, they are also allowed to represent all other persons qualified for legal assistance.³⁶ Moreover, the PAO may be called upon by other government agencies to render legal aid to non-indigents if their case falls under the following:

“a.) entail national interest and security as may be determined by the Chief Public Attorney, pursuant to his/her authority under Republic Act No. 9406;

b.) urgent cases that may need immediate action to avoid injustice.”³⁷

The instances where the PAO may be called upon to render aid to non-indigents is worded generally, suggesting that the applicability of such a provision would be on a case-to-case basis, or dependent on the evaluation of the Chief Public Attorney.

Structure and Procedures

Process for Obtaining State Funded Legal Aid

State funded legal aid may be obtained voluntarily by the Target Group through the engagement of lawyers from the PAO upon determination that the applicant is qualified to receive legal assistance.

For judicial and quasi-judicial proceedings, the procedure for admitting cases is specified under Chapter IX of the 2021 Revised PAO Operations Manual. The system begins by an interview conducted by the assigned lawyer of the PAO. Thereafter, the Regional or District Public Attorney shall allocate specific court assignments to the public attorney. The rules also mandate that, in cases involving national interest and security, the District Head and the resident public attorney shall “be automatically designated as members of the Special Panel of Public Attorneys created for such purpose”.³⁸

³⁵ Persida V. Rueda-Acosta, “*The Public Attorney’s Office: Responding to the Call of Cross-Border Cooperation with Pro Bono Legal Services as its Tool*” 16-17, Panel Discussion during the 2014 International Forum on Legal Aid, available at https://www.laf.org.tw/ifla2014/en/download/Panel_Discussion01_Philippines.pdf (last accessed on June 30, 2021).

³⁶ 2021 Revised PAO Operations Manual, *supra* note 9, Chap. II, art. 1.

³⁷ *Id.*

³⁸ *Id.*, Chap. IX, art. 2.

In the actual handling of cases, the PAO shall observe a “first-come-first-served” policy, prioritizing clients who sought legal assistance at an earlier time based on their designated control numbers.³⁹ Any conflict of interest shall likewise be avoided.⁴⁰ The transfer of cases is not allowed from one public attorney to another unless sanctioned by the District Public Attorney/Service Head/Regional Public Attorney.⁴¹ Further, if found that the case necessitates mediation and conciliation procedures, then such services shall be provided by the PAO.⁴² All the requests for assistance, and all actions and proceedings shall be duly recorded and reported in an official logbook of the PAO.⁴³

It should be noted that the 2021 Revised PAO Operations Manual does not have a separate or specific operating procedure for the provision of legal assistance to the Target Group. As such, it may be said that the general mode of engagement would apply.

Once found eligible for legal aid, the Target Group shall provide information or documents, and comply with procedural requirements necessary to address his or her concern. The Target Group shall also be obligated to abide by the laws of the Philippines.

DOJ Department Circular No. 058-2012 provides that refugees and stateless persons have the obligation to abide by the laws and regulations of the Philippines, as well as the measures in place for the maintenance of public order and national security.⁴⁴ Even asylum-seekers, while not yet recognized as refugees and stateless persons, are obligated to abide by Philippine penal laws and those relating to public safety and security, as the same are obligatory to all who are present in the State, subject to treaties and public international law.⁴⁵ The Inter-agency Agreement also provides that POCs are required to “conform to the country’s laws, regulations, and measures taken for the maintenance of public order.”⁴⁶

As part of the determination of refugee and stateless status, an applicant must also provide a full and credible account or proof of his or her claim, as well as all relevant evidence reasonably available.⁴⁷ This would include travel and identity documents, as well as proof of relationship to accompanying family members and other documents to support their claim of refugee or status.⁴⁸

³⁹ *Id.*, Chap. IX, art. 3, sec. 1.

⁴⁰ *Id.*, Chap. IX, art. 3, sec. 2.

⁴¹ *Id.*, Chap. IX, art. 3, sec. 6.

⁴² *Id.*, Chap. IX, art. 5, sec. 4.

⁴³ 2021 Revised PAO Operations Manual, *supra* note 9, Chap. XII, art. 1.

⁴⁴ DEPARTMENT CIRCULAR No. 58, *supra* note 2, sec. 4.

⁴⁵ An Act to Ordain and Institute the Civil Code of the Philippines [CIVIL CODE OF THE PHILIPPINES], Republic Act No. 386, art. 14 (1950).

⁴⁶ Sebastian, *supra* note 13, at 12 (citing Inter-Agency Agreement on the Protection of Asylum Seekers, Refugees, and Stateless Persons in the Philippines, sec. 1).

⁴⁷ DEPARTMENT CIRCULAR No. 58, *supra* note 2, sec. 9.

⁴⁸ *Id.*, sec. 6.

In judicial cases handled by the PAO, a person determined to be eligible for legal aid shall have to await the designation of a public attorney to handle his case. The policy is that the earliest applicant to seek assistance before the PAO shall be given priority or preference.⁴⁹ For non-judicial services, after requesting for legal opinion via phone or in person, the client's case shall be acted upon immediately. However, if the problem requires further study and research, the client shall wait and return at least three (3) working days thereafter.⁵⁰ Based thereon, an eligible member of the Target Group would have to observe the "first-come-first-served" policy and wait periods provided in the PAO's internal rules.

The cooperation of the Target Group is also required in order for the State to effectively provide legal aid services to them. The State may require the presentation of documents or request information from the Target Group. The State may also request their presence in interviews, conferences, hearings, or other proceedings, whether judicial or non-judicial. Non-compliance may affect the ability of the State to adjudicate their claims or represent them.

Process for Providing State Funded Legal Aid

State funded legal aid to the Target Group is provided chiefly by the Public Attorney's Office (PAO) and, to some extent, the Department of Justice (DOJ) in the Philippines.

The PAO is an autonomous and independent office but is considered an attached agency of the DOJ, for purposes of policy and program coordination.⁵¹ Its primary mandate is to provide indigent litigants free legal assistance in criminal, civil, labor, administrative and other quasi-judicial cases.⁵²

Prior to the enactment of the Administrative Code of 1987, as amended, the PAO's functions were exercised by the Citizen's Legal Assistance Office (CLAO). Republic Act No. 9406 further amended the Administrative Code of 1987 to explicitly outline the functions of the PAO, to wit:

"SEC. 3. A new SEC. 14-A is hereby inserted in Chapter 5, Title III, Book IV of Executive Order No. 292, otherwise known as the "Administrative Code of 1987", to read as follows:

"SEC. 14-A. Powers and Functions. – The PAO shall independently discharge its mandate to render, free of charge, legal representation, assistance, and counselling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases. In the exigency of the service, the PAO may be called upon

⁴⁹ 2021 PAO Manual, *supra* note 9, Chap. IX, art. 3, sec.1.

⁵⁰ *Id.*, Chap. XI, art. 2.

⁵¹ Republic Act No. 9406, sec. 2.

⁵² *Id.*

by proper government authorities to render such service to other persons, subject to existing laws, rules and regulations.”⁵³

As earlier discussed, the PAO is also obliged to render free legal assistance to the Target Group pursuant to the MOU with the UNHCR.

The DOJ, through its RSPPU, is also tasked with, among others, facilitating the identification, determination and protection of refugees and stateless persons.⁵⁴ It is notable that, rather than remain a mere arbiter, the RSPPU is tasked to take an active role in ensuring that the applicant is able to meet the burden of proof required to be recognized as a refugee or stateless person. DOJ Department Circular No. 058-2012 provides that “[T]he responsibility of proving a claim to refugee or stateless status is a shared and collaborative burden between the Applicant and the Protection Officer.”⁵⁵

Based hereon, the role of the RSPPU is more administrative in nature, as it is tasked to evaluate recognition claims, rather than to give direct legal assistance in the sense of continuous representation, drafting of applications and pleadings and documents in the course of the proceedings, or in-depth legal advice. However, as the RSPPU also shares the burden of proving a claim to refugee or stateless status, it is likely that there would also be some legal assistance rendered to the Target Group in the form of some legal advice and guidance on the application process, or referrals if the Target Group would need further assistance from other entities.

Financing of State Funded Legal Aid

Legal aid to the Target Group through the State mechanism is funded through the Philippines’ national budget, and, when able, support from the local governments.

It is an often-repeated doctrine in Philippine case law that “taxes are the nation’s lifeblood through which government agencies continue to operate and which the State discharges its functions for the welfare of its constituents.”⁵⁶ Through the money paid by its taxpayers, the government is able to provide various services, including legal assistance to the Target Group.

Such taxpayer money is properly allocated through the General Appropriations Act (GAA), an annual legislative enactment which earmarks the expenditure budget of the national government and its instrumentalities for a given fiscal year. The President may recommend the appropriations for the operation of the government as specified in the budget, and Congress shall pass the legislation on the same following the provisions stated in the 1987 Constitution.⁵⁷ If no GAA is passed by the end of the fiscal year, the

⁵³ *Id.*, sec. 3.

⁵⁴ DEPARTMENT CIRCULAR NO. 58, *supra* note 2, sec. 5.

⁵⁵ *Id.*, sec. 9.

⁵⁶ Commissioner of Internal Revenue, Petitioner, v. Next Mobile, Inc., G.R. No. 212825 (December 07, 2015).

⁵⁷ 1987 PHIL. CONST., art. 7, sec. 25.

GAA for the preceding fiscal year is deemed enacted and shall continue to be in force until a new GAA is passed.⁵⁸

The State funding for agencies such as the DOJ that process claims of the Target Group, or those that render aid to the Target Group, such as the PAO, are necessarily included in the GAA. For the PAO specifically, when Republic Act No. 9406 was first enacted, it provided that the amount needed for the initial implementation thereof shall be taken from the budget of the PAO under the current fiscal year's appropriations; thereafter, the amount shall be included in the annual GAA.⁵⁹ It should be noted, however, that the funds earmarked for such agencies are not exclusively allotted solely for legal assistance to the Target Group, but are appropriated to ensure that the said agencies can fulfill all of their functions.

Aside from appropriations in the national budget, Republic Act No. 9406 also provides that local government units, depending on their resources, are also authorized to offer financial aid or other means of support, such as stipends, free office space, equipment, manpower, among others, to the PAO.⁶⁰

Barriers

Availability of Interpretation/Translation Services

While the Target Group has the right to translation or interpretation services, the actual availability of the same is a persistent challenge to the delivery of legal assistance.

DOJ Department Circular No. 058-2012 provides that among the rights of an Applicant is the entitlement to "the services of an interpreter, if necessary, at all stages of the refugee status determination and for the purposes of the preparation of the written application and for the interview."⁶¹

The availability of translation or interpretation services in actual practice, however, is not always certain. Notably, there is no single provision under the 2021 Revised PAO Operations Manual requiring that the services of an official interpreter in the course of rendering legal assistance should be made available.

Members of the government themselves have admitted that language can cause a barrier in the legal aid services. In an interview, former Bureau of Immigration (BI) Commissioner, Hon. Siegfred B. Mison claimed that rendering legal assistance to non-nationals is rendered difficult due to the existence of language barriers.⁶² Because of trust issues

⁵⁸ *Id.*

⁵⁹ Republic Act No. 9406, sec. 11.

⁶⁰ *Id.*, sec. 16(e).

⁶¹ DEPARTMENT CIRCULAR NO. 58, *supra* note 2, sec. 10.

⁶² Rueda-Acosta, *supra* note 35, at 9.

engendered by the difficulty in understanding the language, some foreigners outrightly refuse the offer of help by the PAO. Certainly, the matter of language poses a critical impediment to the refugees' access to fair and speedy justice.

Geographic Limitations

Agencies providing state funded legal aid such as the PAO are available across the regions of the Philippines. However, their accessibility may still be limited by mobility and geographic factors.

Given the archipelagic geographical structure of the Philippines, access to legal aid would be severely restricted should it be concentrated in one area only. The Administrative Code of 1987 provides that regional offices of the departments and agencies comprising the executive branch shall be established according to law defining field service areas.⁶³ However, provincial and district offices may only be established by law when necessary.⁶⁴ Thus, agencies such as, but not limited to, the DOJ and the BI may have offices in each administrative region, but it would be dependent on the charters that created them whether provincial and district offices would be established.

As for the PAO, Republic Act No. 9406 mandates the creation of regional, provincial, city, and municipal district offices.⁶⁵ Currently, the PAO is composed of seventeen (17) regional offices.⁶⁶ The regional workplaces are strategically located nationwide to effectively respond to indigent litigants and other qualified applicants. Within such regional bureaus, there are also provincial, city, and municipal district offices duly established. The organizational structure of the PAO is likewise arranged in such a manner so as to fulfill its mandate of providing efficient and reachable services to those in need of legal aid.

As of 2021, the PAO has seventeen (17) regional offices, three hundred thirty-nine (339) district offices, five (5) sub-district offices, two (2) Regional Special and Appealed Cases Units (RSACUs) in Cagayan de Oro and Cebu City, and two (2) satellite offices.⁶⁷ Most of these units are located at the local government offices and Halls of Justice, while some are located in rented office spaces.⁶⁸

While the presence of PAO reaches across the regions of the Philippines, access to the same may still be hampered due to geographic and mobility limitations. As noted by the PAO, most of their offices are found in local government offices, within the courts, or in

⁶³ Instituting the "Administrative Code of 1987", Executive Order No. 292, Book IV, Chap. 5, sec. 21 (1987).

⁶⁴ *Id.*

⁶⁵ Republic Act No. 9406, sec. 4.

⁶⁶ Public Attorney's Office, 2021 Accomplishment Report of the Public Attorney's Office 5, available at [https://pao.gov.ph/UserFiles/Public_Atorney's_Office/file/2020%20PAO%20Accomplishment%20Report%20\(Narrative\).pdf](https://pao.gov.ph/UserFiles/Public_Atorney's_Office/file/2020%20PAO%20Accomplishment%20Report%20(Narrative).pdf) (last accessed June 30, 2022).

⁶⁷ *Id.*, 5.

⁶⁸ *Id.*, 5.

rented spaces.⁶⁹ While these public spaces are, ideally, located in central locations that are accessible to the general public, those who live in more remote areas may not have the same level of ease of access as those who live in the town or city proper. There are areas in the Philippines which lack sufficient infrastructure (such as roads or bridges) or public transportation that would enable potential clients to reach the PAO offices. Coupled with the issue of mobility is the cost entailed in having to travel to these locations.

Other Barriers

Documentary Requirements

While the Philippine legal framework recognizes certain accommodations given to the Target Group, as a general rule, compliance with the same procedures and documentary requirements as nationals and/or residents of the Philippines for various acts is required. Moreover, the absence of necessary documents on the part of the Target Group adds to the struggle in the provision of legal assistance and recognition of their rights.

There are some accommodations provided to the Target Group in order to recognize their rights. For example, a refugee or stateless person may be issued a travel document in lieu of a passport.⁷⁰ They may also submit an affidavit stating the facts that would show they are capacitated to contract marriage, in lieu of a certificate of legal capacity to contract marriage issued by their respective diplomatic or consular officials, if they would want to contract marriage in the Philippines.⁷¹

As a general rule, however, the Target Group must comply with procedural and documentary requirements outlined to avail of certain acts, rights, and privileges. Even in the case of naturalization, while the Supreme Court of the Philippines appeared to take a more liberal approach in *Republic of the Philippines v. Karbasi*, it should be noted that Karbasi's petition to be naturalized was granted, not as an exception to the requirements of naturalization, but because he was able to submit evidence and sufficiently prove that he possessed the needed qualifications.⁷²

There are likewise no stated exemptions from complying with the documentary requirements for the application for recognition of status as a refugee or stateless person under DOJ Circular No. 058-2012. However, the Protection Officer has the duty to evaluate each application on the basis of all relevant evidence,⁷³ which, based on Section 11 of DOJ Circular No. 058-2012, may be oral and/or documentary.⁷⁴ As such, the lack of documents would not necessarily preclude the recognition of status as a refugee or

⁶⁹ *Id.*, 5.

⁷⁰ Philippine Passport Act of 1996, sec. 13 (e).

⁷¹ The Family Code of the Philippines, art. 21.

⁷² *Republic of the Philippines v. Kamran F. Karbasi*, G.R. No. 210412 (July 29, 2015).

⁷³ DEPARTMENT CIRCULAR NO. 58, *supra* note 2, sec. 31.

⁷⁴ *Id.*, sec. 11.

stateless person, as oral testimony is still considered. Admittedly, however, the presence of supporting documents would be ideal in order to lend strength to the application.

As regards the receipt of legal assistance from the PAO, the 2021 Revised PAO Operations Manual does not state any exception in favor of the Target Group from having to submit the documentary requirements required to prove indigency. This poses a challenge to the Target Group. The Certifications that should be presented should be obtained from the relevant Social Welfare and Development office, or from the Barangay Chairman having jurisdiction over their place of residence within the Philippines. This may be more challenging to secure for members of the Target Group who are only residing temporarily in an area and may move from one place to another. Moreover, the proof that their income does not exceed the threshold amounts may not be readily available, or if available, not current.

The PAO has likewise admitted that the absence of documents makes the verification processes challenging. According to Hon. Persida Rueda-Acosta, the Chief Public Attorney of PAO, the verification process of the refugee's personal information through their country representative or embassy is complicated primarily because of the lack of the identity documents and other required paperwork.⁷⁵ Moreover, the process of qualifying for legal assistance is rendered even more difficult due to the absence of bilateral arrangements between the Philippines and the foreign embassy.⁷⁶

Cost Implications

While the Target Group is able to receive free legal aid from PAO and exemption from payment of docket and legal fees, this appears to be dependent on whether they can qualify as an indigent, as previously discussed. Moreover, the costs associated with certain legal processes are not limited to attorney's fees alone. In a message on the Supreme Court's promulgation of the Rule on Facilitated Naturalization of Refugees and Stateless Persons, for example, the Chief Public Attorney noted that while the PAO's clients "enjoy free representation, as well as exemption from payment of docket and legal fees, it has been observed that rigid qualifications, costly publications, and lengthy court proceedings preclude POC clients from obtaining relief from our courts."⁷⁷

The Rule on Facilitated Naturalization of Refugees and Stateless Persons, however, seeks to alleviate some of the cost implications in the naturalization process by allowing publication and posting of the petition to be done online through the Official Gazette website.⁷⁸ Moreover, petitioners need only to pay fifty percent (50%) of the prescribed docket and other legal fees, unless exempted by law.⁷⁹ The PAO has noted that these

⁷⁵ Rueda-Acosta, *supra* note 35.

⁷⁶ *Id.*

⁷⁷ Rule on Facilitated Naturalization of Refugees and Stateless Persons, *supra* note 5, Message from the Desk of the Chief Public Attorney, p. xiii (Feb. 15, 2022).

⁷⁸ *Id.*, sec. 12.

⁷⁹ *Id.*, sec. 27.

changes “will greatly impact the PAO’s rendition of effective and adequate legal services to its indigent clients, particularly the POCs.”⁸⁰ Notably, even if a POC does not qualify as an indigent, the costs associated with the naturalization procedure are significantly lessened under the said Rule. It must be noted, however, that these cost alleviations are limited to the naturalization process and may not be available for other legal matters that the Target Group may need assistance with.

High Turnover/Quality of Service

The PAO currently suffers from a high turn-over rate of public attorneys. This may affect the available representation available to the Target Group, especially in regional and district offices.

According to the Prefatory Statement of its 2021 Accomplishment Report, the PAO has a ratio of about four thousand one hundred seventy (4,170) clients for each public attorney, about three hundred thirty-eight (338) cases per public attorney.⁸¹ The 2021 Accomplishment Report cited the presence of a high turn-over rate of public attorneys, due to, among others, a heavy workload, and the decision of some to transition to private practice, the National Prosecution Service, the judiciary, or other agencies and government owned and controlled corporations.⁸²

Republic Act No. 9406 mandates that there should be a ratio of one (1) public attorney to one (1) organized sala and the corresponding administrative and support staff thereto.⁸³ The 2021 Accomplishment Report provides that the current ratio stands at 1:2, as there are more organized courts than there are authorized positions for public attorneys; more plantilla positions are needed to realize the 1:1 target.⁸⁴

Moreover, among the continuing plans and programs of the PAO is to increase the number of lawyers and support staff assigned in the Regional and District offices, for better efficiency in the delivery of services.⁸⁵

Based on the foregoing, it would appear that the number of clients and cases to be handled by the PAO far outweighs the number of authorized and/or available public attorneys at present. While the PAO would still be able to render assistance to the Target Group if found eligible, the public attorneys available are disproportionate to the amount of clients that need assistance. That one of the continuing programs of PAO is to increase in the number of lawyers in its Regional and District Offices further suggests that there is indeed a shortage of personnel, especially in other localities of the Philippines. Coupled with the geographical limitations discussed previously, these factors may affect

⁸⁰ *Id.*, p. xiii.

⁸¹ *Id.*, p. 4.

⁸² *Id.*, p. 6.

⁸³ Republic Act No. 9406, sec. 7.

⁸⁴ Public Attorney’s Office, *supra* note 66, at 8-9.

⁸⁵ *Id.*, 48.

the availability of enough public attorneys who can efficiently address the needs of the Target Group.

Lack of Specialized Representation

State funded agencies that are able to render legal aid to the Target Group also handle a variety of other concerns and are not specialized to handle the needs of the Target Group.

The RSPPU is a unit within the legal staff of the DOJ; it is headed by the Chief State Counsel, who may be assisted by such number of personnel of the DOJ and officers of the BI necessary to discharge its mandate.⁸⁶ DOJ Circular 058-2012 does not explicitly state that members of the RSPPU are exclusively detailed to the said unit; this suggests that the members may perform other functions in line with their other tasks as part of the DOJ or BI.

On the part of the PAO, public lawyers are tasked to represent and render aid to all qualified persons, and not just the Target Group. The UNHCR has been able to provide training to PAO lawyers on matters involving refugee determination even during the pandemic,⁸⁷ but the number of participants is limited, and there appears to be no pool of public lawyers who are specialized in handling matters involving the Target Group.

All told, there is no central body tasked to exclusively oversee the determination and protection of the Target Group in the Philippines.

Members of the 18th Congress of the Philippines have attempted to address this gap by filing bills relating to the protection of refugees and stateless persons. In the Senate, Senate Bill No. 379 was filed, while in the House of Representatives, a counterpart was filed in the form of House Bill No. 03425; both are entitled “An Act Protecting the Rights of Refugees and Stateless Persons, Establishing the Refugees and Stateless Persons Protection Board, and for Other Purposes”.

Both bills, which have similar contents, call for the establishment of a Refugees and Stateless Persons Protection Board (the “Protection Board”), which shall serve as the central authority in matters relating to the determination of refugee or statelessness status and eligibility for protection.⁸⁸ Accordingly, the RSPPU would be abolished, and the BI’s authority to enforce, among other things, the admission and registration of aliens

⁸⁶ DEPARTMENT CIRCULAR No. 58, *supra* note 2, sec.5.

⁸⁷ Jeffrey Damicog, *PAO to Continue Assisting Refugees, Asylum Seekers, Displaced Persons*, MANILA BULLETIN, May 9, 2021, available at <https://mb.com.ph/2021/05/09/pao-to-continue-assisting-refugees-asylum-seekers-displaced-persons/> (last accessed July 25, 2021).

⁸⁸ An Act Protecting the Rights of Refugees and Stateless Persons, Establishing the Refugees and Stateless Persons Protection Board, and for Other Purposes, S.B. No. 379, 18th Cong. 1st Reg. Sess. Sec. 9 (July 11, 2019); An Act Protecting the Rights of Refugees and Stateless Persons, Establishing the Refugees and Stateless Persons Protection Board, and for Other Purposes, H.B. No. 03425, 18th Cong. 1st Reg. Sess. Sec. 9 (Aug. 5, 2019).

in the case of status determination refugees and stateless persons would be transferred to the Protection Board.⁸⁹

Also included in the Protection Board's duties is the promotion of programs related to the protection of refugees and stateless persons, coordination with the UNHCR, and the creation of reports to the United Nations in accordance with their obligations under the 1951 and 1954 Conventions and the Protocol.⁹⁰

While the Secretary of Justice, Secretary of Foreign Affairs, Commissioner of the BI and the National Security Adviser (or their representatives) shall sit as ex-officio members, the President shall also appoint four (4) other members for a non-renewable term of five (5) years. These four (4) appointees:

“shall include a representative from the civil society with a strong advocacy and experience in refugee crisis management; Provided that there shall be appointed three (3) lawyers who shall at least have the qualification of a regional trial court judge; Provided further, that all four (4) appointees shall have relevant training and experience in either areas of human rights, immigration, social work or refugee protection.”⁹¹

The specialized qualifications of the members of the Protection Board appear to be aimed towards ensuring that policy formation shall be able to address the specific needs of refugees and stateless persons.

Another relevant feature of both Senate Bill No. 379 and House Bill No. 03425 is the recognition of the right of refugees and stateless persons to legal remedies in courts and quasi-judicial bodies, as well as legal assistance from law enforcement, administrative, and constitutional bodies.⁹²

Both bills also adopt the process for determination of refugee or statelessness status in Department Circular No. 058-2012, with some notable additions. If an Applicant is with disability, he or she will be provided the assistance needed to present his or her case to the Board, including, but not limited to medical support and sign language interpreters.⁹³ Moreover, the bills also provide for provisional measures, which the applicant (through his or her Protection Officer and the Protection Board Secretary) may apply for to safeguard his or her personal security, liberty, and property while the application is pending; this is without prejudice to the authority of the Department of Foreign Affairs

⁸⁹ *Id.*

⁹⁰ *Id.*, sec. 11.

⁹¹ *Id.*, sec. 10.

⁹² *Id.*, sec. 6-7.

⁹³ *Id.*, sec. 20.

(DFA) and Task Force on Refugee Assistance and Administration to issue identity papers and travel documents.⁹⁴

There appears, however, to be little to no movement in the passage of these bills. Both are still pending in their respective committees even after almost two (2) years since their filing.⁹⁵ Moreover, should this bill become law, it does not address, by itself, the issues on specialized representation needed by the Target Group, such as with respect to, among others, documentation, translation, cultural sensitivity, and other matters. These are policy measures that the Protection Board, however, could be equipped to address.

COVID-19 Barriers

The COVID-19 pandemic has further caused difficulties in the access to legal aid by the Target Group.

The current pandemic has also affected the Target Group's access to legal aid. Due to the COVID-19 situation, the Philippines has been placed under various levels of community quarantine, resulting in closures or skeleton workforces for government agencies, or temporary halting of certain services. Significantly, at the beginning of the community quarantine, the DOJ issued Department Circular No. 11, series of 2020, which suspended temporarily the receipt of applications for recognition of refugees and statelessness status.⁹⁶ However, foreign nationals may contact the support staff of the Department's Refugees and Stateless Persons Protection Unit for urgent concerns.

The pandemic has also brought about an unprecedented challenge to the court system and its legal processes. Balancing the need to protect the right to life of the public with the need to continue the delivery of fundamental legal services, the PAO has been constrained to resort to alternative no-contact modalities.⁹⁷ The PAO has noted that in 2020, it was able to provide services to one hundred forty-six (146) POCs.⁹⁸

The 2021 Accomplishment Report of the PAO further noted that the COVID-19 pandemic made it difficult to provide face-to-face legal services to indigent and other qualified clients.⁹⁹ For example, the PAO's ability to achieve a 92.75% Alternative Dispute Resolution (ADR) success rate was hampered due to, among others, protocols restricting

⁹⁴ An Act Protecting the Rights of Refugees and Stateless Persons, Establishing the Refugees and Stateless Persons Protection Board, and for Other Purposes, S.B. No. 379, 18th Cong. 1st Reg. Sess. Sec. 29 (July 11, 2019); An Act Protecting the Rights of Refugees and Stateless Persons, Establishing the Refugees and Stateless Persons Protection Board, and for Other Purposes, H.B. No. 03425, 18th Cong. 1st Reg. Sess. Sec. 29 (Aug. 5, 2019).

⁹⁵ To date, Senate Bill No. 379's has been pending in the Committee since July 31, 2019. House Bill No. 03425's status is pending with the Committee on Justice since August 7, 2019.

⁹⁶ Department of Justice, Suspension of Receipt of Applications for Special Non-immigrant Visas under Section 47(a)(2) of the Philippine Immigration Act of 1940, as amended, and Applications for Recognition of Refugee Status and Statelessness [DEPARTMENT CIRCULAR NO. 11-2020] (March 13, 2020).

⁹⁷ *Id.*

⁹⁸ Damicog, *supra* note 87.

⁹⁹ Public Attorney's Office, *supra* note 66, 2.

face-to-face services such as mediation and conciliation services, lack of ample office space to comply with physical distancing requirements, minimal attendance of parties, low effectivity of the transition to electronic means given the lack of access to the same by indigent litigants, and absence of human elements and rapport when conducting proceedings online.¹⁰⁰ Moreover, physical jail visitation was significantly restricted.¹⁰¹ The number of terminated cases for 2021 was also kept down.¹⁰²

The PAO has instituted several measures to respond to these challenges. The 2021 PAO Accomplishment Report stated that lines of communication were strengthened between PAO lawyers and their clients through the use of official work phones, conduct of home visits to clients, and use of social media.¹⁰³ The PAO also launched an online legal counselling and legal information dissemination program in 2021 known as #PALA (Persida Acosta's Legal Advice) Program, which is broadcasted on several social media sites and streaming platforms.¹⁰⁴ Therein, clients can directly interact with the Chief Public Attorney, who shall render legal advice, opinions and teachings on legal concerns typically encountered by the general population.¹⁰⁵ Electronical consultation and representation (termed as "e-dalaw") were also utilized in lieu of physical jail visitation.¹⁰⁶ The PAO was also directed to remain on call even after hours to respond to urgent requests for legal assistance.¹⁰⁷ The 2021 Accomplishment Report notes that the PAO currently has a 83.05% favorable disposition rate for its cases, which admittedly surpasses the 81.34% target under the GAA for 2021.¹⁰⁸

The 2021 Accomplishment Report further noted that in 2021, the PAO served a total of two thousand twenty (2,020) clients with special legal services pursuant to the PAO law, as well as various Memorandums of Agreement (MOAs) of the PAO with government offices.¹⁰⁹ However, no data was provided on which of these, if any, are from the Target Group.

Indeed, remote legal counselling has become prevalent and extensive in the present times in view of the public health crisis. Nevertheless, the adoption of information technology in rendering legal assistance raises several issues of concern as to its effectiveness and quality. Needless to say, virtual proceedings may hamper or compromise the effectiveness of lawyer-client communications.

¹⁰⁰ *Id.*, 10.

¹⁰¹ *Id.*, 13.

¹⁰² *Id.*, 24-25.

¹⁰³ *Id.*, 31.

¹⁰⁴ *Id.*, 3.

¹⁰⁵ Public Attorney's Office, *supra* note 66, 31.

¹⁰⁶ *Id.*, 13.

¹⁰⁷ *Id.*, 14.

¹⁰⁸ *Id.*, 4.

¹⁰⁹ *Id.*, 20.

NON-STATE FUNDED LEGAL AID

Eligibility, Nature, and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

Apart from the State mechanism, there are several private organizations in the Philippines that are able to render legal aid to the Target Group for asylum-related matters.

The 1951 and 1954 Conventions place the obligation to render free access to courts and legal assistance to the Target Group on the State Party. Nevertheless, the Philippines also has a number of private or non-governmental organizations (NGOs) that provide legal assistance to the Target Group. These organizations, generally, cater to various sectors of society and are not limited to providing legal aid services to just the Target Group. Some of these private sector organizations are discussed separately hereunder. Unlike the PAO, these private organizations are not restricted to extending legal assistance only to indigents; however, these organizations may determine through their internal rules the qualifications for free legal aid.

Legal Clinics

Engaging attorneys that provide legal services in order to advance and aid the interests of disadvantaged persons is one of the key challenges that societies face in advancing the rule of law, human rights, and empowerment of the poor.¹¹⁰ One underutilized and underappreciated mode of advancing this cause is Clinical Legal Education.¹¹¹

Clinical Legal Education is a method of educating law students where they would take on some aspect of a case and conduct it as it would be conducted in the real world, thereby giving them firsthand experience on how the law is applied in actual case scenarios.¹¹² Former Chief Justice Lucas P. Bersamin emphasized the importance of university legal clinics, opining that it is a mode by which the State can respond to the continuously growing needs of representation by the marginalized sectors who cannot afford legal services.¹¹³

Legal clinics may be divided into three (3) categories, namely:

¹¹⁰ Stephen Golub, *Forging the Future: Engaging Law Students and Young Lawyers in Public Service, Human Rights, and Poverty Alleviation 2*, Open Society Justice Initiative (2004), available at <http://www.gsdrc.org/docs/open/eb100.pdf> (last accessed June 30, 2021).

¹¹¹ *Id.*, 3.

¹¹² Shweta Durge, Clinical Legal Education – An Overview, available at <https://www.lawyersclubindia.com/articles/clinical-legal-education-an-overview-2332.asp> (last accessed June 30, 2021).

¹¹³ Supreme Court of the Philippines, *CJ Bersamin Underscores Importance of Legal Aid Clinics in Improving Access to Justice*, available at <https://sc.judiciary.gov.ph/7775/> (last accessed June 30, 2021).

1. Simulation clinics, such as moot courts where cases are acted out in their entirety;
2. In-house real client clinics which are based in the law school where students take on actual clients from the public where advice or assistance may be given; and
3. Independent real client clinics where the clinic is not overseen by the college or the university.¹¹⁴

Legal clinics have been present in the Philippines since the 1980's. The Ateneo de Manila University ("Ateneo"), specifically its College of Law's Human Rights Center (AHRC), operates as an NGO engaged in the field of public interest law and at the same time acts as a legal clinic of the university. The operations of the legal clinic include students dabbling in research and assistance pertaining to the AHRC's national and international efforts, mainly concerning social and economic rights.¹¹⁵ The AHRC's main areas of work include, among others, human rights training and promotion and protection of marginalized groups through their several help desks.¹¹⁶ Some of the organizations that the AHRC has worked with include the UNHCR, United Nations Global Initiative to Fight Human Trafficking, and Save the Children.

Ateneo also houses the Ateneo Legal Services Center, which acts as a provider of legal service to the impoverished and marginalized sectors. This is facilitated through a supervised student practice and clinical legal education program, where law students participate in the preparation and the actual litigation of cases of indigent clients wherein students appear before courts in accordance with the Law Student Practice Rule.¹¹⁷ Among the legal services it is able to offer are (1) legal representation; (2) legal consultation and advice; (3) drafting of pleadings, affidavits, and other legal documents; (4) training and capacity building programs; and (5) clinical legal education program.¹¹⁸

The University of the Philippines (UP) also features a legal aid center and a clinical education program that requires its senior students to render one hundred twenty-six (126) hours of legal assistance in favor of indigent clients and represent them in public interest cases.¹¹⁹

The San Beda University College of Law also conducts its clinical legal education program through the San Beda Legal Aid Bureau, which was established in 2004.¹²⁰ In 2013, the said Bureau entered into a partnership with the UNHCR.¹²¹

¹¹⁴ Durge, *supra* note 112.

¹¹⁵ Golub, *supra* note 110, at 11.

¹¹⁶ Ateneo University – School of Law, Ateneo Human Rights Center – Areas of Work, available at <https://www.ateneo.edu/aps/law/ateneo-law-center/administrators-and-staff-ahrc> (last accessed July 27, 2021).

¹¹⁷ Ateneo de Manila University, Ateneo Legal Services Center, available at <https://www.ateneo.edu/aps/law/ateneo-law-center/ateneo-legal-services-center> (last accessed June 30, 2021).

¹¹⁸ Ateneo Law School, Ateneo Legal Services Center – Services Offered, available at <http://www.ateneo.edu/aps/law/offices/services-offered> (last accessed July 28, 2021).

¹¹⁹ Golub, *supra* note 110, at 11.

¹²⁰ San Beda University, San Beda Legal Aid Bureau, available at <https://sanbedalegalaidbureau.wordpress.com/about/> (last accessed June 30, 2021).

¹²¹ *Id.*

Non-governmental Organizations (NGOs)

NGOs have played a significant role in aiding refugees through their human rights activities. NGOs have been at the forefront of lobbying for legislation that will protect refugees and have been acting as a catalyst for refugee integration through advocating, participating and influencing policy formulation.¹²² NGOs may directly or indirectly influence policy formulation through directly communicating the data that they have gathered to concerned government officials, and indirectly through mobilizing domestic support in the domestic sphere to generate new norms amongst the public.¹²³ Not only do NGOs assume an important role in policy formulation, but they also provide assistance in housing, livelihood, provision of necessities and most importantly securing the Target Group's right to asylum and addressing violations of a refugee's human rights.¹²⁴

In the Philippines, several NGOs (such as Amnesty International Philippines,¹²⁵ IDEALS Inc.,¹²⁶ Community and Family Services International,¹²⁷ and the Sentro ng Alternatibong Lingap Panlegal (SALIGAN, Inc.) have extended and have continued to extend their services to the Target Group in circumstances where they defend refugee and migrant rights, and assist in acquiring documents for citizenship and civil registration.

Other NGOs present in the Philippines that provide legal services to the Target Group include the following:

1. Christian Solidarity Worldwide - Southeast Asia (CSW-SEA) – A recently established organization in the Philippines, its major activities are to raise awareness in the community, to file petitions and statements of concern to the relevant government agencies/entities, and to provide support and encouragement to the oppressed.
2. Community and Family Services International (CFSI) – CFSI conducts Urban Refugee Projects in collaboration with UNHCR to provide counselling and legal assistance; ensure access to basic services such as education, health care, and social services; and promote greater cooperative effort to the benefit of refugees.

¹²² Vishnu Mraleedharan and Thomas Andrew Bryer, *Refugee Crisis and the Role of NGO Lobbying in Florida*, 19 Public Policy and Administration 22, 32 (May 2020).

¹²³ Youngwan Kim, *The Unveiled Power of NGOs: How NGOs Influence States' Foreign Policy Behaviors 2* (2011) (unpublished Ph.D. Dissertation, University of Iowa).

¹²⁴ Christiane Berthiaume, *Refugees Magazine Issue 97 (NGOs and UNHCR) - NGOs: Our Right Arm*, available at <https://www.unhcr.org/publications/refugeemag/3b53fd8b4/refugees-magazine-issue-97-ngos-unhcr-ngos-right-arm.html> (last accessed June 30, 2021).

¹²⁵ Amnesty International Philippines, *Reports on the Philippines*, available at <https://www.amnesty.org.ph/2014/04/reports-on-the-philippines/> (last accessed June 31, 2021).

¹²⁶ UNHCR Philippines, *UNHCR Lauds Philippines for Landmark Mechanism to Protect Refugees and the Stateless*, available at <https://www.unhcr.org/ph/10464-unhcr-lauds-philippines-landmark-mechanism-protect-refugees-stateless.html> (last accessed June 31, 2021).

¹²⁷ CFSI Philippines, *Birth Registration: A Simple Act That Gives Identity and Access to Marawi's IDPs*, available at <https://cfsi.ph/birth-registration-a-simple-act-that-gives-identity-and-access-to-marawis-idps/> (last accessed June 31, 2021).

3. Economic, Social and Cultural Rights Asia, Inc. (ESCR-Asia, Inc.) – It is a Philippine-based regional human rights institution, engaged in advocacy and training.
4. Vietnamese Overseas Initiative for Conscience Empowerment (VOICE) – It is a non-profit organization, registered in the United States since 2007 and has been operating in the Philippines since 1997.

The Alternative Law Groups, Inc. (ALG) is a coalition of twenty-three (23) legal resource NGOs that endeavors to assist and advance the rights of the poor and marginalized groups in the Philippines, through pursuing reforms in the justice system, providing help accessing judicial and quasi-judicial mechanisms to enforce the rights of the marginalized groups and actual representation in litigation.¹²⁸ Among the organizations affiliated with the ALG include the Alternative Law Research and Development Center Inc. (ALTERLAW), the Children’s Legal Bureau, and the Humanitarian Legal Assistance Foundation Inc.

Lawyers and Law Firms Doing Pro Bono Cases for Public Interest Causes

One of the non-government entities that is also engaged in providing free legal aid to indigent and disadvantaged groups are private lawyers and law firms. Pro Bono Legal Aid Service, as defined by the Supreme Court in the Community Legal Aid Service Rule, is the rendering of legal services without charge in favor of indigent parties, other persons of limited means, individuals or groups unable to secure free legal assistance from the Public Attorney’s office by reason of conflict of interest and public interest cases involving a sector of society who cannot acquire legal assistance.¹²⁹

Philippine law firms that have done pro bono work specifically related to the Target Group include Sycip Salazar Hernandez & Gatmaytan, with their project “Right to Work for Refugees”.¹³⁰ They have likewise engaged in working towards advancing a refugee’s right to employment.¹³¹

Several measures have been adopted to encourage lawyers in private practice to do pro bono work. The Community Legal Aid Service Rule provides that, as a general rule, lawyers who are admitted to the Philippine Bar in 2018 onwards are required to render one hundred twenty (120) hours of pro bono legal aid services to qualified parties within their first year of admission.¹³² However, in a subsequent en banc Resolution, this

¹²⁸ Alternative Law Groups Inc., The Organization, available at <http://www.alternativelawgroups.ph/index.php/about-us/the-organization> (last accessed June 31, 2021).

¹²⁹ Supreme Court of the Philippines, Rules on Community Legal Aid and Service, A.M. No. 17-03-09-SC [A.M. No. 17-03-09-SC], sec. 4 (October 22, 2017).

¹³⁰ Legal 500, Sycip Salazar Hernandez & Gatmaitan, available at <https://www.legal500.com/firms/31156-sycip-salazar-hernandez-gatmaitan/30499-manila-philippines/#> (last accessed June 31, 2021).

¹³¹ Thomson Reuters Foundation, Summary of Applicable International and Regional Conventions and Frameworks for Refugees in Asia, available at <https://www.elrha.org/wp-content/uploads/2018/09/REPORT-ACCESS-TO-SAFE-AND-LAWFUL-EMPLOYMENT-FOR-REFUGEES-IN-ASIA-1.pdf> (last accessed June 31, 2021).

¹³² A.M. No. 17-03-09-SC, *supra* note 129, sec. 5.

requirement was suspended in light of the implementation of the Law Student Practice Rule.¹³³ Moreover, in conjunction with Republic Act No. 9999, or the “Free Legal Assistance Act of 2010”, legal counsels are also granted a tax incentive for affording legal services to indigent clients up to ten percent (10%) allowable deduction on their gross income.¹³⁴ However, as of 2020, the Bureau of Internal Revenue (BIR) has not yet made implementing rules and regulations to enforce this tax incentive.¹³⁵

Integrated Bar of the Philippines

Bar Associations are groups of legal professionals, found locally or internationally, that are organized primarily to address issues affecting the legal profession.¹³⁶ Some bar associations in the Philippines were established with a primary intention to provide legal aid to indigents and other disadvantaged groups and sectors in the society. Assistance is provided through either advancing policy reforms that aim to augment the rights of the marginalized, providing day to day necessities or legal representation.

The Integrated Bar of the Philippines (IBP) is the official organization of lawyers whose names are included in the Roll of Attorneys of the Philippine Supreme Court.¹³⁷ Local chapters of the IBP are established in every province and in certain specific political subdivisions or areas.¹³⁸

Among the programs of the IBP include free legal aid services and legal outreach programs. Recently, the IBP entered into a Memorandum of Agreement with the DOJ to provide legal assistance (including consultation, mediation, conciliation, and arbitration) to those who are not qualified to avail themselves of the PAO’s services.

¹³³ Supreme Court of the Philippines, Resolution Re: Rules on Community Legal Aid and Service, A.M. No. 17-03-09-SC [A.M. No. 17-03-09-SC] (September 3, 2019).

¹³⁴ An Act Providing a Mechanism for Free Legal Assistance and for Other Purposes, [Free Legal Assistance Act of 2010], Republic Act No. 9999, sec. 5 (2010).

¹³⁵ Maila Ager, *Lapid Urges BIR to Act on ‘Lapid Law’*, PHIL. DAILY. INQ., Sept. 14, 2020, available at <https://newsinfo.inquirer.net/1335250/lapid-urges-bir-to-act-on-lapid-law> (last accessed July 27, 2021).

¹³⁶ Britannica, Bar Association, available at <https://www.britannica.com/topic/bar-association> (last accessed June 31, 2021).

¹³⁷ THE INTEGRATED BAR OF THE PHILIPPINES, rule 139-A, sec 1.

¹³⁸ “Sec. 4. Chapters. – A Chapter of the Integrated Bar shall be organized in every province. Except as hereinbelow provided, every city shall be considered part of the province within which it is geographically situated. A separate Chapter shall be organized in each of the following political subdivisions or areas:

- (a) The sub-province of Aurora;
- (b) Each congressional district of the City of Manila;
- (c) Quezon City;
- (d) Caloocan City, Malabon and Navotas;
- (e) Pasay City, Makati, Mandaluyong and San Juan del Monte;
- (f) Cebu City; and
- (g) Zamboanga City and Basilan City.

xxx” *Id.*, sec. 4.

The United Nations High Commissioner for Refugees

The UNHCR has also had a presence in the Philippines for many years. It works closely with the various instrumentalities of the Philippine government, such as the DOJ in the determination of the status of refugees and stateless persons and claims of asylum.¹³⁹ It also “partners with civil society for the advocacy, assistance and attainment of solutions for refugees and asylum seekers.”¹⁴⁰

The UNHCR’s presence is currently established around the Philippines, with particular focus on Manila and Mindanao.¹⁴¹ Its work is centered on providing assistance and addressing issues of asylum seekers, refugees, stateless persons, and internally displaced persons.¹⁴²

Scope of Non-State Funded Legal Aid

The Supreme Court, as well as the internal rules of private organizations, may limit the scope of legal aid services that can be provided to the Target Group.

The 1987 Constitution of the Philippines provides that the Supreme Court has the power to promulgate rules concerning “pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged.”¹⁴³ As such, the Supreme Court has the authority to define and limit the practice of law.

The legal aid services provided by non-state funded organizations generally extend to non- asylum related matters.

The representation offered by University Legal Clinics, such as those organized by the Ateneo and the University of the Philippines, are not limited to asylum-related matters. In fact, the services offered extend to a wide range of matters, as allowed and limited by law in accordance with the rules enshrined in Section 4 of the Law Student Practice Rule, as will be discussed in further detail below.¹⁴⁴

It is also recognized that the roles that NGOs that commit themselves to in aiding refugees are not strictly restricted to asylum-related matters, as they too engage in

¹³⁹ UNHCR, Fact Sheet: Philippine Operations, available at <https://www.unhcr.org/ph/philippine-operations> (last accessed July 24, 2021).

¹⁴⁰ *Id.*

¹⁴¹ UNHCR, UNHCR in the Philippines, available at <https://www.unhcr.org/ph/unhcr-in-the-philippines> (last accessed July 24, 2021).

¹⁴² *Id.*

¹⁴³ 1987 PHIL. CONST. art, 8, sec. 5.

¹⁴⁴ Supreme Court of the Philippines, Rule 138-A Law Student Practice, A.M. No. 19-03-24-SC [A.M. No. 19-03-24-SC], sec. 4 (June 25, 2019).

activities such as providing everyday necessities (food and water), setting up schools and hospitals, and being channels of information in crisis situations.¹⁴⁵

There are also, generally, no specific limitations on the matters as to which private lawyers, firms, and bar associations may assist the Target Group. Thus, unless their internal rules or personal limitations or qualifications, as the case may be, limit the matters that they may assist on, they too are free to advise, represent, and provide other legal services, to the Target Group on non-asylum related issues/matters.

However, the scope of legal aid services that can be provided to the Target Group by non-state funded legal aid providers, may be limited by practice rules or internal rules of private organizations.

For instance, the Supreme Court promulgated A.M. No. 19-03-24-SC and Rule 138-A of the Rules of Court, also known as the Law Student Practice Rule. The type of service that can be rendered by law students under their respective legal clinics is described as a form of limited practice of law.¹⁴⁶

As such, the type of service that can be given and the judicial regions where a student may practice law is dependent on the type of certification that the student acquires. Under the rules there are two types of certification, namely: Level 1 and Level 2. A Level 1 certification only allows the student to interview, give legal advice, draft legal documents, and to negotiate for and on behalf of the client amongst others, and they may only practice within the judicial region where the law school is found and can represent the client only in quasi-judicial or administrative bodies. On the other hand, activities permitted under a Level 2 certification include, aside from those already mentioned, assisting in taking depositions and preparing judicial affidavits, appearing on behalf of the client at any stage of the proceedings before any court and quasi-judicial or administrative bodies and appearance on behalf of a government agency in the prosecution of criminal action.¹⁴⁷

Other limitations imposed, but which do not affect the scope of services that may be rendered by the student, include: a requirement that for the student to personally appear before second-level courts a duly assigned supervising lawyer must be present and for the supervising lawyers to personally sign the pleadings, briefs, or other similar documents made by the student before they can be submitted.¹⁴⁸

For legal counsels, Bar Associations, and NGOs who have their respective counsels doing pro bono services, the limitations under the Code of Professional Responsibility which provide for certain limitations still govern the relations between the counsel providing

¹⁴⁵ Berthiaume, *supra* note 124.

¹⁴⁶ A.M. No. 19-03-24- SC, *supra* note 144, sec. 1.

¹⁴⁷ *Id.*, sec. 4.

¹⁴⁸ *Id.*, sec. 11.

legal aid and the client. Such limitations include the prohibition of representing clients with conflicting interests unless with the written consent of all parties after a full disclosure of facts have been given.¹⁴⁹

Lawyers who are employees of an organization (such as in-house counsels) may also face restrictions on the legal services they can provide based on the internal rules of the companies they work for. For example, in-house counsels may only be allowed to represent pro bono clients if the terms of employment permit them to do so.¹⁵⁰

Financing of Non-State Funded Legal Aid

Private organizations providing legal aid services to the Target Group may have several sources of funding, including, but not limited to, donations, membership fees, and in the case of the IBP, a subsidy from the Supreme Court.

Private organizations that render legal aid to the Target Group are funded by a variety of sources. For legal clinics in particular, the Philippines' Legal Education Board has issued a Resolution providing that the board of trustees of a university must first pass a resolution to authorize its establishment and to appropriate the necessary funds for the establishment of a legal aid clinic.¹⁵¹ Expenses of a legal aid clinic are at times shouldered by the university or by donors and organizations that sponsor the clinic or a combination of both. The AHRC and the Ateneo Legal Services Center have been supported by several donors and agencies that the organization has worked with, which include both local and international bodies.¹⁵² For example, the AHRC has stated that it has had successful programs with various donor and development agencies, such as, but not limited to, the UNHCR, USAD through The Asia Foundation, and the American Bar Association - Rule of Law Initiative (ABA-ROLI).¹⁵³ There are even organizations such as the University of the Philippines Paralegal Volunteer Organization (UPPVO) that are completely self-sustaining.¹⁵⁴

The Asian Development Bank (ADB) has noted that civil societies in the Philippines “secure their funding through membership dues, donations, subsidies, and revenue from income-generated activities.”¹⁵⁵ NGOs are also largely dependent on the availability of official development assistance (ODA) and support from local and multinational

¹⁴⁹ Supreme Court of the Philippines, Code of Professional Responsibility [CPR] Rule 15.03 (1988).

¹⁵⁰ Latham & Watkins, A Survey of Pro Bono Practices and Opportunities in 84 Jurisdictions, available at <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/A-Survey-of-Pro-Bono-Practices-and-Opportunities.pdf> (last accessed June 31, 2021).

¹⁵¹ Legal Education Board, Prescribing the Policy and Rules in the Establishment of a Legal Aid Clinic in Law Schools, Resolution No. 2015-08, sec. 2a (November 3, 2015).

¹⁵² Ateneo de Manila University, Partners and Donors, available at <https://www.ateneo.edu/aps/law/ateneo-law-center/partners-and-donors> (last accessed July 1, 2021).

¹⁵³ Ateneo Law School, Ateneo Human Rights Center – Funding Support, available at <http://www.ateneo.edu/aps/law/ateneo-law-center/internship-program> (last accessed July 27, 2021).

¹⁵⁴ Golub, *supra* note 110, at 11.

¹⁵⁵ Asian Development Bank, Overview of NGOs and Civil Society Philippines 8, available at <https://www.adb.org/sites/default/files/publication/28972/csb-phi.pdf> (last accessed July 1, 2021).

companies, wherein they are funded on a per project basis scheme.¹⁵⁶ An ODA is a loan or grant contracted with foreign governments with whom the country has diplomatic or trade relations, or international or multilateral lending institutions.¹⁵⁷ NGOs have been granted management of the ODA, wherein the government and the NGO essentially collaborate with each other in pursuing a project conceptualized by an NGO, and the extent of such authority even includes the NGO being granted the authority to personally negotiate for ODAs by themselves.¹⁵⁸

As for law associations, private firms, and practitioners, expenses incurred in the conduct of pro bono work are funded by these entities themselves.

The IBP collects annual membership from its members, in an amount determined by the Board of Governors and approved by the Supreme Court.¹⁵⁹ The IBP is also supported partly with an annual subsidy from the Supreme Court. Republic Act No. 6397, which affirmed the authority of the Supreme Court to adopt rules for the integration of the Philippine Bar, provides that the sums necessary to effect the integration of the Philippine Bar shall be included in the annual appropriations for the Supreme Court.¹⁶⁰ State-subsidized legal assistance may be rendered through the IBP Legal Aid Program launched by the IBP's National Committee on Legal Aid, with the aim to provide free legal advice to those qualified persons.

Structure and Procedures

Procedure for Obtaining Non-State Funded Legal Aid

The Target Group may approach these private organizations for legal aid services. The internal rules of the organization shall determine the eligibility requirements, and the manner by which such services shall be rendered.

Private organizations may be engaged for legal aid services in a variety of ways. Similar to state-funded entities, the rendition of legal services of private lawyers or organizations require the voluntary engagement by a client, whether personally or with the assistance of others. These organizations often provide contact information through their websites or social media accounts, or advertise upcoming programs and outreach activities therein.

¹⁵⁶ *Id.*

¹⁵⁷ Congressional Policy and Budget Research Development, Official Development Assistance: 2019 Update 1, available at https://cpbrd.congress.gov.ph/images/PDF%20Attachments/Facts%20in%20Figures/FF2021-02_ODA.pdf (last accessed July 1, 2021).

¹⁵⁸ Consuelo Lopa, The Rise of Philippine NGOs in Managing Development Assistance 2, available at <https://www.alnap.org/system/files/content/resource/files/main/asiafinancingphilippines.pdf> (last accessed July 1, 2021).

¹⁵⁹ THE INTEGRATED BAR OF THE PHILIPPINES, rule 139-A, sec 9.

¹⁶⁰ An Act Providing for the Integration of the Philippine Bar, and Appropriating Funds Therefor, Republic Act No. 6397, sec. 2. (1971).

The determination of eligibility for legal aid, and the manner by which such services are offered or conducted, are determined largely by the internal rules of the organizations themselves.

For legal clinics like the Ateneo Legal Services Center, for example, the process is usually initiated through an appointment made by the client by contacting the clinic and scheduling an interview.¹⁶¹ After such, the circumstances of the client are assessed if it meets the criteria set by the legal clinic, which in this case is the indigency test as implemented by the PAO.¹⁶² Other factors considered include if the nature of the case is consistent with the client's claim of indigency, venue of the action, instructional value, merits of the case, ethical considerations, and the current caseload of the legal clinic.¹⁶³

Other legal clinics like the Clinical Legal Education Program (CLEP) of the University of the Philippines College of Law and the San Beda Legal Aid Bureau may be contacted through their respective hotlines.

On the other hand, NGOs like Ideals Inc., may be personally reached through their offices found in Quezon City, Cotabato, Iligan, and Mindoro. The organization has also launched its Tisya Hustisya program where individuals may send a message through its social media accounts or through text message.¹⁶⁴ Law firms and Bar associations may also be contacted through the same means.

Clients endorsed by the DOJ to the IBP are evaluated based on the means and merit tests and advised on the guidelines for the exemption from the payment of legal fees under the IBP's Free Legal Aid Program.¹⁶⁵ If found to be eligible, clients shall be connected with the IBP chapter that would be able to assist them; on the other hand, if found to be ineligible for free legal aid, the IBP may refer the clients to lawyers or law groups who could handle their cases for a reduced fee.¹⁶⁶

The internal rules of private legal aid organizations would determine whether exceptions can be made in light of the circumstances of the Target Group.

Considering that private organizations have their own rules to determine eligibility for legal aid and the procedure for rendering the same, it is likewise their internal rules which can determine whether accommodations can be made for the Target Group. Unless publicized, these internal rules may not be readily available for review. It can be said,

¹⁶¹ Ateneo de Manila University, Contact Details Ateneo Legal Services Center, available at <http://m.ateneo.edu/aps/law/offices/contact-details> (last accessed July 1, 2021).

¹⁶² Ateneo de Manila University, Ateneo Legal Services Center, available at <http://www.ateneo.edu/aps/law/ateneo-law-center/ateneo-legal-services-center> (last accessed July 1, 2021).

¹⁶³ *Id.*

¹⁶⁴ IDEALS Inc., Reach Us, available at <https://ideals.org.ph/index.php/reach-us/> (last accessed July 1, 2021).

¹⁶⁵ Benjamin Pulta, DOJ, IBP to Aid Non-PAO Clientele, PHIL. NEWS. AGENCY, March 9, 2021, available at <https://www.pna.gov.ph/articles/1133072> (last accessed July 27, 2021).

¹⁶⁶ *Id.*

however, that the evaluation of eligibility of each applicant for legal assistance is made on a case-by-case basis.

For example, the Ateneo Legal Services Center does not appear to provide exceptions on the requirement to submit documents to prove indigency (which are similar to that required by the PAO).¹⁶⁷ As such, the Target Group may be faced with similar roadblocks as that faced with the PAO due to lack of documentary requirements. As earlier discussed, apart from indigency, the Ateneo Legal Services Center also considers other factors to determine whether to accept a case; this suggests that the organization indeed looks into all the circumstances to determine whether to accept an applicant's case.

Barriers

Several barriers have been identified which may cause limitations in the access the Target Group may have to legal aid services from private organizations. It should be noted that these barriers tend to affect the access of all disadvantaged persons to free private legal aid services. This suggests that the issues surrounding privately-funded legal aid in the Philippines go beyond the Target Group.

Language Barriers

Interpretation/translation services are also an issue for non-State funded legal aid. Unlike State-funded legal aid, which explicitly provides for the entitlement of the Target Group to the services of an interpreter in its guidelines and circulars, non-State funded legal aid does not appear to have any such mandate. As previously noted, private organizations are largely governed by their own internal rules; thus, the provision of translation services as a matter of practice is an act that is largely left to the discretion of such private organizations. Moreover, private organizations are also constrained by their own resource limitations, as will be discussed in further detail in succeeding sub-sections. While these organizations may strike up partnerships or coordinate with other private organizations, government agencies, or foreign embassies, the actual availability of interpretation and translation services to the Target Group is not always guaranteed.

Geographic Barriers

The congestion of private legal aid services in urban areas places members of the Target Group who are living in rural areas at a disadvantage.

In a survey by the United Nations Development Programme (UNDP), one of the factors that contributed to the lack of access by Filipinos to legal services, aside from the

¹⁶⁷ Ateneo Law School, Ateneo Legal Services Center – Criteria for Accepting Cases, available at <http://2012.ateneo.edu/aps/law/offices/criteria-accepting-cases> (last accessed July 27, 2021).

expenses that it would entail, is the inconvenience due to distance.¹⁶⁸ The Ombudsman of the Philippines echoed the same sentiments in opining that access to justice is affected by geographical factors and remoteness of justice systems. For the most marginalized located in rural areas, these citizens are often unaware of legal aid programs initiated by the IBP and other groups because of the belief that lawyers concentrate their practice in cities.¹⁶⁹

The same geographic challenges can be said about non-State funded legal aid, as university legal clinics, offices of bar associations, NGOs, and private firms are usually located in cities that are significantly far from rural areas. Although there are mechanisms enforced for those in rural areas to avail themselves of services, such as outreach programs or remote legal consultations through electronic means, this does not solve the problems of lack of representation.

Lack of Information and Awareness

The lack of information or awareness of the availability of private legal aid organizations also limits the access the Target Group may have to the same.

Despite the availability of non-State funded legal aid, which is an able substitute to personally hiring one's own counsel or availing one's self of State-funded assistance, people in the Philippines are largely oblivious to these resources.¹⁷⁰ While there are programs implemented by the IBP that require lawyers to render pro bono services to indigent clients, the programs are not able to be publicized in a way that properly reaches the individuals they aim to cater to.¹⁷¹

As previously discussed, private organizations often provide contact information, or release news about upcoming legal aid events through their websites or social media accounts, placing at a disadvantage those that have limited or no access to the internet. While awareness of private organizations provide can spread through word-of-mouth, the effectiveness of the same would be dependent on how aware someone would be about the existence of an organization and how capably they can place a member of the Target Group in contact with it. Moreover, the capacity of private organizations to refer clients to other organizations that could better assist them would also depend on, among other things, the extent of their network.

¹⁶⁸ Sustainable Development Goals Partnership Platform, Access to Justice Project, available at <https://sustainabledevelopment.un.org/partnership/?p=33320> (last accessed July 1, 2021).

¹⁶⁹ Latham & Watkins, Pro Bono Practices and Opportunities in the Philippines, available at <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/pro-bono-in-the-philippines.pdf> (last accessed July 1, 2021).

¹⁷⁰ Latham & Watkins, A Survey of Pro Bono Practices and Opportunities in 71 Jurisdictions 234, available at <http://www.cpbo.org/wp-content/uploads/2012/12/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf> (last accessed July 1, 2021).

¹⁷¹ *Id.*

Strict Bar Admission Requirements for Foreign-Trained Lawyers

The prohibition against the practice of law in the Philippines by foreigners also limits the available representation for the Target Group. The presence of more stringent requirements needed for admission to the practice of law in the Philippines for Filipino citizens who were educated in foreign law schools may also produce a similar limitation.

The 1987 Constitution of the Philippines provides that, as a general rule, only Filipino citizens are allowed to practice all professions in the Philippines.¹⁷² The practice of profession by foreigners may only be allowed in cases prescribed by law.¹⁷³

In keeping with its constitutional authority to regulate the practice of law, the Supreme Court, through the Rules of Court, has outlined the eligibility requirements for admission to the Philippine Bar. Based on Rule 138 of the Rules of Court, an applicant for admission to the practice of law must be a citizen of the Philippines.¹⁷⁴ The only exception allowed by the Supreme Court is in the case of citizens of the United States who were duly licensed members of the Philippine bar before July 4, 1946; however, to be allowed to continue practicing law, these persons must (a) be in active practice in Philippine courts; (b) a member in good and regular standing; and (c) take an oath of office.¹⁷⁵ Based thereon, the general rule is that foreigners are unable to practice law in the Philippines. This also poses a barrier to accessing non-State funded legal aid, as aliens willing to aid the cause of the Target Group are unable to represent them in the Philippines.

While Filipino citizens may practice law in the said State, those who were educated in foreign law schools must comply with additional requirements in order to apply for admission to the Philippine Bar. Bar Matter No. 1153 amended Rule 138 of the Rules of Court to provide that:

“A Filipino citizen who graduated from a foreign law school shall be admitted to the bar examination only upon submission to the Supreme Court of certifications showing: (a) completion of all courses leading to the degree of Bachelor of Laws or its equivalent degree; (b) recognition or accreditation of the law school by the proper authority; and (c) completion of all the fourth year subjects in the Bachelor of Laws academic program in a law school duly recognized by the Philippine Government.”¹⁷⁶

These additional requirements do not result in an absolute limitation; however, the presence of the same may be a deterrence to Filipino citizens who wish to practice in the

¹⁷² 1987 PHIL. CONST., art. 12, sec. 14.

¹⁷³ *Id.*

¹⁷⁴ ATTORNEYS AND ADMISSION TO BAR, rule 138, sec. 2.

¹⁷⁵ *Id.*

¹⁷⁶ Supreme Court of the Philippines, Re: Letter of Atty. Estelito P. Mendoza Proposing Reforms in the Bar Examinations Through Amendments to Rule 138 of the Rules of Court, Bar Matter No. 1153 (March 9, 2010).

Philippines, and in turn, limit the available legal aid practitioners available to the Target Group.

Resource Limitations

Similar to the PAO, private organizations may also be constrained by their own resource limitations, especially during this time of pandemic.

Private organizations also suffer from similar resource limitations as State-funded organizations, albeit these manifest in different ways. While public attorneys are required to render free legal aid services as part of their duties as government lawyers and employees, participation by lawyers in private organizations or joining their legal aid programs are, generally speaking, voluntary. As such, the number of lawyers who are able to render legal aid is dependent on their availability and willingness to participate. This becomes a factor in deciding whether or not to accept a case. For example, one of the considerations of the Ateneo Legal Services Center in deciding whether or not to accept a case is the current caseload and availability of its volunteer lawyers.¹⁷⁷

Moreover, private organizations have had to pause legal aid programs and activities due to the restrictions brought about by the COVID-19 pandemic. They have also had to adapt by utilizing virtual or remote means of communicating with clients. Members of the Target Group who may not be adept at, or have access to, technology or means of remote communication, or who live in areas where the quality of such remote communication is affected by issues on infrastructure, may find this new mode of engaging legal services challenging.

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This document is part of a collaborative, multi-jurisdictional research project on the availability of legal aid to refugees in Asia for use by refugees, other displaced people, and the lawyers and organizations that work with them. It was compiled by Tiongco Siao Bello & Associates and provides information on both state and non-state funded legal aid in the Philippines.

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If you are an individual seeking further information and contact details about legal aid providers in the Philippines, please see the country page for the Philippines on [Rights in Exile](#) or [UNHCR's Help](#) platforms.

If you are an organization seeking to be matched with free legal assistance for your organization or your refugee clients, please click [here](#) to learn more about [PILnet's Refugee Legal Assistance Matching Mechanism](#).