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Tema II:"El notario y la persona física"

Respuestas al Cuestionario

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1. Does the notary have a role to play at the moment of the conception of the physical person, especially in in vitro fertilization?

In our country, unified private law is regulated in the Civil and Commercial Code of La Nación, with entry into force on the first day of the month of August of the year 2015. All this taking into account the modern trends of private law, related to the need to provide a kind of constitutional framework to all the relationships of the people provided in the referred body. It is interesting to note how in our law the paradigm of constitutionalism has been affecting, persistently, in recent years. Proof of this is the change of relevant name in the theory of personality: the law no longer coined the expression "physical person" related to the rigid rule of capacity, determinant of the personality in the nineteenth-century law, to adopt the voice "person human "much more related to the change in the structure of the current law - it is not the center of the heritage itself, but the person itself - comprehensive even of all the very personal rights that make it structurally.

The notarial intervention does not have in principle a place in the conception of the human person. They are logical and mathematical rules to which the code resorts, to determine the time of conception. In terms of filiation, the modern national legislation accepts and divides it into three types: filiation by nature, filiation by adoption and filiation by techniques of assisted human reproduction. Within the latter, it is established that the procreational will must be expressed and protocolized by a notary, and must be registered immediately after the

mother gives birth to the child alive. Many of the answers related to this point, are unfolding in the questions that follow in this questionnaire.

2. Does the notary have a role to play at the time of the birth of the natural person?

In Argentina, the human person subordinates the very imputation of rights and obligations to the birth with life, which, when in doubt, is presumed to exist. In this context, the notarial action or intervention at the time of birth is not foreseen. The whole issue of viability is reserved for medical professionals, who are in charge of the information of the aforementioned birth and the events that may occur with them both foreseen and unexpectedly. However, the Civil and Commercial Code admits as the only mandatory source of legal argument to the Constitution of the Nation (Art. 1 Civil and Commercial Code) which would allow understanding that any notarial action could eventually be required if it is in accordance with the rights and guarantees offered at birth, all treaties with constitutional hierarchy that the nation admits. Finally, it must be said that birth registrations are made in the so-called "People Register" with local (provincial) jurisdiction.

3. What is the role of the notary in the identification of the natural person?

There is no notarial intervention in that sense. This activity is carried out by the National Registry of Persons as the only official body to control and protect the identification and issuance of official documents of the human person. After that, it is the national agency in charge of identity protection. This does not prevent the notary from being required to write a demonstration aimed at the ratification of the identity, and it is his or her duty to inform the pertinent authorities of any type of strange situation that in this sense can be perceived from the interview with the person who wishes to make a statement in his presence.

4. What procedures does the notary use to resolve doubts related to the existence of the natural person and to the identification of the natural person?

As for the existence, we refer to the answers in questions 2 and 3. Regarding the identification of the person, in any notarial work, it is carried forward through the verification of the official documents that each human person exhibits. to perform any act of notarial nature. Even so, current regulations require the notary to prove identity - in this sense, we assimilate it to identification - with what is called "ideal document" what makes us think about the difference between what is appropriate and what is not. is. Indeed, one of the most interesting

assumptions to address is that which puts the notarial work in the care when the display of a document, even if it is legal, does not reach the conditions of suitability. Thus, old age, lack of clarity, careless use that causes material damage to the authentic document of personal identification, among other issues, generates the need that it is not sufficient to prove the identity or identification of the human person. Consequently, the notarial work of prevention obliges the latter to take other precautions, such as the validation of identity with other documents that serve to achieve the knowledge of the identity that is displayed before its presence, that although they are not official, reinforce the prudence that it must be taken at the moment of the documentary notarial creation of the right.

5.What is the role of the notary in the determination of filiation?

The existence of the human person begins with the conception (in the mother's womb) adding the effects in the case of the embryo implanted in the woman's body (Article 19). For our right, "there is no possibility of development of the embryo outside the body of the woman"; even so, those embryos "created" have to have a special legal protection, which must reach our right through special laws (there is no legal protection of embryos established in the body of the Civil and Commercial Code of La Nación).
Accordingly, equality of effects for filiation is regulated, which takes place by nature, through techniques of assisted human reproduction, and adoption (Article 558). In the techniques of assisted human reproduction, the procreational will is express, and must be registered before a notary, and must be registered in the corresponding Civil Registry once the child is born.

6. Does the notary intervene in the acknowledgment of paternity?

In the modern law, the determination of extramarital filiation is foreseen, and the general principle established in the law establishes that it is determined, among other assumptions, by recognition. In this sense, there are several forms of recognition, being provided "the declaration made in a public or private instrument duly recognized." According to the principles established for all continental law, while the public document makes full faith and has executive, evidentiary and conservatory effects, the private instruments to produce effects must be approved judicially. The recognition of filiation is possible in front of a notary, and for this to be effective against third parties, this document must be registered in the Civil Registry. The act of recognition thus

effected produces retroactive effects on the day of conception of the child, being the same irrevocable without the need for acceptance of the acknowledged, and although the same can be challenged by the child at any time. It is also possible the recognition of the unborn child, subjecting the effects of it to birth with life. From the general principles stated in the law, it is inferred that any action related to the recognition of paternity -including, with special cases of challenge- can also be documented in a public notarial instrument, in each case the notary must assume the duties of information to the authorities and / or respective registers according to the nature of the instrumented act.

7. Does the notary perform a preponderant role in the plenary adoption?

None. For a long time, the possibility that the direct delivery in custody of children or adolescents was carried out through a public deed before a notary was established in our country. At present, the current legislation not only prohibits this possibility, but also expressly provides a severe sanction to whoever does it.

8. Does the notary perform a preponderant role in simple adoption?

The answer is similar to the one given in point 7. However, the unified Argentine Code provides for the possibility, in this type of adoption, both of the exercise by the adopted of filiation action against their parents as well as of the recognition of the adopted . Nothing says of the forms of recognition, which gives rise to support, according to the principle of analogy, that in these circumstances, the same could be done by notarial deed.

9. What is the role of the notary in the minor emancipation?
For more than forty years, the minor emancipation was envisaged, with civil and commercial effects, in the notarial headquarters. It was necessary not only the manifestation of the will of the parents to carry it out, but also, the conformity of the person who at the time was a minor. The enactment of the current legal body has definitively eliminated that possibility, being established only for the matrimonial institution.

10. What is the role of the notary in the protection of people who may become vulnerable especially in the drafting:
- of the subsequent protection mandate that allows you to designate the person (s) who will take care of you (you) and / or your assets, if you can no longer do so? It also allows you to organize in advance the

protection of a young minor or a disabled older youth. It is a "personalized" protection, because it´s decided by the person in question (and not imposed by law). That will prevent the opening of a guardianship or conservatorship.

- of the guardianship or conservatorship anticipated by others, that allows parents to anticipate the possible guardianship or curatorship that could be established in the future for their eldest son from the day they themselves decide or can no longer attend to the person concerned? This way they will be able to designate to the tutor or to the possible future co-guardian.

The Civil Code of the Argentine Republic in force from 1869 until August 1, 2015 had few specific provisions on the subject we are dealing with, although it already contained the general principles that, over time, gave rise to what is known as the Right to Self-Protection. The possibility of designating a guardian for minor children was contemplated from the beginning in the aforementioned Code.

As a result of doctrinal works essentially arising in the notarial field, special laws and international treaties incorporated into our normative plexus even with constitutional rank. The idea and the concept that acquired the denomination of Right of Self-protection was received from the VIII Ibero-American Notarial Conferences of Veracruz, Mexico, following the proposal of the Spanish Notary Juan José Rivas Martínez, delegate of his country.

In notarial practice, the granting of Provisions and Stipulations in anticipation of one's incapacity has begun to develop. Normatively, through the Patient's Law, its amendment and its Regulatory Decree, the granting of the Advance Directives of Health was accepted.

Since the reform of the Civil and Commercial Code of the Nation that came into force on August 1, 2015, many of the concepts developed previously by the doctrine and by international treaties were received in the hand of the basic recognition of the capacity and its degrees. This new normative view introduced new concepts that are being developed not only in doctrine and jurisprudence but also in the Society that begins to look at itself in another way. The Notary is an essential subject in the reception and framing of the needs that arise in these areas.

Especially the Preventive Power as the one that can survive the loss of capacity of the grantor or be granted in the event that the decrease in capacity occurs in the future has been a doctrinal construction. As from the new Civil and Commercial Code it is also the doctrine which finds in its forecasts a normative support that admits its validity although it is not expressly contemplated.

The doctrinal proposal has fundamentally found two aspects: a) the one that understands that it is a special case in which the contract of

mandate subsists or is operative in the face of the loss of the full capacity of the grantor; and b) the one that considers that power as a legal tool that can have different businesses and / or underlying acts that cause it and that, if granted based on an act of self-protection, remains in force or is born to legal life, according to the case, due to the lack of supervening capacity, being covered by the current rule.

In the absence of an express normative provision, there is still a doctrinal discussion regarding the extent of the loss of capacity in fact, in the absence of a judicial decision that expressly restricts the capacity or declares a person incapable.

The challenge of the Argentine notary in this aspect is important since the legal tools that admit the granting of this type of powers exist in the current law but require a greater awareness regarding their possibilities. Without prejudice to de *lege ferenda* it would be useful to have more extensive and express rules that facilitate their use.

Regardless of the granting of preventive powers, the Civil and Commercial Code expressly admits the granting of Advance Health Care Directives and the designation of the curator in the patrimonial field, in the event of a future disability or capacity restriction. The granting of these instruments is done in a notary´s office, by public deed. However, with respect to the Advance Health Care Directives, these can be granted by private instrument with signatures certified by a notary or before a competent judge of first instance.

Regarding minors or older children with restriction on capacity, the law expressly provides for the possibility of designating guardians or curators by testament or specific public deed for the purpose.

The assistance and advice of the Notary in these aspects is essential, not only for his intervention in terms of form, but also for the elaboration of the content of the document in such a way as to channel the will and needs of the applicant. At the moment, the notary is the one who provides this kind of advice in the country from the legal point of view, almost exclusively.

11 .- What is the role of the notary in the protection of vulnerable natural persons (minors, illiterate, physically and mentally disabled, women, surviving spouse, homosexuals)?

From the modification of the Civil and Commercial Code, the intervention of the notary in the aforementioned aspects has been expanded.

Regarding minors, the new Code receives the concept of "degree of maturity" and extends its intervention in some aspects, especially in relation to non-property issues. The requirement to listen to the child

and take his opinion into account is today a substantial normative axis and the participation of the notary in this function is essential.

The intervention of the notary, outside the judicial scope, guarantees the exercise of the right to be taken into account in the different decisions that involve them.

Beyond the notary is not an expert in the evaluation of psychic abilities, it does assess the discernment of the grantors in the different acts and collaborates in the participation of those through the advice and the reception of their wills in the notarial document.

Regarding the disabled, the Civil and Commercial Code raises two different concepts that are currently subject to analysis in the legal community, and especially in the notarial field: loss of capacity and disability. The first is related to a judicial decision that determines it, taking into account their degrees in the psychic aspects. The second refers both to the psychic and physical aspect and is not limited to a judicial decision. In particular, it has relevance in the area of succession planning where the possibility of the testator of improving the heir with "disability" is foreseen without it being necessary that it has been objectively determined neither medical nor judicially, being in any case of a subjective assessment of the disposer. In this aspect, the advice of the notary and his collaboration in the writing of the documents that expose and justify the disability, as well as the improvements that are foreseen in consequence, are fundamental.

With respect to women, homosexuals and the transgender collective, the notary collaborates in the current challenge of avoiding all forms of discrimination. Especially in the case of transgender people, the Argentine notary has dealt with the study and development of legal tools that allow the exercise of the rights of this group of people at the time of identification and before the modifications that may arise in the Ownership of the assets.

In the area of the rights of surviving spouses, in the light of the new Code, new possibilities arise in succession planning, an aspect in which the notary occupies a fundamental place. It is in this area that over time the notary strengthens its importance as recipient of wills and adviser of the alternatives of each applicant, having in their hands the possibility of building scenarios according to the needs of each individual. It is here where he develops his capacities as legal "craftsman", being the best positioned operator of the Law to the effect, since his training covers very diverse aspects in the areas of contracts, real rights, inheritance law, registration, corporate, administrative and tax.

12. What is the role of the notary in the search for social cohesion and the protection of human rights?

In recent years, the practice of bringing notarial advice to the Community has been strengthened throughout the country.

In large cities it is usual that, through different channels of communication, Public Notaries Associations bring to the Community free advice. In smaller cities and towns, the notary continues to be the main advisor on family and property legal issues, since it traditionally offers conciliatory alternatives in conflictive areas. It continues to be the operator of the Law capable of offering possibilities that avoid the contentious-judicial scenarios or diminish the undesired consequences of the same.

New technologies are a great challenge in the notarial task of maintaining social cohesion and participating in the protection of human rights. On the one hand, access to technology is not even throughout the national territory, a circumstance that the notary especially takes into account when developing the tools that allow him to be updated without losing personal contact with the Community. On the other hand, the notary continues to be the operator of the Law in which social changes most immediately impact and must adapt to the new realities more quickly than others. It is essential that the notary receives new technologies and incorporates them into their actions, respecting in turn, the times that different areas of the community require in their adaptation.

13. What is the role of the notary in the recognition of legal personality and capacity?

The notarial action in these aspects is fundamental: on the one hand, it continues to be the guarantor of the identification of the petitioners, taking special precautions in their regard, which are not limited exclusively and excluding the verification of the name of the person who appears coincides with the one that arises from the identity document presented. In his performance, he must take special precautions that allow him to arrive at the conviction that who appears is who he claims to be.

As regards legal capacity, in the notarial area this has repercussions in two fundamental aspects: a) the assessment of discernment; b) the legitimacy for the intervention of the intervening subjects.

The notary is not an expert in the field of intellectual capacity. However, its performance is fundamental when evaluating the discernment of the applicant, understood as the understanding of the act or business that it grants. The evaluation of discernment requires the development of a

personalized and immediate activity, which cannot be delegated or replaced by electronic identification systems and which guarantees the exercise of rights by the human person. It is a fundamental task and in some cases practically exclusive of the notary, that allows the walk of the new paradigms that nourish the modern legal systems, where the discernment or its absence are the axes of its operation beyond the different degrees of capacity of the intervening subjects.
On the other hand, the notarial action is fundamental at the moment of valuing the legitimacy of the interveners at the time of granting the acts and / or legal business that they intend, as aptitude for said specific granting.

14. What is the role of the notary in the formalization of marriage, the choice of matrimonial regime?
As for the formalization of marriage, in Argentina the notary has no major intervention. However, his advice and action in the election of the matrimonial patrimonial regime is fundamental.
The majority of the national doctrine understands that the option of the patrimonial regime that will govern the marriage, in light of the provisions of the new Civil and Commercial Code, must be made in public deed, which must be registered in the corresponding Civil Registry offices. The subsequent modification of the matrimonial property regime must also be done in a public deed.
Also, in case the personas married decide to move their domicile to Argentina, they can decide to apply Argentine law as regards patrimonial effects of the marriage. This option has to be formalized in public deed.

15. What is the role of the notary in de facto unions and other forms of union between natural persons?

The fundamental function in the de facto unions to which the Civil and Commercial Code regulates as coexistence unions, is the one of advice about the rights that assist their members and the family and patrimonial consequences that derive from them. In the patrimonial transmissions, the notary gathers from the requesting parties information
about their civil status and their coexistence situation, noting the rights that they receive fundamentally regarding the family home.
Likewise, the advice is of great importance in the field of the Right of Self-protection and in that of succession planning.

16. What is the role of the notary in the consolidation of relationships between natural persons?

By advising on the legal scope of the different personal links, consolidation is facilitated. It is essential to preserve the cohesion and family and social harmony, due notarial advice both in the personal and in the patrimonial. It is there where the notary can deploy the tools that are nurtured in their different areas: Right to Self-protection, protection of minors, choice of matrimonial property regime, family estate planning and / or inheritance.

17. What is the role of the notary in the management of marital crises?

The Argentine legal system admits the division and distribution of marital property in the extrajudicial area, so the notarial function in this aspect is of great importance. The notary collaborates in the distribution and balanced allocation of the family patrimony without neglecting the personal aspects that justify it, having in his hand sufficient tools for the defense of the interests and needs of the most vulnerable in the family environment. Likewise, it has tax knowledge that allows it, with the assistance of expert accounting professionals, to collaborate in the efficient distribution of resources.
This comprehensive view of the problem, allows the notary a different approach from the one that can be offered in isolation by other professionals: lawyers, judges or accountants and this collaborates with the balance and social peace.

18. What is the role of the notary in simplifying separations, in disunity?

In addition to what was indicated in the previous point, the possibility of proceeding with the liquidation, even prior to the divorce of property derived from marriage, helps to make the dissolution of ties more peaceful and less burdensome.
The notarial action also acquires special relevance at the moment of the distribution of assets of people subject to a coexistence union.

19. What is the role of the notary in case of serious and irreversible illness (prior will or living will)?

In this regard, we refer to what was stated in the answer to question number 10.

In 2012, the patient's rights law was modified expressly to allow for the possibility of granting Advance Health Care Directives that specifically provide for the assumption of serious, irreversible, incurable diseases. In this area, the performance and notarial advice is essential.

20. What is the role of the notary in the management of the estate (presentation of the will, validation of the will, distribution of property, resignation, acceptance?

The Argentine legal system does not accept the possibility of processing the probate process in the notarial field in the exercise of voluntary jurisdiction.
Notwithstanding the foregoing, Article 2337 of the Civil and Commercial Code extends the scope of extrajudicial action in the management of relict property, since, if the succession takes place between ascendants, descendants and spouse, the heir is vested with his or her such, from the day of the death of the deceased, without any formality or intervention of the judges, ... and may exercise all the transferable actions that corresponded to the deceased requiring the judicial declaration of heirs exclusively for the transfer of registrable assets. From this it follows that the legitimation for the exercise of personal and property rights in respect of the assets of the hereditary estate, when it is not a matter of transfer of recordable assets, can be carried out in the notarial field.

21. What is the role of the notary in the management of the assets of the natural person?

The notary can collaborate in the current patrimonial planning or inheritance of the human person and is specially qualified for this purpose because of his training in private, commercial and business, family, registry, inheritance and tributary law (the Argentine notary is a withholding agent, perception and tax information) positions it in a privileged place when it comes to understanding and responding to the concerns of the requesting parties.

22. What is the role of the notary in protecting the estate of the natural person?

For the same reasons stated in the previous point, the Argentine notary has important tools at the time of suggesting and offering different options for the protection of the patrimony of the human person.

23. What is the role of the notary in the transfer of the assets of the natural person in life (transmission in the internal order, transmission in an international situation, protection of vulnerable persons)?

In the area of real rights, notarial intervention is essential. Regarding real estate, the public deed is in the formal aspect, necessary title for the constitution, transmission, modification and extinction of real rights.
The public deed is also required for the assignment of hereditary rights, assignment of litigious rights and, in general, all the acts resulting accessories from contracts granted in a public deed.
Regarding some contracts such as donations of registrable assets, the public deed is a requirement ad solemnitatem. Regarding vulnerable people, we refer to what was stated in the answer to question 10.

24. What is the role of the notary in the management of conflicts, in the relationships between natural persons, especially with the use of alternative ways of resolving disputes?

The Argentine notary usually addresses this situation from two different aspects: a) institutional: the majority of the Public Notaries Associations of the country have a center of mediation or arbitration linked to the Association that allows assistance in the extrajudicial resolution of conflicts; b) professional / personal: the permanent collaboration in the resolution of family and even business disputes is inherent in the exercise of the notarial professional activity thanks to the formation of the notary in various areas of law.

25. What is the role of the notary in the prevention of family conflicts, of the resources in the courts?

Although from the normative point of view there are no specific legal provisions that allow the resolution of conflicts in notarial way as a way to decompress and collaborate with the development of judicial activity, in fact, the integral formation of the notary makes an important contribution to avoid the judicialization of conflicts.

26. What is the role of the notary in the management of situations of non-contentious jurisdiction?

We refer to what was stated in answers 25 and 26.

27. Is the notary's intervention in the life of the natural person, in practice, standardized or personalized?
The intervention is fundamentally personalized, taking into account the various possibilities offered by local regulations, together with the innumerable variations and personal variables that occur in daily life, it is impossible to standardize the answers to the needs of the requesting parties, without prejudice to the convenience of incorporating new technologies for greater speed and protection of the circulation of data.

28. What is the role of the notary in the management of difficulties related to the increasing modality of natural persons (migration)?
There is no notarial intervention planned for these cases. Although the issue of migration has its due and justified importance, there is no law in our country that grants the notary a certain competence in these matters, beyond the ones arising from the duties related to suspicious transaction information made by people who do not properly meet the characteristics of legally justified nationality (consular reports, etc.).

29. What is the role of the notary in the management of difficulties arising from the international nature of the life of natural persons?
Due to the constitutionalization of Argentine private law indirectly, from 1994 with the constitutional reform, and directly and forcefully from the enactment of the current Civil and Commercial Code of in force, relevant events preceded by more of a hundred laws and judgments of the Supreme Court of Justice of the Nation that guide the exercise of the right in that sense, the notarial intervention in the matter of advising of questions of private international law was always remarkable. However, at present, the aforementioned coded body contains a series of positive norms of international law that Argentine jurists must comply with. This implies not only the preparation and knowledge of international laws with an impact on our country, but also the adoption of certain and certain exercise principles related to the so-called general principles of law. In fact, they are more frequent than sporadic, those cases in which human persons diversify the patrimonies in several countries, or in matters of family law the trips of children and adolescents abroad with single or single parents, among many others cases, which require the notary to have a truly active participation in this issue. It is no longer only the duty of advice that is involved, but also the drafting of special documents that will have effects in other countries, or the reception and interpretation of international documents that meet all the formal and material requirements that are required in the Destination country. From our point of view, it also charges, on this issue, perhaps as in no

other, the possibility of notarial argumentation of the law. By way of example, the current article 2600 of the unified code in force, which establishes that the provisions of foreign law should be excluded when they infer a solution incompatible with the fundamental principles that govern and inspire the Argentine legal system.

30. What is the role of the notary in the management of the evolution of custom?

As Riccardo Guastini affirms, after the constitutional reference, custom rises as the maximum legal source. It is custom that regulates the regular life of people, sometimes with much more force than the law itself. Unfortunately in our country, the notarial legislation does not allow to advance in this sense, given that, inspired by nineteenth-century law principles, they tend to elevate the form as an essential and undoubted element of exercise. Very much in spite of the fact that in circumstances the custom can have a seat in the notarial document (reference to national dates, special references of each "area" of exercise with different idiosyncrasies) in the practical and daily practice the need to give the documents the destiny that the legislation foresees (above all, those related to the registration in the different registries for which the creation of the right is intended) makes it practically impossible to concretise them effectively, I leave in those cases that pursue as the ultimate purpose or the preconstitution of the evidence or need to declare some fact that from the habit may have in the future, some kind of legal impact.

31. What are the difficulties encountered by the notary in his dealings with the individual?

Our country presents an undeniable reality that would hinder a bit the sociological analysis in which we would be involved if, taking into account the previously established guidelines, an optimum result is reached through the implementation of a determined system of surveys that is sufficiently effective to reveal what is the real situation of the inhabitants that do not reach to satisfy the minimum human development and primary patrimonial. Of the most striking examples that can be reached, the question of access to proper and dignified housing is one of the most worrisome. This reality worries the State and, consequently, the system of government that is occasionally linked to it, and for this reason the subject tends always to become too politicized. Few topics of academic interest are those that can coexist between legal and political theories such as those related to human rights and, within

them, access to housing. It is the reason that there exist, in media like ours, political bodies such as the General Notary Public of Government. Through it, the common man who manages to realize through any means the acquisition of land, access to the right of deed through massive titling, even without understanding too much the benefits that the document itself guarantees, except for the tradition, the customs and the strength of external cartular advertising (within this scheme, it will be easy for you to assimilate the notarial function with the granting and authorization of writing). It is therefore probable that from an imaginary observatory dedicated to analyzing the emerging issues of the sociology of notarial law, it should be noted that the reception of the notarized document among those who persist in reaching the first and elementary development through hard and permanent effort, be welcome only by the external cartular force and not so, so the document contains and establishes, in addition to other visible external signs that end up closing the advertising force of this type of instrumentation (public events, documentary, film, photographic records, among other means of publicity that are understood as inherent in the act of granting and delivering the notarial document). However, the man or woman who withdraws his document, even without having checked it with a close one, and even without having had a system of prior notarial hearings that informed the notarial work to be developed in this regard, do not doubt its content, that that often ignore everything, if it is appreciated from the eminently technical issues. In these cases, the will is not analyzed from the will, but from the wait. There is a will when all contents related to discernment, intention and freedom are projected in the act or in the act. And there is also a will when from freedom, the intention is shown as a desire related to effectiveness, and discernment is exhibited from the trust in a certain function that traditionally relates history to the present under the same criteria and the same postulates. Although the values of justice and security are not observed and developed ab initio, they do exist in the content based on the aforementioned clarifications, and like the truth (faith), they demonstrate that whatever method the which families access to the deed of their home, the truth is that the strength of cartular authenticity is its two projections, living in science or in the consciousness of the general public. In the mass titling, the principle that the notary, by accepting the will of the appearing ones, works clearly to achieve projecting the values in the document that is close to writing, can clearly fail. The failure of the power of external authenticity is reordered from the strength of external cartular advertising, which, if it occurs in a public act, generates even more force than in the sphere of a private notary.

32. Are the services of the notary sufficiently requested by the individual?

Related to the previous questions, it could be affirmed that the known and standardized services of exercise if requested. However, a good portion of the population is totally unaware of the work of the notary. This is due to relevant causes that go beyond the notarial institution itself, such as the situation of poverty that prevents the human person from thinking beyond the minimum unsatisfied needs.

33. Does the notary intervene sufficiently and conveniently in the life of the individual?

This response must necessarily be related to the previous one. It is in the same sense. Of the notarial operations of exercise and those provided for in the legislation can be answered affirmatively. As for what remains to be regulated, it would be advisable to have a greater notarial intervention, which allows greater participation of the same in the social sector. The answers offered around the voluntary jurisdiction are a case to be applied in this sense.

34. Are there any textual weaknesses or practices that hinder the intervention of the notary in the life of the individual?

This response is related to the one previously offered. In relation to the practices, it must be said that in circumstances the state organisms occupy places reserved for notaries, invoking certainly, emergency situations (official deeds, for example). In short, situations common to all of Latin America.

35. Other national specificities?

There are special laws that provide for notarial intervention in specific and specific cases that are directly related to the way of life of our Nation. One of these cases is the one envisaged in what is called dominical regularization, in harmony with similar systems established in other countries, which benefits those cases of occupants who accredit public, peaceful and continuous possession for a determined period of time and a cause lawful, of urban real estate whose main destination is that of a single and permanent house.

Outside of special cases, we understand the notarial document as a source of knowledge, which implies recognizing the principle of effectiveness. In this sense, the legal values assimilated to the good that will emerge from the document are those coming from the objective

public faith (certainty of the right) and subjective (truth in the law), justice (will + guardianship) and security. legal status (static) and predictability (dynamic). Certainty is a highly relevant quality for the law, which allows the jurist interpreter to infer that it contains the truth, another quality of faith to which the author's virtues are especially taken into account. The notarial authority foreseen and ordered in the law presupposes both certainty and truth. This single situation determines that any case not foreseen in the law but destined to protect a fundamental right can be carried out by the notary in respect of its programmatic norms.