

The Cyrus R. Vance Center for International Justice Initiatives

“A Profession Supportive of Democracy”

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COUNTRY REPORT

CHILE

This document is an Executive Summary.
For the unabridged version of this document, please [click here](#).

1 Introduction: Public attitudes toward democracy, rule of law, access to justice, legal profession and judiciary.

There is no centralized data regarding the situation of the legal profession in Chile and the information available is not always up to date. Although there are some studies on the subject, many are sporadic and only cover specific aspects of the legal profession.

1.1. Public attitudes towards democracy:

Democracy is recognized by 75% of the population as the best government system.

During the 90's, only 27% to 40% of the population was satisfied with the way the democratic system was working.

While almost 76% of Chileans believe that governments need to be a little heavy-handed while enforcing its policies, 14% of the population is willing to support an authoritarian government under some circumstances.

1.2. Public attitudes towards rule of law and access to justice:

69.2% Chileans believe that vulnerable groups never or nearly never managed to exercise their constitutional and legal rights.

There is a schism between the perception of the quality of justice accessible by the general population (especially the poor) and that accessible by businesses. International surveys have praised the Chilean legal system, however they tend to focus on issues that relate to the legal environment for doing businesses in the country.

1.3. Public attitudes towards the legal profession:

In 1993, 55.1% of the population believed that it was impossible to get a lawyer for free.

64% of the population considered that it was possible to get help from professionals other than lawyers to solve their legal needs.

1.4. Public attitudes towards the judiciary:

About 74% of Chileans distrusts the court system and 23% trust it only to a certain level.

52% of Chileans regard the services provided by the courts as bad or very bad.

2. Structure and composition of the legal profession:

It is not easy to give a precise layout of the structure and composition of the legal profession in Chile. The data is scarce and not always accessible.

2.1. Number of Law Schools:

In Chile there are approximately 40 law schools (with various campuses in different locations throughout the country).

These law schools have 27 campuses in Santiago and 66 campuses in other cities throughout the country.

2.2 Number of law students:

There are more than 27,000 law students in 2005 in Chile.

2.3 Number of lawyers in the country:

There is no precise data on the number of lawyers in Chile, but it has been estimated that there are approximately 23,000. Additionally, on a monthly basis, approximately 100 law students take an oath before the Supreme Court to become lawyers. In 2003 there were 1,244 new lawyers¹ and in 2004 there were 1,435 new lawyers².

2.4 Concentration of lawyers geographically:

There is no exact data on the geographical concentration of lawyers in Chile. Nevertheless, it is inferred that there is a high concentration of lawyers in the cities of Santiago, Concepción and Valparaíso-Viña del Mar.

2.5 Concentrations of lawyers in private practice and judiciary:

Approximately 11% of lawyers are part of the judicial system and the rest practice either privately or as part of government organizations.

3. Data on legal needs

3.1. What data exists?

There is no specific research about legal needs in Chile and no information regarding the reasons for such a lack. However, there is a lot of information generated by different public and private organizations that can give some guidance on the legal needs in Chile.

¹ Poder Judicial de Chile. See: <<http://www.poderjudicial.cl/0.8/noticias/venot.php?id=566>>

² Poder Judicial de Chile. See: <http://www.poderjudicial.cl/0.8/noticias/venot.php?id=655>

- A. Women Rights:
In 2001, 50.5% of women in Santiago experienced some sort of physical or physiological violence at the hand of her male partner.
- B. Situation of children and teenagers:
In 2002, more than 218 children were exploited for commercial sexual services.
Approximately 4,500 sexual abuse cases against children are denounced each year. The rate of cases that are denounced to those that are not is 1:7.
More than 70% of children have suffered some kind of violence at the hands of their parents.
- C. Situation of handicap people:
Law N° 19,284 calls for the complete social integration of handicapped people, but has not been fully applied.
- D. Situation of native people:
There is a high prevalence of poverty within the native community (35.6%) as opposed to the non-native (22.7%).
There are problems in connection with indigenous rights over native lands and water.
- E. Immigrants rights:
There are between 180,000 to 220,000 immigrants in Chile.
Most immigrants suffer discrimination and xenophobia and face problems of equal access to housing, justice, health insurance and education.
Immigrants have problems legalizing their status in Chile.
- F. Situation of sexual inorities:
There are cases of discriminations in the work place and police violence against homosexuals and lesbians.
- G. Sitation of senior citizens:
By 2005, 16% of the Chilean population will be a senior citizen. There are problems with access to health insurance and services, access to social security benefits and access to housing for senior citizens.
- H. Legal titles for land and water rights:
In 1995, it was estimated that more than 45% of the small farmers did not have legal titles to their lands.
- I. Torture:
There are some unresolved problems regarding human rights violations committed during the military government (1973-1990).
There are some recorded torture cases under the current democratic regime.
- J. Freedom of the Press:
In the past few years, the press has suffered attacks in the form of court orders, threats of imprisonment and physical attacks.

4. Provisions related to access to justice

4.1. Constitutional and statutory provisions and guarantees

The Chilean Constitution guarantees access to justice. This guarantee is complemented by the provisions of international treaties on human rights subscribed to by Chile – specifically, the *Pacto Internacional de Derechos Civiles y Políticos* and the *Convención Americana Sobre Derechos Humanos* (or “*Pacto de San José de Costa Rica*”).

4.2. Bar regulations.

There are no specific regulations regarding access to justice.

4.3. Codes of Ethics.

In Chile, there is no universally applied code of ethics. By legal mandate, the courts are in charge of supervising the ethical conducts of lawyers. The courts rarely sanction lawyers for their unethical behavior. In parallel, there is a set of rules (the so-called “Code of Ethics”) issued by the Chilean Bar Association (*Colegio de Abogados*), which is a document, private in nature and applicable only to its members (being a member of the Bar is not mandatory since 1982). The courts do not apply the Code of Ethics issued by the Chilean Bar Association.

4.4. Law school curriculum related to education and other topics about professional ethics, social responsibility, public interest and human rights.

In general, law schools lack an educational doctrine linked with ethical principles, social responsibility of attorneys and/or issues of public interest. However, law schools from several universities have mandatory ethics courses. Some law schools also have human rights courses and others have taken a central role in public policy issues. In addition, some law schools offer public interest clinics.

5 Provision of services to the poor.

5.1 Role of government and governmental programs:

A.- Legal Aid Corporation (*Corporación de Asistencia Judicial*): This is a public entity which has two main purposes: (i) to provide free legal and judicial advice to low income people, and (ii) to provide law degree applicants with the necessary means to perform their mandatory internship.

B.- Program of Judicial Assistantship (*P.A.J.*) for Access To Justice: This program was designed by the Justice Department (*Ministerio de Justicia*) to help people in the direct claim and exercise of their rights. This program delivers the following free services: (i) workshops on people’s rights and education; (ii) mediation; (iii) extrajudicial counseling in

judicial and social matters; (iv) representation before the courts of justice and (v) psychological help for victims of violent crimes.

C. - Attorney on Duty (*Abogado de Turno*): By legal mandate courts designate attorneys that take responsibility on a pro bono basis for a certain number of cases. The attorneys must provide the legal services for free until the termination of the case. The system has not been working efficiently. Currently, under the new Chilean criminal procedure, in criminal cases the Public Criminal Defender performs this task.

D. - Public Criminal Defender: The Public Criminal Defender's mission is to provide free legal defense to people accused of a crime that cannot afford an attorney.

E. - The Government Functions Control Act No. 18.576 of 1999: This law generated mechanisms that facilitate access to information on government functions, duties and responsibilities. Its purpose is to improve transparency and control of the State structure.

5.2 Role of bar associations and bar programs.

The Chilean Bar Association (*Colegio de Abogados*) has created a Pro Bono Commission in charge of coordinating all the pro bono activities of the Bar. The Chilean Bar Association has also developed some strategic alliances with different institutions in order to improve equal access to justice.

5.3 Role of law schools and programs including service requirements before admission to practice.

Some law schools also have "clinics" as a way to contribute to the community (pro bono) and as a tool to teach procedural law to students. In 1995, various Latin American universities created a network of clinics or workshops dedicated to issues of public interests and human rights.

There is also cooperation between universities and NGOs that work in the area of access to justice. In many cases the clinics have represented NGOs in lawsuits involving cases of public interest.

5.4. Role of NGOs:

There are many non-governmental organizations in Chile that seek equal access to justice. *Corporación de Formación Jurídica para la Acción (FORJA)* carries out programs of legal awareness of peoples' legal and constitutional rights in different regions of the country. *Corporación La Morada*, specializes in the elimination of discrimination against women. Finally, *Fundación Pro Bono* was created to change the way pro bono work is done within the private law firms in order to satisfy the legal necessities of not-for-profit organizations and NGO's. *Fundación Pro Bono* has also signed cooperation agreements with different public and private institutions in order to improve and expand its services.

