

**Pro Bono Practices and Opportunities in Pakistan<sup>1</sup>**

**I. Introduction**

The pro bono environment in Pakistan is nascent, but is growing gradually. At present, Pakistan has a two-pronged structure for legal aid i.e. under the Pakistan Bar Council Free Legal Aid Rules, 1999 and District Legal Empowerment Committee (Constitution & Function) Rules, 2011. While the regulatory framework is present, there remains a strong need for further action amongst the legal community - there is a serious underutilization of funds allocated to institutions and committees responsible for providing legal aid, which in turn demonstrates a lack of will and resolve. The gap left by lack of implementation of the legal aid framework at a government level is to some extent filled by local and international non-governmental organizations, as well as a handful of domestic law firms, which offer legal services to the country's underserved populations and are engaged in direct representation and broader reform work.

**II. Overview of Pro Bono Practices**

(a)	<b>Professional Regulation</b>	
	<p>1. Describe the laws/rules that regulate the provision of legal services?</p>	<p>The practice of law in Pakistan is primarily governed by the Legal Practitioners and Bar Councils Act of 1973, last amended on 01 June 2018 (the "<b>Bar Councils Act</b>").<sup>2</sup> The Bar Councils Act established the Pakistan Bar Council, as well as the four provincial bar councils, namely the Punjab Bar Council, the Sindh Bar Council, the Khyber Pakhtunkhwa Bar Council and the Baluchistan Bar Council (together, the "<b>Provincial Bar Councils</b>")<sup>3</sup> and a bar council for the Islamabad Capital Territory, namely the Islamabad Bar Council.</p> <p>The Pakistan Bar Council is the highest elected body of lawyers, or "advocates", in Pakistan and is generally responsible for exercising control over and supervising the Provincial Bar Councils and the Islamabad Bar Council and regulating the entry of advocates into the legal profession. It is the body responsible for preparing and maintaining a common roll of advocates, admitting persons as advocates entitled to practice before the Supreme Court, preparing and maintaining a roll of advocates of the Supreme Court, and removing advocates from such roll.<sup>4</sup></p> <p>The Provincial Bar Councils and the Islamabad Bar Council assists the Pakistan Bar Council in carrying out its regulatory functions with respect to the entry of lawyers into the legal profession. The Provincial</p>

<sup>1</sup> This chapter was drafted with the support of Syed Ali Bin Maaz and Zaid Rahim of Kabraji & Talibuddin.

<sup>2</sup> Pakistan Bar Council, "*Pakistan Legal Practitioners and Bar Councils Act, 1973*", <http://pakistanbarcouncil.org/legal-practitioners-and-bar-councils-act-1973-2/> (last visited on October 2, 2019).

<sup>3</sup> Ibid, Section 5.

<sup>4</sup> Ibid, Section, 13.

		<p>Bar Councils and the Islamabad Bar Council are, <i>inter alia</i>, responsible for admitting persons as advocates entitled to practice before the subordinate courts and the High Court, preparing and maintaining a roll of advocates of the relevant subordinate court and the High Court, and removing advocates from such roll.<sup>5</sup></p> <p>The rules of professional conduct and etiquette applicable to all advocates practicing in Pakistan have been prescribed by the Pakistan Bar Council under the Pakistan Legal Practitioners and Bar Councils Rules of 1976, last amended via notification of the Pakistan Bar Council dated 16 November 2015 (the "<b>Bar Council Rules</b>").<sup>6</sup></p>
	<p>2. Describe any licensure requirements governing the provision of legal services.</p>	<p>Pursuant to the Bar Councils Act, there are four classes of advocates, namely, (a) senior advocates of the Supreme Court, (b) advocates of the Supreme Court, including advocates-on-record, (c) advocates of the High Court, and (d) other advocates.</p> <p>The Bar Councils Act, as supplemented by the Bar Council Rules, sets forth the core requirements for qualification and enrolment for advocates, which include: (i) Pakistani citizenship, or one year of residency in Pakistan and citizenship in a country that allows Pakistani citizens to qualify in the practice of law; (ii) the applicant must be at least 21 years of age; (iii) a law degree from a university recognized by the Pakistan Bar Council; (iv) passing an assessment conducted by an organization appointed by the federal government of Pakistan; (v) undergoing such training and passing such examination(s) as prescribed by the Pakistan Bar Council; and (vi) payment of related accreditation and other fees.<sup>7</sup> An advocate who has practiced before subordinate courts in Pakistan for a period of at least two years will be entitled to apply for admission as an advocate of a High Court.<sup>8</sup></p> <p>Further, specific requirements for qualification and enrolment as senior advocates, advocates and advocates-on-record of the Supreme Court are set forth in the Supreme Court Rules 1980, last</p>

<sup>5</sup> Ibid, Section 9.

<sup>6</sup> Pakistan Bar Council, "*Pakistan Legal Practitioners and Bar Councils Rules, 1976*", <http://pakistanbarcouncil.org/category/acts-rules/> (last visited on October 2, 2019).

<sup>7</sup> Ibid 2, Section 26.

<sup>8</sup> Ibid 2, Section 27.

		<p>amended on 11 November 2017 (the "<b>Supreme Court Rules</b>").<sup>9</sup> Pursuant thereto, an advocate who has been enrolled with the High Courts for seven years is entitled to apply as an advocate of the Supreme Court<sup>10</sup> and an advocate with five years of standing in the Supreme Court shall be qualified to be registered as an advocate-on-record<sup>11</sup>. Further, the chief justice and the judges may select, from time to time, from among those whose names are on the roll of advocates of the Supreme Court, persons who are judged, by their knowledge, ability and experience, to be worthy of being granted the status of senior advocate of the Supreme Court.<sup>12</sup></p>
<b>(b) Pro Bono Practice and Culture</b>		
	<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><b><u>Legal Aid Rules</u></b></p> <p>Pursuant to Bar Councils Act, the Pakistan Bar Council has been mandated to provide free legal aid and free specialized services for the awareness, promotion and enforcement of human rights.<sup>13</sup> In reliance on the rulemaking powers granted to it under the Bar Councils Act, the Pakistan Bar Council has therefore established rules for the provision of legal aid in 1999 ("<b>Legal Aid Rules</b>").<sup>14</sup> The Legal Aid Rules create legal aid committees at the national level (the "<b>Central Free Legal Aid Committee</b>"), provincial level (the "<b>Provincial Free Legal Aid Committee</b>") and district level (the "<b>District Free Legal Aid Committee</b>")<sup>15</sup> Funds for the Central Free Legal Aid Committees are collected from, <i>inter alia</i>, the Pakistan Bar Council, voluntary contributions, the relevant Bar Councils and associations government grants and other contributions.<sup>16</sup> The funds collected are controlled, utilized and disbursed only by the Central Free Legal Aid Committee for</p>

<sup>9</sup> Supreme Court of Pakistan, "*Supreme Court Rules, 1980 (amended up to 11-11-2017)*", [http://www.supremecourt.gov.pk/web/user\\_files/File/SUPREME\\_COURT\\_RULES\\_1980\\_AMMENDED.pdf](http://www.supremecourt.gov.pk/web/user_files/File/SUPREME_COURT_RULES_1980_AMMENDED.pdf) (last visited on October 2, 2019).

<sup>10</sup> Ibid, Order IV Rule 4.

<sup>11</sup> Ibid, Order IV Rule 14.

<sup>12</sup> Ibid, Order IV Rule 5.

<sup>13</sup> Ibid 2, Section 14.

<sup>14</sup> Pakistan Bar Council Notification, 139 "*Pakistan Bar Council Free Legal Aid Rules, (Sep. 8, 1999)*", available at <http://pakistanbarcouncil.org/wp-content/uploads/2012/07/1999.pdf> (last visited on October 2, 2019).

<sup>15</sup> Ibid, paragraph 4.

<sup>16</sup> Ibid, paragraph 9(i).

	<p>providing free legal aid in accordance with the Legal Aid Rules.<sup>17</sup></p> <p>The Central Free Legal Aid Committee seeks to provide legal aid to eligible litigants at the Supreme Court or any tribunal, authority or body at the federal level.<sup>18</sup> Applications for legal aid to the Pakistan Bar Council Central Free Legal Aid Committee are accepted at each registry of the Supreme Court.<sup>19</sup> Provincial Free Legal Aid Committee provides representation in the High Court and any provincial-level tribunal, while the District Free Legal Aid Committee provides aid at district-level proceedings.<sup>20</sup> The Legal Aid Rules provide a template application letter for those seeking legal aid to complete.<sup>21</sup></p> <p>The Legal Aid Rules require that each free legal aid committee maintain a panel of lawyers willing to provide pro bono services or work for reduced fees.<sup>22</sup> The Legal Aid Rules also set forth maximum legal fees by type of level of the judiciary; for example, a maximum fee of 5,000 Pakistani rupees (US \$52) is imposed on fees for legal aid cases litigated at the Supreme Court.<sup>23</sup></p> <p><b><u>Legal Empowerment Rules</u></b></p> <p>Additionally, pursuant to the Law &amp; Justice Commission of Pakistan Ordinance, 1979 the Law &amp; Justice Commission of Pakistan has established the District Legal Empowerment Committee (Constitution &amp; Functions) Rules, 2011 (“<b>Legal Empowerment Rules</b>”).<sup>24</sup> The District Legal Empowerment Committee formed under the Legal Empowerment Rules provides legal aid serves to deserving litigants including, <i>inter alia</i>, paying for professional fees for lawyers, court fees and process fees.<sup>25</sup> Funds for the District Legal Empowerment Committee have been earmarked</p>
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<sup>17</sup> Ibid paragraph 10(i)

<sup>18</sup> Ibid, paragraph 5.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid, paragraphs 5 and 6.

<sup>21</sup> Ibid, Schedule.

<sup>22</sup> Ibid, paragraph 8.

<sup>23</sup> Ibid, Schedule.

<sup>24</sup> District Legal Empowerment Committee - Law and Justice Commission of Pakistan, "*District Legal Empowerment Committee (Constitution & Functions) Rules, 2011*", <http://ljcp.gov.pk/nljcp/assets/dist/pdf/D.pdf> (last visited on October 2, 2019).

<sup>25</sup> Ibid, Rule 5

	<p>under the government's Access to Justice Development Fund.</p> <p>Any deserving litigant may submit a request in writing on plain paper addressed to the chairperson of the District Legal Empowerment Committee. The application must clearly contain the request for payment to plead his case before court and must be accompanied by the national identity card or any other document of identity. The superintendent district jail may also forward applications on behalf of convicted prisoners, persons on trial or any person confined in jail in relation to civil proceedings after necessary verification that the applicant is a deserving litigant. The District Legal Empowerment Committee may also consider cases referred by any court of law.<sup>26</sup></p> <p>The District Legal Empowerment Committee maintains a list of practitioners to be appointed to perform the functions under the Legal Empowerment Rules. A legal practitioner having at least five years of standing at the Bar would be eligible for appointment. The District Legal Empowerment Committee determines the legal practitioners' fees; however, in accordance with the Legal Empowerment Rules, this may not be more than PKR 20,000.<sup>27</sup></p>
<p>2. Are lawyers required by such rules to work a minimum number of pro bono hours? If so, how many?</p>	<p>While the Legal Aid Rules do not require lawyers to offer pro bono services as a general matter, a free legal aid committee may request any lawyer to conduct one case in a year, free of charge.<sup>28</sup></p> <p>The Legal Empowerment Rules do not obligate lawyers to work on a pro bono basis. Lawyers are appointed by the District Legal Empowerment Committee in accordance with the Legal Empowerment Rules in consultation with the Vice Chairman of the Provincial Bar Council, President of the District Bar Association and approval of the Chief Justice of the High Court.</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>The Bar Councils Act, as supplemented by the Bar Council Rules, sets forth the core requirements for qualification and enrolment for advocates as discussed above. These do not currently include a requirement to complete a minimum number of</p>

<sup>26</sup> Ibid, Rule 7

<sup>27</sup> Ibid, Rule 8

<sup>28</sup> Ibid 14, paragraph 8(f).

	hours of pro bono legal services in order to qualify and enroll as advocates.
<p>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?</p>	<p>The Legal Aid Rules state that their purpose is to establish a system to provide legal services to “the poor, destitute, orphans, widows, indigent and other deserving litigants” needing assistance in the following categories of cases: accidents, succession certificate, family law, ejectment, illegal detention, abuse of power and authority by police, law enforcing agency and executives, neglect of duties by government departments, local councils / bodies and local authorities / agencies, public interest litigation, and such other cases as approved by the Pakistan Bar Council Central Free Legal Aid Committee.<sup>29</sup> The Legal Aid Rules further clarify that “poor”, “destitute”, “orphan”, “widow”, “indigent” and “deserving” means a person who is entitled to Zakat or his financial position and income resources are not sufficient to bear the expenses for engaging an advocate to prosecute, defend and protect his legal rights in genuine litigation.<sup>30</sup></p> <p>Legal aid under the Legal Empowerment Rules is available to “deserving litigants”. The Legal Empowerment Rules defines “deserving litigant” as a litigant who might otherwise be unable to obtain legal aid or assistance for protecting his genuine legal rights or interest on account of his limited financial resources.<sup>31</sup> The Legal Empowerment Rules do not provide the areas of law where such legal aid may be provided.</p> <p>Among those populations who continue to face barriers to judicial access or other legal remedies include the several thousand Afghani refugees who have cited harassment, arrests, detentions and evictions pushing them to return to their native country;<sup>32</sup> illegal child and bonded laborers;<sup>33</sup> women and girls who suffer from domestic abuse</p>

<sup>29</sup> Ibid 14, paragraph 3.

<sup>30</sup> Ibid 14, paragraph 1.

<sup>31</sup> Ibid 24, Rule 2

<sup>32</sup> BBC, *Harassment drives Afghan refugees from Pakistan*, BBC News, February 26, 2015, <http://www.bbc.com/news/world-asia-31588821> (last visited on October 2, 2019). See also, Human Rights Watch, *World Report 2016* available at <https://www.hrw.org/world-report/2017/country-chapters/pakistan> (last visited on October 2, 2019).

<sup>33</sup> Human Rights Commission of Pakistan, *State of Human Rights in 2018*, 10 available at <http://hrcp-web.org/publication/wp-content/uploads/2019/04/State-of-Human-Rights-in-2018-English.pdf> (last visited on October 2, 2019) (citing an estimated 3 million people in various forms of slavery in Pakistan and 12 million children in child labour).

		and gender-based violence; <sup>34</sup> and religious minority groups, many who seek asylum overseas to flee persecution. <sup>35</sup>
	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?	Many government-funded organizations and NGOs, as well as a handful of domestic law firms, offer pro bono legal services. As discussed above at II.(b)(1), there are legal aid committees at the national, provincial and district level <sup>36</sup> in addition to the District Legal Empowerment Committee formed by the Law & Justice Commission of Pakistan.
<b>(c)</b>	<b>Obstacles to Provision of Pro Bono Legal Services</b>	
	1. Do lawyers require a license to provide pro bono legal services?	As outlined at II.(a)(2) above, the provision of legal services is regulated and the Bar Councils Act, as supplemented by the Bar Council Rules, sets forth the core requirements for qualification and enrolment for advocates. Legal services, including pro bono legal services, can only be provided by qualified advocates who are enrolled as per these requirements.
	2. Do foreign lawyers require any additional license(s) to provide pro bono legal services?	As discussed above, under the Bar Councils Act, only individuals admitted as lawyers may formally practice law in Pakistan. Citizenship and residency requirements make admission unworkable for the provision of pro bono legal services by foreign lawyers.
	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?	There is no requirement for professional indemnity legal insurance cover for legal service providers. However, professional indemnity insurance is available for lawyers and law firms, should they choose to be covered

<sup>34</sup> Special Rapporteur on the Independence of Judges and Lawyers, *Mission to Pakistan*, 4, U.N. Doc. A/HRC/23/43/Add.2 (April 4, 2013) (by Gabriela Knaul), available at [http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/23/43](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/23/43) (last visited on October 2, 2019), at 16 (noting that “access to justice for women remains illusory” because of high illiteracy and lack of awareness of their legal rights).

<sup>35</sup> Human Rights Watch, *World Report 2014: Pakistan*, available at <https://www.hrw.org/world-report/2014/country-chapters/pakistan> (last visited on October 2, 2019). See also, Suhail Obed, *Exodus of Religious Minorities*, Daily Times, June 5, 2015, available at <http://www.dailytimes.com.pk/opinion/05-Jun-2015/exodus-of-religious-minorities> (last visited on October 2, 2019) (a Pakistani opinion page noting that an estimated 1,338 Pakistani’s applied for asylum abroad in 2013, most of whom were religious minorities). See also, The Hindu Business Line, 16 April, 2016, *Religious minorities continue to face violent attacks in Pakistan*, available at <https://www.thehindubusinessline.com/news/world/religious-minorities-continue-to-face-violent-attacks-in-pakistan-watchdog/article23561059.ece> (last visited on October 2, 2019).

<sup>36</sup> Pakistan Bar Council Notification, 139 (supra note 13) at Section 4.

	<p>4. Are there any rules that prohibit advertising of pro bono successes or soliciting new pro bono clients?</p>	<p>There are no prohibitions on advertising of pro bono successes or soliciting new pro bono clients in Pakistan. However, all advertising must be in compliance with rules and regulations promulgated by the Pakistan Electronic Media Regulations Authority<sup>37</sup> and the Indecent Advertisement Prohibition Act, 1963.<sup>38</sup></p>
	<p>5. Do lawyers receive any “Continuing Legal Education” or equivalent credit for pro bono hours worked?</p>	<p>There is no concept of “Continuing Legal Education” in the rules governing legal practice in Pakistan and therefore no equivalent credit is allocated for pro bono work.</p>
<p><b>(d) Sources of Pro Bono Opportunities and Key Contacts</b></p>		
	<p>1. Describe any governmental sources of pro bono and/or other legal services in Pakistan.</p>	<p>Amongst government sources of pro bono, the main sources are the legal aid committees at the national level, in each provincial bar council and in each bar council at the district level created pursuant to the Legal Aid Rules.</p> <p>The Government of Pakistan has established Rs. 1.5 billion Access to Justice Development Fund, with one window of investment earmarked for legal aid and empowerment. In particular, 13.5% of the total fund is reserved for legal empowerment and legal aid.<sup>39</sup> This money is funneled under the supervision of Law and Justice Commission of Pakistan regulating the distribution of funds under the mandate of the Legal Empowerment Rules - the District Legal Empowerment Fund.</p> <p>The District Legal Empowerment Fund aims to provide assistance to deserving litigants. The District Legal Empowerment Committee constituted by the Law and Justice Commission under the Legal Empowerment Rules with the concurrence of the concerned High Court and Provincial Government, is composed of District &amp; Sessions Judge, District Co-ordination Officer, Superintendent District Jail, President of the</p>

<sup>37</sup> Pakistan Electronic Media Regulatory Authority, About PEMRA - Functions, <http://www.pemra.gov.pk/> (last visited on October 2, 2019).

<sup>38</sup> Government of Balochistan, "*The Indecent Advertisements Prohibition Act, 1963*", [https://balochistan.gov.pk/index.php?option=com\\_docman&task=search\\_result&Itemid=677&search\\_phrase=indecent&catid=0&ordering=newest&search\\_mode=any&search\\_where%5B%5D=search\\_name&search\\_where%5B%5D=search\\_description](https://balochistan.gov.pk/index.php?option=com_docman&task=search_result&Itemid=677&search_phrase=indecent&catid=0&ordering=newest&search_mode=any&search_where%5B%5D=search_name&search_where%5B%5D=search_description) (last visited on October 2, 2019).

<sup>39</sup> Ziauddin, "Legal aid in Pakistan", Daily Times Pakistan <https://dailytimes.com.pk/388951/legal-aid-in-pakistan/> (last visited on October 2, 2019).

		<p>District Bar Association and a representative of the civil society. This composition is designed to include all the major actors of justice system.</p> <p>The website of Law and Justice Commission of Pakistan also gives complete details of distribution and utilization of funds on case to case and region to region basis. Between 2012-2016, 59 % of the funds in Punjab, 91% in Sindh, 69% in Khyber Pakhtunkhwa and 95 % of the funds allocated to respective District Legal Empowerment Committees in Baluchistan, remained unspent.<sup>40</sup></p> <p>In addition, the Legal Aid Society, a not for profit NGO founded by a former Chief Justice of Sindh and former Supreme Court Judge is another source for pro bono.<sup>41</sup></p>
	<p>2. Describe the main non-governmental sources of pro bono and/or other pro bono resources in Pakistan.</p>	<p>There are multiple non-governmental organizations that provide pro bono opportunities. Some of the well-known organizations are listed below:</p> <ul style="list-style-type: none"> <li>• The Human Rights Commission of Pakistan (the “<b>HRCP</b>”) provides legal aid and assistance to victims of human rights abuses, and engages in education, organizing and advocacy work around the ratification and implementation by Pakistan of the Universal Declaration of Human Rights and of other related internationally adopted norms.<sup>42</sup></li> <li>• Established in 1980 by Asma Jahangir,<sup>43</sup> AGHS Legal Aid (“<b>AGHS</b>”) was the first free legal aid organization in the Pakistan.<sup>44</sup> AGHS focused on the rights of women, children and minorities in Pakistan.<sup>45</sup> AGHS is involved in litigation, education, publication, domestic and international lobbying, organizing and abuse documentation projects.<sup>46</sup></li> </ul>

<sup>40</sup> Ibid.

<sup>41</sup> Legal Aid Society, Overview of Organization, <https://www.las.org.pk/about-us/overview-of-organization/> (last visited on October 2, 2019).

<sup>42</sup> Human Rights Commission of Pakistan, HRCP, *About Us*, <http://hrcp-web.org/hrcpweb/> (last visited on October 2, 2019).

<sup>43</sup> Asma Jahangir was an internationally renowned human rights activist, a Supreme Court advocate and a critical voice against anti-democratic forces in Pakistan. She helped to establish AGHS, Women’s Action Forum and the HRCP. She served as U.N. Special Rapporteur on Extrajudicial Executions, U.N. Special Rapporteur on Freedom of Religion or Belief and President of the Supreme Court Bar Association of Pakistan.

<sup>44</sup> See AGHS Legal Aid Cell, *About AGHS* (Jul. 6, 2007), <http://aghsblog.wordpress.com> (last visited on October 2, 2019).

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

		<ul style="list-style-type: none"> <li>• In addition, several NGOs provide legal and other support services to the estimated over 1.4 million refugees, asylum seekers and internally displaced persons in Pakistan.<sup>47</sup> These include CHC- Community Help Community, Norwegian Refugee Council Pakistan, Rights Now Pakistan and Society for Human Rights and Prisoners Aid (SHARP).<sup>48</sup></li> </ul>
	<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 no public or private organizations with which a local or foreign attorney can register in order to be made aware of pro bono opportunities in Pakistan.</p>

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<sup>47</sup> 2015 UNHCR Country Operations Profile – Pakistan, UNHCR: The UN Refugee Agency <http://www.unhcr.org/pages/49e487016.html> (last visited on October 2, 2019).

<sup>48</sup> See Rights in Exile Programme (IRRI), <http://www.refugeelegalaidinformation.org/about-us-0> (last visited on October 2, 2019), providing contact details for the above named organizations.