

LEGAL FEES ARE ON THE HOUSE

Corporate Social Responsibility has entered India's legal corridors. Top law firms and lawyers are doing pro bono so that they can give back to society

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A man phones a lawyer and asks, "What's your fee for answering three simple questions?" The reply is: A thousand dollars. "Whoa! That's very expensive, isn't it?" exclaims the man. "It certainly is, now what's your third question?" asks the lawyer.

Expensive legal fees have been the butt of many jokes but not all lawyers are the sharks they're made out to be. There are a number of socially aware and generous souls who are increasingly lending their expertise for pro bono work. Short for the Latin term pro bono publico, 'for the public good', pro bono means a case is taken up for free or the rates are deeply discounted.

In India, traditionally, pro bono legal work was carried out by lawyers who had dedicated themselves to helping society. Take senior advocate Colin Gonsalves who, in the early 1980s, co-founded the Human Rights Law Network (HRLN) to provide free legal access to the needy. Since then HRLN has expanded the scope of its legal offerings to include filing PILs, legal clinics and advocacy. Pune-based advocate Asim Sarode set up Human Rights and Law Defenders in 2002, which won accolades for providing free legal service to prisoners.

Yet, given the need for proper legal help for a diverse section of society — ranging from NGOs to social entrepreneurs; from sex workers to child labourers; and from battered women to helpless prisoners — even the PM, in his address at the Bar Council's centenary celebrations earlier this year, urged lawyers to take on more pro bono cases.

Cyber-platforms such as the international Lex Mundi Pro Bono Foundation and i-Probono are already helping connect law firms with social projects. Then there are organisations such as Ashoka which, through its 'Law for all' initiative, ensures that Ashoka Fellows (social entrepreneurs) have access to the most appropriate law firms. "In addition to meeting regulatory hurdles, this initiative also aims at providing emergency support to Ashoka Fellows, who given the nature of their work sometimes face threats and intimidation from vested interests," says an Ashoka spokesperson.

Currently, the Lex Mundi Foundation works exclusively with law firm Amarchand Mangaldas in India. Ashoka relies on lawyers such as Gonsalves and Sarode who are also Ashoka fellows. In addition, it connects with a handful of top-notch law firms.

At online forum i-Probono, pro bono initiatives are supported by a clutch of top law firms as well as individual lawyers and law students.

The Society of Women Lawyers (SOWL), India has also set up a pro bono committee. "Its objective is to act as a forum to link deserving women-focused pro-bono projects with domestic and international lawyers or law firms. While several law firms do have their internal systems and engage in pro-bono projects, SOWL-India seeks to 'institutionalise' this culture," explains Priti Suri, President, SOWL India and founder partner of PSA, a law firm.

Slowly but steadily, the pro bono culture is gaining ground. It now extends beyond serving needy individuals to providing legal services to the social sector (viz: non-profits and social entrepreneurs) thereby accelerating the pace of social good.

However, some challenges do remain in scaling up. As Swathi Sukumar, India country director, i-Probono says: "Building commitment to pro-bono work in a systematic way in the legal profession has been a chal-

Chole B Holderness, MD, Lex Mundi Foundation points out that in developing countries, pro bono lawyers play a critical role in building the organizational capacity of social entrepreneurs. There are benefits for lawyers too. "Pro bono work helps them become more rounded professionals. Interaction with the social sector also fosters empathy," says Anand Prasad, partner, Trilegal

lenge. Likewise, working with the social sector organisations of all sizes is also challenging because they vary widely in terms of their professionalism, communication styles and internal organisation." Yet progress has been steady. i-Probono's India operations began in 2010 and last year it matched 53 projects with a value to the Indian social sector of over Rs 1.2 crore.

Chole B Holderness, MD, Lex Mundi Foundation points out that in developing countries, pro bono lawyers play a critical role in helping to build the organizational capacity of social entrepreneurs and innovators. "Some key areas of the law aimed at impactful social change include: Intellectual property advice for protection and licensing of innovative ideas; advice on structuring and registrations of social sector entities; advice on how to



navigate and surmount government regulations that threaten to restrict the achievement of social goals."

In India, where doing business isn't easy (it ranked a poor 132 out of 185 countries on ease of doing business during the last annual survey of the International Finance Corporation) such pro bono legal assistance is much needed, especially as the same complex commercial laws extend to the social sector.

"Advising the social sector can involve navigating a maze of laws such as foreign exchange regulations, tax laws, state legislations for public charitable trusts, the Foreign Contribution Regulation Act et al and in sectors as diverse as education, microfinance and social venture funds (a class of funds now recognised by SEBI)," says Bahram N Vakil, one of the founder partners at law firm AZB & Partners.

Sometimes regulatory complexities result in a social project not taking off. Anand Prasad, partner, Trilegal, has a case in point. "A foreign NGO wanted to set up medical support facilities to provide quality healthcare to the poor. Since the project involved an element of investment in real estate by a foreign player, RBI's approval was required. Despite our best efforts to persuade the regulator, the approval wasn't forthcoming and the project had to be abandoned," says Prasad.

Given their commercial expertise, these law firms also engage actively with regulatory bodies, various ministries and policy makers to present the challenges faced by social entrepreneurs and usher in regulatory changes.

Internationally, there is a debate on whether pro bono should be mandatory or left to the individual and his conscience. Recently, the New York bar mandated that from January 2015, all applicants must have carried out at least 50 hours of legal pro bono work before they are approved to practice law. The potentially revolutionary change is aimed at providing assistance to low-income residents. Yet most jurisdictions, including India, do not make it compulsory.

Nishith Desai Associates (NDA), an international

legal firm, has carved out a separate social sector practice. "We have created a dedicated team, led by a surgeon turned lawyer, which focusses on the social sector and related areas. In addition around 60-70 hours are devoted annually to such work by our employees, giving us ample human capital and capability to fulfil our passion of contributing to change," says Nishith Desai, founder of NDA.

Suri is not averse to introduction of mandatory pro bono hours, given that the legal environment as it stands today is driven towards attaining revenue targets. "At PSA, even before we gave a formal structure to the firm's pro bono policy, 60 hours annually towards pro bono work was contained in the firm's HR policy. Time spent on such projects is counted towards an individual's performance."

In India, most law firms prefer to keep things flexible, rather than dedicating a certain percentage of revenue or a certain number of hours. Sukumar agrees with this approach: "Mandatorily imposed conditions tend to often degenerate into some form of tokenism, which we would not want to encourage."

There is however an increasing realisation of the benefits of engaging in such work. "Such assignments often involve thinking out of the box and devising creating solutions. Lawyers engaged in pro bono assignments are given full credit for time spent on it," says Vakil. "Pro bono work exposes lawyers to areas of law that they would otherwise not encounter, and this helps them become more rounded professionals. Interaction with the social sector also fosters empathy," adds Prasad. Pallavi Shroff, partner, Amarchand Mangaldas, says: "With profit generating firms increasingly looking at best practices in corporate citizenship, and we are seeing a resurgence in the level of community engagement of law firms."

This resurgence will help accelerate the pace of social entrepreneurship in India where a maze of complex laws can daunt even the bravest. ■

The good fight

Law firms deal with every pro bono assignment as diligently as they would handle a top client engagement

Examine the list of pro bono work done by any top law firm and it is bound to be long and impressive.

More often than not, the relationship with a pro bono client is a long-term one.

For instance, the team at AZB & Partners, led by Bahram Vakil, was not only closely involved in the setting up of the Grameen Foundation in India and its joint venture — Grameen Capital Limited (GCI) — it continues to help in day-to-day and expansion plans. One of the highlights of this assignment was that GCI and the law firm collaborated in providing recommendations to the Malegam committee and later to SEBI and that led to social venture funds being recognised as a separate category. Vakil is on the global board of Grameen Foundation, USA and on the founder board of GCI.

The founders of Aarusha Homes, a social enterprise that provides hostels to low and middle-class income students and employees who migrate to Hyderabad, Bangalore and Pune, had experience in the commercial sector. Yet the diverse maze of laws governing their social enterprise initiative meant that legal help was direly needed. V Satyanarayana, founder and CEO of Aarusha says, "Nishith Desai has been a terrific advisor to us in developing our business model and philosophy." His firm, NDA, helped in setting up



the company, complying with the requirements of section 25 of the Companies Act applicable to social sector entities, dealt with structuring issues relating to infusion of funds in the company, advised on employment laws and tackled a myriad range of doc-

umentation work. The objective of this social initiative struck a chord and Nishith Desai also became an angel investor.

Pallavi Shroff, partner, Amarchand Mangaldas is a director on the boards of Lex Mundi and Lex Mundi Pro Bono Foundation.

The firm actively engages in pro bono assignments referred to via Lex Mundi as well as other pro-bono assignments. 'Sustainable Innovations' is one engagement that stands out as the most challenging at Amarchand Mangaldas. This social enterprise was a start-

The founders of Aarusha Homes, a social enterprise, needed help navigating the maze of laws and regulations. Nishith Desai Associates came to their rescue

up in community health and resource management. Today, its projects that include community-driven rainwater harvesting systems and mobile health clinics have been internationally recognised.

"We implemented a hybrid model for a not-for-profit entity for the first time using our charities experience along with the funds/investment expertise to deliver the structure. The project aimed to achieve true local-self-governance by empowering gram-

level self-help groups which would be distinct legal entities and churn revenue for sustainability. The structure enabled both domestic and foreign funding and met the requirements of both the government and social investors," explains Shroff.

i-Probono shares its success stories of matching social enterprises with willing law firms. Azadi, a social enterprise designs affordable sanitary napkins for women in rural areas. It required assistance in contractual and regulatory matters pertaining to its work with women entrepreneurs in rural area. Their project was matched with Axon Partners, a Delhi-based law firm. Or for that matter, Saaf India will be working closely with the Indian Railways on the issue of waste generation and a host of legal assistance will be provided to it by Khaitan & Company.

Through SOWL, PSA provided a wide range of pro-bono legal services to Mobilizing Health, a social enterprise that provides access to emergency and preventive health care in rural India through the use of mobile technology.

A few law firms shied away from naming clients but as these illustrations show, from micro-finance entities to social entrepreneurs, law firms are ready to provide a helping hand for free. ■