



# **LATIN LAWYER AND THE VANCE CENTER'S ANNUAL PRO BONO SURVEY**

The findings from the 2018 Latin Lawyer – Vance Center pro bono survey are testament to the great strides Latin America has made to adopt pro bono into its legal culture. Now in its 11th year, our survey evidences that pro bono is increasingly finding a place within Latin American firms' day-to-day service offer.

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*by* **LULU RUMSEY**

It is a saddening reality that millions of people in Latin America live in poverty. Some estimates put the figure close to 200 million. Within that number there are pockets of people living in chronic poverty, born into a dire social status with little to no opportunity to escape it. Social inequality is especially pronounced in some countries, but it's an issue across Latin America.

These marginalised communities and individuals lack basic human rights, including access to justice. With each year, more and more law firms in the region are coming together to provide free legal services to those who can't afford it, but need it the most. Through our annual pro bono survey, Latin Lawyer and The Cyrus R. Vance Center for International Justice seek to track the progress law firms are making in encouraging their lawyers to do pro bono work.

In the first in a series of articles (on page 21) we home in on the results of our latest survey, laying out what the findings mean for the fight to bring access to justice to all. Worth celebrating is the rise in the number of firms with a pro

bono coordinator. They are a key component of the pro bono chain, not least because they provide a vital connection between those in need and those who have the skills to help. There is also evidence of a working “pro bono ecosystem”: as well as there being more coordinators within law firms, there are more pro bono committees too, as well as a greater network of clearing houses in a good number of jurisdictions. It is encouraging to see that collaboration between law firms and clearing houses, as well as between lawyers and public interest institutions more generally, is increasingly defining the way lawyers approach the provision of free legal services. Time and again our research shows that pro bono has the highest impact when institutions work together to find solutions.

The good progress made towards establishing pro bono policies now needs to be matched by an increase in work being done. To meet that challenge, high on the list of priorities is getting more law firm partners to commit their time and expertise. As they sit at the top of the law firm structure, they have the power to effect institutional change necessary to increase the volume of pro bono work their firms do. It is for this reason that widespread partner participation – or rather the lack of it – remains the missing piece of the puzzle when it comes to building institutional support for pro bono among law firms in the region. We explain why partner involvement is paramount to pro bono’s spread in the second article in this series (on page 28).

This year marks the 10th anniversary of the Pro Bono Declaration of the Americas (PBDA), a written declaration that is credited

### METHODOLOGY

Some 130 law firms from across Latin America took part in the 7th pro bono survey jointly conducted by Latin Lawyer and the Vance Center. Each year we invite firms from across the region to take part in an extensive survey that asks questions about the amount of work firms are doing and the policies they are introducing to build a pro bono culture. We also contact clearing houses in the region that belong to Red Pro Bono de las Americas, and ask them about the cases they are doing, as well as the progress and challenges they have seen in the past year.

Latin Lawyer has long highlighted the pro bono work done by Latin American law firms, and first surveyed pro bono in the region in 2007. We also raise money for pro bono activities through our annual charity awards dinner in São Paulo. Part of this focus has been to promote the work of the Vance Center, which has helped bring about significant change in this area, not least through the Pro Bono Declaration of the Americas, launched in 2008, and through the development of multi-jurisdictional pro bono projects to encourage collaboration among law firms in the region.

with formalising lawyers in the Americas’ commitment to pro bono by organising their efforts more systematically. In the third article (on page 32) of this survey we speak to some of the PBDA’s architects to take stock of what it has achieved so far and where we go from here. Finally, we publish our annual list of Leading Lights, the law firms leading the way for their commitment to pro bono based on our survey.

*Latin Lawyer and the Vance Center would like to thank the following for their help in encouraging firms to take part in our survey and for their feedback on their local pro bono communities: the Comisión de Trabajo Pro Bono in Argentina, Brazil’s Instituto Pro Bono, the Fundación Pro Bono in Chile, the Fundación Pro Bono Colombia, the Costa Rican Comisión Pro Bono, the Dominican Republic’s Fundación Pro Bono, Fundación Barra Mexicana, Appleseed and Centro Mexicano Pro Bono in Mexico, CIDSEP in Paraguay, the Alianza Pro Bono in Peru and ProVene in Venezuela.*



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## THE SCENE IS SET

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From the determined strength of pro bono coordinators to the collaborative efforts of law firms (played out increasingly across borders), the results of our annual pro bono survey demonstrate how pro bono is weaved into the fabric of Latin America's legal market. The work being done around the region showcases the outstanding achievements of lawyers and clearing houses working together. Now, the challenge is to engage even more lawyers in the fight to bring access to justice to all.

In the past year, the Comisión Pro Bono e Interés Público has worked hard to expand its remit outside its Buenos Aires base, a mission that has involved a gruelling travel schedule encompassing the length and breadth of Argentina. According to Martín Zapiola Guerrico, founding president and member of the advisory board of the Comisión Pro Bono (and partner at Zapiola Guerrico & Asociados), the organisation's launch of a nationwide platform would not have been possible without the help of pro bono coordinators from the Comisión Pro Bono's 25 member firms and companies, who have accompanied him every step of the way. Zapiola calls them "pro bono evangelists". "It's not an exaggeration to say they are the engine of the Comisión Pro Bono," he says. "They are important not only to the inside workings of each firm, but also to the pro bono movement as a whole."

Pro bono coordinators are typically appointed by law firms to help streamline the process of assigning pro bono work to lawyers and to act as a point of contact with the clearing house or NGOs they serve. They play a critical role in a legal market's pro bono system and, as the Argentine experience shows,

have begun to demonstrate even further value.

It is therefore very welcome news that our latest survey records a 10% jump in the number of firms with a designated pro bono coordinator, bringing the number of respondents with one to 85%. Of that number, 45% said their pro bono coordinators work full-time. It is also encouraging that two-thirds of firms now have a designated pro bono committee, marking a slight increase on our findings last year.

Law firms are also celebrating the work of their coordinators, helping to bring the importance of pro bono matters in line with work done for paying clients. In 2018, Argentina's Marval, O'Farrell & Mairal gave an award honouring outstanding achievement to its pro bono coordinator. In the long history of the firm the award has always recognised billable work projects – a high-stakes corporate finance deal or a headline merger – so applauding the pro bono coordinator marks a cultural shift that puts the practice of pro bono on a level with other practice areas.

The rise in prominence of coordinators is indicative of the long-term approach firms are taking towards doing pro bono work, says

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Paula Samper, a founding member of Colombia's Fundación Pro Bono and a partner at Gómez-Pinzón. "If firms want pro bono to be part of their strategy, they need to include it in the budget and hire someone to organise it," says Samper. She considers this approach a sea change from the past, when firms did pro bono work, but in a non-institutional way.

Nowadays, it is common for corporate law firms in Latin America to have at least one salaried member of staff concentrating on pro bono. As well as coordinators, some firms employ full-time pro bono lawyers, such as Hogan Lovells and Greenberg Traurig SC in Mexico. In 2018, Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados became the first Brazilian firm to create a dedicated pro bono department. The group is staffed by four associates solely focused on pro bono case work and is a huge step for a firm in a country that only liberalised pro bono a few years ago.

## On the right track

Research shows that the volume of pro bono work increases when law firms and their wider legal community build the right structures to facilitate lawyers doing legal work for free. For a significant majority of firms answering our survey there is now an institutional framework in place that supports the practice. "One of the undoubted achievements over the last decade has been creating environments within law firms that understand what pro bono is about and are supportive of lawyers doing it," says Todd Crider, executive committee member of the Vance Center and partner at Simpson Thacher & Bartlett LLP.

Beyond investing in personnel, our survey found that 34% of firms have an annual budget for out-of-pocket expenses related to pro bono work. We found that 78% of firms measure the pro bono work they do, which is fairly consistent with the figures reported in last year's survey. Two-thirds of

firms have implemented a dedicated mechanism or methodology to track pro bono work, which helps them to build on their commitments or evaluate the success of their policies. Just one-third reported measuring the impact of their pro bono work, but this should not be disheartening. Some observers point out that honing the techniques to measure pro bono outcomes remains very much a work in progress for law firms the world over, and Latin America is no exception. Many firms simply don't have those tools available to them yet.

More firms are taking pro bono contributions into account when evaluating associate performance. The 76% of respondents to our survey that do are sending a message to lawyers that they encourage pro bono work. Building on this statistic, half of respondents say associates' pro bono contribution affects their salary, bonuses and general career advancement. Half of firms treat pro bono hours as billable

## % OF FIRMS PROVIDING FUNDING TO CLEARING HOUSES

62%

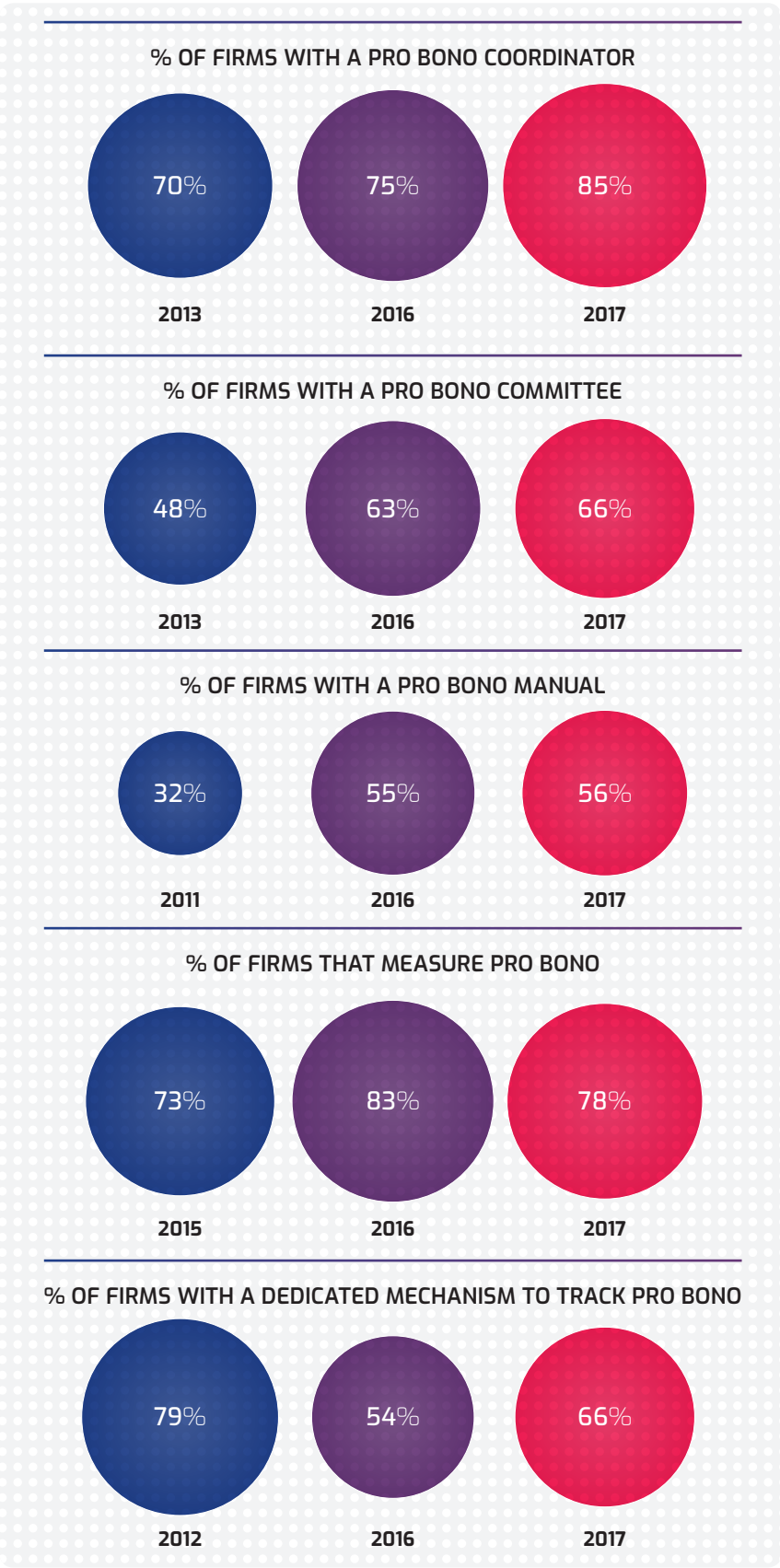
2017



when it comes to determining associate compensation. This dropped by 10 percentage points compared with the 2017 survey, but the slip could be explained by a different set of responders, including those from countries where pro bono is less advanced.

As with the 2017 survey, we saw more firms participate from countries with a less established pro bono culture, such as Ecuador, Panama and Uruguay, and Central American jurisdictions. This is good news and suggests a broadening of pro bono's base beyond the traditional strong spots. Promisingly, the survey fielded the same number of respondents as it did last year – around 130. “This shows that the survey has reached a high level of credibility among clearing houses and firms to stand on its own, which in turn is a symptom of the level of successful institutionalisation in the region,” says Jorge Escobedo, director of pro bono partnerships at the Vance Center.

The results from 2017 are compared with the previous year's results, as well as those of the first year in which we obtained data on the topic in question.



## BY WORKING TOGETHER THROUGH CLEARING HOUSES, LAW FIRMS' EFFORTS ARE MAGNIFIED.

While it's encouraging to see law firms implement mechanisms that support pro bono, the fact remains that the majority of lawyers are failing to meet the 20-hour per year minimum commitment put forward by the PBDA. That is in part because at least half of firms do not treat pro bono hours in the same way as billable hours. Lawyers are naturally going to follow the framework set out by their law firm and its leaders. Meanwhile, just 19% of firms reported that their partners achieved the 20-hour target, compared with 35% that said their associates did. (For more on the importance of partner participation turn to page 28.) The makers of the PBDA argue that the 20-hour commitment for every lawyer is important, because a pro bono culture is strengthened and maintained if everyone is doing it, rather than a small group of lawyers doing a lot.

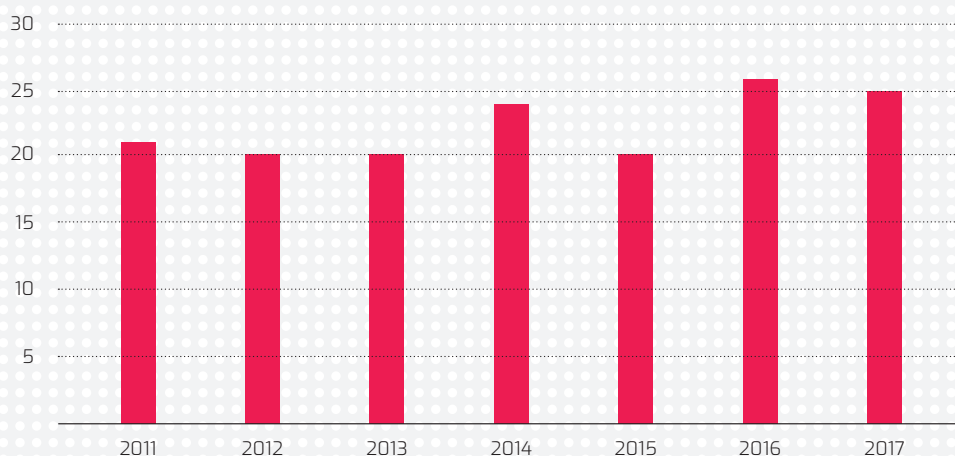
One factor commonly put forward by firms to explain lack

of participation in pro bono is that lots of cases do not fall within the specialisation or experience of the firm. But given the drop in the ocean 20 hours represents over the course of a year, it is dispiriting that some 75% of respondents listed time constraints as the biggest impediment to their firm's pro bono participation. Granted, lawyers are very busy people, but the target proposed by the PBDA is not an onerous one.

### The bigger picture

The number of years this survey has been running has allowed us the perspective to be able to separate dramatic shifts in attitudes from year-on-year fluctuations. While collecting data adds an element of accountability to firms' pro bono efforts, we are aware that the results only tell part of the story. Analysis of the data requires reading between the lines. For example, many small law firms have not institutionalised pro bono – whether

% OF FIRMS DOING MORE THAN 1,000 PRO BONO HOURS A YEAR





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% OF FIRMS THAT ARE MEMBERS OF A FOUNDATION/CLEARING HOUSE

81%

2017



through assembling a committee or appointing a coordinator – but their partners are among the first to put in the hours at after-hours legal clinics. Shearman & Sterling's Antonia Stolper, the Vance Center's vice-chair, labels this kind of contribution as 'direct action' pro bono and identifies it as one component of the scope of pro bono in the region.

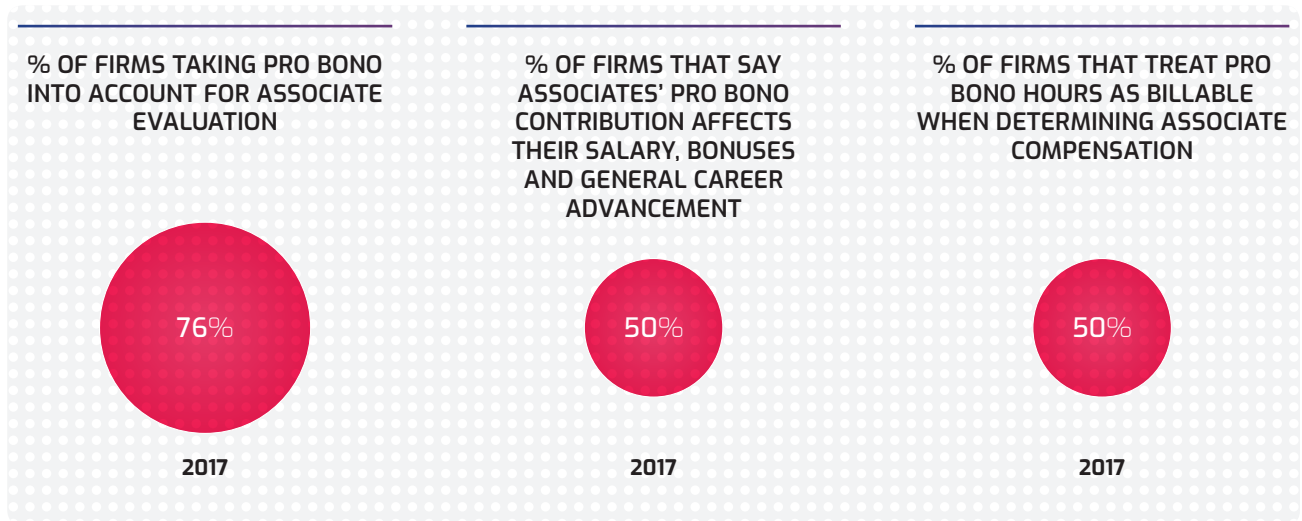
Plotting the big strides achieved over time is perhaps a more holistic way of depicting the progress made in Latin America's legal markets in recent years. In March, the Vance Center, the Pro Bono Network of the Americas and Mexico's three clearing houses – Appleseed Mexico, Centro Mexicano Pro Bono and Fundación Barra Mexicana – teamed up to host the 2018 Conference on Pro Bono Practice in the Americas in Mexico City. The big take-home from the event, says Stolper, was that the historic distrust between law firms and NGOs has started to be overcome. "We are seeing law firms

working through clearing houses to engage with other civil society activists," she says. "That's a tribute to the tremendous amount of hard work from all participants of the pro bono chain but also a manifestation of how far we have come in terms of institutionalising pro bono and pro bono becoming part of the day-to-day legal service offering in the community."

Four-fifths of respondents to our survey say they are members either of a pro bono foundation, institution or clearing house – organisations that connect law firms to the individuals or NGOs requiring their help. Of that number, almost two-thirds say they provide regular financial contributions, which is critical for such organisations because it allows them to hire skilled staff and build relationships with key stakeholders.

By working together through clearing houses, law firms' efforts are magnified. Take the recent work done by Brazil's Instituto Pro Bono





(IPB) and its members. The clearing house launched a project to deliver access to justice within 24 hours to people taken into custody in underprivileged areas of São Paulo, shining a light on institutional violence in the criminal justice system. The IPB's Marcos Fuchs says the project – which gave free legal advice to more than 650 individuals during 2017 – has served to strengthen ties between the IPB and the various civil society organisations working in Brazil's criminal justice system, as well as helping it forge closer links with the Public Defender's Office and the Brazilian Bar Association.

Several clearing houses highlighted high-impact projects that drew on the expertise of lawyers from multiple firms. A good example of this is the coordinated response of all three of Mexico's clearing houses in the aftermath of the deadly earthquake that hit Mexico City in September 2017. The three clearing houses put together a team of firms and independent lawyers to identify priorities for people affected by the earthquake and created an online form for those affected to

request pro bono assistance, as well as a legal handbook. In a first for Mexican pro bono work, they used the media to let the public know about services available to them.

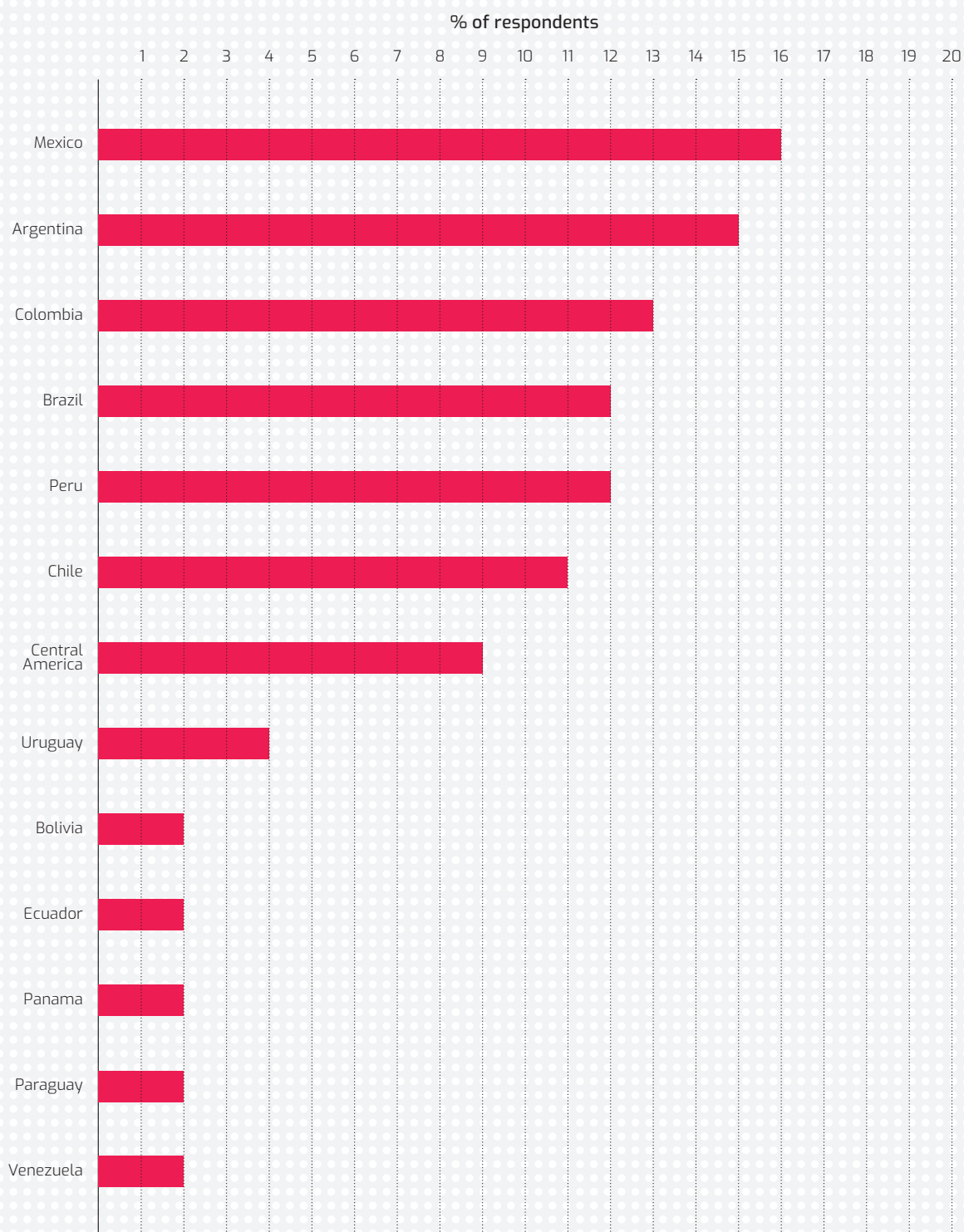
A multi-firm effort in Peru saw clearing house Alianza Pro Bono and member firms Payet, Rey, Cauvi, Pérez Abogados, Lazo, De Romaña & CMB Abogados and Benites, Vargas & Ugaz Abogados send volunteers to the Amazon rainforest to hold legal consultations with members of the Asháninka and Machiguenga indigenous communities. It was the first time that a team of lawyers from different firms had coordinated on a common project to benefit Peru's indigenous population.

In recent years, there has also been greater coordination of law firms and clearing houses across borders. In a binational project that involved several firms in both jurisdictions, Paraguayan clearing house CIDSEP and the Comisión Pro Bono in Buenos Aires teamed up to help Scholas Occurrentes Foundation establish a base in Paraguay in 2017. The foundation is a multi-faith education project that is the brainchild of Pope Francis, and

links schools across the world in support of lower-income educational facilities.

The 2019 IBA Latin American Regional Forum (LARF) Conference in Santiago is the first to include a panel on pro bono on the programme. The discussion will be co-chaired by Shearman & Sterling partner David Flechner and Colombia's Fundación Pro Bono's Samper and will allow clearing houses from across the region to share best practices in their mission to connect those in need with lawyers. Going forward, the idea is for every IBA LARF event to do something similar. Flechner thinks this development is indicative of a wider cultural shift in favour of greater coordination in how clearing houses approach Latin America's need for pro bono services. "This really is a sign of progress and at this stage it looks like we're on the right track. The scene is set: from now on we should expect to see the region's legal practitioners giving weight and prominence to pro bono legal practice," he says.

## GEOGRAPHICAL SPREAD 2017





## THE MISSING PIECE OF THE PUZZLE

Partner participation in pro bono is still low, despite clearing houses' best efforts to get the senior level of law firms involved. While firms can still make a big contribution to pro bono without partner involvement, the fact remains the partnership holds the power to effect institutional change necessary to increase the volume of work done.

In 2018, Brazilian social housing enterprise Programa Vivenda indirectly tapped the capital markets to raise around 5 billion reais, which will be used to renovate some 8,000 homes to benefit more than 32,000 people living in some of Brazil's poorest areas.

Brazil's first ever public offering of social impact bonds was conducted by a team at TozziniFreire Advogados led by partner Alexei Bonamin, who represented securitisation company Grupo Gaia, which carried out the offering on behalf of Vivenda. It's an excellent, albeit rare, example of how the specialism of a

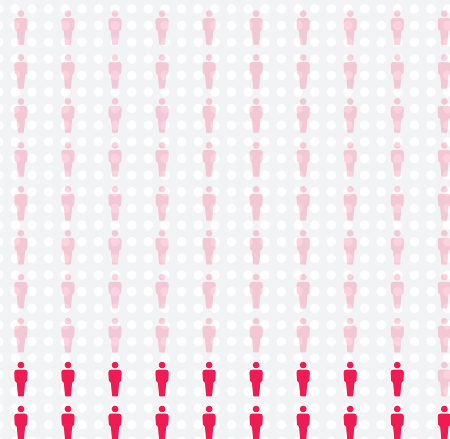
partner at a corporate law firm – in this case Bonamin's capital markets practice – can be deployed for the public good.

In the 11 years since Latin Lawyer has tracked pro bono activity in the region, partner participation has always been lower than those spearheading the practice would like. Our research shows that the majority of partners are still failing to clock the minimum 20 hours per year of pro bono put forward by the Pro Bono Declaration of the Americas. Just 19% of firms said that – on average – their partners were meeting that requirement. In 2017, we asked

% OF FIRMS WHERE PARTNERS DO AT LEAST 20 HOURS OF PRO BONO A YEAR

# 19%

2017





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firms about partners' pro bono hours slightly differently, so the figures are not directly comparable with this year's results; the 2017 survey found that 14% of firms said more than half of partners did 20 hours or more pro bono. There are plenty of reasons to explain low partner engagement in pro bono, including a lack of challenging pro bono work, or cases that are not suited to partners' practice area focus. Incredibly busy schedules are another complicating factor. Some partners do like doing it, but don't like recording their hours.

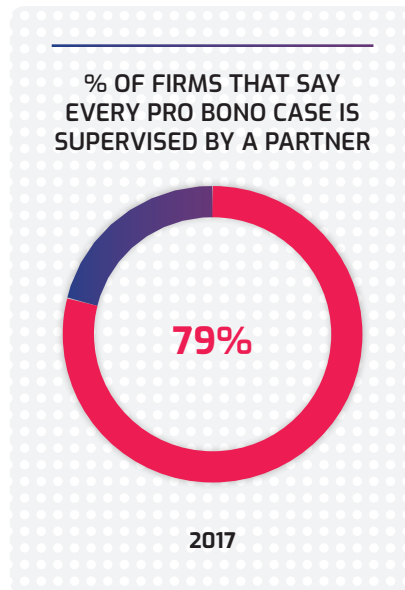
The phenomenon is particularly prevalent in larger firms. Of the 25 firms that reported their partners were meeting the PBDA's 20-hour per lawyer minimum, only six totalled more than 100 lawyers. Clearing houses are acutely aware of this reality. "There are notable exceptions, but often the bigger the firm is, the more diluted pro bono work is between partners and the

lower their [individual] participation," Fundación Pro Bono's Ana Maria Arboleda says. "Many smaller or boutique firms have younger partners who are much more interested in pro bono issues than those from more traditional firms, where the partnership tends to be older."

It is for this reason that in 2018 Colombia's Fundación Pro Bono began making visits to each of its member firms to assess what type of pro bono work each is interested in. On the basis of the assessment, the clearing house can personalise the work it sends each firm's way, in the hope partners will be more receptive. Brazil's Instituto Pro Bono is trying to bring more partners on board by providing a space to discuss current public interest subjects, such as same-sex marriage and immigration. The thinking is that genuine interest in such topics might get partners through the door, leading them to become involved in related cases.

## Partners still hold the key

While partners are not clocking up the hours, that's not to say they are not supportive of pro bono work. Our survey found that just shy of 80% of firms say every pro bono project they handle is supervised by a partner. This is good news and suggests efforts to engage the upper echelons of law firms in pro bono endeavours are having some impact. Shearman & Sterling partner David Flechner points to prominent partners in the region who publicly vocalise the importance of pro bono. A recent example of this is Mattos Filho Institute, a non-profit civil association set up by a group of Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados partners in 2018. Spearheaded by former managing partner Roberto Quiroga, the institute promotes pro bono advocacy, among other objectives. It is financed by an investment fund capitalised by donations from Mattos Filho's partners. "We're seeing senior management at law firms take very public views on pro bono," says Flechner. "Firm leaders are in favour of pro bono and are demonstrating that to future generations of lawyers, who are growing up alongside this drive." And it's important to stress that just because a firm's partners are not personally doing pro



bono does not mean they are not in support of others at their firm doing it. Indeed, they are the ones that sign off on internal policies designed to encourage lawyers to do more.

But those on the ground remain convinced that the reason partner participation is crucial is because it can set the tone for a firm's engagement in pro bono more generally. "I'd like to see the partners in the signatory firms showing leadership," says Todd Crider, executive committee member of the Vance Center and partner at Simpson Thacher & Bartlett LLP. "A figure [as low as 19%] is reflective of the work that remains to be done in terms of creating a culture of pro bono and giving partners experience of doing it, so they feel comfortable taking on projects," he adds.

Partner involvement can mark the difference between a firm that is institutionally invested in pro bono and one that simply views it as good marketing. If those at the top

of an organisation do not endorse it, or engage in it, it's hard to see why those at the bottom would make it a priority. Low partner participation may be a contributing factor to the fact that fewer than half of associates at firms polled manage to meet the PBDA's 20-hour target. "One thing we have learned is that the more partners engage in pro bono issues, the greater the commitment of the signatory in its entirety," says Appleseed's Maru Cortazar.

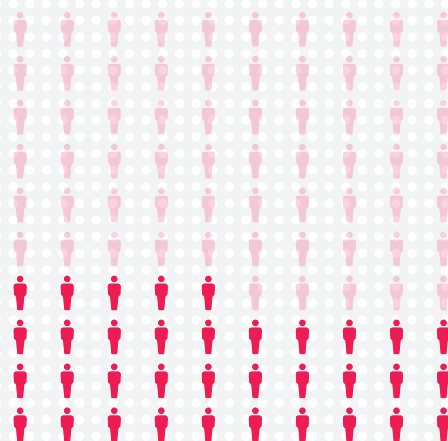
It is easier to instal a lasting commitment to pro bono top-down rather than bottom-up. Younger lawyers that have a genuine interest in upholding the values of the PBDA have much less influence on shaping the long-term values and structure of an institution than those in the partnership do. "Law firm pro bono culture is most successful when management leads by example," says Jorge Escobedo, director of pro bono partnerships at the Vance Center. "We know that young, socially minded associates are certainly interested in pro bono, but it's important that this is mirrored at the top – with partners who do it themselves." Partners are instrumental in bringing about structural changes within a firm that promote pro bono. "An engaged corps of lawyers and a clear message

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% OF FIRMS WHERE ASSOCIATES DO AT LEAST 20 HOURS OF PRO BONO PER YEAR

35%

2017



that pro bono is supported are key ingredients for building a strong pro bono culture and making tremendous impact on the lives of people and organisations in need,” says Escobedo.

Encouragingly, some firms have taken steps to financially incentivise partner involvement in pro bono. Some 22% of firms say they take pro bono into account when deciding partner compensation. We didn’t ask firms about the impact of pro bono on partner compensation in the 2017 survey, although we did ask them about whether it affected partner evaluation – and 36% said yes.

In the opinion of Martín Zapiola – head of the Comisión Pro Bono e Interés Público in Buenos Aires – the possible solution to getting partners on board lies with firm’s pro bono coordinators. If the coordinator has a good relationship – and frequent communication

– with the firm’s managing partner or executive committee members, the firm is more likely to achieve partner participation in pro bono projects. “In the cases where I have seen partners get involved, it’s been because there is a healthy flow of communication, and a certain dose of empathy, between them and the pro bono coordinator,” he says. “Because of that they grow more aware of the importance of pro bono work that is being done within the firm and the impact of that work. Then they begin to get enthusiastic about it and get involved.”

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**“FIRM LEADERS ARE IN FAVOUR OF PRO BONO AND ARE DEMONSTRATING THAT TO FUTURE GENERATIONS OF LAWYERS, WHO ARE GROWING UP ALONGSIDE THIS DRIVE.”**

**- DAVID FLECHNER**





## THE ROADMAP

It has been a decade since the launch of the Pro Bono Declaration of the Americas, a call to action to expand pro bono across Latin America. We ask lawyers who wrote the declaration about its influence on the evolution of pro bono in the region and what's needed for the next 10 years.

In Venezuela, the disparity between rising prices caused by hyper-inflation and people's salaries is now so severe that almost everybody in the country could be categorised as poor. One of the most upsetting pieces of news to come out of Venezuela in recent times – and unfortunately there are many – is that the proportion of people living in poverty now sits at a staggering 90%.

The unique set of circumstances driving Venezuela's troubled

trajectory puts that country at the far end of the spectrum when it comes to any assessment of poverty in Latin America, but social inequality remains endemic in the region. Since the end of the commodity boom, statisticians have observed poverty rates for the region are on the rise once more.

Poverty tends to go hand in hand with a lack of access to justice, but it is often individuals living hand to mouth who most need legal representation, be it to access basic

**A GOOD NUMBER OF LATIN AMERICAN LAWYERS HAVE DONE A FORM OF PRO BONO FOR MANY YEARS, BUT LAW FIRMS WERE NOT ORGANISED TO PROVIDE IT TOGETHER IN A SYSTEMATIC FASHION.**



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human rights such as clean water, receive medical assistance they are entitled to, or to defend themselves from violence.

Ten years ago, a group of lawyers from the region and the US designed a roadmap that would encourage the systematic delivery of free legal aid in the region: the Pro Bono Declaration of the Americas (PBDA), a written commitment through which law firms, universities, companies and other institutions housing lawyers pledge to give free counsel to those who cannot afford to pay.

The idea came from the Cyrus R. Vance Center for International Justice, an organisation created by the New York City Bar in 2003 to address what it perceived as a broad international crisis presented by a lack of access to justice for all. Central to the Vance Center's

ethos is the belief that lawyers have a pivotal role in upholding justice in fair and equal societies. Their knowledge of constitutional principles puts them in a position to be able to take an active role in public policy development, since they often have an ear to the ground and play a role in the drafting of new laws and regulations. This gives them the unique opportunity to shape the status quo for the betterment of those at the bottom.

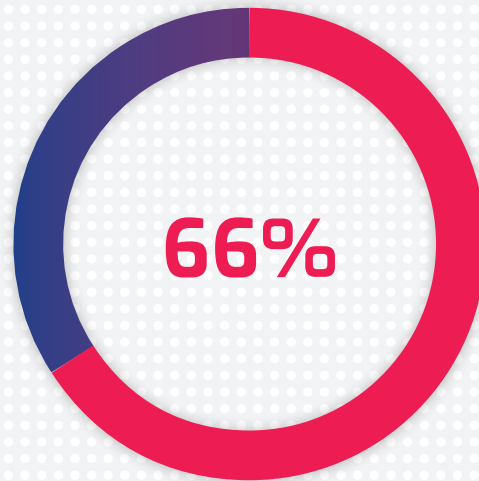
The comparatively high level of social inequality in Latin America made it a prime target for the Vance Center's mission, but back then pro bono was a little-known concept in much of the region. "There was a lot of ignorance about what pro bono actually meant," says Claus von Wobeser of Mexico's Von Wobeser y Sierra. "People confused it with charity." Whereas in the US

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## THE PRO BONO DECLARATION OF THE AMERICAS

Signatories agree to provide, on a pro bono basis, more than **20 hours** (or three days) of legal services per individual lawyer per annum. For law firms, institutions or other groups of lawyers, this equates to an average of more than **20 hours per lawyer per annum**. This commitment should be met within three years of endorsing the declaration.

### % OF SURVEY RESPONDENTS THAT ARE SIGNATORIES TO THE PBDA



**There are currently 562 signatories to the PBDA across the Americas**

### WHAT IS PRO BONO?

The PBDA defines pro bono legal services as those provided without a fee, or expectation of a fee, principally to benefit poor or underprivileged persons or communities or the organisations that assist them. They may include representation of persons, communities or organisations in matters of public interest who otherwise could not obtain effective representation. In addition, pro bono legal services can also benefit civic, cultural and educational institutions serving the public interest that otherwise could not obtain effective representation.

there is a long history of pro bono and firms there have established rules and procedures to make sure lawyers commit a certain number of hours to giving free legal advice, Latin American firms had historically lacked such an infrastructure. A good number of Latin American lawyers have done a form of pro bono for many years, but law firms were not organised to provide it together in a systematic fashion.

To gather momentum and get key players on board for a region-wide movement, the Vance Center held conferences on pro bono in Buenos Aires, Santiago, São Paulo and New York between 2001 and 2005, which helped build a consensus that law firms had a responsibility to offer their knowledge as a service to broader

society. On the heels of these events, Simpson Thacher & Bartlett partner and Vance Center executive committee member Todd Crider approached partners from leading firms in each major jurisdiction in Latin America. He hoped to assemble a committee to draft a declaration that would formalise lawyers in the Americas' commitment to pro bono.

Everyone on the PBDA's drafting committee was keenly aware of the impact what they were doing could have on populations with complex problems but no means to fix them. The committee's first task was one of the hardest: how to define pro bono. That question dominated some of their early meetings and conference calls, which took place over an 18-month period. "I've always thought that

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the most difficult work to identify and acquire is pro bono,” reflects Horacio Bernardes Neto of Brazil’s Motta Fernandes Advogados. “Those few lines ended up being much more complicated to write than any of us ever imagined.”

The definition had to be aligned with Latin America’s civil law system and cater to each country’s needs. It also needed to identify who the beneficiaries should be. Given the scale of poverty in Latin America, the decision was made to target individuals from poor or underprivileged communities who cannot afford legal counsel, rather than museums or cultural institutions (although the final declaration does outline support for those public interest institutions unable to afford representation). The declaration also includes a commitment for signatories to support the creation and development of NGOs, in the belief that giving free legal counsel to a public interest organisation would be a way of maximising pro bono’s impact.

After an 18-month drafting period, in January 2008 the PBDA was formally launched in Mexico City, kicking off an implementation phase where the declaration’s architects sought to attract converts from law firms, law schools and bar associations from across Latin America.

### **The pro bono ecosystem**

Fast forward to today and the declaration has more than 560 signatories from 21 countries, including two-thirds of the firms that completed this year’s survey. (Of the firms that have not, a third say they are considering doing so.)

In the 10 years since the PBDA’s launch, it is fair to say that great swathes of the Latin American

legal profession have embraced the concept of pro bono, helped in part by the objectives set out in the declaration. (It should also be noted that signing the PBDA is not the only way firms demonstrate their commitment to pro bono – there are plenty of non-signatories whose efforts should also be admired.) “The first and great achievement of the PBDA was to create an enabling environment for the development of pro bono practices, as well as the necessary conditions so that this practice could expand as a tool for emancipation and social inclusion, by law firms and individuals,” says Machado Meyer’s Antonio Meyer.

The commitments put forward in the declaration have served as the roadmap for 10 years of pro bono projects across the region, says Gómez-Pinzón Abogados’ Paula Samper. This can be observed in the results of the Latin Lawyer-Vance Center annual pro bono survey. Over the years, more law firms have implemented internal systems to make it easier for lawyers to do pro bono work; appointing dedicated committees and coordinators and taking pro bono contributions into account for performance evaluations, among other steps.

To effectively provide access to justice across a society requires more than the services of a lawyer. There need to be public institutions that uphold and evidence fair principles, ethical behaviour and transparency, and a well-built infrastructure to connect people who need advice with representation. Importantly, there are now 13 clearing houses across Latin America. In 2011, the Pro Bono Network of the Americas was born, launched by the Vance Center and Fundación Pro Bono Chile to unite various actors in the field

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**- TODD CRIDER**

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## THERE REMAINS PLENTY MORE WORK TO BE DONE IN THE PROMULGATION OF ACCESS TO JUSTICE FOR ALL IN LATIN AMERICA.

and provide an institutional home for the various clearing houses. All this is what Crider labels ‘the pro bono ecosystem’, of which the PBDA is a part. “The declaration has hopefully contributed to the growth of this ecosystem, by serving as a standard that firms have committed to and that allows proponents of pro bono within firms to reference in order to further the project of advancing public interest work,” he says.

There are other signs of the lasting effect the PBDA has had on shaping pro bono in Latin America. In 2018 Mexico’s three clearing houses – Appleaseed Mexico, Centro Mexicano Pro Bono and Fundación Barra Mexicana – as well as Hogan Lovells (Mexico) drafted the Mexican Pro Bono Standards, which establish what is considered pro bono work and the minimum time firms should devote to it. The standards took inspiration and were modelled in part on the clauses of the PBDA.

### PBDA 2.0?

As the PBDA celebrates its first decade, its drafting committee is reflecting on what’s needed for Latin America’s pro bono ecosystem over the next 10 years. Some would like to see greater accountability for the PBDA’s signatories to ensure they actually deliver. The PBDA does not currently police signatories to fulfil their pledge and a sizeable number of the firms signed up don’t always meet the commitment for their lawyers to complete 20 hours of pro bono a year. “There’s a lot of lip service and it’s very easy to say ‘yes I support pro bono, I signed the declaration, we are committed etc’,” says Samper. “But we’ve been too diplomatic in that respect, because we don’t ask signatories if they are

complying. Ideally, there should be more enforceability.”

Some are gunning for a PBDA 2.0 that is capable of addressing such issues. “A second round could analyse whether everyone who signs it is actually taking that commitment and putting it into practice,” says Bernardes Neto. Despite the best efforts of the drafting committee to define what constitutes pro bono, misconceptions remain among practitioners in the region about what pro bono actually is, he adds. Some lawyers treat casework for clients less able to pay as pro bono, whereas under the PBDA’s definition it should be reserved strictly for individuals or organisations that are categorically unable to pay.

As well as focusing on ways to help ensure signatories uphold the minimum 20-hour pledge, Guillermo Morales of Chile’s Morales & Besa thinks a revised declaration should consider what institutional infrastructure countries need to implement or enhance to magnify the impact of pro bono. His home country benefits from the work done by the Fundación Pro Bono Chile, one of the most established clearing houses in Latin America, which has made a tremendous contribution to establishing a framework that links law firms to those needing access to justice and receives regular financial support from law firms. Not every jurisdiction in Latin America has a clearing house yet (although plans are afoot in several countries). “The declaration didn’t go so far as requiring the existence of this kind of infrastructure,” says Morales. “PBDA 2.0 could do more to create an easier way for the poor to access the justice system via the pro bono network.”

While there are ways that the PBDA could evolve to address the region's current needs, the declaration has undoubtedly had a permanent impact, first by making pro bono a talking point. After all, it is impossible to address a problem without initially recognising it. For a start, the PBDA made a crucial contribution to defining what constitutes pro bono, surely the starting block of making it a more common practice.

Nowadays, multiple law firm managing partners in Latin America will consider pro bono in their firm's wider strategic direction. Pro bono is very much part of the daily conversation in the region's legal circles. "The PBDA created awareness of this very, very important need for access to justice for people who need it,"

says von Wobeser. "The only way to start to meet that need is to create consciousness. What I am certain of is that 10 years ago people were not talking about this and now they are."

It is fair to say that there remains plenty more work to be done in the promulgation of access to justice for all in Latin America, but for those who spearheaded the PBDA this is very much about fighting the good fight: it is a battle, but it deserves to be fought.

There are no quick fixes, which is why it is important to consider any measurement of pro bono's advancement with a long-view perspective. "It's a gradual process," sums up Crider. "There are no easy solutions, no panacea, just a process of gradual growth. And that remains the goal."

## THE ARCHITECTS

The drafting committee of the PBDA was formed of Javier de Belaunde, Horacio Bernardes Neto, Juan Cambiaso, Todd Crider, Dan Grunfeld, Antonio Meyer, Guillermo Morales, Paula Samper and Claus von Wobeser.



CYRUS R. VANCE CENTER  
FOR INTERNATIONAL JUSTICE

**The Vance Center for International Justice extends its gratitude to the following law firms for their vital participation in our "Keep Families Together" project:**



**Arias Abogados  
Consortium Legal  
Mayora & Mayora  
QIL+4 Abogados  
Siqueira Castro Advogados**

**This project provides U.S. immigration lawyers representing children in the detained or otherwise separated from their families, as a result of the "zero tolerance" and other U.S. government policies, with the pro bono support of these and other law firms in the children's home countries.**

**With special thanks to our partner clearinghouses on this project: [Fundación Pro Bono Guatemala](#), [Centro Mexicano Pro Bono](#), and [Instituto Pro Bono](#)**

## LEADING LIGHTS

Law firms that stand out for the pro bono work done by their lawyers and for their efforts to build a lasting pro bono infrastructure, both internally and in their legal market.

### Argentina

Beccar Varela  
Bruchou, Fernández Madero & Lombardi  
Bulló Abogados  
Estudio O'Farrell Abogados  
Marval, O'Farrell & Mairal  
MHR | Martínez de Hoz & Rueda  
Pérez Alati, Grondona, Benites & Arntsen  
Zang, Bergel y Viñes Abogados

### Bolivia

Guevara & Gutiérrez – Servicios Legales

### Brazil

BMA – Barbosa, Müssnich, Aragão  
Demarest Advogados  
KLA – Koury Lopes Advogados  
Mattos Filho, Veiga Filho, Marrey Jr e  
Quiroga Advogados  
Pinheiro Neto Advogados  
Siqueira Castro – Advogados  
TozziniFreire Advogados

### Central America

BLP

### Chile

Albagli Zaliasnik  
Barros & Errázuriz  
Bofill Mir & Alvarez Jana Abogados  
Carey  
Guerrero Olivos  
Morales & Besa

### Colombia

Escandón Abogados  
Gómez-Pinzón Abogados  
Macías Gómez & Asociados Abogados  
Prias Cadavid Abogados

### Costa Rica

Batalla

### Dominican Republic

Russin, Vecchi & Heredia Bonetti

### Ecuador

Pérez Bustamante & Ponce

### Guatemala

Central Law  
Consortium Legal  
Mayora & Mayora, SC

### Mexico

Baker McKenzie  
Basham, Ringe y Correa  
Bello, Gallardo, Bonequi y García, SC  
Chevez Ruiz Zamarripa  
Creel, García-Cuellar, Aiza y Enríquez SC  
Greenberg Traurig, SC  
Hogan Lovells BSTL, SC  
Von Wobeser y Sierra SC



### Panama

Morgan & Morgan

### Peru

Benites, Vargas & Ugaz Abogados  
Estudio Echecopar, Member Firm of Baker  
& Mackenzie International  
García Sayán Abogados  
Lazo & de Romaña Abogados  
Payet, Rey, Cauvi, Pérez Abogados  
Philippi Prietocarrizosa Ferrero DU & Uría

### Uruguay

Guyer & Regules

### Venezuela

Araquereyna

### Regional

Ferrere

### METHODOLOGY

Latin Lawyer and the Vance Center draw heavily on responses to the pro bono survey when compiling the list of Leading Lights, so only law firms that participated in the most recent survey are eligible. Firms are compared against others in their jurisdiction. In countries with functioning clearing houses (Argentina, Brazil, Chile, Colombia, Dominican Republic, Mexico, Paraguay, Peru and Venezuela), firms are awarded up to 40

points based on their responses to the survey across the following categories: law firm's pro bono infrastructure (20%), recognition of lawyers' pro bono work (15%), pro bono work done (37.5%), support of clearing houses (27.5%). Clearing houses are also given the opportunity to provide information on the firms they see supporting their organisation and doing a high level of pro bono work. In countries where there is currently no clearing

house (Bolivia, Costa Rica, Ecuador, El Salvador, Guatemala, Nicaragua, Honduras, Panama and Uruguay) points are awarded between the first three categories (law firm's pro bono infrastructure, recognition of lawyers' pro bono work, pro bono work done). Those with the most points have a strong chance of being a Leading Light, depending on further considerations and taking into account comparisons within their jurisdiction.



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Thank you to all of this survey's participating firms for helping us, which are listed below with the exception of six that chose to remain anonymous.

#### **Argentina**

Baker McKenzie  
Beccar Varela  
Bruchou, Fernández Madero & Lombardi  
Bulló Abogados  
Durrieu Abogados  
Estudio Jurídico Nacevich & Cia  
Estudio Jurídico Noceti Frías  
Estudio O'Farrell Abogados  
Fontán Balestra & Asociados  
Fuertes y Asoc  
M&M Bomchil  
MHR | Martínez de Hoz & Rueda  
Marval, O'Farrell & Mairal  
Pérez Alati, Grondona, Benites & Arntsen  
Silva Ortiz, Alfonso, Pavic & Louge Abogados  
Zang, Bergel y Viñes Abogados  
Zapiola Guerrico & Asociados

#### **Bolivia**

Ferrere  
Guevara & Gutiérrez – Servicios Legales  
Sanjinés & Asociados – Abogados

#### **Brazil**

BMA – Barbosa, Müssnich, Aragão  
Bichara Advogados  
Buzaglo Dantas Advogados  
Cescon, Barrieu, Flesch & Barreto Advogados  
Demarest Advogados  
LA – Koury Lopes Advogados  
Lefosse Advogados  
Levy & Salomão Advogados  
Machado Meyer Sendacz e Opice Advogados  
Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados  
Murray Advogados  
Pinheiro Neto Advogados  
Siqueira Castro – Advogados  
TozziniFreire Advogados  
Trench Rossi Watanabe

#### **Central America (regional)**

Aguilar Castillo Love  
BLP  
Consortium Legal

#### **Chile**

Albagli Zaliasnik  
Alessandri  
Baker McKenzie  
Barros & Errázuriz  
Bofill Mir & Alvarez Jana Abogados  
Carey  
DLA Piper BAZ|NLD  
Grasty Quintana Majlis  
Guerrero Olivros  
Morales & Besa  
Silva  
Urenda, Rencoret, Orrego y Dörr Abogados  
Agudelo Peláez Abogados  
Ariza & Marín  
Arrubla Devis Asociados

#### **Colombia**

Baker McKenzie  
Brigard Urrutia  
Chahín Vargas & Asociados  
Contexto Legal  
DG&A-Abogados  
Escandón Abogados  
Godoy & Hoyos Abogados  
Gómez-Pinzón Abogados  
Lloreda Camacho  
Macías Gómez & Asociados Abogados  
Philippi Prietocarrizosa Ferrero DU & Uría  
Prias Cadavid Abogados  
UH Abogados  
Víctor Mosquera Marín Abogados

#### **Costa Rica**

Batalla  
Central Law

#### **Dominican Republic**

Russin, Vecchi & Heredia Bonetti

#### **Ecuador**

Ferrere  
Pérez Bustamante & Ponce  
Romero Arteta Ponce

#### **Guatemala**

AD Sosa & Soto  
Central Law  
Consortium Legal  
García & Bodán  
Lexincorp  
QIL+4 Abogados

#### **Mexico**

Baker McKenzie  
Basham, Ringe y Correa  
Bello, Gallardo, Bonequi y García, SC  
Bufete Rocha SC  
Chevez Ruiz Zamarripa  
Creel, García-Cuellar, Aiza y Enríquez SC  
Gonzalez Calvillo  
Greenberg Traurig, SC  
Hogan Lovells BSTL, SC  
Jones Day  
Ritch, Mueller, Heather y Nicolau, SC  
Sánchez Devanny  
Santamarina y Steta, SC  
Von Wobeser y Sierra SC  
White & Case, SC

#### **Panama**

Arias, Fábrega & Fábrega  
Galindo, Arias & López  
Morgan & Morgan

#### **Paraguay**

BKM | Berkemeyer  
Ferrere  
GHP Abogados

#### **Peru**

Barrios & Fuentes Abogados  
Benites, Vargas & Ugaz Abogados  
Estudio Echeopar, member firm of Baker & Mackenzie International  
Garcia Sayán Abogados  
Lazo & de Romaña Abogados  
Miranda & Amado Abogados  
Osterling Abogados  
Payet, Rey, Cauvi, Pérez Abogados  
Philippi Prietocarrizosa Ferrero DU & Uría  
Rebaza, Alcázar & De Las Casas  
Rodrigo, Elías & Medrano Abogados  
Rodríguez Angobaldo Abogados  
Rubio, Leguía, Normand & Asociados  
Yataco Arias Abogados  
Yon Ruesta, Sanchez Malaga & Bassino Abogados

#### **Uruguay**

Bergstein Abogados  
Ferrere  
Guyer & Regules  
Jiménez de Aréchaga, Viana & Brause  
Posadas, Posadas & Vecino

#### **Venezuela**

Araquereyna  
Mendoza, Palacios, Acedo, Borjas, Páez  
Pumar & Cía