

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

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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)

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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 THE UNITED ARAB EMIRATES

The provision of US-style *pro bono* legal services is not common in the United Arab Emirates. The government, however, provides certain legal assistance to individuals. This chapter discusses the legal profession, the provision of free legal services and *pro bono* opportunities for foreign law firms in the United Arab Emirates.

I. LEGAL SERVICES AND THE LEGAL PROFESSION IN THE UNITED ARAB EMIRATES

A. The Legal Profession

The United Arab Emirates is a federation of seven largely self-governed Emirates.¹ It has a dual system of civil courts and *Shari'a* courts.² In all Emirates except Dubai and Ras al-Khaimah, the civil courts hear civil and criminal cases and are part of a three-tier federal court system that culminates in the Federal Supreme Court.³ The Emirates of Dubai and Ras al-Khaimah administer their own trial and appellate-level civil court systems.⁴ The *Shari'a* courts, which apply Islamic law, hear civil matters for Muslims, mostly relating to family law issues such as inheritance and divorce.⁵

The legal profession in the United Arab Emirates is governed by Federal Law No. 23 of 1991, which generally limits the practice of law before the federal courts to citizens of the United Arab Emirates with certain legal qualifications.⁶ In order to appear before the federal courts, lawyers must be licensed by the Ministry of Justice, and in order to appear before courts in Dubai and Ras al-Khaimah (including *Shari'a* courts), lawyers must be licensed as advocates by the local ruler's court. In addition, lawyers must be graduates of a recognized law college or *Shari'a* college. Generally, non-Emirati lawyers are banned from practicing in federal courts. However, in Dubai certain expatriate lawyers are able to represent their clients in courts at all levels.⁷

According to recent Ministry of Justice statistics, there are 725 registered lawyers in the United Arab Emirates. This number includes 555 nationals⁸ but, this figure does not take into account lawyers working for foreign law firms. Foreign law firms are permitted to operate in the United Arab Emirates as legal consultancies. In order to operate as legal consultancies, foreign law firms must be licensed by the Emirate in which they operate an office.⁹ In Dubai, law firms were previously only required to register with the government and there were no set standards for training or qualifications for individual lawyers to provide legal services. However, after the introduction of a new licensing law in 2011, every lawyer must now be licensed by the Legal Affairs Department of the Government of Dubai.¹⁰

There are a number of free zones in the United Arab Emirates from which international law firms may operate. The most relevant for law firms is the Dubai International Financial Centre (the "DIFC"), a financial free zone within the Emirate of Dubai.

The DIFC is a separate legal jurisdiction with its own body of law, including a companies' law and employment law, as well as its own court system, the DIFC Courts.¹¹ The DIFC operates a

¹ LIBRARY OF CONGRESS – FEDERAL RESEARCH DIVISION, *Country Profile: United Arab Emirates 2* (Jul. 2007), at <http://lcweb2.loc.gov/frd/cs/profiles/UAE.pdf>. The seven Emirates are: Abu Dhabi, Dubai, Sharjah, Ajman, Umm al-Quwain, Ras al-Khaimah and Fujairah.

² *Id.* at 21; see also Essam Tamimi, *Litigation in the United Arab Emirates*, 20 INT'L LEGAL PRAC. 134, 135 (1995).

³ *United Arab Emirates*, *supra* n.1; see also Tamimi, *supra* n.2, at 134.

⁴ *Id.*

⁵ *United Arab Emirates*, *supra* n.1; see also Tamimi, *supra* n.2, at 135.

⁶ GULF-LAW.COM, *United Arab Emirates*, Chapter 3: The Judicial System, at http://gulf-law.com/uae_judicial.html (last visited Jun. 4, 2012).

⁷ Awad Mustafa, *Ruling allows expatriate lawyers in all Dubai courts*, THE NATIONAL, Jan. 10, 2011, at <http://www.thenational.ae/news/uae-news/courts/ruling-allows-expatriate-lawyers-in-all-dubai-courts>

⁸ Abdullah Rashid, *Emirati lawyers seek total emiratization of profession*, GULFNEWS.COM, Mar. 6, 2012, available at <http://gulfnews.com/news/gulf/uae/general/emirati-lawyers-seek-total-emiratization-of-profession-1.990503>

⁹ GULF-LAW.COM, *supra* n.6.

¹⁰ Kevin Brass, *Dubai lawyers to require licenses from next month*, THE NATIONAL, Jul. 8, 2011, at <http://www.thenational.ae/business/economy/dubai-lawyers-to-require-licences-from-next-month>

¹¹ See DUBAI INTERNATIONAL FINANCIAL CENTRE website, at <http://www.difc.ae/about> (last visited Jun. 4, 2012).

sophisticated regulatory regime overseen by the Dubai Financial Services Authority (the “DFSA”).¹² Any law firm that operates in or from the DIFC must be licensed by the ruler’s court in Dubai and as an ancillary services provider by the DFSA.¹³ Unlike in the United Arab Emirates generally, foreign law firms are permitted to advise clients before the DIFC Courts, *provided that* they are appropriately registered with the DIFC Courts.

B. Legal Aid

The government provides free legal representation to defendants in certain criminal cases in the United Arab Emirates. Under the Criminal Procedures Code, a defendant has the right to be represented by a government-provided lawyer in any case that involves a possible punishment of death or life imprisonment, regardless of financial need.¹⁴ The government also has discretion to provide lawyers for indigent defendants in certain other felony cases.¹⁵ When a defendant is entitled to a government-provided lawyer, the court appoints a private lawyer to represent the defendant, the court assesses the lawyer’s fees at the end of the case, and the government pays the lawyer.¹⁶ Accepting such an appointment is optional for the lawyer, and the fee paid to the lawyer is less than the fee that a lawyer would normally charge for such representation. However, there are no specifically designated bodies managing eligibility criteria or providing assistance for those in need of legal aid.

As the United Arab Emirates has a large number of migrant workers, the government also provides certain forms of legal assistance to foreign employees with labor grievances. The Ministry of Labor distributes information to foreign workers in several languages, explaining their rights under the labor law and how they can individually or collectively pursue labor disputes.¹⁷ Workers can file labor-related complaints with the Ministry of Labor, which provides mediation services for labor disputes.¹⁸ The parties are not required, and generally are not allowed, to be represented by lawyers in such mediations, and no fees apply in such mediations. Either party to the mediation can have the dispute referred from mediation to a court, and such court cases are not subject to court fees.¹⁹ Domestic employees are not covered by the labor law, but may file employment-related complaints with the Ministry of Interior as an alternative to resorting to litigation.²⁰

Clients that are unhappy with legal practices in the United Arab Emirates currently have little recourse other than to file a complaint with the relevant ruler’s court. Unlike in other jurisdictions there is no equivalent in the UAE to an Ombudsman complaints service for disgruntled clients. Another option is for clients to file a complaint with a foreign lawyer’s home bar association.

The economic downturn in 2008 and the resultant increase in civil litigation has led a number of legal practitioners in the United Arab Emirates to suggest that authorities should also establish a scheme to offer *pro bono* legal services to clients in need in civil cases.²¹ Legal aid was introduced for people with property disputes by the Real Estate Regulatory Agency (“RERA”) in 2009.²² The Dubai Community Development Authority also announced an initiative to set up a public defenders’ office at the Dubai courts offering legal representation to defendants by 2012, and it was envisioned that this

¹² See DUBAI FINANCIAL SERVICES AUTHORITY, *A guide for firms seeking registration as an Ancillary Service Provider*, at <http://www.dfsa.ae/Documents/Applying%20for%20Registration.pdf> (last visited Jun. 4, 2012).

¹³ *Id.*

¹⁴ Penal Procedure Law, Federal Law No. 35 of 1992; see also BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T OF STATE, 2009 HUMAN RIGHTS REPORT: UNITED ARAB EMIRATES (Mar. 11, 2010), at <http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136082.htm>.

¹⁵ *Id.*

¹⁶ See Federal Law No. 23 of 1991, art. 24.

¹⁷ BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T OF STATE, UNITED ARAB EMIRATES (Mar. 6, 2007), at <http://www.state.gov/g/drl/rls/hrrpt/2006/78865.htm>.

¹⁸ *Id.*; see also Report of the Working Group on the Universal Periodic Review: United Arab Emirates, U.N. Human Rights Council, 10th Sess., Agenda Item 6, at 11, U.N. Doc A/HRC/10/75 (Jan. 12, 2009). http://lib.ohchr.org/HRBodies/UPR/Documents/Session3/AE/A_HRC_10_75_United_Arab_Emirates_E.pdf.

¹⁹ BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP’T, *supra* n.17 at <http://www.state.gov/g/drl/rls/hrrpt/2006/78865.htm>.

²⁰ *Id.*

²¹ *Call to extend free legal aid to civil cases* (Aug. 9, 2009), UAE INTERACT, at http://www.uaeinteract.com/docs/Call_to_extend_free_legal_aid_to_civil_cases/37151.htm.

²² *Id.*

would extend to civil cases relating to family law issues.²³ To date, this initiative has not been implemented.

In October 2009, the DIFC Courts established a *pro bono* program, the first of its kind in the Middle East.²⁴ The *pro bono* program allows individuals who cannot afford a lawyer the ability to seek free advice from lawyers registered with the DIFC Courts. The services offered as part of the *pro bono* program range from basic advice to full case management and representation in litigation proceedings for areas of law within the DIFC Court's jurisdiction.²⁵ The services are accessible to eligible individuals approved by the DIFC Court's Registry office.²⁶ To date more than twenty leading law firms have registered to provide voluntary services under this program, including Al Tamimi & Co., Clyde & Co LLP, Clifford Chance, Norton Rose LLP, Latham & Watkins LLP, DLA Piper and a handful of applications have been filed at the DIFC Courts since the inception of the program.²⁷ Finally, the DIFC Courts are in the process of establishing a Pro Bono Legal Clinic. This Clinic will allow individuals who cannot afford a lawyer the ability to seek free advice from volunteering lawyers. The Pro Bono Legal Clinic was conceptualized in accordance with the DIFC Court's mission to provide swift, transparent and accessible justice to court users.²⁸

II. PRO BONO IN THE UNITED ARAB EMIRATES: OPPORTUNITIES AND OTHER CONSIDERATIONS

A. Pro Bono Opportunities

Private lawyers and law firms in the United Arab Emirates do not generally engage in *pro bono* legal work on a regular basis. There are also very few NGOs in the United Arab Emirates that provide free legal services to individuals or that focus on providing legal aid to disadvantaged groups.

All NGOs in the United Arab Emirates are required to register with the Ministry of Social Affairs and are subject to a number of regulations.²⁹ Despite this requirement, several unregistered NGOs operate in the United Arab Emirates without interference from the government.³⁰ The first human rights NGO in the United Arab Emirates, the Emirates Human Rights Association, was licensed by the government in 2006.³¹ The association is headed by a government prosecutor and focuses on human rights issues and complaints, including those relating to the rights of laborers, stateless persons and prisoners.³²

B. Barriers To Pro Bono Work And Other Considerations

Several factors make it difficult for foreign law firms to provide *pro bono* legal services in the United Arab Emirates. The ability of foreign lawyers to represent disadvantaged individuals is limited by the fact that, in general, only citizens of the United Arab Emirates may represent litigants before courts in the United Arab Emirates. In addition, many of the foreign lawyers in the United Arab Emirates do not speak Arabic, which makes it difficult for them to assist disadvantaged individuals who only speak Arabic or local organizations that conduct most of their work in Arabic. Foreign law firms in the United Arab Emirates have, therefore, focused the bulk of their charitable efforts on nonlegal charitable work, such as fundraising for local charities, rather than on engaging in *pro bono* legal work.

Notwithstanding these issues, most foreign law firms provide certain *pro bono* legal consultancy services to local charities in the United Arab Emirates. Generally, these services have consisted of

²³ Awad Mustafa, *Dubai courts to provide free lawyers to poor defendants*, THE NATIONAL, Dec. 30, 2010, at <http://www.thenational.ae/news/uae-news/courts/dubai-courts-to-provide-free-lawyers-to-poor-defendants>

²⁴ AMEINFO.COM, DIFC Courts first *pro bono* case to be represented by Clyde and Co. (Nov. 9, 2009), at <http://www.ameinfo.com/215288.html>.

²⁵ *Id.*

²⁶ *Id.*

²⁷ MEYER REUMAN & PARTNERS, *News*, available at <http://meyer-reumann.com/dubai-difc-courts-establishes-pro-bono-fund-to-support-disadvantaged/>

²⁸ Press Release, DIFC Courts Host First Pro Bono Clinic (Feb. 7, 2012), at http://difccourts.complinet.com/en/display/display_viewall.html?rbid=2725&element_id=4456&print=1.

²⁹ BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T STATE, *supra* n.14.

³⁰ *Id.* (noting that as of 2010, approximately 100 domestic NGOs were registered in the United Arab Emirates, and it was estimated that more than 20 unregistered local NGOs were in operation).

³¹ BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, *supra* n.17; *see also Program on Governance in the Arab Region*, at <http://www.pogar.org/countries/humanrights.asp?cid=21> (last visited Jun. 4, 2012).

³² BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, *supra* n.14.

advising charities and NGOs on issues involving foreign laws or local law, reviewing their documentation, drafting agreements, advising on licensing requirements and employment law issues.³³ Other examples include providing advice to a regional NGO on its microfinance program and other general corporate and finance matters; helping local charities negotiate cooperation agreements with partner organizations in other countries; participating at a board level with various educational entities as well as direct sponsorship; organizing fundraising events and donations.³⁴ According to a foreign law firm that has approached local charities offering to provide *pro bono* legal services to them, local charities have welcomed its offers of assistance, indicating that there may be additional opportunities for foreign law firms to engage in this type of *pro bono* work in the United Arab Emirates. In addition, a number of foreign law firms in the United Arab Emirates provide *pro bono* legal services from their offices in the United Arab Emirates to NGOs outside of the region.

III. CONCLUSION

The practice of providing *pro bono* legal services is not well established in the United Arab Emirates where local private lawyers and law firms do not regularly engage in *pro bono* legal work and a number of legal and institutional obstacles exist that prevent foreign law firms from engaging in *pro bono* legal advocacy. Nonetheless, most foreign law firms have provided *pro bono* legal consultancy services to nonprofit organizations in the United Arab Emirates, both on matters involving foreign law and local laws. There is further scope to expand the types of services offered especially as *pro bono* work is mostly centered on the provision of assistance to NGOs and similar entities, and there is almost no provision of legal aid to individuals.

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Pro Bono Practices and Opportunities in the United Arab Emirates

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³³ *Id.*; see also *Program on Governance in the Arab Region*, at <http://www.pogar.org/countries/humanrights.asp?cid=21> (last visited Jun. 4, 2012).

³⁴ See, e.g., AL TAMIMI & CO, *Social Corporate Responsibility*, at <http://www.tamimi.com/en/section/corporate-social-responsibility> (last visited Jun. 4, 2012); TROWERS & HAMLINS, *Working with the Community*, at <http://www.trowers.com/about/working-with-the-community/> (last visited Jun. 4, 2012).