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The Legal Community's Reaction to the Earthquake



Appleseed Mexico Foundation

After an earthquake that caused as much damage as the one that happened in Mexico in September 2017, it is to be expected that many legal questions will arise in the minds of the victims and their families. What rights do I have if I'm affected? What will happen to the damaged property after all the chaos? What can I do if I have insurance but the company doesn't want to pay out? Do I qualify for receiving government funding to repair my damaged property or to rebuild? We probably would not usually think of lawyers contributing to disaster response, but the fact is that those of us who are legal professionals have a great deal to contribute to the post-earthquake efforts.

On September 19, 2017, after checking that our families were safe, the team of legal professionals who make up the Clearing Houses in Mexico immediately began to generate ideas on how to help those who had lost everything; and the answer came immediately to mind: *pro bono*! This Latin term refers to the old expression *Pro bono publico*, which means working for the greater good. In the case of Appleseed, this *pro bono* work consists on offering free legal advice/services to vulnerable people and communities as well as organizations that help them. It also includes free legal advisory services on issues of public interest.

In the legal as well as in other professions, lawyers have the responsibility to use their knowledge to pursue justice regardless of the capacity of the clients to pay our

fees, since the greater good is, in the end, justice. Therefore we lawyers have the obligation to attend to and support those who need our services. Fortunately, nowadays the interest in the *pro bono* legal work has increased among law firms and legal professionals in Mexico and in the world. However, *pro bono* work is more common in large law firms, whereas small firms, universities, and companies still face many challenges to enhance their *pro bono* practice. In order to channel this increased interest in *pro bono* work, Appleseed aims to connect those in need with the law firms and professionals that are willing to give legal *pro bono* advice and representation so that we all can fulfill our ethical and social commitments.

The Appleseed México Foundation is a civil society organization that offers free legal services through its *Pro Bono Network*.¹ Its groups of lawyers and legal professionals are interested in giving legal support to civil society organizations about issues of collective interest.² This is why Appleseed México, the Mexican Bar Foundation, and the Mexican *Pro Bono Center* decided to join forces and call on the entire Mexican legal community to contribute their expertise with the sole objective of supporting the earthquake victims. The efforts focused on three main fronts:

1. *Guía Jurídica para Asesoría a damnificados por los terremotos de 2017* (Legal Advisory Guide for 2017 Earthquake Victims).³ This document answers over 70 frequently-asked questions about legal issues related to the earthquake. These include what to do in case of death or disappearance of individuals; rights and obligations of landlords and tenants; damages to adjacent or public property; labor issues; economic support

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for victims; and how to apply to the Natural Disaster Fund (Fonden), among others. The guide was distributed on the web, radio, tv, and social networks and was promoted by different civil society organizations. The objective of this wide distribution was that everyone could have access to it. In addition, the guide became a reference source for legal experts, attorneys, students, and organizations supporting earthquake victims.

Unfortunately, natural disasters will continue happening, and we must have the knowledge, protocols, and advisory services available to provide the support required in these emergencies. Therefore, after preparing the guide, the team set the goal of making it a permanent effort to have it updated for future potential disasters.

To make the legal terms and processes more user-friendly, we developed seven infographics about the most common legal problems, which describe the steps to be taken to resolve them. These infographics circulated mainly on social networks.

To make this titanic job of researching, writing, reviewing, and editing possible, the three organizations coordinated the work of 29 lawyers, notaries, offices, and 9 independent attorneys.

2. *A hot line for legal advice to victims.*⁴ Through a simple online form, the victims provided contact information, a brief description of a problem and a concrete question; a lawyer from our network would contact the person in order to further understand and answer the legal matters and/or explain the administrative procedures needed depending on the case. If, during the telephone conversation, the professional detected that the matter required long-term support, the case was evaluated and adopted by the law firm for further advice.

The phone consultations were fielded by 44 lawyers and 5 law students, who gave advice to 351 people using recommendations based on the aforementioned guide. Twelve people managed the process of assigning and reviewing cases.

3. *Legal clinics in the affected areas.* A couple of years ago, Appleseed launched a program of free advisory services that we call legal clinics in order to provide face-to-face, in-the-field legal advice to vulnerable and low-income communities. This project aims to improve the quality of life of these vulnerable communities by providing this legal advice and involving law students and *pro bono* legal work by attorneys.

The pre-existing program allowed us to immediately offer the legal clinic's know-how and Appleseed's experience, processes, materials, and human resources to the main affected areas.

Activities and Types of Advice Requested

We visited the Cuauhtémoc Municipality, specifically the Juárez, Condesa, Hipódromo, Hipódromo Condesa, Cuauhtémoc, and Roma Neighborhoods. The main problems we found involved condominium buildings with structural damage or complete collapse, issues related to mortgages from private banks and from the Institute of the National Fund for Workers' Housing (Infonavit), as well as questions linked to private insurance or the insurance that comes with a mortgage.

We also went to the Autonomous University of Mexico City (UACM), where we saw victims from the Iztapalapa and Tláhuac Municipalities, specifically from the Del Mar, Planta, Cananea, and Molino Neighborhoods, among others. There, the main problems involved homes built by their owners that had minor damage but had been built in areas where the sub-soil cracked. Another issue in these areas was that when the authorities did not find "considerable" damage in the constructions, they did not qualify the homeowners as potential beneficiaries of financial aid for housing, overlooking the huge risk represented by the cracks underneath these properties.

Then we went to the Xochimilco Municipality, where we visited the town of Nativitas, finding that the main damage consisted on cracks in the sub-soil, which had not been studied yet by geologists to assess their depth and impact on the constructions above them. Most of the people we saw came to us for matters involving violations in the damage assessment process and its consequences in terms of the assignation of financial support.

Questions from the Public

In our face-to-face visits, 63 legal professionals and several law students met with 418 victims. These teams dedicated approximately 424 *pro bono* hours to the task. Our conversations with the victims during these face-to-face sessions provided information that was the basis for the



I AM A RELATIVE OF A PERSON WHO DIED IN THE EARTHQUAKE

WHAT SHOULD I DO?



WHERE CAN I FIND MY RELATIVE'S BODY?

In Mexico City, the bodies of fatal earthquake victims were taken to the Instituto de Ciencias Forenses (Institute of Forensic Sciences [Incifo]), located at 130 Héroes, Doctores Borough, C.P. 06720, Mexico City.

HOW DO I KNOW MY RELATIVE HAS BEEN IDENTIFIED CORRECTLY?

The forensic authorities are obligated to give you all the information about the circumstances in which the body was found and how it was identified.

POSITIVE ID

Through facial recognition or that of specific identifying features such as moles, scars, tattoos, accessories, and/or clothing or other personal objects the deceased had with him/her that day.

COMPARISON

If the person is unrecognizable, other means of comparison must be used, such as X-rays, fingerprints, dental records, surgical interventions, etc.

DNA TESTING

Through genetic testing (usually a saliva sample). This process takes a little longer and is just as accurate as the other means described above.

WHAT DO I HAVE TO DO TO RETRIEVE THE BODY?

You must present the following documents:

a) Documents of the Person Doing the Paperwork: You must be a direct relative or someone authorized by direct relatives by a signed power of attorney with two witnesses. You have to present your official photo ID (voter registration card [INE], army discharge papers, passport, or professional license).

1) Original death certificate: The death certificate must be procured from the central Registry Office or at any of the Mexico City civil court offices. You will need this death certificate. **Request several copies! They will be useful for future paperwork.**

b) Documents of the Deceased

2) Recently issued birth certificate.

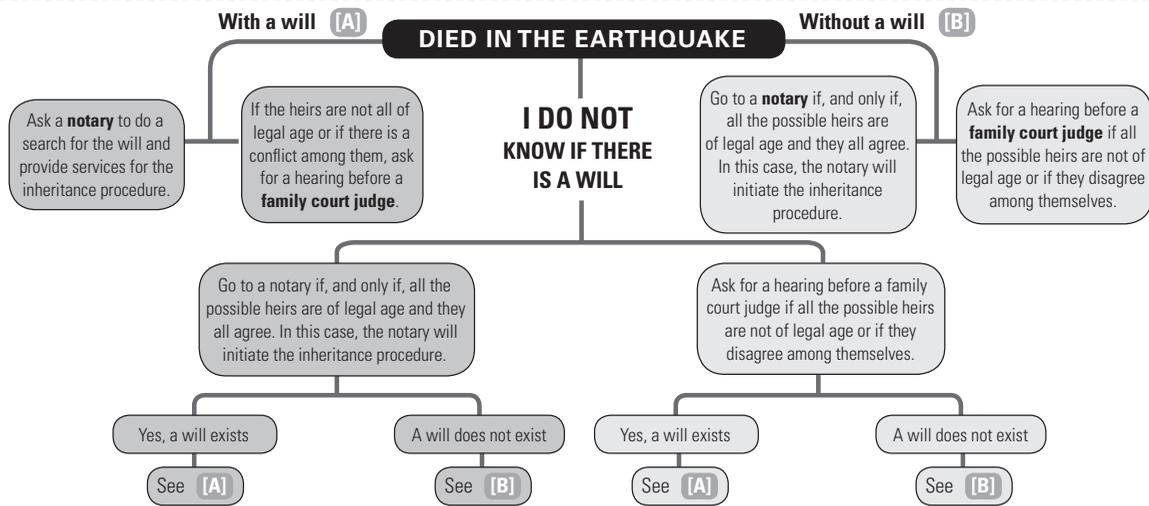
THEN WHAT DO I DO?

It's important to put the deceased's legal affairs in order as soon as possible!

This means beginning an inheritance process (whether the person had a written will or not), and gathering additional information about his/her assets and legal obligations. For example, find out about:

- 2) Real estate and other property**, as well as any insurance covering them.
- 3) Life Insurance policies.**
- 4) Accounts with any of the social security systems** (IMSS, ISSSTE, ISSFAM, etc.)
- 5) Loans or bank accounts.** The institutions involved must be notified of the death to begin to cancel loans and to be able to apply to receive anything due to the deceased or his/her heirs. Remember that debts are canceled upon a person's death!
- 6) Minors or persons otherwise unable to take care of themselves who were in the care of the deceased.**

1) If the person had a will or not. At the Colegio de Notarios (College of Notaries, colegiodenotarios.org.mx), free advice is being offered for earthquake victims. Telephone: 5511-1819



ANY QUESTIONS? CONTACT US! WE WANT TO HELP YOU

The death of a relative or loved one is a traumatic experience under any circumstances. Don't be afraid to ask for professional psychological help to deal with your mourning process.

Find out more at www.appleseedmexico.org/apoyojuridico-sismo/

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legal guide and allowed us to begin research projects to resolve the legal loopholes discovered after the recent earthquakes. Using that information, plus what we found out during our follow-up telephone consultations, we were able to determine that the issues that required the most urgent legal support involved real estate, labor, successions, and insurance law (see Graph 1).

As expected, the most frequently touched-on issue due to the natural consequences of the earthquake was related to real estate. We found that a considerable number of the damaged buildings showed some degree of legal irregularity, due to incomplete or never-initiated succession processes, or because they only had informal sales contracts (not formal deeds). This irregularity complicated the procedures for issuing formal deeds, repairs, and reconstruction of the homes. This means that we must do an exhaustive review of the number of buildings in irregular circumstances and work to design public policies and legislative projects to overcome that.

Many people were unfamiliar with the procedures for collecting their insurance policies, most of which had been acquired as a prerequisite for having a mortgage. But we also dealt with cases of insurance on automobiles that had been trapped or damaged by the collapse of structures.

Among the many issues that can be found under the

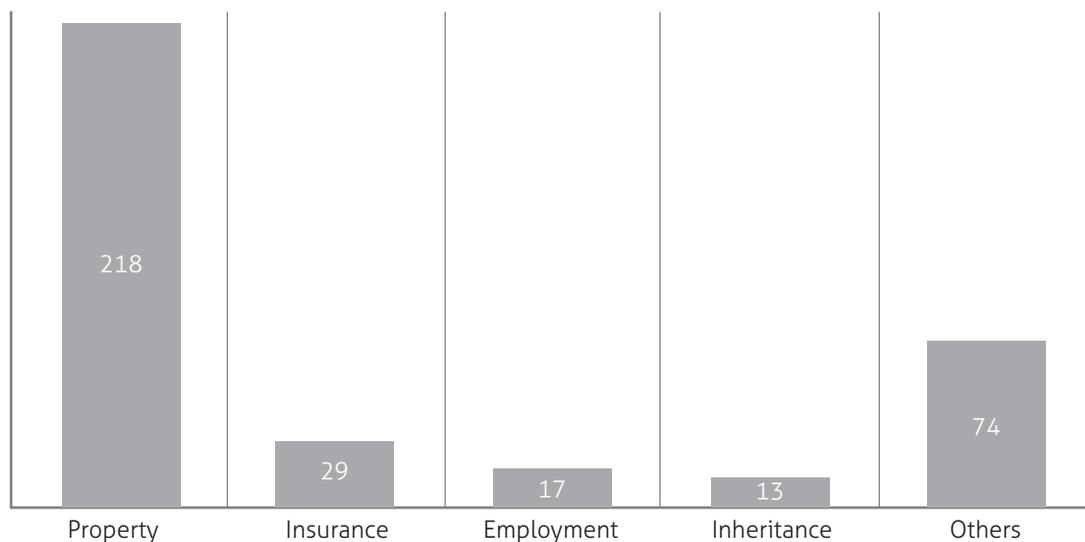
Appleseed’s pro bono work consists of offering free legal services to vulnerable people and communities as well as organizations that help them.

classification of “Other” in the guide, are a) how to apply for resources from the Natural Disaster Fund (Fonden); b) protocols involving how to react to the earthquake (civil protection); c) the location of government offices that deal with different aspects of these cases; d) procedures for having documents notarized; and e) the recovery of official documents.

Finally, we did deal with some labor issues, mainly in the days immediately after the earthquake. The most common complaint was that employees were being forced to go to work despite the bad physical conditions of the workplace. We even knew of cases in which they were asked for their own resignations due to “absence.”

Graph 2 shows the number of requests for legal advice, classified according to the kind of difficulty. We can see that the main need involves buildings that had suffered structural damage. Among the most frequently recurring concerns found through the interaction with the victims

GRAPH 1
MATTERS THAT REQUIRED THE MOST URGENT LEGAL ASSISTANCE



Source: Data base of requests for legal advice from earthquake victims to Fundación Appleseed, Fundación Barra Mexicana, and Centro Mexicano Pro Bono.

DAMAGE TO BUILDINGS

Due to the September 7 or 19, 2017 earthquakes

WHAT ARE MY RIGHTS AND OBLIGATIONS IF I'M THE OWNER of the damaged building and I have tenants?

STEP 1

CONTACT THE CIVIL PROTECTION AUTHORITIES



so they can physically inspect the building and determine if the damage is



1. IRREPARABLE (a TOTAL loss)

THEY MUST GIVE THE TENANT A WRITTEN

order to IMMEDIATELY VACATE the premises and not return. The Civil Protection authorities must DEMOLISH IT IMMEDIATELY.

CANCELATION OF RENTAL AGREEMENT

The Civil Protection authority's document stating that the building is a total loss will serve as the official document to cancel the tenant's rental agreement.

*We recommend that you clearly document the damage to the building.

IF THE TENANT PAID AHEAD OF TIME OR LEFT A DEPOSIT

The landlord must REFUND the tenant in that amount. Also, if the tenant owes back rent, the landlord/landlady has the right to demand it.



2. REPARABLE (PARTIAL loss of the building)

THE OWNER MUST MAKE ALL THE REPAIRS

so that the rental contract can continue. Otherwise, the tenant can consider the rental agreement canceled.

IN BOTH CASES, THE PROPERTY OWNER MUST

REVIEW THE RENTAL AGREEMENT to ensure it is up to date, whether it includes clauses of how to proceed in the case of an event, and what the rules or steps are for ending it if necessary.

REVIEW THE INSURANCE POLICY ON THE PROPERTY (if one exists) to check coverage.

DAMAGE TO BUILDINGS

Due to the September 7 or 19, 2017 earthquakes

WHAT ARE MY RIGHTS AND OBLIGATIONS IF I'M THE OCCUPANT of a damaged building?

STEP 1

CONTACT THE CIVIL PROTECTION AUTHORITIES



so they can physically inspect the building and determine if the damage is



1. IRREPARABLE (a TOTAL loss)

NOTIFY
THE PROPERTY OWNER OF THE SITUATION

And request the rental agreement be canceled. AND VACATE THE PREMISES IMMEDIATELY!

DEMAND ANY MONIES YOU HAVE PAID AHEAD OF TIME,
such as RENT or deposits.

PAY ANYTHING OWED

to the owner



2. REPARABLE (PARTIAL loss of the building)

IF THE TENANT IS COMPLETELY PREVENTED FROM ACCESS TO THE BUILDING

The tenant will have the right to not pay rent during the period in which such access is prevented.

IF THE TOTAL PREVENTION OF ACCESS LASTS MORE THAN TWO MONTHS

The tenant may consider the rental agreement canceled, in which case, he/she must notify the property owner of this in writing.

IF PARTIAL ACCESS TO THE BUILDING IS POSSIBLE

The Civil Protection document will serve to calculate the percentage or specific area of the building that cannot be used. The tenant shall have the right to reduce the rent in that proportion.

were the obligations of co-owners in the payment of repairs, rental contracts, the obligations and rights of adjacent and nearby neighbors of damaged or collapsed buildings, and a large number of requests about how to apply for government benefits and support. The requests not detailed here include issues related to insurance, employment, government financial support, and administrative paperwork, among other things.

Graph 4 shows our findings regarding insurance: the vast majority of applicants had no insurance on their homes or, what was worse, knew nothing about insurance. This is a concern given the risk level in Mexico City.

According to information given us by insurance agents, interest in home insurance that covers earthquakes has increased considerably. However, a great deal of work remains to be done in creating awareness among homeowners.

Conclusions: Assuming the Responsibility of Our Situation

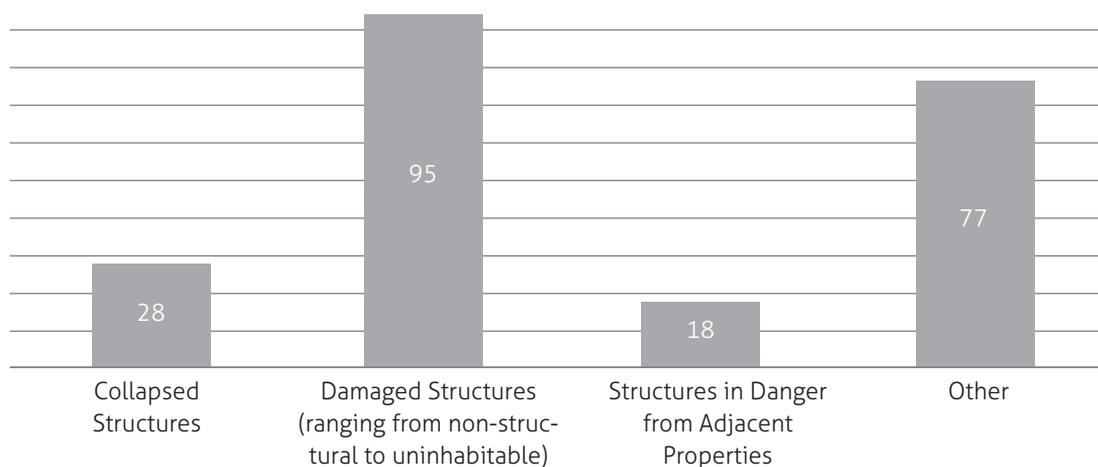
We know that it will take years of work, advisory services, and legal representation to fully and successfully deal with the needs that have arisen from the recent earthquakes and to find favorable solutions for those who lost

their homes. Seismic activity goes on and it is a reality that we will continue to experience earthquakes in Mexico. Reconstruction work after what happened in September 2017 has barely begun. This means that disaster preparedness is an ongoing task that will continue. The experience gained in our work will guide us to create better programs with up-to-date information and protocols to deal with people’s needs after different kinds of natural disasters. While we cannot know when or where the next disaster will hit, we must be prepared and lower the risk of losing lives and assets.

Along those same lines, the work of lawyers is indispensable for responding to and alleviating the circumstances of those affected by these events, seeking to improve current administrative and legal procedures. Legal and legislative activities must remain on the agenda. At Appleseed, we have embraced the issue and continue to offer support through different projects, proposing bills, reforms, or the implementation of public policies to regulate, improve, and put in motion clear administrative processes.

We celebrate and thank the legal community for its response to the emergency. This is an invitation to continue the work to further the reach and increase the contents of the legal guide so that it can be used after other natural disasters, contribute with the creation of univer-

GRAPH 2
MAIN PROBLEMS PUT FORWARD BY EARTHQUAKE VICTIMS



Source: Data base of requests for legal advice from earthquake victims to Fundación Appleseed, Fundación Barra Mexicana, and Centro Mexicano *Pro Bono*.

DAMAGE TO BUILDINGS

Due to the September 7 or 19, 2017 earthquakes

WHAT AUTHORITIES DO I GO TO IF MY BUILDING IS DAMAGED?

TO DETERMINE THE DEGREE **OF DAMAGE TO THE BUILDING**, OR WHETHER IT IS SAFE TO OCCUPY IT

YOU SHOULD GO TO **CIVIL PROTECTION**
(Borough Office of Civil Protection)



You should also request support from the Construction Site Director (DRO) or someone who is co-responsible in structural safety (CSE)!

They are obligated until December 2017 to issue inspection reports free of charge. Contact SEDUVI or the professional associations to apply for their services.

You can consult a list of these service providers here: <http://www.seduvi.cdmx.bog.mx/servicios/servicio/sistema-dro>

MY BUILDING WAS DAMAGED

CAN I ENTER TO RECOVER MY PROPERTY UNDER MY OWN RISK

NO. Not if the Civil Protection authorities prevent you from doing so.

Civil Protection programs are **obligatory for everyone**. The authorities (police, firefighters, civil protection, soldiers, members of the Navy, etc.) not only can order such measures, but also oblige the citizenry to respect them. This includes preventing owners and residents from entering their buildings.

Private citizens who are volunteering are not authorities who can prevent individuals from entering buildings.

USE YOUR JUDGEMENT AND BE PRUDENT!

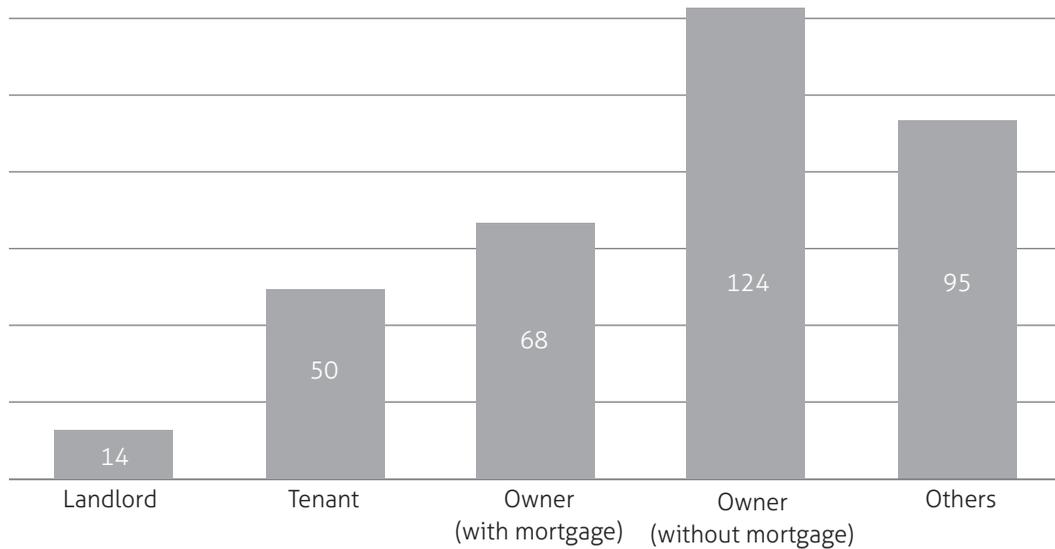
Remember that the most important thing is your life and health. If your building has suffered considerable damage, wait for the authorities to make a decision.

EVERYTHING CAN BE REPLACED EXCEPT YOUR LIFE AND THAT OF YOUR LOVED ONES

Find out more at www.appleseedmexico.org/apoyojuridico-sismo/

info@appleseedmexico.org

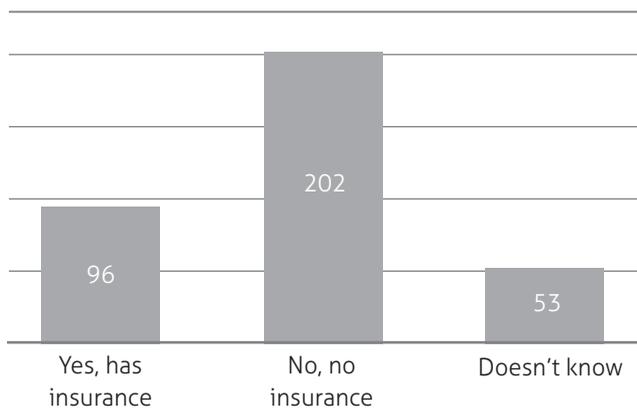
GRAPH 3
APPLICANT'S LEGAL SITUATION



Source: Data base of requests for legal advice from earthquake victims to Fundación Appleseed, Fundación Barra Mexicana, and Centro Mexicano *Pro Bono*.

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GRAPH 4
¿DO YOU HAVE ANY FORM OF INSURANCE
(HOME AND/OR AUTO)?



Source: Data base of requests for legal advice from earthquake victims to Fundación Appleseed, Fundación Barra Mexicana, and Centro Mexicano *Pro Bono*.

sity legal clinics where we can learn and activate emergency response programs, and participate in the on-going training of lawyers and law students in legal matters related to emergencies. All these advances will serve as reference points for developing better protocols and processes for the disaster response in Mexico. This experience is in itself a protocol on how the legal community can work efficiently after a disaster and have a huge positive impact in the affected communities by bringing the victims closer to the legal solutions that can make a difference in their lives. ■■■

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Notes

- 1 <http://www.appleseedmexico.org/probono/>.
- 2 For more about this organization, see <http://www.appleseedmexico.org/history-of-appleseed-mexico/>. [Editor's Note.]
- 3 "Guía jurídica para asesoría a damnificados por los terremotos de 2017 (México)," http://www.appleseedmexico.org/wp-content/uploads/2017/11/Gu%C3%ADa_Jur%C3%ADdica_Consolidada_v4_01.11.2017.pdf.
- 4 "Brigadas jurídicas para afectados por sismo," <https://docs.google.com/forms/d/e/1FAIpQLSfrzoCadxEOK8Wgp4MHe5yxIFhUZkbf-Ijk33ieSNmQ3R862A/viewform>, accessed February 28, 2018.