



**LEGAL ASSISTANCE CENTRE**  
*Fighting for human rights in Namibia since 1988*



# *Pro* **Bono**

**INFORMATION ABOUT NAMIBIA'S LAW ON ...**

## **PRO BONO WORK BY LEGAL PRACTITIONERS**

*Welcome to ProBono, the new monthly column by the Legal Assistance Centre. This column will inform you about Namibian law on various topics. You can request information on a specific legal topic by sending an SMS to 081-600 0098. Note that we will not be able to give advice on specific cases in this column, only general legal information.*

The term “pro bono” is a commonly-used short form of the Latin phrase “pro bono publico” meaning “for the public good”. In the legal profession, it refers to the situation where private legal practitioners volunteer to provide free professional services for good causes or for people who cannot afford to pay.

This is not the same as legal aid. Legal aid is a government programme where government funding is used to provide legal representation to persons in certain categories of cases, after applying a means test which examines their financial resources. Most legal aid representation takes place in criminal cases. The lawyers who represent people in legal aid cases do not work for free; they are either government employees or private legal practitioners who are paid out of government funds.

There is not a very well-established pro bono tradition in Namibia, although some individual lawyers do pro bono work.

In many parts of the world, there is a strong pro bono tradition in the legal profession. For example, virtually all major law firms in the US and the UK offer structured pro bono services, and there are even voluntary organisations which mobilise services from US- or UK-based lawyers for international pro bono work.

According to the American Bar Association, “When society confers the privilege to practice law on an individual, he or she accepts the responsibility to promote justice and to make justice equally accessible to all people. Thus, all lawyers should aspire to render some legal services without fee or expectation of fee for the good of the public.” The American Bar

Association urges all American lawyers to provide a minimum of 50 hours of pro bono services annually.

In South Korea, lawyers are required under the rules of the Korean Bar Association to do at least 30 hours of pro bono work annually. Local bar associations have the authority to reduce the minimum number of hours to 20 per year, and lawyers who have a good reason not to fulfill the requirement may pay a certain amount of money into the pro bono fund instead of working the specified hours.

In South Africa, the law on registration as a legal practitioner includes a community service requirement (which has yet been brought into force). The law authorises the relevant minister to prescribe requirements for community service by candidate legal practitioners or as a condition of the continued enrolment of practising legal practitioners. At the moment, legal practitioners in South Africa are required by the rules of the Law Society of South Africa to provide 24 hours per year of free legal advice to members of the public who qualify for this in terms of a means test.

One commercial law firm in South Africa has staffed offices in poor communities, where its lawyers give legal advice and conduct rights education programmes. Another has provided attorneys for six-month assignments with the State's Public Defenders' office as well as staffing for a Domestic Violence Help Desk at a magistrate's court. Several commercial firms in South Africa have delivered free pro bono services which would cost millions of rand if they were provided for fees.

The Law Society of Namibia does not yet have any binding rules on pro bono work, although it does have a Committee on Access to the Law and Social Responsibility which is tasked to encourage and develop a pro bono model for the legal profession.

The Judge JP Karuaihe Trust, in consultation with the Law Society of Namibia, gives annual Legal Excellence Awards which include an award for social responsibility. Consideration of the nominations for these awards takes pro bono work into account.

The Society of Advocates, a voluntary Namibian group that regulates legal practitioners practising as advocates, has taken a decision to amend its rules to require a certain amount of pro bono work by its members. (Advocates are legal practitioners who specialise in litigation in the higher courts. They must complete a period of apprenticeship with more experienced colleagues and pass an additional exam to become members of the Society of Advocates.)

The Law Society of Namibia is in the process of implementing a comprehensive "Change Project" which aims to examine the legal profession in Namibia and to propose reforms that will make the profession accessible, relevant and responsive to Namibian society. So it is probable that there will be an expansion of pro bono work in Namibia in future.