



Pro Bono Practices and Opportunities in Nigeria¹

INTRODUCTION

This chapter examines the current pro bono system in Nigeria, including the governmental and legal infrastructure of the country, and discusses pro bono practices and opportunities.

Current levels of pro bono engagement in Nigeria are relatively low but recent high-profile initiatives are seeking to change this and encourage pro bono activities to fill the desperate need for increased access for indigent persons to legal assistance in Nigeria.

OVERVIEW OF THE LEGAL SYSTEM

Constitution and Governing laws

Nigeria is a federal republic, divided into 36 states and one federal capital territory. Each state is divided into local government areas; there are 774 in total.² Nigeria's current constitution (the "**Constitution**") was adopted in May 1999. The President is elected every four years by universal adult suffrage and is required to include at least one representative of each of the 36 states in the cabinet. There is a bicameral National Assembly made up of a House of Representatives (with 360 seats) and a Senate (with 109 seats), each elected for four-year terms. The state governors and assemblies are also elected every four years.³

The sources of Nigerian law are (i) the Constitution, (ii) legislation passed by State Assemblies, (iii) certain English laws (by virtue of colonization and subsequent incorporation of laws), (iv) customary law (including Islamic (Shari'ah)) and personal and civil law (which is available particularly in the northern states), (v) Islamic penal law (which is partially enforced in a few northern states), and (vi) judicial precedents.

The Courts

The court system is comprised of federal and state trial courts, the Court of Appeal, the Supreme Court and Shari'ah and customary courts of appeal for each state and the federal capital territory of Abuja.⁴ Although the Court of Appeal and the Supreme Court are both part of the Federal Government, appeals from both the Federal and State High Courts lie to the Court of Appeal and from there to the Supreme Court.

The President is responsible for judicial appointments to the federal courts (upon the recommendation of the National Judicial Council) including the Chief Justice of Nigeria, the President of the Court of Appeal and the Chief Judge of the Federal High Court, all three of which require confirmation by the Senate.

¹ This chapter was drafted with the support of Templars.

² See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/434067/Nigeria_CIG_Background_information_v1_0.pdf

³ See <http://thecommonwealth.org/our-member-countries/nigeria/constitution-politics> (last visited on September 4, 2015).

⁴ See <http://www.nationsencyclopedia.com/Africa/Nigeria-JUDICIAL-SYSTEM.html> (last visited on September 4, 2015).



The Practice of Law

Education

It takes five years to complete a law degree in Nigeria. Upon completion, graduates are awarded a “Bachelor of Laws” (LL.B.) degree. This is followed by a mandatory one-year period of vocational training at The Nigerian Law School under the supervision of the Council of Legal Education. Admission for foreign trained graduates is possible after they have first successfully completed a course of introduction to Nigerian law known as the Bar Part one course.⁵

Governing Body

The Nigerian Bar Association (the “**NBA**”) is the professional association for lawyers in Nigeria.⁶ The activities and conduct of members of the legal profession are regulated by statutory bodies, like the General Council of the Bar, Legal Practitioners Disciplinary Committee and the Body of Benchers. These bodies were established by the Legal Practitioners Act.⁷

Demographics

There are approximately 92,800 lawyers practicing in Nigeria, a country with a population of over 170 million.⁸

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

The right to legal assistance is enshrined in the Constitution⁹ but, in practice, accessibility of such assistance varies across the different states. In those parts of Northern Nigeria that have suffered occupation by the Boko Haram it appears that access to justice may be severely limited.¹⁰

State Subsidised Legal Aid

The Legal Aid Council (the “**LAC**”), under the Federal Ministry of Justice, was set up in 1976 by the federal government to provide free legal assistance and advice to Nigerian citizens who could not afford the services of a private lawyer. The Legal Aid Act 2011 (the “**Act**”) lays out the current rules and policies of the LAC. According to the Act, legal aid shall be granted only to people whose income does not exceed the national minimum wage. The Federal Executive Council does, however, have discretion to authorize legal aid on a contributory basis to a person whose income exceeds this amount provided that that person then pays the LAC a certain percentage of their income.¹¹

The LAC handles both relatively serious criminal cases such as murder, manslaughter, rape, affray and stealing and certain civil cases including claims arising from breach of fundamental rights enshrined in

⁵ See http://www.ibanet.org/PPID/Constituent/Student_Committee/qualify_lawyer_Nigeria.aspx (last visited on September 4, 2015).

⁶ See <http://www.nigerianbar.org.ng/> (last visited on September 4, 2015).

⁷ See <http://www.nigeria-law.org/Legal%20Practitioners%20Act.htm> (last visited on September 4, 2015).

⁸ Templars interview with Mrs Eire Ifueko Alufohai, Executive Director of the Nigerian Bar Association.

⁹ Chapter IV, 30(6).

¹⁰ See, for example, the recent Amnesty International report on Boko Haram dated April 13, 2015.

¹¹ Section 10 of the Act.



Chapter IV of the Constitution and mediation on disputes on various issues such as Landlord/Tenant, Master/Servant, Employer/Employee, Husband/Wife, inheritance and family matters etc.¹²

Mandatory assignment to Legal Aid¹³

Legal aid provided by the LAC ranges from rendering legal services through consultation, advice, or representation in court. The LAC guarantees the provision of such services through either the salaried lawyers staffed in the LAC's offices or private practitioners. If an application for legal aid is approved, the LAC may make referrals to private legal practitioners, whose names are registered on panels of practitioners maintained by the LAC and who receive a nominal fee. Lawyers who are willing to assist persons seeking legal aid are entitled to be included on the panel, unless the LAC has good reason for excluding them.

Alternative Dispute Resolution

Mediation, Arbitration, Etc.

The Rules of Civil Procedure in Nigerian courts mandate lawyers to advise and aid their clients in exploring alternative dispute resolution options before proceeding to litigation.¹⁴ These rules are intended to help avoid delay and reduce the high number of cases pending in courts. Furthermore, the courts also allow parties to explore settlement through negotiation or mediation even during the pendency of a matter in court. Where a settlement is reached outside of court, the terms of settlement or settlement agreements are adopted by the court as a "consent judgement" which is binding on the parties.

Ombudsman

The official Ombudsman in Nigeria, the Public Complaints Commission, has a mandate to seek control of administrative excesses for non-adherence to procedures or abuse of law. The Commission aims to promote social justice for individual citizens. It also provides a viable option for Nigerians or persons resident in Nigeria seeking redress for administrative errors or injustice, abuse by officials of government or limited liability companies in Nigeria.¹⁵

Unmet Needs and Access to Legal Aid

Legal aid provision in Nigeria is extremely limited. In an interview in August 2013, the Director-General of the LAC, Mrs Joy Bob-Manuel, stated that there are not enough lawyers to meet the increasing need for free legal services in the country. The council only had 280 lawyers, a number that was grossly inadequate to cover all the 36 states of the federation and the Federal Capital Territory.¹⁶ Further reasons for the LAC's seeming ineffectiveness include inadequate funding, lack of publicity, inadequate information on access to justice, delays in investigating crime by the police, prison congestion, delays in the administration of justice, lack of empowerment of LAC to provide legal aid in respect to certain categories of persons and in respect to certain matters and the limited scope of eligibility for such aid. Funding levels are so poor that some lawyers on the panel have done legal aid work free of charge because it has not been worthwhile to claim the nominal fee.¹⁷

¹² Second Schedule to the Act.

¹³ See http://www.legalaidcouncil.gov.ng/index.php?option=com_content&view=article&id=143%3Alegal-aid-in-nigeria&catid=43%3Alatest-news&Itemid=60 (last visited on September 4, 2015).

¹⁴ Order 3 Rule 11; and Order 25 Rule 2 of the High Court of Lagos State (Civil Procedure) Rules, 2012.

¹⁵ See <https://pcc.org.ng/about/> (last visited on September 4, 2015).

¹⁶ See <http://www.mynewswatchtimesng.com/legal-aid-council-decries-shortage-lawyers/#sthash.KFrHnMBN.dpuf> (last visited on September 4, 2015).

¹⁷ Id.



Lack of funding and resources directly affect the overcrowding in prisons since inmates must wait for legal assistance. The overcrowding is due, in part, to delays in trials and failure to provide enough lawyers to represent the detainees. As a result, the percentage of the prison population who are pre-trial detainees/remand prisoners is extremely high (in 2014 it was 69.3%, or 39,577 individuals).¹⁸

According to the LAC there are, however, some signs of improvement.¹⁹ The number of new legal aid cases handled by LAC increased during 2013, showing that a larger number of Nigerians have been able to access their services. The number of new cases granted from January 2013 to December 2013 rose by 6.03% (from 9,206 to 9,761) for criminal cases and by 74.51% (from 2,130 to 3,717) for civil cases. The LAC in part attributes this rise to the Peer Review Mechanism and Merit Awards, which motivate the lawyers to respond to the LAC's increased mandate.

During 2013, the World Bank sponsored training sessions for 273 LAC lawyers to bridge skills gaps. The World Bank also engaged in a project to develop a databank for the LAC through which clients can report on the services they were provided, and magistrates can comment on the lawyers' performance. This initiative allows for an evaluation of each lawyer's skills, facilitating the provision of training.

The LAC in partnership with the NBA and Prisoners Rehabilitation and Welfare Action and with funding from the Department for International Development (the "DFID"), have partnered to provide effective legal representation to all prisoners awaiting trial in the Federal Capital Territory (the "FCT"). The LAC has seen a 30% increase in the number of cases handled in the FCT since this one-year project began in May 2013. The DFID is working towards renewing this project.

In 2014 the Lagos State's Attorney General pledged that the state would create a special fund to assist young lawyers to offer legal services to the poor.²⁰

PRO BONO IN NIGERIA: OPPORTUNITIES AND OTHER CONSIDERATIONS

Pro bono Opportunities

As illustrated above, the need for, and opportunities to provide, pro bono assistance in Nigeria are legion.

Private Attorneys

Private attorneys in Nigeria are not required by law to carry out pro bono activities, although the 2009 Pro bono Declaration for Members of the Nigerian Bar Association states that members of the NBA have a responsibility to provide pro bono legal services and that this responsibility stems from the profession's role and purpose in society, and from its implicit commitment to a fair and equitable legal system.²¹ The declaration states that members should commit to provide, on a pro bono basis, more than 20 hours or three days of legal services per individual lawyer per annum, or in the case of law firms, institutions or other groups of lawyers, an average of more than 20 hours per lawyer per annum.

Notwithstanding the above, private attorneys in Nigeria engage in pro bono activities on a personal basis. This is driven in part by the declarations described above but also by the need for senior lawyers seeking appointment to the revered rank of Senior Advocate of Nigeria (which is the Nigerian equivalent of a

¹⁸ See <http://www.prisonstudies.org/country/nigeria> (last visited on September 4, 2015).

¹⁹ See http://www.legalaidcouncil.gov.ng/index.php?option=com_content&view=article&id=47&Itemid=139 (last visited on September 4, 2015).

²⁰ See <http://www.pilnet.org/events/201-lagos-state-pro-bono-week.html> (last visited on September 4, 2015).

²¹ See www.internationalprobono.com/resources/attachment.163155 (last visited on September 4, 2015).



British Queens Counsel) to take on sufficient pro bono cases to meet the criteria for appointment.²² There is currently no mandatory requirement on legal practitioners in Nigeria to report pro bono activities.

In May 2015, the NBA made a further Pro bono Declaration, encouraging law firms and individual lawyers to provide, on a pro bono basis, legal representation and advice to at least five indigent individuals, group of persons or communities annually.²³ It also declared its intention to strengthen the profession's commitment to the provision and expansion of pro bono legal services by emphasizing their importance and practice in legal education and to establish, develop and operate a National Pro Bono Centre dedicated to the delivery of pro bono legal services in the public interest.

Law Firm Pro bono Programs

Law firms in Nigeria are not required by law to engage in pro bono activities. However, as stated above, the declaration by the NBA states that law firms should commit an average of more than 20 hours per lawyer per annum to pro bono activities. Most leading firms in Nigeria have a pro bono practice. A number of leading law firms have entered into partnership with the Nigerian government and non-profit organisations like the Lagos State Public Interest Law Partnership in order to provide pro bono legal services to indigent Nigerians.²⁴

Legal Department Pro bono Programs

As stated above, the declaration by the NBA states that institutions or other groups of lawyers should commit an average of more than 20 hours per lawyer per annum to pro bono activities. There is a dearth of information regarding the participation of in-house lawyers or legal practitioners employed by Nigerian companies in pro bono activities. However, some Nigerian companies promote engagement in pro bono activities to their employees as part of their corporate social responsibility programs.²⁵

Duty Solicitor Scheme (“DSS”)

A separate Duty Solicitor Scheme was created in 2000 through a partnership between the Law Society of England and Wales and the Legal Defense and Assistance Project (“LEDAP”), a Nigerian non-governmental organization (“NGO”).²⁶ It is aimed at providing legal support for both the police and detained suspects at the point of first contact with the criminal justice system. Funding for this scheme was paused for a review conducted in 2012 following which it was restored and the Scheme reinitiated in December 2013 with the support of Open Society West Africa and the Right Enforcement and Public Law Centre. Progress has been made in seeking to entrench and expand the project to more states of Nigeria.²⁷ The number of cases granted to the DSS in 2013 totalled 2,314. The LAC would like to encourage more pro bono support for the work of the DSS.²⁸

Legal Defense and Assistance Project²⁹

LEDAP was founded in 1997 by a group of pro bono lawyers working to protect and support political prisoners, and has now grown to 1,700 members across Nigeria. LEDAP provides free legal

²² See <http://www.punchng.com/feature/the-law-you/new-sans-emerge-amid-calls-for-reform/> (last visited on September 4, 2015).

²³ See <http://www.nigeriabar.com/2015/05/pro-bono-declaration-for-members-of-the-nigerian-bar-association#.Vbjxs7NViko> (last visited on September 4, 2015).

²⁴ See http://www.justiceresearchinstitute.org/?page_id=526 (last visited on September 4, 2015).

²⁵ See <http://www.justiceresearchinstitute.org/> (last visited on September 4, 2015).

²⁶ See <http://www.thelawyer.com/law-soc-lends-weight-to-nigeria-human-rights-pro-bono-scheme/125169.article> (last visited on September 4, 2015).

²⁷ See http://www.legalaidcouncil.gov.ng/docs/2014_LAC_NBA_Report.pdf (last visited on September 4, 2015).

²⁸ See http://www.legalaidcouncil.gov.ng/index.php?option=com_content&view=article&id=153%3Asure-p-is-helping-with-pro-bono-cases&Itemid=145 (last visited on September 4, 2015).

²⁹ See <http://ledapnigeria.org/ledap-profile/> (last visited on September 4, 2015).



representation to poor and vulnerable victims of human rights violations. It undertakes programs to raise awareness within the legal community in Nigeria of international human rights norms and how they can be integrated into the system of administration of justice in Nigeria. It works with the Directors of Public Prosecutors to improve administration of criminal justice in the country. It also works to promote and protect rights of women under its domestic violence and reproductive health programs. It promotes rights of children through legal and other support to children in conflict with the law, and seeks to advance the rule of law and good governance through impact litigation and social advocacy. It focuses on improving the legal and human rights framework for economic and social justice through its social security project as well as on human security under its Impunity Project and Death Penalty Project.

In particular, LEDAP's Indigent and Human Rights Defense Program³⁰ aims to provide free legal assistance to indigent remand prisoners. It also provides legal assistance to indigent victims of human rights violations, other than those caused by the prison remand system. Through this, the project aims to reform state-level criminal justice administration. Some of the program's objectives include: (i) depopulating the prisons through legal support and release; (ii) improving lawyers' skills and expertise; and (iii) publishing The Prosecutor Magazine to help criminal justice practitioners.

National Human Rights Commission³¹

The National Human Rights Commission was established by the National Human Rights Commission (NHRC) Act, 1995, as amended by the NHRC Act, 2010, in line with the resolution of the United Nations General Assembly which enjoins all member states to establish national human rights institutions for the promotion and protection of human rights.

In addition to its public enlightenment and education programs, the Commission serves as an extra-judicial mechanism for the enhancement of the enjoyment of human rights, investigation of complaints and provision of mediation conciliation and conflict resolution services. A complaint treatment mechanism is in place at the headquarters and all the six zonal offices of the Commission to handle complaints from any victim of human rights violations enforceable under powers granted under the NHRC (Amendment) Act, 2010.

The Commission regularly holds workshops, seminars, conferences and interactive sessions with relevant stakeholders. By way of example, the National Human Rights Commission partnered with the NBA, UNICEF and local NGOs to help train magistrates, policy makers, prison officers, lawyers and social workers on juvenile justice administration, and in supporting the provision of free legal services for children and young people.³²

NGOs

Many NGOs provide free legal assistance, particularly in the human rights arena. Although some NGOs have a staff of only a few lawyers, or retain external consultant lawyers to provide legal aid, others have more elaborate legal aid and law reform programs. Although most NGOs provide some kind of legal advice and assistance, demand tends to far exceed supply, especially in rural regions. The number of personnel available for case litigation is often inadequate to meet the numerous legal assistance requests from the public.

Principal NGOs active in the field include:³³

- **The Human Rights Law Service ("HURILAWS").**³⁴ Established in 1997, HURILAWS is an independent, non-profit service, dedicated to providing public interest and human rights law services. It is also a public policy think-tank and pressure group working in partnership with multi-

³⁰ See <http://ledapnigeria.org/programmes/rule-of-law-and-access-to-justice/> (last visited on September 4, 2015).

³¹ See <http://www.nigeriarights.gov.ng/> (last visited on September 4, 2015).

³² See http://www.unicef.org/nigeria/protection_2169.html (last visited on September 4, 2015).

³³ See <https://www1.umn.edu/humanrts/africa/nigeria.htm> (last visited on September 4, 2015).

³⁴ See <http://www.hurilaws.org/> (last visited on September 4, 2015).

sector development and change actors to promote accountable and transparent governance in Nigeria. HURILAWS has been particularly active in presenting the case for abolition of the death penalty in Nigeria.

- **The Institute of Human Rights and Humanitarian Law (“IHRHL”).**³⁵ IHRHL, established in August 1988, focuses on structural human rights education, conflict resolution, conflict prevention, research, public interest advocacy and documentation in Nigeria, with a particular focus on the Niger Delta region. IHRHL regularly works in cooperation with the MacArthur Foundation, National Endowment for Democracy, Swedish NGO, Cordaid, Open Society Institute for West Africa, and Oxfam GB.
- **The Social and Economic Rights Action Center (“SERAC”).**³⁶ SERAC, founded in 1995, has a more specific focus on economic and social rights, marking a departure from the emphasis on civil and political rights shown by NGOs in the 1980s. Examples of SERAC projects include its Forced Eviction Prevention Project (aimed at addressing the occurrence of forced evictions in Nigeria through the provision of advocacy assistance) and its Strategic Legal Advocacy Project (which aims to foster greater recognition and effective application of economic, social and cultural rights through strategic legal advocacy before municipal courts).
- **The Network of University Legal Aid Institutions (“NULAI”).**³⁷ NULAI promotes clinical legal education, legal education reform, legal aid and access to justice and the development of future public interest lawyers. Since NULAI was established in 2004, 18 university-based law clinics have opened in Nigeria, providing new avenues for free legal services. NULAI receives support in its activities from Open Society Foundations, the MacArthur Foundation and the European Union.
- **The Women’s Rights Advancement and Protection Alternative (“WRAPA”).**³⁸ WRAPA works to promote and protect the rights of Nigerian women including in relation to domestic violence, sexual harassment, employment issues, widow disinheritance and early and forced marriage. It offers a pro bono legal aid advocacy service for applicants who have reported their issue directly to WRAPA or who have been referred from individuals, institutions and partner organisations.
- **The Prisoners Rehabilitation and Welfare Action (“PRAWA”).**³⁹ PRAWA is a non-governmental organization aimed at promoting security, justice and development in Africa. It was established in 1994 and by 1998, it secured observer status with the African Commission on Human and Peoples’ Rights. PRAWA works to provide treatment/rehabilitation and support to torture victims, prisoners, youths-at-risk and their families. The organisation also carries out research and advocacy on a pro bono basis on issues of torture, justice, prisons and security sector reform.

Historic Development and Current State of Pro bono

The development of pro bono in Nigeria has been slow and current participation levels in pro bono activities are low. This is the case notwithstanding that the Pro bono Declaration for Members of the Nigerian Bar Association states that all members of the Nigerian legal profession should commit to provide, on a pro bono basis, more than 20 hours or three days of legal services per individual lawyer per annum, or in the case of law firms, institutions or other groups of lawyers, an average of more than 20 hours per lawyer per annum.⁴⁰

³⁵ See <http://www.insightonconflict.org/conflicts/nigeria/peacebuilding-organisations/ihrhl/> (last visited on September 4, 2015).

³⁶ See <http://www.serac.org/> (last visited on September 4, 2015).

³⁷ See <http://www.nulai.org/> (last visited on September 4, 2015).

³⁸ See <http://wranigeria.org/> (last visited on September 4, 2015).

³⁹ See <http://www.prawa.org/> (last visited on September 4, 2015).

⁴⁰ See www.internationalprobono.com/resources/attachment.163155 (last visited on September 4, 2015).



In recent years however, a number of initiatives have sought to increase the focus on pro bono amongst the legal profession in Nigeria. One such key initiative was the establishment in November 2012 of the Lagos State Public Interest Law Partnership (the “LPILP”) with the clear aim of expanding access to justice and further securing the right of every citizen to justice, irrespective of his or her financial means. In April 2014 the LPILP organized the inaugural Lagos State Pro bono Week which brought together NGOs and the legal community to set the stage for the future of access to justice in the region. The LPILP conducted a series of seminars, workshops and also established and funded law clinics in universities as well as the Nigerian Law School. Under this initiative, a series of pro bono activities was undertaken in collaboration with partner law firms in Lagos state and as such, over 100 law firms have now committed their resources to the LPILP’s pro bono scheme. Members are encouraged to render at least 50 hours of pro bono work yearly. As of April 2014, the total number of people receiving pro bono assistance under this project totaled 423.⁴¹

Further, engagement by legal practitioners in Nigeria in pro bono activities may show signs of improvement in the near future following the NBA’s recent declaration in May 2015 endorsing pro bono activities and committing to encourage law firms and individual lawyers to provide pro bono services to at least five indigent individuals, group of persons or communities a year.⁴²

Despite this progress, key challenges remain. As part of the presentations during the launch event for the LPILP, commentators cited key issues such as delays in the judicial process by the courts, poor knowledge of the sacrifices of pro bono practitioners by officials of the lower courts and many other challenges in the criminal justice system including the challenge posed by the police, especially as prosecutors at the lower courts, where more training is needed.⁴³

CONCLUSION

The current state of pro bono services in Nigeria is a work in progress. Further improvements are needed to help provide access and information to people who are in need of pro bono services; however, it is encouraging to see that affirmative steps are being taken in this regard.

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This memorandum was prepared by **Latham & Watkins LLP** for the **Pro Bono Institute**. This memorandum and the information it contains is not legal advice and does not create an attorney-client relationship. While great care was taken to provide current and accurate information, the Pro Bono Institute and Latham & Watkins LLP are not responsible for inaccuracies in the text.

⁴¹ See <http://www.pilnet.org/events/201-lagos-state-pro-bono-week.html> (last visited on September 4, 2015).

⁴² The May 2015 Pro bono Declaration of the Nigerian Bar Association - <http://www.nigeriabar.com/2015/05/pro-bono-declaration-for-members-of-the-nigerian-bar-association#.Vb6B5E10xzk> (last visited on September 4, 2015).

⁴³ See <http://www.pilnet.org/events/201-lagos-state-pro-bono-week.html> (last visited on September 4, 2015).