Pro Bono Practices and Opportunities in Jordan

Excerpt from: A Survey of Pro Bono Practices and Opportunities in Selected Jurisdictions

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The provision of *pro bono* legal services by lawyers in the Hashemite Kingdom of Jordan ("Jordan") is less common than it is in the United States. There are, however, several governmental and nongovernmental organizations in Jordan that provide free legal services to disadvantaged individuals and other groups. This chapter discusses these organizations, and provides a general overview of *pro bono* practices and opportunities in Jordan.

I. Legal Services and the Legal Profession in Jordan

The Jordanian judicial system consists of three categories of courts: civil courts, religious courts, and special courts. The civil courts are courts of general jurisdiction, and hear civil and criminal cases that are not reserved by law for other courts. The religious courts, which consist primarily of *Shari'a* (Islamic law) courts, have jurisdiction over personal status matters, such as marriage and inheritance. There are several special courts, the jurisdiction of which is specified in the laws creating them, including the State Security Court, which has jurisdiction over certain cases related to state security and drug offenses. The state of the courts of the c

In 2010, Jordan had approximately 9,000 practicing lawyers.⁵ The legal profession in Jordan is governed by the 1972 Bar Association Law (the "Bar Association Law").⁶ Under the Bar Association Law, all practicing lawyers in Jordan are required to join the Jordanian Bar Association (the "Bar Association").⁷

Foreign-qualified lawyers generally may not practice Jordanian law or represent parties in Jordanian courts, although lawyers from Arab countries are permitted to practice law in Jordan on a basis of reciprocity. Foreign-qualified lawyers are permitted to advise Jordanian clients on matters of foreign or international law. A few international law firms operate in Jordan in association with Jordanian law firms.⁸

The provision of *pro bono* legal services by lawyers is not common in Jordan. According to the Bar Association Law, one of the goals of the Bar Association is to assist in providing legal services to those who cannot afford them. However, the Bar Association, has not established mechanisms to organize and encourage *pro bono* efforts by its members. Under the Bar Association Law, the President of the Bar Association may assign any Jordanian lawyer to

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Nathan J. Brown, *Arab Judicial Structures*, *available at:* http://www.undp-pogar.org/publications/judiciary/nbrown/jordan.html.

² *Id*.

³ *Id.*

⁴ Id.; BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, U.S. DEP'T OF STATE, JORDAN; 2009 COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES (2010), available at: http://www.state.gov/g/drl/rls/hrrpt/2009/nea/136071.htm.

⁵ E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Sept. 12, 2010) (on file with author).

Bar Association Law No. 11 of 1972, *available at:* http://www.lob.gov.jo/ui/laws/search_no.jsp?no=11&year=1972.

Bar Association Law No. 11 of 1972 art. (7), *available at:* http://www.lob.gov.jo/ui/laws/search_no.jsp?no=11&year=1972.

⁸ Legal 500, Jordan, http://www.legal500.com/c/jordan.

Bar Association Law No. 11 of 1972 art. (5).5, available at: http://www.lob.gov.jo/ui/laws/search_no.jsp?no=11&year=1972; Jordanian Bar Association, http://www.jba.org.jo/.

represent an individual lacking the means to hire a lawyer on a *pro bono* basis, once per year. ¹⁰ In practice, accepting a *pro bono* assignment is not mandatory, and the lawyer may refuse to provide the representation. ¹¹ Moreover, there are no guidelines regarding who is eligible for such legal aid, and the decision to request a lawyer to provide free representation rests in the sole discretion of the President of the Bar Association. ¹²

A. Legal Aid in Criminal Cases

The Jordanian government provides free legal representation to indigent defendants in certain criminal cases. Under the Jordanian Criminal Procedure Law, the defendant in any case involving a possible penalty of life imprisonment or death is entitled to a government-provided lawyer if he or she cannot afford one. ¹³ In these cases, the court is required to ask the defendant whether he or she has appointed a lawyer. If the defendant replies that he or she lacks the financial means to do so, the court is required to appoint a lawyer to represent the defendant. ¹⁴ The defendant is not required to make any showing regarding his or her inability to afford a lawyer, and the trial cannot proceed until a lawyer is appointed to represent the defendant. ¹⁵

In such a case, the president of the court appoints a private lawyer to represent the defendant. The appointment is not mandatory, and the lawyer may refuse the representation, or ask to be excused at any time, in which case the court is required to appoint another lawyer. The fees paid to the court-appointed lawyer are specified in the Criminal Procedure Law. The fees are paid following the issuance of the judgment, and are based on the number of court sessions, subject to specified minimum and maximum fees. These fees are modest relative to the fees that would ordinarily be charged by a lawyer for such a case.

Bar Association Law No. 11 of 1972 art. (100).A, *available at*: http://www.lob.gov.jo/ui/laws/search_no.jsp?no=11&year=1972.

E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 20, 2008) (on file with author); *contra* Bar Association Law No. 11 of 1972 art. (100).B, *available at:* http://www.lob.gov.jo/ui/laws/search_no.jsp?no=11&year=1972.

¹² E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 15, 2008) (on file with author).

Criminal Procedure Law No. 9 of 1961 art. (208), available at: http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1961&no=9; Arab Council for Judicial and Legal Studies, ACJLS White Paper on Access to Justice and Legal Aid in the Arab World, available at: http://www.acjls.org.

Criminal Procedure Law No. 9 of 1961 art. (208), *available at:* http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1961&no=9; e-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 15, 2008) (on file with author).

E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 15, 2008) (on file with author).

Criminal Procedure Law No. 9 of 1961 art. (208), *available at:* http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1961&no=9; e-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 15, 2008) (on file with author).

Criminal Procedure Law No. 9 of 1961 art. (208), *available at:* http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1961&no=9; e-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 15, 2008) (on file with author).

E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 15, 2008) (on file with author).

Defendants generally must pay court fees in order to appeal verdicts in criminal cases. ¹⁹ It is not possible to have such fees waived or postponed. ²⁰ The National Centre for Human Rights (the "NCHR"), a government-supported human rights body, has criticized the imposition of court fees on criminal appeals, calling it "an impediment facing many in practicing the right to self defence before courts of different levels." ²¹ Verdicts resulting in a penalty of life imprisonment or death are automatically appealed, however, and no court fees are charged for such appeals. ²² In addition, indigent defendants are entitled to a government-provided lawyer for such appeals. ²³

B. Legal Aid in Civil Cases

Litigants in civil cases before the civil courts of first instance, and higher, must be represented by lawyers. Neither the plaintiffs nor the defendants in civil matters have a right to free legal representation. In addition to lawyers' fees, plaintiffs bringing civil cases, and parties appealing rulings, must pay court fees based on a percentage of the value of the claim. Litigants must also pay verdict and implementation fees, which may be equal to the initial trial fees. These court fees are intended to reduce the burden on the court system by ensuring the seriousness of cases brought before the courts. The NCHR, however, has observed that many people are prevented from resorting to the judiciary due to an inability to afford the costs of litigation.

Under the court fee regulations, the president of the court or the presiding judge can postpone the payment of court fees by a litigant upon a showing of financial inability to pay. In order to obtain a postponement, the litigant must submit a petition to the president of the court stating that the litigant is unable to pay the court fees. The petition must include a statement from the land and survey department, stating that the litigant does not own any property, and must

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See THE NATIONAL CENTRE FOR HUMAN RIGHTS, STATE OF HUMAN RIGHTS IN THE HASHEMITE KINGDOM OF JORDAN (2008), para. 24 (2009), available at: http://www.nchr.org.jo/uploads/NCHR-2008_Report-Final-Eng.doc.

E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 22, 2008) (on file with author).

THE NATIONAL CENTRE FOR HUMAN RIGHTS, STATE OF HUMAN RIGHTS IN THE HASHEMITE KINGDOM OF JORDAN (2008), para. 24 (2009), *available at:* http://www.nchr.org.jo/uploads/NCHR-2008_Report-Final-Eng.doc.

²² E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 24, 2008) (on file with author).

E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Sep. 27, 2010) (on file with author).

²⁴ Civil Procedure Law No. 24 of 1988 art. (63), *available at:* http://www.lob.gov.jo/ui/laws/search_no.jsp?year=1988&no=24.

THE NATIONAL CENTRE FOR HUMAN RIGHTS, THE STATE OF HUMAN RIGHTS IN THE HASHEMITE KINGDOM OF JORDAN DURING THE PERIOD (1 JUNE 2003 – 31 DECEMBER 2004), 28 (May 31, 2005), available at: http://www.nchr.org.jo/uploads/nchr-report.pdf.

²⁶ *Id*.

²⁷ *Id.* at 29.

Id. at 28; THE NATIONAL CENTRE FOR HUMAN RIGHTS, STATE OF HUMAN RIGHTS IN THE HASHEMITE KINGDOM OF JORDAN (2008), para. 24 (2009), available at: http://www.nchr.org.jo/uploads/NCHR-2008_Report-Final-Eng.doc.

²⁹ E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 15, 2008) (on file with author).

³⁰ *Id.*

be accompanied by the testimony of two witnesses regarding the litigant's financial status.³¹ Petitions for postponement of fees are generally granted.³²

Court fees, including lawsuit fees, execution fees, and expert fees, are also charged for cases before the Shari'a courts. The NCHR has observed that these fees are high, and prevent many individuals, particularly women, from resorting to the Shari'a courts.³³

It is permissible for a Jordanian lawyer to represent a client on a contingency fee basis, such that the lawyer's fees are paid out of the proceeds of the litigation received by the client, and the lawyer is not paid unless the client prevails in the litigation. 34 Lawyers working on a contingency fee basis are not providing pro bono services, but the possibility of retaining a lawyer on a contingency fee basis may allow some individuals who could not otherwise afford to hire lawyers to obtain legal representation.

C. Governmental and Nongovernmental Organizations Providing Legal Services

Although the provision of *pro bono* legal services by Jordanian lawyers is not common, several governmental and nongovernmental organizations ("NGOs") provide free legal services to individuals in Jordan. Several of these organizations are discussed below.

The governmental Ombudsman Bureau was established in 2009 to receive and investigate complaints by citizens regarding actions by public agencies or their employees.³⁵ As of December 11, 2009, the Ombudsman Bureau had received over 2,400 complaints. Of these, 86 were resolved through reconciliation, 59 resulted in the Ombudsman Bureau providing citizens with advice about how to proceed with their cases, 1,071 were dismissed as outside of the mandate of the Ombudsman Bureau, and the remainder remained under investigation.³⁶

The NCHR is a government-supported human rights body that, among other activities, provides free legal services to victims of human rights violations.³⁷ The NCHR was established by law in 2002 to promote the culture of human rights, improve the human rights situation in Jordan, and assist victims of human rights violations. 38 The Complaints & Legal Services unit of the NCHR, which employs several lawyers, receives and addresses complaints of human rights violations, including pursuing judicial remedies where appropriate.³⁹ The NCHR operates a

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Id.

³² Id.

THE NATIONAL CENTRE FOR HUMAN RIGHTS, STATE OF HUMAN RIGHTS IN THE HASHEMITE KINGDOM OF JORDAN (2008), para. 25 (2009), available at: http://www.nchr.org.jo/uploads/NCHR-2008_Report-Final-Eng.doc.

E-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Jan. 22, 2008) (on file with author).

Mohammad Ghazal, Ombudsman Bureau receives over 2,400 complaints since February, JORDAN TIMES, 11 December 2009.

The National Center for Human Rights, Introduction, http://www.nchr.org.jo/pages.php?menu_id=32&local_type=0&local_id=0&local_details=0&local_details1=0&local_d ocalsite branchname=NCHR.

³⁸ Id.

The National Center for Human Rights, Complaints & Legal Services. http://www.nchr.org.jo/pages.php?menu_id=11&local_type=0&local_id=0&local_details=0&local_details1=0&local_details=0&local_det ocalsite branchname=NCHR.

hotline for complaints of human rights violations, and complaints may also be submitted via its website. In 2008, the NCHR received 617 complaints and requests for assistance, of which 182 were closed with satisfactory results, and 232 were still being followed up as of the end of 2008.

MIZAN – Law Group for Human Rights ("MIZAN") is an NGO that engages in human rights education and awareness campaigns, and provides free legal counselling and representation to vulnerable individuals and victims of human rights violations. 42 MIZAN focuses in particular on providing legal assistance to juveniles, women, prisoners, labourers, refugees, asylum seekers, and victims of torture. MIZAN employs nine full-time lawyers and provides a range of free legal services, including providing legal advice, interfacing with government agencies on behalf of its clients, and representing its clients in court. Since it was formed in 1998, MIZAN has provided legal assistance to more than 8,000 individuals. 43 MIZAN has offices in three cities, and operates a mobile legal clinic that travels to other areas to offer legal consultations to walk-ins. MIZAN also operates a 24-hour telephone helpline that provides free legal advice. In addition, MIZAN receives case referrals from 12 different government departments and NGOs, including the Jordanian Women's Commission and the Jordan River Foundation, as well as various juvenile centers and women's shelters administered by the Ministry of Social Development. 44

MIZAN is primarily funded by donations from international sources, which have included the European Union and the Royal Embassy of the Netherlands in Jordan.⁴⁵ In addition to its full-time lawyers, MIZAN utilizes a group of "volunteer" lawyers who have agreed to provide legal services to individuals on MIZAN's behalf in exchange for reimbursement of costs and payment of nominal fees by MIZAN. Engaging the services of these lawyers to represent individuals in need of legal services has enabled MIZAN to meet the increasing demand for its services.⁴⁶

The Justice Center for Legal Aid (the "JCLA") is an NGO that provides free legal counseling and representation to individuals who are unable to afford legal services. ⁴⁷ The JCLA has a team of in-house lawyers and operates three legal aid clinics in Jordan. ⁴⁸ The JCLA has also organized a "*Pro Bono* Legal Network," consisting of law firms and individuals who provide free legal advice and representation to individuals referred to them by the JCLA. ⁴⁹ As of September 2010, the JCLA had provided legal counseling to 376 individuals and legal representation to 159

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The National Center for Human Rights, Contact Us, http://www.nchr.org.jo/pages.php?menu_id=10&local_type=0&local_id=0&local_details=0&local_details1=0&localsite_branchname=NCHR; The National Center for Human Rights, Human Rights Violation Complaints, http://www.nchr.org.jo/pages.php?menu_id=9&local_type=0&local_id=0&local_details=0&local_details1=0&localsite_branchname=NCHR.

THE NATIONAL CENTRE FOR HUMAN RIGHTS, STATE OF HUMAN RIGHTS IN THE HASHEMITE KINGDOM OF JORDAN (2008), paras. 214-15 (2009), *available at:* http://www.nchr.org.jo/uploads/NCHR-2008_Report-Final-Eng.doc.

MIZAN – Law Group for Human Rights, http://www.mizangroup.jo/index_en.php; interview with Eva Abu Halaweh, Executive Director, MIZAN – Law Group for Human Rights (Jan. 16, 2008).

⁴³ E-mail from Jocelyn Knight, MIZAN Law Group for Human Rights (Sept. 28, 2010) (on file with author).

⁴⁴ E-mail from Jocelyn Knight, MIZAN Law Group for Human Rights (Sept. 13, 2010) (on file with author).

MIZAN – Law Group for Human Rights, http://www.mizangroup.jo/index_en.php; interview with Eva Abu Halaweh, Executive Director, MIZAN – Law Group for Human Rights (Jan. 16, 2008).

⁴⁶ *Id*.

Justice Center for Legal Aid, About Us, http://www.jcla-org.com/#/en-about-us.

Justice Center for Legal Aid, Legal Aid Clinics, http://www.jcla-org.com/#/en-legal-and-clinics.

⁴⁹ Justice Center for Legal Aid, Pro Bono Legal Network, http://www.jcla-org.com/#/en-pro-bono-legal-network.

individuals since its establishment in 2008.⁵⁰ The JCLA is funded by donors that include the Foundation for the Future and the World Bank.⁵¹

The Media Legal Aid Unit of the Center for Defending Freedom of Journalists ("MELAD"), an NGO, provides free legal services to journalists. 52 MELAD employs six lawyers and, as of September 2010, had been involved in more than 114 court cases since 2002, primarily defending journalists against charges of publication offenses, such as character defamation and incorrect information.⁵³ In addition to representing journalists in litigation, MELAD operates a hotline offering free legal advice to journalists.⁵⁴ It also conducts legal awareness workshops for journalists and press law training workshops for lawyers. MELAD is funded by donations from the European Commission, and other donors.⁵⁵

II. Pro Bono Opportunities in Jordan

According to the NCHR, many of the inmates in Jordanian prisons do not receive adequate legal assistance due to their poverty or their ignorance regarding the importance of legal representation. 56 In 2006, the NCHR sent the Bar Association a list of inmates in need of legal assistance, and the Bar Association responded that it was willing to provide legal assistance to needy inmates, in accordance with the provisions of the Bar Association Law. 57 The NCHR has continued to note that inmates receive insufficient legal assistance, however, and has expressed its hope that NGOs and the Bar Association will eventually play a larger role in providing this assistance.⁵⁸

Individual Jordanian lawyers have the ability to take on, or become involved in, pro bono legal work by volunteering to do so and/or by working with NGOs in Jordan. In particular, Jordanian lawyers can provide legal services to NGOs on a pro bono basis, or partner with NGOs, to provide free legal services to needy individuals. For instance, Jordanian lawyers can join MIZAN's or JCLA's network of lawyers who have agreed to provide free legal representation to individuals on MIZAN's or JCLA's behalf.

Foreign-qualified lawyers are limited in their ability to engage in *pro bono* legal work in Jordan by the fact that they cannot appear before Jordanian courts, or practice Jordanian law. One

Justice Center for Legal Aid, Home, http://www.jcla-org.com/#/en-home.

Justice Center for Legal Aid, Our Supporters, http://www.jcla-org.com/#/en-our-supporters.

Linda Hindi, Legal Aid Unit Study Focuses on Lawsuits Against Journalists, JORDAN TIMES, Aug. 20, 2007; Media Legal Aid Unit of Center for Defending Freedom of Journalists, http://cdfj.org/look/en-law.tpl.

Linda Hindi, Legal Aid Unit Study Focuses on Lawsuits Against Journalists, JORDAN TIMES, Aug. 20, 2007; Hani Hazaimeh, Media watchdog provides legal services for journalists, JORDAN TIMES, June 26, 2009; e-mail from Yousef Khalilieh, Rajai K. W. Dajani & Associates Law Office (Sept. 12, 2010) (on file with author).

Linda Hindi, Legal Aid Unit Study Focuses on Lawsuits Against Journalists, JORDAN TIMES, Aug. 20, 2007.

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THE NATIONAL CENTRE FOR HUMAN RIGHTS, STATE OF HUMAN RIGHTS IN THE HASHEMITE KINGDOM OF JORDAN (2008), para. 15 (2009), available at: http://www.nchr.org.jo/uploads/NCHR-2008_Report-Final-Eng.doc; THE NATIONAL CENTRE FOR HUMAN RIGHTS, STATUS REPORT OF HUMAN RIGHTS; THE HASHEMITE KINGDOM OF JORDAN; 2006, 21 (2007), available at: http://www.nchr.org.jo/uploads/HRstatus2006-Eng1.pdf.

THE NATIONAL CENTRE FOR HUMAN RIGHTS, STATE OF HUMAN RIGHTS IN THE HASHEMITE KINGDOM OF JORDAN (2008), fn. 20 (2009), available at: http://www.nchr.org.jo/uploads/NCHR-2008_Report-Final-Eng.doc.

possibility for international law firms to engage in *pro bono* work in Jordan is to provide advice regarding foreign or international laws to nonprofit organizations in Jordan. International law firms may also be able to partner with Jordanian NGOs to provide needy individuals with legal assistance on matters involving foreign laws. For instance, MIZAN has received requests for assistance from Jordanian women who are involved in marital or custody disputes in the United States.⁵⁹ U.S. law firms may work with MIZAN to assist such individuals.

III. Conclusion

Although the provision of *pro bono* legal services is not common in Jordan, there are several organizations in Jordan that provide free legal services to disadvantaged groups, and there are a number of opportunities for Jordanian lawyers to become involved in *pro bono* legal work in Jordan. In particular, at least two NGOs have organized networks of lawyers who provide free legal services on a *pro bono* basis, or for a nominal fee, which Jordanian lawyers could join. While restrictions on the practice of law by foreign-qualified lawyers in Jordan limit the opportunity for international law firms to engage in *pro bono* legal work in Jordan, there may be opportunities for international law firms to assist nonprofit organizations and needy individuals on matters involving foreign laws or international law.

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⁵⁹ Interview with Eva Abu Halaweh, Executive Director, MIZAN – Law Group for Human Rights (Jan. 16, 2008).