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Legal Aid, Social Workers, and the Redefinition of the Legal Profession in Chile, 1925–1960

Marianne González Le Saux

This article examines the history of the Chilean Legal Aid Service (Servicio de Asistencia Judicial) from the 1920s until the 1960s. It argues that with the emergence of the "social question"—the concern for improving the lower classes' working and living conditions to promote the nation's modernization and prevent political radicalization—the Chilean legal profession committed to legal aid reform to escape a professional identity crisis. Legal aid allowed lawyers to claim they had a new "social function" advocating on behalf of the poor. However, within legal aid offices, lawyers interacted with female social workers who acted as gatekeepers, mediators, and translators between the lawyers and the poor. This gendered professional complementarity in legal aid offices helped lawyers to put limits on their new "social function": it allowed them to maintain legal aid as a part-time activity that did not challenge the structure of the legal system as a whole.

I. INTRODUCTION

How has Chile managed to become famous for its strong rule of law, despite its appalling social inequalities? This contrast has intrigued many social scientists (Brinks and Botero 2010, 19; Mainwaring and Scully 2010; Kurtz 2013). In the specific field of legal studies, most works have addressed this question from the perspective of its judicial system (Couso 2002; Faúndez 2007; Hilbink 2007; Lira and Loveman 2014). However, judges are only one among several kinds of actors shaping the legal system. Lawyers, who act as intermediaries by transmitting people's problems into the language of the law, can also influence a country's legal culture.

Up to now, the few works on the Chilean legal profession have not addressed how lawyers have dealt with inequalities within the judicial system. The existing literature shows how Chilean lawyers, who were the nation's leading statesmen

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during the nineteenth century, became only more powerful in the 1920s with the establishment of the Chilean Bar Association, an institution that secured benefits for its members by gaining access to the state (Eyzaguirre 1988; Ibáñez 2003, 300–06; Sierra and Fuenzalida 2014). Other studies also show how the legal profession experienced a deep legitimacy crisis in the 1960s, when new professionals such as economists, engineers, and sociologists competed against lawyers for control over the state apparatus. By the 1990s, lawyers partially recovered from this crisis by mobilizing international networks in the fields of human rights and good governance and by crafting new spaces for the private practice of law (De la Maza 2001; Dezalay and Garth 2002).

These works have mostly emphasized the role of Chilean lawyers as political elites and their competition for state power. There has been much less emphasis on how lawyers performed legal work on an everyday basis and interacted with groups and individuals outside the realm of high politics. Yet, to understand how lawyers addressed the question of inequality, one has to consider not only their relationship with the powerful, but also with the powerless. The field of legal aid, marginal in the existing scholarship, allows us to do just that. As I will show, the relationship of lawyers with their poorest clients had important consequences for the development of the Chilean legal profession as a whole and for how lawyers came to think about the legal system in relation to social inequalities.

I argue that Chilean lawyers used legal aid to shape their public identity between the 1920s and the 1960s, a period when the Chilean legal profession was weaker than what the current literature suggests. Indeed, legal aid helped lawyers overcome a first professional crisis in the 1920s when the first working-class mass mobilizations had shaken the traditional elite's undisputed right to rule. At this moment, the Chilean Bar Association realized lawyers needed to show that they had a "social function," that is, that they had a role in defending the rights of the lower classes. As a result, the Bar committed to create and administer a national legal aid service, the Servicio de Asistencia Judicial or SAJ (1932–1981), establishing the legal obligation of all Chilean lawyers to work in this service before being admitted to the Bar. From then on, alongside the university, the SAJ became one of the cradles of the Chilean legal profession.

Between the 1930s and the 1960s, the way in which legal work was performed in SAJ offices shaped how lawyers came to think about their so-called social function and thus about the role of the law in relation to class inequalities. Still, legal aid was not the work of lawyers alone: the SAJ everyday operation was the result of professional collaboration between lawyers, who were mostly male, and a growing number of female social workers. Moving beyond professional competition, which has been the main framework to understand the interaction between professions (Abbott 1988), the article shows that through a gendered professional complementarity with social workers, lawyers could limit their direct contact with the poor, and thus avoid a more fundamental rethinking of the legal system to make it responsive to poor clients' needs.

This article is one piece of a broader research project on the history of legal aid in twentieth-century Chile. Here, I focus specifically on what could be called the "golden age" of the SAJ, between its creation in the 1920s up to the 1960s. I

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do not touch upon the period after that, when the legal profession and the legal aid system experienced a deep crisis of legitimacy and the first ideas to reform the SAJ appeared. Geographically, the study mostly focuses on the Santiago SAJ offices, for which sources were more readily available. The sources—SAJ annual reports, minutes of the Chilean Bar Association Board, laws and decrees, and theses written by social work and law students who worked in the SAJ—were produced by lawyers and social workers. Therefore, they reveal mainly their perspectives, rather than those of legal aid clients. Building from these sources, this article provides a cultural history of lawyers that emphasizes their use of discourse and the construction of their self-image (Pue and Sugarman 2004).

I begin by describing the context for the creation of the Chilean Legal Aid Service between the 1920s and the 1930s and explaining why the Chilean Bar Association became so interested in legal aid at this historical juncture. I then turn to the everyday operation of the SAJ from the 1930s up to the 1960s, focusing especially on the role of social workers. These female professionals operated as gatekeepers, mediators, and translators of poor people's demands and, by doing so, reaffirmed their own professional worth over lawyers. Surprisingly, lawyers did not feel threatened by the social workers' intervention in the field of legal aid: the fourth section analyzes why this was the case, and what this meant in terms of delimiting the lawyers' "social function" in defending the poor. A final section puts the links between legal aid, gender, and professionalization in perspective by comparing the history of legal aid in Chile and the United States.

II. THE LAWYERS' "SOCIAL FUNCTION": THE BAR AND THE CREATION OF THE LEGAL AID SERVICE (1925–1935)

Rethinking Legal Aid During the "Social Question"

Before the Servicio de Asistencia Judicial emerged in the 1930s, the main legal aid system in Chile was the *privilegio de pobreza* (literally, "the privilege of poverty") inherited from the colonial period.[1] Under this system, poor litigants went through a judicial procedure to prove their lack of resources to litigate, obtaining from the judge a waiver of court fees and, eventually, the appointment of free legal counsel. A system of unpaid court-appointed lawyers on rotation, the *abogados de turno*, provided such defense. Thus, in Chile the law established the duty for every lawyer to defend the poor for free.[2] However, by the turn of the twentieth century, the system had become the target of criticism. The *privilegio de pobreza* procedure was complicated, slow, and, paradoxically, too expensive for the poor.[3] Besides, because

1. On legal aid and the *privilegio de pobreza* in colonial Latin America, see Bermúdez (1980), Borah (1983), and Milton (2007).

2. Lei de organización i atribuciones de los Tribunales, 15 October 1875, art. 72; Código de Procedimiento Civil de la República de Chile, 1902, arts. 134–144.

3. A person applying to the *privilegio de pobreza* was forced to pay the initial court and lawyers' fees until the judge had declared that the person indeed qualified to this benefit, a process that could take months and become a small trial in itself (Alvárez Andrews 1927, 81, 117).

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appointed attorneys were not remunerated for their services, they were reluctant to fulfill their duties toward their imposed poor clientele. The courts, which should have been supervising the *abogados de turno*, were indifferent, and no control existed over the quality of their defenses (Álvarez Jofré 1897; Álvarez Andrews 1927). Furthermore, by the late nineteenth century, the judicial system in Chile was moving to replace lay judges with professional courts (Brangier 2012; Bilot 2013). According to Valentín Letelier, a law professor and the President of the University of Chile, these reforms had only

> increased the need for the lawyers' intervention … [thus] they have benefited only those who can afford these services … As for the poor, they are always the victims, whether they abandon their rights, letting usurpation triumph, whether they waste in judicial expenses much more than what they are claiming. In Chile, there is no other source of discontent that causes more irritation and exasperation in the lower classes against the government of the upper classes. (Letelier 1896)

The shortcomings of the legal aid system had repercussions for the legitimacy of the justice system as a whole, a problem that was especially serious in a context of growing social unrest. Indeed, in the first two decades of the twentieth century, a boom in nitrate exports had prompted Chile's first broad process of industrialization and urbanization. As a result, the country witnessed the proliferation of anarchist and leftist labor unions, the growth of socialist and communist parties, and unprecedented popular mobilizations, including recurring strikes and massive rallies (DeShazo 1983, 103, 136, 165). These developments alerted Chilean elites to the urgency of the so-called social question, that is, the need to improve the lower classes' working and living conditions in order to promote the nation's modernization and prevent political radicalization. Especially after 1924, the Chilean Congress enacted labor and social legislation, such as the protection against workplace accidents, labor contracts with maximum hours and minimum wages, the right to unionize and strike, and the betterment of health and living conditions for the urban poor (Morris 1966; Grez 1995). The executive created several agencies to implement this social legislation, such as the Labor Department, the Health, Hygiene, and Public Welfare Ministry, and a social security system. These institutions were the start of a new welfare state based on the notion of "social intervention" in which the well-being of the country's workforce would lead to modernization and social peace (Yáñez 2008).

Still, all these transformations had not touched on the problem of access to justice for the poor. In 1925, Vicente Huidobro, a poet and public intellectual, famously denounced the justice system as being a "putrid abscess" (Huidobro 1925), showing that the discredit of the courts remained a problem.

In this context, legal aid reform could offer a solution. According to Oscar Álvarez Andrews, a reform-minded lawyer who worked in the Labor Department, an efficient legal aid system would be able to "mitigate some extreme manifestations of the social differences" and provide a peaceful way of channeling lower classes' demands through the courts (Álvarez Andrews 1927, 186). But who would lead the way in reforming legal aid? The initiative did not come from private philanthropic

organizations, political parties, Congress, the Ministry of Justice, or the discredited judiciary: ultimately, it was the Chilean Bar Association that embraced this project.

Established in 1925, the Chilean Bar Association (Colegio de Abogados) immediately became interested in creating a new legal aid system.[4] After a false start in 1929 (CGCA 1929, 15), and in the context of major political and economic instability—recurrent military interventions and the effects of the Great Depression—it took the Bar several years to finally open the first legal aid office in 1932 (CGCA 1932, 9). Two years later, in 1934, the state recognized the Servicio de Asistencia Judicial del Colegio de Abogados as the main national legal aid system.[5]

Throughout the process, the Bar had constantly pushed for legal aid reform: it obtained the financial support of two ministries, it pressured the judiciary to set the legal aid office within the Supreme Court's building, it drafted several projects of laws first in 1928 and then in 1934, and the Colegio board members used all their personal and political connections to pass these bills through Congress, where they obtained fast approval (CGCA 1934, 9–11).[6]

Under the final scheme, the state provided the funding for this new legal aid service, but the Colegio de Abogados administered it. A small staff of salaried professional lawyers supervised a large cohort of law students working as unpaid interns in the legal aid offices, which was now a requirement to be admitted to practice law. Due to the limited funding, the system of court-appointed lawyers (*abogados de turno*) was maintained, but now the SAJ had the mandate to supervise their work.[7] For the next fifty years, around half the time of the Bar Association Board weekly meetings, and close to three-quarters of its total budget were devoted to the administration of this new legal aid scheme.[8]

Why was the Chilean Bar so committed to the project of legal aid reform? And what explains the Chilean legal aid system's particular design, especially the mandatory work of law students in this service? As I will show, legal aid was one of the crucial tools that the Chilean legal profession used to deal with a lingering identity crisis. Understanding this process requires us to take one step back and explain the origins of the Chilean Bar Association itself.

The Origins of the Chilean Bar Association

Throughout the nineteenth century, lawyers had been the main Chilean statesmen and the study of law had traditionally been the bastion of elites. However,

4. Consejo General del Colegio de Abogados (CGCA), *Memoria Anual* 1925–1929, 14. Hereinafter, when quoting CGCA and the date, without specifications, I refer to *Memorias Anuales*.

5. Ley 5520 modifica la ley que crea el Colegio de Abogados, 14 December 1934.

6. Congreso Nacional, *Boletín de Sesiones de la Cámara de Diputados, Legislatura Ordinaria 1928*, Session of June 4th, 1928, 117; *Boletín de Sesiones de la Cámara de Diputados, Legislatura Extraordinaria 1934–1935*, Sessions of November 19th and 20th, 1934, 714, 777. One of the Board members, Arturo Alessandri Rodríguez, was the son of the president of the Republic, who sent the project to Congress. Another Board member, Carlos Estévez, was a congressman himself, and he defended the project on the Congress floor.

7. Ley 4409 Orgánica del Colegio de Abogados, 11 September 1928, art. 13 j; Ley 5520, 14 December 1934; Ley 5493 modifica el art. 249 del Código de Procedimiento Civil, 25 September 1934; Decreto 1450 de 1935 del Ministerio de Justicia, Reglamento de la Ley Orgánica del Colegio de Abogados, 25 April 1935.

8. CGCA, Actas de Sesiones 1932–1981.

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lawyers' attempts at association failed during this period.[9] Only in 1915 with the creation of the Instituto de Abogados (1915–1923) came the first serious effort to organize the Chilean legal profession. During its inaugural ceremony, Enrique Mac-Iver declared that "before today the association of lawyers did not respond to any significant need, and therefore it had no apparent usefulness," but that "times and men have changed," threatening "the purity" of the legal profession.[10]

Indeed, throughout the nineteenth century, lawyers did not formally associate because most of them belonged to the ruling class and were already connected through numerous social channels. The dignity of the legal profession was not in danger because its membership was by definition associated with the country's undisputed elite (Serrano 1994, 168–77). But by the early twentieth century, with the democratization of the public education system, new middle-class legal professionals appeared (De la Maza 2001, 78; González Le Saux 2011, 345–48). Also, the first women lawyers were making their appearance.[11] For male elite lawyers such as Mac-Iver, it was necessary to control these newcomers to maintain the honor of the legal profession as a whole; therefore the new need for a lawyers' association.

This was all the more urgent considering that lawyers were no longer the only profession naturally entitled to rule the country: engineering and medicine, two occupations that elites had tended to disdain in the past because of their "manual" and "practical" application, had become highly coveted under the new demands of industrialization and social intervention, and their role in the state administration had increased (Serrano 1994, Chap. 4; De la Maza 2001, 81–82).[12] As a result, growing administrative agencies were displacing the judicial system as the main channel for conflict resolution. For instance, the Bulletin of the Minister of Hygiene in 1927 advocated for "the administrative application of the laws, which is fast and certain, instead of the old judicial procedure."[13]

Moreover, within the courts themselves, lawyers faced strong competition from a group of lay legal practitioners called *tinterillos*. Indeed, poor or working-class litigants were able to obtain some form of legal advice from male lay legal practitioners in exchange for very modest fees.[14] Lawyers perceived *tinterillos* as lowborn men who were essentially charlatans, unscrupulous, and ignorant people. They had not made the "sacrifices" of pursuing a law career, and they discredited the practice of law as a whole.[15] Some *tinterillos* were self-trained; others had begun law studies

9. There were two attempts at creating a Colegio and Instituto de Abogados in 1862 and 1868 but they decayed after few years of operation (Dávila 1956, 7–14).

10. Discurso de Enrique Mac-Iver, Sesión Inaugural del Instituto de Abogados de Chile, 12 September 1915, Instituto de Abogados de Chile, Actas de Sesiones 1915–1917, 88.

11. The first woman lawyer in Chile graduated in 1892. By 1945, women represented 7 percent of the total profession. This number rose to 25 percent around 1970 (Klimpel 1962, 167–70; De la Maza 2001, 79).

12. On the medical profession, see Illanes (2007, 52–57) and Rosemblatt (2000, 124–27). On engineers, see Ibáñez (2003, Chap. IV).

13. Boletín del Ministerio de Higiene No. 4, August 1927, in Yáñez (2008, 276).

14. On *tinterillos* in other historical contexts, see Becker (2012) and Aguirre (2012).

15. Pica (1898); CGCA (1930, 12–13; 1933, 22–23); Oficio 328 de la Intendencia de Antofagasta a la Iltma. Corte de Apelaciones de Antofagasta, 5 February 1929, Archivo Nacional Histórico, Fondo Intendencia de Antofagasta 1928–1929, Vol. 68.

and had not been able to finish, probably for financial reasons.[16] Many of them actually worked for lawyers as their clerks or subordinates, and the knowledge they acquired allowed them to complement their salary by taking their own cases, charging much less than a "real" lawyer.[17] Some *tinterillos* opened their own practice, setting up shop in the eateries around courthouses and jails.[18] They were able to offer competitive prices to a large clientele of modest means, and for lawyers they represented all that was contrary to the ideal of a modern, professionalized justice administration. The most desperate complaints against *tinterillos* came from the poorest regional cities: for the growing number of nonelite lawyers who were struggling to make ends meet, the "unfair" competition of *tinterillos* was increasingly irritating.[19]

It was in this new context that Chilean lawyers decided to organize. First, they established the Instituto de Abogados de Chile (1915–1923), a private club for the crème-de-la-crème of Santiago's legal elite.[20] The *Instituto* would serve as the basis for the creation of the Colegio de Abogados in 1925, which was a legally sanctioned, national Bar Association. To practice law, all lawyers were required to join the Colegio, which held strong disciplinary power over its members.[21] Similarly to the process Halliday (1987) describes for the Chicago Bar Association, the Colegio traded exclusivity for universality, and this made it all the more powerful. The Colegio could claim to speak for all Chilean lawyers, even if it was the Santiago male legal elite who controlled its General Board: it was the same lawyers who had been on the Instituto Board—Arturo Alessandri Rodríguez, Oscar Dávila Izquierdo, and Carlos Estévez, among others—who would run the Colegio in the decades to come. There was only one woman elected to the Colegio Board between 1925 and 1973 (CGCA 1955, 1).

Through the Colegio disciplinary powers, elite Santiago lawyers had acquired the means to protect the legal profession's threatened prestige by imposing standards of behavior over the less distinguished members of the guild. Another way of protecting lawyers' status was to protect the legal services market from the "plague" of *tinterillos* by requiring that a professional attorney should sign almost every written document submitted to court. Finally, the Colegio would safeguard the honor of the profession by establishing a relief fund to help middle-class lawyers in financial distress.[22]

16. Pica (1898, 12); Consejo Provincial del Colegio de Abogados de Valparaíso, Actas de Sesiones 1932–1940, Session of July 28th, 1938, 306.

17. Consejo Provincial del Colegio de Abogados de Temuco, Actas de Sesiones 1926–1937, Session of May 12th, 1927, 53; "Reclamo contra Eloy Campos Aldo, sentencia 28 marzo 1940," CGCA Libro de Sentencias tomo 6, 1940, 203.

18. Colegio de Abogados ordenó denunciar los hechos incorrectos," *La Nación*, May 27, 1951.

19. Consejo Provincial del Colegio de Abogados de Temuco, Memoria Anual 1925–1929, in CGCA (1925–1929, 60–62); Consejo Provincial del Colegio de Abogados de Temuco, Actas de Sesiones 1926–1937, 50, 53, 60, 65, 69, 70, 83.

20. Instituto de Abogados de Chile, Actas de Sesiones 1915–1917, 3–6.

21. Decreto Ley 406 de 1925 que crea el Colegio de Abogados, 27 March 1925, arts. 1, 14, 16.

22. Exposición de Motivos del Ministro de Justicia al Decreto Ley 406 de 1925, in García Cabezas (1959, 40); CGCA (1925, 15–16).

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Legal Aid as the New "Social Function" of Lawyers

Protecting lawyers' private gains was not enough to fight the dangers that threatened the legal profession. Lawyers were especially concerned by the fact that society saw them as "negligent and corrupted,"[23] individualistic, profit-seeking parasites, especially in comparison with medical doctors or engineers whose professions were increasingly associated with the public good (Álvarez Andrews 1927, 194). The Colegio de Abogados thus began to boost what they called the "social function" of lawyers. As Yáñez has shown, "social" was the new term in vogue to refer to matters of public concern linked to improving the living and working conditions of the lower classes (2008). For the Colegio Board members, having a "social function" was a proof of their "integrity" and "selflessness" (CGCA 1931, 15). This is why "one of the *Colegio* concerns since its foundation has been to efficiently look after the legal defense of the poor . . . we have considered this as a primary duty of lawyers in fulfillment of their *social function* . . ." (CGCA 1932, 11).

Legal aid thus became a crucial part of reestablishing the legal profession's prestige. And the new legal aid system, as the Colegio designed it—a small professional staff, law students' mandatory internships, and *abogados de turno* all under the control of the Colegio Board—buttressed each one of the Colegio's policies to reestablish the honor of lawyers.

In the first place, the new legal aid offices required creating salaried positions for lawyers, alleviating the competition in the market for legal services. The SAJ's professional staff salaries were low, but they would at least ensure the livelihood of some of the more modest members of the profession (CGCA, 1925−1929, 15; 1958, 17).

Second, the new legal aid scheme also drew public funds to the Colegio, and the text of the law was vague enough to allow its Board to apply them to legal aid but also to "other goals" of the Colegio.[24] Among these goals was, for instance, the creation of a social security system for lawyers because "there was nothing fairer than putting judicial fines to the use of financing the defense of low-income people and to help lawyers who fall into poverty" (CGCA 1934, 9). In the Colegio Board's view, the situation of poor litigants and poor lawyers was intermingled, assimilating the private interests of lawyers with the public goal of providing legal aid.[25]

In the third place, in the battle against *tinterillos*' illegal practice, legal aid reform was of critical importance: only if legitimate, professional lawyers were able to fulfill the legal needs of the poor could the Colegio obtain state support to force the "charlatans" out of the courts. Legal aid was an alternative to the "audacious speculations" of these unscrupulous men because lawyers could claim they were moved by higher motives in the defense of the poor than *tinterillos*, who were only stirred by greed (Pica 1898, 4, 10; CGCA 1932, 9). However, the Colegio was

23. Exposición de Motivos del Ministro de Justicia al Decreto Ley 406 de 1925 in García Cabezas (1959, 34).

24. Ley 5493, 25 September 1934.

25. The Colegio increasingly received public funding over the years, and some authors have argued that some of these funds were assigned to purposes other than legal aid (Eyzaguirre 1988, 25; Ibáñez 2003, 306).

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aware that, in practice, many of their colleagues did not live up to these higher expectations. For instance, in 1930, the Minister of Justice sent an outraged note to the Bar reminding its Board that while the government had been protecting the profession from *tinterillos*, "with a deplorable frequency the Government has received written and verbal complaints against lawyers, who would have incurred in disreputable and even punishable acts," and most of these claims came from people in "a state of destitution."[26] Although the Colegio Board members protested against the insulting tone of the Minister, they clearly understood the meaning of the warning: to maintain the government's help in the fight against *tinterillos*, they needed to reform the whole profession especially in its behavior toward the poor.

One way to do this was, of course, by repressing disreputable actions through the Bar disciplinary board, but a deeper and more effective way of achieving this change was through legal education. Indeed, starting in the late nineteenth century, a growing number of lawyers criticized law schools' curriculums and methods as a cause of the diminishing social position of the profession. Law studies in Chile, established since the colonial period as a university undergraduate degree, were branded as excessively legalistic and exegetic, anachronistic, and inadequate for the new methodologies of social sciences. Most of all, they were disconnected from reality: there was no system to provide practical training to lawyers after the merely theoretical formation they had acquired in law school. In 1902, under the leadership of Valentín Letelier, the law curriculum had been adjusted to include new courses that connected the law to a modernizing industrial order and to new social concerns. However, the problem of practical training remained unsolved (Lowenstein 1970, 65; De la Maza 2001, 63–66).

In response, the Colegio discussed with the main law schools the idea of merging the practical training of law students and legal aid (CGCA 1925−1929, 15), which eventually became the mandatory internship requirement in the SAJ. This scheme provided the new legal aid offices with abundant and costless manpower. But beyond this practical consideration, it represented, in a deeper sense, an attempt at reconfiguring the character and identity of the Chilean legal profession. Lawyers needed to be better trained in their professional skills "not in theoretical situations, but in real-life cases."[27] This idea was anything but novel: Chilean lawyers were consciously copying their European counterparts, such as the French or the German system, which established long periods of mandatory practical training for aspiring lawyers (CGCA 1925−1929, 15). However, without being really aware of its originality, the Chilean Bar innovated in one important aspect: it proposed that practical education should also involve a "social" dimension to correct the selfish impulses of legal professionals. Working in legal aid would be a way to "obtain from law students the fair retribution they owe to society" (CGCA 1933, 25). For Florencio Gutiérrez, who was the SAJ director from 1936 to 1956, "future lawyers acquire, when confronted to the harsh reality of life . . ., not only a professional

26. Oficio 1589 del Ministerio de Justicia al Colegio de Abogados, 21 October 1930, CGCA (1930, 28).

27. Informe del Colegio de Abogados al Ministerio de Educación sobre la posición de los estudiantes de derecho respecto de la práctica forense, 15 July 1930, CGCA (1930, 35).

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knowledge … they also receive the eloquent teachings that emerge from human misery … which will be helpful in their future, so they can perform their duties with more tolerance and in a spirit of solidarity [*un espíritu de solidaridad social*]" (Gutiérrez 1946, 909). Legal aid was thus both a repayment of the social privilege of being a lawyer, and the best way to teach these professionals how to exercise their "social function" (CGCA 1936, 44).

This discourse also helped justify why the new legal aid system established in 1934 did not completely eliminate the old system of *abogados de turno* (court-appointed lawyers), beyond the issue of limited funding. Indeed, the Colegio considered that there was something inherently valuable in the fact that not only students but also lawyers throughout their professional life should "repay the debt to society that has allowed them to prepare for their profession" through unpaid legal services as court-appointed lawyers (CGCA, 1925−1929, 14). The solution to correct the shortcomings of the *turno* system was to make these lawyers work under the SAJ's supervision and the disciplinary control of the Colegio.[28]

The legal aid reform of the 1930s was thus not radical in the sense that it only restructured the longstanding duty of Chilean lawyers to defend the poor for free. But what had changed was the discourse of the legal profession toward legal aid: now, instead of being a cumbersome imposition, it was proudly reclaimed as part of the new "social function" of lawyers toward the poor, helping them overcome their legitimacy crisis. By involving the entire legal profession in a national legal aid system, lawyers no longer appeared as the representatives of the traditional nineteenth-century liberal order; they could now claim a role in the modern social welfare state.

However, beyond the initial pronouncements of the Colegio Board, how did the Servicio de Asistencia Judicial work in practice? The following section shows how, within legal aid offices, lawyers struck up an unlikely alliance with female social workers, and how the dynamic of gendered professional collaboration between lawyers and social workers would eventually delimit the scope of the "social function" of lawyers.

III. SCREENING, MEDIATING, AND TRANSLATING: THE SAJ SOCIAL WORKERS (1932–1960s)

From 1932 onward, the Servicio de Asistencia Judicial began to grow in public funding, staff, caseload, and geographical scope. In the 1940s, its director was proud to present its "flattering" results in international forums (Gutiérrez 1946, 910–12). By the late 1950s it had reached the most relevant urban centers throughout the country (CGCA 1957), and by the early 1970s, it processed around 60,000 cases per year, far surpassing the caseload of similar services in Latin America (Foster Knight 1974, 89).

At the level of the Santiago SAJ offices, the work was organized by dividing the caseload into different "sections" devoted to different fields of the law: initially,

28. Decreto 1450 de 1935 del Ministerio de Justicia, art. 60.

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there was a Civil and a Criminal Section. The Civil Section dealt with property law, family law, labor law, and administrative procedures. In 1936, the SAJ created a specialized "Minors" Section, dealing mostly with the recognition and legitimation of children born out of wedlock and child support suits. The Criminal Section provided legal counsel to a majority of criminal defendants and to a small number of criminal plaintiffs (*querellantes*) (CGCA 1932–1936). The professional lawyers' staff ran these sections, supervising a large pool of law student interns who performed most of the work in the cases. Following a broader national pattern in the gender composition of the legal profession, by 1960 a large majority (around three-quarters) of staff lawyers and law student interns were still men.[29]

Shortly after the first legal aid office had opened its doors, however, the SAJ established the so-called Social Section, which would display a very different pattern: it would become the domain not of male lawyers but of female social workers, or *visitadoras sociales*.

Social work had only recently become a formal profession in Chile, which was the first country in Latin America to create a public School of Social Work in 1925. By the time the SAJ opened its doors in 1932, the Catholic University had opened a second school, and the two schools were competing to place their new graduates in the job market (Illanes 2007, 261, 285). Still, as Illanes has noted, there was not such a radical difference between public and Catholic social work graduates. The two schools shared many of the same modern premises of social work and similar methods of intervention; for both, the well-being of mothers and children was their main concern (Illanes 2007, 291–94).

In the new legal aid system, lawyers and social workers collaborated from the start. In 1932, when the Colegio de Abogados was planning to open its first legal aid office, one of its Board members signaled that they could "request the help of one of the schools of social work."[30] The Director of the Catholic School of Social Work—whose students had less direct access to public-sector positions—swiftly seized this opportunity, encouraging the Colegio to enlist one of her recent graduates in the new legal aid office (CGCA 1932, 9; Henríquez 1934, 5).

However, this new relationship between the two professions also presented some difficulties. Elena Henríquez, the first social worker hired by the SAJ (CGCA 1933, 24), wrote that the first *visitadoras* felt "misunderstood" and "ignored" by lawyers during their first months in the service (Henríquez 1934, 8). According to Henríquez, after a few disagreements between lawyers and social workers, Arturo Alessandri Rodríguez, the Colegio Board member in charge of supervising the SAJ, sat down with the staff. "After hearing the *visitadoras*' suggestions for how they could better perform their work," she recounts, "Alessandri agreed to implement some of their proposals as a test. Here was born the idea of creating an independent 'Social Section' . . ." (Henríquez 1934, 8). In this instance, social workers managed to impose their own ideas on how to organize the service. Their solution, which established a complementary but separated domain for social workers within the

29. In 1962, out of forty-one SAJ lawyers, nine were women. In 1970, there were six women out of thirty-two lawyers (CGCA, planillas de personal, legajos de Tesorería, 1962, 1970).

30. CGCA, Actas de Sesiones 1929–1932, Session of January 14th, 1932, 233.

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TABLE 1.
The Santiago SAJ Social Section 1940–1965: Caseload and Conciliations per Type of Case

Year	Santiago SAJ Total Caseload	Social Section Caseload and % of Total Caseload		Total Cases Sent to Conciliation in the Social Section		Family Cases to Conciliation		Labor Cases to Conciliation		Civil and Criminal Cases to Conciliation	
	N	N	%	N	%	N	%	N	%	N	%
1940	10,933	3,066	28.0	1,740	56.8	988	56.8	—	—	—	—
1946	15,426	3,864	25.0	3,446	89.2	2,049	59.5	—	—	—	—
1950	18,147	4,995	27.5	4,132	82.7	2,208	53.4	—	—	—	—
1956	19,829	6,783	34.2	5,495	81.0	2,399	43.7	2,101	38.2	995	18.1
1960	15,194	4,647	30.6	4,359	93.8	2,249	51.6	1,567	35.9	543	12.5
1965	17,750	5,045	28.4	4,580	90.8	2,136	46.6	1,717	37.5	727	15.9

Note: These figures do not take into account the work of *visitadoras* in performing socioeconomic evaluations to determine eligibility to the SAJ. Also, the work of social workers was not disaggregated in the SAJ Minors Sections, and conciliations in that section were not registered separately. Therefore, the caseload of social workers and the number of family cases solved by conciliation was much higher than what this table indicates.

Sources: CGCA, Memorias Anuales 1940 to 1965.

SAJ, improved the relationship between lawyers and social workers from then on. More importantly, it defined the structure of the SAJ for years to come.

The Social Section quickly became a crucial piece of the SAJ operation. Its main role was to screen cases before they reached the legal sections, processing on its own at least 25–35 percent of the SAJ total caseload (see Table 1). The Social Section's screenings employed a complex combination of filtering, mediating, and translating poor people's claims before they reached the lawyers' desks.

Filtering: Determining Eligibility, Providing Administrative Remedies

The screening was a multifaceted process. First, the *visitadora* determined who was eligible for legal aid. The SAJ aimed to provide legal aid only to "noticeably poor people" who could not afford to pay anything for legal services.[31] The *visitadora* was in charge of determining whether applicants fit the standard through a socioeconomic survey and home visits.[32] For the SAJ Director, social workers prevented abuses of the system, such as "granting the benefit of legal aid to people who are not really poor, therefore eliminating the possibility of an unfair competition between the [SAJ] and private lawyers" (Gutiérrez 1946, 910). Social workers were thus instrumental in delimiting legal aid so that it would not represent a threat to the lucrative practice of law.

31. Decreto 1450 de 1935 del Ministerio de Justicia, art. 41.

32. "Reglamento Interno del Servicio de Asistencia Judicial del Colegio de Abogados," May 1st, 1938, art. 41, in Gutiérrez (1946, 934).

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The *visitadora* also evaluated whether the assistance that the person required fell within the services provided by the SAJ. In general, the SAJ did not reject specific categories of people or cases, with two important exceptions: marriage annulments and slander and defamation suits. Both these exceptions had to do with considerations about the "unsettling" social effects of specific legal actions. The marriage annulment was a semi-illegal and expensive procedure used as a proxy for divorce, only legalized in Chile in 2004.[33] *Visitadoras* helped the SAJ filter out marriage annulment cases and were completely on board with its rationale, considering that one of the main mandates of Chilean social workers of all stripes in the first half of the twentieth century was to prevent the dissolution of poor families (Klubock 1998; Rosemblatt 2000; Illanes 2007). As one SAJ *visitadora* put it, "a broken and miserable home is fertile ground for all moral evils" (Henríquez 1934, 16; see also, Hevia 1940, 13; Molina 1942, 16; Dendal 1951, 21). The second type of claims the SAJ proscribed were slander and defamation suits on the side of criminal plaintiffs. According to SAJ professionals, these actions only "increased poor people's animosity and their predisposition to rows and fights" (Rojas 1947, 73, 80). From their standpoint, it was irrational that the lower classes could go to court to defend their honor, for what honor could a poor person have?[34] Thus, it was the role of *visitadoras* to "reconcile female neighbors who are about to file a slander and defamation suit" (Henríquez 1934, 18), or, at least, to let them know that the SAJ would not take their case (Molina 1942, 13).

But social workers did more than just apply general SAJ policies to exclude cases. Henríquez stated that they applied their own judgment of the applicant's behavior to decide whether, "given his or her conduct, the person deserved to be assisted [by the SAJ]," or even if the SAJ would "do better in representing his or her opponent" (Henríquez 1934, 19). In this regard, *visitadoras* influenced the kinds of cases and clients the SAJ would take.

The importance of each kind of case within the SAJ evolved as shown in Figure 1. As Figure 1 shows, labor law was always marginal in the SAJ. Criminal law was important in the early years, but around the 1940s family law began to take precedence over every other type of case, amounting to 50 percent of cases in the 1950s, and almost 70 percent of the caseload in the 1960s. The prevalence of family law in the SAJ also indicates that the majority of the SAJ's clients were women seeking to enforce the economic responsibility of fathers through child support suits.[35]

It is not easy to discern from the sources whether this evolution was mostly demand driven or consciously shaped by the SAJ. The cases the SAJ received were also related to factors external to the service, such as the availability of alternative institutions where low-income clients could bring their legal problems. For instance,

33. On the technicality used for marriage annulments, see Alessandri Rodríguez (1932).

34. For a historical analysis of popular honor in Latin America, see Chambers (1999) and Piccato (2010, Chap. 6).

35. There are no general statistics on the sex of SAJ clients, but a preliminary review of law students' internship reports in the SAJ Civil and Minors Sections confirms that women initiated the overwhelming majority of family law cases. SAJ, Legajos de Informes de Práctica Forense, 1947–1970.

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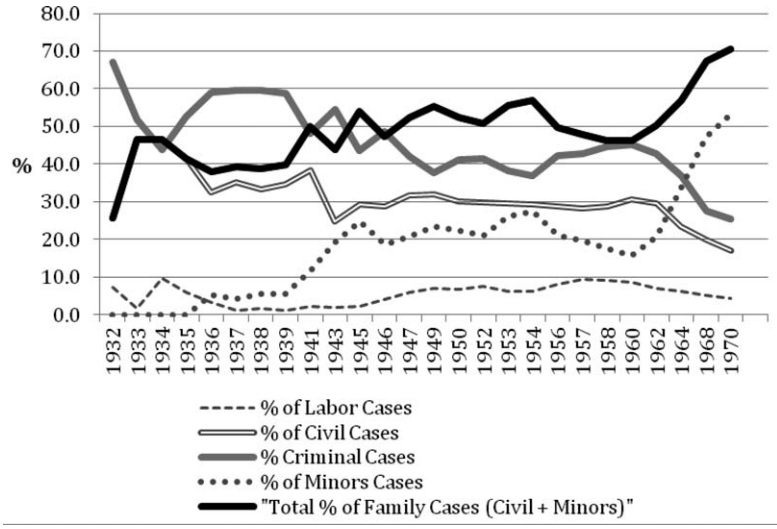

FIGURE 1.
Types of Cases Processed in the Santiago SAJ Offices in Percentage, 1932–1970
Note: The "total percentage of family cases" is an estimate: it is built adding the Minors Section to the Civil Section cases excluding labor law cases. It is not possible to have an exact percentage of family cases because the SAJ statistics did not disaggregate the number of family and property law cases within the Civil Section, though other sources, such as the internship reports, suggest that within the Civil Section the number of property law cases was small compared to family law.
Sources: CGCA, Memorias Anuales, 1932–1970.

the strength of the Chilean Labor Department certainly explains the limited number of labor cases reaching the SAJ.[36] Still, there is evidence that social workers also contributed to the rising importance of family law suits within the SAJ. Social workers redirected people who approached the SAJ to the institutions they considered best suited to solve their problems, for instance, sending workers back to the Labor Department (Molina 1942, 17; Dendal 1951, 25). Thus, the almost obsessive tendency of social workers to focus on women and maternity as their main object of intervention (Illanes 2007) very likely contributed to establishing the woman with a domestic relations problem rather than the male worker with a wage claim as the stereotypical SAJ client.

Once the SAJ had taken a case, the second function of the *visitadora* came into play: she would attempt to resolve the case without referring it to a lawyer. Social workers processed numerous demands that required relatively easy bureaucratic procedures, many of which were linked to family law, such as registering a child in the Civil Registry or obtaining copies of an official certificate. *Visitadoras* could direct people to the corresponding administrative remedy for their problems and waive the fees these bureaucratic procedures usually entailed. Thus, *visitadoras* in the SAJ participated in the broader process of making the popular classes legible to the Chilean state for the first time by helping them to apply for state welfare

36. On the early development of Chile's Labor Department, see Yáñez (2008).

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benefits.[37] Social workers also helped connect SAJ clients with other institutions of social assistance such as hospitals, orphanages, social security offices, and job placement offices. Moreover, they had small funds at their disposal to deliver financial aid in the most desperate cases: they could provide money for moving before an eviction, help workers finance work equipment, and cover some health or pregnancy-related costs (Molina 1942, 21). By administering this help, SAJ *visitadoras* were thus able to provide some relief in cases with no legal remedy.

Mediating: Extrajudicial Conciliations

The third and most important function of the *visitadoras* was their role as extrajudicial mediators. Indeed, the SAJ regulations established as a general rule that "the office will attempt a conciliation with the other party. If an agreement is reached but the interested party does not comply with said agreement, then he or she will lose any right to be defended by the legal aid office."[38] As we can see, the SAJ took conciliation very seriously, and *visitadoras* were the ones in charge of reaching these settlements in the first place.

Visitadoras explained in detail the kind of intervention they performed as mediators. For instance, Ester Hevia, a social work student who interned in the SAJ in 1940, described the case of a woman, C. R. R., who had resorted to the SAJ because her husband had thrown her out of their house with their seven-year-old daughter. Her husband was beating her, and he had also sexually abused his twenty-three-year-old stepdaughter, C. R. R.'s child from a previous liaison. C. R. R. wanted to leave her husband, recover her belongings, and obtain alimony and child support. However, in the *visitadora's* view, separation was a last resort. She summoned both wife and husband, reprimanded the husband for his "evil conduct and the harm he had caused to his stepdaughter" and scolded the mother for having allowed "such an immorality under her roof, and not having taken the steps of sending [her daughter] to another place" (Hevia 1940, 15). After this lesson, the *visitadora* was able to make the couple reach an agreement: the oldest daughter would go to live with an aunt, while C. R. R. and her youngest daughter would return to her husband's home (Hevia 1940, 15). In this case, the social worker received a criminal and civil legal case involving violence, sexual abuse, and a petition for alimony and child support, but she averted it from being referred to the SAJ legal sections, diminishing their caseload. By the same token, however, she also provided impunity to a man accused of domestic violence and sexual offenses. Most importantly, in her view, she reunited the family through a method of settlement that was "much nobler and more solid than any solution obtained through a compulsive or contentious judicial method" (Hevia 1940, 7).

37. On the concept of legibility, see Scott (1998). On the lack of legibility of Chilean lower classes in the nineteenth century and its discriminatory effects, see Milanich (2009, 151–14). On the role of twentieth-century social workers in increasing the legibility of the Chilean lower classes, see Illanes (2007, 413–26).

38. Decreto 1450 de 1935 del Ministerio de Justicia, art. 44.

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Table 1 shows that the Social Section sent most of its cases to conciliation, and that 40–50 percent of these conciliations were domestic relations cases. Family law was the most important area of intervention for *visitadoras*, and they all shared the idea that "fortifying family bonds was the most solid contribution of the *visitadora*" (Henríquez 1934, 39).

Conciliation in criminal law was rare but in no way prohibited, and it was used most often in cases of sexual offenses and domestic violence. SAJ professionals believed that in these cases, "nothing can be achieved through criminal justice, while an appeasing word can more easily solve the conflict" (CGCA 1934, 20). Overall, then, it is easy to see the gendered nature of conciliation procedures: poor women were pressured to accept settlements that reinforced their subordination to men in order to promote the model of a "legitimate" male-headed popular family so dear to the *visitadoras* and the SAJ (Rosemblatt 2000).

In contrast, in the small number of labor cases that reached the SAJ, *visitadoras* appeared as helpful allies for workers. Unfortunately, there is no available data on what kind of workers—women or men, white collar, blue collar, or domestic servants—resorted to the SAJ. What we do know is that the SAJ *visitadoras*' view of labor conflicts tended to be conservative: some of them saw the existence of "agitators" among workers as the cause of the lack of trust between workers and employers, "blinding the bosses who became unjust toward their employees" (Hevia 1940, 19). Nevertheless, *visitadoras* took the workers' side. The social worker would "pay a visit to the boss to get more information about the case and explain to him why he was being summoned. She would then usually obtain the payment of salaries or severance packages, the return of working tools . . . and other items that the employer could have retained" (Molina 1942, 17). In addition, *visitadoras* would not hesitate to scold a chief of personnel, "making him aware of the inappropriateness of his actions and the lack of charity they entailed" (Henríquez 1934, 28). Despite their conservative appraisal of work/capital relations, *visitadoras* used their professional authority to negotiate with employers and obtain positive outcomes for workers.

Through their experience in the SAJ, *visitadoras* developed a real theory of negotiation and conciliation. Ester Hevia noted that, in some cases, just the summons to a conciliation hearing sufficed to solve a case, as it made the more powerful party in the conflict "aware that the weak party also has some protection" (Hevia 1940, 39). For the hearings, she highlighted the importance of having an uninterrupted session with only the *visitadora* and the parties present as a way of creating trust. Hevia summed up by noting that "the role of the *visitadora* in a conciliation hearing is one of a real judge of the peace; she needs to defend the rights of the family and of the weak in an environment of mutual understanding, in other words, she resorts not only to the virtue of Justice but also to Charity" (Hevia 1940, 3).

In the view of social workers, then, conciliation was about something much more important than decreasing the caseload of the SAJ legal section: they considered extrajudicial mediation not only a replacement for judicial actions but a superior way to solve conflicts. As one social worker noted, they were deeply disappointed when conciliation failed:

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> we have seen ourselves in the regrettable situation of having to transmit to the Civil or Criminal Law Sections the cases that we could not solve by extrajudicial means. We say it is regrettable because we consider that, in the pedagogic role of the Social Section, one of its goals is to make people understand the nature of their obligations. Also, one cannot always expect the efficacy of judicial decisions that, in practice, are difficult to enforce. (Hevia 1940, 35)

Therefore, despite working in the Legal Aid Service, *visitadoras* challenged the idea that the judicial system was the most appropriate setting for solving the problems of the poor. Instead, their use of what they saw as their feminine virtues such as patience, trust, understanding, pedagogy, and charity was better than the intervention of a litigious lawyer.

Translating: Referrals to the Legal Sections

However, the Social Section could not always achieve conciliations. In these cases, the person was referred to one of the SAJ's legal sections. Referrals were thus the fourth and final role of *visitadoras*, and were hardly mechanical affairs:

> The *visitadora*'s task is to invest time, patience, and kindness in putting herself on the same level as the indigent, who possesses particular psychological features. . . . His complete ignorance of the judicial procedures completely terrifies him, he does not understand the language spoken by the lawyer. . . . The role of the *visitadora* in these cases is to establish a bond of union between the indigent and the lawyer, and to instill [the indigent] with trust in the judicial procedures. (Henríquez 1934, 21)

The fear that poor people experienced when facing a court was likely caused less by their "ignorance" than by their awareness that legal procedures were often ill suited to addressing their problems. In any case, social workers were in charge of transforming judicial procedures into a comprehensible mechanism that poor people could trust: the role of the *visitadoras* was to make poor litigants understand that even if the law was not necessarily tailored to their needs, they should nevertheless trust and comply with the lawyer's handling of their case and the rulings of the courts. To achieve this goal, social workers developed a whole array of strategies based on their deep knowledge of the "particular psychology" they attributed to the poor. One of these strategies, especially important in family cases, was the appeal to gender solidarity. For instance, Henríquez argued that in cases of "abandoned women" who were forced to give up their children due to lack of resources, "the cruelty of this separation is easier to accept when [these mothers] have by their side a kind and understanding woman to keep them company in those difficult moments" (Henríquez 1934, 21). In these cases, the fact that the *visitadora* was a woman was supposed to help rebuild poor women's trust toward an overwhelmingly male justice system.

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But explaining the judicial system to the poor was only a first step: one of the SAJ lawyers explained in 1940 that "poor people, who lack education to explain their ideas clearly, easily fall into a flood of words and details, employing many minutes, and sometimes hours, of the lawyer's time, distracting him from other affairs" (Cuello 1940, 43). For this reason, social workers had the task of "listening to their misfortunes, pacifying their concerns and impatience, and . . . repeating to the person, point by point, what he or she has to say when explaining his or her case to the lawyer so that this explanation is clear and complete, and suppressing useless or inconvenient information" (Henríquez 1934, 17). Another *visitadora* wrote that her duty was to "help the poor to explain their case to the lawyer, pointing out what the important issues are, and leaving aside all the other circumstances complicating their explanation" (Molina 1942, 5). Thus, *visitadoras* not only translated the language of the law to poor people: they also translated the language of the poor to the lawyers.

In this regard, the history of the SAJ social workers expands the findings of Rosemblatt (2000) and Illanes (2007) regarding the role of these professional women as crucial mediators between the poor and state institutions in twentieth-century Chile. Indeed, it shows that *visitadoras* were interacting not only with medical doctors in the realm of health and state social assistance programs, as these authors have shown, but also with lawyers in the realm of legal aid. Alongside lawyers, social workers were thus acting as "legal intermediaries" (Aguirre 2012) and transmitting their special concerns about poor women, motherhood, and family into the justice system.

What is particularly interesting in the role of *visitadoras* in legal aid is that, time and again, *visitadoras* highlighted their superiority over lawyers in dealing with the SAJ public:

> The *visitadora* directly influences the resolution of every case because she gives [to the lawyer] the solution of all the other problems surrounding the case, problems that lawyers generally ignore how to resolve . . . The enormous number of cases that present lacunas or difficulties from the social standpoint cannot be left to the one who is in charge of applying the law; even less when one is procuring a preventive action, a rehabilitation, or the re-consolidation of the family, etc., rather than a momentary solution to the problem. (Henríquez 1934, 10)

Visitadoras questioned the judicial forum as the best place to solve "social problems." In their view, legal mechanisms were narrow and superficial compared to the *visitadoras*' interpersonal arsenal: for these professional women, the law was only a small part of the much broader "social intervention" that they could effect through their affective, conciliatory, and pedagogical role.

And yet, while they had a limited faith in judicial remedies and a critical view of their efficacy, social workers were still the ones in charge of highlighting the legitimacy of the justice system in the eyes of the poor. This careful balancing act came out of the process of professionalization of social work in Chile, which pushed these mostly middle-class female social workers to assert their own professional legitimacy against the elite, male, and centuries-old legal profession. Within the SAJ, the more *visitadoras* could solve cases themselves and prevent them from

reaching a lawyers' desk, the more they could affirm their professional worth. And even when they reached their limits and had to refer the case to the lawyers, they could still claim that they were essential to making the work of lawyers legitimate in the eyes of the poor. In this way, social workers affirmed their own professional superiority over lawyers in dealing with a specific set of issues: poor people's cases. Poverty remained the realm of social workers, one in which they could invite lawyers to play a role, albeit only a superficial one.

IV. SOCIAL WORKERS AND THE LIMITS OF THE LAWYERS' SOCIAL FUNCTION

In the attitudes social workers adopted in the SAJ one could be tempted to read a textbook illustration of Abbott's theory of professionalization as the competition of professionals for a delimited "jurisdiction" (Abbott 1988), which has influenced the study of the legal profession in Chile (De la Maza, 2001, 4; Dezalay and Garth 2002, 5–8, 43). However, the emphasis on competition does not help us to account for the puzzling fact that SAJ lawyers did not feel threatened by the social workers' usurpation of some of their functions, nor by their bleak diagnosis regarding the utility of courts. On the contrary, lawyers enthusiastically welcomed social workers' intervention in this area. Oscar Dávila, a prominent Board member of the Bar Association, stressed that the work of *visitadoras* in the SAJ "was of great moral and pedagogical importance" (Dávila 1956, 71). Similarly, Aura Cuello, a SAJ lawyer between 1935 and 1969, praised the social workers' "true vocation, the integrity of their character, and the practice they have obtained, which in most cases allow them to achieve beneficial results" (Cuello 1940, 59). Also, in their annual reports, SAJ directors—always lawyers—never failed to recognize the "abnegation," "sacrifice," "enthusiasm," and "devotion" of social workers to their poor clients (CGCA 1939, 29; 1950, 65; 1953, 22; 1959, 16). As for the relationship between social workers and law interns, a *visitadora* considered herself as their mentor, "showing them the social aspect of cases, and in many occasions she is also a counselor and a teacher because of the precious experience she has acquired" (Molina 1942, 24). Law students did not contest this view: throughout the years, law graduates interning in the SAJ made similar comments on the social workers' great contribution to this institution (Rojas 1947, 50; Navarrete 1962, 102). Therefore, rather than competing, lawyers and social workers in the SAJ were interacting in a collaborative fashion.

A proof that social workers were welcomed in legal aid was that, in Santiago SAJ offices, the percentage of social workers in the total SAJ permanent staff increased over time (see Table 2).

Why, we might ask, if lawyers had precisely felt the need to create a legal aid system in order to protect their professional status and reaffirm their own "social function," were they so adamant in recognizing the role of social workers in a realm that they had tried to reclaim as theirs?

One part of the answer was based on expediency: considering that the SAJ was systematically short on resources and staff, social workers fulfilled a crucial role in alleviating the workload of the SAJ legal sections. As I described above, by

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TABLE 2.
Staff Composition of the Santiago SAJ Offices, 1932–1960

	Permanent Salaried Staff					Temporary Unpaid Staff		
Year	Total Salaried Staff	Lawyers	Social Workers	Administrative Staff	Percentage of Social Workers	Law Interns	Social Work Interns	*Abogados de turno*
1932	2	2	0	0	0	29	0	
1933	7	6	1	0	14	33	1	
1934	11	10	1	0	9	72	1	
1935	14	10	3	1	21	31		
1940	23	17	5	1	21	65		57
1945	30	21	6	3	20	107	5	69
1960	66	39	21	6	31	~150		

Sources: CGCA *Memorias Anuales* 1932–1960; Legajos de Tesorería, 1960.

qualifying eligibility, performing many bureaucratic procedures themselves, and achieving extrajudicial conciliations, *visitadoras* substantially reduced the time lawyers would have spent seeing clients. *Visitadoras* also saved lawyers some precious time by acting as "translators": they performed the feminine task of listening to poor people's problems so that lawyers would only have the shortened and "useful" version of the facts immediately relevant to the legal case.

Besides, social workers also supported the lawyers' crusade against a competitor who seemed much more threatening to the legal profession: the dreaded *tinterillos*. Indeed, *visitadoras* considered it was their task to convey to SAJ clients "the seriousness of the defense" that this institution provided, stressing that "it prevented them to fall into the hands of unscrupulous individuals who, for the most part, are only trying to make money out of them" (Henríquez 1934, 23). The *visitadora* used her more intimate relation to legal aid clients to discredit *tinterillos* in the eyes of poor litigants. SAJ social workers were taking sides against lay legal practitioners and favoring the professionalization of the justice system.

Also, lawyers shared with social workers the view that settlement and conciliation were preferable to litigation in the case of poor litigants. For lawyers, their role in legal aid was less to embark in complicated trials than to promote "the organization of the social body and the prevention of litigation" (Cuello 1940, 35, 85). This was beneficial for the SAJ clients, who would avoid "the judicial hustles," and also beneficial "for the service … because it simplifies enormously its work, and it can also completely trust that its social function had been fulfilled properly" (Rojas 1947, 80). For both lawyers and *visitadoras*, a compromise was always better than a fight, even when the fight was a legal one. This discourse reflected a broader political ideology in twentieth-century Chilean politics cutting across professional divides, which preached compromise over direct confrontation. Historians have shown how, after the 1930s and before the political radicalization of the 1960s, the Chilean political system adapted to the progressive inclusion of popular sectors into the public realm by privileging consensus, coalition building, and negotiation. Leftist political parties or labor unions could participate and some of their demands

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would be answered as long as they conformed to this conciliatory vision of politics (Rosemblatt 2000; Correa et al. 2001, 130–35). Similar to the process described by Laura Nader for México (1990), in Chile the SAJ collaborated with this larger political project of achieving social peace through compromise by promoting settlements and conciliations among the poor. According to the SAJ Director, this was mostly the deed of "the social worker who diffuses a wave of human kindness in the work of the Service, she spreads feelings of harmony and good will and a spirit of resignation . . ." (Gutiérrez 1946, 910). Lawyers understood that social workers were to thank for this "harmony" that benefited them, beyond their professional membership, as members of the upper and middle classes.

Therefore, both the Colegio Board members and legal aid lawyers came to appreciate the utility of the *visitadoras*' actions. In 1933, the Colegio de Abogados annual report noted that many of the problems of their legal aid office clients

> can be solved without the need of resorting to judicial procedures, through the influence or the advice of a competent social worker: in many cases, it is essential to perform a thorough investigation of the social facets of the problem before initiating a legal procedure that could have unsettling effects. (CGCA 1933, 9)

In the perception of lawyers, judicial remedies were not always the best way to deal with poor people's problems: these complex procedures were unfitted to the "simple" nature of the poor's needs for which the intervention of a social worker would suffice. Most of all, legal actions could produce effects that were deemed "unsettling" or detrimental for the poor, for instance, the dissolution of a marriage. For lawyers it immediately became apparent that *visitadoras*, as university-educated women especially trained to deal with poverty, could assess the broader repercussions of judicial actions for the lower classes much better than themselves:

> The social services performed by the *visitadora*, who cooperates with the work of lawyers in her own field of action by providing the special assistance that needy persons require, has allowed the SAJ to achieve a work much more complete and beneficial . . . The achievements of this new service can easily be appreciated if we consider that most of the conflicts that the SAJ must solve—whether in the realm of family, property, social, or criminal law—originate in the extreme poverty and ignorance of our clients, or are due to the lack of moral norms that can direct their actions. Therefore, the solution of these problems in practice escapes in many cases to the reach of the law. (CGCA 1933, 9–10, 24)

Lawyers deferred to social workers in their expertise on poverty. By doing so, lawyers could decline their responsibility in dealing with problems whose only origin was "poverty," a problem that was clearly "beyond the reach of the law." Lawyers were thus refusing to reexamine the role of the legal system itself in creating these inequalities in the first place.

This attitude manifested itself in the SAJ's attitude toward legal reform: simply put, until the 1960s, the SAJ had no participation in this field. Still, the Colegio had created in 1939 a separate Institute of Legislative Studies (Instituto Chileno de Estudios Legislativos) in charge of studying and proposing legal reforms that had great influence on Congress (Sierra and Fuenzalida, 428). However, the scope of legal reforms that had some bearing on the rights of poor litigants—especially women and children, the main users of the SAJ—was quite narrow. For instance, the Colegio participated in drafting a reform to family law in 1952, which improved the capacity of married women to control the husband's administration of the couple's property, but it did not question the husband being "chief of the conjugal partnership." This project also established improvements—but not equality—to the rights of illegitimate children.[39] Only in 1960, did the government include the SAJ in legislative reform for the first time, when the Director of the SAJ Minors Section was invited to participate in a procedural reform to Minors Courts (CGCA 1960, 26).[40]

In the end, lawyers' understanding of their "social function" was limited, and after all was said and done, the defense of the poor was not the defining aspect of the legal profession. Of course, the existence of a reasonably well functioning legal aid system was necessary to legitimate the judicial system as a whole. In mid-twentieth-century Chile it was not acceptable anymore to openly exclude the lower classes. Nevertheless, legal aid was a temporary or partial activity for legal professionals. As shown in Table 2, the large majority of the SAJ staff were unpaid interns spending only six months in the service, and they performed most of the legal work. Oscar Dávila—one of the Colegio main leaders[41]—put it very clearly: for the lawyer, service in the SAJ was a transitory stage that was supposed to elicit feelings of youthful idealism, a meaningful but short

> apostolate of charity and justice . . . when, later, [law students] have graduated and are entirely dedicated to their professional activities and they remember their experience in the Service, I am sure that they miss those hours of great enthusiasms and pure abnegations. [A]nd I am certain that the successes that today bring them fame and money are not comparable for them to the deep satisfaction they experienced then, when they obtained a ruling that saved the life of a convicted man, or when they liberated the furniture of a poor and abandoned mother from an usurer's claws, and that they both received with their eyes drowned in tears.[42]

39. Illegitimate children were still heavily discriminated in Chilean law until 1998; see Ley 10271 introduce diversas modificaciones al Código Civil, 2 April 1952; Ley 19585 modifica el Código Civil y otros cuerpos legales en materia de filiación, 26 October 1998.

40. Ley 14550 fija texto refundido de la Ley 4447 sobre Protección de Menores, 3 March 1961.

41. Oscar Dávila was a member of the Colegio Board from 1925 to 1964, and either its president or vice-president for twenty-five years in a row.

42. Discurso de Oscar Dávila, 1956 in "Exposición del Sr. Mario Mosquera sobre el problema del Servicio de Asistencia Judicial, 1965," ARNAD, Ministerio de Justicia, Vol. 28502, Corporación de Asistencia Judicial 1983.

For one of the SAJ's main architects, legal aid was only a temporary occupation on the road to become a real for-profit lawyer. Abnegation and tears were acceptable as a youthful experience, but not as the real adult practice of law based on success, fame, and money.

Contrary to Dávila's sentimentalism, law students increasingly perceived the mandatory internship as an annoying and taxing bureaucratic requirement that only interfered with their entry into the job market.[43] Even professional lawyers employed by the SAJ did not work in the Service full time, and most of them did not devote to it more than a quarter of their workday (CGCA, 1925–1929, 15; 1958, 17). This also explains why, despite the fact that the social work staff was small compared to the legal one, it could process close to half of the Service's caseload: *visitadoras* were the only real full-time professionals in the SAJ. Lawyers could not be more grateful to Alejandra Benbow, the director of the Social Section from 1934 to 1978, who had been for forty years "the first to get to the office and the last to leave" (CGCA 1970, 23).

Thus, because legal aid was a partial duty for lawyers, there was no danger for them to recognize that the problems of poor clients were much better taken care of by social workers than by themselves. Even more, it liberated them from the responsibility to have to adjust the rest of their professional practice to the needs of the lower classes: they had no need to adapt their own legal language to make it understandable to their low-income clients. To some extent, social workers were taking care of the "dirty work" that implied dealing with the poor, leaving only the "cleaner" procedural part to lawyers (Simpson et al. 2012). Even more, because social workers had taken good care of purging the client's presentation of all broader social considerations that would not fit into the legal procedure, lawyers were to some extent liberated from the uncomfortable exercise of questioning how existing legal remedies were not addressing or even reproducing the structural inequalities that had caused the problem in the first place. Thus, the gendered professional complementarity of lawyers and social workers in the SAJ offices helped lawyers to put clear limits to their "social function." Considering that, with its system of mandatory internships, the SAJ was also the common practical training camp for every lawyer in Chile, its internal dynamics help explain the passive or, in Batlan's terms (2015), the restrictively "procedural," understanding of the legal system that most Chilean lawyers developed up to the 1960s.

V. A COMPARATIVE PERSPECTIVE: LEGAL AID IN CHILE AND IN THE UNITED STATES

The links between legal aid, gender, and professionalization are made clearer by putting the Chilean case in comparative perspective with Felice Batlan's recent work on the history of legal aid in the United States (2015). Batlan has shown how in the United States legal aid originated in the work of women lay lawyers in unions and philanthropic societies serving mostly female clients. However, in the

43. See, for instance, Cuello (1940, 58) and "Exposición del Sr. Mario Mosquera sobre el problema del Servicio de Asistencia Judicial, 1965."

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late nineteenth and early twentieth centuries, legal aid became progressively masculinized and professionalized. By the 1920s, Batlan argues, the contest over who would provide legal aid had become one that opposed the overwhelmingly male legal profession to the feminine new professional field of social work. This contest was crucial in defining what was considered as "proper" lawyerly work, and what definition of justice would legal aid societies promote: either a "procedural" notion based on a formalistic idea of the rule of law, or a more "substantive" idea of justice based on a casuistic and pragmatic approach that was much more critical of the legal system's structural inequalities (157). After the Great Depression and up to the 1950s, lawyers and social workers began a closer collaboration in legal aid offices (214). Still, their interaction was always marked by tensions, as US bar associations never completely committed to legal aid and feared its competition (199–201). These tensions would reemerge again in the 1960s when lawyers once again questioned the role of social workers in legal aid (215–19).

There are many striking similarities between the Chilean and the US history of legal aid: the rapprochement between lawyers and social workers happens roughly in the same period, and there are many parallels in the roles performed by female social workers in Chilean and US legal aid institutions. Chilean social workers shared with their US counterparts an emphasis on extrajudicial solutions as the best means to solve cases, and their role in taking the time to "listen" to poor people's problems (Batlan 2015, 27, 222). Like Chilean *visitadoras*, US social workers also provided help to their clients in dealing with state bureaucracy and applying to welfare programs (199), and they upheld a broader understanding of justice more "substantial" than "procedural" (Batlan, passim).

However, important differences came from the distinctive historical dynamics that prompted the development of legal aid institutions in each of these countries. The main difference came from the nonconfrontational and actually strongly collaborative relationship between lawyers and social workers in the Chilean case, while in the United States this relationship was always fraught with tension. In Chile, there were fewer tensions because legal aid was never a "female dominion" (Batlan 2015, Part I). The role that the colonial and then republican state had played in establishing some minimum levels of legal services for the poor through the *privilegio de pobreza* had always linked, to some extent, the male legal profession to the defense of the poor. What the Chilean Bar Association did with the SAJ was to boost this historical link and to affirm that the initiative to serve the poor came from them, not from any state imposition. Also, the Chilean legal profession could resort to a national state power to discipline the whole profession in fulfilling this renewed mission.[44] In this sense, until the 1960s, the Colegio de Abogados was more powerful and committed to legal aid than the US bar associations.

Besides, professional lawyers' main competition in the provision of legal services was not, as in the United States, from the group of middle-class and elite women lay lawyers. Instead, Chilean lawyers' main rival in the legal representation of poor people were the *tinterillos*, that is, lower-class men. Therefore, Chilean lawyers

44. This argument made by Barbara Weinstein for the case of Brazilian industrialists can be easily applied to the Chilean Bar, see Weinstein (1996, 113).

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did not develop the historical distrust of US attorneys toward the participation of middle-class women in the legal field. By the same token, Chilean social workers never felt the need to affirm that their work was, by any means, "legal work." On the contrary, rather than trying to assimilate themselves to lawyers, they tried to distinguish themselves from them by highlighting the nonlegal and superior "social" nature of their work. Social workers, while they affirmed to be "powerful auxiliaries to the lawyers" (Henríquez 1934, 39), did not want to be lawyers themselves even if many of their tasks—negotiating, drafting settlements, processing claims in bureaucratic agencies—could in other contexts have been defined as "legal work." For the SAJ *visitadoras* an assimilation of their role to the one of lawyers would not have honored them.

Paradoxically, though, this generated in Chile a legal aid system that was in some ways more conservative—especially in the realm of family law—than the US one. Although in both cases women with domestic relations problems became legal aid's most common client, the type of gender relations that the two systems promoted differed. In US legal aid organizations where lawyers and social workers competed to win the favor of their clients, both professionals increasingly accepted divorce and the possibility for women to have family stability outside marriage (Batlan 2015, 207). In contrast, in the Chilean legal aid system the collaboration between social workers and legal professionals had carefully shielded lawyers from the real social problems of their clients. Therefore, lawyers running the SAJ and the Colegio saw no urgency to advocate for serious reform to a legal regime that, among other issues, proscribed divorce and denied the equality of children before the law.

VI. CONCLUSIONS

In the first three decades of the twentieth century, the Chilean legal profession was at a crossroads. While the Chilean state adapted to a modern industrial order and strong demands from the lower classes, this new power balance threatened lawyers, who had to remold their professional identity. The creation and administration of a national legal aid service allowed them to do just that, assigning to young Chilean lawyers the "social function" of defending the poor under the watchful eye of the most respected members of the profession.

The history of the SAJ thus confirms Richard Abel's argument that legal aid obeys the needs of the legal profession rather than those of the poor (1985). This history also introduces some nuances to Abbott's model of interprofessional competition as the main motor of professional development (1988). Indeed, Chilean lawyers did not embark alone on the task of revamping legal aid. They required the help of social workers, and through this collaboration these new female professionals helped shape the way in which legal aid would be provided, including the role of lawyers in this field. The screening, mediating, and translating role of social workers in legal aid offices allowed lawyers to remain detached from the needs and demands of legal aid recipients and to be only temporarily or partially involved in their "social function." Social workers were thus instrumental in helping define the

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national legal aid system as a rather conservative project overall, one that would not challenge the legal system and would instead try to force its popular clientele to conform to it through conciliation.

The fact that social workers and lawyers belonged to the upper or middle classes, as well as their political conservatism, explains this result in part. However, the dynamic operating in the SAJ went beyond the class or ideological adscriptions of these individuals. It was the collaborative and gendered nature of their professional interactions that contributed to turn the SAJ into a "conciliatory" device rather than a strong advocate for the rights of the poor. For social workers, achieving conciliations was how they proved their professional superiority over legal professionals. For lawyers, this delimitation of their "social function" allowed them to devote themselves to the lucrative realm of professional practice while claiming the honor of defending the poor. And what for lawyers constituted the "dirty work" of legal aid—taking the time to listen and consider all the "extralegal" ramifications of a case—was for social workers the touchstone of their profession. Yet this division of professional labor was not natural or predetermined: the comparison with the United States shows that in a different historical context, interactions between these two professional groups could grow more competitive and to some extent more receptive to their clients demands.

Eventually, Chilean lawyers would also confront the contradictions emerging from the limited understanding of their social function. In the 1960s, with the emergence of massive popular mobilizations and the country's political radicalization, the "crisis of law" that had been contained in the 1930s would finally detonate. The failure of the legal profession to confront structural inequalities would come to delegitimize lawyers to an unprecedented degree (Novoa Monreal 1965; Spence 1979). In this context, the existence of the SAJ was no longer enough to counter the claim that in Chile the justice system had a strong social class bias (Novoa Monreal 1970). When Salvador Allende's socialist government (1970–1973) proposed a reform that involved taking legal aid from the control of the Bar Association, a new opportunity had come to rethink legal aid, and with it, the role of the Chilean legal profession.[45]

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