

# The Future of Pro Bono: Global perspective on growing areas of legal need and sector trends

On 10 December 2019 the Centre's CEO, Gabriela Christian-Hare, conducted a podcast interview with Nicolas Patrick, Partner & Head of Responsible Business, DLA Piper on his predictions, from a global perspective, on growing areas of legal need as well as his main trend predictions for the legal sector and how they will impact on pro bono. This article contains a summary of highlights of the interview.

The full podcast interview and accompanying slides are available on the Centre's website [here](#)



## Growing areas of legal need identified by Nic:

### Climate Change

There are many opportunities for law firms to have an impact:

#### Policy Work

At a policy level lawyers can help to give a voice to those who are most impacted by climate change.

- Representation of governments - The countries most impacted by climate change don't always have the strongest voice in global negotiations, including State Parties to the UN Framework Convention on Climate Change (UNFCCC). They may be under-resourced and lacking the capacity to participate. DLA Piper, for many years, has represented governments from developing countries at the UNFCCC.
- Communities – Lawyers can help communities to have a voice in policy discussions. Pro bono lawyers can help to guarantee a just transition to a low carbon future, including anticipating resultant employment shifts and understanding what the spill-over effects for communities will be.

### Climate Litigation

- The London School of Economics has a database containing all the cases of climate litigation around the world, freely accessible, indicating an upward trend in climate litigation in almost every jurisdiction.
- Firms can help both their pro bono and commercial clients by identifying potential climate litigation risks and helping them to mitigate those risks through better systems and processes. This points to an expanded role for pro bono lawyers. Firms should also consider the extent to which their commercial practices are working in areas that don't have a long-term future and whether those practices could be transitioned towards more sustainable practices. For example, lawyers in the energy teams are building the skills for a low carbon future.

*In 2020 the Australian Pro Bono Centre will be producing a guide on how pro bono lawyers can have an impact on climate change*

### Mass Migration

- UNHCR's Annual Global Trends Report, released on 19 June 2019, indicates that there are currently 70.8 million people displaced across the globe, including 41.3 million people internally displaced and 25.9 million refugees.
- There has been a failure of the legal community to respond appropriately to the refugee crisis in Europe. In Australia, many firms have been involved in refugee work for some time. Unfortunately that didn't happen in Europe – pro bono has been less well developed and less mature than in Australia. The sheer numbers of refugees and asylum seekers coming into Europe has made the challenge seem insurmountable to law firms. In the future, this crisis will be driven even more by climate change. Coastal populations will migrate. There will also be a scarcity of resources that will also lead to migration and may lead to conflict, which in turn will be a cause of migration.

- As a pro bono community we need to get better at responding to humanitarian crises. Employing more people with specialist skills is something that should be considered. Over the last 5-6 years more and more pro bono lawyers have been recruited from within law firms and the community of pro bono lawyers may be too insular now. There's benefit in bringing into firms people from the outside – from civil society organisations and the NGO sector – who bring different perspectives and skillsets into pro bono practices, as well as more specialist lawyers to help firms to respond more effectively. For example, DLA Piper has just recruited into its Hong Kong office a specialist refugee lawyer.

## Extreme Poverty

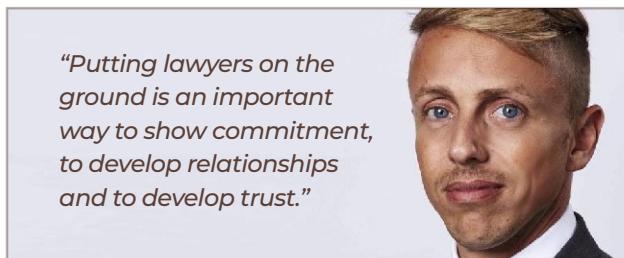
The Gates Foundation indicates that there are 7.1 billion people in the world in total, with just over 1 billion people living in extreme poverty on less than \$2 per day. The top billion lives on \$32 per day. Unfortunately, when you look at where pro bono capacity around the world is being directed at the moment, it is to clients in the top \$1 billion in terms of income – largely due to local work in offices which are often in big cities and big financial centres. The other 6.6 billion are missing out.

The legal sector can do more to ensure that pro bono capacity is directed towards those most in need, and that there's a global view of legal need. Firms should consider how they can be more active, particularly in the least developed countries. DLA Piper is working with law students, law schools and universities in the least developed countries, but is also trying to do more pro bono work in these countries. This doesn't

involve individual representation because the firm doesn't have lawyers admitted to practice in these jurisdictions. Rather, the work undertaken is more structural – including working with governments. There's huge unmet need for legal support and advice for governments, including the potential for capacity building, helping to create regulatory environments that support businesses and foreign direct investment, working with NGOs who are active in developing countries, and setting up legal aid systems. DLA Piper's work includes:

- I Supporting the transitional justice program in The Gambia
- II Helping to create special economic zones which encourage foreign direct investment in Timor-Leste. The firm also arbitrated a maritime boundary dispute which has delivered substantial economic benefits to the country
- III Helping to reform the juvenile justice system in Bangladesh, replacing criminal justice responses with welfare responses for children
- IV Basing two lawyers in Vanuatu.

Having lawyers working on the ground in all of those countries means they become referrers of work back to the firm and generate pro bono work in the same way our commercial lawyers do.



*“Putting lawyers on the ground is an important way to show commitment, to develop relationships and to develop trust.”*

If you have a budget for secondees and you're currently sending a secondee to a community legal centre in Australia, it is not much more expensive to have the secondee based in a developing country. In some cases you can find funding for the additional costs, so it's not always a cost to the firm. Putting lawyers on the ground is an important way to show commitment, to develop relationships and to develop trust.

## Sector Trends

### The end of the law firm

The legal press indicates that many law firms are growing, not by merging with other law firms, but by taking on other business consultancies and other experts who are not lawyers. Law firms are providing a wider array of services to their commercial clients – from corporate comms, to crisis management and reputation management, governance, government relations, artificial intelligence (AI) solutions and other technology solutions. This is being done in part to compete with the accounting firms and other big consultancies who are bringing in teams of lawyers.

Over the next decade, possibly in the next 5 years, law firm CEOs will start saying that calling law firms by that name will be too limiting. They will want their organisations to be seen as business consultancies and advisors that can provide much more than legal advice. This raises the risk that pro bono practices will be impacted. The idea of a pro bono practice has been quite peculiar to the legal profession – and we need to consider how we protect the strong pro bono culture that we've built up as we transition to different types of businesses.

Firms will be looking at responsible business across a number of different disciplines – considering skills-based volunteering programs and community engagement programs that leverage all of the skills and resources of the business.

## The role of technology

### Engaging with technology for the benefit of clients

Pro bono lawyers need to engage more with developments and innovations in technology for the benefit of clients. Technology will do more to improve access to justice over the next decade than pro bono has over the past decade. Technology platforms are already being used to resolve disputes more successfully and more cheaply than the courts. For example, Resolver – a website in the UK – resolves thousands of disputes online without the involvement of lawyers in almost every case. Instead of building pro bono projects that require lawyers to find solutions, the challenge is how to build solutions that don't require lawyers and instead build technology platforms that will do this work.

DLA Piper in Sydney is conducting a feasibility study for a non-profit law firm that will meet the legal needs of the missing middle - people who don't qualify for legal aid or pro bono but also can't pay for legal services. This service is looking at a few different areas of law – including family law and immigration. This is a pro bono project for DLA Piper, but the firm doesn't expect it will generate a single case that it will hand to a lawyer. Rather, the firm is designing a low-bono law firm that will deliver advice and solutions to clients through technology. It will generate court documents, provide clients with access to YouTube videos that will provide instructions on what happens in a mention, provide unbundled services and self-help solutions and technology-generated documents. It's about providing affordable advice at different steps to assist the client's journey, unrepresented, through a court process. This project is still in its conceptual stage, but there's technology already being used for this purpose.

### What will technology bring to pro bono practices?

- Utilisation - Technology is helping firms to manage utilisation better - by allocating work to lawyers, doing headcount forecasting, identifying work that can be done more cheaply in low cost centres, and managing work flow fluctuations with contract lawyers. All of these will continue, and the management of capacity is only going to become more effective. Lawyers will be busier and more fully utilised than ever.
- Business case for pro bono - Law firms are investing more than ever before in technology and so the business case for pro bono needs to be rewritten. Pro bono teams shouldn't be apprehensive about demonstrating the value that it brings to the business – and that's going to be the best way to get investment from the firm.
- Data capture - In the future everything we do is going to be data driven. As DLA Piper designs new projects, data capture is front and centre. The legal sector needs to develop an agreed protocol so that data can be shared and analysed and consistent data sets are collected. Data capturing should go beyond the name of the client and description of the matter to capture data around the outcome of matters. This includes capturing data you don't have – designing tools to crawl the web for data that can be layered over the data the firm has. Capturing data is very important because transparency is a trend across all sectors. The sector should expect increased requirements around transparency, not just in terms of reporting pro bono hours, but on the projects run, the number of clients, and the outcomes. ■

Nicolas Patrick is a partner at DLA Piper in London where he leads the responsible business team. The team comprises more than 20 dedicated pro bono lawyers working in the areas of:



- Child Rights
- Refugee Rights
- Statelessness
- Access to Justice
- Innovation and Technology
- Climate Justice.

Nicolas oversees the DLA Piper Foundation which among other things provides two-year scholarships to 50 students studying law in the world's least developed countries.

The DLA Piper responsible business team also employs specialist lawyers and consultants who support the firm's corporate clients to be more responsible, sustainable businesses. The team includes lawyers with expertise in:

- ESG risks
- Business and human rights
- Climate change
- Governance, transparency and reporting
- Bribery and corruption.

Nicolas also heads the London Boardroom Advisory Service, providing strategic advice to the boards of multi-national corporations and global NGOs. Nicolas regularly provides advice to senior executives on business and human rights and reputation issues.

