

# ACCESS TO JUSTICE: A STUDY OF LEGAL ASSISTANCE PROGRAMS FOR THE POOR IN SANTIAGO, CHILE

## I. INTRODUCTION

While working as a carpentry instructor with delinquent youth and living in a *población* (poor community) in Santiago, Chile during 1991 and 1992, I was alerted to basic legal concerns in the everyday lives of *pobladores* (residents of impoverished sectors). In 1994, with two years of law school experience, I returned to Chile attempting to provide some useful, albeit limited, service for people living in *poblaciones*. The purpose of this Study is to give an overview and analysis of public legal aid programs and laws designed to assist people living in poverty in Santiago, Chile. This Study is neither a comparative study nor an empirical analysis of the quality or quantity of available legal services; it is a descriptive survey of legal aid programs in Chile written from the perspective of a U.S. citizen.<sup>1</sup>

One significant research obstacle in Chile is the limited number of studies, especially quantitative analyses, in the area of legal assistance. The most comprehensive survey to date involving the legal system and poor communities provides important indicators about the perception of justice by the poor, but by design does not focus on the quality or quantity of services actually rendered.<sup>2</sup> Many of the most useful sources are unpublished internal documents at the Ministry of Justice, the Corporation for Judicial Assistance for the Metropolitan

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1. I conducted the research with the assistance of a Fulbright Research Fellowship in Law in Santiago, Chile during 1994 and 1995. I also owe special thanks to Jorge Correa, Felipe Viveros, Cristian Correa, María Teresa Infante and my wife Jennifer Samway for their invaluable assistance. This note is one product of my research, and a condensed version of these results was published in September 1995 in Chile. Michael A. Samway, *Acceso a la Justicia*, MENSAJE, Sept., 1995, at 42. I completed the bulk of the research through direct observation in legal aid offices and university clinics, interviews at the Ministry of Justice and private legal services organizations, and access to public and private archives where possible. On-line services were not available, and most law school libraries did not have significant amounts of printed information on legal assistance.

2. JUSTICIA Y MARGINALIDAD: PERCEPCION DE LOS POBRES [JUSTICE AND MARGINALIZATION: PERCEPTIONS OF THE POOR] (Jorge Correa S. & Luis Barros L. eds., Departamento de Estudios Sociológicos Universidad Católica de Chile/Corporación de Promoción Universitaria, 1993) [hereinafter PERCEPTIONS OF THE POOR].

Region and municipal government offices.

A second research problem in Chile is the fact that democracy returned only five years ago. Although many problems associated with legal assistance have origins before the beginning of military rule (September 11, 1973) and a number of successful social policies were implemented by the military government, critical analyses of the government's policies in this area were limited, making investigation into the period difficult at times. Today, Chile is an open society in the final stages of consolidating a successful transition to democracy.

I found the legal assistance programs in Chile to be sophisticated in design and, when available, helpful to people living in poverty. The principal public institutions for legal aid—the *Corporaciones de Asistencia Judicial* (Corporations for Judicial Assistance)—are unique in Latin America, as is the requirement that law school graduates perform six months of free legal service in a public center before taking the national bar exam. In a relatively new Ministry of Justice program, a Navy vessel is used part-time as a floating tribunal to reach Chile's remote archipelagic regions, predominantly areas of extreme poverty.

Although budget analysis is beyond the scope of this Study, it is clear that one of the largest obstacles to more effective legal aid service for poor people in Santiago, Chile is the limited amount of financial resources devoted to public legal assistance programs. Chile, despite its well-known macroeconomic successes, is a poor country and legal aid competes for public funds with a number of other important social programs and needs in the government budget.

## II. LAW AND POVERTY

### A. Transition to Democracy

Despite growing national wealth and a prospering democracy, access to justice for Chileans living in poverty—some four million out of a total of fourteen million people<sup>3</sup>—remains elusive. A 1993

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3. Jacques Chonchol *Considera que el Modelo Neoliberal Es el Unico Viable* [Jacques Chonchol Considers the Neoliberal Economic Model To Be the Only Viable One], EL MERCURIO, April 1, 1995, at C5 [hereinafter *Neoliberal Economic Model*]; *Chile Llama a Esfuerzo Mundial Para Luchar Contra la Pobreza* [Chile Calls on Other Countries to Join the Fight Against Poverty], EL MERCURIO, March 7, 1995, at C6; see also *Perdiéndole el Susto al "Chorro"* [Losing the Fear of "Trickle Down"], EL MERCURIO, March 12, 1995, at D30 (suggesting that the rate of poverty in 1992 in Chile was 27.7 percent based on figures from the census taken by Casen in 1987, 1990 and 1992).

survey of low-income people in four Chilean cities including Santiago, conducted by the Corporation for University Promotion (CPU),<sup>4</sup> revealed that 57 percent of those interviewed believe that access to legal assistance is either difficult or impossible, and 83 percent expressed a negative opinion about the justice system in general, frequently referring to its discriminatory character.<sup>5</sup> As Chile consolidates the foundations of its constitutional democracy, equal access to the judicial system for all citizens is required both for a just administration of the law and for a successful transition to democracy.<sup>6</sup>

Chile's 1980 Political Constitution guarantees equal protection before the law<sup>7</sup> as well as the right to legal representation<sup>8</sup>, and the Chilean Code of Civil Procedure stipulates court services for indigent persons.<sup>9</sup> For a nation undertaking the complicated and delicate task of rebuilding civil society after military rule, ensuring these enumerated rights is critical.<sup>10</sup> Citizens must have judicial recourse against other persons, against private collective entities and, in a particularly poignant sense in Chile, against the state itself.

Patricio Aylwin, Chile's first democratically elected president in the post-1973 period, remarked in an address to the Chilean Senate

4. CPU, a non-profit organization founded in 1968, has conducted numerous studies related to education and legal reforms. In 1989 CPU received a grant from the U.S. Agency for International Development (USAID) to conduct research in the general area of legal modernization, including judicial reform, penal code revision and legal assistance.

5. PERCEPTIONS OF THE POOR, *supra* note 2, at 42, 23 (forty-nine percent of those interviewed in the survey believe they could not obtain free legal assistance); *Reforma Procesal Indispensable [Procedural Reforms Indispensable]*, EL MERCURIO, July 7, 1995, at A3; Raúl Madrid, *Se Hará Justicia? [Will There Be Justice?]*, LA NACION, Feb. 7, 1995, at 13.

6. María Soledad Alvear, *Discurso de Presentación del "Catálogo de la Primera Feria Nacional de la Asistencia Jurídica - Justicia Para Todos"* [Speech Presenting the "Catalogue for the First National Legal Assistance Workshop - Justice for All"], in MINISTERIO DE JUSTICIA DE LA REPUBLICA DE CHILE, CUADERNOS DE INFORMACION PARA ASISTENCIA JURIDICA [MINISTRY OF JUSTICE, INFORMATION REVIEW FOR LEGAL ASSISTANCE] (1993), at 21 [hereinafter MINISTRY OF JUSTICE; hereinafter INFORMATION REVIEW].

7. CONSTITUCION POLITICA DE LA REPUBLICA DE CHILE [POLITICAL CONSTITUTION OF THE REPUBLIC OF CHILE], art. 19, ¶ 2.

8. *Id.* art. 19, ¶ 3.

9. CODIGO DE PROCEDIMIENTO CIVIL, tit. XIII, arts. 129-137 [hereinafter CODE OF CIVIL PROCEDURE].

10. GRUPO DE SERVICIOS LEGALES Y ACCESO A LA JUSTICIA, PROPUESTAS AL PROYECTO DE LEY SOBRE CORPORACIONES REGIONALES DE ASISTENCIA JURIDICA [LEGAL SERVICES GROUP AND ACCESS TO JUSTICE, PROPOSALS TO THE LAW PROJECT REGARDING REGIONAL CORPORATIONS FOR JURIDICAL ASSISTANCE] 25 (1995) [hereinafter PROPOSALS TO LAW PROJECT]; Luis Bates H., *Modernidad y Justicia [Modernity and Justice]*, VIDA Y DERECHO [LIFE AND LAW], Sept., 1993, at 10, 11.

that “[i]t is undeniable today that in order to have a State under the rule of law and an authentic democratic regime, citizens must have the opportunity and means to resolve their conflicts within the confines of the law, exercising and completing their prerogatives.”<sup>11</sup> The platform for the second term of the ruling coalition (The Coalition of Parties for Democracy) declared the same objectives, noting that “[j]ustice is still inaccessible for vast sectors of poor people.”<sup>12</sup>

## B. Modernization of the Justice System

Although public sector areas such as health, housing, education and labor standards underwent significant structural reform during Augusto Pinochet’s seventeen-year military regime<sup>13</sup>—indeed, the privatized pension system is the envy of the Americas<sup>14</sup>—the fundamental and progressive changes in those fields have not yet been mirrored by the legal system.<sup>15</sup> Jaime Guzmán, a conservative senator during the military government and principal author of the Constitution of 1980, conceded that after thirteen years of military rule, the government had been unable to make advances in the area

11. Ministry of Justice, *Fórmula Indicaciones al Proyecto de Ley que Crea el Servicio Nacional de Asistencia Jurídica*, Boletín No. 861-07 [Comments on the Law Project which Creates a National Service for Legal Assistance, Bulletin No. 861-07] (Sept. 20, 1994) (unpublished record, on file with the Office of the Presidential Secretariat) [hereinafter Comments on Law Project].

12. LA CONCERTACION DE PARTIDOS POR LA DEMOCRACIA, UN GOBIERNO PARA LOS NUEVOS TIEMPOS: BASES PROGRAMATICAS DEL SEGUNDO GOBIERNO DE LA CONCERTACION [THE COALITION OF PARTIES FOR DEMOCRACY, A GOVERNMENT FOR THE NEW ERA: PROGRAMS FOR THE SECOND COALITION GOVERNMENT] (1993).

13. See generally TARSICIO CASTAÑEDA, *COMBATING POVERTY: INNOVATIVE SOCIAL REFORMS IN CHILE DURING THE 1980’s* (1992) (discussing reforms and decentralization in education, health, housing, and social security); Jennifer L. Samway, *Health Care Financing in Small Communities in Chile* (June, 1995) (unpublished report, on file with the World Bank Health Sector Reform Project, Ministry of Health of Chile).

14. *Reforma de Pensiones Gana Elegidos en Estados Unidos [Chilean Pension System Reform Wins Acclaim in the United States]*, EL MERCURIO, June 16, 1995, at E1; María Sturani, *Siguen el Modelo Chileno: Italia Debate Modernización de su Sistema de Pensiones [Following the Chilean Model: Italy Debates Modernization of its Pension System]*, EL MERCURIO, July 5, 1995, at B8; Lake Sagaris, *Savings Plan Puts Chile on Solid Ground*, MIAMI HERALD, April 10, 1995, at 39.

15. Eduardo Jara M., *Modernización del la Justicia [Modernization of the Justice System]*, EL MERCURIO, Jan. 3, 1995, at A2; JUAN ENRIQUE VARGAS V. & JORGE CORREA S., *DIAGNOSTICO DEL SISTEMA JUDICIAL CHILENO [DIAGNOSTIC OF THE CHILEAN JUDICIAL SYSTEM]* 7 (1995); see also Carlos Peña G., *Informe Sobre Chile [Report on Chile]*, in *SITUACIONES Y POLITICAS JUDICIALES EN AMERICA LATINA [THE STATE OF JUDICIAL POLICY IN LATIN AMERICA]* 285, 361 (Jorge Correa S. ed., 1993) [hereinafter JUDICIAL POLICY] (discussing asymmetry in the allocation of public resources in state modernization).

of legal reform.<sup>16</sup>

In 1992, five legal reform initiatives were presented to the legislature by the democratically elected Aylwin administration.<sup>17</sup> Certain sections of the judiciary reform package have been successfully legislated and are in the process of being implemented, including the opening of a judicial academy,<sup>18</sup> an amendment to the Constitution creating specialized competency in the Supreme Court,<sup>19</sup> and certain appeals law reforms.<sup>20</sup>

Today, Ministry of Justice goals include reforming the penal process and prison system, revising family and juvenile law, improving the physical infrastructure of judicial services, and most importantly, making the justice system accessible to all citizens.<sup>21</sup> Chile's president, Eduardo Frei, recently sent a revised law initiative to the Congress regarding reform of the penal process, a system which has experienced no significant changes since 1906. The penal reform would include the creation of a public prosecutor's office, modification of the current investigative role of Chilean judges,<sup>22</sup> and the creation of positions for an attorney general and 477 district attorneys. The law project would also allow oral argument in certain cases.<sup>23</sup> The penal reform should provide increased access and fairness for the poor—the group most affected by criminal process in the courts.

Although Chile is a leader in Latin America in terms of legal programs for the poor, limited application as well as Congressional

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16. *Evaluación de Reformas [Evaluation of Reforms]*, EL MERCURIO, June 23, 1987, at B1. Senator Guzmán was assassinated in 1990 by a left-wing extremist group outside of the Catholic University in Santiago.

17. *Aprueban Corporaciones de Asistencia Jurídica [Senate Approves Corporations for Juridical Assistance]*, EL MERCURIO, May 7, 1995, at C3; *Senado Aprobará Crear Trece Corporaciones de Asistencia Jurídica [Senate Will Approve the Creation of Thirteen Corporations for Juridical Assistance]*, EL MERCURIO, Apr. 28, 1995, at C6.

18. *Pronta a Ser Promulgada Ley de Carrera Funcionaria Judicial [A Law Regarding Judicial Careers Will Soon Be Passed]*, EL MERCURIO, May 19, 1995, at C11.

19. *Id.*

20. *Id.*; see *Cuatro Salas Especiales En la Corte Suprema [Four Specialized Divisions of the Supreme Court]*, EL MERCURIO, Mar. 8, 1995, at C1.

21. Eduardo Jara M., *supra* note 15, at A2; *Metas del Ministerio de Justicia [Goals of the Ministry of Justice]*, EL MERCURIO, Apr. 6, 1995, at A3; *Nuevo Código Penal es Primer Paso De Reforma Penal Integral [New Penal Code is the First Step in Comprehensive Penal Law Reform]*, EL MERCURIO, Jan. 10, 1995, at C1; María Angélica Jiménez A., *La Cárcel en Los Noventa [Prisons in the 1990's]*, VIDA Y DERECHO, Sept., 1993, at 49.

22. *Ministerio Público Reemplaza a Ombudsman [Attorney General's Office to Replace Ombudsman]*, EL MERCURIO, May 2, 1995, at C1.

23. *Id.*; Jorge Figueredo M., *Defensor del Pueblo [Office of the Public Defender]*, EL MERCURIO, Apr. 20, 1995, at A2.

stalemate have generally restricted the coverage and effectiveness of public legal aid programs under the Aylwin and Frei administrations. Historically, the Ministry of Justice's budget has been less than 1 percent of the entire national budget.<sup>24</sup> Following historical patterns, the allocated budget for 1995 was approximately U.S. \$160 million. In a recent interview, the President of Chile's Supreme Court commented that the budget for Chile's courts would have to be three times higher than its actual level in order for the system to run efficiently.<sup>25</sup>

### C. La Pintana

One of the poorest communities in Santiago, La Pintana, was created in 1980 by a housing program designed to resettle people living in squalid urban conditions, akin to shantytowns, to the city's periphery. According to municipality figures and a 1992 national survey conducted for the *Ministerio de Planificación* (Ministry of the Interior, MIDEPLAN) by the private firm Casen, 42.8 percent of La Pintana residents live below the official poverty line and 11.6 percent are indigent, the highest percentages of any community in Santiago.<sup>26</sup> Approximately 180,000 people live in La Pintana today,<sup>27</sup> and it has become one of Santiago's centers for drug trafficking and juvenile delinquency.<sup>28</sup> Unofficial statistics indicate that La Pintana has the highest percentage representation of youth in detention centers run by the *Servicio Nacional de Menores* (National Youth Service, SENAME).<sup>29</sup>

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24. Magdalena Ossandon, *Presidente de la Corte Suprema, Marcus Aburto: "Hay que Restringir El Indulto para Narcotraficantes"* [President of the Supreme Court, Marcus Aburto: "It is Necessary to Restrict Pardons for Drug Traffickers"], EL MERCURIO, Mar. 5, 1995, at D18.

25. *Id.*

26. *See La Pintana Será Tercer Subcentro De Desarrollo Urbano en Santiago [La Pintana Will Be the Third Development Hub in Santiago]*, EL MERCURIO, May 22, 1995, at C7 [hereinafter *La Pintana to Be Development Hub*] (documenting that approximately 60,000 residents of La Pintana today live in extreme poverty and do not have adequate supplies of, or access to, basic goods such as food, clothing and shelter).

27. *La Municipalidad de La Pintana, Estadísticas/La Pintana* [Municipality of La Pintana, Statistics/La Pintana] (Mar., 1995) (unpublished report, on file with the Office of the Municipality of La Pintana in Santiago, Chile).

28. *La Pintana To Be Development Hub*, *supra* note 26; *Vecinos de La Pintana Ejecutan Programas Contra Delincuencia [Neighbors in La Pintana Begin Programs to Fight Delinquency]*, EL MERCURIO, Dec. 31, 1994, at C13.

29. Subdirector del Servicio Nacional de Menores (Assistant Director of the Chilean National Youth Service), Address at the Conference on Legal Aid in La Pintana (Apr. 25, 1995) (notes on file with author).

The government has concentrated its recent social reform efforts in areas such as La Pintana. The ruling political coalition has made the elimination of extreme poverty the most important goal of its second term in office.<sup>30</sup> This objective has resulted in the National Program to Overcome Poverty, a program aimed at assisting the seventy-one poorest communities in Chile. As part of an earlier anti-poverty program, the Aylwin administration opened La Pintana's first and only bank branch in 1993, El Banco del Estado, allowing residents to obtain credit, protect small amounts of savings, and participate more fully in the market system. Current government plans are to establish La Pintana as a commerce and transportation hub for the southern Metropolitan Region.<sup>31</sup> La Pintana has also become a testing ground for new public and private legal assistance programs.<sup>32</sup>

#### D. Identifying Legal Problems

CPU's 1993 survey indicates that the areas most in need of legal attention in urban areas were criminal, civil, labor and family issues.<sup>33</sup> The table below gives the four general headings of the issues listed above, the breakdown of the headings, and the percentage of those people interviewed who had experienced problems in those areas.<sup>34</sup>

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30. Mirtha Ulloa G. & Macarena Vargas P., *Políticas Públicas y Necesidades de Justicia de los Sectores Pobres* [Public Policy and the Legal Needs of Poor Communities], 83 ESTUDIOS SOCIALES 51, 54 (1995).

31. *Proyectos Públicos y Privados: \$3.000 Millones para Comuna de La Pintana* [Public and Private Projects: 3 Million Pesos for the Community of La Pintana], EL MERCURIO, June 20, 1995, at C1.

32. See discussion *infra* part III(G).

33. PERCEPTIONS OF THE POOR, *supra* note 2, at 33; see also VARGAS V. & CORREA S., *supra* note 15, at 157 (noting that in 1990, the Corporation for Judicial Assistance for the Metropolitan Region attended to 134,234 matters, of which 40.76 percent were penal, 24.47 percent were civil, 24.43 percent were labor, and 9.95 percent were juvenile; another 87 percent were consultations, with only 12.67 percent becoming cases).

34. PERCEPTIONS OF THE POOR, *supra* note 2, at 72.

<i>The Problem Area</i>	<i>Percentage Having Experienced the Problem</i>
CRIMINAL ISSUES	46.8%
Rape	3.3%
Police abuse	21.1%
Mugging	27.0%
Assault	22.8%
Theft from domicile	28.3%
Domestic violence	10.1%
FAMILY ISSUES	12.5%
Child custody	10.7%
Nutritional subsidies	11.9%
Illegitimate children	7.4%
LABOR ISSUES	16.2%
Lack of contract	22.0%
Termination of employment without cause	17.0%
CIVIL ISSUES	24.5%
Non-payment of rent	7.9%
Unwanted occupants in house	8.3%
Product or service fraud	15.7%
Non-repayment of debt	20.7%
Discrepancy over partition of goods	6.3%

Presently, limited legal aid services are offered in rural and other



remote areas. Minimal resources and difficulty in transportation to and from remote communities are the primary causes of limited legal assistance available in rural and isolated communities. A recent study<sup>35</sup> of 2,000 people in rural communities in Chile, completed by the Catholic University of Chile and supported by the CPU, concluded that 65 percent of those interviewed had a negative or indifferent opinion about the justice system in Chile and about the possibility of obtaining legal representation.<sup>36</sup> According to the study, 56.3 percent of those interviewed said they knew little or nothing about their own rights.<sup>37</sup>

The Catholic University/CPU study also solicited opinions in poor agricultural communities regarding the changes most necessary to improve the justice system in Chile. Those people interviewed were permitted to choose up to three alternatives from a given list, and the following results were obtained:<sup>38</sup>

<i>Best Way to Improve Justice System</i>	<i>Percentage</i>
More social workers	66.7%
More lawyers free-of-charge	56.7%
Inform people of their rights	55.0%
More local police stations	45.0%
Faster judicial processes	30.0%
More local courts	23.3%
Change laws	13.3%
Educate police	6.7%
Change judges	3.3%

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35. DIRECCION DE ESTUDIOS SOCIOLOGICOS DE LA PONTIFICIA UNIVERSIDAD CATOLICA DE CHILE Y LA CORPORACION DE PROMOCION UNIVERSITARIA, JUSTICIA Y MARGINALIDAD RURAL [THE SOCIOLOGY DEPARTMENT OF THE CATHOLIC UNIVERSITY OF CHILE AND THE CORPORATION FOR UNIVERSITY PROMOTION, JUSTICE AND RURAL MARGINALIZATION] 1 (1995).

36. *Id.* at 7.

37. *Id.* at 51.

38. *Id.* at 49.

The people interviewed in the rural study also listed, in the following order, the problem areas which should be addressed most urgently by the legal system: (1) lack of employment contracts; (2) unfair termination of employment; (3) absence of property title; (4) rape; (5) domestic violence; (6) livestock theft; (7) police abuse; (8) armed robbery; and (9) water (drinking and irrigation) disputes.<sup>39</sup>

### III. LEGAL AID REFORMS TO ASSIST THE POOR

#### A. Legal Aid History

Legal aid services have been available in Chile on a greater scale and for a longer period of time than in many other Latin American countries.<sup>40</sup> Legal assistance for the poor has been an established part of the judicial system since the 1500s, when Spanish colonial legislation provided for the defense of indigenous groups. Within two decades of Chile's declaration of independence from Spain in 1810, appellate courts were required by national legislative action, or organic norms, to name lawyers to represent indigent persons for no charge.

At the turn of the century as Chile was moving from a rural to an urban society, a new series of laws—the *Legislación Social* (Social Legislation)<sup>41</sup>—was implemented. As part of this movement, the legislature officially recognized the *Colegio de Abogados* (Chilean Bar Association) in 1928 with the mission, among others, of systematically providing legal representation for the poor.<sup>42</sup> The resulting law was not altered in any significant way until 1981 when, in conformance with the requirements of the 1980 Constitution—the first to recognize explicitly the right to legal representation—the military government established three Corporations for Judicial Assistance, one each in the Metropolitan Region, Valparaiso and the Bío-Bío Region.<sup>43</sup> In 1987 a fourth Corporation was established for Antofagasta and Tarapacá,

39. *Id.* at 50.

40. See generally JUDICIAL POLICY, *supra* note 15 (surveying the legal systems of various Latin American countries); see *Asistencia Jurídica* [Legal Assistance], EL MERCURIO, Dec. 4, 1994, at A3.

41. Luis Barros L., *Los Pobres Dan Su Sentencia* [The Poor Serve Their Sentence], VIDA Y DERECHO, Sept., 1993, at 21, 22.

42. Decreto Supremo del Ministerio de Justicia Numero 1.450, ley 4,409, art. 12 (1935) [Supreme Decree of the Ministry of Justice Number 1,450, law 4,409, art. 12 (1935)].

43. Decreto Ley 17,995, DIARIO OFICIAL, No. 30,959-A de 21 de septiembre de 1981 [Decree Law 17,995, THE OFFICIAL NEWSPAPER, No. 30,959-A, Sept. 21, 1981] [hereinafter D.L. 17,995].

based in Iquique.<sup>44</sup>

## B. Corporations for Judicial Assistance

Due to its resources, Chile's government historically has played the leading role in providing direct legal services to the poor, and since 1981 the Corporation for Judicial Assistance has been the state's primary tool for legal aid work.<sup>45</sup> Membership in the Bar Association was mandatory for all lawyers until 1981 when the military government passed a law creating the Corporations and ended required membership in many national professional organizations including the Bar Association. After 1981, the Corporations assumed the Bar Association's role in the area of legal assistance for the poor. Today the four Corporations are responsible for all thirteen administrative regions of the country, including the Metropolitan Region and its five million Santiago residents.

Numerous issues are not handled by the Corporations.<sup>46</sup> Some of the most common problems in poor communities which are not within the competence of the Corporations are drug-related offenses, nullification of marriages, local police cases, civil suits, partition of goods, administrative activities and executive suits for credit titles.<sup>47</sup> The largest Corporation, the Metropolitan Region's, is prohibited by stipulation of its board of directors from representing more than one party in contentious actions in the courts, presenting complications perhaps of a constitutional nature for the party that arrives second to the Corporation and has no other means of obtaining legal representation. Frequently victims of crime who happen to be poor cannot seek legal assistance because the accused already is represented by the Corporation. Although a court-appointed attorney may be provided, the solicitation process is significantly more time-consuming and complicated than seeking advice at a Corporation office.

Legal aid offices in the Corporations for Judicial Assistance are

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44. Decreto Ley 18.632, DIARIO OFICIAL, No. 32.828 de 24 de julio de 1987 [Decree Law 18,632, THE OFFICIAL NEWSPAPER, No. 32,828, July 24, 1987] [hereinafter D.L. 18,632].

45. Ulloa G. & Vargas P., *supra* note 30, at 73; Richard Wilson, Legal Assistance Activities Project Paper: Chile 9 (Feb. 1991) (unpublished report for USAID and CPU Project for Policy Training and Judicial Management, on file at the Corporation for University Promotion, Santiago, Chile).

46. *Anunció Ministra de Justicia: Crearán Trece Corporaciones Para la Asistencia Jurídica* [Minister of Justice Announced that Government Will Establish Thirteen Corporations for Juridical Assistance], EL MERCURIO, Oct. 28, 1994, at C15.

47. VARGAS V. & CORREA S., *supra* note 15, at 156.

staffed by attorneys, social workers and recent law school graduates. The 130 attorneys in the Corporations earn approximately U.S. \$440 per month, but the thirty social workers, who also perform invaluable services at the legal aid offices, earn significantly less.<sup>48</sup> The *postulantes*, or student postulants who are recent law school graduates, are required to perform six months of unpaid service in legal aid offices<sup>49</sup> in addition to taking the equivalent of a national bar exam before receiving their licenses as attorneys. This service requirement is unique in Latin America.<sup>50</sup> A typical student postulant may handle between eighty to 110 cases in a six month period at a legal aid office.<sup>51</sup> Because of a lengthy process as well as backlog in Chilean courts,<sup>52</sup> the majority of cases are not resolved within one postulant's term, creating discontinuity for clients. Amendments to the Code of Civil Procedure in 1988 were an attempt to simplify some of the requirements in civil litigation<sup>53</sup>, but to date no study has been conducted to evaluate the results of the modifications.

As of mid-1995, 234 students worked for the Corporations for Judicial Assistance, and comprised 68 percent of those who attended to clients.<sup>54</sup> The student postulant element is an important social welfare mechanism which sets Chile apart from other countries in the

48. *Para Sectores Marginales: Aspectos Procesales Limitan Acción de Asistencia Judicial* [For Poor Sectors: Procedural Issues Limit Legal Assistance], EL MERCURIO, Apr. 6, 1995, at A1 [hereinafter *Process Issues*]; Invertec I.G.T., Diagnóstico Organizacional Para la Especificación de un Sistema Computacional de Información Para la Gestión de las Corporaciones de Asistencia Judicial [Organizational Diagnostic for the Design of a Computational System of Information for Management of the Corporations for Judicial Assistance] (June 21, 1994) (unpublished management study conducted by private organization on behalf of Ministry of Justice, on file with Ministry of Justice). The minimum wage in Chile is approximately U.S. \$140 per month and the average yearly income per capita is approximately U.S. \$2200. *Id.*

49. D.L. 17,995, *supra* note 43; D.L. 18,632, *supra* note 44.

50. Wilson, *supra* note 45, at 16.

51. Ministry of Justice, Descripción del Programa de Asistencia Jurídica "Acceso a la Justicia" [Description of the Program "Access to Justice"] 6 (Dec. 1994) (unpublished report, on file with National Legal Assistance Program in Ministry of Justice) [hereinafter *Access to Justice*]; *but see* Wilson, *supra* note 45, at 34 (suggesting the number of cases is closer to 150 every six months).

52. Germán Echeverría, *Proponen Fórmulas Para Descomprimir el Sistema Judicial* [Formula Proposed to Decongest Legal System], EL MERCURIO, Sept. 21, 1994, at A1, A12; *see* CODE OF CIVIL PROCEDURE, Ley 18.705, DIARIO OFICIAL No. 33,078 de 24 de mayo de 1988 [Law 18,705, THE OFFICIAL NEWSPAPER, No. 33,078, May 24, 1988]; Richard B. Cappalli, *Comparative South American Civil Procedure: A Chilean Perspective*, 21 U. MIAMI INTER-AM. L. REV. 306, 307 (1989-90).

53. *Process Issues*, *supra* note 48, at A1; PROPOSALS TO LAW PROJECT, *supra* note 10, at 56.

54. Madrid, *supra* note 5, at 13.

Americas, including the United States, which do not require post-law school legal aid service. These figures in Chile, however, also show the reliance the Corporations must place on students for the bulk of the Corporations' labor.<sup>55</sup> At present there is no institutional mechanism for supervising or evaluating the work of the postulants and no organized system for passing cases along to incoming postulants. These limitations are openly recognized within the system and the government intends to address these problems in new legislation regarding the Corporations.

### C. University Clinical Programs

While the emphasis of student involvement in the Corporations for Judicial Assistance is on service for the clients, the focus in legal clinics at the major universities in Santiago is pedagogical. Due to this focus and the relatively small number of law students in Chile, academic clinics have provided only a limited degree of direct assistance for the poor.<sup>56</sup>

Between 1945 and 1955, the number of law school graduates receiving their licenses to practice law in Chile each year never exceeded 150. Between 1966 and 1987, the number ranged from 200 to 300 each year. In 1994, the number reached 690.<sup>57</sup> The opening of a number of private universities during the 1980s also increased the number of law students and, to a lesser extent, legal clinics. Currently there are thirty-six law schools in Chile.<sup>58</sup> According to the director of the Corporation for Judicial Assistance for the Metropolitan Region, graduates of some of the new private law schools are not sufficiently prepared for work in the Corporations.<sup>59</sup>

The university clinics familiarize students with the legal system by having them process labor, civil, criminal or juvenile cases through the courts.<sup>60</sup> Some clinics maintain formal agreements with the Corpora-

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55. *Process Issues*, *supra* note 48; Barros L., *supra* note 41, at 18; *see also* VARGAS V. & CORREA S., *supra* note 15, at 156 (showing charts on employee numbers at the Corporations for Judicial Assistance).

56. Madrid, *supra* note 5, at 13; PROPOSALS TO LAW PROJECT, *supra* note 10, at 56; VARGAS V. & CORREA S., *supra* note 15, at 154.

57. *Profesión de Abogado Debe Estar Impregnado De Valores Morales [The Legal Profession Should be Filled With Moral Values]*, EL MERCURIO, Apr. 4, 1995, at C8.

58. VARGAS V. & CORREA S., *supra* note 15, at 141.

59. *Process Issues*, *supra* note 48, at A1.

60. María Gonzalez J., *Hacia una Nueva Experiencia en Docencia Clínica: La Clínica Judicial [Towards a New Experience in Clinical Training: The Legal Clinic]*, in INFORMATION REVIEW, *supra* note 6, at 35.

tions for Judicial Assistance and most maintain offices or scheduled meeting places in poor communities in Santiago. As in the Corporations, many cases are not completed during one student's tenure in a clinic, and cases are frequently handed down to incoming students.<sup>61</sup>

#### D. Private Legal Aid and Social Service Organizations

The development of new legal assistance theories in Chile and the rest of Latin America emerged in the 1980s. These new methodological approaches adopted by many grassroots organizations focused on addressing the larger social and economic needs of marginalized groups in contrast to concentrating directly on the specific legal problems or representation needs of each client.<sup>62</sup> Various private legal aid groups in Chile originated in or resulted from this movement, including the Center for Juridical Development and Studies (QUERCOM), the Women's Institute, the Institute for Juridical Formation (FORJA) and the Center for Syndicate Assistance (CIASI). Other private groups include the Program for Work and Economics (PET), which provides technical and legal assistance to microenterprises, and the Corporation for Youth Development (JUNDEP), which trains and offers legal assistance to leaders of communities, federations and other associations.

FORJA, with assistance from the InterAmerican Foundation and in conjunction with the Corporations for Judicial Assistance, recently completed an experimental program that trains community monitors in the slums of the coastal city of Valparaiso in dispute resolution techniques such as negotiation, conciliation and mediation.<sup>63</sup> Together with the Ministry of Justice and the Municipality of La Pintana, FORJA began a similar training program in La Pintana in 1994. Innovative and non-traditional approaches to legal assistance are also supported indirectly by the Legal Services Group (GSL), an association of professionals who come from both the public and private sectors, including many from the above-mentioned groups. This recently formed group has debated themes regarding national legal assistance programs and recently held a seminar on recommendations regarding pending legislation in this area.<sup>64</sup>

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61. Wilson, *supra* note 45, at 25.

62. Bates H., *supra* note 10, at 11-12.

63. Gabriel Castillo Ch., *Con El Derecho en la Mano [With the Law on Your Side]*, VIDA Y DERECHO, Sept., 1993, at 54.

64. PROPOSALS TO LAW PROJECT, *supra* note 10.

Dozens of other non-governmental organizations (NGOs) which do not focus on legal service as such, in many cases do assist marginalized groups with legal questions and occasionally assist with legal representation. Child welfare advocates or consumer groups, for instance, work to guarantee rights through many means including legal assistance. One of the most active private social assistance groups of this nature in Chile has been the Catholic Church.<sup>65</sup> For instance, the *Hogar de Cristo* (House of Christ), one of the largest private charitable organizations in Chile, founded in 1947, employs lawyers who make rounds at social service centers and also runs a center called CAME devoted exclusively to juvenile criminal cases and rehabilitation.<sup>66</sup>

#### E. Public Social Service Organizations

A handful of public organizations also attend to the needs of poor workers, women, children and other marginalized groups.<sup>67</sup> To this end, the *Servicio Nacional de la Mujer* (National Women's Service, SERNAM)<sup>68</sup> and the *Centro de Información de la Mujer* (Center for Information on the Rights of Women, CIDEM) were created under the Aylwin administration in 1991. The National Youth Service (SENAME) is responsible for the rehabilitation of juvenile delinquents and also for assistance with other legal problems involving minors, such as drug use. The National Labor Board establishes extrajudicial fora for resolving labor disputes, and the *Servicio Nacional del Consumidor* (National Consumer Service, SERNAC) provides legal advice to consumers and mediates conflicts. Although these state-run organizations are not primarily entities for legal assistance and do not provide legal representation, they do offer legal advice and assistance.

#### F. Pro Bono Publico Requirements For Attorneys

The state also requires through *abogados de turno* (lawyers on rotation) that private attorneys participate in the defense of persons

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65. VARGAS V. & CORREA S., *supra* note 15, at 155.

66. El Hogar de Cristo, *Cuenta de Actividades 1990* [Activities Report for 1990] 16 (unpublished report, on file with El Hogar de Cristo, Santiago, Chile).

67. *Ministra Destaca Trascendencia de Reforma del Proceso Penal* [Minister of Justice Details the Importance of the Penal Reform Process], EL MERCURIO, Jan. 5, 1995, at C1; VARGAS V. & CORREA S., *supra* note 15, at 124.

68. The current Minister of Justice, María Soledad Alvear, is the former director of SERNAM.

determined by the courts to be indigent and in need of the *privilegio de pobreza* (privilege of poverty).<sup>69</sup> In a case involving a poor person, the judge will decide whether the person merits the *privilegio de pobreza* based on a number of factors, including income, housing costs, debts, and personal or family obligations.<sup>70</sup> The status is generally granted upon request.<sup>71</sup> The Corporations for Judicial Assistance do not need to establish a *privilegio de pobreza* for each consultation although a similar process takes place in the initial interview when the social worker or attorney receives a potential client.

Since 1986, Chile's Organic Code of Tribunals has stipulated that each month, courts of first instance shall name private attorneys to defend indigent persons on an *ad honorem* basis in civil, criminal and labor cases.<sup>72</sup> Although a code of professional ethics imposes a moral obligation upon lawyers to provide free legal assistance to indigent people, at present there is no sanction for the non-completion of duties and no evaluation system for the services that are provided.<sup>73</sup> The Code of Civil Procedure does not specify the number of times a lawyer may be selected to represent indigent persons but common practice suggests that a lawyer, at least in Santiago, will only be called upon once in his or her career and usually within the first year of practice.<sup>74</sup>

Judges frequently prefer to send a poor person to a Corporation for Judicial Assistance rather than appoint a private attorney.<sup>75</sup> Conversely, a person who cannot be represented by a Corporation for Judicial Assistance due to conflicts of interest or other impediments to representation can request of a judge representation through an *abogado de turno*. While the *privilegio de pobreza* allows assistance for indigent persons, it also means that the person with the designation usually waits three times as long as a person with a hired lawyer for responses to demands in the courts.<sup>76</sup>

69. CODE OF CIVIL PROCEDURE, tit. XIII; CODIGO ORGANICO DE TRIBUNALES [ORGANIC CODE OF TRIBUNALS], tit. XVII [hereinafter CODE OF TRIBUNALS].

70. Wilson, *supra* note 45, at 18; CODE OF CIVIL PROCEDURE, art. 134.

71. Wilson, *supra* note 45, at 19.

72. CODE OF TRIBUNALS, tit. XVII. Title XVII generally requires assignment of the *privilegio de pobreza*, and article 595 of Title XVII requires that anyone who fulfills the requisite of *privilegio de pobreza* is entitled to an *abogado de turno* by right.

73. VARGAS V. & CORREA S., *supra* note 15, at 154.

74. Wilson, *supra* note 45, at 35.

75. *Id.* at 36.

76. *Process Issues*, *supra* note 48, at A1.



## G. New Public Legal Assistance Projects

1. *Regional Corporations for Juridical Assistance.* Recent structural changes to the judicial system proposed to the legislature by the Aylwin administration in November 1992 are currently being fine-tuned in the Senate Judiciary Committee.<sup>77</sup> Sections of the proposed legislation are designed to replace the four Corporations for Judicial Assistance with thirteen *Corporaciones Regionales de Asistencia Jurídica* (Regional Corporations for Juridical Assistance).<sup>78</sup> The plan to develop regional administration of the Corporations was presented after an initiative to create a national legal assistance program was defeated in the Congress.<sup>79</sup> The Regional Corporations for Juridical Assistance, which will be more closely affiliated with regional and municipal governments, will continue to provide free legal representation for indigent persons and will further emphasize informing people of their rights and assisting in the extrajudicial resolution of conflicts.<sup>80</sup> Each regional office will have a director appointed by Chile's president.

Expanding the focus of legal aid services, from representation to alternative dispute resolution, represents a significant amplification of responsibilities and services offered to poor communities and is intended to help prevent conflicts and avoid recourse to the courts. The ambit of coverage in these new regional centers will also be augmented by the inclusion of a new class of recipients—small businesses, neighborhood organizations, worker groups and other private collective entities.<sup>81</sup> Moreover, norms regulating potential conflicts of interest will allow the Regional Corporations to represent opposing parties in a contentious matter.

2. *Neighborhood Courts.* An additional section of the legal reform package presented to the Congress in 1992 was a plan to create

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77. Comments on Law Project, *supra* note 11; *Asistencia Jurídica [Legal Assistance]*, EL MERCURIO, May 6, 1995, at A3.

78. *Aprueban Corporaciones de Asistencia Jurídica [Senate Approves Corporations for Juridical Assistance]*, EL MERCURIO, May 7, 1995, at C3 (noting that approval was unanimous in the Senate); Comments on Law Project, *supra* note 11, at 5.

79. Ulloa G. & Vargas P., *supra* note 30, at 70.

80. See Comments on Law Project, *supra* note 11; see generally PROPOSALS TO LAW PROJECT, *supra* note 10 (explaining the shift in emphasis in the new regional corporations).

81. *Id.*; Comments on Law Project, *supra* note 11; see also Ulloa G. & Vargas P., *supra* note 30, at 72.

neighborhood courts. The idea of neighborhood courts had been proposed in the early 1970s under socialist Salvador Allende, but given the intense political, economic and social polarization of the time period in Chile, little headway was made.<sup>82</sup> The current plan to create *tribunales vecinales* (neighborhood courts) has not yet been approved by the Senate and remains only a legislative proposal.<sup>83</sup>

The theory behind the neighborhood courts is that the new local institutions will attend to the legal problems which are most prevalent in poor communities, supplementing the role of local police stations, which also serve to resolve small-scale disputes.<sup>84</sup> By virtue of geographic proximity, neighborhood courts would also make the legal system much more accessible to residents of poor communities who tend to live on the periphery of urban Santiago.<sup>85</sup> The new courts would serve, in part, as small claims courts hearing commercial and other disputes involving nominal sums of money. They would also hear criminal cases which did not involve serious crimes.

3. *Crime Victim Centers* As noted earlier, many crime victims currently are unable to seek redress in the courts against the convicted persons who have violated their rights because conflict of interest regulations prohibit the Corporation in the Metropolitan Region from attending to more than one party in contentious cases. In response, the Ministry of Justice has begun another pilot program devoted exclusively to defending victims' rights and addressing social and economic concerns resulting from the crime. The first center in the new government program was opened in La Pintana in April 1995. This program will work closely with another new Ministry of Justice legal assistance program in La Pintana: the Access to Justice Program.

4. *The Access to Justice Program* In May 1993, the Ministry of Justice implemented a pilot program called *Acceso a la Justicia* (Access to Justice) in nine impoverished sectors of Santiago, including La Pintana, and ten communities in the Bío-Bío Region, 350 miles

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82. See JACK SPENCE, *SEARCH FOR JUSTICE: NEIGHBORHOOD COURTS IN ALLENDE'S CHILE* (1979).

83. See VARGAS V. & CORREA S., *supra* note 15, at 147 (noting that the lack of progress on the creation of neighborhood courts is also present despite existing laws such as D.L. 2,416 (1976) and D.L. 18,776 (1989)).

84. Jorge Correa S., *Si La Justicia No Cambia [If Justice Doesn't Change]*, VIDA Y DERECHO, Sept., 1993, at 7.

85. See VARGAS V. & CORREA S., *supra* note 15, at 148.

south of Santiago.<sup>86</sup> This new program, which will serve as the foundation for the Regional Corporations for Juridical Assistance, strengthens traditional centers for legal representation and creates centers for legal information. In addition, the program is integrated into the National Program to Overcome Poverty.<sup>87</sup> Like the Corporations for Judicial Assistance, offices in the Access to Justice program are staffed by attorneys, social workers and recent law school graduates. Lawyers in the program earn approximately U.S. \$1000 per month, more than two times the salary of lawyers in the Corporations for Judicial Assistance, and the new program had a budget of U.S. \$1.5 million for 1995.<sup>88</sup>

CPU's 1993 survey of low-income urban groups indicated that 87.8 percent of those interviewed knew little or nothing about their rights with respect to the legal system.<sup>89</sup> One noted Chilean legal scholar suggests that the poor have a negative perception of the judicial machinery of the state and hence are unlikely to solicit its services, are probably unfamiliar with the services, and finally are likely to feel or to be rejected by the system even if they utilize state services.<sup>90</sup> The CPU study also revealed that 58.4 percent of those interviewed from marginalized urban sectors believe the best way to improve the justice system for poor people in Chile is to inform them of their rights.<sup>91</sup> In response, centers in the Access to Justice program hold workshops and meet with community leaders to inform individuals and groups of their rights and obligations.<sup>92</sup>

Information centers in this new government program are designed to deal with quasi-judicial questions, resolve disputes extrajudicially and contend with the sometimes excessive formalism of the civil law system.<sup>93</sup> When an indigent client has a question which is not

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86. Access to Justice, *supra* note 51, at 3.

87. *Programa Contra la Pobreza Cubre el 34% de la Población [Poverty Program Will Cover 34% of the Population]*, EL MERCURIO, Dec. 18, 1994, at C3.

88. *Process Issues*, *supra* note 48.

89. PERCEPTIONS OF THE POOR, *supra* note 2, at 277.

90. See Davor Harasic, *Breve Sintesis de los Sistemas de Asistencia Judicial en Chile [Brief Synthesis of the Programs in Legal Assistance in Chile]*, CENTRO DE ESTUDIOS DE DESARROLLO [Center for Development Studies], Nov. 1987, at 17.

91. PERCEPTIONS OF THE POOR, *supra* note 2, at 30; *Senado: Versión Oficial Extractada [Senate: Official Extracted Version]*, EL MERCURIO, May 8, 1995, at C10.

92. Access to Justice, *supra* note 51, at 4.

93. See Peña G., *supra* note 15, at 363 (arguing that civil law formalism makes access to justice difficult); Jorge Correa S., *Formación de Jueces Para la Democracia [Training Judges for Democracy]*, REVISTA DE CIENCIAS SOCIALES [JOURNAL OF SOCIAL SCIENCES], Oct. 1991, at 3.

directly law-related, a social worker or lawyer will provide counsel or refer the client to a public or private center that can better address the client's needs.<sup>94</sup> For example, a woman may come to a center to denounce her husband for spouse abuse under Chile's recently strengthened domestic violence law.<sup>95</sup> If the husband were also an alcoholic or a drug abuser, the social worker or lawyer would advance the legal claim while explaining the implications and possible remedies for substance abuse. If the client's problem involved a legal question and were non-contentious, the person would be advised as to administrative steps to be taken. If the issue were a contentious one, the social worker or lawyer would attempt to establish a forum for resolving the dispute extrajudicially. If the issue were one which could not be resolved outside of the court system, the case would be directed to a legal representation center, where a lawyer or student postulant would determine what steps to take, including processing the case through the courts. Approximately 13 percent of the issues at the Access to Justice centers result in cases processed through the court system.<sup>96</sup>

Alternative dispute resolution has gained a degree of acclaim in Chile recently as a way of relieving the tremendous case burden on the courts, especially in Santiago.<sup>97</sup> The most recent figures (1989) from the National Statistics Institute indicate that 72 percent of all

94. Access to Justice, *supra* note 51, at 4.

95. See *Analizaron la Aplicación de Ley Sobre Violencia Intrafamiliar* [Government has Analyzed the Results of the Application of the New Law on Domestic Violence], EL MERCURIO, April 7, 1995, at C9 (explaining that the new law allows judges to declare protective remedies to avoid high-risk situations and allows alternate sentences like marriage counseling, fines, and prison up to 60 days); see also Soledad Larrain & Ximena Ahumada, Estudio de Prevalencia de la Violencia Intrafamiliar y la Condición de la Mujer en Chile, Servicio Nacional de la Mujer [A Study of the Prevalence of Domestic Violence and the Condition of Women in Chile, National Women's Service] (1992) (unpublished government report, on file with SERNAM) (indicating that 26.2 percent of women interviewed in survey suffer physical violence and 33.5 percent suffer from psychological violence); see generally NANCY DE LA FUENTE H., PAULA CORREA C., MIRTHA ULLOA G., ANGELICA PINO D., ASISTENCIA JURIDICA A MUJERES DE BAJOS RECURSOS [LEGAL ASSISTANCE FOR WOMEN LIVING IN POVERTY] (1989) (detailing public and private legal assistance programs for women living in poor communities in Santiago, Chile).

96. Access to Justice, *supra* note 51, at 6.

97. Echeverría, *supra* note 52; see also Luis Bates H., *Los Sistemas Alternativos de Resolución de Conflictos Son Una Esperanza Frente al Rasgo Confrontacional de la Administración de la Justicia* [Alternative Dispute Resolution is a Hope in the Face of a Confrontational Administration of Justice], in INFORMATION REVIEW, *supra* note 6, at 22; see Carlos Peña G., *Sobre la Necesidad de las Formas Alternativas para la Resolución de Conflictos* [On the Necessity of Alternative Dispute Resolution] 1 (Sept. 1994) (unpublished report, on file with the CPU).

cases in the civil courts are *juicios ejecutivos*, or protest notices of financial instruments, suggesting that it is financial institutions and other large businesses that are the predominant users of the system.<sup>98</sup> In general, alternative dispute resolution in Chile is informal and the techniques underdeveloped, but the mechanism is ripe for use as an alternative to a lengthy court process.<sup>99</sup> Presently, approximately 85 percent of issues brought to the attention of the legal aid centers in the Access to Justice program are resolved immediately through the exchange of information or shortly thereafter through extrajudicial dispute resolution, according to Ministry of Justice statistics.<sup>100</sup>

The centers in Santiago work closely with *Carabineros* (national police), who assist in serving complaints and requests for participation in extrajudicial dispute resolution. The new centers for legal information are dispersed throughout poor communities, making transportation less of a concern for people with limited resources. Three clinics in Santiago and two in the Bío-Bío Region are mobile, conducted from fully-equipped vans.<sup>101</sup> The Ministry of Justice plans to extend the Access to Justice program to twenty-one new communities in three different regions of the country.<sup>102</sup> The twenty-one new communities receiving centers will be chosen by the Ministry of the Interior from a list of the seventy one poorest communities in Chile, determined in the National Program to Overcome Poverty. The Access to Justice program is also equipped with computers in which background data is kept on all consultations, marking the first time that electronic databases have been available for recording information in a public legal assistance program in Chile. The Access to Justice program is currently evaluating its own services based on the recorded results of consultations and judicial representation provided since May 1993.

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98. VARGAS V. & CORREA S., *supra* note 15, at 148.

99. See CORPORACION DE ASISTENCIA JUDICIAL DE LA REGION METROPOLITANA, SISTEMAS ALTERNATIVAS DE RESOLUCION DE CONFLICTOS [ALTERNATIVE DISPUTE RESOLUTION] (1993).

100. Access to Justice, *supra* note 51.

101. *Centro Móvil que Está Más Cercano al la Gente* [The Mobile Center Closest to the People], LAS ÚLTIMAS NOTICIAS, Nov. 21, 1993, at 4.

102. *Anunció Ministro (S) De Justicia, Eduardo Jara: Extenderán Programas de Asistencia Judicial a 21 Comunas de 3 Regiones* [Deputy Minister of Justice Eduardo Jara Announced: They Will Expand Programs for Legal Assistance to 21 New Communities in 3 Regions], EL MERCURIO, Feb. 11, 1995, at C9.

#### IV. CONCLUSION

Chile has been busy putting the pieces of civil society back together since the ideological and economic disarray and polarization of the early 1970s under socialist president Salvador Allende and the nearly two decades of military rule which followed. In the healing and rebuilding process, Chile must continue to integrate the poor more fully into the legal system. The social programs of the 1980s could not fully accomplish this goal, and the return to democracy in 1990, while permitting legal reform to enter public discussion on a greater scale, has not lead to the necessary modernization in terms of access to the system either.

The most effective response has been the Access to Justice approach, a pilot program which has functioned well during its brief existence, but at present is limited in its scope and application. Although Chile is a leader in Latin America in providing legal assistance for the poor, the planned expansion of the Access to Justice program, along with the creation of the Regional Corporations for Juridical Assistance, is much needed. Chile must also continue working, as it has done successfully compared to other nations in the region, to alleviate extreme poverty, which historically has given life to legal problems.<sup>103</sup> One mechanism to help alleviate poverty and social inequities should be access to legal redress. Chile's Minister of Justice, Soledad Alvear, recently noted that "[w]ithout an administration of justice which is accessible and equal, poverty will continue."<sup>104</sup>

A fair and effective legal system promotes confidence and efficiency in the marketplace and should protect and strengthen Chile's already sound economy.<sup>105</sup> The national wealth generated over the past fifteen years through Chile's neoliberal economic model has delivered opportunity to the affluent and to the needy—albeit to notably different degrees—and as Chile continues its national and international free market advances it must also pursue innovative,

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103. COMBATING POVERTY, *supra* note 13, at 109; *see* Alvear, *supra* note 6, at 20 (noting that a failure to address legal concerns could lead to social instability); Sanfuentes, *Antecedentes Sobre la Distribución del Ingreso y Gastos Gubernamentales para Atenuar la Extrema Pobreza* [*Background on Income Distribution and Government Expenditures to Decrease Poverty*], 60 ESTUDIOS SOCIALES 9, 12-14 (1989) (using housing conditions to define extreme poverty).

104. "Administración de Justicia Debe Ser Igualitaria" [*The Administration of the Law Should Be Just*], EL MERCURIO, Nov. 2, 1994, at C4.

105. *See* VARGAS V. & CORREA S., *supra* note 15, at 10.

comprehensive and effective legal reforms which will make the justice system accessible to every citizen, rich or poor.

Michael A. Samway

