

Pro Bono Practices and Opportunities in Saudi Arabia

I. Introduction

The provision of pro bono legal services is currently not as institutionalized in the Kingdom of Saudi Arabia (“**Saudi Arabia**”) as it is in many western jurisdictions. Whilst the Ministry of Justice (the “**MoJ**”) is planning to make it obligatory for lawyers to provide free legal services to low-income members of the public, Saudi Arabia does not currently regulate, nor does it expressly mandate the provision of pro bono legal services by lawyers practicing in Saudi Arabia. That being said, the Saudi Bar Association, (“**The SBA**”) an independent professional body under the MoJ, established by Royal Decree no. (317) dated 08/07/1436H. (corresponding to 27 April 2015G.) issued two regulations, the Judicial Aid Guide and the Legal Clinics Regulations, regarding judicial (legal) aid which is funded by the State, while pro bono legal services in Saudi Arabia remain unregulated and not mandatory. Pro bono legal services in Saudi Arabia are offered by international law firms. Some international law firms have set certain pro bono requirements that must be met. The obligation here is a result of the international nature of the law firm, rather than the local/Saudi nature of the law firm, and as such the provision of such pro bono legal services follows the guidelines set by the individual law firms themselves. Notwithstanding the lack of formal regulation, attorneys practicing in Saudi Arabia at times enter into ad hoc arrangements with local governmental agencies and non-profit organizations to provide pro bono legal services. The below sets out the current state of pro bono practice in Saudi Arabia through a description of the regulatory framework of the legal profession and the judicial system and addresses the potential changes and opportunities in pro bono practice. Given the lack of significant pro bono regulation and practices, the below also sets out, in brief, the judicial (legal) aid regulation and practices which act as a guide for future pro bono practices.

II. Overview of Pro Bono Practices

(a)	Professional Regulation	
	<p>1. Describe the laws/rules that regulate the provision of legal services?</p>	<p>The judicial system in Saudi Arabia is subject to an ongoing reorganization pursuant to the Judicial System Act, promulgated by Royal Decree no. M/78 dated 19/09/1428 H. (corresponding to 1 October 2007 G.) (the “Judicial System Act”). Following the promulgation of the Judicial System Act, Saudi Arabia recognizes a dual system of courts with separate administrative and non-administrative courts. The administrative arm of the judicial system in Saudi Arabia is regulated by the Board of Grievances Act¹ (promulgated around the same time as the Judicial System Act) and is comprised of the Board of Grievances which has three different levels of courts. The highest court in the Board of Grievances is the supreme administrative court, followed by the administrative appellate courts and the administrative courts. These courts have jurisdiction to hear disputes against the state and other government agencies,</p>

¹ Board of Grievances Act issued by the Royal Decree number m/78 dated 19/9/1428 H (corresponding to Sep. 30, 2007 G).

		<p>pertaining to administrative law.² Until the full implementation of the Judicial System Act (the timing of which is currently unclear), the Board of Grievances also has jurisdiction to hear all types of commercial disputes and certain criminal matters.</p> <p>Under the Judicial System Act, non-administrative courts are categorized in the following order: (i) the supreme court; (ii) the appellate courts; and (iii) the courts of first instance. The courts of first instance include general courts, criminal courts, domestic relations courts, commercial courts and labor courts. The appellate courts are comprised of different legal panels including the criminal, domestic relations, commercial and labor panels each with the jurisdiction to review any appealed judgment from the first instance courts. The Judicial System Act contemplates that the supreme court’s main functions will be to ensure the consistency of local laws with the Islamic principles of <i>Sharia’a</i> and to review judgments and decisions of the appellate courts.</p> <p>Many specialized judicial committees will be abolished under the Judicial System Act except for the customs, commercial and banking committees. Once fully implemented, the new court system will result in a structure that will be familiar to lawyers in many other jurisdictions; it will simplify and clarify the jurisdictions of the courts and is also expected to encourage the development of greater specialization by members of the judiciary, which in turn could lead to greater certainty of judicial interpretation³.</p>
	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>The legal profession in Saudi Arabia is regulated by the Code of Law Practice promulgated by Royal Decree no. M/38 dated 28/07/1422H. (corresponding to 15 October 2001G.) and its implementing regulations (the “Code of Law Practice”). Under the Code of Law Practice, the practice of law in Saudi Arabia comprises the representation of third parties before the courts of law and the provision of legal consultancy services.⁴ In order to practice law in Saudi Arabia any lawyer must be licensed by the MoJ or else</p>

² Id. at art. 13.

³ See <http://www.tamimi.com/en/magazine/law-update/section-8/may-7/the-new-court-system-in-saudi-arabia.html> (last visited on May 1, 2019).

⁴ Code of Law Practice issued by the Royal Decree number m/38 dated 28/7/1422 H. (corresponding to Oct. 15, 2001 G.), art. 1.

		<p>must be supervised by an attorney licensed by the MoJ. Only Saudi nationals, holding a local degree in Sharia’a⁵ or law (or the equivalent from a foreign university) and having a minimum number of years of relevant practical experience inside or outside of Saudi Arabia, may be licensed. The required number of years of experience is (i) three years if the candidate holds a bachelor’s degree, (ii) one year if the candidate holds a master’s degree and (iii) no experience if the candidate holds a doctorate degree. A practicing lawyer must also have a good reputation, not be convicted of any major offenses under local laws and be a resident of Saudi Arabia. The Code of Law Practice provides for an exception to the above requirements, whereby a non-lawyer can litigate up to a maximum of three cases at a time when acting on behalf of three different persons and an unlimited number of cases, when acting as the official corporate representative on behalf of an entity, on behalf of close relatives (up to the fourth degree) or as guardian or trustee.⁶</p> <p>The Code of Law Practice also provides for the possibility of setting up professional partnerships for the practice of law between two or more licensed lawyers. The legal profession in Saudi Arabia is currently regulated by the MoJ and the SBA.</p> <p>Non-Saudi lawyers may practice law in Saudi Arabia in accordance with the relevant agreements⁷ between Saudi Arabia and other countries in this regard.</p>
<p>(b) Pro Bono Practice and Culture</p>		
	<p>1. Describe the rules that regulate the provision of pro bono legal services e.g. any explicit regulation or limitation on providing free legal services in some or all contexts, details of any mandatory or minimum fees imposed on provision of legal services.</p>	<p>There are currently no rules that regulate pro bono legal services in Saudi Arabia, however judicial (legal) aid services is regulated by the SBA’s Judicial Aid Guide issued in 08/08/1439H. (corresponding to 24 April 2018), which contains provisions on the services provided by SBA lawyers to those unable to afford lawyers’ fees and regulates the relationship between the SBA lawyers providing the services and the person receiving those services. The rules remain for guidance purposes only and are not mandatory. The SBA establishes a “Judicial Aid Fund” which receives</p>

⁵ Sharia’a is the moral code and religious law of Islam which is the supreme law in Saudi Arabia.

⁶ Code of Law Practice, supra n.1 at art. 18.

⁷ Code of Law Practice, art. 3(a).

	<p>donations, endowments, revenues to ensure the sustainability of the provision of judicial (legal) aid. The fund enables the SBA to assign lawyers to cases where the client is unable to afford the lawyer’s fee in exchange for the judicial aid provided.⁸ For the avoidance of doubt the above does not apply to pro bono services but may act as a guide for future pro bono regulation and practices.</p> <p>The SBA also issued a Legal Clinics Regulation dated 08/08/1439H. (corresponding to 24 April 2018) whereby it regulates the licensing of universities, institutes and non-profit organizations to provide pro bono legal services to those unable to afford lawyers’ fees. These services would be provided by Law and Sharia’a students under the supervision of a council of efficient SBA qualified lawyers who have the necessary experience.⁹</p> <p>While Saudi Arabia does not yet have an established and formalized pro bono culture, individual attorneys in Saudi Arabia often provide pro bono legal services on an informal basis. Such participation is typically seen via private practice law firms or through individual collaboration with non-governmental organizations either directly or via referral organizations such as TrustLaw, an affiliate of the Thomson Reuters Foundation. As the legal profession continues to mature in Saudi Arabia, it is expected that pro bono legal services will become more institutionalized and better regulated.</p>
<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>As of this date there are no rules or requirements set in place regulating pro bono legal services, however, the Judicial Aid Guide states that every lawyer has an obligation to provide (12) hours of judicial (legal) aid services per year. Nonetheless, as previously mentioned, the rules are used for guidance only and is not mandatory on its members. For the avoidance of doubt the above does not apply to pro bono legal services but may act as a guide for future pro bono legal regulation and practices.</p>
<p>3. Are aspiring lawyers required to complete a minimum number of hours of pro bono legal services in order to become licensed lawyers?</p>	<p>Aspiring lawyers in Saudi Arabia are not required to complete a minimum number of hours of pro bono legal services in order to become licensed</p>

⁸ See <https://sba.gov.sa/wp-content/uploads/2018/04/legal-aid-bylaw.pdf> (last visited on May 1, 2019).

⁹ See <https://sba.gov.sa/wp-content/uploads/2018/05/legal-clinic-bylaw.pdf> (last visited on May 1, 2019).

		lawyers. The requirements set forth by the MoJ in order to become a licensed lawyer are as stated in part a(2) of this Schedule and do not include any conditions regarding pro bono/judicial (legal) aid services.
	4. What are the main areas of law which require or present opportunities for the provision of pro bono legal services? What are the major unmet legal needs?	According to the Judicial Aid Guide, judicial aid services may be provided in three main areas of law, judicial (legal) aid in criminal law cases conditional on the SBA’s review and approval of the case, judicial (legal) aid in legal status cases mentioned in the Law of Civil Procedures ¹⁰ (including but not limited to: cases relating to marriage, divorce inheritance, guardianship) and judicial (legal) aid in civil law cases that do not fall under the jurisdiction of the criminal or legal status courts. ¹¹ For the avoidance of doubt the above does not apply to pro bono legal services but may act as a guide for future pro bono regulation and practices.
	5. Who are the main providers of pro bono legal services? e.g., NGOs, governmental or other public services, schools and universities, private law firms (local or international) or corporate organizations?	Pro bono legal services in Saudi Arabia are mainly provided by lawyers on an informal and unregulated basis, some private international law firms also do require lawyers to spend a specific number of hours providing pro bono legal services. That being said, there is no mandate or obligation on lawyers working in local firms to provide any pro bono legal services. The Legal Clinics established by the SBA also allow Law and Sharia’a students to provide pro bono legal services under the supervision of qualified lawyers.
(c)	Obstacles to Provision of Pro Bono Legal Services	
	1. Do lawyers require a license to provide pro bono legal services?	Pro bono legal services in Saudi Arabia are not regulated, so there are no requirements set in place or a license that must be obtained in order for a lawyer to provide pro bono legal services.
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	There are no requirements set in place or a license that must be obtained by foreign attorneys to provide pro bono legal services in Saudi Arabia.

¹⁰ The Law of Civil Procedures promulgated by Royal Decree No. M/1, dated 22/1/1435H. (corresponding to 25/11/2013G), art. 33.

¹¹ The Judicial Assistance Guide issued by the Saudi Bar Association in 08/08/1439H. (corresponding to 24/04/2018), art 7, 8, 9.

	<p>3. Do lawyers require professional indemnity legal insurance cover for any pro bono legal services that they provide? If so, are they prohibited from working under the cover of another pro bono provider, such as a private law firm or organization working on the same pro bono project?</p>	<p>There is no regulation that addresses this issue in regards to pro bono legal services, however according to the Judicial Aid Guide, the lawyer shall be exempted from any fees that may be imposed upon him for the provision of pro bono legal services.¹²</p>
	<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>There are no rules or regulations that prohibit advertising of pro bono successes or soliciting new pro bono clients in regards to pro bono legal services, however according to the Judicial Aid Guide, the lawyer has an obligation not to disclose information related to the person receiving the judicial (legal) aid services.¹³ For the avoidance of doubt the above does not apply to pro bono legal services but may act as a guide for future pro bono regulation and practices.</p>
	<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>Lawyers do not receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked and there is no regulation that addresses this issue in regards to pro bono legal services. However, according to the Judicial Aid Guide any lawyer providing judicial (legal) aid services shall receive a written statement that confirms his assistance in providing judicial (legal) aid services, the hours spent shall be recorded in the SBA Lawyers Register and the lawyer with the most hours of judicial (legal) aid shall be awarded with a certificate and a plaque, in addition to national awards.¹⁴ For the avoidance of doubt the above does not apply to pro bono legal services but may act as a guide for future pro bono regulation and practices.</p>
<p>(d) Sources of Pro Bono Opportunities and Key Contacts</p>		
	<p>1. Describe any governmental sources of pro bono and/or other legal services in Saudi Arabia.</p>	<p>The Saudi Bar Association is the main source of pro bono and judicial (legal) aid services through its regulation of legal clinics and the establishment of its judicial (legal) aid program.¹⁵</p>

¹² The Judicial Aid Guide issued by the Saudi Bar Association in 2018, art 13.

¹³ The Judicial Aid Guide issued by the Saudi Bar Association in 2018, art 11.

¹⁴ The Judicial Aid Guide issued by the Saudi Bar Association in 2018, art 12.

¹⁵ See <https://sba.gov.sa/#> (last visited on May 1, 2019).

<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Saudi Arabia.</p>	<p>Most of the pro bono legal services by non-governmental entities is provided by attorneys on an informal basis. Such participation is typically seen via private practice law firms or through individual collaboration with non-governmental organizations either directly or via referral organizations such as TrustLaw, an affiliate of the Thomson Reuters Foundation.</p>
<p>3. Is there any public or private organization with which a local or foreign attorney can register in order to be made aware of pro bono opportunities?</p>	<p>There are currently no organizations that an attorney can register in for information regarding pro bono opportunities, however, the SBA has an electronic platform where any lawyer interested in providing judicial (legal) aid services may register and their names would be put on a list, and the SBA would contact them if any judicial (legal) aid opportunities arise.</p>

May 2019

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