# [Law Times] 21 December 2012

**[Round table Discussions] The Current Status and Prospects of Pro Bono work in Korean Law Firms**

Major law firms’ pro bono activities expanding... full time public interest lawyers needed

Organizing control towers for managing, evaluating, coordinating public interest activities needed.

Recently, there has been some note-worthy progress and observation, in the scope and nature of pro bono activities in Korea. In the last three years, there were a total of 8 attorneys that worked full-time in the public interest sector. Many large law firms established Pro Bono committees within the firm to carry out relevant work. However, there are still only a small percentage of law firms that have a full time attorney that organizes and manages public interest activities.

It has been pointed out that large law firms are very active when it comes to for-profit activities, while remaining passive to the calling of benefiting the greater good of society.

Law Times, along with Dongcheon Foundation, held a round table - titled ‘Current Status and Prospects of Law firm Pro Bono Work 2012’ - with key players in the pro bono realm including Esther Lardent, the president and CEO of Pro Bono Institute (PBI), the organization which had a great role in facilitating Pro Bono activities in the U.S., Attorney David Lash, a full time pro bono counsel at a large law firm in the U.S. , and public interest lawyers and professors in Korea. (Editor)



The distinction between community service and pro bono contributions

**Attorney Pill-Kyu Hwang(Moderator):**

Recently, pro bono services have attracted the attention of many Korean Law firms. However, the focus of these pro bono services are mostly on community service activities such as giving monetary donation or participating in volunteer works rather than providing legal aid such as public interest litigations. Therefore, there has been the shared need to distinguish between community service and pro bono activities. Let’s first discuss about the case of PBI and the situation in the U.S. in terms of what kind of activities are considered as pro bono activities. The discussion then will be on how the term ‘pro bono’ is defined in Korea.

**Esther Lardent:**

When we refer to the term pro bono, we are specifically referring to not only public interest litigations, but also policy making and legislation activities, which all can be categorized under specialized legal services. Activities like mentoring in-house lawyers or providing community services are not legal activities, and thus we need to be mindful of having them included in the domain of pro bono activity

**Attorney David Lash:**

The American Bar Association (ABA) has a broader definition of pro bono services. However, a large number of law firms in the U.S. accept PBI’s narrower definition of pro bono. PBI recognizes pro bono activity only when it is ‘a legal activity that is performed by an individual with a bar license and has had some form of legal education’.

**Attorney Dongsoo Yang:**

The Attorney-at-Law Act of Korea and related regulations require at least 30 hours of pro bono services per attorney every year. It can be said having a requirement for pro bono hours as a regulation shows that Korea’s legal industry puts more weight on social responsibility of legal professions than the U.S. However, the scope of what the law recognizes as a public interest work is relatively broad. For instance, working as a committee member of public interest organization or a board member in bar associations, and making donations to public interest foundations established by bar associations are all considered public interest services. In general, ‘pro bono’ refers to lawyer’s public interest activities in helping those in society with free litigation or legal consultations. ‘Pro bono attorneys’ refer to those that do public interest cases on a part-time basis. ‘Pro bono counsel’, in contrast, refers to lawyer, within a law firm, who manages and organizes pro bono cases of affiliated attorneys on a full-time basis. On the one hand, ‘public interest attorneys’ works within a public interest lawyers groups where they play a role of an intermediary between the pro bono attorneys and the recipients of the legal services, while perusing the betterment of pro bono system. What are the specific standards PBI refers to when recognizing law firms’ pro bono activities?

**Lardent**:

We have detailed and clear regulations as to what constitute as pro bono services and only evaluate the activities that fit into those regulations. When PBI first started the Pro Bono Challenge Project, we encountered many difficulties when defining the term ‘pro bono’. We had law firm and in-house attorneys come together to define the term. PBI decided that monetary donations were not considered to be pro bono and instead, came up with a regulation that stipulates each law firm to spend 3~5% of the firm’s yearly billable hours for pro bono activities. Additionally, various other factors such as significance of pro bono works different firms engaged with and diversity of contributors also are considered when PBI counts a particular activity as pro bono. Furthermore, like the cases of the U.S., Australia and Hong Kong, if the representative attorneys from different firms have opportunities to sit together and discuss about the definition and scope of the term, I believe this will be a shared standpoint in developing the agreed definition of ‘pro bono’.



140 law firms registered with PBI and actively participate in pro bono services

**Moderator:**

The history of public interest activities in the U.S. is not very long. What were some obstacles you encountered while the idea of pro bono was being developed and until when the lawyers started to embrace the idea?

**Lardent:**

PBI is a non-profit organization which was established in 1996 in order to work together with large law firms, in-house counsels and public interest organizations in providing legal services to those who are vulnerable in society and also facilitating pro bono activities of legal professions. In the initial stage, PBI focused on visiting major law firms state-to-state to raise awareness of pro bono services in order to build up their engagements. We also had meetings with young attorneys where we shared the success stories and experiences of doing pro bono work which also proved to be helpful in raising their interests in doing pro bono works.

**Lash:**

If the representatives of law firms get involved in pro bono activities, it makes it relatively easier for affiliated lawyers to actively participate in pro bono works. This not only helps to raise awareness of the importance of pro bono activities, but also help the firms with active pro bono services will have more lawyers willing to work with them. For these reasons, many law firms have become signatories to the Pro Bono Challenge through PBI and annually report back to PBI on their pro bono activities. There used to be only 46 member law firms, but PBI now has more than 140 law firms that are members.

The need for pro bono counsels in the top ten major law firms in Korea.

**Lash:**

Currently, PBI is working with large law firms that have more than 200 attorneys. There is a different program for mid-sized law firms; however, their activities are not as active as the large law firms’. I am certain that providing the mid-sized law firms with more capacity building opportunities will result in a significant change as they also have a sense of calling for pro bono activities.

**Yang:**

Korea’s legal service industry is dominated by the 10 major law firms that have, in total, more than 30% of the whole numbers of lawyers as their affiliates. Considering the social impact and responsibility these law firms have, expanding their participation in pro bono activities is necessary and it will be ideal to have at least 10 major law firms hire full time pro bono counsels. For mid-sized law firms, public interest lawyer on a basis of part time will be needed.

**Attorney Hyung-Kuk YEOM:**

**I agree. Law firms should have pro bono counsels to manage the firm’s pro bono activities and coordinate partnership with other organizations. Also we need a ‘Control Tower’ center that is separate from law firms to manage, evaluate and arrange public interest works. The control tower could evaluate law firms’ pro bono activities after the guidelines for evaluation is developed. Moreover, it could organize manuals per each pro bono sector, run training programs and provide pro bono consulting services. Lastly, we need a pro bono intermediary to connect pro bono litigations and cases to law firms. The Korean Bar Association(KBA) can take charge of the evaluations, trainings and consultations while public interest organizations carry out the job as the pro bono intermediary.**

**Professor Sung Soo Hong:**

**The number of major Korean law firms with more than 100 attorneys is less than 10. A firm needs to have at least 100 attorneys in order to hire a pro bono counsel. So it would be crucial to create a favorable environment for small and mid-sized firms with less than 100 attorneys to carry out pro bono works.**

**Yeom:**

**The pro bono situation is worse for individual lawyers. Currently, it is difficult to even identify the state of public interest activities done by individual lawyers with few exceptions. To support public interest work of lawyers, we need to promote public interest lawyers’ groups like the ones in the U.S., as public interest lawyers’ group can develop specific areas of public interest such as refugees or the disabled and connect them to lawyers. On the other hand, we need various support measures to promote the groups such as securing funding and institutional support, incubating public interest lawyers at law schools, etc. Also, the government or the KBA should consider mechanisms to raise awareness of the importance of pro bono activities, for example through presenting awards, along with actively adapting unification of legal professions so as to hire attorneys with great commitment to public interest work as judges, prosecutors or other public officers, as a way of compensating the lawyers for their works.**

**Conflict of interest issues for major law firms**

**Difficulty in doing pro bono work**

**Moderator:**

I would like to mention some difficulties Korean law firms may face when they do pro bono works. The majority of major law firms have government agencies as their clients so we see time when a pro bono case triggers a conflict of interest.

**Yang:**

The problem of law firm pro bono work in Korea is that attorneys willing to participate are unsure of what they should do. Also NGOs receiving legal support find it hard to work with public interest lawyers outside their organizations due to lack of system. NGOs are reluctant to cooperate with law firms. Sometimes, NGOs without legal department ask for donations instead of pro bono service.

**Lardent:**

There was a similar problem in the U.S. too. Generally NGOs have doubts about the intent of law firm pro bono work and they are not yet prepared to receive legal services.

**Yang:**

There are times when clients who received pro bono services make complaints. It is because pro bono is a free legal service and there are numbers of actors at stake, so sometimes the result comes out relatively slower than for-profit cases. There is also an issue of evaluating the result of pro bono cases.

**Lardent:**

Of course there were times when some clients made complaints, but the number was a lot smaller compared to the times when the clients expressed gratitude for the services they received. Client satisfaction is important, but what’s more important is whether pro bono case and for-profit case were treated equally.

**Lash:**

When there is a conflict of interest issue, we treat for-profit clients and pro bono clients equally. It would be more ideal for law firms without any conflict of interest to take on the pro bono cases. To do so, pro bono intermediaries can circulate the mailing list of pro bono attorneys and refer a case to a law firm attorney who does not have a conflict of interest to prevent the client’s conflict of interest.



Pro Bono as a basis for successful business

**Hong:**

In the U.S., as competition among law firms in relation to pro bono activities gets more intense, pro bono culture is growing rapidly. In Korea, there is a fierce competition among law firms, but not in terms of pro bono work. Nevertheless, if law firm pro bono activities are ranked and become a criteria for law firm evaluation, pro bono work will expand at an astonishing speed. It is generally assumed that the reason why there is a intense competition for pro bono work among the U.S. law firms is that pro bono activities are not only helpful for enhancing the firm’s image and recruiting outstanding professionals, but also boosting the morale of the affiliated attorneys.

**Lash:**

In light of all those factors professor Hong pointed out, the most important factor among them would be ‘money’. It might sound strange that free public interest work can increase revenues. But good work has great ripple effect. It greatly helps our reputation when we get encouragements from governors or politicians and also when the reporters do media coverage on our works. Taking pro bono cases can also train our attorneys at no cost. Major clients will want to work with us and prospective lawyers will pay attention to our firm, so ultimately we can build the system to bring more revenue. Of course law firms are doing pro bono work not just for the money but because they recognize the importance of pro bono work.