

Pro bono as a means of eradicating poverty in Colombia

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Synopsis

The increase in poverty in Colombia in recent years reveals how challenging it is for public institutions to take effective action towards its eradication, in spite of international commitments made to the United Nations Sustainable Development Goals. With this in mind, civil society can support the public sector by taking action in the struggle against poverty and destitution using their wide breadth of professional abilities and knowledge. Lawyers have an important role in society, which consists not only in applying the rule of law but also in upholding justice for those who need it most. Through legal pro bono work, law firms and lawyers can help fight different forms of discrimination, and provide and support access to both justice and legal information. This chapter explains how pro bono work, focused especially on legal education for people living in poverty, is the best tool that lawyers can use to empower and educate citizens to help them overcome the challenges and struggles of poverty.

End poverty in all its forms everywhere

In 2015, UN Member States adopted the 2030 Agenda for Sustainable Development which provides a plan for peace and prosperity for people, including future generations and the planet. There are 17 Sustainable Development Goals (SDGs) which represent a call to action by countries participating in a global partnership.¹

The first goal is to ‘[e]nd poverty in all its forms everywhere’. To achieve this, it is important to establish ‘strategies that improve health and education, reduce inequality and spur economic growth – all while tackling climate change and working to preserve our oceans and forests’.² Although globally, extreme poverty has been declining, this does not prove to be the case in Colombia.

According to the information provided by the Colombian National Department of Statistics (*Departamento Administrativo Nacional de Estadística* or DANE, in 2018, poverty in Colombia reached 27 per cent, which represents 13,073,000 people living in poor conditions, 0.1 per cent more than in 2016. Extreme poverty reached 19.6 per cent (1.8 per cent more

1 UN, *Sustainable Development Goals* (25 September 2015), <https://sdgs.un.org/goals> accessed 2 January 2021. See also Appendix I.

2 *Ibid.*

than in 2016). This means that in just two years, 1,107,000 more people reached this level of poverty. Today, approximately nine million people live in these conditions in Colombia.³

Taking this into account, government intervention for the effective eradication of poverty and extreme poverty remains urgent. However, this cannot be left exclusively as a responsibility that pertains to public institutions. Civil society is equally responsible for addressing such an enormous challenge. Lawyers have their part to play in taking action to eradicate all forms of poverty by sharing their professional knowledge, providing aid for those who need it and reducing accessibility barriers to justice and legal advice which are often associated with lower social and economic status.

Human rights and legal needs

The international system of human rights has established several measures to eradicate poverty and extreme poverty with different actions, such as removing barriers concerning the accessibility to legal education. Access to justice is a guiding principle within the rule of law that has been recognised as a human right as well as a means of protecting additional rights.

Without access to justice, people are unable to exercise their rights, have their voices heard, overcome discrimination and seek to resolve their legal issues. Lack of access to justice is a problem mainly encountered by people living in poverty or extreme poverty conditions, as well as most socially or economically marginalised groups.

While access to justice is inscribed within Colombia's Constitution as a fundamental right, its enforcement is weak and intermittent. This poor implementation leaves citizens unprotected, increasing inequalities. It is therefore important to talk not only about access to justice but also about legal needs.

In Colombia, a survey taken in 2016 by the National Planning Department (*Departamento Nacional de Planeación* or DNP) regarding legal needs, showed that ten per cent of the Colombian population declared that they had at least one legal need, while 60 per cent had stated that this need had not been addressed or solved. The main categories of legal needs are health (23.4 per cent), family issues (19.4 per cent) and serious crime (13.9 per cent). These categories account for almost 60 per cent of citizens' legal needs in Colombia. Other categories include public services, armed conflict, environment, education, employment, land and discrimination.⁴

Legal actions that can be taken to solve these legal needs depend on the financial capacity of each person. According to the results of the survey, low-income people are more likely not to be able to deal with their legal issues. Additionally, people living under extreme poverty have greater legal needs than people living under other circumstances.⁵ This is a portrait of the close relationship between access to justice and poverty: if the state fails to guarantee

3 DANE, *Boletín Técnico: Pobreza Multidimensional en Colombia Año 2018*, (3 May 2019), www.dane.gov.co/files/investigaciones/condiciones_vida/pobreza/2018/bt_pobreza_multidimensional_18.pdf accessed 2 January 2021.

4 Departamento Nacional de Planeación, *Necesidades Jurídicas en Colombia* (May 2017).

5 *Ibid.*

effective access to justice, a vicious cycle will emerge, affecting those living in the poorest conditions the most.

This problem is even more important, if we consider that people living under these circumstances have less knowledge about their rights and how they can protect them through the legal system. This relates directly to the level of education to which they have access, people with less access to education also have less access to legal assistance. Therefore, one of the means to provide a solution for this problem is to educate people about their rights and the mechanisms they can use to protect them, both individually and collectively, for example, the right of having public services.⁶

Pro bono work to support access to justice

Colombia's Constitution incorporates legal, administrative and political participation mechanisms that allow citizens to engage in government decision-making process. Through these mechanisms, they can protect their rights without the need for a lawyer. These mechanisms are known as constitutional actions and in exercising them, it is possible to obtain the recognition and protection of fundamental and collective rights. But once again, lack of empowerment and knowledge play a role against the effective implementation of this legal framework.

In this context, legal pro bono work can be understood as a means to support the state's mandate to guarantee all citizens access to justice. Legal pro bono work aims mainly to: (1) reduce barriers to access justice for people on low-incomes; (2) support the development of transparent institutions at all levels; and (3) ensure public access to information and protect fundamental freedoms. In this sense, pro bono work contributes to poverty reduction by providing legal services without fees so that those on low-incomes gain access to justice.

More specifically, pro bono work includes providing legal education allowing legal knowledge to be shared without needing the intervention of many lawyers. Promoting access to justice in the main urban centres, but also secondary cities and rural districts in Colombia, helps ensure general access to legal information. Educating people and informing them about their rights and how they can act to protect them without the need for a lawyer is a way of positively changing their lives.

Free legal education classes are spaces where lawyers can talk with communities. It is possible for groups of people to express their problems and through these discussions with legal experts, they can ascertain whether their rights are being breached and how they can demand their protection.

Colombia requires civil society organisations to support its public institutions in the implementation of the 2030 UN Agenda for Sustainable Development. Consequently, having lawyers share their knowledge with people living in poverty empowers them in a way which can help transform the country.

6 M E Rota, S L Odóñez, S S Mora and R U Yepes, *Ante la Justicia: Necesidades Jurídicas y Acceso a la Justicia en Colombia* (Colección Dejusticia 2014).

Poverty and extreme poverty in Colombia

The concept of poverty has been defined as ‘the state of one who lacks a usual or socially acceptable amount of money or material possessions. Poverty is said to exist when people lack the means to satisfy their basic needs’.⁷ In turn, the UN has defined poverty as ‘the lack of income and productive resources to ensure sustainable livelihoods. Its manifestation includes hunger and malnutrition, limited access to education and other basic services.’⁸

It is important to note that there are different dimensions of poverty. There is poverty and extreme poverty (also known as abject poverty, absolute poverty, deep poverty or destitution). The World Bank defines extreme poverty as living on \$1.25 or less a day. Extreme poverty was defined by the UN in the *World Summit for the Social Development Report* of 1995 as ‘a condition characterised by severe deprivation of basic human needs, including food, safe drinking water, sanitation facilities, health, shelter, education and information. It depends not only on income but also on access to services.’⁹

Overall, the keyword for describing poverty is ‘necessities’ and how they cannot be satisfied by individuals. Poverty is measured by economic criteria, while abject poverty is generally measured by an extensive criterion that includes accessibility to some guaranties and its concept is also related to the context and the reality of each analysed group.¹⁰

As previously indicated, ending poverty is the first of the UN’s 17 SDGs. It is a top priority in the UN 2030 Agenda for Sustainable Development, because according to the UN in 2015, more than 736 million people were living below the international poverty line and ten per cent of the world’s population living in extreme poverty, struggling to fulfil the most basic needs.

Ending poverty has a set of seven targets:

1. By 2030, eradicate extreme poverty for all people everywhere, currently measured as people living on less than \$1.25 a day.
2. By 2030, reduce at least by half the proportion of men, women and children of all ages living in poverty in all its dimensions according to national definitions.
3. Implement nationally appropriate social protection systems and measures for all and by 2030 achieve substantial coverage of the poor and the vulnerable.
4. By 2030, ensure that all men and women, in particular the poor and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources,

7 *Poverty*, Encyclopaedia Britannica (15 June 2020), www.britannica.com/topic/poverty accessed 2 January 2021.

8 UN Department of Economic and Social Affairs, *Poverty Eradication* (2020), www.un.org/development/desa/socialperspectiveondevelopment/issues/poverty-eradication.html accessed 2 January 2021.

9 UN Department of Economic and Social Affairs, *World Summit for the Social Development Report*, Chapter 2 (1995) www.un.org/development/desa/dspd/world-summit-for-social-development-1995/wssd-1995-agreements/pawssd-chapter-2.html accessed 2 January 2021.

10 See generally Institute for Research on Poverty, University of Wisconsin – Madison, www.irp.wisc.edu accessed 2 January 2021.

appropriate new technology and financial services, including microfinance.

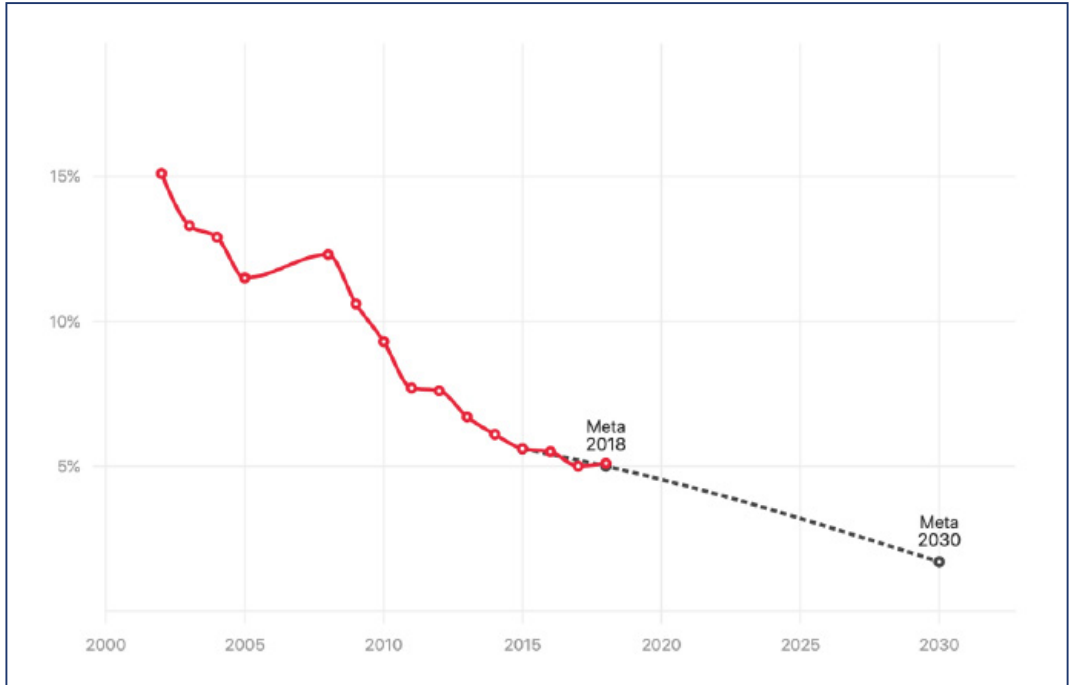
5. By 2030, build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and other economic, social and environmental shocks and disasters.
6. Ensure significant mobilisation of resources from a variety of sources, including through enhanced development cooperation, in order to provide adequate and predictable means for developing countries, in particular least developed countries, to implement programmes and policies to end poverty in all its dimensions.
7. Create sound policy frameworks at the national, regional and international levels, based on pro-poor and gender-sensitive development strategies, to support accelerated investment in poverty eradication actions.

To meet these targets, each Member State should take all necessary actions to set effective policies in place. There is a support network composed of the UN systems, NGOs, aid agencies, development banks and philanthropists, among others, that facilitate economic and technical resources to carry out these actions. However, there are countries where this institutional effort fell short and support from local stakeholders is also needed to guarantee success.

Colombia is one such example. In the country, according to information provided by DANE, the multidimensional poverty index (MPI) for 2018 was 19.6 per cent, compared to 17.8 per cent in 2016. This means that the MPI increased by 1.8 per cent or, in other words, 1,107,000 people entered multidimensional poverty. In terms of poverty for 2018, 27 per cent of the total population were living under poverty conditions and 7.2 per cent were living under extreme poverty conditions. In other words, 190,000 people entered the poverty line and 26,000 came out of extreme poverty.

If these numbers are looked at in light of Colombia's goal to reach the seven targets of the SDGs, it is evident how, over the last few years, the effectiveness of the policies and actions has diminished. Figure 1, taken from the official government portal to report on SDGs achievements, shows an increase in the percentage of people living in conditions of extreme poverty. Similarly, Figure 2 shows the increase in the percentage of people living under multidimensional poverty.

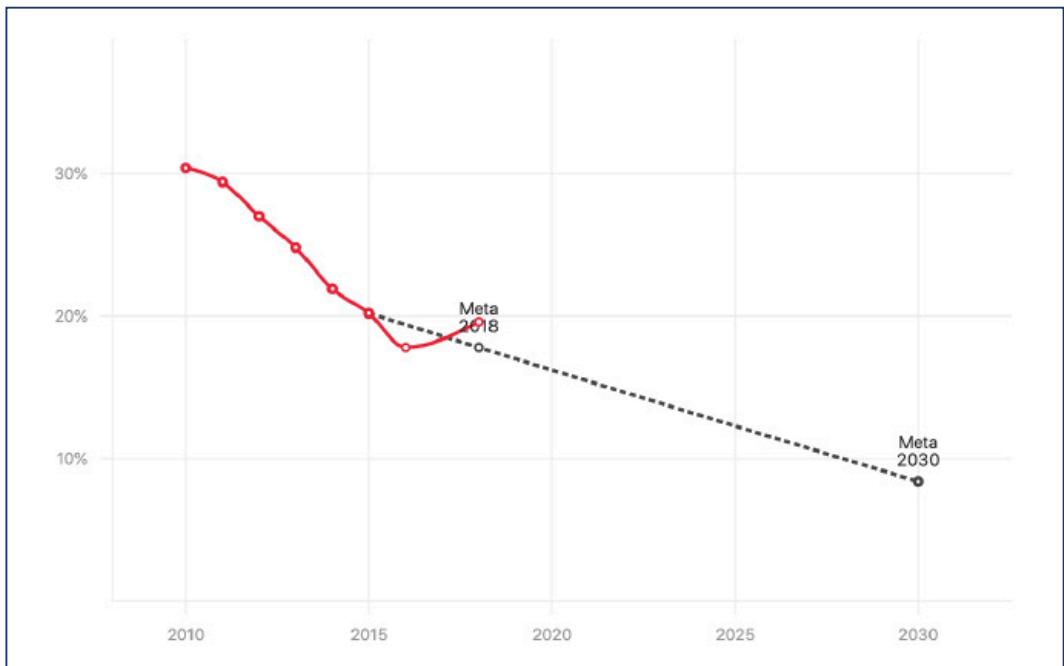
Figure 1: people living in extreme poverty conditions – goal versus reality



Source: SDGs Colombian Report¹¹

11 The 2030 Agenda in Colombia, www.ods.gov.co/es accessed 2 January 2021.

Figure 2: people living in multidimensional poverty conditions – goal versus reality



Source: SDGs Colombian Report¹²

When it comes to effective action, the UN international human rights system argues that states must adopt strategies to reduce poverty and social exclusion, and ensure public policies for people who are living in extreme poverty based on a human rights approach.¹³

Furthermore, the International Human Rights Systems accepted that poverty is linked to human rights. According to the Office of the UN High Commissioner for Human Rights, poverty can be defined either as the failure of basic freedoms (from a capability perspective) or the non-fulfilment of rights to those freedoms (from a human rights perspective). A human rights approach to poverty reduction includes: empowerment and participation; recognition of the national and international human rights framework; accountability; non-discrimination and equality, and progressive realisation. Different dimensions of poverty can be addressed more effectively in Poverty Reduction Strategies (PRSs) by taking a human rights approach. Poverty reduction and human rights are two mutually reinforcing approaches to the same project.¹⁴

Taking into account that Colombia signed and approved the American Convention on Human Rights, which is also known as the Pact of San José, the Inter-American Rights System is enforced in Colombia. This means that these rights are included in Colombia's

¹² *Ibid.*

¹³ UN, Guiding Principles on Extreme Poverty and Human Rights (2012).

¹⁴ UN High Commissioner for Human Rights, Human Rights and Poverty Reduction: A Conceptual Framework (2003) www.ohchr.org/Documents/Publications/PovertyReductionen.pdf accessed 2 January 2021

Constitution and must be protected by all state entities and individuals.

As stated by the Inter-American Commission on Human Rights¹⁵ (Humanos, 2016), human rights have three basic characteristics. Human rights are:

- inalienable, because they cannot be denied, taken away or transferred by any means, (after all, they are linked to human existence);
- inseparable, because they are intrinsically connected and cannot be isolated from other rights; and
- universal because they apply equally to all people around the world and do not have a time limit.

DANE uses different methods to measure each of the poverty classifications to reach an accurate estimate of the number of people who are in unfavourable conditions in Colombia. It is important to highlight the different variables that are taken into consideration to understand their relationship with the human rights approach to fighting poverty:

- *direct measure* – the satisfaction that individuals get from some vital necessities including health and education;
- *indirect measure* – the capacity of acquiring goods and services;
- *education conditions of the family* – reflecting the education level of all household members, including the possible social mobilisation this represents; and
- *socio-economic conditions* – including health, labour, access to public services and housing conditions.

This broad approach to poverty, which considers several variables that transcend the monetary spectrum, provides a full range of possibilities where further actions can be developed. Therefore, including different stakeholders both in the policy discussion process but also in its implementation can improve the country's performance for achieving the SDGs targets.

According to the *Sustainable Development Report*,¹⁶ Colombia's performance in eradicating poverty has moderately improved, but this trend is insufficient to attain the goal. However, significant challenges remain and they should be addressed so that the goal can be achieved. As mentioned, some international organisations have accepted that there is a bond between human rights enforcement and the effects of poverty, specifically, in the ways that this phenomenon reduces those rights because of the indivisibility and the independence of human rights.¹⁷ Generally, access to education, acknowledgment of rights, empowerment and active participation provide enough tools to individuals so that they can influence their realities.

15 Inter-American Commission on Human Rights, Informe Preliminar Sobre Pobreza, Pobreza Extrema y Derechos Humanos en las Américas (2016).

16 UN, *Sustainable Development Report: Colombia* (2020), <https://dashboards.sdgindex.org/profiles/COL> accessed 2 January 2021.

17 *Ibid.*

Access to justice in Colombia

Access to justice is a basic principle of the rule of law that has been recognised as a human right and as a means to uphold and protect other human rights. Without access to justice people are unable to exercise their rights, have their voices heard, fight discrimination and seek for the resolution of their judicial problems. Lacking access to justice is a problem mainly suffered by those who live in conditions of poverty or extreme poverty and in general, all marginalised groups.

In Colombia, the Constitution¹⁸ provides for justice administration as a public service. Colombia's legal framework states the right to access justice in equal conditions for all citizens, while in parallel, it incorporates legal, administrative and political participation mechanisms that allow active participation in government decision-making processes.

It is interesting to note how, for exercising participatory rights, there is not always the need to have a lawyer. For instance, the participation mechanisms that were incorporated in Colombia's Political Constitution, known as constitutional actions, aimed to protect and guarantee the rights of each individual and their community do not need lawyers to be filed.¹⁹ The fact that these rights can be exercised by individuals or communities, proves the importance of legal education as a way of recognising rights and empowering the means to claim them.

In addition to its constitution, Colombia approved Law 270 of 1996, which is the statutory law for administration of justice. This law reinforces the rule that administration of justice is a public service but also introduces the concept that it is a basic function of the state. Consequently, in order to guarantee rights, obligations and freedoms of citizens, a robust system for the administration of justice must be set in place. Moreover, the state should ensure access to justice to everyone in equal conditions, so that individuals can exercise their rights.

With this information, it will be safe to say that the Colombian state recognises access to justice as a human right protected by the Constitution. Unfortunately, this is a right that exists on paper, but the enforcement of this principle is weak. This leads to the recognition of yet another challenge, which is unattended legal needs. This phenomenon increases directly proportional to the barriers to accessing justice. If people cannot access justice, they will not be able to solve their legal needs.

In this regard, the DNP survey of legal needs in 2016²⁰ aimed at understanding challenges around access to justice and legal needs and at promoting the creation of the Access to Justice Index in order to understand the effective access to justice in different regions of the country. The survey showed that ten per cent of the Colombian population has at least one legal need and that 60 per cent of the people that declared having a legal need also stated their problem remained unsolved. It is important to state that the DNP considers that the ratio of declared legal needs versus the estimated legal needs is one-in-six. Therefore, with

18 Political Constitution of Colombia (1991), Arts 2, 228–229.

19 *Ibid*, Arts 40, 86–88.

20 Departamento Nacional de Planeación, see n 4 above.

currently legal needs in Colombia at around 60 per cent, this speaks poorly about access to justice and the reliability of institutions.

Referring back to the results of the declared legal need study and the three main categories which make up for almost 60 per cent of legal needs in Colombia. The main reason the poor are unlikely to do anything to alleviate their legal problems is that it takes too much time and economic resources to solve. In addition, variables such as unawareness of the process, fear of the consequences and lack of confidence in the authorities play an important role when it comes to alienating people from the justice system.²¹

If we also consider that they do not solve their problems with direct agreements and they rarely go to a third party to solve their problems, they are exposed to situations of continuous abuse. For people living below the poverty line, decisions made in their favours are achieved at a lower rate.²²

Access to justice is a multi dimensional process which allows citizens to solve their legal needs effectively, promote inclusive growth and have effective access to justice. A sustained effort is needed to achieve this. Any solution must involve geographic accessibility, legal education, reduced costs and fees, legal assistance, the presence of authority in all the territory (judicial and administrative authorities), efficiency and successful completion of the judicial determination.²³

As mentioned above, achieving general access to justice that will have a positive impact on people living in conditions of poverty requires an effort that cannot solely rest on public institutions. A complementary effort from the private sector can help change specific but strategic realities and help overall in attaining the UN 2030 Agenda for Sustainable Development. We therefore believe that through pro bono work it is possible to achieve the objectives set by the international system to eradicate poverty and abject poverty, by working towards universal access to justice and specifically, access to legal education which will contribute to eradicating access barriers.

Pro bono legal work in Colombia

Pro bono is currently undertaken to designate free and voluntary legal work to support low-income populations, who have difficulty in accessing justice, by providing specialised legal advice seeking to guarantee justice for all.²⁴

Pro bono work in the US has been provided by law firms, bars associations, public interest organisations and law schools for several decades. However, in Latin America, despite having a low rate of access to justice, it was not until as recently as 2008, with the launch in Mexico of the *Pro Bono Declaration for the Americas*,²⁵ that pro bono work in the region significantly

21 *Ibid.*

22 *Ibid.*

23 See n 4 above.

24 Declaración de Trabajo Pro Bono para el Continente Americano (2008), www.urosario.edu.co/Facultad-de-Jurisprudencia-1/Documentos/Declaracion_Probono_2012.pdf accessed 2 January 2021.

25 *Ibid.*

took off. The declaration's signatories undertook, inter alia, the following commitments for all lawyers to:

- provide legal services without a fee because of their moral responsibility to promote a fair legal system as the respect of human and constitutional rights;
- carry out tangible actions to improve legal representation and legal assistance for marginalised individuals and communities;
- provide at least 20 hours or three days per year pro bono legal services per lawyer; and
- promote among lawyers the knowledge of pro bono legal services as an ethical duty of the profession.

According to the *Latin Lawyer* and the Vance Center's 2019 survey of all the firms that are signatories to the *Pro Bono Declaration for the Americas*:²⁶

- 83 per cent of the firms are members of a foundation or clearinghouse;
- 67 per cent of the firms provide funding to clearinghouses;
- 25 per cent of the firms did in excess of 1,000 hours of pro bono work in the year; and
- in 30 per cent of the firms, associates do at least 20 hours' pro bono work per year.

Despite there being a considerable amount of work ahead for Latin America to guarantee access to justice over the entire region, the growth of pro bono work is indisputable. More law firms are seeing the benefits of such work and, consequently, they are dedicating even more time to pro bono activities. This, in turn, has resulted in more firms becoming parties to the Declaration.

Subsequently, in Colombia, Fundación Pro Bono Colombia (FPBC), a non-profit-making body, was created by 14 firms in 2009, with the aim of institutionalising and publicising pro bono work. The FPBC promotes a pro bono culture by providing both firms and independent lawyers with pro bono work opportunities to assist communities and individuals. But unlike the survey carried out by *Latin Lawyer* and The Vance Center, there is currently no data to assess the impact of pro bono work undertaken in Colombia.

Each year, the FPBC does, however, measure the pro bono work of its member firms, which gives us an indication of pro bono culture in Colombia. From the creation of the FPBC, the pro bono culture has been consolidating. Today, the foundation has 84 members among law firms, legal groups, universities and independent lawyers, in the major cities of Bogotá, DC, Medellín and Cali, therefore taking pro bono work to 13 regions.²⁷ FPBC members attended 596 cases in 2019, with 114 of these including legal advice to legal entities, 331 to individuals and 151 cases with direct impact on the communities.²⁸

The FPBC has as its strategic framework approach to cases which have a personal impact and cases with a collective impact. The first group includes legal consultations with individuals and institutional consultations for legal entities, such as non-profit organisations,

26 Frederick Karlson, *Latin Lawyer and The Vance Center's 2019 Pro Bono Survey* (9 June 2020), www.vancecenter.org/wp-content/uploads/2020/01/2019Pro-Bono-Survey-FINAL.pdf accessed 2 January 2021.

27 The Departments of Magdalena, Atlántico, Antioquia, César, Norte de Santander, Santander, Boyacá, Cundinamarca, Tolima, Chocó, Valle del Cauca, Cauca and Nariño.

28 Fundación Pro Bono Colombia, *Informe de Gestión* (2019).

micro-entrepreneurships and social entrepreneurship. The second group includes free legal education, general legal advice sessions, strategic litigation, legal investigations and communitarian projects.

The FPBC and its active members do an impressive job not only in Bogotá, DC, where the head office is located, but across the whole of Colombia, serving as an organisation that provides access to justice to disadvantaged individuals, communities and organisations. The FPBC reported that, in 2017, the services provided in Colombia grew by about 36 per cent. It is important to highlight the work undertaken by the FPBC in the field of free legal education classes. Since 2010, the FPBC has provided 271 sessions of free legal education, including:

- In the district of Río Quito (Department of Chocó) the FPBC and law firm Gómez-Pinzón have worked with the Community Council and the community in general, providing them with a legal education on how to protect their environmental and human rights. Lawyers have also produced a handbook on constitutional mechanisms for the community to help protect their rights.
- The FPBC and Gómez-Pinzón, among other law firms²⁹, have worked with Venezuelan immigrants to give 26 free legal education classes. In these classes, lawyers explained the general regulations in Colombia applicable health, employment, education and migrant status. Lawyers also produced an immigrants' rights handbook for the group.
- The FPBC and Gómez-Pinzón worked with three peasant farmer organisations in the Department of Cauca, which seek to overcome internal armed conflict and build peace within their territory. The project's aim was not only to help these organisations, but to educate peasant farmers about applicable laws, empowering them with knowledge about their rights.
- The FPBC worked with a group of women community leaders and victims of sexual violence in the armed conflict, giving them free legal education classes on family law³⁰ and class actions.
- The FPBC and Gómez-Pinzón worked with children and teenagers in free legal education classes on educational rights. To make this easier to understand, the lawyers produced a handbook to support the sessions.
- FPBC and the National Business Association of Colombia (Asociación Nacional de Empresarios de Colombia or ANDI) cooperated in the programme Vamos Colombia, a corporate volunteer project that focused on helping vulnerable people in four different regions: Cucuta, Guajira, Villa del Rosario and Urabá. During this programme, lawyers held a regional legal aid clinic to serve vulnerable people and give useful information to the community members on their rights.

Despite these efforts, a pro bono culture has not yet been adopted yet by all lawyers, due to many factors. For example: that doing pro bono work is not a requirement for obtaining

²⁹ Brigard & Urrutia, Posse Herrera Ruíz and Baker Mckenzie.

³⁰ The free legal education classes covered parental authority, custody, personal care of minors and alimony.

the professional lawyer's card; pro bono work is not established as an ethical obligation; and law firms do not promote this work enough or incentivise their lawyers to take on pro bono cases.³¹

Considering that Colombia ranks second in the world in terms of its number of lawyers per inhabitant, the level of pro bono work should be much higher. In Colombia, there are 355 lawyers per 100,000 inhabitants, or a total of approximately 420,000 lawyers. Unfortunately, lawyers are not taught about ethical values which would encourage them to improve the wellbeing of others through their own professional life. Despite this outlook, pro bono work is a nevertheless growing culture in Colombia and its positive effects are more noticeable each day.

Pro bono to reform legislation

As the FPBC directs pro bono cases to promote this type of work to different law firms or independent lawyers, it is also important that pro bono work aims to develop strategic lawsuits, also known as strategic litigation. This is the selection of cases to be brought before courts with the purpose of creating broader changes in society. Generally, these cases are concerned with the effects that they will have on larger populations and governments.³²

As this kind of litigation may represent different changes in Colombian legislation and the reality of different groups in the society, we must pursue social justice to achieve social changes for many communities, including: the LGBTI community, the Afro-Colombian community, indigenous communities, people living in poverty conditions and the elderly.

These lawsuit cases may change diverse aspects of the society and confer different rights and guarantees to the members of the above groups or communities, for example, marriage equality for the LGBTI community. Pro bono work therefore allows citizens to enjoy their rights and encourages the government to develop policies to reduce poverty and improve access to education and legal education

Pro bono and legal education

The UN SDGs promote the conclusion that fighting poverty demands that Member States promote peaceful and inclusive societies. This involves upholding the rule of law and ensuring equal access to justice for all.³³

As mentioned before, pro bono work aims to reduce those barriers and allow access to justice to those on low-incomes. It also aims to develop transparent institutions at all levels,

31 An example of the lack of commitment of law firms in Colombia is that only one firm in the country, Gómez-Pinzón, has a full-time pro bono coordinator.

32 Child Rights International Network, *What is Strategic Litigation?* (2018), <https://archive.crin.org/en/guides/legal/guide-strategic-litigation/what-strategic-litigation.html> accessed 2 January 2021.

33 UN Department of Economic and Social Affairs, #Envision2030 Goal 16: Peace, Justice and Strong Institutions (2020) www.un.org/development/desa/disabilities/envision2030-goal16.html#:~:text=Goal%2016%3A%20Promote%20peaceful%20and,inclusive%20institutions%20at%20all%20levels&text=Significantly%20reduce%20all%20forms%20of%20violence%20and%20related%20death%20rate accessed 2 January 2021.

ensuring public access to information and the protection of fundamental freedoms. For these reasons, giving legal services without fees represents an effort by lawyers to help those on low-incomes attain access to justice.

The FBPC, for example, has developed different media to explain relevant topics to communities and individuals. Topics include legal actions, human and constitutional rights, employment rights, civil rights, immigrant rights, senior citizens' rights and environmental law.

Lack of access to justice has been recognised by international courts as an important matter that affects the sphere of other fundamental rights such as education, the right to freedom and especially the right to pursue constitutional remedies. As Colombia's Constitutional Court stated, civil and social rights must be progressively developed by the state. Due to this obligation, states must develop:

- public policies to guarantee the use of the aforementioned rights in tangible ways;
- greater public participation in political decisions; and
- ways to report rights violations.³⁴

It is important to develop public policies that promote a general knowledge about legal remedies, legal actions and constitutional actions. The International Court on Human Rights mentioned the importance of the existence of accurate procedures without unreasonable costs that limit access to justice and implicitly promote the criticised harms.

As an effective policy, the state could produce and deliver legal education to citizens to help reduce their lack of access to justice. This is also because in some cases, there are administrative procedures which citizens can access without a lawyer, but they nonetheless need to know how to meet such requirements as filing regulations and exercise their rights to appeal administrative decisions.

As an example, public services in Colombia are provided by different sorts of authorities, which in turn have different administrative stages and procedures to respond to consumer requirements. Frequently, citizens do not know all the mechanisms and stages by which can be used to solve their problems. For instance, they do not know or ignore that the Superintendence of Public Services is the second stage for filing claims regarding public utilities. Pro bono work can give citizens knowledge about these concerns through legal education:

- the structure of the Colombian state and its different competent authorities;
- authorities that provide legal services at no cost;
- relevant authorities for the filing of claims; and
- definition and scope of public services.

Citizens would therefore improve their knowledge about the different authorities, remedies and available legal actions to solve their legal matters, without unreasonable fees and in some cases, even without the intervention of third parties. Additionally, people in Colombia

34 Óscar Parra Vera, *Notas sobre acceso a la justicia y derechos sociales en el Sistema Interamericano de Derechos Humanos*, 50 Revista IIDH 131 (2009), <http://www.corteidh.or.cr/tablas/r25531.pdf> accessed 2 January 2021.

do not know about the existence of the office of the ombudsman Defensoría del Pueblo or its functions. This office aims to promote the respect for human rights. It represents any citizen who needs its services without fees.

Similarly, Colombia's Constitution incorporates legal, administrative and political participation mechanisms. These mechanisms are known as constitutional actions and in exercising them, it is possible to protect and guarantee individual and collective rights without the need of a lawyer.³⁵

The exercise of these actions allows for the recognition of an individual's rights. In other words, these actions benefit each person as an individual and at the same time each person as a member of a community. Unfortunately, people do not have this information about this as clearly as they should and the lack of knowledge plays a negative role in the effective implementation of this legal framework.

We believe there is a lack of information and education regarding legal and judicial matters and that people are not making use of all the elements offered by the legal system to protect and guarantee their rights. We also consider that the lack of access to justice primarily affects those on low income, the LGBTI community, indigenous communities and the elderly, among other vulnerable communities. This is why we regard pro bono work as a tool to avoid the negative consequences of a lack of justice.

As mentioned earlier in this chapter, one of the most important topics regarding extreme poverty is the gap between urban and rural areas, as rural areas usually suffer the most as a consequence of poverty. This means that pro bono work should try to reach out to as many people as possible and as far as possible into all regions of Colombia.

This represents a challenge as the pro bono culture has not been adopted by all lawyers and law firms nationwide and therefore, there are not enough people available to take on pro bono cases. This is why free legal education classes are the vehicle through which pro bono work can be achieved, bringing it closer to people and their communities throughout the regions.

Promoting access to justice in communities in the most remote areas of Colombia, who badly need it to improve their living conditions, is an important responsibility for lawyers. Teaching citizens about their rights and how they can defend them without having to resort to lawyers, is a way of enabling the marginalised to improve their lives.

Education is a mechanism through which cultural exchanges help to incentivise lawyers to undertake this type of work when encountering other day-to-day challenges and allowing them to see the impact their work could have in influencing the lives of vulnerable people and communities. Consequently, this work benefits both the community and the lawyer involved. At the same time, this type of activity encourages pro bono work among more lawyers, helping to expand the pro bono service culture in Colombia's legal community.

In practice, pro bono work faces many obstacles and challenges. Addressing these issues means being active and not waiting for clients to come to lawyers to seek help. Rather we, the lawyers, should be going out to identify people, communities and realities to which

35 Political Constitution of Colombia (1991), Arts 40, 86–88.

to contribute. The everyday reality of Colombia often fills us with feelings of helplessness, making us believe that we cannot change the status quo, but we do have the abilities and skills to share our knowledge. In this way, we can help to produce significant changes in the lives of those who receive pro bono services.

The reality of the territory of Colombia requires us as lawyers to share our knowledge with the people who need it most. This means reducing existing geographic and social gaps among large cities, towns and the countryside. Covering the whole of Colombia is probably an impossible task, but educating and empowering people is the way to transformation.

Conclusion

A lawyer's profession incorporates an undeniable social commitment which no one should ignore. However, the lack of a pro bono work culture and, in many cases, the lack of knowledge about pro bono work results in many legal professionals not engaging in this type of work. This trend has also been contributed to by a lack of legislation which encourages and regulates pro bono work or the absence of a bar association requirement that their members undertake this type of work. These are the reasons why, unfortunately, pro bono work in Colombia is carried out by few lawyers.

The importance of pro bono work is that it has significant positive impacts on the lives of those who need it most. It can also contribute to the eradication of poverty by helping citizens to access legal education and reduce barriers to access to justice.

People living under conditions of extreme poverty have more and greater legal needs than those who live in other economic circumstances. This is a major problem when we consider that people living in these circumstances have less knowledge of their rights and how they can protect them through the justice system. This is directly related to their level of education, as people with less education receive less legal assistance. We therefore believe that pro bono work, focused on legal education, contributes to eradicating poverty and barriers to access to justice.

Access to justice for those on a low income can be achieved through pro bono work. However, the real challenge lies in how to reach a greater number of people, as the number of lawyers currently offering pro bono is insufficient to cover all marginalised citizens' needs. Free legal education is the way to achieve this. With free legal education classes, people and communities are empowered by knowing their rights and how to protect them. These classes are a way not only for pro bono lawyers to cover more territory but also to reach more people without having to meet each person face-to-face.

Pro bono work is among the tools to eradicate poverty and extreme poverty because it contributes to the fight for equal rights, access to basic human services, natural resources and economic services. It also reduces exposure to factors which affect their rights and hit disadvantaged people the hardest, such as social and economic issues and natural disasters.

Legal education gives a voice to those who have previously been left behind and have not yet had suitable opportunities to be heard. These educational spaces are not only for

them to speak and feel that they have been heard, but they are also places to learn how to participate. In other words, people will learn how to interact effectively with the state and with any private party which violates or threatens to violate their rights, as well as to help prevent them from being victimised in the future.

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