

# WORKING GROUP ON ETHICAL RESPONSIBILITY OF THE LEGAL PROFESSION

## RECOMMENDATIONS FOR ACTION

### 1. ADDRESS THE INFORMATION DEFICIT

#### **Main Idea:**

- Each country in the Americas has different rules governing ethics in the legal profession. Some countries have codes of ethics that are effectively applied, whereas in other countries codes of ethics are obsolete or simply do not exist. In order to use the ethical responsibility of the legal profession as a tool to support the “4 Pillars” of legal systems, the following information is needed:
  - o The codes of ethics that exist in each country, or the absence thereof.
  - o Other laws or regulations applicable to the legal profession regarding professional conduct and ethical responsibility (e.g. Sarbanes-Oxley Act in the U.S. and similar laws in other countries).

#### **Course of action suggested by the group:**

- Prepare a compilation of the information obtained regarding the existing rules of ethics in each country.
- The compilation should contain a critical analysis of the existing rules and how they contribute to the objective of improving each legal system.

### 2. INTERPRETING AND APPLYING RULES ON ETHICAL RESPONSIBILITY IN THE LEGAL PROFESSION

#### **Main Idea:**

- Having a code of ethics is important in and of itself, however the interpretation and enforcement of the code is necessary to ensure ethical conduct by all components of the legal profession. It was agreed that in some countries in the Americas, adequate rules already exist and are appropriate to accomplish stated objectives; however (i) the bar associations or tribunals do not ensure their compliance, and/or (ii) the rules are not taught (or effectively taught) in law schools. It was agreed that the following needs to be identified:
  - o How the codes of ethics are viewed by all different components of the legal profession – the bar, tribunals, ethics tribunals (if any), academia and the public.
  - o How the rules regarding ethics are taught in law schools.
  - o How the codes of ethics relate to access to justice and the rule of law in each country.

#### **Course of action suggested by the group:**

- Conduct interviews/surveys with the different components of the legal profession, including deans of the principle laws schools throughout the Americas.
- Information obtained (per country) should be part of the compilation aforementioned.

<p><b>3. DISSEMINATE INFORMATION ON THE RULES GOVERNING PROFESSIONAL ETHICS AND THEIR ENFORCEMENT</b></p>
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**Main Idea:**

- Information is the most valuable tool to promote change.
- Thus, the comparative study of the codes of ethics in each country and the interchange of experiences are tools that enable each country's bar to examine its own rules and determine what can be improved.

**Course of action suggested by the group:**

- Publish a book, a regional compilation, of national rules and codes of ethics, their enforcement and interpretation.
- As a subsequent step, promote conferences in each country to disseminate and discuss the findings, and make improvements in the ethical rules governing the legal profession in each country.

<p><b>4. DEVELOP "MODEL RULES OF PROFESSIONAL RESPONSIBILITY IN THE AMERICAS" AS A ROAD MAP FOR COUNTRIES TO DEVELOP OR IMPROVE UPON EXISTING ETHICAL RULES TO GOVERN THE PROFESSION</b></p>
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**Main Idea:**

- The creation of the "umbrella" bar in the European Union with uniform rules of ethics applicable to all countries within the EU was discussed.
- After making a comparative study of the codes of ethics and their enforcement and interpretation in each country in the Americas, the survey should be leveraged to improve the rules of ethics in the legal profession and their application throughout the region.
- A mechanism should be developed to ensure that codes of ethics governing the profession support and contribute to the pursuit of a democratic society.

**Course of action agreed by the group:**

- Create a methodology of study of the codes of ethics and how they are applied.
- Encourage law schools to use this in their teaching.

- Ensure the active participation and commitment of bar associations involved in these efforts.
- Create awareness of the existence of rules of ethics by informing clients, and the general public, about their rights.
- Examine the value on creating continued legal education programs, such as the CLE in the U.S.