

Assessing the Barriers to Pro Bono Legal Services for Non-Governmental and Civil Society Organizations in Greece

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18 March 2020

Summary: This report assesses contemporary pro bono legal services in Greece using the United States' long history of pro bono advocacy as a basis for comparison. Greece boasts a formidable legacy of democratic governance suggesting that its legal institutions are uniquely robust. However, one marker of a strong legal system is the relationship between lawyers and average citizens seeking legal support. The difficulty of obtaining legal assistance illustrates a widening gulf between lawyers and the Greek people, and this gap is most pronounced when considering the challenges non-governmental organizations (NGOs) and civil society organizations (CSOs) face. Stymied by current regulations, negative perceptions of their work, and an inherently conservative legal community, these organizations perform important democracy-building and anti-corruption support functions but are unable to call for legal advice when their clients need it most. Upon evaluating the key factors that limit legal aid, this report offers recommendations for improving the relationship between NGOs and CSOs, legal service providers, and the Greek judiciary.

A simple Google query can provide immediate affirmation. For example, entering “birthplace of western civilization” into the search engine will furnish countless articles about Ancient Greece.¹ For any student of world history, this should come as no surprise.²

Upon visiting the Hellenic Republic, one can quickly discern that Greece's historical contributions remain a source of great pride. From the well-preserved monuments dotting its sprawling cities, to the varied museums exalting priceless cultural artifacts, Greece recognizes and embraces its place in history. Above all, Greece's modern conception of democracy stands as the country's greatest contribution to human development, inspiring countless governments all over the world (most notably, the United States).³

However, the same nation that inspired “rule by the people” has become known for unbridled corruption, leading some observers to deem its continued claims to democracy's origins anachronistic at best. Per Transparency International's 2019 *Corruption Perceptions*

¹ Google. (2020). *birthplace of western civilization*. [online] Available at: <https://www.google.com/search?q=birthplace+of+western+civilization&oq=birthplace+of+western+civilization&aqs=chrome.0l5.3946j0j7&sourceid=chrome&ie=UTF-8> [Accessed 16 Feb. 2020].

² Barksdale, N. (2018). *What is the world's oldest democracy?*. [online] HISTORY. Available at: <https://www.history.com/news/what-is-the-worlds-oldest-democracy> [Accessed 16 Feb. 2020].

³ National Geographic Society. (2019). *Greek Influence on U.S. Democracy*. [online] Available at: <https://www.nationalgeographic.org/media/greek-influence-us-democracy/> [Accessed 16 Feb. 2020].

Index, Greece remains one of the most corrupt countries in the European Union with a 60th place global ranking, placing it just above Croatia, Romania, Hungary, and Bulgaria.⁴ Even these rankings fail to tell the whole story, as ordinary citizens can recite detailed experiences with *fakelaki* (envelopes containing bribes), tax evasion, and outright intimidation reflecting the depths to which corruption has taken root.⁵ Unsurprisingly, this malignant culture of government mistrust has resulted in open skirmishes with police and the wholesale erosion of civil society.⁶

Greece's issues with corruption are expansive, but non-governmental organizations (NGOs) have become the vanguard for defending citizens against abuses of power. When traditional public institutions fail to respond, as has been the case in Greece for some time, NGOs perform the vital work of holding government officials accountable for their actions. At the same time, given the sensitive and often controversial nature of their work, it is crucial for NGOs to have immediate and ongoing access to legal support. Due to funding shortfalls and other internal challenges, NGOs already encounter tremendous difficulties in obtaining the resources they need to perform important tasks. Without a culture of strong pro bono (i.e., free) legal advisory for cash-strapped parties like NGOs, obtaining legal assistance is a financially untenable proposition.

This report examines the uphill battle Greek NGOs face in receiving legal support, using the United States and its long-standing pro bono legal culture as a basis for comparison. The situation is particularly dire for civil society organizations (CSOs)⁷ like Transparency International. Representing an important subset of the NGO ecosystem, CSOs advance the public interest and enable citizens to "claim their rights" by holding governments accountable for their actions (particularly when those actions are consistent with illiberalism and corruption).⁸ If preventing corruption from taking root is a fundamental obligation of any liberal

⁴ Transparency International. (2019). *2019 Corruption Perceptions Index*. [online] Available at: <https://www.transparency.org/cpi2019> [Accessed 16 Feb. 2020].

⁵ GAN Integrity. (2018). *Greece Corruption Report*. [online] Available at: <https://www.ganintegrity.com/portal/country-profiles/greece/> [Accessed 16 Feb. 2020].

⁶ Fallon, K. (2019). *Greece: Police accused of excessive force against protesters*. [online] Al Jazeera. Available at: <https://www.aljazeera.com/indepth/features/greece-police-accused-excessive-force-protesters-191211144149333.html> [Accessed 16 Feb. 2020].

⁷ This report will use CSOs and NGOs interchangeably, referring to CSOs when necessary to distinguish their relative treatment.

⁸ Jezard, A. (2018). *Who and what is 'civil society'?*. [online] World Economic Forum. Available at: <https://www.weforum.org/agenda/2018/04/what-is-civil-society/> [Accessed 16 Feb. 2020]; UNDP. (2008). *Annex 1: NGOs and*

democratic system, there must be adequate resources in place to ensure that the fight can be waged and won. For a country with such a proud democratic tradition, there are few things more essential to perpetuating that ethos than a robust corruption-fighting provision. Unfortunately, democracy remains under constant attack insofar as Greek institutions fail to provide relevant NGOs with adequate support.

In order to understand the issues faced by NGOs in Greece, this report will first chart the evolution of pro bono legal advisory in the United States as it successfully developed a pro bono culture over time. Next, the Greek model will be dissected to underscore how the legal system, legal professionals, and the regulatory regime create various hurdles for NGOs to overcome in order to obtain free legal support. Finally, after surveying pro bono services in Greece, this report will conclude with a potential path forward for Greek NGOs seeking assistance and acknowledgment from prospective legal advisors.

From the Founding: A Brief History of Pro Bono Legal Services in the United States

The historical record offers several instances of early pro bono legal work in the United States, and each example illustrates the close connection between pro bono advisory and the nation's highest ideals. One theory suggests that the impetus for pro bono grew out of Puritan principles. In 1710, delivering what might have been the first formal address to lawyers regarding their professional responsibilities, religious leader Cotton Mather tied legal work with the perpetual mandate to do good. Mather proclaimed, "the main intention is that you may be wise to do Good. . . . There has been an old Complaint, That a Good Lawyer seldom is a Good Neighbor. . . . Confute it, Gentlemen, by making your Skill in the Law a Blessing to your Neighborhood."⁹

Some scholars contend that pro bono legal services emerged during the revolutionary period, as the Founding Fathers sought to distinguish America from its colonial overlords. The

CSOs, A Note on Technology. [online] Available at: <https://www.undp.org/content/dam/china/docs/Publications/UNDP-CH03%20Annexes.pdf> [Accessed 16 Feb. 2020].

⁹ Maute, J. (2002). Changing Conceptions of Lawyers' Pro Bono Responsibilities: From Chance Noblesse Oblige to Stated Expectations. *Tulane Law Review*, [online] 77(91), pp.100-01. Available at: [https://1.next.westlaw.com/Document/Ibf891e14a6711dba16d88fb847e95e5/View/FullText.html?transitionType=SearchItem&oncontextData=\(sc.Search\)](https://1.next.westlaw.com/Document/Ibf891e14a6711dba16d88fb847e95e5/View/FullText.html?transitionType=SearchItem&oncontextData=(sc.Search)) [Accessed 16 Feb. 2020].

most famous example originated when future president John Adams took a stand for British soldiers following the Boston Massacre.¹⁰ Although he was criticized for his efforts, Adams' humanitarian impulse was consistent with other good works he performed in Massachusetts.¹¹ To this day, the highest court in the state issues an annual award in Adams' name honoring "those in the legal profession who have demonstrated outstanding and exceptional commitment to providing unpaid legal services to those in need."¹²

Whether pro bono's origins can be traced to religious ideology or the revolutionary spirit, there is no question that the American legal community has steadily assumed responsibility for assisting resource-deficient parties with their legal needs. This presumed obligation was eventually codified by the American Bar Association under Model Rule 6.1 (*Voluntary Pro Bono Publico Service*), which reads (in relevant part): "Every lawyer has a professional responsibility to provide legal services to those unable to pay. . . . In fulfilling this responsibility, the lawyer should: (a) provide a substantial majority of ... legal services without fee or expectation of fee to: (1) persons of limited means, or (2) charitable, religious, civic, community, governmental and educational organizations in matters that are designed primarily to address the needs of persons of limited means."¹³ As such, the expectation that has colored legal work since the nation's founding was made canon, buoyed by the growing clinical movement on law school campuses and commitments from private firms in spite of their extensive for-profit obligations.¹⁴

¹⁰ O'Neill, L. (2015). *Pro Bono in the United States*. [online] Thomson Reuters News Foundation. Available at: <https://news.trust.org/item/20150522111741-j3r8i/> [Accessed 16 Feb. 2020].

¹¹ Ibid.

¹² Commonwealth of Massachusetts. (2019). *About the Adams Pro Bono Publico Awards*. [online] Available at: <https://www.mass.gov/service-details/about-the-adams-pro-bono-publico-awards> [Accessed 17 Feb. 2020].

¹³ American Bar Association. (2018). *Rule 6.1: Voluntary Pro Bono Publico Service*. [online] Available at: https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_6_1_voluntary_pro_bono_publico_service/ [Accessed 17 Feb. 2020]; In the Spirit of Public Service: Model Rule 6.1, the Profession and Legal Education. (1995). *Law & Inequality: A Journal of Theory and Practice*, [online] 13(1), p.57. Available at: <https://scholarship.law.umn.edu/cgi/viewcontent.cgi?article=1436&context=lawineq> [Accessed 17 Feb. 2020].

¹⁴ Smith, L. (2011). Fostering Justice Throughout the Curriculum. *Georgetown Journal on Poverty Law and Policy*, [online] 18, pp.427-453. Available at: [https://1.next.westlaw.com/Document/I3fe1a1eae8611e08b05fdf15589d8e8/View/FullText.html?transitionType=SearchItem&contextData=\(sc.Search\)&firstPage=true&bhcp=1&CobaltRefresh=32535](https://1.next.westlaw.com/Document/I3fe1a1eae8611e08b05fdf15589d8e8/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)&firstPage=true&bhcp=1&CobaltRefresh=32535) [Accessed 17 Feb. 2020]; Boutcher, S. (2011). Rethinking Culture: Organized Pro Bono and the External Sources of Law Firm Culture. *University of St. Thomas Law Journal*, [online] 8, pp.108-29. Available at: [https://1.next.westlaw.com/Document/I4bb70a144a2f11e18b05fdf15589d8e8/View/FullText.html?transitionType=SearchItem&contextData=\(sc.Search\)](https://1.next.westlaw.com/Document/I4bb70a144a2f11e18b05fdf15589d8e8/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)) [Accessed 17 Feb. 2020].

So what does contemporary pro bono legal work look like in the United States? It has taken on several dimensions owing to the diverse parties now engaged in this all-important endeavor. For one, there is a robust not-for-profit legal community supported by the United States government. Founded in 1974 under the Nixon administration, the Legal Services Corporation (LSC) grants millions in funding each year to organizations whose primary goal is to assist underserved communities with their legal issues, and these organizations are often the first line of defense when parties lack the funding they need to obtain paid legal counsel. Naturally, LSC cannot assist every organization that seeks its funding, and countless public interest legal organizations rely on other income sources to fill the gap left by LSC's resource limitations. From the Legal Aid Society to the American Civil Liberties Union, there is an incredible array of public interest organizations offering quality legal work for free, consistent with the civic-minded spirit undergirding legal practice in the United States.

If professional public interest organizations staffed by attorneys are unavailable, parties can solicit the help of clinical teams at American Bar Association-accredited law schools.¹⁵ Clinical activity at law schools dates back to the early 1900s when certain clubs sponsored "legal aid dispensaries."¹⁶ In recent years, the American Bar Association has used its *Standards and Rules for Approval of Law Schools* to mandate that relevant institutions provide "substantial opportunities to students for law clinics ... and student participation in pro bono legal services, including law-related public service activities."¹⁷ These students have not been admitted to any state bar, but they are overseen by expert practitioners and capably perform the heavy lifting on sensitive caseloads. The corresponding impact these clinics have on local communities cannot be understated; for example, vis-à-vis the University of Maryland's clinical law program, "20 faculty lead 150 students in providing almost 75,000 hours of free legal services to the community."¹⁸ Multiply this result by 203 American Bar Association-accredited law schools

¹⁵ I did not abbreviate American Bar Association so as to avoid any confusion with the Athens Bar Association.

¹⁶ Smith, "Fostering Justice," 435-437.

¹⁷ American Bar Association. (2020). *ABA Standards and Rules of Procedure for Approval of Law Schools 2019-2020*. [online] Available at:

https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2019-2020/2019-2020-aba-standards-chapter3.pdf [Accessed 16 Feb. 2020].

¹⁸ University of Maryland: Francis King Carey School of Law. (2020). *Clinical Law Program*. [online] Available at: <https://www.law.umaryland.edu/Programs-and-Impact/Clinical-Law/> [Accessed 16 Feb. 2020].

spread across the United States, and the value proposition of law school clinics becomes quite clear.

Finally, the most high-profile performers of pro bono work are private law firms, as the American Bar Association's emphasis on voluntary pro bono coupled with an eager crop of public service-minded law school graduates has pushed firms to elevate their pro bono offerings over time. For pro bono work to successfully take root at law firms, it must begin with the support of partners willing to encourage pro bono activity. However, it appears that the American pro bono tradition made its way to top law firms without much difficulty, since the early leaders of many law firms were also highly-engaged public servants.¹⁹ This impulse may have long-standing roots, but the last couple of decades have seen a noticeable explosion in pro bono activity among firms. Several rationales have been given for this spike (especially within the nation's largest and most prestigious firms), but the most compelling explanations include:

- Recent efforts by the American Bar Association to codify a commitment to public service within its official rules and regulations;
- Client interest in public service-minded attorneys;
- Increasing activism on college and law school campuses that does not wane upon reaching private practice;
- Greater competition for top graduates of law schools who expect robust pro bono opportunities upon joining firms;
- Junior attorneys with a high appetite for autonomy early in their careers (as some firm partners perceive pro bono work to constitute a lower-risk proving ground);
- Less billable work following the 2007-2010 global financial crisis, entrenching pro bono opportunities at top firms;

¹⁹ Boucher, "Rethinking Culture," 121-22.

- Reputational benefits stemming from the successful resolution of high-profile pro bono cases; and
- A recent history of American presidents performing legal services at some point in their careers (with four of the last nine having attended law school), reinforcing the connection between legal practice and public service.²⁰

According to a report of Am100 law firms (constituting the highest-grossing firms in the United States as ranked by *The American Lawyer*), it is believed that the upper crust of the for-profit legal community provided between 4.45 and 4.84 million hours of pro bono service in 2010 alone, a staggering number even at the tail end of the recession.²¹ The considerable time spent providing free legal services could have been devoted to billable legal work, demonstrating that an investment in pro bono is not simply lip service for American firms seeking to please the national bar, future employees, or paying clients.

Consistent with the number of hours spent offering pro bono services, firms have taken on a dizzying array of pro bono cases reflecting myriad attorney preferences. Classic pro bono cases include discrimination claims, housing issues, immigration challenges, 501(c)(3) not-for-profit formation, and family disputes. Although there are countless requests for pro bono service, not every case will be undertaken by a firm due to the reputational risks involved if a client proves difficult. Many pro bono cases confront lawyers with clients who are skeptical of their support, and there are plenty of cautionary tales regarding pro bono efforts gone awry.²² After an extensive vetting process, only a fraction of cases receive firms' attention. Once those

²⁰ Kamin, M. (2012). Private Lawyers and the Public Interest: The Evolving Role of Pro Bono in the Legal Profession. *Journal of Legal Education*, [online] 62, pp.188-93. Available at: [https://1.next.westlaw.com/Document/Iaca01ac7fecdd11e18b05fdf15589d8e8/View/FullText.html?transitionType=SearchItem&contextData=\(sc.Search\)](https://1.next.westlaw.com/Document/Iaca01ac7fecdd11e18b05fdf15589d8e8/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)) [Accessed 17 Feb. 2020]; Weinberg, B. (2013). New Strategies for Increasing the Efficiency and Effectiveness of Law Firm Pro Bono Programs. *Aspatore*, [online] pp.1-5. Available at: [https://1.next.westlaw.com/Document/I118e2661d57311e28578f7ccc38dcbee/View/FullText.html?transitionType=SearchItem&contextData=\(sc.Search\)](https://1.next.westlaw.com/Document/I118e2661d57311e28578f7ccc38dcbee/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)) [Accessed 16 Feb. 2020]; The White House. (2020). *Presidents*. [online] Available at: <https://www.whitehouse.gov/about-the-white-house/presidents/> [Accessed 17 Feb. 2020].

²¹ Kamin, "Private Lawyers," 190-91.

²² Weiss, D. (2019). *Jones Day sued for alleged malpractice by pro bono clients who say eviction deal left them homeless*. [online] ABA Journal. Available at: <http://www.abajournal.com/news/article/jones-day-sued-for-alleged-malpractice-by-pro-bono-clients-who-say-eviction-deal-left-them-homeless> [Accessed 17 Feb. 2020].

cases pass muster, they receive substantial support from attorneys at all levels who have plenty of incentives to work towards the best possible resolution.

As the legal profession becomes more globalized, cross-border pro bono work has increased in turn. According to scholar Martha Middleton, “The uptick in [international] work by U.S. lawyers and their counterparts abroad fortuitously coincides with an unprecedented worldwide demand for legal assistance to combat various forms of discrimination, violence, injustice and corruption. Women, migrant workers, refugees, immigrants, asylum-seekers, prisoners and victims of human trafficking are just some of the world's poor and disadvantaged who often find themselves with no legal recourse when their rights are challenged or taken away.”²³ Thanks to the United States’ strong pro bono tradition, American lawyers have become the vanguard of an international pro bono movement spearheaded by initiatives such as the Global Pro Bono Project and the Pro Bono Declaration.²⁴ Over time, it is hoped that these movements will inspire other countries to develop the necessary cultural, political, and institutional support necessary to increase legal access where it is sorely lacking – an issue that has proven particularly salient in Greece.

In spite of the generally positive support pro bono legal services enjoy within the United States, the current system is not without its issues. For one, pro bono work by definition involves forgoing payment for often technical and complex legal services, and as the pro bono partner at a major Chicago-based firm candidly notes, “[E]ven in [private] firms with the most robust pro bono programs, pro bono work is, by definition, a sideline to the main work of the firm ... we cannot all do pro bono work full-time and be a successful law firm. The only thing a law firm sells is our billable time.”²⁵ In addition, the most common issues in pro bono assignments concern conflicts of interest. As Rebecca Nieman of the *University of Arkansas at Little Rock Law Review* explains, “Potential conflicts can play a role in the desirability of a pro bono case, given some cases may pose a conflict with a big firm's client or their interests, which

²³ Middleton, M. (2014). *Doing Good Goes Global*. [online] ABA Journal. Available at: [https://1.next.westlaw.com/Document/I59582c8760cd11e498db8b09b4f043e0/View/FullText.html?transitionType=SearchItem&contextData=\(sc.Search\)](https://1.next.westlaw.com/Document/I59582c8760cd11e498db8b09b4f043e0/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)) [Accessed 17 Feb. 2020].

²⁴ Ibid.

²⁵ Weinberg, “New Strategies,” 4-5.

can then have a large economic impact on the firm itself.”²⁶ Once a firm assumes responsibility for a pro bono matter, private sector attorneys may lack the requisite experience necessary to ensure optimal resolution of the claim.²⁷ And looking beyond the firm landscape, uncertain funding regimes for public interest organizations have left some of them in a precarious financial position long-term.²⁸ Cuts to grant funding provided by the LSC have increased the burden on law firms to provide pro bono support, but law firm involvement introduces undeniable inefficiencies:

Whereas one individual Legal Aid lawyer might be able to handle a docket of fifty to one hundred ongoing poverty law cases, when that Legal Aid position is cut because of a lack of funding, it may take five or ten law firms' pro bono programs to pick up that caseload. But rather than one lawyer providing the service, there may be fifty or more lawyers spread around many firms doing the same work. But for these lawyers to get up to speed, they have to spend much more time than the Legal Aid lawyer would have, and the Legal Aid organization has to devote resources to helping each of the firms' lawyers to provide adequate service.²⁹

The pro bono landscape in the United States is not without its fair share of challenges, but it is also supported by a long legacy of historical and institutional commitment across public sector organizations, private law firms, national and state bar associations, and the academic community (including law students, professors, and clinical faculty). This patchwork of stakeholders with overlapping ambitions creates a floor below which pro bono services are unlikely to fall, yet the existence of a deeply entrenched pro bono culture underscores the challenges facing a country like Greece in creating a robust system of its own. Without a history of Greek pro bono advocacy and hampered by restricted access to free legal services, it is understandable that NGOs and CSOs face the greatest challenges in obtaining legal support.

The Bottom Rung: Barriers to Pro Bono Legal Services in Greece and CSO Challenges

²⁶ Nieman, R. (2018). A Fraction of a Percent: A Call to Legal Service Providers to Increase Assistance to Community Nonprofits Using Big Law Pro Bono. *University of Arkansas at Little Rock Law Review*, [online] 40, pp.370-71. Available at: [https://1.next.westlaw.com/Document/I97dc2971029911e9a5b3e3d9e23d7429/View/FullText.html?transitionType=SearchItem&contextData=\(sc.Search\)](https://1.next.westlaw.com/Document/I97dc2971029911e9a5b3e3d9e23d7429/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)) [Accessed 17 Feb. 2020]; Weinberg, “New Strategies,” 1-5.

²⁷ *Ibid.*, 5.

²⁸ Robert, A. (2019). *With LSC under threat for third year, ABA president asks Congress to increase legal aid funding*. [online] ABA Journal. Available at: <http://www.abajournal.com/news/article/aba-president-responds-to-trumps-plan-to-cut-lsc-funding-for-third-time-in-three-years> [Accessed 17 Feb. 2020].

²⁹ Weinberg, “New Strategies,” 5-6.

In general, Greece does not have a strong legacy of lawyers providing pro bono legal assistance.³⁰ According to Latham & Watkins' overview of pro bono services in Greece (written in conjunction with the Pro Bono Institute), a legal aid scheme exists to support entities that cannot afford to pay for legal services within all "civil, criminal, and administrative courts," but this program is narrowly circumscribed and highly regulated.³¹ For example, according to the Greek Lawyer's Code (i.e., the primary law governing the profession), "an attorney is prohibited from providing legal services without receiving a fee, except if the client is a close relative or can prove that they do not have the means to pay for the legal services provided."³² Upon submitting a request for free legal services, the party in question has 15 days to confer ample evidence justifying its petition for review by the relevant court authority (e.g., district court, president of the court where proceedings are forthcoming). If the requisite authority decides to accept the petitioner's request for legal aid, then it appoints a lawyer from lists provided by the local Bar Association.³³ Therefore, the party may obtain legal aid, but it has no ability to choose who can administer counsel and may not find out who was assigned to the case until the first hearing.³⁴

As this high-level overview of legal aid in Greece suggests, there are several problems with the current scheme. First, courts and court authorities are given tremendous discretion in determining who receives access to legal aid, and for a country plagued by corruption, this policy presents a massive barrier to entry in itself. Even after support is granted in principle, "legal aid may be withdrawn or restricted by the court at the prosecutor's request or by the court's own motion, if the requirements for legal aid are not met or if the circumstances warranting legal aid have changed." If the Greek judiciary is viewed as a party to the corrupt practices plaguing other arms of the state, then its influence over legal aid provisions does not

³⁰ Latham & Watkins, LLP. (2015). *Pro Bono Practices and Opportunities in Greece*. [online] Available at: <https://www.lw.com/admin/Upload/Documents/Global%20Pro%20Bono%20Survey/pro-bono-in-greece.pdf> [Accessed 17 Feb. 2020], 234.

³¹ Ibid.

³² Latham & Watkins, "Pro Bono Practices," 236; EUROPA, The European Union. (2014). *Lawyers training systems in the EU*. [online] Available at: <https://e-justice.europa.eu/fileDownload.do?id=4cf66a43-a50f-4707-8152-9e508c650ddd> [Accessed 17 Feb. 2020].

³³ Latham & Watkins, "Pro Bono Practices," 237.

³⁴ Ibid., 238.

bode well for parties with legitimate claims to redress depending on who those claims are against (such as powerful business or political interests).³⁵

Another key concern with pro bono legal services in Greece is that the losing party generally covers all legal costs. This default rule means that even if legal aid was approved at the start of a proceeding, courts may eventually determine that the recipient of aid must reimburse the winning party for its costs once “circumstances improve,” contradicting the presumed rationale behind legal aid.³⁶ Worried about the prospect of a massive bill, parties may determine that the risks of losing aid once the legal process begins may not be worth the potential benefits stemming from a positive court decision, especially if such benefits can be nullified on capricious grounds.

Going beyond the difficult and uncertain process of obtaining legal aid, one must remember that the success of legal institutions depends on the perception that they are in fact legitimate (especially among average citizens), and Greece faces considerable challenges in this arena. Effective responsibility for ensuring a properly-functioning Greek legal system falls on local, self-regulating Bar Associations and the state vis-à-vis the Ministry of Justice. And like the United States, Greece boasts a high number of lawyers relative to the general population: “At the end of 2009, there were approximately 41,000 lawyers registered at all Greek Bar Associations and, in March 2015, there were approximately 21,000 lawyers registered in the Athens Bar Association. In Europe, Greece is one of the countries with the most lawyers per capita, with between 330 and 380 lawyers per 100,000 inhabitants.”³⁷ Therefore, lawyers comprise an elite yet highly-visible class that wields almost monopolistic power over its lucrative endeavors. To put it bluntly, in order for this state of affairs to continue without public criticism, legal professionals must work especially hard to be viewed as anything other than self-interested, rent-seeking oligarchs. As Scott Cummings explains in his article on the politics of pro bono for the *UCLA Law Review*:

Indeed, lawyers' standing as self-regulating professionals relies heavily on the legitimacy of their enterprise in the public eye. The ideology of professionalism has provided this legitimacy, as lawyers'

³⁵ GAN Integrity, “Greece Corruption Report.”

³⁶ Latham & Watkins, “Pro Bono Practices,” 238.

³⁷ *Ibid.*, 236.

claims of expertise, ethical responsibility, and altruism have been invoked to justify professional efforts to assert market control. Particularly for big firms, whose bottom-line focus has long elicited public cries of commercialism, the ability to define organizational activity in terms of professional ideology becomes an important goal. In this way, big-firm pro bono serves not merely as a vehicle to advance the public good, but also as a source of professional legitimation.³⁸

Although large law firms do not have the same mystique or market influence in Greece as they carry in the United States, there remains a tangible need for legal professionals to demonstrate that their work has broader societal benefits. Unless the profession actively demonstrates its value (per the advice of Cotton Mather writing from Massachusetts Bay circa 1710), it will only reinforce the perception that lawyers provide few if any benefits to society at-large – a perception that unsurprisingly has taken root in Greece.³⁹

Furthermore, the Greek legal system does not emphasize the role of lawyers as custodians of the courts in which they practice, so they do not view themselves as the connective tissue between average citizens and a confusing, highly technocratic legal system. Per one pro bono theorist's view on the importance of pro bono legal work in the United States, "The legitimacy of [the American] legal system is largely dependent upon the meaningful participation of all citizens. Pro bono service ensures such participation, thereby preserving the system's legitimacy."⁴⁰ Today, there is neither a cultural nor regulatory incentive for Greek lawyers to provide pro bono legal services on a grand scale, one that can elevate their negative perception in society and allow them to meet the growing legal needs of an increasingly frustrated populace. The average Greek citizen remains at best an arm's length away from basic legal provisions, and when they are inevitably confronted with a legal issue, they either lack

³⁸ Cummings, S. (2004). The Politics of Pro Bono. *UCLA Law Review*, [online] 52, pp.33-35. Available at: [https://1.next.westlaw.com/Document/I21801c2136eb11db8382aef8d8e33c97/View/FullText.html?transitionType=SearchItem&contextData=\(sc.Search\)](https://1.next.westlaw.com/Document/I21801c2136eb11db8382aef8d8e33c97/View/FullText.html?transitionType=SearchItem&contextData=(sc.Search)) [Accessed 17 Feb. 2020].

³⁹ Colville, M. (2012). The Inefficiencies of the Greek Legal System. *Lehigh Perspectives*, [online] (13-21). Available at: <https://preserve.lehigh.edu/cgi/viewcontent.cgi?article=1002&context=perspectives-v30> [Accessed 17 Feb. 2020].

⁴⁰ Ginsburg, R. (2007). Makes Cents: The Business Case for Pro Bono. *Nevada Lawyer*, [online] 19. Available at: <https://1.next.westlaw.com/Document/I7fd8a417e94d11dc824d8c7818c06073/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad74037000001703021df2cc4557ae3%3FNav%3DANALYTICAL%26fragmentIdentifier%3DI7fd8a417e94d11dc824d8c7818c06073%26parentRank%3D0%26startIndex%3D101%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=22e2df30378d90df0201ad633c12deda&list=ANALYTICAL&rank=156&sessionScopeId=89640f5c9fe7dda00441b3934cc390b521e79d4f68fea18defb519928301527c&originationContext=Search%20Result&transitionType=SearchItem&contextData=%28sc.Search%29> [Accessed 17 Feb. 2020].

confidence in their ability to seek redress through the formal system or are compelled to seek alternative means of finding a solution.

Over the last couple of decades, the common alternative to pursuing legal support has been *fakelaki* among other corrupt practices. Greek native and The Century Foundation senior fellow Thanassis Cambanis offers an extremely lucid explanation of Greece's issues with corruption: "Corruption persists because it is a system, and it provides benefits in places where the state does not. Inefficient states create incentives for people to pay bribes to get things done—a building permit, a health department seal of approval, a new passport. Scandinavia is less corrupt than other parts of the world because it's a better deal to not cheat; you pay really high taxes, but the government really does give you everything you need."⁴¹ The "system" has only deepened in response to perceptions that the Greek judiciary aids and abets in furthering corruption; according to GAN Integrity's independent report on corruption in Greece, "Roughly two out of five Greeks perceive corruption to be widespread in the judiciary. Judicial processes are highly time-consuming and ineffective in, for instance, enforcing property and contractual rights. Companies report that Greek courts do not consistently deliver unbiased judgments. [And] the institution is described as inefficient, slow and vulnerable to corruption and political influence" (internal citations omitted).⁴²

Against the backdrop of less-than-robust pro bono services and the ever-present specter of corruption, NGOs and CSOs face considerable challenges when attempting to hold domestic institutions accountable. In theory, such organizations should be eligible to receive legal aid per the Greek Lawyer's Code, as there are four classes of parties that can request and receive legal aid:

1. Any national who can show that payment of their legal costs is liable to deprive them and their family of the means necessary for their maintenance;
2. Corporate bodies that are in the public interest or [not-for-profits] and groups of persons who have the right to take part in court proceedings if it is shown that payment

⁴¹ Cambanis, T. (2014). *Why can't Greece shake its corruption problem?*. [online] The Boston Globe. Available at: <https://ase.tufts.edu/economics/documents/newsIoannidesGreece.pdf> [Accessed 17 Feb. 2020].

⁴² GAN Integrity, "Greece Corruption Report."

of the costs of the proceedings would make it difficult or impossible for them to accomplish their aims;

3. Partnerships or associations, if they cannot pay the costs of proceedings and its members cannot do so without depriving themselves and their families of the means necessary for their maintenance; or
4. Foreign nationals, provided that there are reciprocal arrangements between Greece and the foreign country, and stateless persons on the same conditions applicable to Greek nationals.⁴³

NGOs should fall under #2 or even #3, but conversations with local attorneys and relevant organizations suggest that these organizations seldom receive the legal support they need.

One key issue is the process NGOs must undertake if they are to be eligible for legal aid from the state. NGOs require a written agreement from a lawyer to receive services, the NGO must be registered, and the relevant Bar Association must contact the attorney to obtain necessary information on the nature of the attorney's activities as well as the NGO's work in an official statement. This process may dissuade NGOs from petitioning for legal aid, especially if their clients have grievances with state bodies that might place them in danger.

There is also an information gap related to the work NGOs perform in Greece. Compared to the United States, NGOs are not as common and the ones that exist do not have a sizeable footprint. As one head of a successful Greek CSO noted, in order to obtain legal support for a civil society endeavor, one "has to know someone." That lawyer must also be aware of the legal challenges the CSO is facing and willing to perform services for a heavily-reduced fee at best. Compare this work to more omnipresent property-oriented or asylum-based legal aid opportunities, and lawyers on the legal aid ledger would rather assist with these endeavors than support the time-consuming and sensitive matters CSOs deal with every day.⁴⁴ And of course, the same conflict of interest concerns that curtail pro bono services in the

⁴³ Latham & Watkins, "Pro Bono Practices," 237.

⁴⁴ Ibid.

United States are especially prevalent in Greece, as CSOs sometimes challenge extremely powerful interests that lawyers may not want to confront for fear of reprisal.

Over time, there has been a bifurcation between visible NGOs and less-visible CSOs resulting in more robust pro bono legal assistance for the former over the latter. Owing to the dire situation facing refugees in Greece, “the only cases of pro bono court representation are those provided by certain human rights NGOs in cases concerning migrants and refugees ... [and] a special niche for pro bono legal services in relation to their rights has been created.”⁴⁵ A “youth legal aid” system has also emerged to help underserved citizens, and the program aims to, “fight against social discrimination and isolation often experienced by the program’s target groups ... [and] to encourage and support young lawyers to undertake similar cases.”⁴⁶ Since the caseload covers more traditional legal aid issues (e.g., family issues, labor disputes), there may be greater interest in providing this sort of assistance, but there is not enough empirical proof to confirm such an assumption at this stage. Nonetheless, increased visibility and support for certain NGO efforts has only made it more difficult for CSOs mired in ambiguity to receive legal assistance of any sort.

Perhaps the least obvious barrier to securing pro bono legal services for CSOs is also the most difficult to combat long-term: Greek lawyers tend to come from privileged families holding a conservative worldview, and it can be extremely hard to convince them to tackle cases that disrupt the status quo. CSO cases often focus on high-profile issues of local, regional, or national concern; for example, a recent Transparency International white paper citing classic examples of corruption covered the most severe abuses, including “bribery and petty corruption, wasteful resource management, abuses of power, shady business deals, and undue decision-making influence.”⁴⁷ None of these topics constitutes light work for any lawyer, and all of them run the risk of exposing public sector officials and their malfeasance. Even if Greek lawyers have a vested interest in ensuring that the government is wielding its power legitimately, there is only so much corruption one lawyer can fight on his or her own.

⁴⁵ Ibid., 241.

⁴⁶ Ibid., 242.

⁴⁷ Gorbánova, M. (2015). *Speak Up: Empowering Citizens Against Corruption*. [online] 3. Transparency International. Available at: https://www.transparency.org/whatwedo/publication/speak_up_empowering_citizens_against_corruption [Accessed 17 Feb. 2020].

Combating corruption at its source would take the weight of the entire legal community, and there is still no guarantee that this force alone can circumvent generations of self-interest rooted in mistrust. Consequently, it is easier to ignore CSO “smoking gun” cases in lieu of more familiar legal aid services that do not threaten to ignite further societal upheaval. One can understand conservatism through this lens, but it certainly does not help CSOs in holding the government accountable or individual citizens in their fight for justice.

No empirical study has attempted to evaluate Greece on a spectrum between the United States (with a stronger-than-average pro bono legal framework) and a country like China (where pro bono remains a novel phenomenon) regarding the robustness of its pro bono provision, but Greece’s narrow and tenuous legal aid framework should be viewed as undermining the democratic ideals it purports to uphold.⁴⁸ Such gaps are most evident when the legal aid framework is applied to CSOs, as these organizations are generally incapable of receiving the legal aid they require to remediate their clients’ claims. Transparency International and other CSOs rely on the law to effectuate positive change: notably, when Transparency International runs through the four stages of issue meditation for any problem a party raises, at least three of the four issues (i.e., the problem itself, finding appropriate support, and achieving an optimal resolution) are largely legal in nature.⁴⁹ If these organizations cannot access legal institutions in the countries they serve – whether it is due to legal restrictions, a lack of interest from lawyers, or corruption creating multiple barriers to entry – then no one will be equipped to hold the state or powerful adjacent interests accountable when these institutions abuse their own citizens. Unfortunately, the current status of pro bono legal support in Greece suggests that the state has no interest in amending such frameworks.

⁴⁸ Middleton, “Doing Good Goes Global,” 62.

⁴⁹ Transparency International (2019). *Don't Stay Silent on Corruption. Report It.*. Athens: Transparency International.

Recommendations for Supporting Future Pro Bono Efforts

Cambanis said it best: in order for Greece to overcome its history of widespread corruption, it will require “an entirely new system—for instance, a new tax code and incorruptible people to collect the taxes—and [convincing] individuals to completely overhaul their personal behavior and their view of authority.”⁵⁰ As daunting as this sounds, Cambanis does offer a few examples of places that have managed to successfully overhaul their corrupt cultures over time: “New York’s Tammany Hall was once synonymous with total corruption. So were Hong Kong and Singapore. Time and reform turned them into models of efficiency, relatively speaking.”⁵¹

In short, the “birthplace of democracy” must draw inspiration from its heralded historical legacy to steadily chip away at corruption, and revamping the legal aid framework is a sensible starting point for launching a multi-generational effort. There are several ways the Ministry of Justice and Bar Associations acting in concert can improve legal aid so that it may one day approach the pro bono standards exemplified by countries like the United States:

1. *Take CSOs more seriously as beneficiaries of legal aid:* CSOs play an important role in democracies and non-democracies alike (e.g., Transparency International has over 100 chapters worldwide), and they should be viewed as partners in the fight against corruption.⁵² Acknowledging their important role through legal aid support is an important first step in legitimizing their existence.
2. *Increase law firms’ access to CSOs from an information-gathering perspective:* Part of the uphill battle facing CSOs is that the average Greek lawyer cannot be sure if they are oriented towards societal improvement or the wholesale disintegration of the Greek

⁵⁰ Cambanis, *Why Can’t Greece*.

⁵¹ Ibid.

⁵² Transparency International. (2020). *Our Chapters*. [online] Available at: https://www.transparency.org/whoware/organisation/our_chapters [Accessed 17 Feb. 2020].

state. Bar Associations should spearhead an effort to learn about how their local CSOs work, what their needs are, and how they assist civil society rather than undermine it.

3. *Broaden access to legal services by taking the final decision out of courts' hands:* The Greek Lawyer's Code surely reflects input from the legal community, but it is ultimately passed into law by government. If Greek lawyers were more vocal about having greater autonomy in determining which cases they may take on pro bono, it would be difficult to envision the government unilaterally blocking this request. Of course, such an effort would require profound cultural changes that one cannot expect overnight, but if the heads of a few prominent bar associations made this their objective, it would certainly move the needle to a significant degree.
4. *Reconsider the resting presumption that parties must pay for legal services:* This recommendation would require lawyers to view unpaid legal work as fulfilling a civic duty, and as the American experience with pro bono demonstrates, such a tradition takes generations to cultivate. However, if adopted over time, it would helpfully bridge the perception gap that positions lawyers as self-interested wealth maximizers rather than trusted custodians of legal services for all citizens regardless of their ability to pay. The resulting transition would also have a positive impact on the perception of democracy in Greece, particularly if lawyers can tie their pro bono efforts to ensuring democratic stability.
5. *Advertise the good work done on behalf of NGOs and CSOs:* One thing American law firms have been quite proactive about is sharing their pro bono successes through press releases, newsletters, and interviews. As a result, average citizens may stumble upon

these alerts and walk away with a positive view of law firms' work, one that helps to counteract the often negative preconceptions that surround legal advisory. In a fitting example, American law firm Reed Smith was recognized for its work with a Greek NGO and the United Nations High Commissioner for Refugees, resulting in high-profile media coverage for all involved.⁵³

6. *Encourage legal professionals to work together on thorny NGO and CSO issues:* The issues these complicated organizations face may too be great for any individual legal professional to handle, and the recent trend in American pro bono work is for law firms to come together in a “divide and conquer” strategy. Again, American firms have demonstrated the success of such an approach in Greece, as Orrick teamed with White & Case, Dentons, and other United States-based firms to work with prominent Greek NGOs towards stemming the refugee crisis.⁵⁴ Greek firms could seek out partnerships with American firms as a starting point in creating a culture of cross-collaboration among domestic legal professionals.

Per Greece's incredible history of democratic governance, Greece can extricate itself from the corruption that has marked its development since Ottoman rule.⁵⁵ Organizations like Transparency International play a crucial role in realizing this ultimate goal, and the Greek legal framework must evolve to ensure that these parties have access to the legal aid they need as part of a wholesale effort to transform perceptions of legal institutions and state government.

⁵³ PILNet. (2016). *2016 Pro Bono Legal Awards: Legal Aid for Greece's Stranded*. [online] Available at: <https://www.pilnet.org/events/267-2016-pro-bono-awards-legal-aid-for-greeces-stranded.html> [Accessed 17 Feb. 2020].

⁵⁴ Grunske, A. and Kathawala, R. (2019). *Launch of the Greece Collaborative Pro Bono Project*. [online] Orrick Herrington & Sutcliffe LLP. Available at: <https://www.orrick.com/de-DE/News/2019/08/Launch-of-the-Greece-Collaborative-Pro-Bono-Project> [Accessed 17 Feb. 2020].

⁵⁵ Cambanis, *Why Can't Greece*.

Acknowledgements

Last June, I sent an email to Transparency International’s Greece chapter expressing a general interest in assisting with its work. Eight months later, I am forever grateful to TI-Greece Chair Anna Damaskou, Piya Yiatra, Alexandros Melidis, Maria Paschoula and Maria Nini (together, the Marias), Aris Danikas, Drew Schmidt, Noah Kam, and the rest of the team for embracing me with open arms. I must also thank Stefanos Loukopoulos of Vouliwatch for taking the time to respond to a random email from an eager American law student; your generosity, insights, and depth of experience were nothing short of invaluable.

Finally, I must express my tremendous appreciation for the University of Chicago Law School’s International Immersion Program (IIP) and Office of the Dean of Students. I was first exposed to Transparency International during an IIP visit with the TI chapter in Budapest, and it first set in motion the events that led to this report. Were it not for Prof. Tom Ginsburg and Aican Nguyen’s incredible stewardship over the program and their continued mentorship throughout my law school experience, I would have never considered opportunities with TI in the first place – thank you for your unflagging encouragement. The Dean’s Office was also extremely generous in providing financial support for this research, and it is a testament to the Law School’s commitment to students and their intellectual growth. Upon further reflection, I hope this output will be viewed as a worthwhile investment.



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He is grateful to TI-Greece for its unparalleled hospitality and support, and he hopes to visit Athens again soon.