

PRO BONO IN PAKISTAN: A perspective from on the ground

Muhammad Zeeshan Ashraf interviewed iProbono about its work, pro bono and social justice in Pakistan.



Muhammad Zeeshan Ashraf is a solicitor from Pakistan who completed his work experience component of the Graduate Diploma in Legal Professional Practice from UNSW at the Australian Pro Bono Centre.



iProbono volunteer, Aqsa Gharseen, leads a discussion at a multi-stakeholder consultative event on the protection of transgender law in Balochistan.

Muhammad Zeeshan Ashraf: iProbono's mission is to enable people to access their rights in pursuit of a just society around the world. How do you do this in Pakistan?

iProbono: iProbono started working in Pakistan in 2016. Initially, we were supported by a grant to work with social enterprises in Pakistan. Since then, our work has adapted to the changing needs of the Pakistani people.

The core of our work is based on three tools: strengthening civil society, litigating for people in need and advocating for equal justice. Regrettably, we have not yet started working on litigation

in Pakistan, mainly because of lack of funding. Having said that, we are engaging heavily with civil society organisations, which is our core transactional work in Pakistan.

In particular, we have been working closely with partners in the equality law field, specifically on the promotion and protection of rights of transgender communities in countries like Sri Lanka, India, and Pakistan. In Pakistan, there is forward-thinking legislation, the Transgender Persons (Protection of Rights) Act 2018, and the focus of our program is on implementing that law and protecting the rights of the community.

Recently, we have also started working with Afghan evacuees who have to transit through Pakistan as a route out of Afghanistan after the crisis in the country following the Taliban takeover. We established a sustained programme of support for evacuees, mainly based in Islamabad. We work with them to ensure their safe passage to third countries, including Italy, Spain, Sweden, and Germany. We work very closely with our partner organisations to ensure comprehensive support for evacuees.

MZA: There must be large numbers of people seeking legal assistance. How do you manage people's expectations? In the event you cannot assist them, do you refer them to other organisations or private practice?

iProbono: Currently, we refer clients who contact us to

some excellent organisations and law firms in Pakistan who provide pro bono and legal aid advice. These partners provide either reduced fee or pro bono work. One of the things that we try to do is promote a culture of pro bono within the legal community, but we have to be realistic – it is not always possible to complete a piece of litigation entirely on a pro bono basis. Having said that, when someone comes to us with a request, we check to see if there is anyone within our iProbono community or within our network in Pakistan who can provide support to them. If it is something we cannot take on, then we refer them to some of the excellent institutions like the AGHS Legal Aid Cell in Lahore, which has been providing pro bono support in Pakistan for almost 30 years. The Legal Aid Office in Karachi also provides excellent affordable and pro bono advice to communities across Sindh.



Jalila Haider, iProbono's country representative in Pakistan, speaking at an event at Serena Hotel, Quetta, Pakistan.

MZA: There are many loopholes in the criminal justice system in Pakistan that result in unwanted arrests and imprisonment of innocent people, and many people cannot afford a lawyer. How can pro bono lawyers play their part to address this injustice?

iProbono: The main issue is outdated Penal and Criminal Procedure Codes which were enacted in 1860 and 1908 respectively by the British. There have been amendments since those laws were enacted, but they need to be rehailed from scratch. Most countries in South Asia, Nepal is a notable exception, inherited Colonial law, but others moved for progressive decolonisation during which they undertook necessary law reforms. The same needs to happen in the criminal justice system in Pakistan.

Another issue is that police are not sensitised or well-equipped when it comes to prosecution. Moreover, we have no forensic laboratories to check whether evidence is corroborated or not. All these factors add up to create distrust in the criminal justice system. That is why some people choose the 'Jirga system' as an alternative to the criminal justice system in tribal areas like Khyber Pakhtunkhwa (KP) and Baluchistan to get quick and cheap justice.



iProbono's multi-stakeholder consultative event on the protection of transgender law.

“When we started working in Pakistan in 2016, we talked with many senior lawyers. Every second one of them claimed that “hum tu boht Pro Bono case karte hain”, which means “we do take on a lot of pro bono cases”...However, the pro bono system is not institutionalised and organised, so they do not get much publicity.”

In terms of providing pro bono help, the Pakistan Bar Council Free Legal Aid Rule 1999 provides for legal aid to ‘poor and deserving’ people but it is not always implemented. We engage with Bar councils and train lawyers for bail applications. However, when it comes to using the pots of money to engage pro bono lawyers, the access to those pots is not easy. That is where the system needs to streamline but Pakistan is not unique; this is a problem in India, Nepal, Sri Lanka and even in the UK.

MZA: In general, what is the level of pro bono involvement by lawyers in Pakistan?

iProbono: There is a pro bono culture in Pakistan that has been getting stronger over the years. When we started working in Pakistan in 2016, we talked with many senior lawyers. Every second one of them claimed that “hum tu boht Pro Bono case karte hain”, which means “we do take on a lot of pro bono cases”. That work has been more popular in far-flung areas like internal Sindh and Baluchistan where lawyers take cases for minorities on a pro bono basis. However, the pro bono system is not institutionalised and organised, so they do not get much publicity.

MZA: What are the barriers to providing pro bono support in Pakistan? What would you recommend to remove those hurdles?

iProbono: The first and foremost problem is to manage funds for pro bono litigation. The cost of litigation is quite high and, usually, it takes two or three years for a case to conclude. For an individual lawyer, the legal aid support from the Government amounts to Rs. 25,000 (approximately \$175 AUD) per case. How can a lawyer sustain their practice with that kind of money for three years?

The other challenge is to change the mindset so that lawyers understand they are using their skills to give back something to the community. I believe a certain proportion of the work of a lawyer should be done on a pro bono basis. Then we need teamwork. If we have a whole team of pro bono lawyers who come from diverse backgrounds, they can complement each other. For example, if one lawyer is busy with paid work, then another lawyer or lawyer from an NGO or in-house counsel can step in to do the job.

So, it is all about changing the mindset and making a collaborative effort to ensure pro bono support is provided to deserving people. That is why we need a pro bono research and policy centre which can provide a common platform to resolve all these issues. ■



Mariam Faruqi leads iProbono's programs and governance globally. A lawyer with a focus on social justice in South Asia and the UK, she is Trustee at Reunite, an international centre for the prevention of child abduction, and on the development board of the Royal Drawing School.



Radhika Saxena. A lawyer with experience in women's rights litigation, research, and advocacy, Radhika plays an integral role in streamlining iProbono's South Asia work. She assists the Managing Director and supports the work of in-country legal staff.



Jalila Haider. A human rights attorney and political activist, Jalila was named in BBC's 100 Women of 2019 and chosen as an International Woman of Courage by the United States Department of State in 2020.

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