LATIN LAWYER AND THE VANCE CENTER'S 2019

PRO BONO SURVEY

Our findings continue to evidence the great efforts Latin American law firms are making to adopt pro bono into their culture.

by **FREDRIK KARLSSON**

Now in its 12th year, our survey has never had as many respondents as it did in 2019. The survey's greater popularity and results show that pro bono is increasingly finding a place within Latin American firms' day-to-day service offer.

With each year, more and more law firms in the region are coming together to provide free legal services to those who cannot 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.

As part of this year's survey we have focused on pro bono work related to migration. In the first of two articles we focus on an area in which many law firms have reported doing work: migration. Over the last five years, millions of people have left their homes in Venezuela and Central America in search of new opportunities and a safer place to live elsewhere in the region, and further afield. This wave of migration – labelled a humanitarian crisis by many – has, according to our survey, spurred several law firms to do more migration-related pro bono work than ever as they try to help some of the most vulnerable people in Latin America. These marginalised individuals lack basic human rights, including access to justice.

Our article presents the solutions lawyers must come up with to overcome challenges when advising migrants – from having to learn about immigration law and find the right information from a never-ending number of sources, to dealing with bureaucratic processes. We found that clearing houses and law firms are coming up with innovative solutions to help people understand local immigration laws as they establish new lives in new countries. One standout example is the creation of an app called Yo migro ("I migrate").

A regional problem requires regional solutions. The Vance Center and the Pro Bono Network of the Americas have played important roles in coordinating law firms and clearing houses across the region. One of the Vance Center's most successful initiatives is its Keep Families Together project. It connects Latin American lawyers with US immigration lawyers to help Latin American families separated at the US-Mexican border stay together.

In the second article 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 noting is the rise in the number of survey respondents, which saw a 25% jump since last year, which is extremely positive. With this increase we can conclude that more firms see the benefit of reporting their pro bono work. It most likely also means that more firms are dedicating time to pro bono.

It is also encouraging to see that more law firms say they are part of a local clearing house, and that more firms provide funding to those organisations. This is a sign of pro bono institutionalisation and indicates that law firms increasingly see the benefit of collaborating with clearing houses to achieve their pro bono goals. Clearing houses are often better suited than law firms to screen and identify pro bono work, while allowing law firms to focus on what they do best: practising the law and solving legal complexities. Without funding, clearing houses would struggle to survive, so the uptick in firms providing financial support to clearing houses is a very good sign.

Latin Lawyer and the Vance Center would like to thank the following clearing houses for their help 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 Pro Bono Guatemala; Fundación Barra Mexicana, Appleseed and Centro Mexicano Pro Bono in Mexico; CIDSEP in Paraguay; the Alianza Pro Bono in Peru; and ProVene in Venezuela.

THE MIGRATION TRAIN

Perhaps no other image best captures the desperation of Latin America's poorest and most vulnerable migrants than that of *La bestia*, a freight train route commonly used by Central American migrants to reach the US. On their journeys to new lives, people on the move in Latin America face legal uncertainty, vulnerability and alienation. This has necessitated an unprecedented need for pro bono counsel from lawyers, finds Latin Lawyer.

Some call it *El tren de los desconocidos* ("the train of the unknown") or *El tren de la muerte* ("the death train"), but it is perhaps best known as *La bestia* ("the beast"). The freight train network primarily transports export goods from the southern Mexican state of Chiapas to cities along the US border, but also on board are people desperate to leave behind misery, violence and unemployment in their home countries to start anew in the US.

Thousands of the poorest migrants from Central America travel atop the train every year. In doing so they take huge risks; many succumb to serious injuries, kidnappings, extortion and even death. But for many, it is the only option. They cannot afford other ways of travelling and on *La bestia* they can avoid authorities' immigration points and police raids on other forms of transport.

La bestia has been running for many years and migration has an even longer history in Latin America. But over the past five years the region has seen a dramatic uptick in migration, reaching crisis levels. Many people are escaping desperate circumstances in their home countries by taking whatever route possible out to start a new life somewhere else. Venezuela is suffering from economic meltdown, forcing more than 4 million people to leave the country since 2015. Over the past two years in Central America, caravans of thousands of people have fled one of the world's most violent places – the so-called northern triangle of El Salvador, Guatemala and Honduras – to reach the US. Concurrently, migrants face political resistance from US President Donald Trump's anti-migration policies, including attempts to build a wall along the US-Mexico border, as part of a broader, zero-tolerance stand against illegal border crossing.

For Latin American law firms, these crises have led to a rising number of pro bono cases related to migration. Of the firms that took part in our 2019 pro bono survey, 30% said they worked on immigration matters in 2018 (the year on which the survey collected data). This compares to the 28% that reported doing migration-related work during 2017, and the 19% that said they did so in 2016. There is a clear upwards trend. Six out of the nine clearinghouses we spoke to as part of our latest survey highlighted immigration cases as some of their highest impact projects from 2018.

Taking the initiative

Millions of people in vulnerable positions are in desperate need of legal advice, often on how to obtain refugee or legal status in their new home countries, or how to access health services and be eligible to work. This is where lawyers can play their part. "Providing pro bono work is part of our profession and we have a duty to give back to the community, giving the pro bono client the same service as any billable client and bringing the same quality solution," says Valentina Villa, counsel at Creel, García-Cuéllar, Aiza y Enriquez SC in Mexico City.

Of all the countries feeling the impact of the millions of people leaving Venezuela, it's fair to say Colombia has been the most affected. Since 2014 some 1.6 million Venezuelans have migrated to Colombia – more than have gone to any other Latin American country, according to the United Nations refugee agency, UNHCR. To help them find their feet, in 2017 the Colombian government created a special permit allowing Venezuelans to temporarily reside and work in the country. But many remain undocumented. As a result, points out Fundación Pro Bono Colombia's executive director Ana María

Illustrations by Jill Calder

Arboleda, it has been difficult for the government to know Venezuelans' needs and develop effective public policies to help them.

In response, the Colombian clearing house launched workshops in border towns to inform Venezuelans how they can obtain legal status and get access to health services and employment. Gómez-Pinzón was involved in workshops held in the northern border town of Cucutá. Without the seminars, associate Daniel Flórez says migrants in the town might not have obtained legal status, given the lack of legal support from government institutions. Helping them also served to help society as a whole, given poverty and unemployment levels are already high in some of the towns receiving large influxes of migrants. "For understandable reasons they are unlikely to return to Venezuela, and if they don't get legalised they won't be able to contribute," he says.

Like Colombia, Brazil shares a border with Venezuela and Brazilian firms are doing similar work with migrants. For example, Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados has organised workshops with migrants seeking refugee status, informing them of local immigration laws and what they need to provide to obtain legal status in Brazil. "It is a massive help to the people needing this advice," says partner Flavia Regina de Souza Oliveira.

Problem solvers

Regional migration in Latin America has reached unprecedented levels, making creative thinking a must when it comes to pro bono in this field. This is especially so because migration often occurs against the backdrop of dense bureaucratic systems, making it difficult to achieve fast results.

A good example of thinking outside the box is Fundación Pro Bono Chile's Yo migro ("I migrate"), an app it launched in 2018 to help migrants better understand Chile's new immigration law (which was passed in the same year). Paula Zaldívar, associate at Morales & Besa, says the law triggered a lot of uncertainty, particularly because it meant migrants applying for certain visas had to do so from their home countries instead of in Chile. A new type of visa was subsequently put in place, but the procedures to obtain it were unclear, says Zaldívar. The app gives users consolidated information about immigration regulation in one place and in a straightforward way. It also allows people to follow their applications and search for agencies and organisations that they might find useful.

THE ENORMOUS TASK OF HELPING MILLIONS OF MIGRANTS PLACES A HUGE DEMAND ON LEGAL MINDS.

1.6 million

Venezuelans have migrated to Colombia since 2014 (more than have gone to any other Latin American country, according to UNHCR)

Peruvian firms doing pro bono work with migrants have also had to adapt to changing government policy. Peru is the second biggest recipient of Venezuelan migrants – receiving some 850,000 as of October 2019, according to UNHCR. The government recently withdrew a temporary resident permit for Venezuelans it had only created a year earlier, instead encouraging migrants to apply for a tourist visa, which is more difficult to obtain.

Clearing house Alianza Pro Bono Perú, in coordination with the Pan American Development Foundation and law firms Benites, Vargas & Ugaz Abogados; Estudio Echecopar; Philippi Prietocarrizosa Ferrero DU & Uría (Peru); Miranda & Amado Abogados; Rebaza, Alcázar & De Las Casas; and Osterling Abogados, responded by launching a project called Integrando horizontes ("Integrating horizons") which included developing a manual designed in an easy-to-digest format, telling migrants how to obtain asylum and access basic services. The manual was designed to be a buffer against complex Peruvian immigration laws and information provided by authorities that is often confusing for new arrivals, says María Eugenia Tamariz, an associate at Benites Vargas.

The work law firms are doing in this field is a huge task, says Alianza executive director Marina Lazarte. "We don't even know how many Venezuelan migrants are actually here, [because] they are settled in different places and are not well organised," she points out, making it hard to know exactly what legal issues they face.

Mexican lawyers are also innovating to face challenges presented by bureaucracy. Creel García-Cuéllar works closely with UNHCR's local offices and helps people in asylum cases heard before the Mexican commission for refugee aid (COMAR). The number of refugee claimants in Mexico has doubled every year between 2015 and 2018, and is expected to be close to 80,000 in 2019. But austerity measures have forced the government to reduce COMAR's funding, resulting in an ever-growing backlog of cases. COMAR is dealing with its smallest budget in years, at a time when the number of undocumented migrants reaching the US border is its highest in a decade.

Government funding cuts and reductions in personnel have slowed immigration processes down, says Creel García-Cuéllar counsel Carlos Martínez Betanzos. To push cases through faster, the firm also brings *amparos* (constitutional claims), which tend to make the authorities react faster, he explains.

Lawyers confirm that navigating local immigration regulations is tricky. For example, Martina Monti, associate at Argentine law firm Bruchou, Fernández Madero & Lombardi, says her country's immigration laws have historically been favourable to migrants and refugees, but legislation is broad. This makes it a challenge to pull together all the essential information in a single manual that caters to people coming from different countries. "It's hard to know where to start looking, and you need to go to several sources," points out Monti. If it's challenging for a local lawyer, it might seem insurmountable for someone with no legal background.

The enormous task of helping millions of migrants places a huge demand on legal minds. What complicates matters further is that many lawyers are not immigration law experts. Many practitioners working on immigration cases come from corporate firms and getting involved in immigration matters is to some degree a re-education process. "I had to return to my law textbooks and learn a lot about immigration law," says Gómez-Pinzón's Flórez, who is principally a capital markets lawyer.

Some lawyers hold back from getting involved in this work because they feel they do not have much to add. This was the experience of Fundación Pro Bono Guatemala. "But after clearly telling them how they could help by gathering people's documentation (including birth certificates and other records), they were all interested," says Claudia Murga, executive director at the clearing house.

There's an argument that lawyers can be of help even when they are not experts in a particular field. Cristina Sandoval, an associate at Consortium Legal (Guatemala) who practises labour and immigration law, says lawyers' professional status adds authority to a case, particularly in procedures heard by officials. "If migrants go to the authorities themselves, the process will be laborious and difficult to manage, but with lawyers representing them it will be more effective," Sandoval points out.

Tailoring the solution to the problem

One defining feature of today's migration crisis is the number of countries it affects. It is a truly regional issue that requires a regionwide response. *La bestia* symbolises the journey many migrants make; like many people, it travels through one country while on transit to a final destination. Longer journeys through multiple countries increase people's interaction with different authorities, growing the demand for legal help in different places.

In reaction to the Trump administration's zero-tolerance immigration policy – which led to the separation of some 3,000 children from their families at the Mexico-US border – the Vance Center launched Keep Families Together, an initiative linking Latin American member firms of the Pro Bono Network of the Americas with US immigration lawyers handling these families' cases. So far 14 law firms from eight countries across the region have helped 75 families reunite by providing US lawyers with necessary documents, including proof of identification, birth certificates and medical and criminal records.

Many of the families affected are from Central America. One of the firms involved there was Consortium Legal; its lawyers have been helping a Guatemalan adolescent file an application with the US embassy to join her mother (who is already in the US). During the process they helped her reconnect with her father in Guatemala, with whom she had not been contact since she was a baby. "We managed to keep a family together in both Guatemala

ONE DEFINING FEATURE OF TODAY'S MIGRATION CRISIS IS THE NUMBER OF COUNTRIES IT AFFECTS. IT IS A TRULY REGIONAL ISSUE THAT REQUIRES A REGIONWIDE RESPONSE.

75

The number of families reunited – with the help of 14 law firms in eight countries – under Keep Families Together

and the US," says Consortium Legal's Sandoval. The adolescent is expecting to find out her asylum status in early 2020.

US law firms have also been heavily involved in cases related to separated Latin American families. For example, in 2018 several Hogan Lovells LLP lawyers worked pro bono to reach a class action settlement with the US government that guaranteed forcibly separated migrant families another chance to seek asylum in the country. The claimants, mainly Guatemalan and Honduran families, had been given two choices by the government: either be reunited with their children and deported together, or be deported alone while their children made a claim for asylum. This resulted in many families agreeing to be deported together, rather than being split up.

The Pro Bono Network of the Americas is well positioned to cater to cases involving multiple jurisdictions, as it rests on cross-border collaboration. After all, it was set up to bring together law firms and clearing houses in several countries to help those in need. Some of its member organisations have produced a report on the legal obstacles migrants tend to face in each jurisdiction and several members – including Argentina's Bruchou, Fernández Madero & Lombardi, and Morales & Besa from Chile – report currently working on an updated version.

US-Mexican clearing house Appleseed has made use of its unique structure – it is the only clearing house with branches in both countries – to orchestrate a manual for Mexicans facing deportation from the US. The manual was produced by Appleseed and many of its members, as well as non-profit organisations in both countries, and includes advice on a broad range of things, from parental and child rights, to sending money between the US and Mexico, to protecting assets and closing businesses in the US. Executive director Maru Cortazar says law firms also helped train organisations in Mexico and the US, including call centres, on the information in the manual, so it could be shared with people facing the risk of deportation.

The work carries on

Most immigration cases involve advisory work, such as filing for visa and asylum applications, and gathering information. But there is also demand for legal counsel on more complex cases. Alianza's Marina Lazarte says firms can sometimes be unwilling to take on more litigious cases. These typically take longer to resolve – requiring more hours and a

CENTRAL AMERICA'S CARAVANS

In 2018 groups of people decided to depart the northern triangle – El Salvador, Guatemala and Honduras – and head towards the US. As the numbers grew into the thousands, the groups turned into caravans of people leaving their home countries for a safe haven elsewhere.

Violence, systematic corruption and unemployment are often cited as reasons behind the exodus, but some argue there are other factors too. While climate change is rarely highlighted as a reason to migrate, it intensifies the reasons people decide to leave their homes, because it causes crop failure, food insecurity and poverty. Research suggests climate change will likely push more people northbound in the coming decades.

According to UNHCR, there are some 400,000 refugees and asylum seekers from the northern triangle worldwide and the number continues to rise. On top of that, there are more than 300,000 internally displaced people in El Salvador and Honduras alone.

It is not only the northern triangle that is affected. Since anti-government protests began in Nicaragua in 2018, nearly 90,000 people have left the country in search of a safer place to live.

greater commitment from the firms involved. "We make progress every year, but I would like to see firms doing more challenging cases," says Lazarte.

An example of this kind of work concerns a case brought by the Jesuit Refugee Service in northern Chile, which successfully filed a writ of *habeas corpus* before a court of appeal in the city of Arica after the Chilean government ordered the expulsion of a group of migrants for illegally entering the country. The Supreme Court ratified the court of appeal's ruling allowing the migrants to stay in October. Morales & Besa partner Edmundo Varas wants to see more lawyers taking on these kinds of matters. "Migrants are a vulnerable group and getting access to justice for them is difficult," he says. The Chilean government's actions to limit irregular immigration makes it even more important to help migrants, he says, as they often do not understand the restrictions and how their legal rights are affected.

Another example of this kind of work is DLA Piper LLP's successful challenge of the US government's decision to separate two Brazilian boys from their fathers, after they crossed the US–Mexican border to seek asylum in the US. The Brazilian Bar Association has also taken initiatives against the separation of families at the US border; Siqueira Castro Advogados' managing partner Carlos Roberto Siqueira Castro and another local lawyer, Ricardo Bacelar Paiva, both of whom are members of the bar's national council, have led calls for the association to take protective custody of 51 Brazilian children separated from their parents.

Clearing houses are already thinking ahead about new ways they can help migrants going forward. "For 2020, we will continue working on immigration issues, but we will also implement legal training for migrants who are already in Colombia and want to do entrepreneurship. They will need to understand the legal framework for setting up businesses," says Arboleda of Fundación Pro Bono Colombia.

Law firms fiercely compete most of the time, but pro bono is an area where lawyers can collaborate. Those working on pro bono immigration cases in Mexico say it has brought the legal community closer together. Lawyers there use WhatsApp groups to share the latest news in relation to immigration cases they are handling. "This is not a competition with other firms, we have become allies," says Creel García-Cuéllar's Villa.

While law firms and clearing houses do their best to help migrants settle in new countries, *La bestia* goes on. Official numbers are hard to estimate, but in 2019 the train network reportedly re-emerged as a preferred means of travel for migrants seeking new lives in the US. As long as living conditions do not improve in migrants' home countries, it's likely it will stay that way.

"THIS IS NOT A COMPETITION WITH OTHER FIRMS, WE HAVE BECOME ALLIES."

– VALENTINA VILLA, CREEL, GARCÍA-CUÉLLAR, AIZA Y ENRIQUEZ SC

FINDING THEIR VOICE

With the help of dedicated clearing houses and determined pro bono coordinators, Latin American law firms are delivering free legal advice to the people who most need it – and, more than ever, they want to talk about their achievements.

Our annual Latin Lawyer–Vance Center pro bono survey showcases law firms' efforts and finds progress is being made, but there is still much to be done to deliver access to justice to all.

One of the Vance Center's biggest ambitions has long been to encourage more firms in Latin America to stand up and be counted for their pro bono contributions. It is therefore promising that this year more firms than ever took part in our pro bono survey. In doing so they reported doing important work across the spectrum – from advising on environmental and sustainability causes, to working with Venezuelan and Central American migrants, to giving counsel in relation to domestic violence and disability rights.

For example, following some of Peru's worst ever flooding – triggered by the El Niño phenomenon in 2017 – firms there teamed up with local clearing house Alianza Pro Bono Perú to produce a manual informing people affected by the floods of their legal rights in relation to damages caused by natural disasters. It is one of many high-impact cases that law firms across the region have told us about over the past year.

Our latest pro bono survey charts a 25% jump in the number of participating law firms, going from 130 to 162 respondents. This mirrors the upward trajectory in the number of firms that say they are signatories to the Pro Bono Declaration of the Americas (PBDA), under which firms pledge their lawyers to do 20 hours' pro bono work each per year; 70% of respondents said they were signatories in this year's survey, compared to 66% in last year's. This continues a steady increase in signatories that we have tracked over the past five years.

A greater number of respondents suggest more firms recognise the value of reporting their pro bono work. It seems logical to assume that if a firm completes the survey, they have carried out pro bono work or dedicated at least some time to it. Jorge Escobedo, director of pro bono partnerships at the Vance Center, says the bigger pool of respondents is a sign that more law firms understand the value pro bono adds to their organisations.

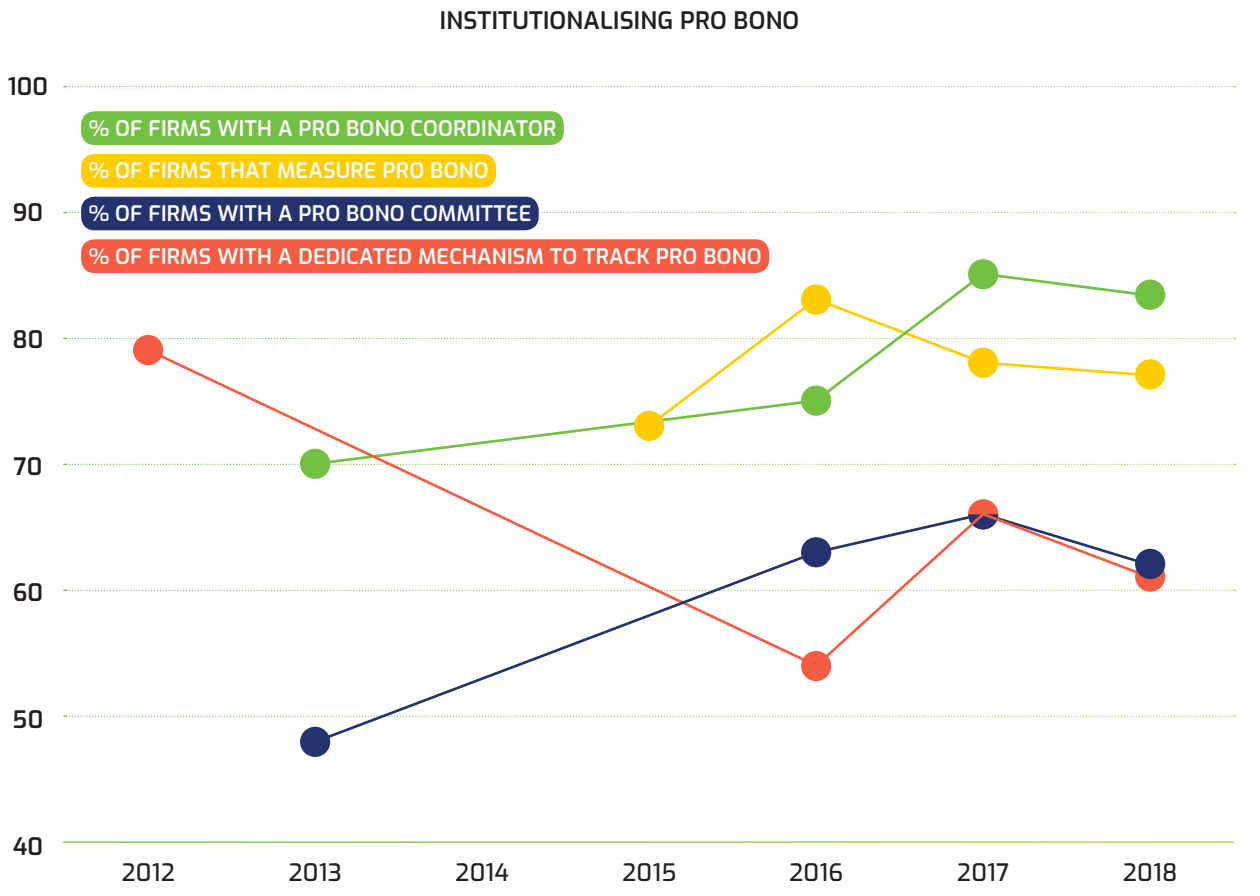
For others it's a marker of greater institutionalisation. "We know many firms are involved in pro bono, but the process of institutionalisation is not easy, so this uptick is phenomenal," says Shearman & Sterling LLP partner – and member of the Vance Center's executive subcommittee – Antonia Stolper.

Signs of institutionalisation

The growing proportion of firms that are signatories to the PBDA indicates that more firms see the value of robust pro bono programmes and formalised commitments to do the work. But there are other crucial measures of greater

"CLEARING HOUSES ARE THE MOST EFFECTIVE WAY TO GET ACCESS TO SOME OF THE MOST REWARDING AND MEANINGFUL PRO BONO WORK."

– WERNER AHLERS



institutionalisation, including appointing pro bono coordinators and committees to facilitate firms' relationships with clearing houses and allocate projects to achieve results.

The proportion of firms with a pro bono coordinator or committee in place has remained steady over the past three years. Upwards of 80% of firms say they have a coordinator, while 62% have a committee. (The numbers reported this year reflect a small fluctuation on last year's results, which can be attributed to the larger number of respondents and a different pool of participants.)

Of those firms that have a coordinator, 10% say that person works full-time in that role. Argentine law firms are at the forefront here; close to a third of firms from there have a full-time coordinator, according to our data. Brazilian law firms followed second.

If a law firm has a pro bono coordinator, it's generally easier for clearing houses to communicate with a firm to assign cases. Coordinators help to properly allocate work within firms and make sure cases are given to lawyers with the appropriate experience. This breeds better end results. "If there is a coordinator, you can see it reflected in the work in terms of quality and time spent on the matter," says Marina Lazarte, executive director of Alianza Pro Bono Perú. If the coordinator also has strong internal support at the firm, the results tend to get even better, she adds.

Natalia Alvardo, projects coordinator at Appleseed in Mexico – where less than one in 10 firms replying to our survey said they had coordinators working full-time on pro bono – notices the difference when a firm has a coordinator, and when it doesn't. They act as a single point of contact at the firm for clearing houses, making it easier to follow a case's progress. Positively, Alvarado thinks it is becoming more commonplace for Mexican law firms to have coordinators.

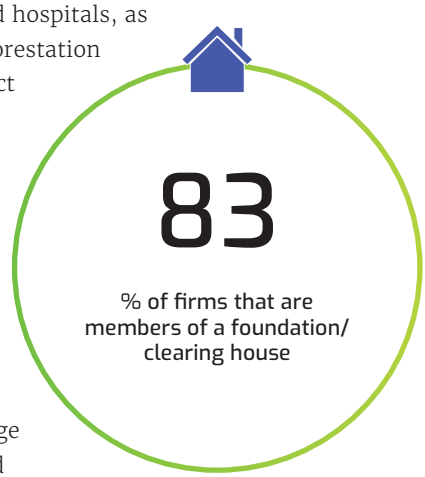
But it would be overly optimistic to expect every firm across the region to have one. Whether or not a firm has a full-time coordinator generally comes down to resources, points out Werner Ahlers, a partner at Sullivan & Cromwell

LLP in New York and member of the Vance Center's executive sub-committee. Big, full-service firms with large revenues might be in a better position to allocate more resources to pro bono than less established outfits, meaning it will take some firms longer before they can hire a coordinator. "I expect this development of smaller firms hiring dedicated coordinators to be slow," adds Ahlers.

Another way of assessing law firm institutionalisation of pro bono is whether or not firms measure the unpaid work they are doing. According to this year's survey results, the proportion of firms that measure pro bono (77%) has changed little over the past four years. The same is true for the number of firms with a dedicated mechanism in place to track pro bono (61%).

Measuring work, performance and billable hours is standard for all paid-for practice areas. The hope is that pro bono is treated no differently: in the same way firms would investigate if they failed to meet performance targets in billable departments, in an ideal world they would do the same if they did not tick off pro bono goals, says Escobedo.

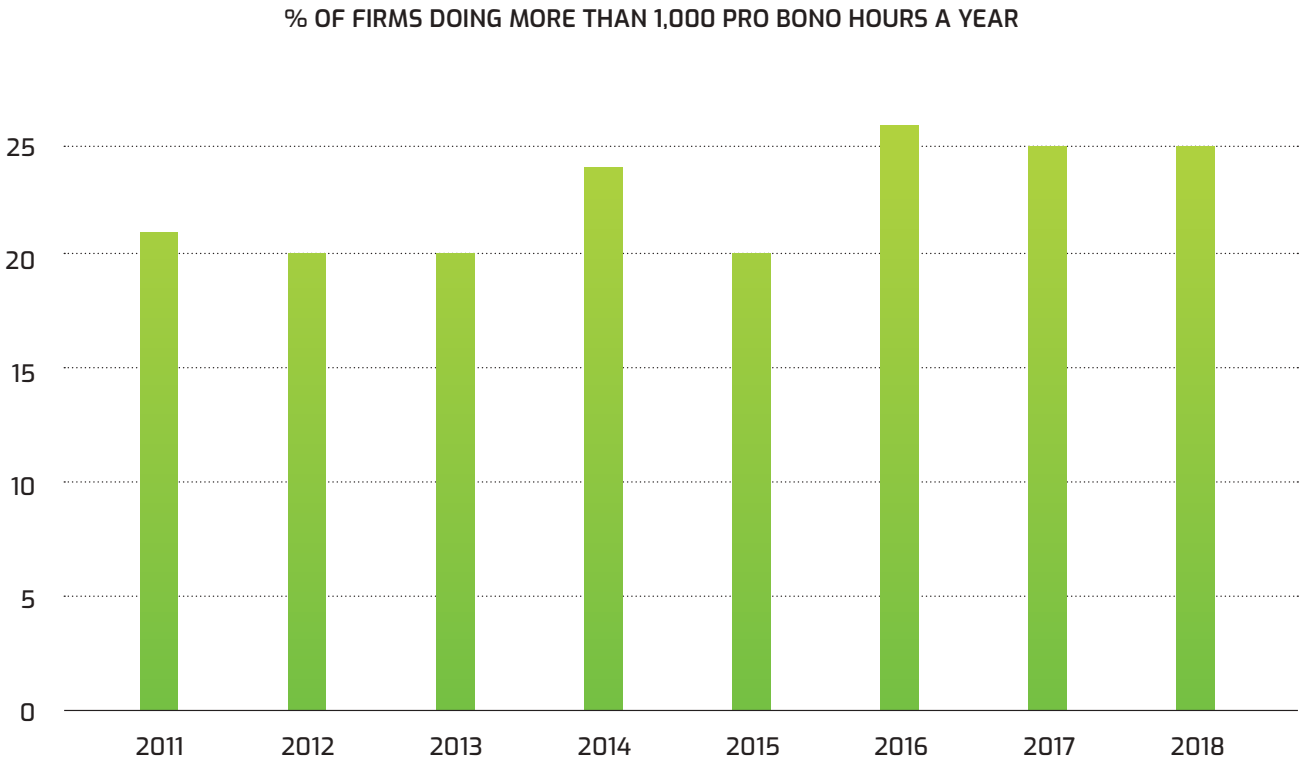
Firms that track pro bono can use their findings to promote the practice and help spread the word about the merits of doing pro bono, points out Ahlers. A good example of this is Chile's Prieto, which tracks pro bono in the same way as it does billable practices. It recorded its work for Fundación Desafío Levantemos Chile following catastrophic wildfires across several Chilean regions in 2017, some of the most devastating in Chilean history and which left thousands homeless. Working alongside Isabel Díaz y Asociados, Prieto helped the foundation raise US$25 million to rebuild homes, schools and hospitals, as well as to fund reforestation projects. The project was the recipient of Latin Lawyer's 2019 Pro Bono Project of the Year Award.



Bringing both sides together

There are often large pools of supply and demand when it comes to pro bono, but the difficult task is connecting them. People seeking free legal advice are often the most vulnerable in society, who have a hard time accessing legal counsel. Often they can't afford legal advice, or belong to communities that are socially isolated and whose rights may be ignored by governments. Conversely, lawyers tend to move in privileged circles and often don't interact with people in need of free legal advice on a regular basis. "Clearing houses are critical to connect them," says Ahlers. "[They] are indispensable; they're the most effective way to get access to some of the most rewarding and meaningful pro bono work."

Clearing houses reported several projects where they connected lawyers with vulnerable groups of society in 2018. In a one of them – Mis derechos y mis deberes – Fundación Pro Bono Colombia



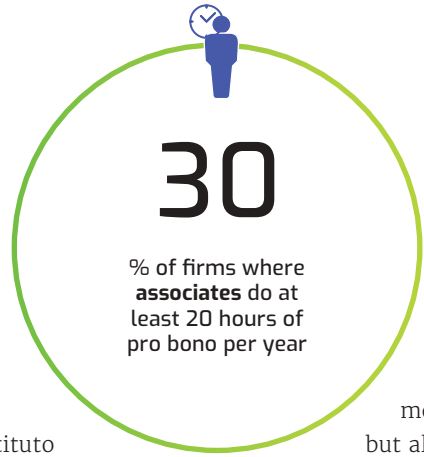
worked with several local law firms, including Gómez-Pinzón and Uribe Henao Abogados, to create a legal manual for children and adolescents from poor communities, informing them of their legal rights. The project sought to form young leaders who could then spread the message throughout their communities.

By letting clearing houses address finding work and assessing the complexity of cases, law firms can concentrate solely on what they are good for: giving legal advice. "If clearing houses do the screening it allows law firms to focus on what they do best, which is the legal work, and not on determining what is pro bono and what is not, because that is beyond law firms' expertise," points out Shearman & Sterling's Stolper.

Funding is a must

Of the respondents to the 2019 survey, 83% are members of a local clearing house – slightly more than the previous year. Importantly, in 2019 more firms said they provided funding to clearing houses than in the previous year – the number is up from 62% to 67%.

Several clearing houses report increases in the funding they get from members. Among the nine clearing houses in Latin America that answered our survey, five said the majority of law firm members provided funding. Five clearing



houses also said they received more funding from law firm members in 2018 than 2017.

Brazil's Instituto Pro Bono reported one of the biggest jumps: its funding nearly doubled. That has the potential to increase further, as currently less than 10% of its member firms make financial contributions.

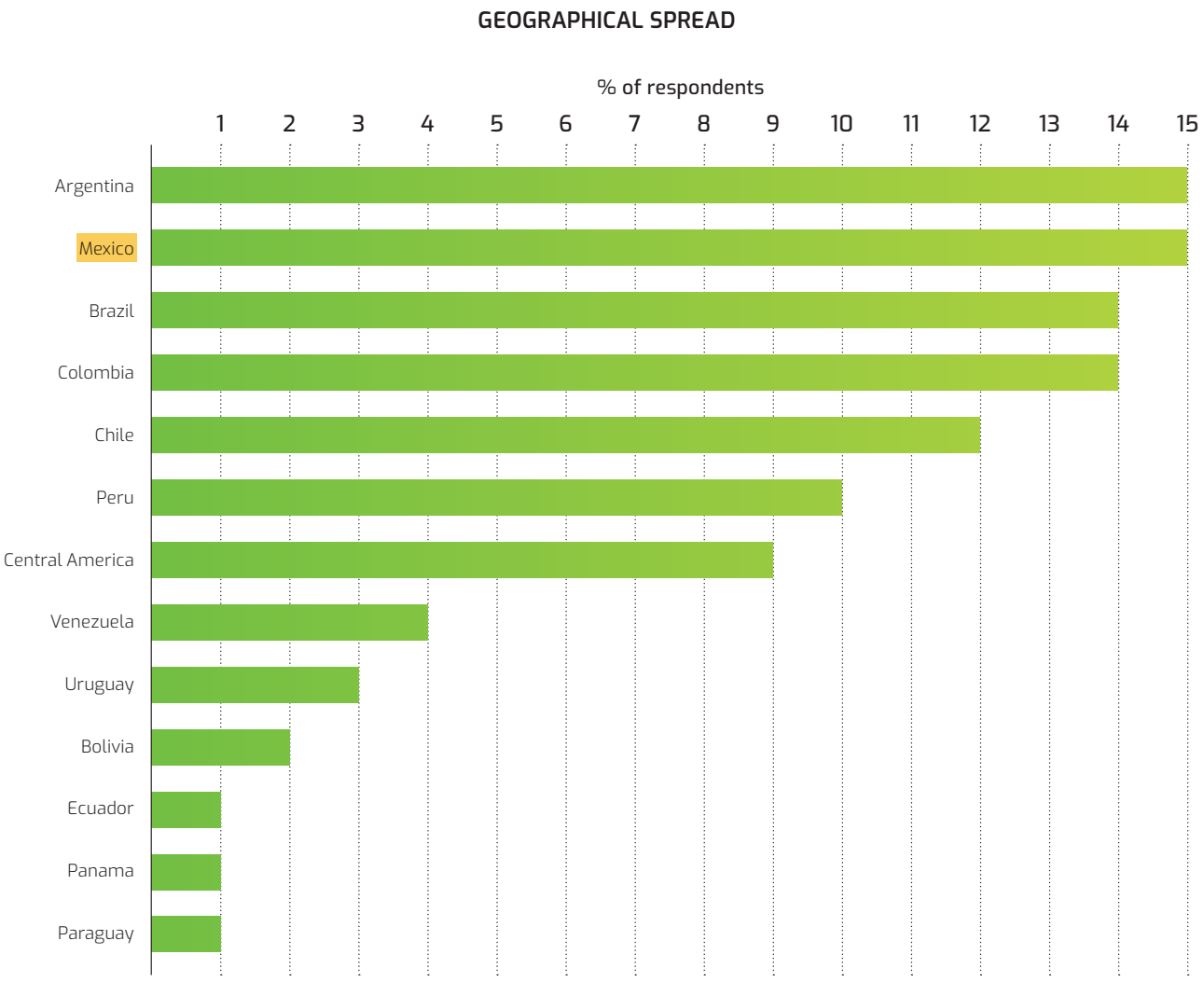
Alianza Pro Bono Perú and Fundación Pro Bono Colombia are the only clearing houses we surveyed that get funding from all of their law firm members. To maintain that status quo, Alianza's Marina Lazarte says the clearing house works hard on keeping in close contact with firms. Showing firms that they get something in return (such as easier access to pro bono work), for their contribution is key to keeping them committed. "We tell them that this clearing house is their house, and the work we do is for them," she says.

In the Colombian case, all members must pay the clearing house an annual fee, but they also contribute financially through fundraising activities throughout the year, such as football tournaments. "These activities not only provide important monetary resources but also bring the legal community closer to the pro bono activities," points out the clearing house's executive director Ana María Arboleda.

Without funding, clearing houses would not be able to function. Financial help is especially critical for fledging clearing houses. Claudia Murga, executive director of Fundación Pro Bono Guatemala – which has been up and running for two years – says the fees member firms pay to the clearing house are its only source of funding, putting the clearing house in a potentially vulnerable position. Fundación Pro Bono Guatemala is looking at other ways to fundraise, for example through projects and events, to make it less dependent on members, says Murga.

For some firms allocating budget for pro bono is complicated. Smaller, less-established firms with fewer resources might prefer to invest in areas that will bring a financial return. Macroeconomic or political crises can have an impact too. Venezuelan clearing house ProVene reports that none of its six members provided funding in 2018, consistent with 2017. Venezuela's political and economic turmoil has made it difficult to incentivise lawyers to do more pro bono work, according to the clearing house.

Other clearing houses cite similar scenarios. Alianza Pro Bono Perú's Lazarte says political uncertainty in recent years – starting with former president Pedro Pablo Kuczynski's resignation in 2018 – has made it difficult to increase funding, because corporates' appetite for investment has changed, making firms rethink their spending habits in turn. "We want to grow and increase the funding we receive, doing so in a steady way,



but the current political situation makes it tricky," says Lazarte.

It's true that circumstances in some jurisdictions put unique pressures on firms. But ultimately, allocating funding to do pro bono is a duty they must bear. Veronica Rodriguez, New York-based of counsel at Paul Hastings LLP, a Vance Center member firm, underscores the work clearing houses have done to enable law firms to achieve their pro bono targets. "Now it's the firms' responsibility to pay back the clearing houses by providing them with the pro bono legal work they need," she argues.

Still work left to do

The number of responding firms saying partners supervise pro bono cases is high, at 82%. But according to our data, only 19% of firms have partners that do at least 20 hours of pro bono work a year – the same proportion as last year. At associate level, according to the 2019 survey, the number of firms reporting that associates do at least 20 hours a year has dropped to 30% from 35%.

It's possible the numbers do not tell the whole story. The proportion of partners doing pro bono work may actually be higher than our survey indicates, because some partners may not record their hours, especially if they do them on an occasional basis.

These numbers also should not take away from the important work carried out by firms punching in below the 20-hours-per-year threshold. "Firms measure the number of hours and their pro bono work in different ways," points out Ahlers. "You may well have firms doing a significant amount of important pro bono work, even though they don't have a majority of partners doing the 20 hours a year that they may have signed up to."

But hands-on partner involvement is crucial to getting broad support for pro bono across

a firm's ranks. As Ruti Smithline, partner at Vance Center member firm Morrison & Foerster LLP, points out: "In any company model you need to see people at the top being involved and sending a message to the rest of the company that others should be involved too," she says.

Partners have significant experience and knowledge to bring to the table, which can make a real difference to the outcome of pro bono cases. An example of this is Brazilian law firm Siqueira Castro Advogados' defence of *quilombo* communities (settlements founded and maintained by runaway or freed slaves) against a constitutional claim that challenged the communities' right to settlements founded by their ancestors. Partners Carlos Roberto Siqueira Castro and Marina Araujo Lopes worked on the case, obtaining a favourable ruling from Brazil's Supreme Court in 2018. The case set an important precedent because it protected the rights of a group that has historically been ignored.

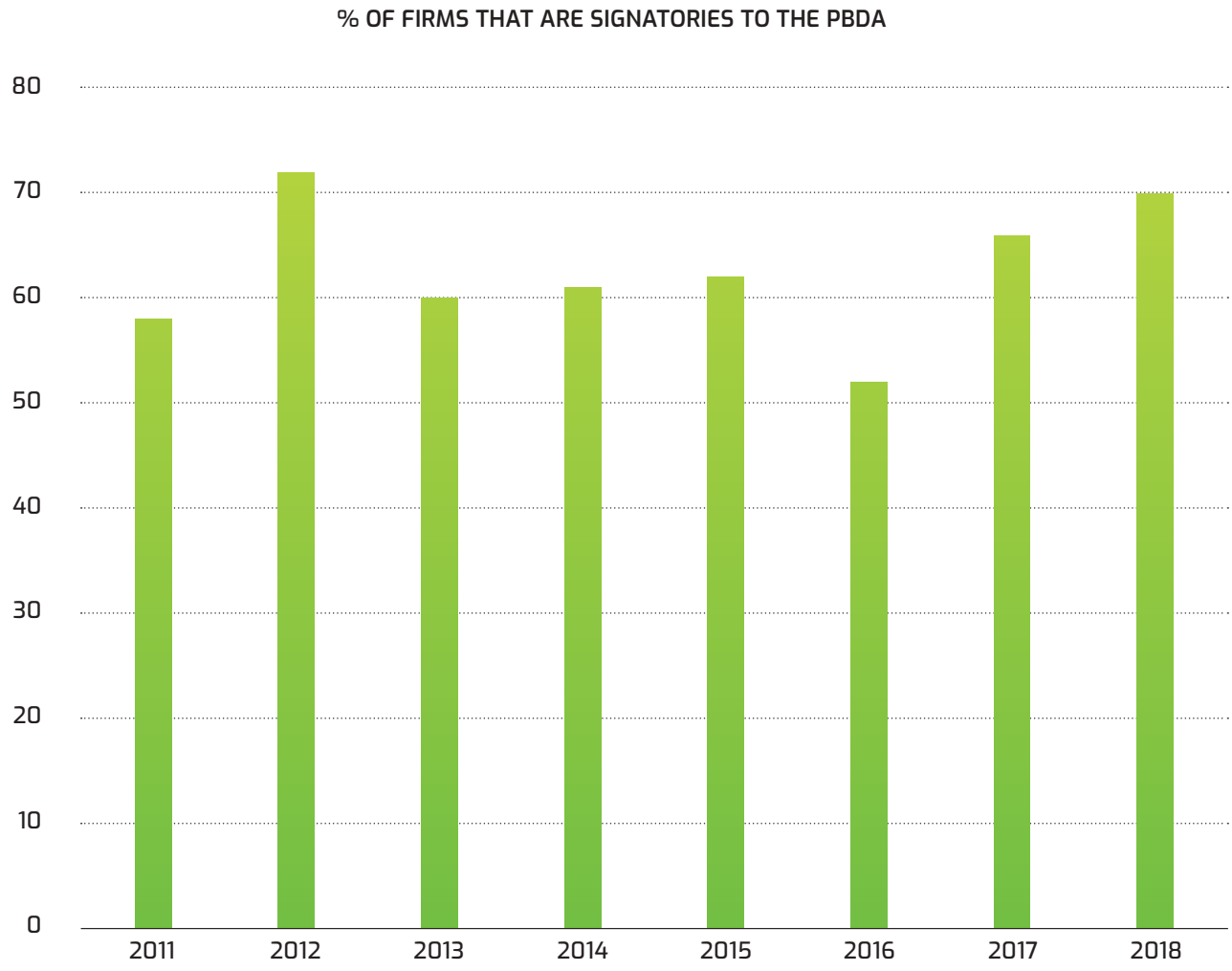
The modest number of firms reporting that their lawyers do at least 20 hours of pro bono work a year is at odds with the high number of firms that are signatories to the PBDA (70%), which binds them to upholding a minimum threshold of pro bono hours per lawyer. Paul Hastings' Rodriguez thinks the inconsistency is a natural consequence of the PBDA still being a relatively new concept. "There could be a lag between the time of the signing of the declaration and the time when the pro bono hours ramp up," she says. "When pro bono infrastructure is up and running 100%, that's when you see the change and increase in hours."

There are things firms can do to tackle low numbers. If they don't already have one, Escobedo recommends firms hire a pro bono coordinator that can facilitate communication with the local clearing house. In fact, having a pro bono coordinator or committee in place is probably even more important when no clearing house exists, because without a clearing house firms have to search for cases themselves, which can be time-consuming. Those firms that already have a coordinator could consider giving these individuals full-time responsibility for pro bono matters to increase the firm's pro bono caseload. Out of the firms responding our survey, only 6% has a coordinator working full-time on pro bono.

It's positive that clearing houses and law firms continue to undertake new initiatives to build on

"IN ANY COMPANY MODEL YOU NEED TO SEE PEOPLE AT THE TOP BEING INVOLVED AND SENDING A MESSAGE TO THE REST OF THE COMPANY."

– RUTI SMITHLINE



the region's pro bono offering. For example, all three clearing houses in Mexico – Appleseed, Fundación Barra Mexicana and Centro Mexicano Pro Bono – launched the Mexican pro bono standards in 2018, a move to help standardise pro bono work in the country. Multiple law firms helped draft the standards, which were signed at the Pro Bono Network Forum (an annual event launched by the Vance Center, the Pro Bono Network of the Americas and the three Mexican clearing houses). The second Pro Bono Network Forum took place in Chile in 2019.

Another important cross-border pro bono initiative launched in 2018 was the Vance Center's Keep Families Together project, which came about in response to President Donald Trump's zero-tolerance immigration policy and the separation of thousands of migrant children from their families at the Mexican-US border. The initiative connected lawyers representing migrants in the US with legal counsel in their home countries, who provided personal documentation proving people's identities. Keep Families Together has so far drawn on counsel from 14 law firms across eight Latin American countries, helping 75 families stay together. It is a good example of how pro bono counsel can transcend borders to help tackle a major humanitarian crisis. "When it comes to access to justice, we all have a role to play," says the Vance Center's Escobedo.

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
Bullo Abogados
Del Carril, Colombres, Vayo & Zavalía Lagos
Durrieu Abogados
Estudio O'Farrell Abogados
Martínez de Hoz & Rueda
Marval, O'Farrell & Mairal
Zang, Bergel & Viñes Abogados

BOLIVIA
Ferrere
Guevara & Gutiérrez – Servicios Legales

BRAZIL
BMA – Barbosa, Müssnich, Aragão
Demarest Advogados
KLA – Koury Lopes Advogados
Machado Meyer Advogados
Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados
Siqueira Castro Advogados
Tauil & Chequer Advogados in association with Mayer Brown
TozziniFreire Advogados
Trench Rossi Watanabe

CENTRAL AMERICA
Arias
BLP
Consortium Legal
Mayora & Mayora SC

CHILE
Albagli Zaliasnik
Aninat Schwencke & Cia
Baker McKenzie (Chile)
Barros & Errázuriz Abogados
Bofill Mir & Alvarez Jana Abogados
Carey
Cariola, Díez, Pérez-Cotapos
Guerrero Olivos
Morales & Besa
Prieto

COLOMBIA
Baker McKenzie (Colombia)
DLA Piper Martínez Beltrán
Gómez-Pinzón
Lloreda Camacho
Prias Cadavid Abogados

COSTA RICA
Batalla

DOMINICAN REPUBLIC
Russin, Vecchi & Heredia Bonetti

ECUADOR
Ferrere
Pérez Bustamante & Ponce

GUATEMALA
QIL+4 Abogados

MEXICO
Baker McKenzie (Mexico)
Bello, Gallardo, Bonequi y García, S.C.
Creel, García-Cuéllar, Aiza y Enriquez SC
Greenberg Traurig SC
Hogan Lovells (Mexico)
NDA Najera Danieli & Asocs
Ritch, Mueller, Heather y Nicolau, SC
Sánchez Devanny
Von Wobeser y Sierra SC

PANAMA
Morgan & Morgan

PARAGUAY
Ferrere

PERU
Benites, Vargas & Ugaz Abogados
Estudio Echecopar member firm of Baker McKenzie International
García Sayán Abogados
Payet, Rey, Cauvi, Pérez Abogados
Philippi Prietocarrizosa Ferrero DU & Uría
Rebaza Alcázar & De Las Casas
Yon Ruesta, Sánchez Málaga & Bassino Abogados

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

VENEZUELA
Araquereyna
Despacho de Abogados miembros de Dentons
Leĝa

Thank you to all of this survey's participating firms for helping us. Those firms that did not request anonymity are listed here.

ARGENTINA
Allende & Brea
Baker McKenzie (Argentina)
Beccar Varela
Bomchil
Brons & Salas
Bruchou, Fernández Madero & Lombardi
Bullo Abogados
Casal, Romero Victorica & Vigliero
Cerolini & Ferrari
Del Carril, Colombres, Vayo & Zavalía Lagos
Durrieu Abogados
Estudio O'Farrell Abogados
Fontán Balestra & Asociados
García Santillán, Olmedo & Rivarola
Martínez de Hoz & Rueda
Marval, O'Farrell & Mairal
Munilla Lacasa, Salaber & de Palacios
Pérez Alati, Grondona, Benites & Arntsen
Prieto Fasano Abogados
Silva Ortiz, Alfonso, Pavic & Louge
Tavarone, Rovelli, Salim & Miani
Zang, Bergel & Viñes Abogados
Zapiola Guerrico & Asociados

BOLIVIA
Ferrere (Bolivia)
Guevara & Gutiérrez – Servicios Legales
Indacochea & Asociados

BRAZIL
Arap Nishi & Uyeda
Bichara Advogados
BMA – Barbosa, Müssnich, Aragão
Brigagão Duque Estrada Advogados
Cescon, Barrieu, Flesch & Barreto Advogados
Chenut Oliveira Santiago Advogados
Demarest Advogados
Felsberg Advogados
KLA – Koury Lopes Advogados
Lefosse Advogados
Levy & Salomão Advogados
Machado Meyer Advogados
Mallet Advogados Associados
Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados
Mauler Advogados
Pinheiro Neto Advogados
Siqueira Castro Advogados
Tauil & Chequer Advogados in association with Mayer Brown
TozziniFreire Advogados
Trench Rossi Watanabe

CENTRAL AMERICA
Aguilar Castillo Love
Arias
Central Law
Consortium Legal
EY Law
Mayora & Mayora SC

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Albagli Zaliasnik
Alessandri
Aninat Schwencke & Cia
Baker McKenzie (Chile)
Barros & Errázuriz Abogados
Bofill Mir & Alvarez Jana Abogados
Carey
Cariola, Díez, Pérez-Cotapos
DLA Piper (Chile)
FerradaNehme
Grasty Quintana Majlis & Cia
Guerrero Olivos
Morales & Besa
Philippi Prietocarrizosa Ferrero DU & Uría (Chile)
Prieto
Rivadeneira Colombara Zegers – RCZ
Silva & Cía
Urenda Rencoret Orrego & Dörr
Vergara Galindo Correa Abogados

COLOMBIA
Agudelo Peláez Abogados
Ariza & Marín
Baker McKenzie (Colombia)
Brigard Urrutia
Cavelier Abogados
Chahín Vargas & Asociados
Dentons Cárdenas & Cárdenas
DG&A
DLA Piper Martínez Beltrán
Duarte Garcia Abogados
Escandon Abogados
Gómez-Pinzón
Guerrero & Asociados
Holland & Knight (Colombia)
Lloreda Camacho

López & Asociados
Medellín & Durán Abogados
Muñoz Tamayo y Asociados
Pacto Abogados
Philippi Prietocarrizosa Ferrero DU & Uría (Colombia)
Prias Cadavid Abogados
Sampedro & Torres
Uribe Henao Abogados

COSTA RICA

Batalla
Sfera Legal

DOMINICAN REPUBLIC

Headrick Rizik Alvarez & Fernández
Russin, Vecchi & Heredia Bonetti

ECUADOR

Ferrere (Ecuador)
Pérez Bustamante & Ponce

GUATEMALA

Clarity Law
Palomo Abogados
QIL+4 Abogados

MEXICO

Aguinaco & Aja Abogados
Baker McKenzie (Mexico)
Basham, Ringe y Correa
Bello, Gallardo, Bonequi y García, SC
Bufete Castro Pizaña SC
Bufete Robles Miaja, SC
Chávez Vargas Minutti SC
Chevez, Ruiz, Zamarripa y Cía SC
Creel, García-Cuéllar, Aiza y Enriquez SC
Galicia Abogados
González Calvillo, SC
Greenberg Traurig SC
Hogan Lovells (Mexico)
Holland & Knight (Mexico)
Jáuregui y Del Valle, SC
Müggenburg, Gorches y Peñalosa, SC
Nassar & Nassar Abogados
NDA Najera Danieli & Asocs
Regalado & Galindo Abogados
Ritch, Mueller, Heather y Nicolau, SC
Sánchez Devanny
Von Wobeser y Sierra SC

PANAMA

Arias, Fábrega & Fábrega
Morgan & Morgan

PARAGUAY

Ferrere (Paraguay)

PERU

Benites, Vargas & Ugaz Abogados
Cortez, Massa & Bello Abogados
Estudio Echecopar member firm of Baker McKenzie International
Estudio Osterling
Estudio Rodríguez Angobaldo
EY Law
Fernandez Heraud & Sanchez Abogados
García Sayán Abogados
Lazo & De Romana Abogados
Miranda & Amado Abogados
Payet, Rey, Cauvi, Pérez Abogados
Philippi Prietocarrizosa Ferrero DU & Uría (Peru)
Rebaza, Alcázar & De Las Casas
Rodrigo, Elías & Medrano Abogados
Rubio Leguía Normand
Yon Ruesta, Sánchez Málaga & Bassino Abogados

URUGUAY

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

VENEZUELA

Araquereyna
Baker McKenzie (Venezuela)
Despacho de Abogados miembros de Dentons
InterJuris Abogados, S.C.
Leĝa
Mendoza, Palacios, Acedo, Borjas, Páez Pumar y Cía

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, Guatemala, 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, 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.

LEADING BY EXAMPLE

Christina McKeon Frutuoso speaks to Carolina Zang, the managing partner of Zang, Bergel & Viñes Abogados. Her firm was the winner of Latin Lawyer's Pro Bono Law Firm of the Year Award in 2019.

Zang Bergel & Viñes is a medium-sized firm that's a mighty force when it comes to pro bono. Giving free legal counsel to those who cannot afford it is an integral pillar of the firm; the number of hours its lawyers dedicate to the practice has grown steadily each year since 2015. The number of lawyers committing to the practice is increasing too: 20 lawyers took part in pro bono work in 2018, more than 50% more than did the previous year. Around half of the firm's lawyers contribute to pro bono cases.

From supporting several organisations that assist young children and teenagers, to initiatives that help minority groups like Argentina's Jewish community, to aiding the Solo un Planeta foundation and its environmental protection efforts, Zang Bergel has a proven track record for supporting a wide range of causes. Its story shows how size doesn't matter when it comes to effective pro bono work.

"WE HAVE A MORAL IMPERATIVE TO DO PRO BONO WORK."

How do you get your firm's lawyers involved in pro bono?

It's part of our culture; we encourage lawyers who feel a true calling to devote their time and skills to helping others through pro bono work. It's considered very positively in the biannual evaluations of every associate and partner at the firm. We also publish an internal newsletter with a section dedicated to showcasing lawyers involved in pro bono activity. This has proven to be a great resource in motivating partners and convincing them to commit to this work.

Why is pro bono work important to the firm?

It benefits both the client and the lawyer. It provides us lawyers with an opportunity to step outside our comfort zone and gain a broader perspective. It's also invigorating – it takes us away from our daily routine and introduces us to an array of experiences and people from diverse backgrounds. It even pushes us to mingle with other practice areas we wouldn't normally work with. Pro bono helps our associates develop to be excellent lawyers and better people.

Why is it important that small and medium-sized firms do pro bono?

Pro bono work is transversal to our profession, it has nothing to do with a firm's size. All lawyers can get involved, regardless of where they work. Lawyers have a very valuable tool – the law – which we use to earn our salary, but we should also use it to help others less fortunate. I think we have a moral imperative to do pro bono work.

Tell us about the cases you're most proud of from the last year.

We recently helped a mother whose daughter was not receiving medication needed for a chronic illness from the federal health inclusion programme. We acted as intermediaries and, in 15 days, the mother received the medication. Last December, we helped one man living in the Villa 21-24 slum, who had never owned ID before, register to obtain a national identity number. His lack of documentation had prevented him from studying, working, accessing social benefits and enjoying other rights recognised in our laws.

What are the firm's goals for 2020?

We want to combat "legal poverty" and generate a fairer legal system, getting new, young lawyers to continue joining the pro bono practice. Our goal is to continue growing our team; we hope the number of lawyers practising pro bono rises year after year, as it has over the past five years.

RISING FROM THE ASHES

Christina McKeon Frutuoso speaks to Prieto partner and pro bono coordinator Cristóbal Raby, and senior associate Juan Andrés Ilharreborde (who heads the firm's work with Chile's clearing house, Fundación Pro Bono). They told us about their work with Fundación Desafío Levantemos Chile to help provide relief after the worst wildfires in Chilean history. The initiative was the recipient of Latin Lawyer's Pro Bono Project of the Year Award in 2019.

In January 2017 the O'Higgins, Maule and Bío Bío zones in central Chile suffered the most devastating fires in the nation's history. In just one week more than 8,000 people were left homeless, approximately 2,000 houses were destroyed, and 497,000 hectares of land were consumed by the flames.

Taking pro bono counsel from law firms Prieto Abogados and Isabel Díaz y Asociados, Fundación Desafío Levantemos raised more than US$25 million in donations, which has been used to rebuild houses, schools and hospitals, as well as funding the creation of programmes to help local entrepreneurs regain their livelihoods. From negotiating construction contracts, to advising on labour, judicial, tax, corporate and administrative issues related to the work carried out by the foundation, both Prieto and Isabel Díaz y Asociados provided invaluable legal support.

Cristóbal Raby

Juan Andrés Ilharreborde

What led you to start working with Desafío Levantemos Chile?

Cristóbal Raby: The work the foundation does is truly spectacular; they work so hard every day to make Chile a better country. That conviction is what motivated us to form this alliance, and we are convinced our lawyers that have worked with them have embodied the great spirit of the foundation. Working with the foundation has been extremely rewarding and we are very proud to have helped a community recover – and emerge stronger than before – from the most devastating fire in Chilean history.

Juan Andrés Ilharreborde: After several years of working together, the generosity and efficiency with which Isabel Diaz and her team work has made this joint counselling not only enjoyable, but also a great learning opportunity.

What work did you do?

Ilharreborde: Prieto provided legal support at all stages, from the immediate emergency relief for victims and the handling of donations, to the construction stage and running of local entrepreneurial programmes.

What were the toughest challenges?

Raby: The level of urgency and efficiency that this project required was extreme. During the initial emergency stage, time was of the essence for us to deliver – any delay would have been catastrophic. In the reconstruction stage, we had to work with public bodies to get the necessary permits and authorisations; that was a big challenge, as we wanted to get things done quickly, knowing we had people waiting for their houses to be rebuilt.

What advice would you give firms who want to do more pro bono work?

Raby: Prieto has been doing pro bono since the firm's inception, more than 40 years ago. Pro bono is such enriching work for a lawyer to do. It's important for lawyers, especially young practitioners, to become familiar with it and include it in their regular practice.

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Marrey Jr e Quiroga Advogados

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