



Pro Bono Practices and Opportunities in Paraguay¹

INTRODUCTION

Paraguay has a tradition of providing free legal assistance for citizens with limited means, and the Ministry of Public Defense has over 300 paid attorneys who support and provide legal advice to such individuals. In addition to legal aid provided by the public sector there is also an increasing movement among private law firms to provide free legal advice to indigent individuals, with pro bono culture expanding across local law firms and universities throughout Paraguay. This chapter summarizes the existing legal regime relevant to the provision of pro bono legal services in Paraguay.

OVERVIEW OF THE LEGAL SYSTEM

Constitution and Governing Laws

The supreme law applicable in Paraguay is the National Constitution of Paraguay (the “**Constitution**”), in force since June 1992, followed in legal rank by: (i) treaties, conventions and international agreements approved and ratified by the National Congress of Paraguay; (ii) laws enacted by the National Congress of Paraguay; and (iii) any other legal provisions of lower rank enacted in consequence thereof. All the aforementioned regulations constitute Paraguay’s national governing positive law.

The Courts

The judiciary is responsible for safeguarding the Constitution, interpreting it, applying it and assuring its compliance. The judiciary is also responsible for the administration of justice through the Supreme Court of Justice (*Corte Suprema de Justicia*) of Paraguay, tribunals and the courts. The Supreme Court is the highest court in the Paraguayan judicial system and is composed by (9) nine members, referred to as Ministers. The Supreme Court is organized in three chambers: (i) the Constitutional Court (*Sala Constitucional*); (ii) the Commercial and Civil Division (*Sala Civil-Comercial*); and (iii) the Criminal Division (*Sala Penal*). The President of the Supreme Court is appointed annually by the Supreme Court’s members. The Supreme Court has the authority to adjudicate legal matters, as well as supervisory duties and disciplinary authority over Paraguayan courts, tribunals, court officers and judiciary offices.

The practice of law

Education

In order to be legally admitted to practice law in Paraguay, it is mandatory to have a university law degree, which usually takes five to six years to complete.

The requirements for practicing law in Paraguay are governed by article 87 et seq. of the Judicial Organization Code, which, among other things, regulates the legal profession. The Code sets forth the following requirements to become a lawyer in Paraguay:

- obtaining a law degree issued by a duly acknowledged and authorized Paraguayan university (or having a foreign degree validated by the national education council);
- being of legal age;
- demonstrating a reputation of honor and good behavior;
- taking an oath before the Supreme Court of Justice; and
- registering with the Supreme Court Register of Lawyers.

¹ This chapter was drafted with the support of local counsel, Mr. Carlos Vasconsellos and Mr. Valentín Sánchez Quintana, from the Paraguayan office of the law firm FERRERE Abogados.



Demographics

Currently, there are over 40,000 lawyers in Paraguay, amounting to one lawyer per 168 citizens.

Legal Regulation for Lawyers

At present, the practice of law in Paraguay is not regulated by any bar associations and it is not mandatory to be admitted by the Paraguayan Bar Association in order to be able to practice law.

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

Article 16 of the Constitution provides that every person has the right to be assisted by a legal aid attorney in criminal proceedings or any other proceedings that may result in the imposition of a penalty or fine, provided such person lacks sufficient economic resources to afford a private attorney.

State-Subsidized Legal Aid

The Ministry of Public Defense (*Ministerio de la Defensa Pública*) is a judicial institution made up of approximately 330 professional lawyers who are paid by the Paraguayan State to defend individuals who (i) have limited economic resources, or are absent; (ii) are legally incapacitated; or (iii) are minors in the context of civil, labor, minor-related, administrative or criminal proceedings. Furthermore, the Ministry of Public Defense is independent from other powers of the State of Paraguay. Although the Ministry of Public Defense is part of the judicial branch, it has functional and financial autonomy and independence.

Individuals seeking legal assistance from the Ministry of Public Defense must visit the public defender (*Defensor*) on duty in the relevant jurisdiction and constituency. Each judicial district has public defenders who may act within the limits of such district. The legal assistance provided by the Ministry of Public Defense is free and the defendants are exempt from court fees. Defendants are required to pay only those legal fees, notices and/or edicts specifically designated by law.

Mandatory assignments to Legal Aid Matters

In Paraguay, courts and judges have no legal authority to assign lawyers to legal aid matters in judicial cases.

Unmet needs and access analysis

There is a clear consensus amongst legal attorneys and the Paraguayan government that there are not enough public defenders to meet the demands of Paraguay's citizens with limited economic resources and ensure that their constitutional protections are observed.

This has resulted in significant shortfalls in the provision of legal aid services.

Alternative dispute resolution

Mediation

Pursuant to the law regulating the Ministry of Public Defense (*Ministerio de la Defensa Pública*), the Ministry of Public Defense must promote the voluntary use of centers of mediation and conciliation. In practice, the Ministry of Public Defense has assigned a group of public defendants to mediate in certain controversies (e.g., family related matters).

Ombudsman

The Constitution provides that the Ombudsman (*Defensor del Pueblo*) is a parliamentary commissioner whose functions are to defend human rights, channel people's claims and protect the interests of the community. The Ombudsman has the following duties: (i) to receive and investigate complaints relating to the violation of human rights and to publicly condemn any actions contrary to human rights; (ii) to execute



projects and implement programs to promote the awareness and practice of human rights and mechanisms for their protection; (iii) to prepare and distribute reports on the status of human rights in Paraguay; (iv) to report the violation of human rights by public officers and other individuals to the Public Ministry (*Ministerio Público*); (v) to promote actions to protect general interests; (vi) to propose amendments to rules and proceedings implemented by the State or by government officials in case of violation of human rights; and (vii) to propose amendments of rules and proceedings implemented by the state or by government officials with a view to improving the services provided by state bodies.

The Ombudsman does not have any judicial functions or executive authority.

PRO BONO ASSISTANCE

Pro Bono Opportunities

The Interdisciplinary Centre for Social Law and Political Economy

The Interdisciplinary Center for Social Law and Political Economy (“**CIDSEP – UC**”), in association with the Paraguayan bar association, is Paraguay’s leading clearinghouse for pro bono work. The CIDSEP – UC is an agency of the Catholic University, which mission is to contribute to building the rule of law, promote the strengthening of public institutions and civil society organizations, and to provide access to justice and democratic participation through advice, training, research and publications. The principal activities of CIDSEP - UC include:

- Strengthening democratic institutions: training and updating legal practitioners and court officers in Paraguay, including legal research and publication activities and initiatives to strengthen local governments.
- Fostering a culture of transparency and citizen participation: monitoring key state institutions at central and local levels, including training community leaders and civil society on mechanisms of social control, accountability and access to information.
- Promotion of rights: promoting rights through radio programs, newspapers and neighborhood and cultural activities, supporting networking amongst public institutions, social organizations and legal volunteers.

In this context, CIDSEP – UC has launched a pro bono Legal Volunteer Project and a blog to discuss pro bono services, and to raise awareness in connection with the Statement of Pro Bono Work for the Americas (*Declaración de Trabajo Pro Bono para las Américas*) and the right to access justice. The Legal Volunteer Project began in 2005, when lawyers from various Latin American countries, the United States, Spain and South Africa met in New York City to discuss the role of the legal profession in democratic societies and the specific ways in which the legal profession could help facilitate access to justice for all sectors of the community.

Additionally, CIDSEP – UC is currently working with six major law firms and approximately 60 independent lawyers. The eligibility requirements for individuals to be assigned a pro bono lawyer under the CIDSEP – UC program are the following: (i) not having been assigned a previous lawyer; (ii) not having sufficient economic resources to pay professional fees for private legal services; and (iii) being part of a vulnerable group of society, as defined in the Brasilia Regulations Regarding Access to Justice for Vulnerable People (*100 Reglas de Brasilia sobre acceso a la Justicia de las personas en condicion de vulnerabilidad*).

At present, the cases under the CIDSEP – UC program cover the following areas amongst others: (i) violence against women and family; (ii) compensation for damages; (iii) victims of criminal acts; and (iv) labor issues, in each case which are located within the area of Asunción and Great Asunción.

The International Pro Bono Network

CIDSEP – UC is also a member of the International Pro Bono Network (“**IPBN**”), which was created in April 2011, when *Fundación Pro Bono Chile* and the Cyrus R. Vance Center of the Bar Association of the



City of New York convened the International Conference, “The Legal Profession & Pro Bono: Strengthening Access to Justice”.

Catholic University of Asunción

Law students at the Catholic University of Asunción are required to do pro bono work as part of the Legal Clinics Program (*Consultorio Jurídico*). During their fifth year, law students are assigned matters related to civil and other minor issues, and in their sixth year, law students are assigned criminal cases.

Historic Development and Current State of Pro Bono

In Paraguay, there is no obligation for lawyers to provide pro bono services. One barrier to the provision of pro bono services in Paraguay is a law that was passed by the National Congress in 1988, pursuant to which legal fees are subject to regulation. Article one of the referred law obliges legal services providers to charge professional fees for such legal services, expressly prohibiting the reduction or suppression of fees.

However, the Professional Ethics Code of the Paraguay bar association (*Código de Ética Profesional*) sets out the obligation to provide free judicial assistance to people with limited economic resources at the request of the defendant or by judicial designation, provided that the eligibility criteria of the beneficiaries of free judicial assistance are defensible.

Currently, there is an increasing movement amongst private law firms providing free legal advice and the pro bono culture is expanding throughout all local law firms and law schools in Paraguay.

Socio-Cultural Barriers to Pro Bono or Participation in the Formal Legal System

A significant barrier to pro bono work in Paraguay is the cultural bias that exists against the legal system in Paraguay due to ongoing mistrust towards law enforcement officers and judicial proceedings. This has created an environment in which people prefer to rely on informal agreements and extrajudicial resolutions when facing a controversy, even where formal remedies are available. Moreover, people in rural areas show even less willingness to use formal legal procedures.

Programs are being developed in order to increase people’s trust in the judicial system, such as a radio program named “Defending your rights” (*Defendiendo tus derechos*) that airs once a week in “*Radio Fe y Alegría 1300 AM*”. This radio program offers a public service through telephonic inquiries and interviews with public defendants. Nevertheless, it will take time for the judicial system to gain people’s trust after years of corruption and inefficiency.

In recent years, there has been a trend in the private legal sector among young professionals educated and trained abroad to return to Paraguay, bringing with them cultural awareness of better practices, including a commitment to pro bono legal services. However, there are practical and financial considerations that may affect lawyers’ willingness or ability to provide pro bono services. Also, there is a lack of cultural awareness towards pro bono services, together with poor infrastructure, which results in a failure to provide systematic and organized pro bono services.

Pro Bono Resources

International Red Pro Bono

International Red Pro Bono is a foundation that assists and organizes pro bono services for lawyers and law firms. The foundation was created in 2000 and since then has implemented work programs to provide opportunities for attorneys to get involved in pro bono opportunities. The foundation facilitates pro bono services across various areas, including corporate advice, dispute advice, legal reports and judicial representation to improve access to free justice in Paraguay.

- **Address:** Mariano Sánchez Fontecilla N° 370 Las Condes – Santiago de Chile
Phone: (562 38) 156 60



Website: <http://redprobono.org/> (last visited on September 4, 2015)
Email: contacto@redprobono.org

CISDEP – UC

Useful contact details for CISDEP – UC (as outlined at IV(A)(1) above) are as follows

- **Address:** Alberdi 855 casi Piribebuy, Paraguay
Phone: (595 21) 445429
Website: <http://www.buenaspracticas.uca.edu.py/cidsep.php> (last visited on September 4, 2015)
Email: cidsep@uc.edu.py

Paraguayan Bar Association

The Paraguayan Bar Association is a legal entity that has brought together practitioners from Paraguay since 1942. It raises awareness among its members, supervises legal academia, supports its members and offers its opinion on issues of legal importance.

- **Address:** 14 de Mayo 988 e/Manduvirá, Asuncion, Paraguay
Phone: (595 21) 441882
Website: <http://www.facebook.com/pages/Colegio-de-Abogados-del-Paraguay/266234063394042> (last visited on September 4, 2015)

FERRERE

FERRERE is the only multi-jurisdictional South American law firm. It has 150 attorneys across Uruguay, Paraguay, Ecuador and Bolivia and employs US-style structure, methodologies and policies. The firm seeks to foster and value social commitment among its lawyers, and requires - as an essential element of its professional culture - that community interest initiatives receive the same quality of service as its corporate clients.

FERRERE has a pro bono committee which is in charge of receiving, processing and approving each pro bono case.

- **Address:** Acá Carayá No 271, Asunción, Paraguay
Phone: (595 21) 3183000
Website: <http://www.ferrere.com/donde-trabajamos/asuncion> (last visited on September 4, 2015)
Email: ferrereparaguay@ferrere.com

CONCLUSION

Pro bono activities in Paraguay are increasing slowly but surely, particularly as a result of law firms joining the CISDEP – UC program. Additionally, both Paraguayan society and politicians are becoming increasingly aware of the need for all Paraguayan citizens to have equal access to justice provided by high-quality attorneys.

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