



Pro Bono Practices and Opportunities in Uruguay¹

INTRODUCTION

The Uruguayan Constitution (the “**Constitution**”) guarantees free legal services for persons without resources who qualify for them according to strict legal regulations. Historically, such assistance has been offered by governmental agencies. However, an array of leading lawyers and firms in Uruguay are increasingly committed to providing pro bono services.

This section provides a brief description of the Uruguayan legal system and reviews the legal assistance available to people with limited resources. It also addresses the growth of pro bono in Uruguay.

OVERVIEW OF THE LEGAL SYSTEM

Constitution and Governing Law

Uruguay is a Civil Law based country, with the Constitution being the primary source of law. After the Constitution in the order of authority comes the General Laws, some of which are compiled into different Codes (Commerce, Criminal, Civil, and Procedural).

The current Constitution was approved in 1967 (with amendments in 1989, 1994, 1996 and 2004). It establishes that laws should be written and passed by Parliament and enacted by the President of the Republic. The Constitution also declares Uruguay to be a *democratic republic*, and separates the government into three equal branches, [executive](#), [legislative](#) and judicial.

Sentences issued by jurisdictional justice (Courts of the first instance, Higher Courts and the Supreme Court of Justice) are used as a guide in subsequent trials although they are not binding and do not constitute legal precedent.

The Courts

The judiciary branch in Uruguay, like many other jurisdictions, is structured like a pyramid. The lower courts issue sentences to which interested parties have the right to appeal to higher courts and tribunals. Matters are matched to different specialization courts according to the content of the matter (ex. family, civil, criminal).

The Supreme Court is the highest court and final ruler in the Uruguayan judicial system. Below the Supreme Court are a number of appealation courts divided according to the nature of the issues resolved.

Before trying a matter at a Court of First Instance, certain matters may first be brought before a magistrate of lower court depending on certain regulated aspects (such the sums into which a matter is evaluated).

The Practice of Law

Different universities offer a juris doctor degree in Uruguay, of which one is state-owned whereas the rest are private institutions. Examinations are administered by the competent and independent authorities in each of the five universities. In addition, law degrees issued by private universities must be validated by the Department of Education and Culture (Ministry of Education and Culture), before an individual is officially recognized as a lawyer.

Once a person meets the pertinent requirements to practice law, he or she must also take an oath before the Supreme Court, which issues the document for registration of the person to practice law, as

¹ This chapter was drafted with the support of Victoria Picón, Ana Laura Benavidez from the ONG Esalco and Mariana Errazquin from the law firm Jiménez de Aréchaga, Viana & Brause



prescribed in Article no. 137 of the "*Law on the Organization of the Judiciary and the Courts, no. 15750*" (Organic Law of the Judiciary and the Courts Organization, no. 15750).

The legal profession in Uruguay is not heavily regulated. Although the Bar Association of Uruguay, a professional association based in Montevideo founded in 1929, exists, membership in the organization is not required to practice law in Uruguay. There is no bar exam in order to practice law in Uruguay.

Graduate training is not required to become a lawyer, and disqualification from the practice of law is rare.

However, according to statistics published by the Lawyers Bar Association, approximately 70% of lawyers practicing law in Uruguay are members of the Lawyers Bar Association.

LEGAL RESOURCES FOR INDIGENT PERSONS AND ENTITIES

The Right to Legal Assistance

Articles 7, 8 and 254 of the Constitution state that justice will be freely provided for the poor declared such under the law.

State-Subsidized Legal Aid

The following legal aid services are administered by the Office of the Public Defender of the Capital, located in Montevideo; and the defense system of the Interior (as applicable).

The Criminal Public Defender's office provides lawyers to represent the defense of those who commit crimes and do not have the resources to meet the fees of a lawyer. Its jurisdiction extends to all crimes, but the reality is that only 217 public defenders serve an average of 250,000 people per year.

The volume of legal aid being provided is also steadily increasing. By way of illustration, in 2013 in Montevideo, family defendants who work cases of domestic violence and vulnerable child conditions assisted a total of 6,362 people (64.7% more than in 2012); conducted 4,045 consultations (151% more than in 2012) and attended 13,382 judicial hearings (34.5% more than in 2012).

Legal assistance for criminal proceedings is provided free of charge, regardless of the financial situation of an individual. However, legal aid in civil matters is only available for those with an income level below the thresholds set out in Decision No. 7,414 (7,414 Agreed). Anyone who is single, has no significant assets, and does not have any dependents shall be granted legal aid if their income is no greater than three times the national minimum wage. Any individual who is married or has dependents and does not have any significant assets shall be granted legal aid if their income is not more than five times the national minimum wage.

Unmet Needs and Access Analysis

The income thresholds set by law for legal aid entitlement are both strictly enforced (individuals with an income even slightly above such threshold will not receive assistance) and set so low that those who only just exceed the threshold are very likely to be unable to afford legal representation.

PRO BONO ASSISTANCE

There are no laws regulating the performance of pro bono legal work in Uruguay. A number of private organizations and firms provide this kind of service. In such cases, the conditions of pro bono programs are independently regulated by each organization.



Pro Bono Opportunities

In addition to the public defense services explained above, the University of the Republic provides free legal assistance through its Legal Office, which was established in 1950 as a mandatory internship for students of law. Since its inception, the Legal Clinic has expanded to other parts of Uruguay, resulting in the formation of neighborhoods Legal Clinics. The University also has an agreement with the Municipality of Montevideo in which the University provides staff and the municipality provides the necessary infrastructure.

Similar legal offices have been founded throughout other cities in Uruguay, including Salto, Paysandú, Bella Union and Maldonado.

Some law firms in Uruguay also provide free legal assistance.

In addition, IELSUR is an NGO that was founded in July 1984 by a group of lawyers to provide litigation and other forms of legal support in human rights violations that occurred during the civil-military dictatorship between 1973 and 1985. Today, IELSUR continues to fight human rights violations on a wider scale. IELSUR collaborates with several organizations, including the Committee on the Rights of the Child, ESCR-Net, the International Action Network on Small Arms, and the Latin American Coalition Against Gun Violence.

Historic Development and Current State of Pro Bono

Public defense as an institution was established in Uruguay in the 19th century, but it was not until the 21st century that pro bono work has started to develop within the private sector. This development can be linked to increased corporate social responsibility and a greater focus on the key social needs that pro bono work can address.

Barriers to pro bono work and other considerations

There are a number of possible barriers to pro bono work, including:

- The provision of pro bono services, strictly speaking, is not specifically recognized or regulated by Uruguayan law (notwithstanding public defense services), and the fact that the Uruguayan government does not provide incentives for further development of pro bono services (such as tax exemptions for NGOs).
- A general lack of awareness of the availability of pro bono services may also be an obstacle to the general public accessing these kinds of services.
- Socio-cultural barriers among law professionals and practitioners cannot be ignored. Many of them do not understand what pro bono means (outside of the “general knowledge” that somewhere in the city there is an institution that provides “legal aid for the poor”). The provision of free assistance is ignored sometimes due to the fact that, for some professionals, it does not sound like a “real job”.

Pro Bono Resources

Peace and Justice Service

SERPAJ (Peace and Justice Service) is an NGO that focuses on advocacy, education and defense of human rights and peace. SERPAJ does not provide direct legal assistance but rather organizes conferences and maintains a reference network of lawyers working pro bono.

Address: Joaquin Requena 1642, 11200, Montevideo, Uruguay Phone: +5982.408.5301 Fax: +5982.408.5701 Website: www.serpaj.org.uy Email: serpajuy@serpaj.org.uy



Ferrere Abogados

Ferrere Abogados law firm has dedicated an average of 3,000 hours a year to pro bono activities. Company lawyers help organizations that contribute to the social integration of the community, such as the Pereira Rossell Foundation, "Techo", the Awards Foundation and the Foundation of Friends of the Teatro Solis.

Address: Tower B - Av Dr. Luis A. de Herrera 1248, 11300, Montevideo, Uruguay Phone: +5982.623.0000 Website: <http://www.ferrere.com/>.

Vanrell Intellectual Property Attorneys

Vanrell IP lawyers fosters and promotes the social commitment of its employees as part of its mission and business vision. Pro bono legal services provided by this firm are treated with the same standards of quality as those services provided to paying clients and in compliance with the same applicable rules and ethical standards.

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Jiménez de Aréchaga, Viana & Brause

The lawyers of Jiménez de Aréchaga, Viana & Brause participate in social projects such as:

- the Teleton Foundation for children’s rehabilitation and physical therapy processes;
- the Ronald McDonald House Association of Uruguay, focused on promoting philanthropic, educational and scientific work in order to help Uruguayan children and their families;
- La Magdalena, located in the northern part of Uruguay, dedicated to foster learning and religious education of rural families and the support of their health and social conditions, with the purpose of facilitating their permanent residence in the countryside.

Address: Zabala 1504, 11000 Montevideo, Uruguay. Phone: +598 29161460.
Website: www.jimenez.com.uy (last visited on September 4, 2015)

Esalcu NGO

ESALCU specializes in providing aid to those most in need. It is a civil association recognized by the Ministry of Education and Culture with legal statue n8467 and started working in 2000 with the primary aim of enhancing equality in society by helping those most in need of assistance.

ESALCU’s pro bono activities include representing clients, processing paperwork for free in an array of processes concerning holdings, alimony, visitation, paternity investigations, approval of agreements, correction of birth regimes, domestic violence, etc. Many of the individuals who are helped by this NGO are involved in criminal cases.

Legal Clinic of the Faculty of Law (University of the Republic).

In 1950, the University of the Republic created the Office of the Faculty which, in addition to its teaching activities, provides free legal assistance to indigent persons, advise and assist the courts and administrative procedures.

For further information call: 400.3055
Address: 18 de Julio 1824

Neighborhood Legal Clinics (Student Center of Law, Faculty of Law, University of the Republic). Supported by the Catholic Church and NGOs.

The C.E.D. It is the trade association formed by students of Lawyers and Notaries.

The primary and essential object of their offices (of which there are many across Montevideo) is to provide advice, assistance and free legal representation to people who request them according to certain pre-established criteria. (web site: www.cedfeuu.edu.uy)



CONCLUSION

Pro bono is nascent in Uruguay, but is growing rapidly due to the recent international and local crises that have created new challenges and adversities for Uruguayan citizens. Every day more and more law firms and lawyers, as well as NGOs, realize not only that their social responsibilities require them to provide pro bono services to Uruguay's indigent people, but also the personal benefits of engagement and the positive impact that pro bono services can have on society.

The growth in research, education and funding for pro bono activities should provide new advances in this field through educating legal professionals regarding the potential positive social impact and the personal and professional progress that pro bono work can provide.

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