

The Vance Center's Co-Counseling Model of Pro Bono Representation

A fundamental principle of pro bono representation is that it differs from standard legal practice only in the absence of monetary compensation for the attorney. All the other rules apply: attorney-client privilege, zealous representation, and loyalty to the client. The pro bono attorney must ensure at the outset that no conflicts of interest exist, so that the relationship can be as ironclad as ever.

However, pro bono matters quite often involve a third party, rarely present in standard cases: the intermediary, which identifies the client and introduces her to the attorney. This intermediary often is called a clearinghouse, although this somewhat misleading name suggests that a fee is to be made in the brokerage of the matter.

The clearinghouse rather is usually a nonprofit organization, supported through donations. It helps the client find legal counsel and the attorney find worthwhile pro bono matters. It also often presents to the attorney the basic facts in the matter and sometimes trains the attorney in specialized areas of the law.

The Cyrus R. Vance Center for International Justice is not a pro bono clearinghouse, even though it brings clients together with law firms in pro bono matters and operates as a nonprofit program of the New York City Bar Fund. The distinction is that the Vance Center itself provides legal representation to its clients, alongside the law firms in its pro bono matters.

The distinctive model that the Vance Center has developed over the past five years is called "co-counseling." This simply means that the client has two lawyers who jointly serve it, "it" because the client itself is usually a nonprofit organization. However, the role that the Vance Center performs is anything but simple.

Co-counseling with law firms encompasses a range of various relationships and functions. The Vance Center acts from one matter to the next as alternatively a passive monitor of the law firm's timely progress, the client's general counsel, an expert in a specialized issue in the matter, or the law firm's coordinator of local counsels in other jurisdictions. It most often is the Vance Center, acting as a clearinghouse, that identifies the client and the matter. However, much more follows after that.

The Vance Center currently has five lawyers providing pro bono legal representation, two in each of the Human Rights and Access to Justice Program and the Environment Program and one in the Good Governance Program. Another lawyer places the 90-odd matters on behalf of more than 50 clients that these five develop each year with approximately 125 law firms around the world, which in turn assign about 470 lawyers to work on them. The Vance Center can handle so many matters because of co-counseling with the law firms, including the varying roles that the lawyers perform with them all.

Over the years, the Vance Center has nurtured the close client relationships that all lawyers treasure, although the benefit here is not monetary. Rather, the clients benefit from the familiarity with their activities that the Vance Center's lawyers gain. The lawyers thus identify issues that the clients have not considered and can coordinate several law firms working on different issues simultaneously. In several

instances, clients have asked Vance Center lawyers to join their boards of directors, an indication of confidence and trust.

Vance Center clients most often are social justice organizations advocating for enforcement and expansion of fundamental rights. They include well-known international nonprofit organizations like Human Rights Watch, Amnesty International, the Nature Conservancy, and the International Consortium of Investigative Journalists, as well as national and local organizations in Latin America, Africa, and Asia. The Vance Center also has represented United Nations human rights experts and groups, such as the Joint Office on the Prevention of Genocide and the Responsibility to Protect.

The Vance Center matters typically focus on strengthening the programs of the clients: analysis of “best regulatory practices,” application of international law, and comparison of domestic laws. Some involve amicus submissions in national and international tribunals, assessment of litigation risk, or establishment or restructuring of nonprofit entities.

Law firms certainly bring significant expertise and lawyer power to Vance Center projects. They might provide dozens of lawyers from several offices around the world who work with the Vance Center’s single lawyer. However, the matters often require legal expertise from jurisdictions that the law firms cannot cover, and the Vance Center finds lawyers in countries like Fiji, Haiti, Kyrgyzstan, Ethiopia, Bangladesh, Armenia, and the Central African Republic and coordinates their work with the law firms.

Co-counseling is an effective symbiotic relationship for all participants. The Vance Center has learned the interests and strengths of the law firms, which welcome its complex multi-jurisdictional projects, enabling collaboration across offices and offering intellectual challenge and moral fulfillment. Most importantly, clients gain ongoing hands-on attention from the Vance Center and the as-needed quantity and quality of lawyering from the firms. And it’s free.