

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

Country-Level Memorandum: South Korea



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TABLE OF CONTENTS

State Funded Legal Aid

Korea Legal Aid Corporation (KLAC)	01
Court-Ordered Legal Aid	06
Legal Aid for Criminal Defense	09

Non-State Funded Legal Aid

Law Firms	13
NGOs/Public Interest Organizations	16
KBA (Korean Bar Association)	20

Sources	22
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STATE FUNDED LEGAL AID

There are three kinds of state-subsidized legal aid in South Korea: (i) assistance provided by the Korea Legal Aid Corporation (KLAC), (ii) court-ordered legal aid, and (iii) state-appointed attorneys for criminal defendants (also known as public defenders).

Court-ordered legal aid is provided mainly for civil proceedings, while state-appointed attorneys provide legal aid in criminal proceedings. KLAC, established in 1987 by the Department of Justice to compensate the existing system, offers services for both civil and criminal proceedings with some restrictions.

(i) Korea Legal Aid Corporation (KLAC)

Eligibility, Nature, and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

KLAC provides legal assistance in accordance with its internal regulations.

KLAC's internal regulations provide that, in principle, nationals "whose income is below 125% of the median income established by the Ministry of Health and Welfare" may be eligible to receive KLAC's legal aid.¹

Regardless of the income criterion, KLAC may also provide, at its discretion, legal assistance to certain vulnerable groups, such as workers with unpaid wages, farmers and fishermen, and small business owners, among others.²

Foreigners residing in South Korea, who are in financial difficulty, who are ignorant of the law, and therefore are unable to take legal actions by themselves, or who KLAC otherwise considers in its discretion are in need of its legal aid, may also be eligible to receive KLAC's legal aid.³ Asylum-seekers, refugees, and stateless persons would fall under this category.

If the public prosecutor designates a lawyer or a public interest law officer of KLAC as a public attorney of a victim who is a foreigner,⁴ the victim as well as the victim's legal representative are eligible to receive KLAC's legal aid.

¹ 법률구조사건처리규칙 (KLAC Regulations for Legal Aid Cases), Article 5, paragraph 1.

² 법률구조사건처리규칙 (KLAC Regulations for Legal Aid Cases), Article 5, paragraph 2.

³ 법률구조사건처리규칙 (KLAC Regulations for Legal Aid Cases), Article 5, paragraph 2, sub-paragraph 8.

⁴ 법률구조사건처리규칙 (KLAC Regulations for Legal Aid Cases), Article 5, paragraph 2, sub-paragraph 7.

Scope of State Funded Legal Aid

KLAC's legal assistance comprises "all kinds of support regarding legal consultation as well as legal representation in court proceedings."⁵

Brief legal consultation is given free of charge to anyone. Legal representation in court proceedings is provided to eligible individuals according to KLAC's internal regulations as described in the 'Eligibility of Asylum-Seekers, Refugees and Stateless Persons' section above at a cost, but it is usually lower than those of private attorneys. In certain cases of vulnerable groups, legal representation in court proceedings may also be provided free of charge, but not if the recovery amount exceeds KRW 300,000,000⁶ (approximately USD 250,000).

There are no restrictions or limitations on the scope of matters of which KLAC may provide legal consultation.

For legal representation, KLAC's legal aid covers victim support, administrative application for temporary suspension of detention, complaints/prosecution/civil suit against Sexual and Gender Based Violence (SGBV), family law matters, labor issues, and recovery of unpaid wages, etc. However, KLAC does not provide legal aid for initiating criminal proceedings, with the exception of cases where it is appointed as public defender for victim support by the public prosecutor's office.⁷

Eligibility Criteria for State Funded Legal Aid

Please see the 'Eligibility of Asylum-Seekers, Refugees and Stateless Persons' section above.

KLAC reviews each case individually, so the particular needs and circumstances of each applicant are taken into account by KLAC in every case.

Structure and Procedure

Process for Obtaining State Funded Legal Aid

Basic information on legal proceedings, answers to simple client consultations, and legal document templates are available online free of charge.⁸

The most common form of legal aid consists of in-person consultation. Legal consultation is available also for foreigners free of charge if they book through the

⁵ <https://www.klac.or.kr/legalstruct/summary.do>

⁶ <https://www.klac.or.kr/legalstruct/outlineOfLitigationStruct.do>

⁷ <https://www.klac.or.kr/legalstruct/legalRescueGuideTargetType.do?codeValue=CAS002&codeId>

⁸ <https://support.klac.or.kr/front/main.do>

website. (Due to the ongoing COVID-19 pandemic situation in Korea, reservations are currently mandatory.) There are also other types of counseling available: video consultation, telephone consultation, and online chat consultation.⁹

After the consultation, KLAC reviews the documents submitted by the applicant, including the application form for legal aid. Once the case is determined to be eligible to receive KLAC's services, a lawyer is assigned to proceed with the lawsuit. If a case is won, it is possible to proceed with the compulsory execution procedure.¹⁰

Past consultations related to refugees include inquiries on how to challenge a decision on non-recognition of refugee status, review of legality of forced eviction orders and protection orders, etc.

Process for Providing State Funded Legal Aid

Usually, public officials, public interest law officers, and lawyers are in charge of providing the legal assistance. A public official deals with the administrative work. Individual cases are managed and processed by public interest law officers or lawyers assigned to a particular case.

Generally, KLAC's legal assistance services are not free of charge. This also applies in the case of foreigners residing in South Korea determined to be eligible to receive KLAC's legal aid.

Once an attorney is appointed to represent an eligible foreigner in need, KLAC will charge the actual cost of the litigation, including stamp fees, document delivery fees, and the attorney's fees (which are lower than those of private attorneys, and amount to approximately 30% of the regular attorneys' costs as predetermined by the Supreme Court, cf. 'Scope of State Funded Legal Aid' above). However, many cases are eligible for partial or full exemption of the costs in case separate support is available from other institutions.

Financing of State Funded Legal Aid

KLAC is financed by various State Funded organizations, such as the Ministry of Employment and Labor, Ministry of Health and Welfare, National Agricultural Cooperative Federation (Nonghyup), Financial Services Commission, etc.¹¹

⁹ <https://www.klac.or.kr/legalstruct/consultationGuidance.do>

¹⁰ <https://www.klac.or.kr/legalstruct/summary.do>

¹¹ KLAC기획부, 출연협약기관 소개 ("Contributions/Introduction of Contracting Organizations"), KLAC, 2020.03.25, <https://klac.or.kr/introduce/reactionInstitution.do>.

Barriers

Availability of Interpretation Services

Interpretation services are not provided. One has to hire an interpreter by him- or herself.

Geographical Limitations

KLAC's headquarters is located in Seoul, but it has branches spread evenly across the country:

- 7 branches in Seoul (of which two deal with bankruptcy and individual rehabilitation),
- 23 in Incheon/Gyeonggi-do,
- 15 in Gangwon-do,
- 8 in Chungcheongbuk-do,
- 15 in Daejeon/Sejong/Chungcheongnam-do,
- 23 in Daegu/Gyeongsangnam-do,
- 24 in Busan/Ulsan/Gyeongsangnam-do,
- 19 in Gwangju/Jeonnam,
- 11 in Jeonbuk, and
- 2 in Jeju-do.¹²

Considering the geographical size of South Korea, KLAC has relatively many branches across the country. Although they are concentrated in the metropolitan areas, KLAC does have branch offices in smaller cities such as Yeoncheon (with a population of 43,063¹³), and Cheorwon (with a population of 43,166¹⁴), therefore providing a relatively balanced coverage. As long as one has access to public transportation, there should not be much trouble with regard to accessing the services offered by KLAC.

Other Barriers

The scope of eligibility of Korean nationals to receive KLAC's legal aid has been criticized for being too broad and unrealistic in view of the scarcity of the resources available, which in practice restricts the actual chances of those who are really in need to actually being able to receive KLAC's legal aid.¹⁵ The previous eligibility criteria was even more

¹² <https://www.klac.or.kr/visit/subOfficeList.do>

¹³

<https://www.yeoncheon.go.kr/www/selectBbsNttView.do?key=3413&id=&bbsNo=166&nttNo=60992&searchCtgr=&searchCnd=all&searchKrwd=&pageIndex=1&frstRegisterPnttmSdt=&frstRegisterPnttmEdt=&searchDeleteAt=N&integrDeptCode=&searchDeptCode=>

¹⁴

https://www.cwg.go.kr/www/selectBbsNttView.do;CWG_JSESSIONID=477BAB69A6272580329C28E9F437727B?key=176&bbsNo=14&nttNo=75007&searchCtgr=&searchCnd=all&searchKrwd=&integrDeptCode=&pageIndex=1

¹⁵ Kookmin University Industry-Academic Cooperation Foundation, 대한법률구조공단 법률구조사업의 활성화 (“Measures to Vitalize Legal Aid Programs of the KLAC”) (in Korean) (2016) Research Report at 65.

generous, and was amended in order to “suppress unnecessary legal aid demand and focus on social minorities who must depend upon legal aid services.” However, even now, an impressive 67.3% of Korean nationals fall under the current eligibility criterion of having income “below 125% of the median income established by the Ministry of Health and Welfare.”¹⁶ This does not necessarily mean that the Target Group,¹⁷ as opposed to Korean nationals, will always have a greater difficulty obtaining legal aid from KLAC. However, since the eligibility criteria are generous, the number of applications is high compared to the capacity of KLAC, and therefore the selection process is competitive.

Because the pool of in principle eligible people is too big, KLAC applies a separate set of criteria for case selection, such as: probability of success, possibility of compulsory execution process, and structural validity of the case.

KLAC’s internal regulations state that it may refuse to provide legal aid for various reasons, including, among others, the case appearing to be unlikely to prevail or legal aid appearing to be impractical.¹⁸ On this basis, chances of prevailing in a case has been given significant weight as a major factor considered by KLAC in determining whether to provide legal support or not. This practice has faced criticism as curtailing people’s right to access to legal support based on the internal regulations of the institution.¹⁹

Determinations regarding eligibility for KLAC’s legal aid are final and cannot be appealed against. On the other hand, while KLAC has broad discretion in the case selection process (e.g., taking into account considerations such as probability of success, possibility of compulsory execution process, and structural validity of the case), such discretion is under scrutiny. Thus, when KLAC rejects a legal aid application in the case selection process, such determination is subject to appeal.

It has been raised as a problem that there are no unified criteria for judging structural validity of each case, which is also a key criterion applied by KLAC in practice for case selection process.

Also, there has been some concern that KLAC, as a public entity receiving subsidies, has to monitor its own performance and thus tends to choose simple cases over complicated ones.

¹⁶ KLAC, 2 회 정기이사회 회의록 (Minutes of 2nd Regular Board of Directors) (in Korean) (2015), Kookmin University Industry-Academic Cooperation Foundation, 대한법률구조공단 법률구조사업의 활성화 (“Measures to Vitalize Legal Aid Programs of the KLAC”) (in Korean) (2016) Research Report at 69. 21 법률구조법 (Legal Aid Act), Art. 7.

¹⁷ The Target Group consists of asylum-seekers, refugees and stateless persons.

¹⁸ 법률구조사건처리규칙 (KLAC Regulations for Legal Aid Cases), Art. 19. While criminal cases are not subject to these criteria, KLAC may still refuse legal aid if the case is deemed to be impractical, etc.: KLAC Regulations for Legal Aid Cases, Art. 45(2).

¹⁹ See, for example, Kim Do-Hoon, 법률구조법상 법률구조에 관한 소고 (“A few thoughts on the legal aid in the Legal Aid Act”) (in Korean) (2012) 22 Yonsei Law Review 93, at 120.

In South Korea, the Ministry of Justice is responsible for assessment of refugee status. In order to appeal a negative refugee decision, the applicant shall raise a claim against the Ministry of Justice. However, since KLAC itself is affiliated with the Ministry of Justice, there has been criticism that KLAC tends to avoid administrative litigation, including cases on refugee determination.

(ii) Court-Ordered Legal Aid

Eligibility, Nature, and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

The court may grant litigation aid, either *ex officio* or upon request of a person who is in need of financial aid to pay the costs of a lawsuit, with the exception of cases where it is obvious that the lawsuit will fail.²⁰

Foreigners are not excluded. Therefore, refugees, asylum-seekers, and stateless persons may apply for legal aid, as long as they meet certain qualifications, which are further described below.

Scope of State Funded Legal Aid

Court-ordered legal aid only applies to cases actually filed with the court.

In South Korea, if an application for refugee status is refused, an applicant may appeal to the Minister of Justice first. If the appeal is also rejected, the only remedy then is to file an administrative lawsuit, for which refugees may receive court-ordered legal aid.

Court-ordered legal aid applies not only in respect of the merits phase of the civil, administrative, and family law proceedings, but also in respect of the interim or other procedural proceedings such as application for provisional attachment and temporary disposition.

Eligibility Criteria for State Funded Legal Aid

Civil Procedure Act, Chapter 3, Section 3, Article 128 sets forth the eligibility criteria to receive court-ordered legal aid.

- Article 128, paragraph (1), requires the applicant to fall short of solvency to pay the costs of lawsuit. In addition, this provision requires the lawsuit not to be evidently or notoriously without grounds such that it would likely fail.

²⁰ Civil Procedure Act (민사소송법) (enacted on April 4, 1960, as amended on February 3, 2016), Article 128.

- Article 128, paragraph (2), requires the applicant to vindicate the reasons for such aid.
- Article 128, paragraph (3), stipulates that a judgment on the litigation aid shall be rendered by the court which keeps the record of the litigation.
- Lastly, Article 128, paragraph (4), demands that detailed matters on the concrete contents of the requisites for litigation aid as stipulated in paragraph (1) and the procedures for such aid shall be prescribed by the Supreme Court Regulations.

If an applicant submits all the required documents, the court will make a judgment after free evaluation of evidence.²¹

Exceptions may be granted at the discretion of the court.

Structure and Procedure

Process for Obtaining State Funded Legal Aid

An application for court-ordered legal aid should be submitted in writing along with a copy of the passport or alien registration card. Applicants must also attach financial statements proving their financial hardship as well as that of any family members living together with the applicant.²²

If a person decides to apply for legal aid before filing a lawsuit, the required documents should be sent to the court where the complaint will be filed. If the application is being submitted after a lawsuit is filed, the required documents should be sent to the court where the record of trial is kept.

An applicant must pay for a revenue stamp fee (KRW 1,000, approximately USD 1) and document delivery fees.

If an applicant submits all the required documents, the court will make a judgment after free evaluation of evidence.²³

If an application is approved by the court, the court officer will deliver a notice of the decision to the applicant.²⁴

²¹ 2003 마 89 (2003 Ma 89) decision, 23 May 2003 (The Supreme Court).

²² Civil Procedure Regulations (민사소송규칙), Article 24.

²³ 소송구조제도의 운영에 관한 예규 (Rules for administering the system of court-ordered legal assistance) (enacted in February 2002, as amended on February 9, 2017), Articles 3(2) & 11.

²⁴ 소송구조제도의 운영에 관한 예규 (Rules for administering the system of court-ordered legal assistance) (enacted in February 2002, as amended on February 9, 2017), Articles 3(2).

Once an application is approved, expenses, such as (i) investigation fee for relevant evidence, (ii) document delivery fees, and other costs that have to be paid in advance by the applicant for the lawsuit, are covered by the government. Whenever such expenses are incurred, a court officer will request the payment to a treasury official.

Once the application is approved by the court, there is no other obligation for the applicant.

Process for Providing State Funded Legal Aid

Once the application is approved by the court, most of the expenses incurred during the lawsuit are covered.

Attorney's fees are subsidized by the court as well. In principle, the court pays KRW 1,000,000 (approximately USD 900) as attorney's fees, but the court may increase the subsidy up to KRW 2,000,000 (approximately USD 1,800) for exceptional cases. The applicant may appoint an attorney of his choice.²⁵

Financing of State Funded Legal Aid

Court-ordered legal aid is funded by the government. The National Court Administration is in charge of the management as well as allocation of the funds.

Barriers

Availability of Interpretation Services

Interpretation services can be provided if necessary.

Geographical Limitations

Court-ordered legal aid for foreigners is currently available only at a limited number of courts: Seoul Central District Court, Seoul Administrative Court, Seoul Family Court, Suwon District Court (Ansan area), Incheon District Court (Bucheon), and Daegu District Court (Western).²⁶

The courts listed above, other than the Daegu District Court, are located in the greater Seoul area, which makes it difficult for foreigners living outside of the greater Seoul area to access the service.

²⁵ 소송구조제도의 운영에 관한 예규 (Rules for administering the system of court-ordered legal assistance) (enacted in February 2002, as amended on February 9, 2017), Article 11, <https://news.koreanbar.or.kr/news/articleView.html?idxno=22316>

²⁶ https://slfamily.scourt.go.kr/slfamily/civil_complaint/civil_03/civil_03_02/foreigners_02.html

Other Barriers

Lawyers are often reluctant to accept court-ordered legal aid cases, because the subsidy for attorney's fees is significantly lower than the market average. As explained above, the court pays only KRW 1,000,000 (approximately USD 900) for attorney's fees. The internal regulation provides that the court may increase the subsidy up to KRW 2,000,000 (approximately USD 1,800), but such increases are rarely given.

In addition, courts are becoming more reluctant to approve applications for legal aid. The Civil Procedure Act provides that in order for an application to be approved, it shall not be evident that the lawsuit is likely to fail based on the documents and supporting evidence submitted by the applicant. Since it is difficult to decide whether the case is likely to fail or not prior to actual court proceedings taking place, courts often reject an application for court-ordered legal aid. The annual budget for court-ordered legal assistance is KRW 4,000,000,000 to 6,000,000,000 (approximately USD 3,600,000 to 5,400,000), but in 2018, KRW 1,600,000,000 (approximately USD 1,440,000) was left unused due to the high rejection rate (44.8%).²⁷

In practice, since 2015, most applications for court-ordered legal aid submitted by individuals who wish to dispute the refusal of refugee status have been rejected.²⁸ This trend was disappointing to many refugees and supporting NGOs, since it shows the government's overall attitude towards refugees. Presumably, this signifies that the courts do not recognize a likelihood for such lawsuits to be upheld, and therefore deny the application for court-ordered legal aid on that basis.

(iii) Legal Aid for Criminal Defense

Eligibility, Nature, and Scope

Eligibility for State Funded Legal Aid

According to the Constitution, Article 12(4), any person who is arrested or detained shall have the right to prompt assistance of counsel. When a criminal defendant is unable to secure counsel by his/her own efforts, the State shall assign counsel for the defendant as prescribed by Act.

Under the Criminal Procedure Act, Article 33(1), the court shall appoint a defense counsel *ex officio* when the criminal defendant is placed under detention; is a minor or of 70 years of age or over; deaf and dumb; suspected of having a mental disorder; or indicted for a case punishable by the death penalty or imprisonment, with or without labor, for an indefinite term or for a minimum term of not less than three years.

²⁷ http://www.hani.co.kr/arti/society/society_general/913892.html

²⁸ <http://www.vop.co.kr/A00001352594.html>

The Criminal Procedure Act, Article 33(2), provides that if the criminal defendant is unable to appoint a defense counsel because of poverty or for any other reason, the court shall appoint a defense counsel if the criminal defendant so requests.

Because the above provisions do not preclude foreigners, refugees, asylum-seekers, or stateless persons, said provisions equally apply to foreigners and it is a general understanding that they would apply to refugees, asylum-seekers, or stateless persons as well.

Scope of State Funded Legal Aid

As long as the case is a criminal case and the defendant meets the criteria listed in the Criminal Procedure Act as described above, the legal aid is available regardless of the type of case.

Eligibility Criteria for State Funded Legal Aid

As explained above, the defendant must meet the criteria listed in Article 33 of the Criminal Procedure Act.

Exceptions may be granted at the discretion of the court.

Structure and Procedure

Process for Obtaining State Funded Legal Aid²⁹

There are two ways of obtaining legal aid: *ex officio* by designation of the court, or *ex parte* upon request of the defendant. If the defendant falls under one of the following conditions, the court shall appoint a defense counsel *ex officio*:

- When an arrest warrant is requested and the defendant, who is sent to a substantive evaluation of the arrest warrant, has no defense counsel.³⁰
- When the defendant falls under one of the conditions listed in Article 33(1) of the Criminal Procedure Act.
- When the court deems it necessary to protect the rights of the defendant considering his/her age, intelligence, level of education, etc., without contravening the express intention of the defendant.³¹

²⁹ 형사소송법 (Criminal Procedure Act) (enacted in September 23, 1954, as amended on May 29, 2016), Article 30, paragraph 2.

³⁰ 형사소송법 (Criminal Procedure Act) (enacted in September 23, 1954, as amended May 29, 2016), Article 201-2, paragraph 8.

³¹ 형사소송법 (Criminal Procedure Act) (enacted in September 23, 1954, as amended May 29, 2016), Article 33, paragraph 3.

- When the case is on application of medical treatment and custody under the Medical Treatment and Custody Act.³²
- When Military Law is applicable to the case.³³

If the applicant is unable to appoint a defense counsel because of “poverty or for any other reason,” the court shall appoint a defense counsel if the criminal defendant so requests. In principle, the court recognizes such reason in the following cases:

- defendant’s average monthly income is less than KRW 2,700,000 (approximately USD 2,200),
- defendant is on basic living security,
- defendant is eligible for Single-Parent Family Support,
- defendant receives Basic Pension benefits,
- defendant receives Disability Support Pension,
- defendant is eligible for North Korean Refugee Protection,
- it is recognized that the defendant has difficulty in appointing a defense counsel due to his/her family situation, or
- defendant is arrested or serving a sentence for a different offense (not applicable to the request for formal trial against the summary court order).

If the applicant wishes to request a defense counsel, he/she has to fill out the request form attached to the complaint. The request must be made within 7 days after the receipt of the complaint. If it is an appeal case, the request form should be submitted to the court within 20 days after the receipt of the complaint.³⁴

The defendant’s legal representative, spouse, immediate relatives, brothers, and sisters may independently request a defense counsel for the defendant.³⁵

Once a defense attorney is designated by the court, there is no other obligation for the defendant.

Process for Providing State Funded Legal Aid

Previously, the court designated an attorney among the public defenders for each defendant. However, since 1 March 2003, the defendant is allowed to choose his/her attorney from the roster of public defenders. The defendant’s preference is taken into consideration to the extent possible, and the court elects the most preferred public defender, unless that attorney cannot represent the defendant or justified circumstances exist to reject the legal representation.

³² Act on Medical Treatment and Custody, etc., Article 6, paragraph (3).

³³ Military Court Act, Article 62, paragraph (1).

³⁴ https://help.scourt.go.kr/nm/min_16/min_16_2/index.html

³⁵ 형사소송법 (Criminal Procedure Act) (enacted in September 23, 1954, as amended on May 29, 2016), Article 30, paragraph 2.

Under special circumstances, it is possible for the defendant to request an attorney who is not a public defender, but the court may accept such requests only when the request is appropriate.

Financing of State Funded Legal Aid

Attorney's fees are paid by the court.

Barriers

Availability of Interpretation Services

Interpretation services may be provided if necessary. The corresponding cost may be waived if the defendant is unable to afford a private interpreter and cannot bring anyone to assist him/her in court.

Geographical Limitations

There are no geographical limitations for accessing legal aid for criminal defense.

Other Barriers

Similar to the case in other jurisdictions, while not constituting a barrier *per se* to access legal aid, concerns have been expressed by the media on the quality of the professional services provided by public defense attorneys when compared to those of private attorneys. In 2021, the Ministry of Justice stated that it will conduct an investigation for the first time on the quality of public defense service and actively improve the system.³⁶

³⁶ 이, 성기. (2021, March 8). *송기헌 "피해자 두 번 올리는 '불량' 국선 변호사' 퇴출*. 이데일리.

<https://www.edaily.co.kr/news/read?newsId=02443606628981352&mediaCodeNo=257&OutLnkChk=Y>, 홍, 수정.

(2021, May 3). *"피해자국선변호사 평가제도 도입" 목소리 커진다*. 법률신문뉴스.

<https://www.lawtimes.co.kr/Legal-News/Legal-News-View?serial=169702>

NON-STATE FUNDED LEGAL AID

In South Korea, the most common forms of non-State funded legal aid are: (i) pro bono services provided by law firms or individual attorneys, (ii) legal aid provided through or with assistance of non-governmental organizations (“NGOs”) and other public interest organizations, and (iii) legal aid provided through or with the assistance of the Korean Bar Association. Such legal aid services cover a broad range of matters, depending on the applicant’s circumstances and needs.

(i) Law Firms

Many law firms in South Korea actively participate in pro bono services by establishing a separate affiliated entity dedicated solely for pro bono purposes. Dongcheon (established by Bae, Kim & Lee LLC), Duroo (established by Jipyong), and Hwawoo Public Interest Foundation (established by Yoon & Yang) are the three major pro bono organizations affiliated with law firms that handle refugee cases.

- **Dongcheon (Bae, Kim & Lee LLC)**

Dongcheon foundation was established in 2009, replacing the pro bono committee of Bae, Kim & Lee LLC. As of 2021, Dongcheon foundation receives the most donations among all the pro bono organizations established by law firms. There are currently six full-time attorneys working at Dongcheon, who are fully committed to pro bono work. Dongcheon offers legal counseling, case representation as counsel, legal representation in court to appeal negative refugee decisions, submit constitutional petition, apply for a divorce, etc. Dongcheon also participates in the amendment process of the refugee law. Dongcheon is mainly funded by general subsidies, specific donations, and interest income.

- **Duroo (Jipyong)**

Established in 2014, Duroo advocates for the rights of immigrants and refugees. Although it is not the biggest in terms of funding, Duroo has eleven full time attorneys dedicated to pro bono work, and at least six of them focus mainly on matters related to refugees and asylum-seekers. Duroo supports establishment as well as operation of overseas NGOs working for refugees and international organizations operating in Korea. Duroo also provides legal aid and other support for developing countries such as those in Southeast Asia. Duroo is funded by sponsorship and donation, which includes personal donation, corporate donation, research services, business income, and interest income.

- **Hwawoo Public Interest Foundation (Yoon & Yang)**

Established in 2014, Hwawoo Public Interest Foundation works mainly for immigrants, refugees, laborers, overseas adoptees, youth, and children. Hwawoo Public Interest Foundation also participates in activities to support leprosy patients and advocates for the rights and interests of the homeless.

- **Others**

Other pro bono organizations established by law firms that handle refugee cases include The Jung (established by Barun), Dongin Pro Bono Committee (established by Dongin), SUN Pro Bono Center (established by One Law Partners), and Kim & Chang Pro Bono (established by Kim & Chang), among others.

Eligibility, Nature, and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

As indicated above, several organizations established by specific law firms would handle matters involving the Target Group. However, there are some organizations that do not handle refugee-related matters depending on the affiliated law firm's philosophy. For example, Onyul foundation (established by Yulchon) focuses on domestic matters, such as children's welfare, adolescents, and the elderly, and does not handle refugee cases. That said, we cannot completely exclude the possibility that organizations that are known to not handle refugee-related matters would ultimately represent segments of the Target Group, given that most non-profit organizations affiliated to law firms do not have numerical criteria for eligibility and therefore review each application individually.

Scope of Non-State Funded Legal Aid

Because most of the organizations have multiple attorneys fully dedicated to pro bono work, technically, there are no restrictions or limitations in providing legal aid.

In terms of in-house counsel, although there are no legal restrictions imposed, practical constraints may exist (e.g., the type, scope, or direction of the applicant's case may be different from that which the organization is willing to take on). Because not all cases can be handled, the legal aid request may not be accepted in such cases.

As stated above, there is no structural limitation. It is entirely under each law firm's or foundation's discretion whether they would provide legal aid for certain matters.

Structure and Procedure

Process for Obtaining Non-State Funded Legal Aid

Pro bono organizations established by law firms usually have their own websites. Most organizations dealing with asylum-related cases have English versions of their website. Basic consultation may be provided via telephone or through the website.

After a basic consultation, the organization reviews the case and decides whether to provide legal aid for the applicant. If the organization decides to work on the case, it assigns a lawyer to the case and frequently requests help from the affiliated law firms if and as necessary.

The process thereafter varies depending on the case as well as the organization.

In instances where documentation is insufficient, exceptions may be made at the organization's discretion in a given case.

Process for Providing Non-State Funded Legal Aid

The Attorney-at-Law Act, Article 27, paragraph (1), applies equally to attorneys engaged in pro bono activities in law firms.

As stated above, major law firms often establish a separate organization solely dedicated to pro bono activities. Currently, it is the representative format of law firm's pro bono activities. Such organizations perform pro bono services often in collaboration with attorneys from their affiliated law firms.

Pro bono organizations established by law firms are usually in a better financial situation than regular NGOs given that the law firm and their attorneys often provide regular donations, and also participate and contribute on the specific cases.

Financing of Non-State Funded Legal Aid

Services are provided through each pro bono organization as well as their affiliated law firms. Law firm's pro bono services are funded by general subsidies and donations, including by the affiliated law firms themselves as well as their attorneys.

Barriers

Geographical Limitations

Because most of the organizations listed above are located in Seoul, this type of legal aid is less accessible for those who live outside the greater Seoul area. However, because South Korea is relatively small and public transportation is widely available, the distance may not be a major issue. An organization may dispatch its attorneys as well if deemed necessary.

Notably, many organizations have established remote support systems since the COVID-19 outbreak.

Other Barriers

There may be some restrictions for those who do not have a visa or any documented evidence for asylum cases.

With very few exceptions, such as Dongcheon or Duroo, most organizations are small in size and have only one or two attorneys. As stated above, not all organizations support asylum-related cases.

Some organizations do not provide their website in English, which hinders the ability of the refugees or asylum-seekers in applying for the legal aid.

As also stated above, the types of cases covered by organizations depend on the philosophy of the affiliated law firms. Dongcheon foundation, for example, tends to focus on the cases that can have a meaningful impact on the society or South Korean legal system in general, rather than cases with primary focus on the individual applicants.

(ii) NGOs/Public Interest Organizations

Although there are several NGOs that support refugees and asylum-seekers in South Korea, only a few of them provide actual legal aid. Furthermore, not many NGOs that provide legal aid participate in asylum-related legal aid services. Most organizations aim to provide legal aid for domestic group, including women, children, elderly, the disabled, North Korean defectors, etc. Therefore, very few NGOs are involved in providing legal aid to asylum-seekers or refugees. APIL (Advocates for Public Interest Law), Gonggam (Gonggam Human Rights Law Foundation or KPIL), Refuge pNan, and NANCEN Refugee Rights Center are four major NGOs that do offer legal support for refugees and asylum-seekers.³⁷

³⁷ <https://www.facebook.com/KoreaRefugeeRightsNetwork/>
http://www.w4refugee.org/board/bbs/board.php?bo_table=2_manual&wr_id=25&page=10

- **APIL (Advocates for Public Interest Law)**³⁸

APIL was established in 2011 building upon the previous work of the Christian Lawyer's Fellowship (CLF) of Korea. APIL focuses on immigrants in detention, refugees, stateless persons, victims of human trafficking, and overseas victims of human rights violations by Korean corporations. APIL provides assistance in respect of litigation, research, legislative reform, and general Human Rights movement.

- **Gonggam (Gonggam Human Rights Law Foundation or KPIL)**³⁹

Established in 2004, Gonggam started out as the first non-governmental, non-profit full-time public interest lawyers' organization in South Korea. Gonggam provides legal assistance and representation in court to refugees and asylum-seekers on various matters including domestic and sexual violence, social welfare, labor disputes, and immigration issues.

Applications for Gonggam's legal aid can be submitted online at: <https://www.kpil.org/lawsuit/>, or the application can be downloaded, filled out, and submitted by email, fax, or mail. According to its website, Gonggam aims to respond within a week upon reviewing each application.

- **Refuge pNan (국제난민지원단체 피난처)**⁴⁰

The Refuge pNan (避難處) is a Christian NGO established in 1999, which protects and assists North Koreans as well as international refugees seeking asylum in South Korea and other countries. Refuge pNan provides assistance for refugee status determination process, asylum application process, and related litigations, as well as other kinds of assistance necessary for refugees.

- **NANCEN Refugee Rights Center**⁴¹

Major law firms in South Korea have established official partnerships with NANCEN through the Law Firm Public Interest Network to financially support NANCEN's activities and provide professional legal assistance to asylum-seekers in Korea.⁴²

³⁸ <https://apil.or.kr/>

³⁹ <https://www.kpil.org/about-us/>

⁴⁰ <http://www.pnan.org/>

⁴¹ <https://nancen.org/>

⁴² <https://globalcompactrefugees.org/article/coalition-major-korean-law-firms-refugee-assistance>

- **Gamdong (이주민 지원공익센터 감사와 동행)**

Established in 2014, Gamdong is a public interest attorney group that focuses on providing free legal support. Gamdong offers legal consultation free of charge, supports the provision of effective domestic legal remedies, and conducts research to improve immigration policies and systems. Gamdong also conducts education for immigrants and refugees, participates in various cultural events, and gives public lectures to raise awareness on social minorities. Gamdong does not receive any public subsidy and relies only on the support of and donations from individuals.

Eligibility, Nature, and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

Refugees and asylum-seekers may access non-state funded legal aid.

There are no restrictions on the provision of legal aid on non-asylum related matters. It is under each organization's discretion whether they would provide legal aid for such matters. For example, Refuge pNan once provided legal aid for an asylum-seeker who was arraigned for assisting in a voice phishing scam.

Scope of Non-State Funded Legal Aid

The scope of legal aid available depends on each NGO's resources and circumstances. For example, there is no attorney working full-time for Refuge pNan, which limits the scope of the legal aid it is able to provide. However, according to the staff of Refuge pNan, it has been providing legal aid for almost all cases they receive.

It is also under each organization's discretion for what legal matters they would provide legal aid. The majority of legal support provided by Gamdong was on refugee status determination. Gamdong has also assisted refugee applicants with administrative litigations, lawsuits on industrial accident compensation, and domestic affairs. There is no record yet of a criminal defense case.

In principle, Korean courts do not permit law students and/or staff of NGOs who are not attorneys to represent the individuals in need of legal assistance in court. Aside from that, there is no particular limitation on the scope of the services that can be provided.

Structure and Procedure

Process for Obtaining Non-State Funded Legal Aid

Asylum-seekers and other members of the Target Group can contact the organizations through their website, by telephone, or by visiting their offices. For members of the Target Group who wish to visit the organization's office and ask for legal aid, it is encouraged to make an appointment in advance. An organization's staff will have a conversation with the applicant to understand the situation. After consideration, the organization decides whether to take the case for representation or not.

In general, the lack of identification documents is a common issue for refugees or asylum-seekers, given their circumstances. Therefore, organizations usually focus more on the substance of the case rather than whether they have all the necessary documents. Most organizations do not reject applications for legal aid just because the applicant does not have proper documentation or domestic address. If one does not have a proper domestic address, it is very likely that there are other kinds of problems, such as communication issues or matters with regard to his/her status in Korea, so organizations might reject such applicants for those reasons. In practice, it is thus difficult for those who do not have a domestic address to receive non-state funded legal aid unless they get some help from non-profit organizations with housing and communication.

Process for Providing Non-State Funded Legal Aid

Once an organization decides to support a case, the next step depends on whether the organization has a full-time lawyer working for it or not. If there is a practicing attorney working for the organization, the attorney will handle the case. On the other hand, if there is no such full-time attorney (e.g., Refuge pNan), the organization focuses on providing helpful information and support to the applicant throughout the court proceedings in various ways. For example, Refuge pNan has provided written opinion letters that served as supporting evidence in litigation.

Financing of Non-State Funded Legal Aid

Funding is raised from individual or corporate donations. Some organizations (e.g., Refuge pNan) actively apply for public as well as private subsidies to fund themselves.

Barriers

Availability of Interpretation Services

English, French, and Arabic are essential for communicating with refugees or asylum-seekers. However, there are not many volunteers or even regular interpreters who are fluent in those languages.

In court, interpretation services are usually provided for asylum-related cases, but there has been some concern about the quality of the interpretation offered by the court. The staff of Refuge pNan has testified that there was a misinterpretation at a hearing caused by the lack of cultural understanding by the interpreter.

Geographical Limitations

Because most of the NGOs listed above are located in Seoul, legal aid is less easily accessible for those who live outside the greater Seoul area.

Other Barriers

Non-profit organizations supporting refugees in Korea are very few in number and most are financially struggling. Most of the organizations have more cases on their hands than they can handle and lack the resources to provide quality support.⁴³

(iii) KBA (Korean Bar Association)⁴⁴

Eligibility, Nature, and Scope

Eligibility of Asylum-Seekers, Refugees and Stateless Persons

The Target Group may access non-state funded legal aid for asylum related matters.⁴⁵ The Attorney-at-Law Act sets forth the duty for the members of the bar to participate in public interest activities.⁴⁶

⁴³ <https://globalcompactrefugees.org/article/coalition-major-korean-law-firms-refugee-assistance>

⁴⁴ Note that KBA is an organization with which all attorneys must register in order to practice law in Korea, and there is no direct connection between KBA and the law firms or their pro bono organizations referenced above.

⁴⁵ <https://www.koreanbar.or.kr/eng/pages/about/activities.asp>

⁴⁶ 변호사법 (Attorney-at-Law Act), Art. 27 (Duty to Perform Designated Services, such as Public Interest Activities), provides that "(1) Each attorney-at-law shall engage in public interest activities for not less than a specified number of hours a year. (2) Each attorney-at-law shall handle affairs designated by public agencies, the Korean Bar Association, or the local bar association with which he/she is affiliated under Acts and subordinate statutes. (3) Necessary matters concerning the scope of public interest activities and the method of performing such activities shall be determined by the Korean Bar Association."

Scope of Non-State Funded Legal Aid

The scope of public interest activities is as follows:

- Providing legal service free of charge or at significantly low-cost to public interest organizations such as charity organizations, religious organizations, social organizations, civil movement organizations and educational organizations whose purpose is to promote civil rights and freedoms or public interests, or for indigents; or serving as a board member or committee member of such organizations; on the assumption that such provision of legal service or the positions shall be accepted to be public interest activities by KBA or by local bar associations.⁴⁷
- Serving on KBA or local bar associations.⁴⁸
- Working as a legal advisor as designated by KBA or local bar associations.⁴⁹
- Working for public interest programs as designated by KBA or local bar associations.⁵⁰
- Working as a state-appointed counsel.⁵¹
- Working in a capacity appointed by the government in accordance with law, provided however that in cases where significant remuneration is paid shall be expected.⁵²
- Providing legal service to individuals, as defined by KBA or local bar associations.⁵³

KBA Regulation on Pro Bono Activities, etc. applies to those providing services, but they do not limit the scope of the services provided. Rather, they encourage pro bono activities by requiring members of the bar to dedicate a certain number of hours to pro bono work. There are no restrictions on the access to non-state funded legal aid for non-asylum related matters.

Structure and Procedure

Process for Obtaining Non-State Funded Legal Aid

Since pro bono work can be in many different forms, there is no set process.

Process for Providing Non-State Funded Legal Aid

Under the KBA Regulation, attorneys have to devote 30 hours annually to public interest

⁴⁷ KBA Regulation on Pro Bono Activities, etc., Art. 2(1).

⁴⁸ KBA Regulation on Pro Bono Activities, etc., Art. 2(2).

⁴⁹ KBA Regulation on Pro Bono Activities, etc., Art. 2(3).

⁵⁰ KBA Regulation on Pro Bono Activities, etc., Art. 2(4).

⁵¹ KBA Regulation on Pro Bono Activities, etc., Art. 2(5).

⁵² KBA Regulation on Pro Bono Activities, etc., Art. 2(6).

⁵³ KBA Regulation on Pro Bono Activities, etc., Art. 2(7).

activities, but local bar associations may reduce the requirement to as low as 20 hours. If an attorney fails to fulfill his/her pro bono requirement, he/she must pay the local bar association KRW 20,000-30,000 (approximately US\$ 17-26) for each hour that he/she was unable to fulfill.⁵⁴

Financing of Non-State Funded Legal Aid

As indicated above, in principle, all members of the Korean Bar have to participate in pro bono work every year. Most lawyers finance their pro bono work on their own.

Barriers

Geographical Limitations

Local Bar Associations are spread across the nation, so geographical limitation is not a concern.

Other Barriers

There are some concerns on the effectiveness of KBA's regulations. The criteria for the scope of public interest activities are obscure and criticism includes that there is no valid post-verification system.⁵⁵

SOURCES

The following sources were used, in addition to the various links provided in the footnotes through this memo:

- Dongcheon (Bae, Kim & Lee LLC)
- APIL (Advocates for Public Interest Law)
- Gonggam (Gonggam Human Rights Law Foundation or KPIL)

⁵⁴ KBA Regulation on Pro Bono Activities, etc., Art. 3(2).

⁵⁵ <https://m.lawtimes.co.kr/Content/Article?serial=87359>



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 Bae, Kim & Lee and provides information on both state and non-state funded legal aid in South Korea.

Law firms participating in this research are not liable toward third parties for the accuracy of the general information contained in this guide. The memorandum is not intended to provide, nor should it be relied on, as legal advice. Legal advice should be sought for any specific individual circumstance. If you find any inaccuracies in this document, please inform PILnet at grfpledge@pilnet.org.

If you are an individual seeking further information and contact details about legal aid providers in South Korea, please see the country page for South Korea 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](#).