

THE CYRUS R. VANCE CENTER FOR INTERNATIONAL JUSTICE INITIATIVES

STRATEGY SUMMIT FOR THE AMERICAS:
A PROFESSION SUPPORTIVE OF DEMOCRACY
New York ■ March 3 - 5, 2005



*SUMMIT REPORT*¹

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I) Introduction

The Cyrus R. Vance Center for International Justice Initiatives is pleased to present this Report on the *Strategy Summit for the Americas: A Profession Supportive of Democracy*, convened at the New York City Bar (“City Bar”), on March 3, 4 and 5, 2005. More than 60 delegates participated in the meeting, including members of the legal community from Argentina, Brazil, Chile, Colombia, Mexico, Peru, South Africa, Spain and the United States. Participants represented all components of the legal profession in these countries: bar associations, law firms, law schools, non-governmental organizations (NGOs) and the judiciary. Participants also included current and former representatives from the World Bank.

The Vance Center wishes to thank delegates for their substantive contributions to the Summit. The outgrowth of the discussions, which is presented on pages 20-21 of the Report, “Breakout Sessions: Toward A Series of Objectives For the Next 12 to 18 Months”, delineates a course of work through October 2006 for this growing network of collaborators.

The Vance Center also wishes to thank the following individuals for the research, writing and preparation of Summit materials: Virginia Allan, Akira Arroyo, Juan Arteaga, Luis Felipe Arze, Andres Bayly, Fernando Berckemeyer, Alexander Bevan, Mariana Boranga, John Campbell, Pedro Castro Nevares, Roberta Cherman, Sara Clevering, Crystal Doyle, Ursula Fikelepi, Alejandro Gordano, Juan Irarragorri, Felipe Lecaros, Ricardo Lima, Rebevva Marques, Carolina Naboni, Alejandro Padrés, Laura Perez, Anibal Prieto, Shalini Rajoo, Esteban Restrepo, Paula Samper Salazar, Alex Sun, Paula Vieira de Oliveira, Christina Voegele and Silvia N. Ostrower. The Vance Center also wishes to thank Ruth Monroy and Daniel Sherr as interpreters.

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II) Historical Context of the Summit

Previous Access to Justice & Pro Bono Conferences and the Creation of The Cyrus R. Vance Center for International Justice Initiatives

In April 2000 the New York City Bar hosted a conference on the international crisis in access to justice, which brought together lawyers from 20 countries to share strategies for addressing this problem of global proportion. The gathering, “Partnerships Across Borders”, was the beginning of an informal network that has generated a pro bono initiative, which is expanding throughout Latin America. It also led the City Bar to establish the Cyrus R. Vance Center for International Justice Initiatives in 2003 to formalize its commitment to collaboration on these issues of critical importance to the legal profession throughout the world.

Three regional conferences on pro bono have been held in Argentina (2001), Chile (2002), and Brazil (2003), and have been a catalyst for the institutionalization of pro bono in law firms and bar associations. These conferences helped to create working relationships between the private sector and the NGO community; and to link pro bono firmly with access to justice. In Argentina, the Vance Center co-sponsored the 2001 event with the Facultad de Derecho de la Universidad de Palermo. In 2002 in Chile, it partnered with Fundacion Pro Bono. In Brazil in 2003, it collaborated with Instituto Pro Bono.

Five years after the “Partnerships Across Borders” conference, the pro bono initiative has become a region-wide movement, and has also spawned linkages across the southern hemisphere as South African lawyers work to address unmet legal needs through greater use of lawyers in the private sector. There are different ideas as to what pro bono is, how it should be structured, and its relationship to access to justice. The differences between countries are not just in the degree of implementation, but reflect different ideas of what pro bono means and the pressing needs of each country.

* * *

The Vance Center: Mission

Formally inaugurated at a memorial for Cyrus Vance held at the City Bar in October 2002, the City Bar named the Center in honor of Mr. Vance, who served as its President from 1974 to 1976 and as U.S. Secretary of State from 1977 to 1980. In doing so, the City Bar sought to give continuing substance to his view of the role of the lawyer in a democratic society. The Vance Center works with bar associations, law firms, law schools and non-governmental organizations (NGOs) in countries that have emerged from a period of authoritarian government to promote transformation of the legal profession to make it more supportive of a culture of democracy.

* * *

The Strategy Summit and Its Objectives

The Strategy Summit for the Americas was designed to provide an opportunity for leaders of the bar and activists in the pro bono initiatives to come together to examine what has been accomplished in the past five years, and to address the question of where the pro bono movement is going – in the next 18 months; in the next five to ten years. Many issues confront us: what is pro bono’s role in enhancing access to justice; what relationships must be built with the various components in the legal profession – bar associations, law firms, law schools, public interest NGOs, the judiciary, and the State; how do we build bridges between the pro bono initiatives and other justice sector reform efforts; how do we make pro bono a more comprehensive initiative.

These concepts were translated by the Vance Center into an analytical framework called *The Four Pillars of the Legal Profession*. This framework represents the variety of roles that lawyers should play in a democratic society; it emphasizes the interconnectedness of the pillars necessary to achieve rule of law:

- Access to Justice;
- Fair and Equitable Judicial System;
- Fair and Equitable Government Policies; and
- Ethical Responsibility of Lawyers.

The general objectives of the conference were to:

- Reinforce the accomplishments of the previous three conferences on access to justice and pro bono;
- Introduce the Four Pillars framework as an expanded concept of access to justice;
- Reflect on the ways in which the legal profession can marshal its ability to assist in the development of democratic civil societies; and
- Attain commitments from the participants to pursue a series of country-based and regional projects in each of the pillar areas.

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III) The Summit

Summit Format

In an effort to encourage active dialogue between the Summit participants, some of whom were meeting for the first time, the delegations were kept to a maximum number of five participants per country.

The first day of the Summit included introductory remarks followed by a panel presentation and plenary discussion.

The second day was divided into two sessions. The first focused on issues related to pro bono legal work throughout the Americas. The second session consisted of four simultaneous breakout sessions, one on each of the pillars, chaired by a Summit delegate. Participants were divided at random into the four working groups. A minimum of one representative from each country and each component of the legal profession was present in every group. The objective of arranging the format of the meeting in this manner was to encourage plenary discussion in the first sessions; to identify common regional challenge and particular country problems; and then to facilitate the development of objectives and projects to address these challenges. The resulting objectives would guide the work of participants in the following eighteen months, leading up to a fourth regional conference.

The final day was structured in two parts. The first was a plenary meeting during which the chair of each breakout session reported back to the plenary on the objectives agreed to. The second, and final part of the Summit, consisted of a round table discussion between leaders of the bar associations, facilitated by Latin Lawyer magazine. The objective of the

round table was to explore the role of, and encourage greater leadership by, bar associations throughout the region to promote societal responsibility within the legal profession.

* * * * *

Thursday, March 3

Opening Remarks and Presentations On the Role of the Legal Profession In Democratic Societies

Remarks by Summit Chair

Speaker: S. Todd Crider, Committee Chair, Cyrus R. Vance Center for International Justice Initiatives; Simpson Thacher & Bartlett LLP (U.S.)

Opening Remarks

Historical Context for the Event

Speaker: Joan Vermeulen, Executive Director, Cyrus R. Vance Center for International Justice Initiatives (U.S.)

Opening Presentations

What Is the Role of the Legal Profession In A Democratic Society?

Speaker: Juan E. Cambiaso, Member of Executive Committee, Colegio de Abogados de la Ciudad de Buenos Aires; Marval O'Farrell & Mairal (Argentina)

Speaker: Bettina Plevan, President, New York City Bar; Proskauer Rose LLP (U.S.)

The Summit began with remarks by **Todd Crider**. Mr. Crider underscored the seriousness of the Summit's tasks in articulating the responsibility of the legal profession in a democratic society and in acknowledging the role of the profession to not only enforce law but also to serve justice. He stressed that along with the privilege of being a lawyer comes many obligations, and that these would be discussed at length throughout the Summit.

In her opening remarks, **Joan Vermeulen** provided the historical context of the Summit. She described the advances of pro bono efforts in Argentina, Chile and Brazil, some of which, she noted, were direct results of past regional conferences. She stressed the idea that pro bono could not be considered in isolation; it had to be part of a comprehensive access to justice strategy undergirded by the professional responsibility of lawyers to strengthen justice and rule of law. Ms. Vermeulen stressed that access to justice is broader than simply having the services of a lawyer – it includes the public belief in the fairness, transparency and efficiency of the judicial system and public policies, and in the ethical behavior of lawyers and judges, as well as the public understanding of legal rights. She explained that it is from this idea that the concept of the Four Pillars framework emerged – a framework that would guide the Summit discussions. Finally, Ms. Vermeulen underscored the value of collaboration. Collaboration among the different members of the legal

communities – law firms, law schools, legal NGOs and bar associations – is the most effective way to enhance access to justice in democratic societies.

Juan Cambiaso provided an overview of the role lawyers in Argentina have historically played. He alluded to the monumental accomplishments of a handful of lawyers in the creation of national constitutional and legal frameworks. He drew attention to the unjust persecution some lawyers have faced and continue to endure as a result of pursuing unpopular public interest causes. Mr. Cambiaso encouraged Argentines to look to the future and revive the spirit of those exceptional lawyers. Mr. Cambiaso encouraged those participating in the Summit to commit themselves to making a difference. Consequently, he proposed supporting the improvement of justice institutions in the Americas.

First, Mr. Cambiaso encouraged reform in law schools. He stated that seasoned lawyers who support the concept of the four pillars should contribute to the formation of a new generation of lawyers through increased participation on law school governing boards. This, he said, will ensure that new lawyers are committed to the cause of democracy and public matters at the start of their professional lives.

Second, he noted, law firms must look beyond their profit-making interests and offer the knowledge and professionalism of their lawyers to the service of the society they benefit from. Law firms are reservoirs of constitutional principles that ought to be active in public policy development. Law firms, he noted, are often given the opportunity to participate in the drafting process of laws and regulations, which is an opportunity that should not be missed.

Third, he underscored the vital role of bar associations in the transformation effort. Mr. Cambiaso celebrated the roles that some bar associations have played, especially in times of political struggle. They have been active in defending constitutional principles and regulating the profession against corruption. He also explained the work and alliances that the *Colegio de Abogados de la Ciudad de Buenos Aires* has built with NGO's in Buenos Aires.

Fourth, Mr. Cambiaso gave an optimistic account of the current environment in Argentina with regard to NGOs and their role in strengthening democracy and rule of law. He noted that the interaction among law schools, law firms, bar associations and NGOs in Argentina appeared promising, notwithstanding the continued need to improve institutional relationships at both national and sub-national levels.

Bettina Plevan delivered remarks on the role of the legal profession in democratic societies. Ms. Plevan encouraged Summit delegates to recognize the legal profession as a guardian of justice, emphasizing that justice is the foundation of democratic societies. Ms. Plevan organized her presentation around the Four Pillars framework and focused on the historical and current initiatives of the City Bar.

Ms. Plevan recognized that the most challenging of the pillars was that of ensuring the development of a fair and equitable judicial system. Difficulty arises in this area, she noted, because lawyers may be deterred from criticizing or suggesting improvements to the judicial system at the same time that they are obligated to serve the best interest of their clients before the system. This suggests the potential for ethical problems to arise. Ms. Plevan

highlighted the important role that bar associations can play as a safe platform from which lawyers can legitimately, and collectively, act. She provided examples of the City Bar's involvement in this regard: the City Bar's Committee on the Judiciary evaluates candidates for judicial office; the City Bar's continuous advocacy for a state-wide merit-based judicial selection system; and the involvement of the City Bar in monitoring the activity of state and federal courts, and suggesting procedural improvements for the judicial system.

Referring to the Access to Justice pillar, Ms. Plevan underscored the current situation in New York State. There exists an urgent need, she noted, to improve access to justice; consequently, the City Bar has many programs organized through its City Bar Justice Center to help the disadvantaged. These programs include a legal clinic for homeless people; a pro bono consumer bankruptcy project; a refugee assistance project; an immigrant women and children's project; an elder law project; and many others that directly assist New Yorkers in need. The City Bar also runs a legal referral system and a hotline to assist people that have no other resource to find legal help. Ms. Plevan explained that the City Bar undertakes lobbying of federal, state and city governments for appropriate levels of funding for legal aid programs with the understanding that pro bono work done by lawyers is not a substitute for, but a complement to, an adequately funded state legal service system. Ms. Plevan recognized the need to do more – specifically, to secure new ways to encourage lawyers to do pro bono work, including for *pro se* litigants, particularly in housing and family courts.

With regard to public policies, Ms. Plevan noted that all democracies, and especially those in their infancy, are fragile. She recognized the obligation of lawyers to protect and support democracy, and to lead by example. She further elaborated on the City Bar's involvement in the creation of public policies through its more than 160 committees in almost all areas of the law.

Finally, Ms. Plevan commented on the many initiatives that the City Bar has in place with regard to professional ethics. In addition to a hotline that responds to ethical inquiries made by lawyers, the City Bar regularly assesses the Code of Judicial Ethics to ensure that it provides adequate guidance. It assesses the Code of Professional Responsibility on issues as varied as the duty of lawyers in class actions to the representation of debtors in Chapter 7 bankruptcy proceedings.

Plenary Discussion

Following the opening presentations by Mr. Cambiaso and Ms. Plevan, a lively discussion took place on the themes presented. The discussion exposed the different realities in each country with regard to state legal aid programs and the role of the legal profession in fostering democracy and the rule of law. Participants recognized that, historically, lawyers have played a critical role in building and sustaining democratic regimes and including the primacy of the rule of law. It was noted, however, that lawyers today have been, on the average, bystanders in the development of their democracies – that the legal profession has adopted a position of complacency, doing little to get more involved. In many cases, delegates noted, this complacency is a result of the inexperience of practitioners in contending with democratic systems; or due to the fact that some practitioners supported non-democratic regimes in the past, thus making it difficult for them to now participate in

the system. Participants also acknowledged that even the concept of rule of law might only be fully understood following the transition from a non-democratic to a democratic regime. There was consensus among participants on an inherent obligation to recommit the legal profession to public service.

* * *

Presentations and Moderated Discussion: Four Pillars of the Legal Profession In A Democracy

Moderator: Edwin S. Maynard, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Paul, Weiss, Rifkind, Wharton & Garrison LLP (U.S.)

Access to Justice

Speaker: Paola Bergallo, Stanford University School of Law (Argentina)

Fair and Equitable Judicial System

Speaker: Andrés Cuneo Macchiavello, Dean, Facultad de Derecho, Universidad Diego Portales; Cruz & Cía Abogados (Chile)

Fair and Equitable Government Policies

Speaker: Scott Horton, Patterson, Belknap, Webb & Tyler LLP (U.S.)

Ethical Responsibility of the Legal Profession

Speaker: Martín Böhmer, Professor, Universidad de San Andrés (Argentina)

Presentations

Paola Bergallo opened the panel with a presentation on access to justice. She gave a detailed account of the obstacles and barriers to access to justice in Argentina, as well as provided proposals for a more effective approach giving a central role to both the public and private sectors. Ms. Bergallo recognized that in Latin America, while access to justice is widely recognized as a right in constitutions as a value protected by law, there remains a conceptual deficit, or a lack of understanding, of the concept and its implications for the legal community. As a result of this deficit, she stated, the role of each member of the legal community is unclear; this is especially the case for governments and their obligations to ensure adequate access to justice for all members of society. Consequently, governmental programs are under funded and do not sufficiently or reliably address the legal necessities of the population. This creates enormous systemic inefficiencies. Ms. Bergallo noted that bar associations and NGOs have not given primacy to initiatives that foster access to justice and that judicial reforms are not designed with access to justice as a principle objective.

As a result of these combined shortcomings, legal assistance programs currently in place in Argentina are limited in terms of personnel, funding, and reach (geographic and socioeconomic groupings). The programs are also limited in terms of the types of services provided and are overwhelmed by the number of cases requiring attention. These conditions are aggravated by the costs associated with litigation, court and expert fees, and transportation.

Taking these challenges into account, Ms. Bergallo proposed a work agenda that underscores the necessity of making constitutional promises a reality. She supported the idea of opening the debate on the scope of access to justice, and the role each component of the legal community can undertake. Ms. Bergallo stated the need for the profession to confront the problem in a systemic manner in order to avoid further inefficiency. She also called for the development of public policies that support unified civil society initiatives. Finally, Ms. Bergallo stated her support of current efforts underway to institutionalize pro bono work in private law firms and bar associations, and highlighted the fundamental role of law schools in teaching future generations of lawyers about access to justice and the ethical responsibility of the profession.

Andrés Cuneo delivered a presentation on the importance of a fair and equitable judicial system. Mr. Cuneo analyzed the judicial system in Chile and other civil law countries, providing comparisons to systems in the common law tradition. He identified a set of qualities necessary for judicial systems to qualify as fair. He emphasized that these qualities can always be improved upon and that the system's fairness largely depends on the degree to which these qualities exist, and are valued and adhered to.

First, he identified specific ethical and juridical qualities of judges. Judges, he noted, must be mature as persons and be dignified. They must act independently of external pressures and exercise impartiality. Judges must have the ability to create law and must be aware of their role as lawmakers. Even though in civil law countries judicial decisions, are not binding, as they are in countries with a common law legal tradition, judges must be aware of the importance and consistency of their opinions to achieve a desirable degree of systemic transparency, predictability and reliability.

Second, Mr. Cuneo stated that a fair judicial system must have clear and widely accepted rules for judicial selection. Judgeship should not be an unregulated career choice, but be a merit-based system.

Third, a judicial system must be transparent. It should provide opportunities for both public opinion (public scrutiny) and critique from other components of the legal profession.

Fourth, lawyers must be capable of organizing themselves as a group to express concern concerning the judiciary. This collective action is best achieved through bar associations or other formal networks of lawyers capable of representing the profession.

Fifth, Mr. Cuneo stressed the importance of constant, constructive interaction and cooperation between judges and lawyers. He highlighted the fact that, in his experience, judges are generally more willing to interact with the lawyers in academia than with private practitioners. In this same vein, he shared with the Summit delegates his experience as an academic in the creation, alongside judges, of a workshop for their training. The workshop led to the joint drafting and passage by Congressional decree of a bill creating the *Academia Judicial* (Judicial Academy) in Chile. Today, Mr. Cuneo explained, the Judicial Academy is a mandatory training forum for any person wishing to work in the judicial system in the country.

Scott Horton spoke on the role of bar associations in promoting fair and equitable government policies. Mr. Horton used a case-based approach citing the City Bar's work on the U.S. abuse of Guantanamo detainees. Mr. Horton highlighted the City Bar's long history of advocating for human rights, noting that it was an active participant in the process that led to The Hague Convention of 1907 and the Convention Against Torture.

With regard to the Guantanamo matter, the City Bar acted through its International Human Rights and Military Affairs and Justice Committees when it was approached by military attorneys with complaints of mistreatment of detainees and a military policy of immunity for interrogators. The Committees wrote a report on the matter, which was published as an official report of the City Bar. The work of the City Bar also involved a media campaign resulting in the report's broad dissemination via broadcast and print channels. Additionally, Mr. Horton explained, the City Bar monitored internal investigations ordered by the government and worked with corresponding Congressional committees collecting documentation and preparing hearings on the matter. The City Bar played a leading role in obtaining the support of the American Bar Association (ABA) and other bar associations. Finally, the City Bar joined with the Senate Judiciary Committee in opposing the nomination of Alberto Gonzalez, author of the immunity policy for the military, as Attorney General of the United States.

Martín Böhmer delivered remarks about the ethical responsibility of the legal profession. Mr. Böhmer analyzed the modern culture of deliberation and its manifestation in constitutional democracies. He referred to the birth of constitutions as an attempt to solve the flaws of democracies. Among those flaws, he noted that the deliberation process is not open to public participation, only to certain state representatives, and that decisions are taken by majorities and not by unanimity. Mr. Böhmer maintained that, as a way to ameliorate the effects of these flaws, constitutions should provide for agencies responsible for defending marginalized groups, most notably the judicial system. In this regard, the role of the judicial power is to perfect the process democratic deliberation and uphold rules relating to individual and collective rights, including those of minorities. Judges are the guardians of the law and societal agreements and, thus, they must protect them through a coherent construction of the law throughout time. Mr. Böhmer stated that monopolistic access to the judicial system is granted to lawyers in an effort to balance the structural inequality resulting from citizens having to defend themselves before the court system. This monopolistic access is only justified and legitimate, however, if it guarantees equal access by citizens to a quality lawyer, one equal in qualifications to the adversary's attorney. Mr. Böhmer further identified activities by some members of the profession that directly attempt to undermine the ethical exercise of law. Among these corrupt activities are: bribing a judge for a favorable decision; making payments to a judge to accelerate a case through the system; manipulating the system in a way that encourages a certain judge (or trustee in a bankruptcy) to undertake a case; and engaging in ex-parte communication. Mr. Böhmer noted that because there are few full-time law professors, many professors are also practicing lawyers and, as such, they cannot directly criticize in their academic capacity the judicial system and judges without jeopardizing their interests as practitioners, as well as those of their clients. Finally, lawyers often construe case law in contradictory ways with the objective of directly benefiting their clients, resulting in the use of law as a malleable instrument without due consideration of the social value of advancing predictability of the legal system and the rule of law.

Moderated Discussion

The plenary discussion following these presentations focused on how ethics can be leveraged to promote rule of law. A delegate from the United States suggested that there be a joint effort by all components of the profession to cooperate with one another, as well as a commitment to avoid working in a fragmented manner. Some Latin American participants agreed that conditions in the region are different than those in the U.S. and, consequently, actors such as bar associations or justice NGOs either do not yet exist or are not fully fulfilling their missions. The discussion concluded with a debate on the extent of influence a lawyer should exert on a client's decision beyond an explanation of legal consequences. On the one hand, some members of the audience thought that going beyond this reflected a paternalistic approach to representation. Others saw this representation as a duty inherent to the role of lawyers.

* * * * *

Friday, March 4

Presentations and Moderated Discussion

Moderator: Juan Pablo Olmedo Bustos, Co-Founder and Board Member, Fundación Pro Bono; Colombara y Olmedo Abogados (Chile)

The Evolution of Pro Bono In the U.S.

Speaker: Maria L. Imperial, Executive Director, City Bar Justice Center (U.S.)

The Role of the Judiciary In Enhancing Access to Justice

Speaker: The Honorable Juanita Bing Newton, Deputy Chief Administrative Judge for Justice Initiatives and Administrative Judge of the Criminal Court for New York City (U.S.)

Overview of the Pro Bono Landscape In Latin America

Speaker: Martín Zapiola Guerrico, President, Comisión de Trabajo Pro Bono e Interés Público, Colegio de Abogados de la Ciudad e Buenos Aires; Professor, Facultad de Derecho, Universidad Católica de Argentina (Argentina)

Speaker: Marcos R. Fuchs, Executive Director, Instituto Pro Bono (Brazil)

Speaker: Pablo Guerrero Valenzuela, President, Comité Ejecutivo, Fundación Pro Bono; Barros & Errázuriz Abogados (Chile)

Speaker: Alicia Merchant Pulido, General Coordinator, Asociación de Servicios Legales, Barra Mexicana (Mexico)

Presentations

Maria Imperial provided a detailed account of the evolution of pro bono work in the United States dating back to the colonial and pre-revolutionary movements through the

present day. The development of pro bono, she stated, was a result of several factors: an evolution in understanding of what constitutes professional obligation; the evolution of societal needs; and the self-interests of attorneys.

Regarding an evolution in the understanding of what constitutes professional obligations, Ms. Imperial highlighted the profession's recognition of pro bono as a formal system of professional self-regulation, operationalized mainly through bar associations. She explained historical developments dating back to the adoption in 1887 of the first code of ethics in the U.S. by the Alabama State Bar. This code, she noted, delineated pro bono as an inherent professional obligation. Today, the most recent version of the American Bar Association's Model Rules of Professional Conduct explicitly recognizes an obligation of lawyers to do pro bono work.

Ms. Imperial explained that pro bono in the U.S. has also been a product of the evolution of societal needs. As a result of the growing civil rights movement and the development of public interest law, the 1960s and 1970s witnessed a growing interest by lawyers to become involved in the issues of the times through the rendering of pro bono services. While bar associations, including the New York City Bar, helped developed many public interest centers such as Volunteers for Legal Service (VOLS) and New York Lawyers for the Public Interest (NYLPI), law firms too began recognizing pro bono, institutionalizing it through the creation of pro bono committees and internal policies favorable to pro bono, and increasingly interacting with public interest law centers.

Ms. Imperial proceeded to note that attorneys' self-interest was a third factor that contributed to the development of the U.S. pro bono system. She depicted a time in the early 1980s when law firms grew considerably in size, and lawyers' work time increased to meet new goals set for billable hours. At the time, she noted, firms saw pro bono work as a way to give hands-on experience to young associates, providing them with the opportunity to interact with a client from the beginning to end, and also as a way to give attorneys personal satisfaction that some failed to attain in their normative course of work. It was during this period that the ABA encouraged big firms to put forth an institutional commitment to pro bono, and set, with great success, an aspirational goal called The Pro Bono Challenge, which encouraged the annual rendering of 100 hours of pro bono work per lawyer. Law schools began to institute mandatory pro bono courses and the legal press started reporting on and ranking law firms based on their pro bono work.

In closing, Ms. Imperial recognized the existence of spurs to increased pro bono work when the society and the democratic values as a whole are threatened by events such as September 11, 2001.

Judge Juanita Bing Newton delivered remarks on New York's judicial system. She explained how, as part of its mandate, it exercised leadership to address access to justice issues in New York. She elaborated on its commitment to ensure sound administration of the courts and the regulation of lawyers' admission to the bar. Judge Newton detailed the policies, procedures and strategies that New York's judiciary has undertaken to guarantee access to justice, and stressed the idea of innovation in the approach to problem solving. She highlighted the importance of collaboration between all components of the legal community, underscoring the central role of bar associations.

Judge Newton explained two different, equally important and interdependent approaches to access to justice that the court system has adopted. The first deals with the responsibility to guarantee access to the legal process and the court system. The second focuses on the concept of justice as an outcome in the resolution of cases. Regarding access to the court system, Judge Newton discussed the right to counsel available to indigent defendants; she noted, however, that this right pertained only to criminal cases. On civil matters, she noted – because there is no legal right to free counsel – efforts of New York’s court system have focused on collaboration with bar associations to increase the number of lawyers and amount of hours devoted to pro bono work, and to advocate for increased funding for civil legal services.

Judge Newton recognized that response by the courts was both a moral and functional one; she asserted that it had led to a dramatic alleviation of the backlog of the court system. Regarding the need to obtain enhanced outcomes in the resolution of cases, Judge Newton described the innovative approach that New York’s judiciary has implemented. She noted the positive results obtained by the State with regard to establishing new types of courts that more effectively satisfy social needs. Innovative drug courts, for example, are operating in every county in the State with excellent results. They offer rehabilitation treatments in lieu of other traditional sanctions such as incarceration. Judge Newton said that, in many cases, these courts saved lives and gave a chance to many defendants that otherwise would never have been reintegrated into society. New community courts bring justice to historically underserved neighborhoods. They provide social work and educational services to criminal defendants that would otherwise return to the streets following a period of incarceration. New courts have also been created for addressing the pervasive problem of domestic violence. Community dispute resolution centers have been opened. These centers, through mediation, resolve minor disputes, normally among neighbors. Moreover, since their resolutions are enforceable, they provide the public with a higher sense of satisfaction and justice. All these types of courts, Judge Newton explained, have substantially alleviated the burden on the court system, improving service and speeding up case resolution.

Presentations

Martín Zapiola commenced his remarks by stating that, in Argentina, pro bono work had always been referred to by the term “volunteer non-remunerated services”. Mr. Zapiola explained that various lawyers associations had held clinics or developed other mechanisms to assist poor people; however systematic responses have not been developed. He gave two explanations for this. First, there is a cultural tendency toward individualism instead of collectivity. Second, there is a generally accepted understanding that the State is responsible for meeting the legal needs of the poor, and laws exist to ensure government meets this obligation. This perception began to change around 2000 with the economic crisis. At that time, the gap between rich and poor widened significantly, spawning a series of solidarity movements and the creation of related civil society organizations. Previous to this, universities had public interest clinics but individual lawyers and law firms did not traditionally take on public interest cases on a pro bono basis. In response, the *Colegio de Abogados de la Ciudad de Buenos Aires* implemented a public interest clearinghouse and, to date, has undertaken more than sixty cases; twenty of them have been successfully completed.

Mr. Zapiola emphasized that successful public interest litigation is helping trigger lawyers' interest in pro bono. Recently, two judicial cases handled through the *Colegio's* Pro Bono Commission attained high public impact and visibility. One was an access to public information matter related to transparency issues and a stipend being given to senators to pay their staff. This practice had been kept secret by the Senate and was prone to political manipulation. A court ordered that the information be revealed to the public. The other case was on disability rights regarding the implementation of a law allocating a percentage of city-level public employment positions to disabled people. Through work performed by its member law firms, the Commission represented a blind man petitioning for participation in the application process. Not only was the client accepted in the application process, but the City of Buenos Aires was also made to publicly report on its compliance with this law. Now, the *Colegio* wants to encourage the participation of more law firms and replicate the experience in Buenos Aires in other regions of the country.

Marcos Fuchs remarked that pro bono work in Brazil began 30 years ago in the area of criminal justice. *Instituto Pro Bono*, he stated, was established following the 2001 regional conference on pro bono and access to justice held in Argentina. Mr. Fuchs explained that, even though the Brazilian constitution recognizes the right to access to justice, this right is not adequately enforced. He further explained that in the past three years, although *Instituto Pro Bono* has increased the number of lawyers that it works with from thirty-five to over two hundred, this number is negligible considering that there are 200,000 active lawyers in São Paulo State alone. Moreover, the Brazilian Bar Association, the OAB, has restricted pro bono work, thereby affecting *Instituto's* ability to implement a system of direct representation to individuals in need of legal help. Essentially, Mr. Fuchs explained, the OAB implements a program using state funding to remunerate, at a very low level of compensation, lawyers that deliver services to the poor. The program is the State's and the bar association's response to the constitutional decree to provide free legal services to any person who cannot afford a lawyer in criminal or civil matters. The problem with this system is the substandard level of quality of legal services often afforded to the poor and underrepresented. The OAB has a strong lobby in individual lawyers who cannot find work outside of this system. Consequently, pro bono efforts are seen by the OAB as unfair competition to small practitioners. Mr. Fuchs stated that some of the goals of *Instituto Pro Bono* are to expand its reach to other Brazilian states and to continue to encourage the OAB to allow firms to be more flexible about pro bono legal services.

Pablo Guerrero explained that in Chile pro bono work has been a tradition in the legal environment and this is reflected in many legal institutions. Mr. Guerrero explained that *Fundación Pro Bono* was born of the realization that, even though pro bono had been present in law firms, it was not approached in a systematic way, with full recognition of the practice as a desirable law firm goal. He stated that individual lawyers within law firms were doing pro bono work but firms were, institutionally speaking, not. *Fundación's* main objective, Mr. Guerrero explained, is to obtain this recognition of, and commitment to, pro bono work from major law firms in the country. He further explained that *Fundación Pro Bono* started as a Santiago-based clearinghouse of pro bono work focused on assisting civil society organizations with their legal needs. Today, however, it is collaborating with institutions such as the pro bono commission of the Chilean bar association and with government agencies in providing individual representation. An example is the program that matches lawyers with survivors of domestic violence to assist them with their legal needs. Mr.

Guerrero finally remarked that *Fundación* hopes to expand its reach to serve other regions of the country.

Alicia Merchant Pulido gave an overview of the rights provided for in the Mexican Constitution, through the public defender's office, in the areas of access to justice and free legal counsel in criminal and civil matters. Ms. Merchant Pulido acknowledged that the public defender's model, which requires a recipient to have a job to qualify for the assistance, fails to address a significant percentage of needs of the un- and underrepresented. Moreover, she explained, public defenders are overwhelmed, each having more than 300 cases in their dockets.

Ms. Merchant Pulido noted that, in response, some members of the legal community – notably law schools and some bar associations – developed pro bono networks to assist people that either do not have access to public defenders or do not receive quality services. She explained that the *Barra Mexicana's Asociación de Servicios Legales* (ASL), founded in 2000, instituted a rights education program and a clearinghouse that pairs members of the *Barra* with clients that need pro bono consultation. Regarding law firms, however, Ms. Merchant Pulido explained that there continues to be no institutional culture of pro bono, although individual lawyers do provide pro bono services as an act of personal philanthropy. Cases find their way to lawyers through a non-systematic manner, mostly through personal contacts. There is no assessment to date on the number of hours being devoted to pro bono work; clients do not choose counsel based on law firms' pro bono commitment and capabilities; and there are no incentives within the firms for lawyers to carry out pro bono work. In October 2000, in an effort to begin to address this problem, the *Barra* carried out a survey of pro bono work being done by lawyers within firms. Since the establishment of the ASL, they estimate that 700 cases have been taken on a pro bono basis by law firms. There are efforts underway to consolidate firm pro bono work. Finally, Ms. Merchant Pulido said that a top priority of the *Barra* is to undertake an assessment of the legal needs in Mexico as well as to organize civil associations to assume their roles in ensuring access to justice as co-actors with the government.

Moderated Discussion

The discussion focused on two themes: the interpretation of pro bono as unfair competition and the stage at which each country is in the development of pro bono.

Delegates from Argentina, Chile and Mexico stated that they did not consider unfair competition to be a strong argument against pro bono. Unlike Brazil, in these countries there is no legal restriction to practicing pro bono.

Delegates acknowledged that Latin American countries are in the early stages of developing their pro bono networks. Some countries have legal barriers, such as Brazil; however most participants identified the need to change the focus of pro bono from activity undertaken by interested individual lawyers to activity undergirded by profession-wide support. The need to foster awareness in firms that pro bono is a desirable objective was identified. Participants also recognized the need to institutionalize the concept in tandem

with other components of the legal community, such as law schools, bar associations and NGOs.

Delegates agreed that it was important to work on strategies to enhance public perception regarding the credibility of institutions already engaged in pro bono and public interest work. Delegates agreed that in countries where membership to a bar association is mandatory, bars are not using their resources to the best of their abilities to help solve the legal needs of the unrepresented. Delegates agreed on the urgent need to motivate lawyers to perform pro bono work and, specifically in the case of Chile, change the perception that pro bono is a trend adopted from foreign law firms, mainly the United States.

* * *

Plenary Moderated Discussion On the Pro Bono Chain

<p><u>Co-Moderator</u>: Daniel Grunfeld, President and CEO, Public Counsel (U.S.) <u>Co-Moderator</u>: Guillermo Morales Errázuriz, Morales, Noguera, Valdivieso y Besa Abogados (Chile)</p>
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Guillermo Morales invited delegates to discuss the particular role of each component of the pro bono chain in ensuring access to justice. He encouraged participants to consider strategies to foster greater collaboration between the components of the profession. **Dan Grunfeld** commented on the tension between law firms and NGOs in the U.S. He acknowledged the earnings gap between lawyers in private and public practices.

Participants in the plenary began the discussion by acknowledging a gap in earnings between lawyers in private and public interest practices, however emphasized that this has not been a barrier that impedes these lawyers to collaborate and achieve important objectives.

Participants felt that the pro bono environment had developed significantly in the past several years, a claim substantiated, they noted, by the proliferation of pro bono clearinghouses and the increased number of case placements. Participants agreed that, rather than aspiring to develop a “pro bono chain”, Latin America should foster a “pro bono movement” to maximize the role each component of the profession can play. Along this line of thought, participants debated the complexity and fragility of the pro bono movement in its current form and the need for collaboration among components. Delegates from Latin American countries explained that, historically, there had been distrust between law firms and non-governmental organizations arising from ideological differences. It was however noted that in some countries, such as Chile, historically rooted political tensions are fading and greater collaboration between law firms and NGOs is evident. In other countries it was acknowledged that there exists no collaboration at all – these countries, such as Colombia, are at the earliest stages in developing pro bono. The New York delegation said that collaboration between law firms and public interest offices was a phenomenon that had developed over time; however it has played a vital role in meeting access to justice needs. It is a tool that the legal community has employed to counter periods of decreased federal and

state support for access to justice work. This collaboration, with pro bono supplementing government-funded legal assistance programs, is not a replacement for government support but a compliment.

Delegates also discussed the role of law schools in fostering student interest in and commitment to pro bono work. Some delegates felt that, as a general rule in Latin America, law schools are focused on teaching the law, however they are not encouraging pro bono practice or carrying out clinical work. Nevertheless, this attitude is changing and more legal clinics are being developed. For example, a network of public interest law clinics has developed over the last decade among law schools from four countries and is showing interesting results in the role of law schools in furthering access to justice. On the other hand, it was noted that in the U.S., even though many law schools have clinics, they are falling short in teaching students how to deal with actual cases. Some major law schools in the U.S. are piloting innovative programs. Columbia Law School requires pro bono assistance as part of its requirements for graduation and has witnessed promising results – a majority of students now perform more pro bono work than the school’s minimum 40-hour requirement.

Representatives of NGOs working in challenging social environments in Latin America provided yet another perspective. In Brazilian *favelas* it is not enough to provide people with legal solutions and access to lawyers and courts. It is necessary to understand the social environments where people live and the importance of education to achieve social transformation. In this regard, NGOs can act as holistic community organizers to match persons in need with appropriate legal and social service providers while at the same time offering legal education programs. In sum, there was consensus that, before the legal community is able to engage in pro bono activities, it must first develop a thorough understanding of the social realities of poor communities.

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The Role of Multilateral Institutions In Promoting Ethical Responsibility In the Legal Profession

Speaker: Ko-Yung Tung, Former Vice President and General Counsel, World Bank; Morrison & Foerster LLP (U.S.)

Mr. Tung discussed the role of the World Bank in promoting social justice. He stressed the importance of the rule of law in the promotion of economic growth and the fight against poverty in Latin America. He explained the World Bank’s effort to achieve these objectives through legal and judicial reform projects. Mr. Tung presented data on the World Bank’s program and budget for law and justice and public administration projects. Mr. Tung described the distinguishing elements of the Bank’s Legal and Judicial Reform area projects and provided examples of projects financed by the World Bank in Ecuador and Venezuela. He explained the impact of these projects on the national country judicial system and political economy. Mr. Tung also delineated the steps that the World Bank takes to evaluate, structure and implement legal and judicial reform projects. Finally, Mr. Tung encouraged

lawyers to commit themselves to the enhancement of the rule of law in their respective countries, and to be an integral part of civil society.

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Breakout Sessions: Toward A Series of Objectives for the Next 12 to 18 Months²

Access to Justice

Challenges:

- The lack of information on both unmet legal need and available resources to meet that need.
- Unfulfilled constitutional obligations by the State to provide access to justice.
- The need to understand pro bono work as a complement, not a replacement, to government-funded access to justice initiatives.
- The need to expand the pro bono culture in law schools.
- The need to establish coordinating mechanisms such as pro bono clearinghouses.

Course of action suggested by delegates:

- The information deficit should be addressed in two ways. First, through research that identifies legal need at both national and local levels. Second, by gathering reliable information on resources that are being, or could be, leveraged to meet legal needs of the un- and underrepresented.
- The State's constitutional obligation to provide access to justice should be strengthened through strategic collaborations with the legal profession. If such collaboration is not achievable and results not attained, legal action against governments could be considered.
- Other institutions such as corporations with legal departments and notary associations should be invited to join the efforts underway.
- Pro bono systems should be structured in a way that allows all components of the legal community to contribute.
- Pro bono culture in law schools must be advanced, in part, through the development of innovative legal clinics able to attract student participation.
- The legal community should help create, staff and manage pro bono clearinghouses. The legal profession should help create the required infrastructure and train lawyers to provide pro bono legal services.

Fair and Equitable Judicial System

Challenges:

- Judiciaries need to be more independent and transparent; independent in regard to the interface between the judiciary and other government bodies, and transparent in regard to contact between individual members of the judiciary and members of the bar.

² For a list of chairs and delegates in each group refer to "Breakout Session Participants" Annex

- Transparency and accountability are essential.
- Courts need to be more easily accessible, especially to the poor.

Course of action suggested by delegates:

- With regard to independence and transparency, the legal community should help to create mechanisms to bring public scrutiny in the conduct of the judiciary (e.g. the creation of “watchdog” NGOs).
- More debate and openness should be encouraged in the judicial decision-making process, such as the expansion of amicus participation.
- The curriculum guiding the education of judges should reflect these ethical underpinnings.
- Court dockets should be made public to help ameliorate the problem of transparency.
- Court procedures should be simplified.

Fair and Equitable Government Policies

Challenges:

- Ideological differences between diverse components of the legal community, rooted in historical sensitivities, which lead to a lack of cooperation.

Course of action suggested by delegates:

- Devise innovative strategies to facilitate and promote greater collaboration between components of the profession.
- Identify topics on which all components can agree that collective action needs to and can be taken: for example, transparency, access to justice, judicial reform and support of the not-for-profit sector.
- Encourage bar associations to: exercise leadership in facilitating partnerships between firms, law schools and NGOs; disseminate international standards relating to pro bono work within law firms; support associates and partners carrying out direct services and public impact litigation; and work directly with governments on the development of public policy.

Ethical Responsibility of the Legal Profession

Challenges:

- An information deficit exists with regard to the rules that govern the ethical behavior of the legal profession in the Americas.
- The rules vary significantly between countries. While in some countries such rules are elaborate, in others they do not exist.
- The degree of interpretation and enforcement of rules also varies from country to country. Many countries have adequate rules, however, bar associations and/or tribunals are not enforcing them.
- Such rules, if they exist, are not being taught in law schools.
- There is no regional standard for professional practice.

Course of action suggested by delegates:

- A compilation of the existing rules and codes of ethics that govern the legal profession in the Americas should be developed to address the information deficit. The compilation should be a critical analysis. This compilation could be published as a book that also includes an assessment of the interpretation and enforcement of the ethical rules in each country. The method for collecting information should be interviews and surveys with the different components of the legal profession.
- The compilation should be used to organize national conferences to disseminate and discuss the findings. The objective of the conferences should be to improve regulations as they relate to the ethical conduct of lawyers.
- Create a “Model Rules of Professional Responsibility in the Americas”. Law schools throughout the Americas should be encouraged to incorporate the Model Rules into their curriculums. Bar associations should be encouraged to publicly commit to the Rules. A public awareness campaign about the Model Rules should be implemented.
- Countries should explore the development of continuing legal education programs.

* * * * *

Saturday, March 5

Round Table with Bar Leaders³

Argentina: Juan E. Cambiaso, Member of Executive Committee, Colegio de Abogados de la Ciudad de Buenos Aires; Marval O’Farrell & Mairal
Argentina: Martín Böhmer, Professor, Universidad de San Andrés
Brazil: Oscar Vilhena Vieira, Professor, Fundação Getúlio Vargas and Pontificia Universidade Católica de São Paulo; Executive Director, Conectas Human Rights and SUR-Human Rights University Network
Chile: Sergio Diez Arriagada, President, Comisión Pro Bono, Colegio de Abogados de Chile A.G.; Cariola Diez Pérez-Cotapos Abogados
Chile: Sergio Urrejola Monckeberg, Colegio de Abogados de Chile A.G.
Colombia: Alfredo Lewin Figueroa, Lewin & Wills Abogados
Mexico: Gabriel E. Larrea Richerand, Ilustre y Nacional Colegio de Abogados de México; Larrea Abogados
Mexico: Carlos Loperena Ruiz, Second Vice President, Barra Mexicana; Loperena, Lerch y Martín del Campo, S.C.
U.S.: Bettina Plevan, New York City Bar; Proskauer Rose LLP

Co-Moderator: Sebastian O’Meara, Editor-In-Chief, *Latin Lawyer*
Co-Moderator: Alejandro M. Garro, Adjunct Professor of Law & Senior Research Scholar, Parker School of Foreign and Comparative Law, Columbia University School of Law

³ Sponsored by *Latin Lawyer* magazine: www.latinlawyer.com

Participants agreed that bar associations play critical roles in developing and coordinating pro bono in Latin American countries. They agreed that to date the record of successes and shortcomings was mixed, and that more could be done to improve and expand pro bono work. Participants stressed the need to return to the original spirit of public service that led to the founding of national legal professions and bar associations. It was further affirmed that the negative public perception of lawyers is due in great part to the abandonment of this spirit of public service for economic advancement exclusively. It was acknowledged that bar associations had made a transition from being institutions defending the basic principles of rule of law and the public interest to institutions focused on defending the interests of its members above all else.

Participants underscored that many bar associations in the region successfully operate legal clinics or centers that render pro bono services to the poor. Bar associations, it was noted, have to balance their engagement with, and representation of, a diverse constituency: large corporate law firms, medium and small law firms, and solo practitioners. Bar leaders exchanged experiences on how solo practitioners and lawyers at small firms were recruited and retained as members. Some noted a model in which free training courses were offered in exchange for a commitment to undertake at least one pro bono case. This method, it was agreed, has been successful in recruiting lawyers to perform pro bono work.

There was consensus among participants that bar associations are in a unique position to coordinate pro bono efforts between components of the legal community. For example, the Chilean Bar president, Mr. Urrejola, explained a bar association program on domestic violence operating in collaboration with NGOs and government agencies. Mr. Cambiaso, from the Colegio de Abogados de la Ciudad de Buenos Aires, discussed a program in which law firms staff NGOs with attorneys to carry out pro bono cases. In contrast, participants from Brazil expressed their frustration with their bar association's decision to restrict pro bono work.

Delegates discussed in great length the role that other components of the legal community play in fostering pro bono work. While most of the discussion focused on the role of law firms, the involvement of law schools was acknowledged as critical. Participants emphasized the importance of teaching new generations of lawyers about the rich public service tradition of the profession, and the need for their continued involvement in enhancing access to justice, developing fair and equitable public policies, and ensuring a fair judicial process.

In Colombia, where there are no bar associations, participants noted that law schools have taken the initiative and started successful pro bono clearinghouses. To date they have worked with more than twenty-seven law firms.

With regard to the role of law firms, participants agreed that, as resourceful institutions, firms have a major role to play in fostering access to justice. As the practice areas of large corporate law firms normally differ from the types of cases that poor people experience, participants felt that large firms were in a good position to financially support pro bono initiatives, to assist NGOs rather than individual people in need, and to participate in pro bono high-impact litigation. Some participants expressed concern about how to market the idea of pro bono work within profit-driven law firms. Other delegates explained their

success in having partners at firms lead the effort to make it an accepted, respected and encouraged practice. It was stressed that once pro bono does become institutionalized, the quality of service given to pro bono cases must match that of fee-based matters. The need to provide firm-wide recognition to lawyers within the firm providing pro bono services is also important, participants noted. Finally, participants stressed that it is critical to provide equal compensation to lawyers undertaking pro bono cases; a successful program can only be achieved, they agreed, if there exists no economic penalty for performing pro bono work.

In closing, a Latin American delegate observing the Round Table explained that pro bono is, in general, not embedded in the corporate culture of Latin American law firms. He noted, however, that an effort is underway in some countries to have general counsels of large corporations include on corporate social responsibility check lists criteria related to its law firm's commitment to access to justice and pro bono.

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Closing Remarks

<p><u>Speaker:</u> S. Todd Crider, Committee Chair, Cyrus R. Vance Center for International Justice Initiatives; Simpson Thacher & Bartlett LLP (U.S.)</p>
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Todd Crider concluded the Strategy Summit for the Americas, announcing three regional projects that delegates had agreed to. First, that the next regional conference on access to justice and pro bono will take place in Mexico City in late 2006. Mr. Crider expressed his belief that it would be a good opportunity for delegates to meet again to discuss accomplishments and commit to making further strides in the pillar areas. Second, Mr. Crider announced that Summit delegates had agreed to draft a *Pro Bono Declaration for the Americas*. The declaration, he noted, would be a multi-country effort facilitated by the Vance Center, with broad representation from the different components of the profession in each participating country. All countries throughout the Americas would be invited to ratify the Declaration. Finally, Mr. Crider announced agreement by Summit delegates to develop a compilation of ethical codes in the Americas that would lead to the collective drafting of a regional *Model Rules of Professional Responsibility*.

ANNEXES

Summit Program
List of Participants
Breakout Session Participants

Summit Program

Thursday, March 3

- 12:00 to 2:00 P Opening Lunch
Welcome: Bettina Plevan, President, New York City Bar; Proskauer Rose LLP (U.S.)
- 2:00 to 6:30 P Opening Remarks & Presentations
- 2:00 to 3:30 P Remarks
Summit Chair: S. Todd Crider, Committee Chair, Cyrus R. Vance Center for International Justice Initiatives; Simpson Thacher & Bartlett LLP (U.S.)
- Opening Remarks
Historical Context for the Event
Speaker: Joan Vermeulen, Executive Director, Cyrus R. Vance Center for International Justice Initiatives (U.S.)
- Opening Presentations
What Is the Role of the Legal Profession In A Democratic Society?
Speaker: Juan E. Cambiaso, Member of Executive Committee, Colegio de Abogados de la Ciudad de Buenos Aires; Marval O'Farrell & Mairal (Argentina)
Speaker: Bettina Plevan, President, New York City Bar; Proskauer Rose LLP (U.S.)
- Discussion Led By Summit Chair
- 3:30 to 3:45 P Coffee Break
- 3:45 to 5:45 P Presentations & Moderated Discussion: *Four Pillars of the Legal Profession In A Democracy*
Moderator: Edwin S. Maynard, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Paul, Weiss, Rifkind, Wharton & Garrison LLP (U.S.)
- *Access to Justice*
Speaker: Paola Bergallo, Stanford University School of Law (Argentina)
 - *Fair and Equitable Judicial System*
Speaker: Andrés Cuneo Macchiavello, Dean, Facultad de Derecho, Universidad Diego Portales; Cruz & Cía Abogados (Chile)
 - *Fair and Equitable Government Policies*
Speaker: Scott Horton, Patterson, Belknap, Webb & Tyler LLP (U.S.)
 - *Ethical Responsibility of the Legal Profession*
Speaker: Martín Böhmer, Professor, Universidad de San Andrés (Argentina)

- 6:30 to 8:00 P Welcome Reception
Remarks: Bettina Plevan, President, New York City Bar; Proskauer Rose LLP (U.S.)
- 8:30 to 10:30 P Welcome Dinner
Remarks: *Cyrus R. Vance & The Vance Center*
Speaker: Conrad K. Harper, Former President, New York City Bar; Former Legal Advisor (Chief Lawyer), U.S. Department of State (U.S.)

Friday, March 4

- 8:30 to 9:30 A Breakfast for Bar Leaders (by invitation only)
- 9:30 A to 12:30 P Presentations and Discussion
Moderator: Juan Pablo Olmedo Bustos, Co-Founder and Board Member, Fundación Pro Bono; Colombara y Olmedo Abogados (Chile)
- 9:30 to 11:00 A Presentations
- The Evolution of Pro Bono In the U.S.*
Speaker: Maria L. Imperial, Executive Director, City Bar Justice Center (U.S.)
- The Role of the Judiciary In Enhancing Access to Justice*
Speaker: The Honorable Juanita Bing Newton, Deputy Chief Administrative Judge for Justice Initiatives and Administrative Judge of the Criminal Court for New York City (U.S.)
- Overview of the Pro Bono Landscape In Latin America*
Speaker: Martín Zapiola Guerrico, President, Comisión de Trabajo Pro Bono e Interés Público, Colegio de Abogados de la Ciudad e Buenos Aires; Professor, Facultad de Derecho, Universidad Católica de Argentina (Argentina)
Speaker: Marcos R. Fuchs, Executive Director, Instituto Pro Bono (Brazil)
Speaker: Pablo Guerrero Valenzuela, President, Comité Ejecutivo, Fundación Pro Bono; Barros & Errázuriz Abogados (Chile)
Speaker: Alicia Merchant Pulido, General Coordinator, Asociación de Servicios Legales, Barra Mexicana (Mexico)
- Discussion
- 11:00 A to 11:15 A Coffee Break
- 11:15 A to 12:30 P Plenary Moderated Discussion: *The Pro Bono Chain*
Co-Moderator: Daniel Grunfeld, President and CEO, Public Counsel (U.S.)
Co-Moderator: Guillermo Morales Errázuriz, Morales, Noguera, Valdivieso y Besa Abogados (Chile)

12:30 to 2:00 P Lunch
The Role of Multilateral Institutions In Promoting Ethical Responsibility In the Legal Profession
Speaker: Ko-Yung Tung, Former Vice President and General Counsel, World Bank; Morrison & Foerster LLP (U.S.)

2:00 to 4:00 P Breakout Sessions: Toward A Series of Objectives for the Next 12-18 Months

- *Access to Justice*
Chair: Oscar Vilhena Vieira, Professor, Fundação Getúlio Vargas and Pontifícia Universidade Católica de São Paulo; Executive Director, Conectas Human Rights and SUR-Human Rights Univeristy Network (Brazil)
- *Fair and Equitable Judicial System*
Chair: Roberto Saba, Executive Director, Asociación de Derechos Civiles (Argentina)
- *Fair and Equitable Government Policies*
Chair: Antonia E. Stolper, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Shearman & Sterling LLP (U.S.)
- *Ethical Responsibility of the Legal Profession*
Chair: Mary C. Daly, Dean, St. John's University School of Law (U.S.)

*What have we discussed that can be applied to what we do next?

Objectives to be accomplished in the next 12 to 18 months

- *How do different components of the legal profession support each others' efforts to reform the legal profession and system?*
- *How to move forward within each country?*
- *How to support reform in the Americas across borders?*
- *How to support emerging efforts in other countries in the Americas?*
- *How can the bar associations and profession mutually support one another throughout the region?*

4:00 to 4:30 P Coffee Break

4:30 to 6:00 P Break Out Session: Chairs & Rapporteurs of Groups 1, 2 , 3 and 4 meet to prepare for Saturday presentations

Meeting of Bar Association Presidents & Representatives (by invitation only)

Saturday, March 5, 2005

9:00 A to 12:30 P Closing Sessions

9:00 to 10:30 A Reporting Back: Objectives – An Agenda for Action
Moderator: Joan Vermeulen, Executive Director, Cyrus R. Vance Center for International Justice Initiatives (U.S.)

- Oscar Vilhena Vieira, Professor, Fundação Getúlio Vargas and Pontifícia Universidade Católica de São Paulo; Executive Director, Conectas Human Rights and SUR-Human Rights Univeristy Network (Brazil)
- Roberto Saba, Executive Director, Asociación de Derechos Civiles (Argentina)
- Antonia E. Stolper, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Shearman & Sterling LLP (U.S.)
- Mary C. Daly, Dean, St. John's University School of Law (U.S.)

10:30 to 10:45 A

Coffee Break

10:45 A to 12:15 P

Latin Lawyer Round Table With Bar Leaders

Argentina: Juan E. Cambiaso, Member of Executive Committee, Colegio de Abogados de la Ciudad de Buenos Aires; Marval O'Farrell & Mairal

Argentina: Martín Böhmer, Professor, Universidad de San Andrés

Brazil: Oscar Vilhena Vieira, Professor, Fundação Getúlio Vargas and Pontifícia Universidade Católica de São Paulo; Executive Director, Conectas Human Rights and SUR-Human Rights Univeristy Network

Chile: Sergio Diez Arriagada, Sergio Diez, President, Comisión Pro Bono, Colegio de Abogados de Chile A.G.; Cariola Diez Pérez-Cotapos Abogados

Chile: Sergio Urrejola Monckeberg, Colegio de Abogados de Chile A.G.

Colombia: Alfredo Lewin Figueroa, Lewin & Wills Abogados

Mexico: Gabriel E. Larrea Richerand, Ilustre y Nacional Colegio de Abogados de México; Larrea Abogados

Mexico: Carlos Loperena Ruiz, Second Vice President, Barra Mexicana; Loperena, Lerch y Martín del Campo, S.C.

U.S.: Bettina Plevan, New York City Bar; Proskauer Rose LLP

Co-Moderator: Sebastian O'Meara, Editor-In-Chief, *Latin Lawyer*

Co-Moderator: Alejandro M. Garro, Adjunct Professor of Law & Senior Research Scholar, Parker School of Foreign and Comparative Law, Columbia University School of Law

12:15 to 12:30 P

Closing Remarks

Speaker: S. Todd Crider, Committee Chair, Cyrus R. Vance Center for International Justice Initiatives; Simpson Thacher & Bartlett LLP (U.S.)

List of Participants⁴

Delegates

Argentina

Paola Bergallo, Stanford University School of Law

Martín Böhmer, Professor, Universidad de San Andrés

Juan E. Cambiaso, Member of Executive Committee, Colegio de Abogados de la Ciudad de Buenos Aires; Marval O'Farrell & Mairal

Roberto Saba, Executive Director, Asociación por los Derechos Civiles

Martín Zapiola Guerrico, President, Comisión de Trabajo Pro Bono e Interés Público, Colegio de Abogados de la Ciudad e Buenos Aires; Professor, Facultad de Derecho, Universidad Católica de Argentina

Brazil

Marcio M. S. Baptista, Tozzini, Freire, Teixeira e Silva Advogados

Pedro D. Strozemberg, Program Coordinator, Mediação de Conflitos, Viva Rio

Oscar Vilhena Vieira, Professor, Fundação Getúlio Vargas and Pontifícia Universidade Católica de São Paulo; Executive Director, Conectas Human Rights and SUR-Human Rights University Network

Chile

Andrés Cuneo Macchiavello, Dean, Facultad de Derecho, Universidad Diego Portales; Cruz & Cía Abogados

Sergio Diez Arriagada, President, Comisión Pro Bono, Colegio de Abogados de Chile A.G.; Cariola Diez Pérez-Cotapos Abogados

Pablo Guerrero Valenzuela, President, Comité Ejecutivo, Fundación Pro Bono; Barros & Errázuriz Abogados

Guillermo Morales Errázuriz, Morales, Noguera, Valdivieso y Besa Abogados

Sergio Urrejola Monckeberg, President, Colegio de Abogados de Chile A.G.

Colombia

Enrique Álvarez Posada, José Lloreda Camacho & Co.

Helena Alviar García, Director, LLM Program, Facultad de Derecho, Universidad de los Andes

Alfredo Lewin Figueroa, Lewin & Wills Abogados

Paula Samper Salazar, Gómez-Pinzón Linares Samper Suárez Villamil Abogados

Mexico

Carlos Creel, Creel, García-Cuellar Y Muggenburg, S.C.

Thomas Heather, Ritch, Heather y Mueller, S.C.

Gabriel E. Larrea Richerand, President, Ilustre Y Nacional Colegio de Abogados de México; Larrea Abogados

Carlos Loperena Ruiz, Second Vice President, Barra Mexicana; Loperena, Lerch y Martín del Campo, S.C.

Alicia Merchant Pulido, General Coordinator, Asociación de Servicios Legales, Barra Mexicana

⁴ For delegate biographies refer to <http://www.vancecenter.org>

South Africa

Taswell Deveril Papier, President, The Law Society of the Cape of Good Hope; Sonnenberg Hoffmann & Galombik

Spain

Fernando Bejerano Guerra, President's Representative, Unión Iberoamericana de Colegios de Abogados

Nazareth Romero, Coordinator, Internacional Relations Department, Ilustre Colegio de Abogados de Madrid

Rafael Vargas, Uría, Menéndez Y Cia., Abogados

U.S.

Bettina Plevan, President, New York City Bar; Proskauer Rose LLP

Ellen P. Chapnick, Dean, for Social Justice Initiatives, Columbia University School of Law

S. Todd Crider, Committee Chair, Cyrus R. Vance Center for International Justice Initiatives; Simpson Thacher & Bartlett LLP

Mary C. Daly, Dean, St. John's University School of Law

Jeffrey B. Gracer, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Torys LLP

Daniel Grunfeld, President and CEO, Public Counsel

Marcello Hallake, Chair, Inter-American Affairs Committee, New York City Bar; Coudert Brothers LLP

Francesca Lavin, Cleary, Gottlieb, Steen & Hamilton

Edwin S. Maynard, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Paul, Weiss, Rifkind, Wharton & Garrison LLP

Juanita Bing Newton, Deputy Chief Administrative Judge for Justice Initiatives and Administrative Judge, Criminal Court for New York City

Antonia E. Stolper, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Shearman & Sterling LLP

Ko-Yung Tung, Former Vice President and General Counsel, World Bank; Morrison & Foerster LLP

Invited Guests

Marcos Roberto Fuchs, Executive Director, Instituto Pro Bono (Brazil)

James A. Goldston, Executive Director, Open Society Justice Initiative, Open Society Institute (U.S.)

Conrad K. Harper, Former President, New York City Bar; Former Legal Advisor (Chief Lawyer), U.S. Department of State (U.S.)

Scott Horton, Patterson, Belknap, Webb & Tyler LLP (U.S.)

Maria L. Imperial, Executive Director, City Bar Justice Center (U.S.)

Gustavo D. Maurino, Executive Director, Asociación Civil para la Igualdad y la Justicia (Argentina)

Juan Pablo Olmedo Bustos, Co-Founder and Board Member, Fundación Pro Bono; Colombara Y Olmedo Abogados (Chile)

Esteban Restrepo, Gómez-Pinzón Linares Samper Suárez Villamil Abogados (Colombia)

Jose Ugaz, Senior Officer of Institutional Integrity, World Bank (Peru)

Rapporteurs

Felipe Lecaros (Chile), Visiting Attorney, Cyrus R. Vance Center for International Justice Initiatives;
Summit Rapporteur

Fernando Berckemeyer (Peru), Estudio Oalachea; International Associate,
Shearman and Sterling LLP

María Carolina Naboni (Argentina), Visiting International Attorney, Morrison & Foerster LLP

Pedro Castro Nevares (Argentina), Estudio Beccar Varela

Paula Vieira de Oliveira (Brazil), Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga Advogados

Facilitators

Alejandro M. Garro, Adjunct Professor of Law & Senior Research Scholar, Parker School of Foreign
and Comparative Law, Columbia University School of Law

Sebastian O'Meara, Editor-In-Chief, Latin Lawyer

Breakout Session Participants

Access to Justice

- Chair: Oscar Vilhena Vieira, Professor, Fundação Getúlio Vargas and Pontifícia Universidade Católica de São Paulo; Executive Director, Conectas Human Rights and SUR-Human Rights University Network (Brazil)
- Rapporteur: María Carolina Naboni (Argentina), Visiting International Attorney, Morrison & Foerster LLP
- Martín Zapiola Guerrico, President, Comisión de Trabajo Pro Bono e Interés Público, Colegio de Abogados de la Ciudad e Buenos Aires; Professor, Facultad de Derecho, Universidad Católica de Argentina (Argentina)
- Pedro D. Strozemberg, Program Coordinator, Mediação de Conflitos, Viva Rio (Brazil)
- Sergio Diez Arriagada, President, Comisión Pro Bono, Colegio de Abogados de Chile A.G.; Cariola Diez Pérez-Cotapos Abogados (Chile)
- Paula Samper Salazar, Gómez-Pinzón Linares Samper Suárez Villamil Abogados (Colombia)
- Alicia Merchant Pulido, General Coordinator, Asociación de Servicios Legales, Barra Mexicana (Mexico)
- Taswell Deveril Papier, President, The Law Society of the Cape of Good Hope; Sonnenberg Hoffmann & Galombik (South Africa)
- Nazareth Romero, Coordinator, Internacional Relations Department, Ilustre Colegio de Abogados de Madrid
- Daniel Grunfeld, President and CEO, Public Counsel (U.S.)
- Francesca Lavin, Cleary, Gottlieb, Steen & Hamilton (U.S.)

Fair and Equitable Judicial System

- Chair: Roberto Saba, Executive Director, Asociación de Derechos Civiles (Argentina)
- Rapporteur: Fernando Berckemeyer (Peru), Estudio Oalachea; International Associate, Shearman and Sterling LLP
- Marcio M. S. Baptista, Tozzini, Freire, Teixeira e Silva Advogados (Brazil)
- Andrés Cuneo Macchiavello, Dean, Facultad de Derecho Universidad Diego Portales; Cruz & Cía Abogados (Chile)
- Juan Pablo Olmedo Bustos, Co-Founder and Board Member, Fundación Pro Bono; Colombara y Olmedo Abogados (Chile)
- Alfredo Lewin Figueroa, Lewin & Wills Abogados (Colombia)
- Thomas Heather, Ritch, Heather y Mueller, S.C. (Mexico)
- Hon. Juanita Bing Newton, Deputy Chief Administrative Judge for Justice Initiatives and Administrative Judge, Criminal Court for New York City (U.S.)
- Jeffrey B. Gracer, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Torys LLP (U.S.)
- Marcello Hallake, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Thompson & Knight LLP (U.S.)
- Edwin S. Maynard, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Paul, Weiss, Rifkind, Wharton & Garrison LLP (U.S.)
- Ko-Yung Tung, Former Vice President and General Counsel, World Bank; Tung Group (U.S.)

Fair and Equitable Government Policies

- Chair: Antonia E. Stolper, Committee Member, Cyrus R. Vance Center for International Justice Initiatives; Shearman & Sterling LLP (U.S.)
- Rapporteur: Pedro Castro Nevares (Argentina), Estudio Beccar Varela
- Juan E. Cambiaso, Member of Executive Committee, Colegio de Abogados de la Ciudad de Buenos Aires; Marval O'Farrell & Mairal (Argentina)
- Gustavo D. Maurino, Executive Director, Asociación Civil para la Igualdad y la Justicia (Argentina)
- Marcos R. Fuchs, Executive Director, Instituto Pro Bono (Brazil)
- Pablo Guerrero Valenzuela, President, Comité Ejecutivo, Fundación Pro Bono; Barros & Errázuriz Abogados (Chile)
- Guillermo Morales Errázuriz, Morales, Noguera, Valdivieso y Besa Abogados (Chile)
- Esteban Restrepo, Gómez-Pinzón Linares Samper Suárez Villamil Abogados (Colombia)
- Gabriel E. Larrea Richerand, President, Ilustre y Nacional Colegio de Abogados de México; Larrea Abogados (Mexico)
- Jose Ugaz, Consultant, Integrity Department, World Bank (Peru)
- Fernando Bejerano Guerra, President's Representative, Unión Iberoamericana de Colegios de Abogados (Spain)
- Scott Horton, Patterson, Belknap, Webb & Tyler LLP (U.S.)
- Maria L. Imperial, Executive Director City Bar Justice Center (U.S.)

Ethical Responsibility of the Legal Profession

- Chair: Mary C. Daly, Dean, St. John's University School of Law (U.S.)
- Rapporteur: Paula Vieira de Oliveira (Brazil), Mattos Filho, Veiga Filho, Marrey Jr. e Quiroga Advogados
- Paola Bergallo, Stanford University School of Law (Argentina)
- Martín Böhmer, Professor, Universidad de San Andrés (Argentina)
- Sergio Urrejola Monckeberg, President, Colegio de Abogados de Chile A.G. (Chile)
- Enrique Álvarez Posada, José Lloreda Camacho & Co. (Colombia)
- Carlos Creel, Creel, García-Cuellar y Muggenburg, S.C. (Mexico)
- Carlos Loperena Ruiz, Second Vice President, Barra Mexicana; Loperena, Lerch y Martín del Campo, S.C. (Mexico)
- Bettina Plevan, President, New York City Bar; Proskauer Rose LLP (U.S.)
- Ellen P. Chapnick, Dean of Social Justice Initiatives, Columbia University School of Law (U.S.)
- S. Todd Crider, Committee Chair, Cyrus R. Vance Center for International Justice Initiatives; Simpson Thacher & Bartlett LLP (U.S.)