

# **THE LAW SOCIETY OF SINGAPORE**

## ***THE ROLE OF BAR ASSOCIATIONS IN SUPPORTING PRO BONO***

**Presented by  
Gregory Vijayendran  
4 September 2015**

# **OUTLINE OF PRESENTATION**

1. Introduction
2. Overview of Sources of Legal Aid
3. Law Society of Singapore's Role in Access to Justice
4. Role and Work of Law Society's Pro Bono Service Office



# **THE LAW SOCIETY OF SINGAPORE**

## **1. INTRODUCTION**

# About the Law Society

The Law Society of Singapore:

- *Established in 1967 by statute – The Legal Profession Act*
  
- *Membership comprises:*
  - ❖ *Advocates and solicitors with practising certificates, foreign lawyers registered with the Attorney General, honorary members, non-practitioner members*

# Functions of the Law Society

➤ *Society's mission statement:*

*To serve our members and the community by sustaining a competent and independent Bar which upholds the rule of law and ensures access to justice.*

*The Society performs a representative as well as regulatory function*

# Functions of the Law Society

## 3 main functions

- 1) Representative body for Singapore lawyers (compulsory membership for all lawyers with Singapore Practising Certificates – around 3,500 lawyers)
- 2) Regulatory body for Singapore lawyers
- 3) **Assists the public in Singapore with access to justice**

# Functions of the Law Society

- Statutory purpose expressly includes pro bono assistance – s. 38 *Legal Profession Act*
  - S.38(1)(f) to protect and assist the public in Singapore in all matters touching or ancillary or incidental to the law
  - S.38(1)(g) to make provision for or assist the public in the promotion of a scheme whereby impecunious persons on non-capital charges are represented by advocates

# **THE LAW SOCIETY OF SINGAPORE**

## **2. OVERVIEW OF SOURCES OF LEGAL AID IN SINGAPORE**



# Overview of legal aid

- No constitutional right to free legal aid in Singapore
- Generally, if a citizen requires legal assistance for civil or criminal cases he has to pay for a private lawyer
- However, if a citizen is unable to hire a lawyer because of **limited financial means** there are a number of sources from which he may get free legal aid for both **civil** and **criminal** cases

# Civil Legal Aid

## Legal Aid and Advice Act (Cap. 160)

- 5.—(1) “... legal aid *may* be given to citizens and permanent residents of Singapore in any *civil proceedings* of a description mentioned in Part I of the First Schedule ...”
- The Act provides for the establishment of a government funded scheme to provide *civil* legal aid for citizens of limited means

# Civil Legal Aid

Administered by the **Legal Aid Bureau**, a department of the Ministry of Law

- Government funded
- Only for civil cases
- Available across all tiers of our court system
- Comprehensive scope
- Assigned lawyers are specially designated government legal officers or volunteer lawyers in private practice
- Volunteer lawyers receive an **honorarium**

# Civil Legal Aid

## LAB qualifying criteria

- **Financial eligibility test**

Only persons with a disposable income of not more than S\$10,000 a year and disposable capital of not more than S\$10,000 a year may be granted legal aid (lower 40<sup>th</sup> percentile of income bracket)

- **Merits test**

Applicant must show that he has a good reason to bring or defend his case under the law

# Criminal Legal Aid

## 2 levels

- Death Penalty Cases – Supreme Court's Legal Assistance Scheme for Capital Offences (**LASCO**)
- Most other non death penalty criminal offences – Law Society's Criminal Legal Aid Scheme (**CLAS**)

# Criminal Legal Aid

LASCO is administered by the Registrar of the Supreme Court

- Government funded
- Only for death penalty cases (High Court)
- Assigned lawyers are **volunteer lawyers** in private practice
- Volunteer lawyers receive an **honorarium** paid out of state funds for services rendered

# Criminal Legal Aid

CLAS is administered by the Law Society of Singapore

- Government funding and contributions from Law Society members and charitable donations.
- Most criminal offences – currently 16 statutes
- Available across all tiers of our court system
- Assigned lawyers are **volunteer lawyers** in private practice
- Volunteer lawyers receive **honorarium** for services rendered

# **Criminal Legal Aid**

## CLAS Qualifying criteria

- Offence covered by CLAS list of statutes
- Financial eligibility test (aligned to LAB means test)
  - Disposable net income  $\leq$  \$10,000 per year
  - Disposable assets  $\leq$  \$10,000



# **THE LAW SOCIETY OF SINGAPORE**

## **3. THE LAW SOCIETY'S ROLE IN ACCESS TO JUSTICE**

# The Law Society

- Historically, strong **pro bono** culture among lawyers in Singapore.
- Latin phrase “***pro bono publico***” i.e. “*for the public good*”, refers to free or subsidized legal assistance for needy persons.
- Pro Bono assistance includes legal work done for
  - Persons of limited means; and/or
  - Charitable and other voluntary welfare organizations assisting the community
  - Heavily reliant on the voluntary support of our members

# **THE LAW SOCIETY OF SINGAPORE**

## **4. ROLE AND WORK OF THE LAW SOCIETY'S PRO BONO SERVICES OFFICE**

# Pro Bono Services Office

- In 2006 - comprehensive review of legal aid in Singapore by Law Society
  - *Legal Aid Review Committee Report* 2006 – see <http://www.lawsociety.org.sg> “Resource Library” “1. Committee Reports”
- Key Finding
  - Sizeable number of persons unable to afford legal representation
- Recommendations
  - Each law firm pledge a **minimum of 25 hours per lawyer** per year for pro bono work
  - Establishment of a **Pro Bono Services Office**

# ACCESS TO JUSTICE

The Law Society's mission is to **serve** its members and **the community** by sustaining a competent and independent Bar which **upholds the rule of law** and **ensures access to justice**.

**10 Sep 2007 - Pro Bono Services Office Charity (T07CC2064L) & Institute of Public Character (000571)**

# Pro Bono Services Office

- Branches in the State Courts and Raffles Place
- Administers potentially huge bank of volunteer hours :  
5,000+ practising lawyers x min. 25 hours = 125,000 +  
hours for pro bono work
- Manages the Law Society's existing pro bono schemes
- Develops new pro bono programmes
- Promotes a pro bono culture in the legal profession permeating all levels of the profession irrespective of seniority or area of expertise

# OUR SCHEMES



For more information on the Pro Bono Services Office, please refer to the website, <http://probono.lawsociety.org.sg/>

NOEL ROSALES

# Promoting a pro bono culture

- Active engagement of law students in pro bono activities
  - Support law student pro bono clubs in Singapore Universities (NUS, SMU)
  - Pro Bono Services Office vacation attachments
  - CLAS trial attachments
  - Community Legal Clinic attachments
  - Law Awareness projects
  - Pro Bono awareness campaigns



# Promoting a pro bono culture

- Active engagement of **law firms** as opposed to individual volunteer lawyers in pro bono work
- E.g. Community Legal Clinics
  - Law Practices responsible for manning particular clinic sessions instead of individual volunteers
  - Encourages pro bono culture within law practice from Managing Partner to Junior Associate
  - Encourages mentoring within the firm
  - Gives junior lawyers excellent practical experience to develop their interview, advice and communication skills and to observe senior practitioners in action

# **Key Rules**

- Legal Profession (Pro Bono Legal Services) Rules 2013
- Legal Profession (Mandatory Reporting of Specified Pro Bono Services) Rules 2015
- Legal Profession (Publicity) Rules, Rule 10.

# **Law Awareness**

Speakers, content contributors, writers

- Talks
- Publications
- Project Schools
- Law Works
- Law Cares

# **Legal Clinics for Individuals**

Basic legal advice and guidance

- Community Legal Clinic
- Family Legal Clinic
- Criminal / Remand Clinics
- Civil Legal Clinics
- On-Site Legal Clinics @CJC
- Migrant Workers Clinic (Collaboration with Migrant Workers' Centre)

# Legal Clinics for Individuals

- Home (Collaboration with Humanitarian Org for Migration Economics)
- Fast (Collaboration with Foreign Domestic Worker Association for Social Support & Training)
- Law Works (Collaboration with NTUC)
- U Care (Collaboration with NTUC)
- AWARE sexual assault victim clinics (Collaboration with AWARE)

# **Legal Representation**

- Criminal Legal Aid Scheme
- Ad Hoc Pro Bono Referral Scheme

## **Legal Research**

- Pro Bono Research Initiative

# **Non-Profit Organisation and Social Enterprise Assistance**

- Community Organisation Clinics
- Project Law Help
- Joint International Pro Bono Committee

# **New / Upcoming initiatives**

- Board Match
- Military Law Advice Scheme
- Assistance for human trafficking victims
- Community/neighbourhood based volunteering



# **Support for volunteers**

- Manuals e.g. Community Legal Clinic manual, CLAS 101 manual
- Legal clinic case lists
- Mentorship
- Training e.g. CLAS Criminal Law Training modules
- Social service agency referral



**THE LAW SOCIETY OF SINGAPORE**

**QUESTIONS AND ANSWERS**



Bar associations supporting access to justice  
Mandalay, 3 september 2015

# ASF & Bar Associations



Promoting Access to justice and Rule of law since more than 20 years in more than 10 countries (Asia, Africa and South America)

In 2015, partnership with almost 20 Bar associations

Furthering legal aid development, setting up of frequent workshops discussing the role of Bar associations, lawyers and other stakeholders

# Basic principles on the role of bar associations (1990)

*“Professional associations of lawyers shall promote programmes to **inform the public about their rights and duties** under the law and the important **role of lawyers** in protecting their fundamental freedoms.*

*Special attention should be given to **assisting the poor and other disadvantaged persons** so as to enable them to assert their rights and where necessary call upon the **assistance of lawyers**”.*





# Commitment of BA in PB & PD

## ➤ **Stakeholder of the justice system**

- Social issues → responsibility
- Involvement & capacity enhancement of young practitioners
- Not hindering cause lawyering initiatives (cf *Infra*)



# Commitment of BA (P. 2)

## ➤ **Ensuring the quality of legal services**

- Coherence of the law profession
- Balance between minimum quality standards & independence of lawyers

➡ **LEGAL ETHICS**

# Commitment of BA (P. 3)

## ➤ **Advocacy for the development of an institutional legal Aid system :**

- Pro Bono initiatives as a pilot/tool to demonstrate commitment of lawyers and impact on access to justice
- Necessity of developing tool for M&A
- Reporting activities



# Limits of the role of BA (?)

- Other priorities, in particular in fragile countries
- Independence of lawyer
  - Involvement of BA should not be a prerequisite
  - Restrictive intern standards may hinder A2J initiatives

# PLENARY 3 – BAR ASSOCIATIONS AND PRO BONO

*Facilitator*

**MARK WOODS**

Chair, Access to Justice Committee

Law Council of Australia



# **PLENARY 3 – BAR ASSOCIATIONS AND PRO BONO**

- The great discovery – there is unmet legal need !
- LAW survey, what did it discover ?
- 48% of those surveyed experienced a legal problem in the preceding 12 months
- Most had multiple legal issues mostly connected with health, education or accommodation issues
- 18% did nothing, and only 16% consulted a lawyer !
- What about the remaining 66% ?



# **PLENARY 3 – BAR ASSOCIATIONS AND PRO BONO**

- Is there anybody out there ?
- Can the unmet legal need be satisfied by lawyers in the jurisdiction alone ?
- If not, who do we go to for help ?
- How are the willing recruited and for what purpose ?



# PLENARY 3 – BAR ASSOCIATIONS AND PRO BONO

- How do we bridge the gap between those who need the service and those who are willing provide it ?
- What role do/should bar associations play ?
- Is this just a lawyers' issue if those who have unmet legal need have other unmet needs as well ?



# **PLENARY 3 – BAR ASSOCIATIONS AND PRO BONO**

- Regulation and barriers to providing pro bono services –
- Licensing practitioners – the “high jump” of international pro bono ?
- Forcing pro bono – slavery or innovation ?
- Bar associations – representatives of a willing profession or standing by to repel boarders ?





















JOHN GILMAN BOSWELL (BY HIS ATTORNEY  
UNDER POWER NARELLE RAE SHEERAN)











-AND-









FRANCES LORRAINE BOSWELL



























# **BINDING FINANCIAL AGREEMENT**











































# TYLER TIPPING & WOODS



# SOLICITORS





81-89 HOTHAM STREET,





TRARALGON, VIC., 3844



TEL: 0351 74 6311



FAX: 0351 74 9979



[MARK.WOODS@TTWOODS.COM.AU](mailto:MARK.WOODS@TTWOODS.COM.AU)





REF: MGW:GMM:39619





JOHN GILMAN BOSWELL OF 6 MELVILLE PARK  
ROAD BERWICK IN THE STATE OF VICTORIA  
GENTLEMAN (“THE HUSBAND”) OF THE ONE  
PART AND FRANCES LORRAINE BOSWELL OF  
49-53 HAZELWOOD ROAD TRARALGON IN THE  
SAID STATE GENTLEWOMAN (“THE WIFE”) OF  
THE OTHER PART.







WHEREAS:-





THIS IS AN AGREEMENT MADE PURSUANT TO  
SECTION 90C OF THE *FAMILY LAW ACT 1975*.





SECTIONS 90B, 90C OR 90D OF THE *FAMILY LAW ACT 1975* NOTWITHSTANDING THAT THE PARTIES DID ENTER INTO AN AGREEMENT BEARING DATE THE 1<sup>ST</sup> DECEMBER 1995 (“THE AGREEMENT”) WHICH PURPORTED TO DEAL WITH SOME MATTERS FOR WHICH PROVISION IS MADE HEREINAFTER..





THE HUSBAND WAS BORN ON THE 20<sup>TH</sup>  
NOVEMBER 1927 AND IS AGED 87 YEARS.







THE WIFE WAS BORN ON THE 15<sup>TH</sup> APRIL 1935  
AND IS AGED 79 YEARS.





THE PARTIES COMMENCED COHABITATION  
AND WERE LAWFULLY MARRIED AT OFFICER IN  
THE STATE OF VICTORIA ON THE 2<sup>ND</sup>  
DECEMBER 1995.





THE DATE HEREOF LIVED SEPARATELY AND  
APART BY REASON OF THE HUSBAND'S  
HEALTH AND THE WIFE'S INABILITY TO CARE  
FOR HIM.





THERE ARE NO CHILDREN OF THE MARRIAGE  
ALTHOUGH EACH PARTY HAS ADULT  
CHILDREN FROM PREVIOUS MARRIAGES.





























THIS AGREEMENT (“THE DATE”) THE HUSBAND  
(BY HIS ATTORNEY) SHALL PAY TO THE WIFE  
 (“THE PAYMENT”) THE SUM OF \$115,000 (“THE  
SUM”).





CONTEMPORANEOUSLY WITH THE PAYMENT OF  
THE SUM THE WIFE:-





FORM PRESCRIBED IN RESPECT OF ANY  
PROPERTY OWNED BY THE HUSBAND OVER THE  
TITLE TO WHICH SHE HAS LODGED A CAVEAT  
AND SHALL NOT LODGE ANY CAVEAT OVER  
ANY PROPERTY OWNED BY THE HUSBAND  
HEREAFTER; AND







DOES HEREBY FOREVER RENOUNCE HER  
ENTITLEMENT TO THE TESTAMENTARY  
PROVISIONS.





BY THE DATE, THE HUSBAND (BY HIS ATTORNEY) SHALL TRANSFER TO THE WIFE TO BE HELD ON TRUST FOR SALE ALL THE HUSBAND'S RIGHT TITLE AND INTEREST IN THE FORMER MATRIMONIAL HOME ("THE SALE") AND THE PROCEEDS OF THE SALE SHALL BE APPLIED:-





FIRSTLY TO PAY THE COSTS COMMISSIONS  
AND EXPENSES OF THE SAID TRUST  
TRANSFER AND SALE;



SECONDLY TO DISCHARGE ANY  
ENCUMBRANCE EFFECTING THE TITLE TO  
THE FORMER MATRIMONIAL HOME;



IS THEN OUTSTANDING TOGETHER WITH  
INTEREST THEREON CALCULATED AT THE  
RATE PRESCRIBED BY THE *FAMILY LAW  
RULES 2004* WITH DAILY RESTS FROM THE  
DATE UNTIL THE PAYMENT IS MADE; AND





FOURTHLY, TO PAY THE BALANCE THEN  
REMAINING TO THE HUSBAND.







the global voice of  
the legal profession

# Bar Associations and Pro Bono

Mae Tanner

IBA's Human Rights Institute, Myanmar

# Legal profession in Myanmar

- Pro bono culture
- Poor access to training and resources
- Low income
- Lawyers as human rights defenders
- No independent national bar association

# Questions

1. What is currently being done by lawyers' groups in Myanmar to support pro bono?
2. How can a new lawyers' association:
  - a) Better support lawyers currently doing pro bono work?
  - b) Encourage other lawyers to drink the pro bono tonic?



# What is being done by lawyers' groups to support pro bono?

- Legal support network
- Resource sharing
- Seeking outside assistance:
  - Funds
  - Resources and equipment
  - Expertise

# How can a new lawyers' association support pro bono in Myanmar?

- 'Defend the role of lawyers in society and preserve the independence of the profession'  
*UN Basic Principles on the Role of Lawyers*, art 18 (Functions of the Lawyers' Associations)
- Visibility, networks and matching lawyers with clients
- Professional standards and ethics: education and regulation
- Pro bono fund?



Independent Lawyers'  
Association of Myanmar






# **Role of Bar Association in supporting Pro-bono**



## Role of Bar ...

- As being lawyers organization, Bar has pool of skillful lawyers with strong connection to community and easy access to indigent and vulnerable people.
  - Access to justice is fundamental human right within any justice system so it is Primary agenda of any Bar Association.
- 



## Role of Bar ...

- Access to justice include access to lawyer, legal services and legal rights.
- Access to legal representation is an essential requirement for a fair and just trial (Article 14(3) of CCPR).
- Non-discrimination and confidence building of indigent people in justice system.




## Role of Bar ...

- Bar can encourage or make Pro-bono service mandatory for certain credit hours to members and law firms.
- Building a better profession by ranking law firms and Lawyers who provides pro bono services.
- By celebrating pro bono week in community as part of Social responsibility of lawyers.
- Legal Aid( LA) law and policy reform initiative.




## Role of Bar ...

- Bar can prescribe framework for the provision of LA in different legal system and need of Pro Bono.
  - Recommend priorities for technical assistance and how Pro Bono fit in different model of LA Services delivery.
  - Promote interaction of LA service providers with informal justice mechanism( Customary and ADR)
- 




## Role of Bar ...

- Bar can assess and recommend strength and weakness of current system and key challenge facing the provision of LA services by over viewing existing LA Services.
  - Promote collaboration, knowledge sharing and more efficient use of resources among stakeholders and other Bar Associations.
- 




## **Role of Nepal Bar playing ...**

- Nepal Bar Association has played important role to promote LA and Pro-bono concept in Nepal.
  - Establishing LA structure all over country through LA Project.
  - State funded LA service through Legal Aid Act 1997.
- 



## Role of Bar ...


- LA is recognized as fundamental right in constitution.
  - Right to counsel
  - Right to Legal Aid
  - Legal aid Act 1997.
  - Nepal Bar council Act 1993, has adopted ethical rules and policy for Pro-bono service.
- 





# Role of BAR

## 1. Challenge Ahead?

- Budgetary constraint
  - Business v. Service
  - Non-implementation of court orders
- 



THANK  
YOU

# 4<sup>th</sup> Asia Pro Bono Conference and Legal Ethics Forum Session Presentation Plan Template

**Name of Session:** The role of bar associations in supporting pro bono

**Session Description/Aim:**

This session will explore many of the ways and means bar associations, and the collaborative synergies between international organizations and local/national bar associations, can and should support and encourage the development of pro bono initiatives.

**Total Session Minutes: (75 min)**

**Facilitator:**

Facilitator Mark Woods, (Chair Access to Justice Committee, Law Council of Australia)

**Co-Presenters:**

Speakers 1. Bruno Langhendries, (Avocats Sans Frontières)

2. Gregory Vijayendran, (Vice-President Singapore Law Society)

3. Mae Tanner, (International Bar Association's Human Rights Institute)


4. Mark Woods, (Chair Access to Justice Committee, Law Council of Australia) 5. Sunil Pokharel, (Secretary General, Nepal Bar Association)

**Session Plan:**

Activity Step	Activity Description	Time (Min)	Presenters	Materials Needed
<b>Total Time:</b>				




**Sunil Kumar Pokharel**  
**Secretary General**  
**Nepal Bar Association (NBA)**



# **Role of Bar Association in supporting Pro- bono( Day 2, Plenary 3)**




# Globe Conference

- Injustice any where is threat to  
Justice Every where- Martin  
Luther King Jr.
- 



## Role of Bar ...

- Bar- pool of skillful lawyers- easy access to indigent and vulnerable people.
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THANK  
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