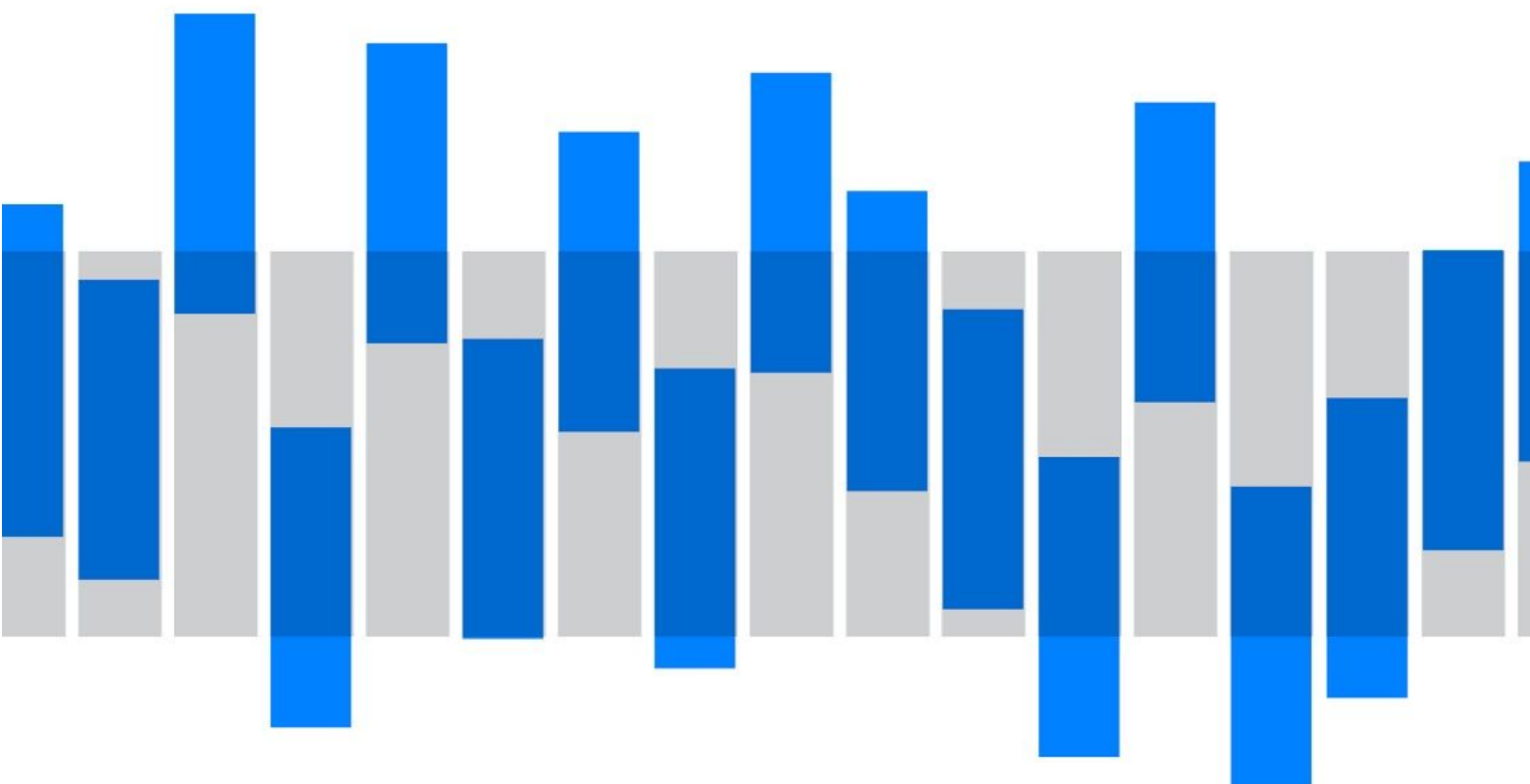


ACCESS TO JUSTICE AGREEMENT

**A reforms agenda
for the effectiveness
of rights**



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A reforms agenda for the effectiveness of rights

The “Access to Justice Agreement” is an initiative promoted by civil society organizations, public entities, academic entities and leaders of disadvantaged groups, whose purpose is to promote an integral reforms agenda to guarantee equal access to justice and to make the rights of people effective; in particular, of those vulnerable groups or those that need a strong government protection, in accordance with the particular characteristics of the affected sectors.

Our country is still far from reaching proper access to justice standards for citizenship, and this problem is bigger in the disadvantaged sectors of society, who face serious violations of their fundamental rights. For them, the Judiciary and public offices are often inaccessible; they are far geographically, and they include costs that restrict the commencement or maintenance of a procedure. Moreover, legal counsel is not guaranteed in all instances and venues, and the existing procedures do not always cover legal needs and citizenship requests. At the same time, a large part of the population is not aware of their rights or the mechanisms available for conflict resolution. The conflicts intensify due to the few mediums of political and social participation available with respect to the design of public policies on access to justice that the different powers of state should implement, as well as due to the current institutional weakness of officers, such as the Ombudsman.

Within this context, during the last years, some access to justice territorial devices has been created to extend legal counsel and to improve the access to justice for the most disadvantaged people. Moreover, inter-institutional articulation efforts have been initiated where the concentration of offerings of this type of services is higher¹. On the other hand, the Supreme Court has recently announced through mass communication media a potential plan for the “transformation” of the powers of the Judiciary. This contributes to the reform debate process, which started with the “*Plan de Justicia 2020*,” (Justice Plan 2020) which is being proposed as an institutional and citizenship dialogue space. In addition, within the Sustainable Development Agenda (SDA) promoted by the United Nations (UN) in 2019, Argentina shall specifically update on the progress regarding access to justice (SDG 16). There is also broad consensus at the national level regarding the adoption of minimum standards established by the 100 Brasilia Rules regarding Access to Justice for Vulnerable People.

This context grants an opportunity for profound debate on the reforms our country still needs on the issue. This means that our access to justice public policy agenda needs an integral plan that coordinates, integrates and unifies actions, programs, plans and strategies in the different powers of State and that incorporates the multiple reforms our system needs.

¹ Among the latest initiatives on the topic, we find the following: Centers of Access to Justice (Ministerio de Justicia y Derechos Humanos de la Nación), Defensoría General de la Nación y Ministerio Público de la Defensa CABA [Ministry of Justice and Human Rights, Office of the Public Prosecutor and Ministry of Defense for the City of Buenos Aires], Access to Justice Territorial Agencies-ATAJO- (Ministry of the Public Prosecutor), publishing of the Guideline on Free Legal Counselors for the City (Office of the Public Prosecutor for the City of Buenos Aires), the creation of the Network of Free Legal Counselors for the City of Buenos Aires, and the recent opening of the “Hospital de Derechos” (MJyDHN) [“Hospital of Rights” (Ministry of Justice and Human Rights)].

The coordination of inter-institutional policies would prevent the existence of vulnerable zones that, due to excess (superposition or fragmentation or segmentation) or defect (silenced zones or those do not obtain any kind of institutional response), do not obtain jurisdictional response to their legal needs. Moreover, the difficulties of producing information on the administration of most of the entities in charge of this topic, and the complexity of judicial and administrative processes and that users face make it necessary to start deep reforms processes on the issue.

These access to justice proposals were not only intended for the Judiciary, nor are they only aimed at changing the design of the system from an institutional perspective or “from the authorities downwards”; they are focused on the communities and on the persons suffering violations of their right, and the lack of proper stages to solve their legal needs. Their implementation needs a strong inter-sectorial articulation and a robust political will from the Powers of State. Moreover, they need a broader application by the population, which should be able to know, use and transform the law.

The proposals gather diagnoses and ideas generated in the last debates and participation. Particularly, from 2017 to present, there were a series of events and meetings with multiple government players (with power in access to justice) and non-government players (from different civil society organizations, territorial or base organizations, scholars, community leaders and people from different vulnerable groups). Indeed, in May 2017 the “Access to Justice Week” took place, which included a series of thematic meetings that worked as debate and diagnosis stages on the main problems related to access to justice in the country and which allowed the identification of obstacles impacting the effective exercise of economic, social, cultural and environmental rights (ESCER)². During the last months, we continued with the debate tables on different topics related to access to justice in different provinces of the country³.

At the same time, in June 2017, the signing of the “Declaración de Villa Inflamable por el Acceso a la justicia y el empoderamiento legal” (Villa Inflamable Declaration for Access to Justice and Legal Empowering) took place, whereby the principles and commitments related to 23 organizations of the region were materialized urging the State, the private sector and the international community to implement concrete actions aimed at reversing the current obstacles faced by the most disadvantaged communities to access justice.⁴

²Through six meetings, with the format of horizontal debate round tables, on the following topics: “Access to Justice and Slums”; “Access to Justice and Gender”; “Access to Justice and Disability”; “Access to Justice and alternative conflict resolution methods” (International seminar organized by UNLA), “Access to Justice and Public Defense”; and “Towards a Common Participative Agenda for Access to Justice” They were convened by the following: Asociación Civil por la Igualdad y la Justicia (ACIJ); Namati; Defensoría General de la Nación (Ministerio Público de la Defensa) [Public Ministry of Defense]; Dirección General de Acceso a la Justicia del Ministerio Público Fiscal de la Nación (ATAJO) [General Directorate of Access to Justice of the Ministry of the Public Prosecutor]; Subsecretaría de Acceso a la Justicia del Ministerio de Justicia y DDHH de la Nación [Subsecretariat of Access to Justice of the Ministry of Justice and Human Rights]; Ministerio Público de la Defensa de la Ciudad de Buenos Aires [Ministry of Public Defense for the City of Buenos Aires]; Instituto de Estudios Comparados en Ciencias Penales y Sociales (INECIP) [Institute for Compared Studies on Criminal and Social Sciences]; Asociación por los Derechos Civiles (ADC) [Association for Civil Rights]; Centro de Estudios Legales y Sociales (CELS) [Center of Legal and Social Studies]; Poder Ciudadano [Citizenship Power]; Instituto de Justicia y Derechos Humanos (UNLA) [Institute of Justice and Human Rights]; Techo Argentina; Habitar Argentina; Cerrando Brechas; Amnesty International; Equipo Latinoamericano de Justicia y Género (ELA) [Latin American Team for Justice and Gender]; Fundación SIGLO XXI; Comisión Argentina para los Refugiados y Migrantes (CAREF) [Argentine Commission for Refugees and Migrants]; Fundación Mujeres en Igualdad (MEI) [Women in Equality Foundation]; Fundación para Estudio e Investigación de la Mujer (FEIM) [Women Study and Research Foundation]; Grupo Artículo 24; Red por los Derechos de las Personas con Discapacidad (REDI) [Network for Persons with Disabilities]. In addition, the activities counted with Tinker Foundation’s support.

³The federal tables worked on: “Access to Justice and Indigenous Peoples”; “Children and Adolescents Access to Justice”; “Environmental Access to Justice”. They were convened by: ACIJ, NAMATI, ANDHES, INECIP, Dirección Nacional de Acceso a la Justicia del Ministerio de Justicia y Derechos Humanos de la Nación [National Directorate for the Access to Justice of the Ministry of Justice and Human Rights], Centro de Acceso a Justicia de Tucumán (CAJ) [Access to Justice Center of Tucumán]; Colectivo de Derechos de Infancia y adolescencia [Group for the Rights of Children and Adolescents], Observatorio de derechos Humanos de la Universidad Nacional de Córdoba [Observatory of Human Rights of Universidad Nacional de Córdoba], Servicio Habitacional y de acción social (SEHAS); Dirección Nacional de Acceso a la Justicia del Ministerio de Justicia y Derechos Humanos de la Nación; Centro de Acceso a la Justicia de Córdoba (CAJ) [Center of Access to Justice of Córdoba]; OIKOS Red Ambiental [Environment Network], XUMEK, Fundación para el Desarrollo de Políticas Sustentables (FUNDEPS) [Foundation for the Development of Sustainable Policies], Fundación ambiente y recursos naturales (FARN) [Environment and Natural Resources Foundation], Federación Argentina de Espeleología (FAE) [Argentine Federation of Speleology], Centro de Estudios Prospectivos (CEP) [Center of Prospective Studies], Judiciary of Mendoza, Legislature of Mendoza, Government of Mendoza, Universidad de Congreso (UC). Moreover, the activities took place with the support of Tinker foundation.

⁴The organizations subscribing the Declaration are: ACIJ, Poder Ciudadano, ANDHES (Argentina), Comité de desarrollo comunitario “Los Pinos” (Ecuador) Asylum Access (Ecuador) [Community Development Committee]; Fundación regional de asesoría en derechos Humanos (INREH; Ecuador) [Regional Foundation on Human Rights Counseling]; ASCALA (República Dominicana); Grupo Monitoreo Independiente del Salvador (GMIES, El Salvador) [Independent Monitoring Group]; Asociación por los derechos Humanos (APRODEH, Perú) [Association for Human Rights], Asociación Paz y Esperanza (PERÚ) Centro de estudios para la Equidad y Gobernanza en los sistemas de salud (Guatemala) [Center of Studies for Equity and Governance in Health Systems], FIMA (Chile) Techo (Chile); Themis (Brazil); Artículo 19 (Mexico),

The final version of this “Access to Justice Agreement” was reached after a number of participative and iterative stages that materially enriched the document and involved wide debate with civil society organizations from different provinces, specialists, leaders and members of communities, as well as disadvantages groups, public officers and the people in general⁵.

This document seeks to be a concrete contribution for these debates to be translated into concrete and integral public policy proposals, for them to be implemented by decision-makers from the Powers of State (both at national and sub-national level), and for them to trigger reform processes aimed at reverting the main deficit in access to justice regarding non criminal conflict in our country⁶. This could be possible both through a national law on access to justice –also promoting broad support from provincial jurisdictions-, as well as through gradual and specific reforms- both in laws and in the design of policies-

The following are the main action lines on which we, the undersigned, propose to base a public policies access to justice reform to address the civil conflict in our country:

IN ORDER TO GUARANTEE ACCESSIBLE AND QUALITY LEGAL COUNSEL:

- 1. A system that guarantees free and quality legal counsel for every person who needs it** must be implemented, either at judicial or administrative venues, and at both the national and sub-national level. To such end, the functions and obligations under the charge of the ministries of Defense, ministries of the Public prosecutor, the Ombudsman Offices and the different devices for access to justice that the three Powers of the State currently have must be strengthened as part of a hierarchically-organized public service. Also, an interconnected and regionalized network must be created between state and non-state providers of free legal counsel.
- 2. The existence, independence and autonomy of the ministries of Defense, Ombudsman Offices and Children and Adolescent Defense Offices** must be guaranteed in every jurisdictional district of the country, and their budget and resources must be increased significantly.
- 3. Geographically decentralized offices** for assistance, complaints, claims and conflict prevention by different State institutions must be created, so as to guarantee a wide geographical coverage and

Fundación para la Justicia y el estado democrático de derecho (Mexico) [Foundation for Justice and the Democratic Government]; Mexican Center of Environmental Law (CEMDA, Mexico), Fundación para la justicia y el estado democrático de derecho (El Salvador) [Foundation for justice and the democratic government]; Construir (Bolivia); Habitat for humanity (Bolivia); International Senior Lawyers Project (Colombia), Instituto Latinoamericano para una Sociedad y Un derecho Alternativo (ILSA, Colombia) [Latin American Institute for an Alternative Society and Law] ; Coordinadora por los derechos de la Infancia y la Adolescencia (CDIA, Paraguay) [Coordination for the rights of Children and Adolescence] .

⁵The previous versions were socialized with civil society organizations from different provinces, scholars, indigenous peoples; NGO formed by families and/or persons with disabilities, thematic NGO (gender, migrants, workers, etc.) and public officers. The document was presented and debated on 15/11/18 in a public event in which multiple state and non-state players spoke: Asociación Civil por la Igualdad y la Justicia (ACIJ); Centro de Estudios legales y sociales (CELS) [Center of Legal and Social Studies]; Instituto de Ciencias Penales (INECIP) [Criminal Sciences Institute]; Observatorio del derecho a la Ciudad [Observatory of the right to the City]; Instituto de Justicia y derechos Humanos Eduardo Luis Duhalde Universidad Nacional de Lanús (UNLA) [Institute of Justice and Human Rights]; Fundación Ambiente y Recursos Naturales (FARN) [Environment and Natural Resources Foundation]; Sembrando Juntos, Neighborhood leaders and access to justice promoters of Villa Inflamable; Amnesty International; Fundación Microjusticia [Microjustice Foundation]; Centro para una Justicia Igualitaria y Popular (CEJIP) [Center for an Equal and Popular Justice]; Fundación SUR; FUNDEPS; Clínica de Interés Público de la Universidad de la Plata [Public Interest Clinic]; Fundación para el Estudio e Investigación de la Mujer (FEIM) [Foundation for Women Study and Research], Equipo Latinoamericano de justicia y género (ELA) [Latin American Team for justice and gender]; specialists in Migration, Abogadas y abogados del nordeste argentino en Derechos Humanos y estudios sociales (ANDHES) [North-East Argentine Lawyers for Human Rights and Social Studies] ; Asociación para la promoción y protección de los derechos humanos (Xumek Mendoza) [Association for the promotion and protection of human rights]; Asociación de Defensa de los asegurados, consumidores y usuarios (ADACU) [Association for the Defense of Insured, Consumers and Users] ; and officers from the following public entities: Secretaría General de Política Institucional de la Defensoría general de la Nación (DGN) [General Secretariat of the Institutional Policy of the Public Defense Office], Dirección de Acceso a la Justicia de la Procuración General de la Nación (PGN) [Directorate of Access to Justice of the Attorney General Office]; Dirección Nacional de Promoción para el Acceso a la Justicia y Programa Nacional de Asistencia para las Personas con Discapacidad en sus Relaciones con la Administración de Justicia (ADAJUS) del Ministerio de Justicia y Derechos Humanos de la Nación [Directorate for the Promotion of Access to Justice and National Assistance Program for Persons with Disabilities in their Relationships with Justice Administration of the Ministry of Justice and Human Rights]; Secretaría Judicial del Ministerio Público de la Defensa de la Ciudad Autónoma de Buenos Aires [Judicial Secretariat of the Public Ministry of Defense of the City of Buenos Aires]; Procuración General de la Ciudad de Buenos Aires [Attorney General Office for the City of Buenos Aires]; Consejo de la Magistratura de la Ciudad de Buenos Aires [Judiciary Council for the City of Buenos Aires].

Finally, before this final version, an advanced version was published and spread for the reception of contributions from citizenship. The document will be open for the incorporation of adhesions in the following months.

⁶In this regard, the document does not include proposals related to access to criminal justice. It just covers civil conflicts.

to prioritize their application in highly-vulnerable communities, together with interdisciplinary teams that will address those issues. All the necessary coordination mechanisms must be set up among them to avoid overlaps and vacancies.

4. Efficient and non-bureaucratized inter-institutional **coordination and referral policies** must be implemented among the different public offices of legal counsel, to avoid unnecessary delays and to **unify response protocols**.
5. A policy for the **systematization, assessment and monitoring of legal counsel** must be applied and the criteria for quality of the provision of free legal counsel must be established.
6. **“Social Counseling”** programs and/or **“Pro bono”** working practices must be established in all jurisdictional districts in order to encourage accessible and properly supervised legal counsel. To such end, incentive policies must be applied for the lawyers who participate in those programs.
7. Bodies that make available the **information on the right to legal counsel**, the characteristics of the assistance, the availability of the service and how to access it must be improved. This must be done by using all existing communication and diffusion means and also by guaranteeing access to them – especially by taking advantage of all public offices in all sectors of the administration. During legal proceedings, officers must guarantee that both parties have gained access to proper information about this right.

IN ORDER TO IMPROVE ACCESS TO THE JUDICIARY

MANAGEMENT REFORMS

8. A medium-term **“Comprehensive Plan”** must be developed and **all legal reforms aimed at facilitating access to justice** must be specified (the plan’s objectives and milestones, goals set, human resources management, terms, financial resources, etc.). The plan should provide for the creation of a follow-up institution with leaders of public institutions, disadvantaged groups and civil society organizations.
9. Policies aimed at the **territorial decentralization of the judicial system** must be elaborated in order to facilitate an effective coverage of the population currently facing geographical obstacles.
10. The creation of **new trial courts** in all those matters which given the current demand are involved in an excessive amount of cases must be encouraged. The setting up of **trial courts and court clerk offices specialized in** the appropriate subject-matters must be planned considering the following criteria: amount of affected people, relevance of the matter in the community, complexity of the matter. Also, specialized trial courts which have already been created must be fully implemented (for instance, trial courts in Consumers’ Rights matters).
11. Trial courts’ **opening hours** must be extended and any interruption of public service during judicial recess reduced. Moreover, all contact information about courts, prosecutors’ offices and defense offices on duty during non-working hours or recess days must be made available and known.
12. **Policies aimed at training judicial officers** in the areas of human rights, gender perspective and access to justice must be implemented.
13. The **Justice of the Peace** must be **strengthened** in relation to all matters over which it has jurisdiction, by means of allocating enough resources and providing the right infrastructure considering the workload and the legal needs of the people in particular areas. As well, reports must be prepared with detailed information about the **Justice of the Peace’s** functioning and

impact on all jurisdictional districts of the country. The institutional, structural and political design of the Justice of the Peace must be necessarily related to its work context.

14. Significant advances in the incorporation of **information and communications technology (ICT)** and electronic tools must be made to make accessible all justice services and to guarantee access to information (digital files, electronic management of records, questions and answers via social networks, management of public records). Advances must be also made in the promptness of notices and procedural formalities, and in-person counsel and management stages must be guaranteed.
15. **Judgments rendered in all jurisdictional districts of the country must be submitted, recorded, organized and published**, with specification of details regarding the average number of cases brought to court according to the affected rights, the means used to solve them, the vulnerable group affected by the violation of those rights, the result of the proceedings and how long the proceedings took.

PROCEDURAL REFORMS

16. Reforms must be implemented to guarantee **promptness in judicial decisions and a shorter duration of the proceedings**, without affecting the guarantee of due process, considering the type of claim and the context of the disadvantaged group or person. Mechanisms for the **prevention and control of judicial delays and for penalties** arising as a result must be provided.
17. **Orality must be implemented** in every procedural stage (**pre-trial, production of evidence, settlement**) and **proceedings must be adapted to meet the need of judicial immediacy**.
18. A new **law regarding Actions for the Protection of Constitutional Rights** must be enacted to end current obstacles faced by those willing to bring such action (the gratuitous nature of the process, expiration terms, the requirement of exhaustion of administrative remedies, among others).
19. Regulations concerning **Class Actions** must be implemented in order to facilitate due process in cases involving violation of collective rights and specific groups (the gratuitous nature of the process, standing to sue, sua sponte principle, executability of judgments, less obstacles for the granting of provisional remedies, publicity as government's responsibility, among others).
20. Reforms aimed at granting more judicial powers **to adapt procedures and the right to move a proceeding forward** in some cases must be made. In such proceedings where parties are in evident unequal conditions (for instance, labor proceedings, consumers or users cases, administrative proceedings, etc.) courts must consider such circumstance, in order to compensate the negative impacts that it may have on the course of the proceedings and the outcome.
21. Regulations governing **conflicts of jurisdiction** must be consistent with rules in all different government levels (in order to avoid unnecessary delays after a court refuses jurisdiction or after a request has been made for a judge to dismiss a case for lack of jurisdiction) by establishing clear rules, maximum terms for submission and mechanisms that guarantee rights for the implementation of urgent measures. As long as conflicts of jurisdiction remain unsolved, measures to guarantee both parties' requests must be taken.
22. The figure of the **amicus curiae** must be authorized in all stages and in all jurisdictional districts of the country, especially in cases of public interest.
23. The mechanism to grant a **motion to proceed in forma pauperis** must be improved and simplified, and also a **system of automatic presumptions** for the granting of the benefit must be established

(for instance, being a beneficiary of a focused state program constitutes a presumption). This benefit, jointly with the benefit of a gratuitous process, must be extended to class actions specially aimed at protecting the rights of individuals, groups of people and vulnerable communities.

24. The **National Act of Provisional Remedies Against the Government** [*Ley nacional de medidas cautelares contra el Estado*] must be reformed, in order to establish mechanisms that facilitate their granting in those cases where they are necessary to prevent or urgently revert violations of rights (by eliminating the obstacle that appears with the obligation of showing coincidence between the subject matter of the remedy sought and the subject matter of the complaint, the bond requirement, the established terms for the provisional remedy, the obligation to serve notice before the remedy is granted, among others). Moreover, protective mechanisms must be generated for those parties who are granted provisional remedies, in order to prevent their liability from being a disincentive for the access to justice (for instance, through a complaint for damages).
25. **Mechanisms and unobstructed processes** must be guaranteed for **small claims**, and the proceedings must be adapted to the claims' complexities.
26. The procedural principles of the **wide probative value of evidence and burden of proof** must be explicitly incorporated.
27. The Supreme Court's **discretionary power to dismiss a request of revision of a Court of Appeal's decision without cause must be limited**.

IN ORDER TO IMPROVE ALTERNATIVE DISPUTE RESOLUTION MECHANISMS (MASC):

28. MASC's **creation, accessibility and reliability** must be encouraged.
29. The relevance of some kinds of claims subject to the compulsory out-of-court mediation must be assessed based on statistical information produced and collected by the Government, in order to **prevent that obligation from operating as an obstacle** to access to justice in that area.
30. **Periodical assessments must be carried out and information gathered** on the number of conflicts solved via MASC, the length of the proceedings and the effectiveness of the agreements, among other aspects.
31. The **parties' possibility of self-composition of disputes** must be available for **different judicial proceedings**, and this type of conflict resolution must be encouraged.

IN ORDER TO IMPROVE CHANNEL CLAIMS AND REQUESTS IN ADMINISTRATIVE VENUES

32. **The National Act of Administrative Procedure** [*Ley Nacional de Procedimientos Administrativos*] and equivalent provincial acts must be reformed, so as to guarantee adequate terms of government response in cases that do not admit delays.

33. **More legal resources and submissions in administrative venues must be admitted** in those cases in which collective interests are at risk, and civil society organizations' standing to sue must be acknowledged.
34. **Exclusive and geographically decentralized counters** must be created in order to channel claims and requests of all groups of people and in all jurisdictional districts (municipal, provincial and national) around the country.
35. Policies for the **digitalization of all procedures** must be implemented so as to establish unobstructed channels to communicate and create claims through on-line and gratuitous services –without eliminating in-person assistance stages.
36. **Oral and immediacy stages** must be available during administrative procedures.
37. **Access to information** included in administrative records, if requested, must be granted **in full and immediately** for every citizen, in those cases where collective rights and the defense of community interests are at stake. In computerized record systems, such distance access must be granted via internet.
38. A **public policy** must be established for administrative personnel **training** in the following areas: access to justice, gender perspective, interculturalism and human rights.
39. Government offices which receive individual claims must **identify patterns of repeated problems with the aim of encouraging a collective resolution** of those violations of rights with high occurrence. To such end, the results of the application of San Salvador Protocol's guidelines must be taken into account.
40. The **Ombudsman**⁷ must be appointed and the institutional continuity of such charge must be guaranteed so no more vacancies occur. The Ombudsman's appointment process must be carried out through transparent and participative procedures which guarantee the suitability of the person appointed for the charge. This figure must be created and strengthened in all subnational levels. Its intervention and performance –even at court- must be sua sponte in cases involving violations of collective rights.
41. The role of **authorities for the control and regulation of public services** must be strengthened in all jurisdictional districts by unifying and simplifying formalities and mechanisms available for making complaints, encouraging the transparency of their function and the use of their services so as to improve control, vigilance, penalties and the regulation of the provision of public services.

IN ORDER TO ENCOURAGE LEGAL EMPOWERMENT AND CITIZEN PARTICIPATION

42. **Policies aimed at carrying out mass campaigns for the diffusion of rights** and existing means or mechanisms to make a claim in case those rights are violated must be implemented, and must

⁷The figure of the Ombudsman is included herein for the sole purpose of facilitating the reading and avoiding repetition in other sections, although this entity has power to promote changes in judicial and legislative stages, and related to the different issues addressed in the present document.

- include alternative media, community media, means of communication for rural and indigenous people.
43. Public policies aimed at providing **education about rights** and helping communities gain **legal empowerment** must be generated and their reach must be extended to formal and informal education so as to make individuals, groups of people and communities become aware of the rights guaranteed by the government, the mechanisms available to enforce them and the governmental institutions responsible for their promotion and protection.
 44. Promotional strategies for the legal empowerment of the communities must be extended and the processes aimed at training access to justice **officers, promoters or agents** must be strengthened, and their funding and institutional inclusion must be ensured.
 45. A **system** aimed at indicating the **amount of social participation and legal empowerment** must be established to assess the results of the public policies implemented, together with disaggregated information involving each disadvantaged group, so as to measure their impact on them.
 46. Digital and in-person channels must be made available for the citizens to inform government decision-makers about **procedures, regulations (obsolete, contradictory, complex) which need to be modified** on the grounds of being an obstacle for the exercise of rights.
 47. A system must be established for **citizen participation in the design, execution and assessment of public policies** for access to justice implemented by the different Powers of the State.
 48. The **“Escazú Agreement” must be regulated** so as to guarantee access to information, citizen participation and access to justice in cases involving environmental matters.

FOR THE PROTECTION OF PEOPLE AND PARTICULARLY VULNERABLE GROUPS

COMMON ASPECTS

49. **Protocols of attention and non-discrimination** of vulnerable groups (for reasons of age, gender, immigration status, ethnic group, disability or socioeconomic status) must be adopted, which must include an intersectional approach. Such protocols must be agreed and validated with the groups involved, and must be uniformly implemented among the different sectors of the State.
50. **Accessible, differentiated and contextualized materials** must be produced for the **communication and notice of relevant procedural acts**, taking into account the distinctive features of the vulnerable groups.
51. **Clear, simple and inclusive language** must be adopted in all court decisions, procedural acts, and judicial or administrative procedures and instances; providing different levels of adjustment of the content to be communicated or used.
52. **The access to translators and interpreters** must be guaranteed in cases in which one of the parties belongs to a linguistic and ethnic minority. The **necessary cultural, communicational and ethnic adaptations** must be guaranteed throughout the process, adopting an intercultural approach.
53. Programs of **digital literacy and inclusion** must be created and implemented in order to facilitate the access of vulnerable groups to ICT. In addition, **a clear use of the language and clear communication must be guaranteed in web platforms**, mobile applications, publications, brochures and media campaigns.

54. **The certification of compulsory requirements as regards Human Rights perspective**, and perspectives regarding gender, interculturality, comprehensive protection of children and adolescents (NNYA), rights of immigrants and social model of disability, among other topics, must be included in the open competitive selection process for the appointment of judges and for the promotion of people that are part of the judicial and/or administrative career. This must be done regardless of the fact that they work or not in areas related to direct attention to vulnerable groups.
55. The **priority representation and participation of vulnerable groups** must be guaranteed in the design, implementation and assessments of public policies related to the access to justice that particularly affect them.

PEOPLE LIVING IN POVERTY

56. Programs, plans and strategies must be implemented in order to guarantee the effective access to justice for people living in poverty, especially by promoting **legal literacy**.
57. **Social support services for vulnerable groups** must be guaranteed where necessary for the continuity and maintenance of court or out-of-court procedures. Financial support must be provided to people who are unable to face such situation, so that they can overcome obstacles related to transportation, housing and food, among others.
58. Public policies at a national level must be promoted in order to provide **access to a legal identity for all**, especially through birth registration. Therefore, a national body must be established to centralize the control, coordination and common standards of the proceedings, as well as the functioning of the bodies that intervene in identity registration. Law no. 26413 must be regulated, guaranteeing its compliance at all civil registry offices within the national territory and arbitrary practices at the provincial level must come to an end. Gratuitous proceedings must be guaranteed
59. Additionally, a **special judicial and/or administrative procedure** must be established to hear **urgent cases related to the protection of the rights of undocumented people**. In all cases, the bodies must be trained to guide and give advice on the subject and provide a longitudinal follow-up of the case management
60. Current regulations must be amended in order to **guarantee bilateralism in all eviction processes**. No eviction can be carried out by the police forces without previously guaranteeing the right of defense. In all cases, international principles governing cases of forced or coerced displacements must be followed

CHILDREN AND ADOLESCENTS

61. **Protection mechanisms** developed to guarantee the effectiveness of the rights of children and adolescents must be **strengthened**. During all the instances, practices and proceedings, the **paradigm of comprehensive protection, progressive autonomy** and the **best interest** of children and adolescents in their capacity as parties to the proceedings must be taken into account, without replacing their will.
62. **Normative, institutional and case-law frameworks must be coordinated** in pursuit of the comprehensive protection of children and adolescents, adapting the practices and procedures to the implementation of the model of comprehensive protection of rights.
63. A **Children and Adolescents Ombudsman must be appointed** in order to establish an institution for the control of public policies for childhood, guaranteeing the genuine participation of children and adolescents in all instances and procedures. In addition, an **adequate budget** must be allocated for the creation of the institutional structure of the Defense Office
64. Specialized free-of-charge legal services must be adapted in all jurisdictions in order to **guarantee the access of children and adolescents to legal counseling**, through figures such as “the lawyer

- for Children and Adolescents”. In all jurisdictions, a registry of lawyers for children and adolescents must be kept, and the fair geographical distribution of such lawyers must be guaranteed by means of incentive policies.
65. The defenders of children and adolescents and the judicial and administrative personnel must receive and pass trainings on human rights and, particularly, trainings related to the paradigm of Comprehensive Protection of Children and Adolescents. All jurisdictions must agree on certain minimum criteria as regards the **training, assessment and supervision** of the services supplied by these bodies.
 66. The **intervention** of judges must be guaranteed in all instances and procedures. In addition, effective procedures must be established for the **recognition** of the context where children and adolescents grow.
 67. **The infrastructure of public bodies must be adapted** so as to guarantee and protect the right to privacy of children and adolescents, preventing revictimization.
 68. All proceedings related to exceptional measures taken by administrative authorities and related to children and adolescents with no parental care must be **submitted to judicial control and review; additionally, the participation of biological families and legal counseling to them during the adoption process must be guaranteed**. Additionally, supervision instances must be promoted by protection bodies, together with other parties from the different areas that form part of the system of comprehensive protection of the rights of children and adolescents, grouped in devices of institutional care and/or systems of family care, guaranteeing the assistance and representation of the lawyers for children and adolescents.
 69. **Information gathering at a national level as regards institutionalization** must periodically be made, in both public and private entities of children and adolescents, for decision-making related to the access to justice, applying management quality standards in institutional devices.
 70. **Late registration of birth** of children and adolescents must be guaranteed by administrative proceedings, allowing the intervention of the **Children and Adolescents Ombudsman**. In addition, the access of all children and adolescents to their rights must be guaranteed, including the right to social security, even in cases in which they are not able to prove filiation as a result of having unregistered parents or parents with irregular documentation.

OLDER PERSONS

71. Strategies that allow the consideration of the situation of older persons must be implemented, taking into account a life-cycle perspective, **avoiding stereotypes and prejudices with relation to age and promoting a dignified treatment from judicial and administrative services**.
72. Mechanisms to **guarantee due diligence and a preferential treatment** to older persons must be created for the processing, resolution and execution of decisions in administrative and judicial procedures. Expedited judicial intervention must be guaranteed, particularly in cases in which there may be risks for older persons’ health or life.
73. Models of judicial and administrative management must be introduced to **simplify the access for older persons in dependency of care situations**. Such care must be guaranteed as a public policy, since it constitutes a fundamental human right.
74. Programs that allow the **reduction of the digital breach** with relation to information and communication technologies (ICT) that nowadays affects older persons must be implemented.
75. **The creation of training spaces for judicial and administrative personnel** on the protection of the rights of older persons must be promoted, taking into account the standards that arise from the Inter-American Convention on Protecting the Human rights of Older Persons.

76. **Systematic studies** must be carried out to **identify the main obstacles** faced by older persons regarding access to justice.

PERSONS WITH DISABILITIES

77. It must be guaranteed that persons with disabilities are allowed to **make decisions and express their opinions in equal conditions, without being replaced by other persons**. To meet this end, it is necessary to guarantee conditions of accessibility and the **reasonable and necessary supports and adjustments** in all administrative and/or judicial procedures in which they are involved.
78. **Training programs** must be developed so that the administrative and judicial personnel, the interdisciplinary teams and the forensic medical service can communicate with persons with disabilities and provide them with advice and technical and legal counseling, following the international standards on human rights, especially in accordance with the social model of disability.
79. **Full accessibility to the facilities** of all public offices along the country must be guaranteed, making all the architectonic adjustments that may be necessary to remove physical barriers.
80. **Full accessibility** to communications must be guaranteed for persons with disabilities, guaranteeing the availability of Sign Language interpreters, the use of Braille language, digitalized voice systems, simple language and/or, in general, the implementation of augmentative and alternative ways, means or formats of communication, on the basis of respect to the inherent dignity, the individual autonomy and the principle of non-discrimination.
81. **Transport services accessible to persons with disabilities** must be supplied to allow them to attend the appropriate offices to move processes or proceedings forward (testimonies, hearings, certification of signatures, etc.) and/or to have access to legal and technical assistance. In addition, **home services** must be provided in cases in which the person is not able to attend such offices on his or her own.
82. Policies designed to guarantee that the **processes for determining legal capacity** respect the rights and the will of persons with disabilities must be implemented. Guardianship must be limited to exceptional situations in which people are completely incapable of interacting with the environment and of expressing their will by any way, means or format. It must also be guaranteed that the support system for decision-making functions in accordance with the international standards on human rights.
83. The **review of judgments regarding the determination of legal capacity** must be guaranteed, at the request of the interested party, or upon the Judge's decision, within the term stated pursuant to Law no. 26657 (Mental Health Act). Periodical follow-up and assessment mechanisms must be established with relation to support figures, interdisciplinary teams, and judicial interventions as well as with relation to the other participants involved in this type of proceedings. Additionally, clear systems for the appointment of supports and for the consideration of their fees, where appropriate, must be established. The participation of persons with disabilities must be guaranteed in all instances.
84. It must be guaranteed that the **judicial control of involuntary hospitalizations** due to mental health is carried out, in all cases, in accordance with the social model of disability and with the provisions contained in Law no. 26657 (LNSM); so that the rights of hospitalized persons are not limited on the basis of medical diagnosis and to put an end to the hospitalizations that do not comply with the legal requirements. Such controls must be carried out guaranteeing the participation of the persons with disability and respecting their will and preferences. At the same time, the existence, independence and autonomy of **control and supervision bodies for hospitalizations and mental health policies** must be guaranteed throughout all the jurisdictions of the country.

85. The access to gratuitous legal counseling must be guaranteed by each jurisdiction to persons involuntary hospitalized at public or private institutions, so as to ensure their right of defense. To meet this end, the implementation of Section 22 of Law no. 26657 must be promoted.
86. Each jurisdiction must create the Mental Health Revision bodies established in Section 40 of the LSM and **strengthen the existing ones**, guaranteeing their independence with relation to the enforcing authority, the formation of interdisciplinary teams and their proper aptitude. Such bodies must have the capacity to act in every public or private institution where there may be persons with problems associated to mental health or addiction to drugs.

GENDER: WOMEN AND SEXUAL DIVERSITY

87. **Formal, material and structural equality of women and of lesbians, trans, travesties, gays, bisexual, intersex and queer (LGBT)** must be promoted in all instances, procedures, proceedings and practices, not only with relation to issues prior to the procedures –administrative or judicial procedures–; but also as regards the determination of the facts and the law, the statistical information produced, the background and criteria applied; taking into consideration the **intersectionality of gender**, in accordance with the Yogyakarta principles.
88. **Legal counseling and representation must be guaranteed for women and for members of the LGBT community that are victims of different types of violence.** This must be guaranteed in all cases – even in non-criminal cases-, preventing re-victimization and simplifying all the proceedings related to violence and cases of sexual abuse of infants.
89. A **system of care, assistance and support** must be implemented in public, judicial and administrative bodies so that women that have dependents (with absolute or relative care dependency) are able to carry out all the necessary administrative and judicial proceedings in order to commence and maintain a procedure.

MIGRANTS AND REFUGEES

90. National, provincial and municipal legislation must be amended to **avoid unequal recognition of rights** and discriminatory and/or stigmatizing practices on the basis of nationality, race or migratory status.
91. **Migration regularization procedures must be speedy and made predictable**, ensuring reasonable deadlines for the submission of documentation required from migrants, and eliminating economic barriers to initiate, take action on and pursuit a case before administrative or judicial courts for those who do not have national identification cards.
92. **The mandatory requirement of a national identification card for foreigners to submit pleadings recognized by the State must be avoided**, as well as for the exercise of rights that require urgent procedures or for labor claims.
93. **Equal rights must be recognized for asylum-seekers and they must be given valid documentation to work.** In addition, good practices based on International Refugee Status must be adopted and systematized for refugee status determination procedures and complementary protection systems must be established.
94. The obstacles faced by migrants in connection with expulsion, suspension or cancellation of residence must be reversed. To that end, **each process must be decided upon separately and access to interpreters, legal counseling and the right to appeal against the expulsion order and suspension of residence** (gratuitous) must be guaranteed. In particular, the practices of collective expulsion and express expulsion must be eradicated (to this end, it is necessary to repeal emergency decree (DNU) no. 70/2017, which modified the conditions and possibilities of access to courts for all migrants in relation to their migration procedures).

95. Policies for the **identification and registration of stateless individuals** must be promoted in order to guarantee legitimate access to their legal identity, especially for individuals whose nationality cannot be determined.

INDIGENOUS PEOPLES

96. **Indigenous institutions and community justice systems** must be recognized, as well as the **alternative use of law**.
97. Those procedural mechanisms that constitute barriers to access to justice with respect to **communities' standing to sue** –especially in relation to matters such as the possibility to submit evidence of traditional and ancestral possession– must be eliminated recognizing alternative means of evidence (such as the data resulting from the survey ordered by Law 26,160), and **ensuring more flexible processes and mechanisms for indigenous communities to access justice**.
98. The **effective enforcement of Law 26,160** must be ensured, guaranteeing the finalization of the legal technical cadastral survey process of the indigenous communities that is still unfinished or has not started yet and the effective suspension of evictions ordered by court in the territories of indigenous communities. To this end, those procedures incompatible with the purpose of the law –for example, "actions for the protection of simple tenure" ("*amparos a la simple tenencia*") or other procedures that allow for evictions by way of enforcement procedure –must be removed, and the standards set forth in ILO Convention no. 169 must be incorporated in all courts. Swift procedures for collective issuance of titles to land must be established.
99. A **rapid and expedite procedure** must be established for indigenous communities to have access to administrative or judicial bodies when there is a violation to their right to **free, prior and informed consultation and consent** on projects that impact on their way of life.
100. A program of **community cultural facilitators** must be developed and implemented to assist individuals from indigenous communities in judicial and/or administrative proceedings and procedures.
101. **Special treatment must be afforded to lawsuits involving an indigenous individual**. To that end, **expert testimony by an anthropologist may be required** and the authorities or members of that community may be asked to provide information on the regulations specific to that community.
102. Executive order no. 222/18 must be regulated in order to allow for **delayed registration** of births and registration of domiciliary births of people from indigenous communities.

INDIVIDUALS DEPRIVED OF LIBERTY

103. Individuals deprived of their liberty must be guaranteed access to **technical counseling and legal representation** in criminal and non-criminal cases –especially for the effective exercise of their economic, social and cultural rights (ESCR)– and in any administrative procedure initiated or administrative penalty imposed in the context of deprivation of liberty Individuals deprived of liberty must be afforded a dignified treatment in keeping with the recommendations from Nelson Mandela Rules for the dignified treatment of prisoners.
104. **Access to the identity of the accused** must be guaranteed prior to the initiation of criminal proceedings, and the necessary administrative and/or judicial action must be taken.

WORKERS

105. The **full application of the procedural protection principle** must be guaranteed through the implementation of procedural reforms such as the inclusion of measures to furnish additional evidence, the possibility to pass ultra petita judgments, and the principle of dynamic burden of proof, in order to ensure the parties are truly on the same conditions on the basis of the standards set by international labor law.
106. A **speedy proceeding must be guaranteed in labor courts**, avoiding unnecessary delays (in order to reverse the fact that workers are forced to partially waive their rights in mediation stages because of excessive delay and uncertainty regarding the length of the proceeding). At the same time, **the criteria must be unified in relation to the way in which the updated amount of the workers' compensation is calculated**, ensuring that the interest rates discourage the accumulation of debts for workers' compensations and avoid the loss of purchasing power of the compensation amounts.
107. The enforcement of the judgement must admit **partial payments** when the defendant has recognized the debt.
108. **The right to freedom and trade union democracy must be swiftly guaranteed by labor courts**, which must immediately take action on the claims of workers and/or groups demanding their right to participate in the internal life of a trade union association, avoiding mandatory prior administrative procedures.
109. Procedural codes must be amended with regard to jurisdiction so that **public sector workers can access labor courts**. The requirement to exhaust prior administrative remedies in all cases must be eliminated.
110. **Special protection must be given to popular economy workers** and full recognition of their status by the various relevant State entities.

FOR THE ALLOCATION OF AN ADEQUATE, TRANSPARENT AND NON-DISCRETIONARY BUDGET

111. **An adequate budget** must be guaranteed to enable access to justice entities to fulfill their functions properly.
112. The drawing up of budgets earmarked for autonomous entities with specific functions concerning access to justice must comply with **permanent, general criteria, avoiding discretionary decisions**. Any **power to reallocate or restrict budget lines** approved by law must be limited.
113. **Transparency and accountability policies must be implemented with respect to the funds** –budgetary and extra-budgetary– used in access to justice policies, facilitating citizen control. Information on the budgetary management of public entities related to access to justice must be **clear, detailed, separate, complete, accessible online, generated and published periodically**. At the same time, criteria must be established to separate information for monitoring and budgetary control of funds specifically allocated to promote the rights of disadvantaged groups.

FOR THE GENERATION OF INFORMATION AND POLICY MONITORING

114. **Relevant, updated and separate information** must be gathered on the situation of access to justice in the country, generating diagnoses of civil conflict prepared by state-run universities, State entities or research agencies. **Periodic surveys of the population's unsatisfied legal needs**

- must be promoted, which will be conducted by statistical agencies at the national and sub-national levels.
115. Ongoing surveys of unsatisfied legal needs must form the basis of public policies on access to justice. They must be **based on evidence and be established on an anticipative and preventive basis** in accordance with the vulnerability patterns that may arise.
 116. A **National System of Judicial Statistics**, validated and agreed upon with civil society and state-run universities, must be **made mandatory**, defining compulsory notice events (CNE), and **improving the process of collection**, storage, distribution and analysis of **judicial management data**.
 117. A **System of Indicators** must be developed to characterize and evaluate at a systemic level the Judicial Branch, the Public Ministries of Defense and the entities that provide legal counseling, and to monitor and compare the evolution of judicial management over time. To this end, it will be essential to agree on a minimum number of indicators of structure, processes and results in accordance with the international measurement parameters established in the Protocol of San Salvador, considering, as well, the indicators of access to justice that the State is obliged to report on by virtue of the commitments assumed internationally (Convention of Belem do Pará, Objectives of Sustainable Development –ODS–, among others).
 118. An **"open justice"** policy must be adopted that includes the effective implementation and application of the Access to Public Information in the Judiciary Act, strengthening processes of active transparency (sharing and publication of data). Public communication policies must be established to guarantee the right to complete and accessible information on pending judicial proceedings, existing statistical information and the mechanisms available for access to justice.
 119. The different **computer systems** of all jurisdictions and **levels must be progressively made compatible**. At the same time, full access to digital files by individuals must be guaranteed in all jurisdictions. **Good public policy practices** on access to justice at the federal level must be **systematized and made widespread**.
 120. A **readily accessible system** must be implemented to **monitor compliance with the recommendations on access to justice** adopted by international entities created pursuant to human rights treaties, and progress must be made in coordinating a mechanism for monitoring the implementation at the national, provincial and local levels of the decisions of regional and universal human rights entities.

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