

Discussion on legal protection for the most  
vulnerable at the World Law Congress

## **The Notariat warns of the tragedy of 'children without identity': 230 million children are in this situation**

- ▶ *Ivorian notaries have issued birth or identity certificates to 130,000 children abandoned due to wars and migration*
- ▶ *Almudena Castro-Girona, Vice-President of the International Union of Notaries: "In developing countries, notarial public instruments support economic growth by recognising property ownership."*
- ▶ *The International Union of Notaries warns of legal discrimination against women in some countries in matters such as inheritance and acquisition of property*

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**Madrid, 19 February 2019.** During the panel discussion entitled *The Notarial Public Faith as Space of Freedom & Justice*, which took place this afternoon at the Teatro Real in Madrid as part of the World Law Congress, the President of the Chamber of Notaries of Côte d'Ivoire, Yolande Foldah-Kouassi recounted the tragedy of abandoned and unidentified children and the contribution made by the Notariat to regularising their status: "there are 230 million children in this situation in the world. In Côte d'Ivoire they total 1,300,000; in two years, notaries in our country have managed to provide ten per cent with birth or identity certificates."

"The notaries of Côte d'Ivoire – Foldah-Kouassi continued – work in cooperation with UNICEF to solve the alarming problem of those sadly known as "enfants fantômes" ("ghost children") in Africa. They are deprived of the fundamental right to have their identity recognised and registered, which prevents them from accessing such basic public services as health and education, all of which turns them into victims of people trafficking or other more sordid forms of abuse. The Notariat of Côte d'Ivoire is, in collaboration with the Association du Notariat Francophone, involved as part of its social public service function in legislative reforms and action plans intended to alleviate this situation".

The President of the Spanish Notariat, José Ángel Martínez Sanchiz, and the President of the International Union of Notaries (UINL), José Marqueño de Llano (acting as moderator), took part in the panel discussion about personal rights, focusing in particular on the most vulnerable.

In his address, Martínez Sanchiz examined the notarial function in greater depth, with a particular emphasis on its role in protecting the rights of the vulnerable: "if there is to be freedom, we must start out from a position of equal rights, and notaries have a contribution to make here. Notaries enable equal

treatment and avoid discrimination based on sex, gender or ability in the field of contracts. The public notarial service is a channel for justice, contractual freedom, the enjoyment of rights and fulfilment of duties. It is a public good".

The discussion as to the situation of these groups also involved the Vice-President of the International Union of Notaries, Sigrun Erber-Faller; the Assistant Secretary-General of the Association of Notaries of China, Qi Xiangchun; the International Affairs Secretary of the Association of Notaries of Indonesia, Prita Miranti Suyudi, and the Director of the Aequitas Foundation and President of the Human Rights Commission of the UINL, Almudena Castro-Girona.

The role of notaries in providing legal protection for vulnerable groups was the subject of Almudena Castro-Girona's analysis. "Notarial intervention guarantees that citizens can exercise their rights, whatever their status, race, nationality, ideology, gender, opinion or any personal or social circumstance, and in particular works to protect people, above all those in a situation of vulnerability".

Regarding notarial instruments, the Spanish notary emphasised that "they promote economic and social development and underpin equality by recognising property ownership".

Qi Xiangchun highlighted the benefits that the implementation of the notarial system of preventive legal certainty has generated in his country. The Chinese notariat, as in other countries of the former communist bloc that have adopted a free market economy, joined this model in 2003, since when it has been a full member of the International Union of Notaries (UINL), and 15 years later more than 10,000 notaries now practise in the "Asian giant".

"With regard to the acquisition and protection of private property in our country, the notarial system plays a very important role. Notarial intervention, as a universal preventive legal system, performs an important function in avoiding disputes and reducing litigation. In the specific case of China, notaries are seen as the main protectors of private rights, above all in the sale and purchase of real estate, inheritances and nuptial agreements," indicated the representative of the National Association of the Notariat in China.

In her contribution, Erber-Faller focused on discrimination against women. "In those states that have a legal system derived from religious rules or customary law, discrimination is often the result of a system explicitly based on ancestral standards imposed by the State. This discrimination typically arises in the acquisition of assets and in inheritance," she stated. For the German Notary, "the weaker the position of a party, the more serious the consequences of the discrimination will be. Women, who are often in a lesser economic, legal and social position, are specifically entitled to the notarial function of protection".

At the institutional level, she indicated that the International Union of Notaries has set out a series of proposals for states to avoid discriminatory legislation: "there must be no restrictions preventing women from acquiring property, in particular land, irrespective of whether or not they are married; their legal capacity cannot be defined differently from that of men; there must be no

unequal shares for men and women; there can be no restrictions on women's freedom to bequeath and receive inheritances, and where a marriage ends because of divorce or death, both spouses must be provided with an appropriate share of the communal assets".

Prita Miranti Suyudi focused her contribution on legal protection for children in her country, a pressing issue in a region with a population of 260 million. "Children need the help of adults when managing their rights. The main problem as regards the protection of children in Indonesia is insecurity and inconsistency in establishing age limits in various laws and regulations in the country. Where there are legal acts involving a child, the Notary's main obligation is to guarantee the protection and security of their rights. "

A video by United Nations special rapporteur Catalina Devandas was also screened, addressing the rights of people with disability in the light of the UN Convention. Honorary Notary\_Juan Bolás took part as rapporteur on this discussion panel.

### World Law Congress

More than 180 speakers of over 70 nationalities from all five continents are taking part at the 26th World Law Congress, making Madrid the global capital of Law, to uphold the State of Law as the guarantor of freedom, at a time when democracies face serious challenges.

The *World Jurist Association*, a non-governmental organisation that brings together prestigious court presidents, magistrates, judges, government officials, law professors, lawyers, notaries, registrars, students and law-related professionals from all round the world, chose Madrid to stage the third Congress held in Spain in the 55 years and more that the association has been in existence.

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