

A Survey of *Pro Bono* Practices and Opportunities in 71 Jurisdictions

Prepared by Latham & Watkins LLP for the Pro Bono Institute

August 2012

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FOREWORD

This Survey of *Pro Bono* Practices and Opportunities in 71 Jurisdictions goes back to an initiative of the Pro Bono Institute and Latham & Watkins to make information about global *pro bono* legal services accessible. The first edition of the survey published in 2005 covered 11 jurisdictions, mostly in Europe. The 2012 edition covers over 70 jurisdictions in Europe, Asia and the Pacific region, the Americas, Africa and the Middle East. As the interest in global *pro bono* has grown, and this survey with it, the conversation about global and international *pro bono* has shifted. Whereas the focus just a few years ago was on issues of permissibility and compatibility with the local legal system, the focus today is decidedly practical: *pro bono* has gained in acceptance and the question is how, not whether, *pro bono* representations can be undertaken. The developments have been profound and exciting.

The survey is part of an ongoing effort, shared by many law firms, organizations and corporate legal departments, to promote and stimulate the growth of *pro bono* representation globally and in international settings. Its purpose is to serve as an introductory resource for law firms, private practitioners, in-house lawyers and NGOs seeking to engage or learn more about the culture and provision of *pro bono* in their own or other countries. The chapters describe, for each jurisdiction, what access-to-justice or publicly funded legal aid programs exist, what unmet needs for legal representation remain, what perceptions or culture shape the discussion of *pro bono*, and what professional-conduct laws and rules provide the framework for *pro bono* representation.

In 2012, lawyers from Latham & Watkins' 30 offices around the globe have updated all prior chapters and added chapters covering nearly 30 new jurisdictions. We consider the survey to be a work in progress and welcome your feedback and comments to help us improve future versions (please direct your requests to: Gianni.DeStefano@lw.com). While we have worked, to the extent possible, with local counsel and NGOs to provide information that is both current and accurate, we note that the situation in many of the jurisdictions is fluid, and that errors and omissions are unavoidable. The survey is therefore a work in progress in this sense as well and we invite your comments.

We owe a debt of gratitude to Esther Lardent and Tammy Taylor of the Pro Bono Institute, with whom we have collaborated on this project. The survey is the effort of a large team, involving not only many lawyers at Latham & Watkins, but also local law firms and practitioners, in-house lawyers and NGOs around the globe. We are grateful for their contributions and their time.

August 2012

Gianni De Stefano and Wendy Atrokhov



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THANKS

The Pro Bono Institute and Latham & Watkins would like to thank the following contributors to this survey:

NGOs: Canadian Bar Association (Canada) – Free Legal Advice Centres (UK) – MANS (Montenegro) – Mizan Law Group for Human Rights (Jordan) – the Peace Institute (Slovenia) – PILnet (China) – ProVene foundation (Uruguay) – Public Interest Alliance Centre (Ireland) – Public Interest Law Clearing House of Victoria (Australia) – Red Pro Bono (Mexico)

Local counsels: AF Mpanga Advocates (Uganda) – ALMT Legal (India) – Altenburger (Switzerland) – Amna Akbar (Pakistan) – Vincent Berger (International) – Bech-Bruun (Denmark) – M. & M. Bomchil (Argentina) – Cariola Diez Perez-Cotapo (Chile) – Delphi (Sweden) – Dittmar & Indrenius (Finland) – Echecopar (Peru) – Ferrere (Paraguay) – Gómez Pinzón Zuleta Abogados (Colombia) – Maria Khan (Pakistan) – Kinstellar (Czech Republic, Slovakia, Serbia) – Luthra & Luthra Law Offices (India) – Mannheimer Swartling (Sweden) – Marxer & Partner Rechtsanwälte (Liechtenstein) – McCarthy Tétrault LLP (Canada) – MMAKS Advocates (Uganda) – Morais Leitão, Galvão Teles, Soares da Silva (Portugal) – Picón Seguros y Servicios Financieros (Uruguay) – Naureen Shah (Pakistan) – Shalakany Law Office (Egypt) – Sharkawy & Sarhan (Egypt) – Sorainen (Latvia) – Stibbe (Belgium, Luxembourg, the Netherlands) – Szecskay Attorneys at Law (Hungary) – Tilleke & Gibbins (Thailand) – Zammit & Associates (Malta)

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Last, but not least, each individual, both in law firms and legal departments, active in *pro bono* representations to address the unmet legal needs of those with limited means.





PRO BONO PRACTICES AND OPPORTUNITIES IN EGYPT¹

Egypt has a long and vibrant legal tradition, with a developed body of case law and judicial institutions that have served as a model for legal reforms in other Arab countries. Though the country does not have an established practice with respect to *pro bono* services, several groups are engaged in providing legal representation to indigent people, and large- to medium-sized Egyptian law firms are beginning to establish *pro bono* programs.

I. LEGAL SERVICES AND THE LEGAL PROFESSION IN EGYPT

A. The Legal Profession

There are between 420,000 and 620,000 lawyers in Egypt out of a population of 82 million, giving Egypt a lawyer per capita ratio of between 549 to 756 per 100,000 inhabitants which is significantly higher than most Western European nations. The majority of lawyers work as solo practitioners or in small firms, although there are a handful of large law firms ranging between three dozen or more in Cairo, both domestic and foreign-affiliated, that assist predominantly Arab and foreign clients on inbound and outbound matters. Several Egyptian law firms have established *pro bono* practices that require their lawyers to dedicate a certain portion of their time to counseling or litigation support in partnership with nongovernmental organizations ("NGOs") or legal assistance groups.

The legal profession is self-regulated by the Egyptian Bar Association (the "EBA"), one of the oldest legal associations in the Arab world that was formed in 1956, uniting three bar associations that previously represented lawyers with rights of audience before secular, religious and mixed courts, respectively. Under Article 56 of the 1971 Constitution, the EBA, along with other recognized trade unions and professional syndicates, is tasked with regulating its membership and defending the rights and liberties accorded to the profession by law. Membership in the EBA is compulsory for all lawyers. The Advocates Law of 1983 (the "Advocates Law") provides a basis for establishing the duties of the legal profession centered on ideals such as duties of confidentiality, the duty to avoid conflicts of interest and requirements of ethics and integrity; however, it is vague and has not been properly implemented. Furthermore, there is no defined ethical code of conduct that covers, *inter alia*, conflicts of interest, handling of client funds and the fiduciary duties of lawyers. Investigation or prosecution of lawyers for misconduct is virtually unknown in Egypt.

Egypt's judiciary is bifurcated: on the one hand, there is an independent state judiciary and, on the other hand, there is a judiciary of military and emergency courts. Emergency rule has been in effect in Egypt since 1967, save for an 18-month hiatus ending in 1981. Emergency rule permits enlarged police powers, reduced or suspended constitutional rights and robust censorship.

There are approximately 17,000 sitting judges, the vast majority of whom began work as public prosecutors. ¹⁰ Egyptian law does not recognize a system of binding precedent and as is typical in certain civil law countries, litigation proceedings are lengthy and largely adjudicated based upon written submissions rather than oral pleadings. The state judiciary is composed of four branches: regular courts, constitutional courts, administrative courts and family courts with jurisdiction over matters of divorce and inheritance. The state judiciary is governed by the Constitution with the most senior judges

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² IBA, Justice at a Crossroads: The Legal Profession and the Rule of Law in the New Egypt 37 Nov. (2011).

³ *Id.* at 34.

CONSTITUTION OF THE ARAB REPUBLIC OF EGYPT, 1971, available at Egypt State Information Service, http://www.sis.gov.eg/En/LastPage.aspx?Category_ID=208. Accessed May 14, 2012.

⁵ IBA, *supra* n.2 at 33.

⁶ IBA, *supra* n.2 at 32.

⁷ *Id*

Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, *Mission to Egypt*, U.N. Doc. A/HRC/13/37/Add. 2 (Oct. 14, 2009).

Sadiq Reza, Endless Emergency: the Case of Egypt, 10 New CRIM. L. REV. 532 (2007).

¹⁰ IBA, *supra* n.2 at 19.



being named by the President, in consultation with senior judges. Within the state judiciary, there are three levels of courts. At the first level are the Summary Tribunals (*Mahakim Guz'iya*) that hear and decide minor criminal charges, small claims in civil and commercial areas as well as labor and minor personal status issues. The second level consists of Summary Tribunals of First Instance (*Mahakim Kulliya*) that are divided into civil and commercial chambers and decide appeals from Summary Tribunals as well as civil and commercial cases in which the value of the claim exceeds 250 Egyptian pounds as well as significant personal status matters. The third level consists of several regional High Courts of Appeal (*Mahkamat al-Ist'naf*) that decide appeals from Summary Tribunals of First Instance and the Supreme Court, also called the Court of Cassation, which serves as the final appellate court of the nation.

The military and emergency judiciary consists of courts with mixed military and civilian judges appointed by the President and the Supreme Council of the Armed Forces. Military courts have jurisdiction over terrorist acts, acts committed by members of the security forces and all other acts committed at military facilities or involving military equipment. Emergency courts have jurisdiction over such crimes as sabotage, dissemination of false news and incitement to violence.

B. Legal Aid

The Advocates Law requires that each regional branch of the EBA form a legal assistance committee to coordinate the efforts of the membership and that lawyers provide *pro bono* legal aid to those who are unable to afford such representation. The Ministry of Justice also has limited programs of legal aid that are financed through government and donor funds, with a focus on representing parties in family law proceedings. However, in practice, legal services are rarely given for free by private practitioners. Egypt does have a passionate human rights bar with several NGOs and legal aid groups providing legal assistance. Several law firms offer transactional and counseling *pro bono* assistance. Sources agree that *pro bono* is nascent among commercial law firms, but it is a growing trend.

II. PRO BONO IN EGYPT: OPPORTUNITIES AND OTHER CONSIDERATIONS

A. Pro Bono Opportunities

The culture of *pro bono* is not developed in Egypt. Private practitioners do not typically engage in free legal representation. Much of the *pro bono* assistance provided by law firms takes the form of transactional or consultative representation; litigation is largely the preserve of legal aid civil companies (a distinct legal form in Egypt) and certain NGOs. Opportunities for *pro bono* are available in the fields of refugee assistance (to non-Egyptian nationals who are claiming asylum in Egypt or seeking relocation to third countries) and training and capacity building to lawyers and nonlawyers ("legal awareness") in diverse areas.

B. Barriers To *Pro Bono* Work And Other Considerations

The barriers to *pro bono* work include regulatory and licensing considerations as well as procedural impediments related to the current Egyptian framework that governs NGOs.

With respect to regulatory and licensing considerations, only Egyptian lawyers can advise on Egyptian law matters and only foreign lawyers who are established in Egypt may advise on international law or the law of their home jurisdiction in Egypt. In addition, due to the legal structure of many legal aid groups that provide advice with respect to litigation, financial donations are generally prohibited. Furthermore, in-kind donations (such as services, software, books, etc.) to legal aid groups by foreigners or foreign entities are generally prohibited absent a permit from the Egyptian authorities. In practice, such permits are rarely given. Many outside groups have provided assistance to such organizations through the form of a service agreement entered into between the two parties for consideration. With respect to NGOs, Egyptian NGO Law 84 of 2002 regulates the establishment and conduct of such organizations. ¹³ NGOs must be registered with the Egyptian Ministry of Social

Nabil Abdel Fattah, *The Political Role of the Egyptian Judiciary*, in JUDGES AND POLITICAL REFORM IN EGYPT 71 (Nathalie Bernard-Maugiron ed., 2008).

Program on Governance in the Arab Region, *Egypt: Law on Non-Governmental Organizations*. http://www.pogar.org/publications/other/laws/associations/law-nongov-egy-02-e.pdf.

Programme on Governance in the Arab Region, Egypt: the Judiciary. http://www.undp-pogar.org/countries/theme.aspx?cid=5&t=9.



Solidarity. The NGO Law 84 Article 17 restricts NGOs from receiving cash or in-kind donations from foreigners, foreign entities and Egyptians resident abroad absent an authorization by the Ministry of Social Solidarity.¹⁴

C. Pro Bono Resources

Several organizations are involved in providing legal assistance or working in the field of legal awareness in Egypt. They include the Hisham Mubarak Law Center, the Center for Egyptian Women's Legal Assistance, the Egyptian Center for Economic and Social Rights, The Egyptian Association for Disseminating and Developing of Legal Awareness and the Cairo Institute for Human Rights Studies.

III. CONCLUSION

Egypt is a country undergoing a democratic transition and one with a growing commitment to *pro bono* by certain private practitioners. Though the country does not have an established practice with respect to *pro bono*/legal assistance services, several groups are engaged in providing legal representation to indigent people and large- to medium-sized Egyptian law firms are beginning to establish *pro bono* programs.

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Pro Bono Practices and Opportunities in Egypt

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⁴ *Id.*