



Pro Bono & The Legal Profession:

**Strengthening**  
**ACCESS to**  
**JUSTICE**

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## COUNTRY REPORT

### ARGENTINA



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# **REPORT**

## **Introduction**

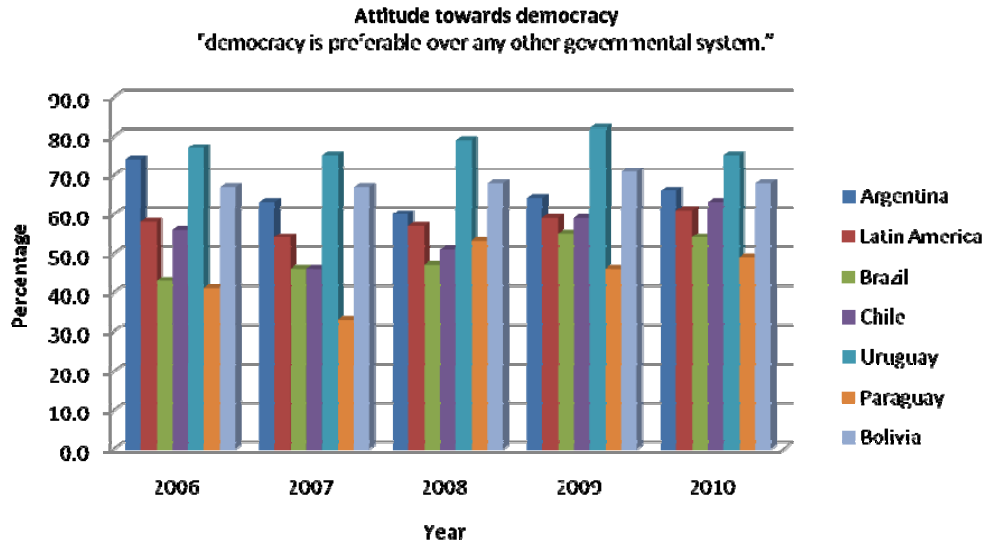
In general, the legal profession as a subject matter is not studied or monitored consistently by any particular institution, although there are many non-governmental organizations that gather data in connection with low income citizen's access to justice. There is no statistical data regarding the practice of law in the country specifically. Public information is very limited and is focused mainly on the City of Buenos Aires or certain major cities and, therefore, does not cover Argentina as a whole.

Although over the past decade the number of non-governmental organizations devoted to the area of justice has grown, there is still a lack of communication and cooperation between the different entities that are part of the judicial system such as public and private universities, federal and provincial governments, NGOs, bar associations, private professional associations and law firms. This presentation gathers information from different public sources in an attempt to provide a general view of the legal profession's status in Argentina.

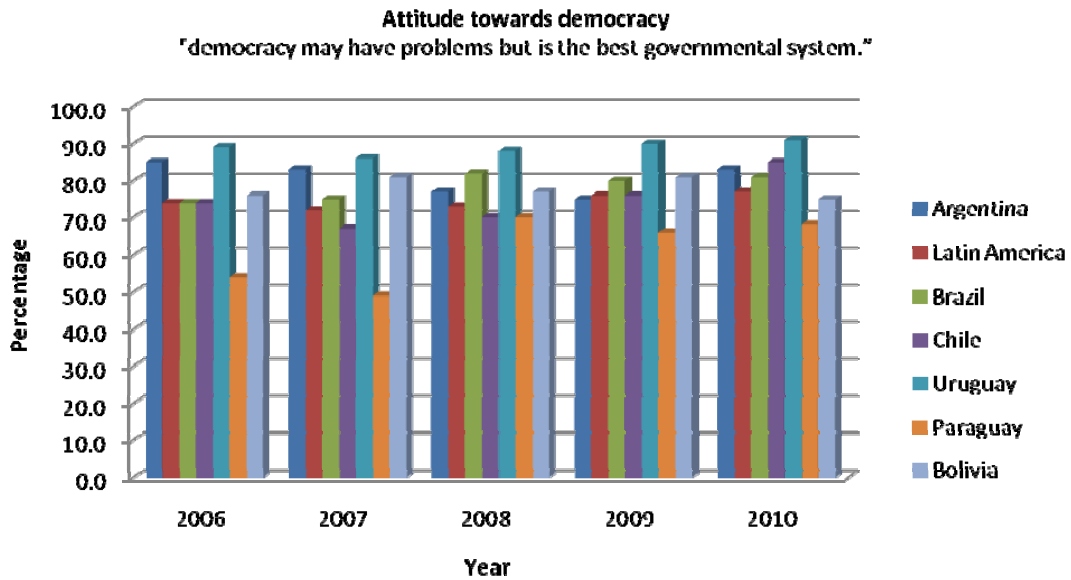
## **Public attitude towards democracy, the rule of law, access to justice, the legal profession and the judicial system.**

### *Attitude towards democracy.*

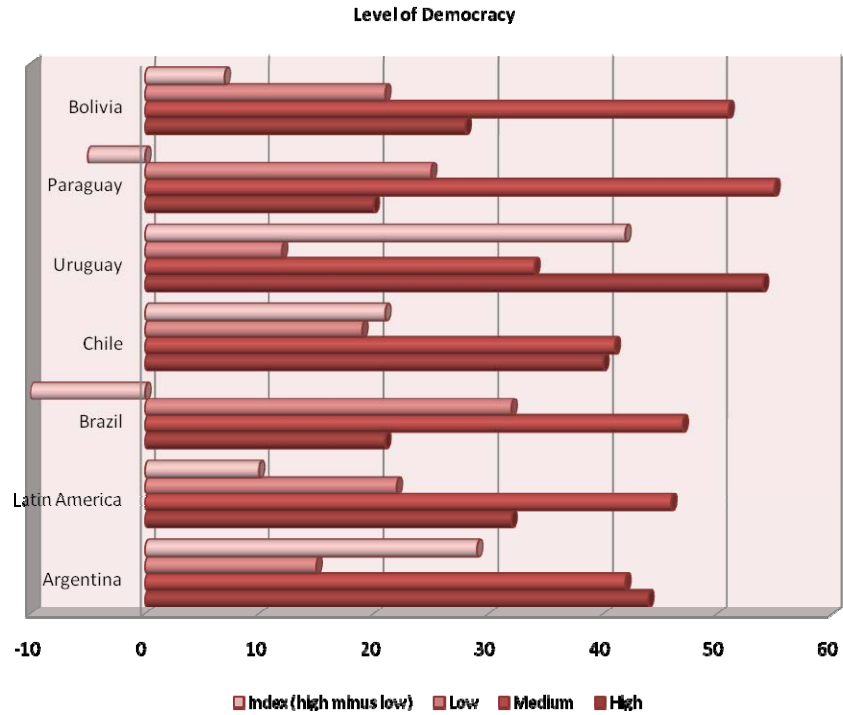
In 2010, 66% out of a representative sample of the Argentine population<sup>1</sup> believed that democracy was "preferable over any other governmental system." Over the last couple of years this trend has been relatively constant and usually surpassing the percentages of the region and Argentina's neighbor countries (Argentina has only been surpassed by Uruguay during some years).



Moreover, in 2010, 83% of the Argentines seemed to agree that “democracy may have problems, but is the best governmental system.”<sup>ii</sup>



Finally, Argentina seems to have a “high level” of democracy,<sup>iii</sup> positioning itself amongst the most democratic countries of the region.



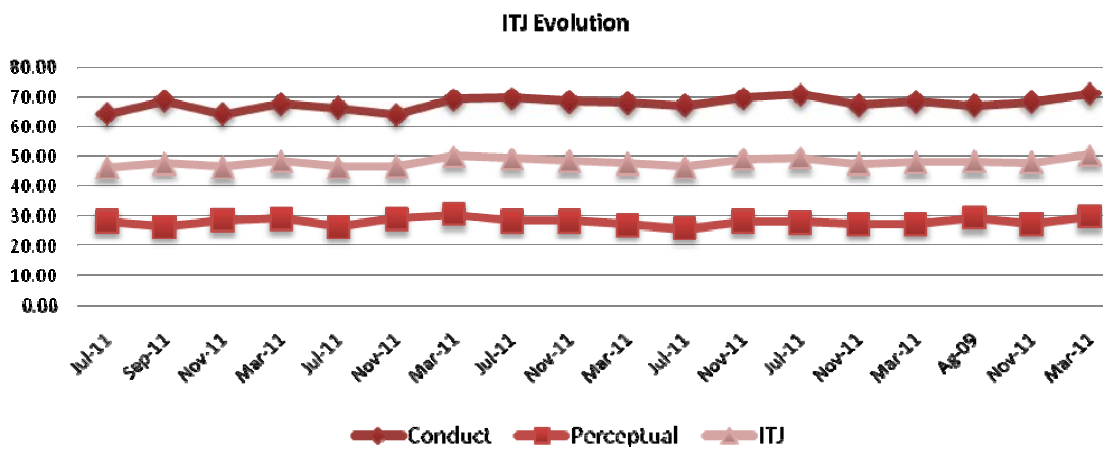
***Attitude towards the rule of law.***

In general, “any observer can easily conclude that Argentina is currently immersed in a long and sustained decadence of the rule of law.”<sup>iv</sup> One of the main problems of Argentine society is the lack of respect towards rules. Law abidance is not among the main values shared by Argentines. In 2004, when asked whether law abidance is a value in the Argentine society, only 5% of the opinion leaders answered “very much so” and 26% of the “public opinion of the metropolitan area” replied “very much so” to the same question.<sup>v</sup>

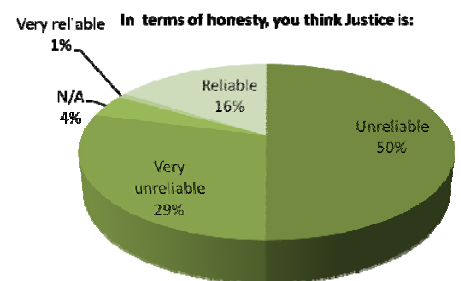
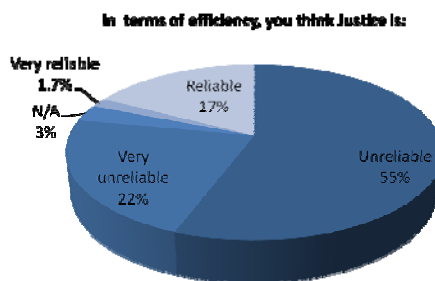
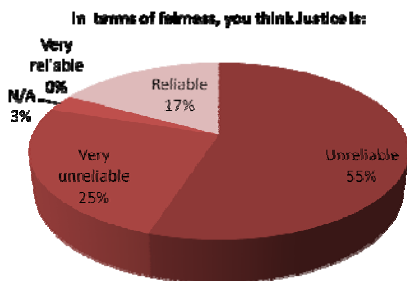
***Attitude towards justice and the judicial system.***

The School of Law of *Universidad Torcuato Di Tella*, *FORES (Foro de Estudios sobre la Administración de Justicia)* and *Fundación Libertad* have been periodically elaborating an Index of Trust in Justice (“ITJ”).<sup>vi</sup> The aim of such index is to measure the evolution of public opinion towards justice and the judicial system. It has been designed not only to capture possible behaviors of the population in response to actual judicial conflicts, but also the general opinion of the citizenship about Argentine justice.

The ITJ is composed by two sub- indexes, one considering conduct and the other perception towards justice and the judicial system. The first one aims to capture the conduct of people towards (patrimonial, family or labor) law conflicts for which they can resort to justice. The perception sub-index aims to capture the people’s opinion of justice in terms of fairness, efficiency and honesty. As of March 2010, the ITJ was of 50.5 (over a scale between 0 representing minimum trust in justice and 100 representing maximum trust). The table below shows the evolution of the ITJ and its sub-indexes during the last years.



It is interesting to see how Argentine citizens will, in fact, resort to the judicial system although their perception of it is sometimes negative. As of March 2010, more than the half of those covered by the survey answered that justice was “unreliable” in terms of fairness, efficiency and honesty. The charts below illustrate the results.



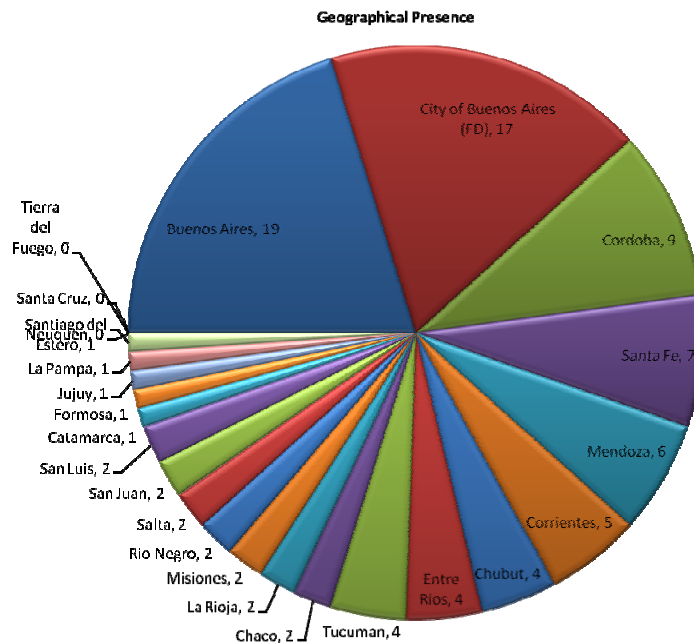
***Attitude towards the legal profession.***

There are no recent studies on this matter.

## Structure and composition of the legal profession.

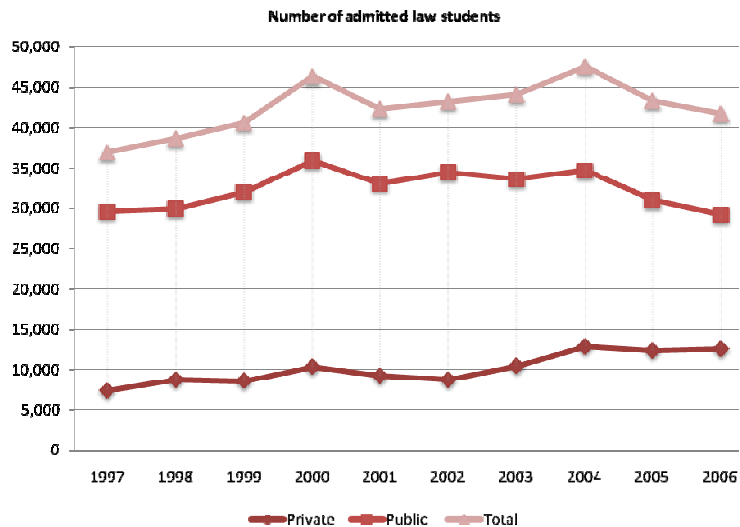
There are no updated studies providing general estimates in connection with the structure of the legal profession in Argentina, but only scattered information published by different sources. The information below provides a general picture of this matter based on different sources.

- **Number of law schools:** According to the information published by the Ministry of Education, Science & Technology,<sup>vii</sup> currently there are 94 institutions (33 public and 61 private) authorized to issue official law degrees (*abogado*) in Argentina. 36 of these institutions are concentrated in the City of Buenos Aires and the province of Buenos Aires Province.



- **Number of law students:** The information gathered by the Ministry of Education, Science and Technology is in process of being updated to show changes as of the year 2010. Public information currently available is updated up to 2006. The chart below shows the number of admitted law students from 1997 to 2006. The total number of students seems to have remained constant over a decade (from 36,925 admitted students in 1997 to 41,711 in 2006) while the share of private institutions has gradually increased (from 7,384 admitted students in 1997 to 12,585 in 2006).

The percentage of admitted women in law schools was of 55.67% as of the year 2005 and has remained constant since 1997 (when it was 58.16%).<sup>viii</sup>



▪ **Number of lawyers in Argentina and percentage of women:** As of 2011 there are 75,255<sup>ix</sup> licensed lawyers admitted by the City of Buenos Aires Bar Association (*Colegio Público de Abogados de la Capital Federal*) to practice law in the federal district of the country. Compared with the 2,891,082<sup>x</sup> population of the City of Buenos Aires there is one lawyer every 38 people. These statistics refer only to lawyers licensed to practice in the City of Buenos Aires and therefore do not include any provincial bar associations (there are more than 70 bar associations in the country).

According to the City of Buenos Aires' Bar Association, there are 36,483 women licensed with that institution to practice law. This figure represents 48.4% of the total number of licensed attorneys in the city.

▪ **Geographic concentration of lawyers:** The greatest concentration of lawyers is in the big cities, especially in the City of Buenos Aires, followed by certain cities in the Province of Buenos Aires, Santa Fé and Córdoba.

▪ **Percentage of lawyers in private practice, the courts, governmental agencies and other sectors:** There are no studies or reports that provide this information. In general, studies on the justice

system are focused mainly on the analysis of how the judicial system works in general terms, but not regarding its components (except for studies on judges). With respect to the total number of lawyers working in the Judicial Branch there were 66,763 employees and 4,263 judges in the national judicial system as of 2005.<sup>xi</sup>

### **Information on legal needs.**

Although limited, there are some studies dealing with unsatisfied legal needs. Most of these studies have been framed within a human rights perspective and have sought to increase awareness about the need to address and study unsatisfied legal needs.

One of these studies, conducted by Diego Freedman within the municipality of Moreno in the Province of Buenos Aires, found a correlation between a variety of factors that influence access to justice and the satisfaction of legal needs. He designed a questionnaire that measured knowledge of legal rights, contact with members of the judicial system and their demographic characteristics, among others factors. For instance, the level of education attained by the head of the household was directly related to seeking and accessing to legal services:<sup>xii</sup>

- Among those who did not obtain any primary education, 88.3% did not seek legal services.
- Among those who obtained only primary education, the figure was 71%.
- Among those who obtained secondary education, the figure was 62.5%.
- Among those who obtained a university degree, the figure was 40%.

The Center for the Implementation of Public Policies for Equity and Growth (*Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento*)—which published the aforementioned study—also published a bibliography of sources relating to human rights.<sup>xiii</sup> Among their sources there are articles and guidebooks that seek to instill a sense of democratic participation and human rights among Argentine youth.

## **Provisions related to access to justice and professional ethics.**

### ***Constitutional rights.***

The National Constitution provides in Section 14 that every inhabitant has the right to petition to the authorities, which includes the right to make claims in court. Furthermore, Section 16 provides that all the inhabitants are “equal before the law” while Section 18 grants the right to due process.

The right to go to court could be considered somehow limited by court fees (*tasa de justicia*) due within the national and federal jurisdictions.<sup>xiv</sup> These fees must be paid by the plaintiffs jointly with the initial filing and are calculated as a percentage of any amounts claimed which may discourage lower income classes from taking benefit of the justice system. Some local scholars believe that the statute providing for the payment of the court fees should be amended so that the rate is fixed considering the actual cost of the individual proceeding and plaintiffs’ ability to pay.<sup>xv</sup>

In addition, access to the legal system may be deterred by other legal expenses (e.g. attorney fees). In certain jurisdictions the party who loses the lawsuit must pay all legal fees (including attorney fees of the opposing party (*principio objetivo de la derrota en materia de costas*)), a risk that a lower income plaintiff may not be willing or in a position to take. However, these “limitations” may be mitigated by statutes that provide lower income inhabitants with exemptions from the payment of the court fees and—as described below—by different free legal services for lower income classes. In particular, Sections 79 through 86 of the National Code of Civil and Commercial Procedure set forth a parameter to avoid payment of court fees in cases where plaintiffs are unable to afford them.

### ***Rules of the bar associations.***

In general, the regulations on the practice of law and membership in bar associations, as well as the codes of ethics adopted by the different bar associations, set forth that pro bono legal work attending to people who lack economic resources is part of a lawyer’s fundamental professional duties.

The City of Buenos Aires’ Bar Association (*Colegio Público de Abogados de la Capital Federal*) has the authority to assign pro bono cases to its members. In particular, Section 11 of the Code of

Ethics—applicable in the City of Buenos Aires and in federal courts—provides that members must accept the pro bono cases assigned to them by the bar. Moreover, one of the purposes of the City of Buenos Aires’ Bar Association is to provide free legal advice to people lacking economic resources.<sup>xvi</sup>

Besides the free legal service provided by the City of Buenos Aires’ Bar Association, the Office of Legal Aid of the University of Buenos Aires’ School of Law (*Consultorio Jurídico Gratuito de la Universidad de Buenos Aires*)<sup>xvii</sup> and by other entities as described below and in **Appendix B** provide similar assistance.

***Ethics code.***

Each bar association is entitled to adopt its own ethics code and has disciplinary authority over their members (exercised usually through a disciplinary tribunal). In particular, the National Congress empowers the City of Buenos Aires’ Bar Association to exercise this disciplinary authority towards its members,<sup>xviii</sup> allowing it to impose penalties that may vary from a simple warning to being expelled from the bar.<sup>xix</sup>

***Regular courses at law schools related to professional ethics, social responsibility, public interest and human rights:***

- A variety of law school curricula include professional ethics’ related matters. However, the criterion in each law school is very different. In some law schools these concepts are taught in the initial stage of the career and in others in the specialization stage as a specific optional course. There are even those in which ethics education is left to be taken later with bar associations.
- A study carried out in 1982 showed that law school students and recent graduates are almost completely unaware of the rules governing professional ethics. There is no indication that this situation has changed as of the present date.

Within the University of Buenos Aires’ School of Law, the teaching of professional ethics is relegated to the last stage of the law school training called “*Ciclo Profesional Orientado*”, where courses and seminars on professional ethics are elective.

### **Provisions related to legal services for lower income classes.**

Several institutions in Argentina, both public and private, provide legal services to people with none or limited income. Regarding public entities, the National Constitution states that the Public Ministry (*Ministerio Público*) is the institution responsible for the enforcement of justice, rule of law and the commonwealth's interest.

Within the Public Ministry's structure, the Public Defense Ministry (*Ministerio Público de la Defensa*) has the duty to defend and protect human rights and promote policies providing access to justice for low income and discriminated groups. The Public Defense Ministry is headed by the National Defender General (*Defensor General de la Nación*) and, in particular, within the Office of the National Defender General, the Official Public Defenders (*Defensores Públicos Oficiales*) are in charge of representing the poor and any person unable to defend themselves in any kind of proceedings. The Official Public Defenders provide a public service.

Following the 1994 constitutional reform, Section 86 of the National Constitution deals with the Ombudsman—known in Argentina as the People's Defender (*Defensor del Pueblo*)—which is the head of an independent office under the authority of the Congress with the mandate to defend constitutional rights against any arbitrary or wrongful acts of the Public Administration or private entities providing public services. Although the Ombudsman does not provide free legal advice or representation, the office has the right to participate in any proceeding and receive any kind of claims from the general public. Being Argentina a federal state, the different provinces have their own justice systems and have established their particular Public Defense Ministries and Ombudsman offices.

Within the private sector there are entities that provide free legal advice or both advice and representation to poor individuals such as (i) official and private Bar associations, (ii) law schools and (iii) NGOs and other non-profit organizations and foundations. The key to receive its services can be either to demonstrate no property at all (usually through the different property registries) or a limited amount of income. **Appendix B** contains a list of several public and private entities (including the relevant Web sites) which provide free advice and/or representation at a federal level and within the City

of Buenos Aires and the Province of Buenos Aires. The different provincial bar authorities and private associations provide similar services throughout Argentina's provinces.

Bar functions in the City of Buenos Aires have been invested by law in the Buenos Aires' Bar Association which provides free legal advice for people of limited income. In addition, the Buenos Aires' Bar Association instructs attorneys to provide free legal representation after analyzing the case presented by the applicant. The service is provided in accordance with a set of regulations enacted by the Bar.

One of the oldest and most organized services in the City of Buenos Aires is the one provided by the University of Buenos Aires' (*Universidad de Buenos Aires*) Law School through its Office of Legal Aid established in 1922. The service is provided by law students in the final stage of their studies and is supervised by members of the school's faculty. The service encompasses legal advice, social assistance and legal representation in civil, commercial, criminal, labor matters and even mediation proceedings. The School has different service centers throughout the City and the Province of Buenos Aires.

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**References:**

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- i Polls made by Latinoibarometro over a sample of 1,200 people, <http://www.latinobarometro.org>.
- ii From Latinoibarometro, <http://www.latinobarometro.org>.
- iii The index of democracy is constituted of three separate questions, classified in three categories (High, Medium and Low) indicating a high, medium or low level of legitimacy of democracy. The category “high” includes those people which not only support democracy, but who also think that political parties and congress are essential elements. The “low” category includes those people who not only give democracy a low level of legitimacy, but who do not consider political parties or congress to be essential elements. From Latinoibarometro, <http://www.latinobarometro.org>.
- iv *La cultura del Estado de Derecho*, La Nación, October 3, 2009, at Editorial I.
- v Ipsos-Mora y Araujo for the *Colegio de Abogados de la Ciudad de Buenos Aires*, 2004.
- vi See [http://www.utdt.edu/ver\\_contenido.php?id\\_contenido=1452&id\\_item\\_menu=1592](http://www.utdt.edu/ver_contenido.php?id_contenido=1452&id_item_menu=1592).
- vii See information published by the *Secretaría de Políticas Universitarias* of the Ministry of Education, Science and Technology, <http://www.me.gov.ar>.
- viii See Dr. Emilce Moler, *Un análisis del comportamiento de la matrícula de las carreras de Abogacía (Período 1997-2006)*, <http://www.me.gov.ar>.
- ix Information provided by the City of Buenos Aires Bar Association.
- x According to the results of the 2010 census, <http://www.censo2010.indec.gov.ar>.
- xi See report prepared by *Unidos por la Justicia*, <http://www.unidosjusticia.org.ar>.
- xii See Diego Freedman, *La relevancia de las investigaciones de Necesidades Jurídicas Insatisfechas (NJI)*, work prepared for the *Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento*, October, 2007.
- xiii See Ana Encabo, *Formación ciudadana y en derechos humanos: Guía de recursos para docentes*, work prepared for the *Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento*.
- xiv Law No. 23,898 of the Republic of Argentina.
- xv See Diego Freedman, *Tasa de Justicia, igualdad y acceso a la Justicia*, work prepared for the *Centro de Implementación de Políticas Públicas para la Equidad y el Crecimiento*, 2005.
- xvi §20(d), Law No. 23,187 of the Republic of Argentina.
- xvii See *Pro bono profile: Argentina*, at: <http://www.trust.org/trustlaw/country-profiles/pro-bono.dot?id=03878ca0-07fe-42c1-8f1a-2c8cdc202b23>
- xviii §20(b), Law No. 23,187 of the Republic of Argentina.
- xix §45, Law No. 23,187 of the Republic of Argentina.
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## SERVICES TENDING TO LEGAL NEEDS

### I) JUDICIAL ADVISING

#### Government Programs

Centers for the Judicial Social Assistance Plan and Community Mediation of the National Ministry of Justice (*Centros del Plan Social de Asistencia Jurídica y Mediación Comunitaria del Ministerio de Justicia de la Nación*)

The centers provide advice and mediation in regards to civil, commercial, family and criminal legal issues.

Web: <http://www.jus.gov.ar/atencion-al-ciudadano/acceso-a-la-justicia.aspx>

National Council on Children, Teenagers and Families (*Consejo Nacional de Niñez, Adolescencia y Familia*)

This service – free and nation-wide – allows for the rapid and effective ties to legal services for those that find themselves in vulnerable situations and allows them access to nearby institutions that can provide assistance. The council provides advice on topics in relation to the rights of children and teenagers.

Web: [http://www.inforo.com.ar/articulo/conaf\\_consejo\\_nacional\\_de\\_la\\_ninez\\_adolescencia\\_y\\_familia](http://www.inforo.com.ar/articulo/conaf_consejo_nacional_de_la_ninez_adolescencia_y_familia)

Office for Integral Assistance to Victims of the Attorney General's Office (*Oficina de Asistencia Integral a la Víctima de la Procuración General de la Nación*)

The office provides advice and assistance to crime victims within the City of Buenos Aires.

Web: <http://www.jus.gov.ar/atencion-al-ciudadano/guia-de-derivaciones/delitos.aspx>

General Office for Labor Protection of the Government of the City of Buenos Aires (*Dirección General de Protección del Trabajo del Gobierno de la Ciudad de Buenos Aires*)

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The office provides free advice to workers within the City of Buenos Aires and participates in individual and collective conflicts. Issues can be brought up voluntarily in order to obtain a mediation session as well as for the registry of any agreements reached by any parties.

Web: [http://www.buenosaires.gov.ar/areas/seguridad\\_justicia/justicia\\_trabajo/trabajo/?menu\\_id=18645](http://www.buenosaires.gov.ar/areas/seguridad_justicia/justicia_trabajo/trabajo/?menu_id=18645)

### **Private Bar Programs**

Lawyers' Association of Buenos Aires (*Asociación de Abogados de Buenos Aires*)

Its objectives are firmly identified with progressive and humanist ideals, within the reach of legal security, and with permanent militancy as a professional union. They association provides advice on civil and commercial matters (up to amounts of \$5,000).

Web: <http://www.aaba.org.ar>

### **Law Schools and Universities**

Universidad Maimónides

The law faculty provides free legal advice.

Web: [http://www.maimonides.edu/centros\\_ficha.asp?cen=21](http://www.maimonides.edu/centros_ficha.asp?cen=21)

### **NGOs and other organizations**

Permanent Assembly for Human Rights (*Asamblea Permanente por los Derechos Humanos (APDH)*)

This Assembly is a civil association whose objectives are the promotion of human rights as outlined within the Universal Declaration of Human Rights and the National Constitution of Argentina providing legal consultation advice in regards to human rights violations to residents within the City of Buenos Aires.

Web: <http://www.apdh-argentina.org.ar/>

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Center for Legal and Social Studies (*Centro de Estudios Legales y Sociales (CELS)*)

NGO that has, since 1979, worked for the promotion and protection of human rights and the strengthening of Argentine democracy providing legal consultations and advice in regards to human rights violations.

Web: <http://www.cels.org.ar/home/index.php>

Citizen Power Foundation – Collective Action Justice Program (*Fundación Poder Ciudadano - Programa Acción Colectiva por la Justicia*)

Founded in 1989 as a non-partisan, non-profit foundation, it began as an initiative by a group of citizens concerned about civil rights within Argentina. The program counts on a web of volunteer lawyers that provide free legal advice and consultations. They sponsor almost exclusively public interest cases (especially, within health issues in regards to disability and social work issues).

Web: <http://www.poderciudadano.org.ar/>

## **II) SPONSORSHIP AND LEGAL ADVISING**

### **Governmental Programs**

Program of the Ministry of Labor, Employment and Social Security of the Nation (*Programa Asistir del Ministerio de Trabajo, Empleo y Seguridad Social de la Nación (ASISTIR)*)

ASISTIR is the program through which the National Ministry of Labor guarantees free legal advice to workers that require it. They also sponsor those workers with legitimate claims within the framework of labor legal matters as well as those with claims against within the Mandatory Labor Mediation Services.

Web: <http://www.trabajo.gov.ar/asistir/>

General Office for Women of the Government of the City of Buenos Aires (*Dirección General de la Mujer del Gobierno de la Ciudad de Buenos Aires*)

The office provides legal advice and sponsorship to victims of domestic violence.

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Web: [http://www.buenosaires.gov.ar/areas/des\\_social/mujer/atencionintegral.php?menu\\_id=31716](http://www.buenosaires.gov.ar/areas/des_social/mujer/atencionintegral.php?menu_id=31716)

Free Legal Sponsorship Service of the Office of the Attorney General of the City of Buenos Aires  
*(Servicio de Patrocinio Jurídico Gratuito de la Procuración General del Gobierno de la Ciudad de Buenos Aires)*

The service provides free consultation to those with scarce resources and low income, especially involving issues relating to domestic violence and crime victims. They are able to turn ask for assistance from public officials in so far as they can assist with diagnosing physical and sexual abuse as stipulated in Law No. 24,417.

Web: [http://www.buenosaires.gob.ar/areas/procuracion/pat\\_gratuito.php](http://www.buenosaires.gob.ar/areas/procuracion/pat_gratuito.php)

### **Bar Associations Programs**

City of Buenos Aires Bar Association (*Colegio Público de Abogados de la Capital Federal - Consultorio Jurídico Gratuito*)

Provides legal services in regards to civil rights, family, criminal and social security issues.

Web: <http://www.cpacf.org.ar/default.asp?goto=LECTURA&nnnoticia=280>

### **Law Schools and Universities**

Center for Professional Development of the Law and Social Sciences Faculty of the University of Buenos Aires (*Centro de Formación Profesional de la Facultad de Derecho y Ciencias Sociales de la Universidad de Buenos Aires*) - Office of Legal Aid of the Buenos Aires University (*Consultorio Jurídico Gratuito de la Universidad de Buenos Aires*)

Law students participate of the program under supervision of professors and it is mandatory in order for students to receive a law degree. The Centre has offices in the City of Buenos Aires in different Management and Participation Centers of the Government of the City of Buenos Aires (*Centros de Gestión y Participación*) and various cities of the Province of Buenos Aires.

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Web: [http://www.derecho.uba.ar/institucional/depto\\_pracprofesional\\_centro\\_form\\_prof.php](http://www.derecho.uba.ar/institucional/depto_pracprofesional_centro_form_prof.php)

*Legal Clinic of the Law Faculty of the University of Belgrano (Consultorio Jurídico de la Facultad de Derecho de la Universidad de Belgrano)*

The clinic is composed of legal professionals that provide assistance in regards to professional issues relating to any of the faculties of the university, including legal matters.

Web: [http://www.ub.edu.ar/servicios.php?opcion=centro\\_de\\_atencion\\_al\\_vecino](http://www.ub.edu.ar/servicios.php?opcion=centro_de_atencion_al_vecino)

### **NGOs and other organizations**

#### **"Amanecer" Association**

This non-profit, community-oriented organization works with the re-integration into society of socially vulnerable children and teenagers. The program, "Abogados por los Pibes" has the main objective to provide assistance and legal counseling within the City and the Province of Buenos Aires.

Web: <http://amanecer.org.ar/legal.php>