

Some pro bono success stories in Argentina

Colegio de Abogados de la Ciudad de Buenos Aires*

Synopsis

What can each lawyer do to help to eradicate poverty and promote social development in poor communities? For the past twenty years, members of the Buenos Aires Bar Association, working through their Pro Bono Commission, have set standards and inspiring examples for lawyers everywhere in the world. This chapter by members of the Pro Bono Commission presents only a few of many inspiring achievements, sometimes on a personal level and sometimes with profound implications for an entire community.

These case studies illustrate a variety of legal and regulatory issues that sometimes are novel and often are not always solved by traditional legal analysis. They point out the importance of a clear definition of the personal and societal interests that lawyers wish to advance. They also remind us of the great professional and personal satisfaction that lawyers and law firms can receive from investing their time, expertise and capabilities to aid less-fortunate members of their communities.

Prologue

Martín Zapiola Guerrico¹

The Comisión de Trabajo Pro Bono e Interés Público (also known as the Pro Bono Commission (the ‘Commission’)) was created in 2000 and is at the heart of the Buenos Aires Bar Association.

From its beginnings, the Commission focused its efforts on pro bono ‘public interest’ work – pursuing a goal beyond the interest of one particular beneficiary, such as public-interest litigation and legal aid for civil society organisations in the matter of public interest and different from ‘access to justice’ pro bono work, where assistance is offered to one person or a particular group of who lack the financial means to consult a lawyer.

The strategy was based on the idea that public-interest action can reach further and have extensive effects, thereby making better use of Commission’s networked resources. Consequently, we provided legal counsel to hundreds of civil society organisations, organised legal training activities and undertook high-impact public-interest litigation, all within the Buenos Aires area.

* For more information about the Colegio de Abogados de Buenos Aires (Bar Association of the City of Buenos Aires), see <http://colabogados.org.ar> accessed 2 January 2021.

1 Martín Zapiola Guerrico is the founding partner of the law firm of Zapiola Guerrico & Asociados in Buenos Aires.

The Commission's policy was substantially modified in 2016, when the Ministry of Justice and Human Rights contacted us to draw up a project relating to their Access to Justice Offices network: a 'legal first aid' network, which serve the whole of Argentina.²

As a result of the proposed project, it was agreed that law firms from the Commission's network would provide legal representation in the trials of cases derived from the Access to Justice Offices in various vulnerable Buenos Aires city neighbourhoods. Although this agreement deviated from our original focus, we understood that, working alongside a coordinated network for legal aid centres, we would also achieve a public interest effect without actions and would be able to identify issues which are common in extensive areas of the community.

The experience of coming into contact with vulnerable neighbourhoods and people suffering from social exclusion and the inability to access justice first-hand, had a profound effect on young pro bono lawyers. This is when we became most aware that the experience had a positive impact both for the person who received legal pro bono assistance and the lawyers who provided it. Lawyers interacted with a very tough social reality, basically unknown to them, challenging them to broaden their professional abilities and knowledge as they faced such pressing issues.

As a Consequence, the Commission experienced some kind of 'collective epiphany'. Attention to 'access to justice' cases was a key motivational source to engage young professionals further in pro bono work, while also providing the possibility of helping extend pro bono culture to the rest of the country, as other Access to Justice Offices were allocated nationwide. Thanks to this new extended community, two very positive projects were undertaken.

First, as a way of responding to urgent legal needs created by the Covid-19 pandemic, a toll-free assistance phone line was set up for vulnerable people and the organisations which help them. Concerns are directly addressed by a team of more than 100 lawyers nationwide. To date, more than 600 consultations have been satisfactorily handled.

Second, in 2019, the Pro Bono Challenge was launched. Aimed at law students from Argentina's universities, the idea is that students identify their community's legal issues and submit a project on how to solve or alleviate the problems. Winners of the challenge receive full professional assistance from our network's law firms, as well as a modest financial support sum so that the aims of their project can be realised. Similar Pro Bono Challenges had already been in Peru and Chile.

In this chapter, we outline six personal success stories, narrated by the pro bono lawyers who have been involved in these cases. The narratives are personal in two ways, as they describe the needs and concerns of those who received legal pro bono counsel, but also the perception and experiences of the lawyers who provided assistance.

To share this array of the extension of our assistance to a diverse group of people with different specific needs, we are including testimonies of lawyers involved in pro bono work

² See Centros de Acceso a la Justicia (Access to Justice Centres), www.argentina.gob.ar/justicia/afianzar/caj accessed 2 January 2021.

offering legal assistance in cases of adoption, physical disability, femicide, lack of identity and irregularities in social security support. Our intention is to showcase the extent of our network and legal assistance across Argentina and our ability to resolve a range of diverse issues.

Proyecto Manuel: a project that changed my life

Francisco J Roggero³

I am a corporate lawyer and, while reading this article, you might be thinking ‘what does a corporate lawyer have to say about pro bono or, as in this case, the reality of abandoned children?’ I promise you, I have something to say.

As a preliminary concept, I would like to stress that we, lawyers, have a powerful tool. Yet sometimes we are not aware of the fact that we have it. We have the power to transform, we have the power to make a change, the power to make a difference and leave an imprint. I am not talking about the ability to turn everything into money, I am talking about our real power to turn and transform the world.

In the paragraphs that follow, I will share a story that changed my life and tells us something about the power to change that we have in our hands.

More than 15 years ago, on a Friday evening I ran into Guillermo Lipera, a senior partner of Bulló Abogados, the law firm where I then worked. He told me he was going to a meeting with the chief financial officer of a client for ‘something personal’ and he invited me to join them, an invitation that a junior associate can’t refuse.

During the conversation, this very high-ranking executive of a huge company told us a very sad and appalling story. His family was acting as a foster family for abandoned children and the child that they were taking care of was about to be returned to his origin family due to the decision of a judge who had not taken into account that the baby had been injured by his biological father on several occasions.

And here comes the initial question: ‘What could I do as a corporate lawyer?’

The story of this boy, called Manuel, introduced us to a very sad and difficult to solve reality: the reality of abandoned children in Argentina.

We formed a team in the law firm and began working on Manuel’s case. We then got involved in the system of abandoned children in Argentina: family courts, organisations, shelters, foster families the number of children affected.

We soon realised that it was a problem of no one taking care of their situation and when I say no one, I mean no lawyer was standing up to represent these abandoned children.

In Argentina, there are around 15,000 abandoned children in institutions, shelters or with foster families. And, if you ask me why there are so many abandoned children, the reason is the same one that I have just mentioned: no one taking care of these children and their situations. Judges are too busy with many other commitments, so they place abandoned children in shelters and forget the cases. It sounds awful, and it is indeed awful, but, unfortunately, this is what actually happens.

³ Francisco J Roggero is a partner in the law firm Zang, Bergel & Viñes Abogados, Buenos Aires.

As soon as we started working with the non-governmental organisation (NGO) involved on the case, we became aware of the abandoned children's total lack of legal assistance.

Back to Manuel's story. By just acting on his behalf and of the NGO, we could solve Manuel's situation and the judge finally gave the baby to a family for adoption.

After Manuel's case, we started solving the judicial challenges of many of the children encountered by that NGO. Some of them had spent three, four, five and even more years in shelters and in only five months their judicial files were completed and they were adopted by families who give them love, care and nurturing. As you can see, it was only a matter of working on their cases. Their lives were changed because we used the power of our profession.

Since that NGO had lots of children and we saw that the situation needed more 'helping hands' if we wanted to help not only that NGO but others, so we talked with friends and colleagues from Marval, O'Farrel & Mairal as well as Beccar Varela and both law firms joined us on the project. So far, over 300 lawyers have been involved and have been working on more than 2,000 cases.

Let me share something personal. What do you think the most moving part of my pro bono story was? It was the day I visited the shelter for the first time and an abandoned child, no older than four asked me, 'Would you like to be my father?'

That was the moment when I realised that working for them was not an option, it was my duty. The project has taught me so much about the pro bono tool we all have. Argentina is a wonderful country but with lots of unaddressed necessities. I can't use my profession only to make money.

Helping is our duty. Pro bono work is our duty. It is a moral imperative. As lawyers, we have a tool to put to the service of the community. Once we do it and once we work as part of a useful project where we can see that we really are helping people, then we feel that being a lawyer is really worth it.

Luciano's case: contributing to happiness and inclusion

Julia Anabel Sainz⁴

I remember, as if it were yesterday. One morning in July 2014, I met a couple and their son Luciano,⁵ who was only ten years old. This was the case of a health provider denying medical attention to a patient. I was used to other kinds of cases but this was the first case of this nature I'd ever worked on. Since working on this case I knew I couldn't overlook such injustices again.

Luciano experienced birth trauma where his left shoulder was detached. The trauma included the rupture of muscles and the nerves supplying his arm. This injury caused him permanent disability, unable to move his arm and even impaired his ability to grab something with his hand, as three of his fingers were rigid.

⁴ Julia Anabel Sainz is an associated in the law firm of Marval, O'Farrell & Mairal, Buenos Aires.

⁵ The author has changed the name to protect this person's privacy.

From the first days of his life, Luciano underwent various surgical operation in an attempt to reverse his condition, although none were successful. Owing to this and with the aim to provide him with the best possible state of health and development, medical doctors recommended physical therapy for life.

Luciano and his family started the physical therapy treatment as soon as it was possible and undertook all the therapies and treatments exactly as the doctors suggested. That is, until their medical insurance stopped paying for the physical therapy sessions. By law, these must be paid in full by the medical insurance.⁶

As is well known, any interruption of physical therapy treatment advised for motor rehabilitation in a child can have irreversible consequences for their future development as an adult. This is why we had to act quickly, as the family did not have the means to cover the costs of further treatment.

Luciano's family was a typical lower middle class family. Both parents worked: his father was an administrative employee at a club, his mother an employee at the national public university. It was clear that they couldn't afford the treatment, so the only way out was to demand that their medical insurance complied with its legal obligations.

His parents had filed all the claims possible with their insurance. They had even filed a claim with the Superintendence of Health Services (the agency which regulates health providers) and addressed a complaint to the National Institute against Discrimination, Xenophobia and Racism (Instituto Nacional contra la Discriminación, la Xenofobia y el Racismo or INADI), all without success.

Defenceless as they were, exhausted after months of filing claims but obtaining no solutions and helpless for not being able to give their son the rehabilitation treatment he badly needed, they came to our offices.

I remember listening to Luciano's parents. They were emotionally exhausted after all the distance travelled without a favourable outcome and so they let it all out and told me everything they had been through as a family since Luciano's birth: the malpractice suffered at the time of delivery, the countless sleepless nights during the first days of their son's life because of all the operations. They also told me nice things about Luciano too. They said he was an excellent student, a good friend and they also told me about all the efforts he made to complete the physical therapy treatment, which had helped him regain some of the motor functions in his arm.

As with all the cases I work on, the conversation reached the topic that had summoned us, that is, the lack of payments by the insurance for Luciano's treatment. They explained all the dejection they had gone through for months: from phone calls, personal meetings and emails, to the claim filed with the Superintendence of Health Services and the complaint filed with INADI.

Without any doubt, the only path left was to file an *amparo* action directly with the federal courts as soon as viable. This would be for the protection of constitutional rights other than those protected by the writ of habeas corpus. I specified all the basic documents we needed

6 Law No 24,901 on Basic Integral Habilitation and Rehabilitation System for People with Disabilities.

to initiate legal proceedings: national identity documents, medical insurance registration number, single certificate of disability according to Law 24,901, summary of clinical records, diagnosis and medical prescription.

Just like in any *amparo* action filed due to the failure by a person or a public authority to act, it is necessary to have proof of their failure, so on the day of the meeting I drafted the legal effects registered letter (*carta documento*) that Luciano's parents had to send to the insurance company, if possible, that same day.

As the defendant never answered the registered letter, we included it with our case documentation and filed the *amparo* action. Due to the urgency of the case, we requested that the judge provisionally order the defendant to cover the full costs of the physical therapy treatment already prescribed by the doctor in charge, until a final ruling was rendered in the case with the force of *res judicata*.

The judge upheld the precautionary measure we requested and ordered that the defendant provide full cover, in due time and manner, of the physical therapy rehabilitation treatment within three days, under the penalty of forwarding the process and papers to a Criminal Court for consideration of whether the official responsible was involved in the crime of failure to comply with the lawful order of a court.

At last, the defendant complied with the court order as it was rendered. I specifically remember the joy I heard in Luciano's mother voice when she called to say that she had just been into the insurance office and had the cheques in her hand. I also remember what I felt that day and I always relive it when I receive phone calls from parents telling me that their medical insurance finally started providing treatment for their child.

Since it is a lifelong treatment in which the number and type of sessions may vary, I also requested the judge in the *amparo* action to order that the defendant covers the full costs of the rehabilitation treatment indicated by the doctor in charge and of those to be prescribed in future, to prevent the parents from having to file an *amparo* action in each case of non-compliance by the insurance company.

The judge permitted our petition in broad terms as we had requested and let me tell you that this worked and still works today. In the years since, Luciano's parents have got in touch and asked me to send them the judgment once again because the defendant was again trying to avoid fulfilling its legal obligation.

After intervening in many judicial *amparo* actions, I believe that the same applies in all cases. On one side is a child or teenager who had: been born disabled; with an autoimmune disease; with an organ transplant or with cancer. On the other, a health provider failing to comply with their legal obligations, which is harmful to health and sometimes endangers life.

At the firm, we have filed many *amparo* actions for health issues for very varied and sad matters, from medical services for a child with autism to treatments against child cancer abroad, always in the knowledge that, with our pro bono work, we help children and teenagers gain access to treatment and medical services for their full development as human beings.

This first case, Luciano's case, was referred to our firm by the Pro Bono and Public Interest Work Committee of the Bar Association of the City of Buenos Aires, but as I said

at the beginning, a concern arose in me and since then, we have received dozens of cases where an individual's right to health is impaired.

The benefit of networking is always a breakthrough. Sometimes as lawyers, we are unable to handle a case because of a conflict of interest and that's when we lean on this network, where lawyers work pro bono to refer cases in which we can't participate. At the same time, we share knowledge and experience on the topic, to facilitate the wider pro bono work and to promote professionals to experience working pro bono.

Today, Luciano is 16 and has overcome every hurdle: those which life put in his way and those presented by an unjust society. He is an excellent competitive swimmer and has won several medals.

In 2019, he participated in the 28th Province of Buenos Aires Games, organised by the Ministry of Social Development of the Province of Buenos Aires annually in September and October. Luciano competed against more than 22,000 young people and reached the Provincial Final of those games, achieving a silver medal in breaststroke.

Personally, I feel a great satisfaction for having contributed and done my bit so that Luciano can be happy doing what he loves and feeling more included in society.

Sonia's story: a femicide criminal process from the victim's family's perspective

Florencia Maciel⁷

Our pro bono work in criminal law may vary from representing a defendant to providing legal assistance to victims of crimes.

Regarding the legal assistance of victims, there are certain important rights during the criminal procedure established by Argentine laws. For example, victims have the right to be treated respectfully, to be heard and informed about the steps and results during an investigation and to be asked their opinion before adopting any judicial decision which may affect them.⁸ Yet, in a considerable number of cases, victims do not have access to adequate and full justice due to several reasons. The court's location, as well as the limited or deficient attention paid to those who are poor or in a situation of vulnerability (especially when they are women), are two examples.

For instance, our justice system is comprised primarily of lawyers and officers who belong to a specific group of privileged people (white, educated, upper-middle class). They (we) often fail to adapt our conduct to the external difficulties that vulnerable groups may suffer.

I would like to mention a successful pro bono case related to criminal law and gender violence that we worked on. In particular, we made substantial efforts to turn over the structural obstacles that previously described and provide our pro bono clients with the legal assistance needed. Despite the sadness that a criminal procedure entails, we can say that they do finally have adequate access to justice. In this case, we worked with the family of a woman who had been murdered by her former partner.

⁷ Florencia Maciel is an associate in the law firm of Durrieu Abogados, Buenos Aires.

⁸ Law No 27,372.

When we talk about women who suffer gender violence, the victims' rights became essential. The level of crimes against women because of their gender and LGTBQI⁹ individuals because of their identity reads like an historic and lethal pandemic. There were 258 women killed in Argentina because of gender violence in 2016,¹⁰ there were 251 in 2017,¹¹ 255 in 2018,¹² and 252 in 2019,¹³ and the numbers (which represent lives) did not decrease in 2020.

Since 2012, 'femicide' has been regulated as an independent and aggravated charge of murder in the Argentine Criminal Code.¹⁴ It occurs when a man kills a woman (defined in Argentina as any person who identifies herself as a woman)¹⁵ in the context of previous gender violence against her.¹⁶ Despite criminal law, femicide is also a political concept that refers to a crime motivated by hatred of a woman because of her gender.

From the first #NiUnaMenos¹⁷ massive protest on 3 June 2015 onwards, awareness of gender violence has increased markedly in Argentina. Public policies on this matter and intersectional feminist movements¹⁸ have won recognition. Members of these pressure groups campaign for equality, political representation and adequate government and judicial responses. As lawyers, such action encourages a deep commitment to help women victims in gender violence cases; to work to attain respect for their rights during the process.

Ana,¹⁹ was murdered on 29 December 2016 in an impoverished neighbourhood of Buenos Aires. Her ex-partner, a 19-year-old man, shot at her in her bedroom when she came back from work at in the early hours of the morning. They had been staying together for a week and had been trying to mend their relationship. The gunshot killed Ana immediately as the bullet entered through her right eye. The assailant left the premises quickly. He argued that he was going to look for an ambulance, but he never came back. After a couple of weeks, in January 2017, he was found and charged for Ana's femicide and other two charges of aggravated murder.

9 This acronym includes, but is not necessarily restricted to, people who self-identify as lesbian, gay, transgender, bisexual, or 'queer'.

10 Argentine Supreme Court of Justice, *Annual Report made by the Argentine Registry of Femicides from de Argentine Judicial Branch*, 2016.

11 Argentine Registry of Femicides, *Annual Report*, 2017.

12 Argentine Registry of Femicides, *Annual Report*, 2018.

13 Argentine Registry of Femicides, *Annual Report*, 2019.

14 Law No 26,791.

15 S 2, Law No 26,743.

16 This may include a current or former relationship between a couple, or within a family, or in one's employment.

17 *Ni una menos*, frequently identified by its hashtag #NiUnaMenos 'Not one [woman] less', is a Latin American fourth-wave grassroots feminist movement, which began in Argentina and has spread across several South American countries, which campaigns against gender-based violence. See *Ni una menos*, Wikipedia, https://en.wikipedia.org/wiki/Ni_una_menos accessed 7 November 2020; see also the organisation's website at <https://niunamenos.org.ar> accessed 2 January 2021.

18 Intersectionality as defined by Kimberlé Crenshaw refers to a specific kind of discrimination and vulnerability, resulting from the combination of gender, race, class, sexual identity as well as nationality or ethnic or indigenous origins. It is also a tool from social sciences for a better understanding of such minorities or vulnerable groups' situation and needs. See more in Kimberlé Crenshaw, *The Margins: Intersectionality, Identity Politics and Violence against Women of Color*, vol 43, (1991) *Stanford Law Review* 1241–1299,

19 The real names of the individuals involved have been changed to protect their privacy.

The trial began in October 2017. After a year of several hearings, a three-judge court found the defendant guilty of the charges of femicide (by two votes to one) and two charges of aggravated murder, based on the existence of a couple's relationship and the use of a weapon. The usual sentence in this type of case is life imprisonment. Since March 2019, the ruling has been under the jurisdiction of a superior court because the defence appealed.²⁰

At this point, we must highlight the terrific work of the Public Prosecutor during the trial. A Unit of the Public General Attorney Office Specialised in Violence against Women (Unidad Fiscal Especializada de Violencia contra las Mujeres or UFEM) intervened to monitor the hearings. Both agencies worked thoroughly with the witness testimony and material evidence, giving respectful treatment to the victim and her family. They also demonstrated other previous violent acts by the defendant against Ana that were relevant in support of the conviction.

However, when one of Ana's sisters, Sonia,²¹ asked for information during the preliminary stage of the investigation, she did not receive satisfactory responses. Despite her having visited the courts, the court officials generally did not pay proper attention to her, or she received only formal and technical explanations that she could not understand. It would have been impossible for Sonia to understand and to be kept up to date on every detail without a lawyer's help.

Our work therefore mainly consisted of looking for missing answers and information. The case was assigned to us around July 2017, months before the trial began. First, we needed to listen attentively to Sonia and her family about how they felt and what their expectations were on the case. We then met the prosecutor in charge of the trial, who explained to us how he worked. Once we gathered all the available information, we spoke to Sonia in clear and understandable terms. We discussed the shape we anticipated the trial would take (the steps, the parties, the formalities, her rights and obligations with the process, etc) and the work required in terms of gender violence evidence. Finally, we provided Sonia with legal assistance during the 14-month trial.

Sonia only attended the hearing in which she testified, not the others. She lived in an impoverished neighbourhood quite far from the court. She had a new-born baby and another little daughter who were under her care. The victim's family members were immigrants and unemployed, living in very vulnerable economic and social conditions.

What did we learn from the case? We confirmed that we can notably help our clients by communicating in clear terms and by explaining the laws of justice in simple language. People who have been constantly discriminated against by the justice system, as well as by society, change their feelings entirely when they receive assistance from a pro bono lawyer who is aware of their difficulties and vulnerability.

Unfortunately, this case is not an exception to our daily experience in court.

20 As of 4 February 2021, the case is still under review at the Chamber of Appeals.

21 The author has changed the name to protect this person's privacy.

On the one hand, the justice system has a severe problem with society in terms of communication. It fails to communicate clearly with the individuals involved in cases in an uncomplicated language that they understand. Justice is not for all if some citizens are unable to understand it, particularly for those mistreated because of their race, gender, or economic circumstances. On the other hand, workers in the justice system, as well as lawyers in general, do not share the same culture, perspective and origins of those whose cases are going through the courts. A system that treats people differently depending on where they came from and what they look like is not imparting justice, but rather perpetuating discrimination.

Furthermore, when they infringe the victim's – or her family's – rights, it implies more violence against women, violence that is produced by the state when its officials do not respond appropriately in a gender violence case. This problem is a particular aspect which we repeatedly find in similar situations, but pro bono lawyers can work actively for its prevention.

Finally, our pro bono clients come from the most poor and vulnerable margins of society and our work as lawyers goes beyond the legal assistance. We urged the court to hear Ana's family and help her sister Sonia comprehend the terms of a judicial ruling adopted in her sister's case. It required bridge-building between those women and the legal activity in their case. In the end we discovered that we can generate positive change in their lives. After all, that's where we can obtain meaningful success, through our expertise.

Establishing an identity at 54

Giuliana Miller²² and Francisco Bereciartúa²³

We first met Pablo in 2017, through one of the Access to Justice Offices. Since then we became involved in his story with a particular sensitivity. Pablo's case was rare: he had lived 54 years without being registered before the Civil Registry, consequently, without an ID.

Since he had no birth certificate or ID, Pablo could not gain access basic rights which the state to grants any individual.

As lawyers, we know that someone becomes 'a specific person' and not another one before the state and society at the moment when a birth certificate is issued and, at the other end of a lifetime, they cease to be a person on the drafting of a death certificate. In turn, each time citizenship constitutes a legal link which binds them to the state. Acknowledgement from the state is necessary for a person to become a 'citizen' and, as such, to acquire political rights and obligations, such as the right to vote and others which allow participation in public affairs.

22 Giuliana Miller is solo practitioner in Buenos Aires, who collaborated with the law firm of Zang, Bergel & Viñes Abogados on this case.

23 Francisco Bereciartúa was an associate in the law firm of Zang, Bergel & Viñes Abogados, Buenos Aires, Argentina, at the time of this case. He is currently pursuing advanced studies in Europe.

This is from where the great relevance of registered birth and acknowledgment of identity stem, considered as fundamental human rights.

Therefore, we became involved in Pablo's story and initiated a summary judicial procedure to obtain his birth registration and, later, a national identity document.

Pablo's life had not been easy, but his resilience and strength of will allowed him to overcome many obstacles and continue along his path. He was born in the Province of Misiones, located 800 kilometres (500 miles) from Buenos Aires. He travelled to Buenos Aires with his aunt at the age of eight. He lived there for many years, on the streets, sleeping in parks and seeking jobs at bars. He washed the dishes, peeled potatoes and swept shop floors, until he started working in construction in exchange for food and a roof over his head. If inspectors appeared, his work colleagues would whistle and he'd hide, because being a minor, he was an unreported worker. During his childhood, he could not access basic human rights such as going to school or being cared for in a public hospital. As an adult he had no access to formal employment, voting, or getting married. Years on, he was sleeping at a construction site until he could afford to rent a room thanks to his job. Pablo was always convinced that he needed an ID but he 'didn't know where to start' going about the process.

As the years went by, he met different people who promised to help him file for a national identity document, but, for various reasons, could not fulfil their commitment. The issue was that, not having been registered at birth, in the eyes of the state, Pablo did not exist. He was a 'nobody'. Without a birth certificate, no ID can be issued. Despite all these obstacles and his precarious and vulnerable situation, he never gave up the fight to establish his official identity.

A year later, he met his girlfriend and sometime later, their daughter Jazmín (now 12 years old) was born.

Time passed and Pablo eventually met a lawyer, Silvio, through one of the Access to Justice Offices. Silvio first contacted the Buenos Aires Bar Association's Pro Bono Work and Public Interest Commission. The commission received the case and sought a law firm interested in taking it on. That firm was Zang Bergel & Viñes and this is how we met Pablo and worked to assist his case.

The judicial proceeding was slow. First of all, we needed to conduct an investigation and submit witnesses to determine Pablo's age, time and place of birth, as he did not know exactly where or when he had been born. Our second challenge was that birth registration had to be filed in the province of Misiones and, given the distance between Misiones and Buenos Aires, we needed a lawyer to manage these distant proceedings.

Through the Federal Pro Bono Network and help from Gonzalo Vayo, a lawyer from the Pro Bono Commission, we met Manuel Giménez, a lawyer from Misiones. As soon as he learnt about the case, Manuel immediately offered to handle the proceeding locally. Soon after, Manuel reported that the birth certificate had been issued in the province of Misiones.

In 2018, although Giuliana ceased working for Zang Bergel & Viñes, her commitment to Pablo remained and she continued working on the case even though she was no longer part of the law firm.

After we managed to get a judge to issue a birth certificate and for the state to comply, the only matter remaining was for Pablo to obtain a national identity document. To this end, we assisted him in making an appointment for the issuing of an ID and, after waiting 15 days, on 11 March 2019, he obtained his national identity document. Two years had passed since our first contact with him, we could not believe it.

His joy and excitement was infectious. He even told us that the night before he had not been able to sleep due to all the excited anticipation.

Even though the process took two years, Pablo had spent 54 years without an official identity. The result came about due to the teamwork of the Access to Justice Office in Zavaleta neighbourhood, the City of Buenos Aires Lawyers' Pro Bono Commission, the Federal Network and every lawyer who got involved in the case.

Our client taught us many lessons: the importance of fighting for what one needs, overcoming hardships and moving forward, refusing to give up. Of course, on this journey, we also learnt about how to initiate a summary judicial procedure for birth registration, a proceeding which we were not familiar with at the time we met our client; but we learnt a lot more about the relevance of teamwork, access to justice, the reality many people like Pablo experience where the state cannot reach them, the role that lawyers can play in society and how valuable and fundamental our work can be. Pablo taught us humility, kindness and strength of will, even in the face of hardship. His experience is clear proof that the law can be a tool for social change if we learn how to use and apply it.

As lawyers, we are faced with great social responsibility. We must work on every story with special awareness, knowing that our commitment has the potential to change the lives of many who are in extremely vulnerable situations. Therefore, we are willing to continue adding volunteers to broaden our network, so that everyone can access exercise of their rights.

Class action case against the National Social Security Institute for its failure to pay benefits

Joaquín Ceballos²⁴

On 31 March 2020, through the Pro Bono Federal Network and with the legal assistance of Joaquín Ceballos (member of Pro Bono Federal Network and Beccar Varela lawyer), we filed a class action against Argentina's National Social Security Institute Administración Nacional de la Seguridad Social or ANSES, for the non-payment of certain social security benefits. The missing payments affected many women and children belonging to socially vulnerable groups throughout Argentina.

The importance of this class action is measured by the fact that in Argentina almost the 58 per cent of the urban population is considered part of socially vulnerable groups

²⁴ Joaquín Ceballos is a lawyer in the law firm of Beccar Varela, Buenos Aires.

and 36.6 per cent are in poverty. In effect, the incomes of these people and their families equate to just 1.5 times the cost of the basic market basket.²⁵ Consequently, these people are severely exposed to become even poorer due to the minimum of economic changes the country may face.

Such poverty means these families are unable to afford such basic necessities as food, clothing, health provision and decent living conditions. Most must live in slum towns, which also puts them into a position of being more susceptible to crimes such as robbery and murder.

In the context of the Covid-19 pandemic, Sara Barni (president of Red Viva, an NGO which protects women who have been victims of gender violence) got in touch with Pro Bono Federal Network to inform them that many women and children throughout Argentina were not receiving social security benefits to which they were entitled. On one hand, the class action was filed in representation of women and children since the ultimate beneficiaries are the children in charge of women. Due to the provisions of Argentinian civil and procedural law the children must be represented by their adults in charge. On the other hand, the statute of Red Viva enables the association to act in representation of women and children in this type of actions. The lawsuit was filed this way in order to help the children to perceive this social security benefits.

For the sake of clarity and, taking into consideration the severe effects of the pandemic, many people had been dismissed from their jobs and were having to rely on the payment of the social security benefits which were intermittent until they stopped receiving them altogether, thereby depriving them their only source of income.

Once we got to work on the case, we noticed that the lack of payment resulted from the application of section 3 of Necessary and Urgent Decree (NUD) No 593/16 ('NUD 593/16'), which had fixed a standard tax provision. Consequently, if those in receipt of social security benefits were not up to date with payments of their contributions to the tax authorities, ANSES could withhold and stop the paying out social security benefits.

As the pandemic spread through Argentina, many people were dismissed from their jobs, relying only on their social security but, logically, without any income, they were unable to settle debts with the tax authorities. By applying the provision of section 3 of NUD 593/16, ANSES stopped payments of social security benefits to thousands of women and children.

The lack of payment of these social security benefits has worsened the vulnerable situation in which these families, women and children were immersed and they needed an urgent solution to avoid the violation of their most basic human rights such as access to food, clothes and housing.

The Pro Bono Federal Network's work involved finding a solution for this social problem, relying on the experience of the network in strategic disputes which have a track record of finding solutions which have a social impact in Argentina. When making the case and considering the peculiar provisions of section 3 of NUD 593/16,

²⁵ The basic market basket is generally defined as the set of foods sufficient to satisfy the needs of an average household.

we concluded that there were only three ways to solve the problem affecting thousands of socially vulnerable. These were that:

- Congress could pass a new law modifying section 3 of NUD 593/16;
- President Alberto Fernandez could issue a new NUD to modify section 3; or
- we could file a class action pursuing a resolution in which a federal judge declares this provision unconstitutional, expanding the effect of this decision to the whole gamut of women and children affected.

After several days of scrutinising these cases we decided to base the petition of unconstitutionality on the fact that section 3 of NUD 593/16 infringes several laws and international instruments of human rights that are part of Argentinian National Constitution. The provision which had been legislated on tax law, is prohibited by Argentina's Constitution as among matters which cannot be regulated by NUDs.

As part of the class action, as a precautionary measure, we also asked the judge to order ANSES to immediately start paying all the social security benefits that had suddenly stopped being paid to these women and, in consequence, their children.

To date, the judicial procedure is in probationary stage and we hope the court will issue a resolution that recognises the basic arguments of the class action lawsuit in order to change the delicate situation in which thousands of women and children in Argentina find themselves.

Final appreciation: what pro bono success actually means

Fernanda Mierez,²⁶ Carolina Zang²⁷ and Delfina Balestra²⁸

Getting involved in pro bono matters results in the end in a transformative experience and we believe it is there where the real success stands. It requires the duly involvement in the way the aforementioned lawyers have shared by leaving aside their 'comfort zone' of the well-known daily legal work, to engage in new cases that also require them from time to time to work in collaboration with the network for the most neglected causes.

In each of the stories described in this chapter, we can conclude that three powerful things happen when getting involved in pro bono work:

- the impact that we can have as lawyers in changing the lives of many people who go through unjust situations;
- the certainty that our work helps hidden issues in order to make them known and understood by others who are also working on the same issues; and
- finally, the evidence that working together hand in hand with other colleagues provides a sense of real hope and success.

These stories are only a small portion out of the numerous ones that the 1,640 lawyers who are a part of the Pro Bono Commission have experienced. It is through each of the

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described cases that we want to evidence our commitment to continue providing access to justice, to promote the rule of law as a way to solve individual and community problems and to further the equality of all persons and institutions under the law.

To conclude, there is no doubt that pro bono work is our best option as lawyers to contribute for a much better society and to generate social impact for current and future generations.