Running Head: LAW

Ethics for Legal Professionals

[Name of the Writer]

[Name of the Institution]

Ethics for Legal Professionals

# Introduction

The operators of law in a community are those who participate in the construction of legal discourse. They interpret and apply the rules of law created by free democratic deliberation. They discriminate the public sphere of the private one avoiding its confusion (Maurer and Mischler, 2014, p.96). They process and resolve the conflicts of interests and powers in their communities, since they have been given the monopoly of the public service of justice. Are the responsible for curbing the invisible illegal and extralegal powers that undermine democratic institutions. It is through argumentation and the exercise of rhetorical discourse that the art of persuasion is learned. In deliberative democracy, the rhetorical exercise is combined in the dialogue that takes place between legal operators, in the different roles they occupy, in the different conflict resolution techniques. Thus, judges, prosecutors, defenders, counselors, lawyers, participate in the construction of the best available legal discourse. The best decision will be the product of the best arguments designed by legal professionals, put to dialogue in dispute resolution processes (Maurer and Mischler, 2014, p.96).

# Reality of Ethics for Legal Representatives

In reality, both independence and impartiality in judicial activity, do their excellence. They are indisputable values ​​of the function (Maurer and Mischler, 2014, p.96). While the motivation turns out to be a procedural methodological instrument indispensable for the validity of the judicial resolutions. While these guiding principles are part of judicial ethics in a broad sense, and have a favorable impact on public confidence in the judiciary, they must be complemented by a series of public and private behaviors with a public transcendence that demonstrate values, such as courtesy, decorum, honesty, transparency, responsibility, honorability, among others. It is not about demagogy towards society, but about the judicial institution, and especially the magistrates, maintaining an unblemished image, typical of the function entrusted to the Rule of Law (Koehler and Pemberton, 2018, p.26). Be independent, impartial, transparent and, in addition, pretend to be. Appearance is what is seen, is what phenomenologically is, and what, ultimately, forms the opinion and public confidence.

# Conflict Resolution Mechanism

The conflict resolution mechanisms in modern democracies tend to be increasingly participatory. Negotiations and mandatory mediations, jury trials, neighborhood justice, are some examples. The legal operators assume new roles in the dynamics of construction of legal discourse in these participatory techniques of conflict resolution: mediating lawyers and negotiators,  lawyers who dialogue with non-technical juries, lawyers, orators from the increasing orality of the processes (Koehler and Pemberton, 2018, p.26).  The procedural norms and the ethical-professional design the modes of that dialogical construction of law (Menkel et al, 2016, p.3). The legal professionals who monopolize the justice service of their Citizens must adhere to the procedural and ethical-professional rules that shape dispute resolution processes and that guarantee the respect and realization of human rights in their communities (Hariharan et al, 2016, p.7). When they do not, the rules of law are no longer accessible to their recipients, nor do they show a certain regularity in their application; legal tools no longer provide remedies to the problems that the  society raises in specific cases; these tools become functional to certain groups that receive their benefits to the detriment of others, and are no longer oriented towards the common good; when the operators of right they forget the purpose with which those rules have been conceived and assign them uses that deviate from the goals proposed by the collective debate, there is a distrust in the justice service they provide. They look
then affected the budgets of democratic deliberation: publicity, generality, universability, facticity and the purpose of the rules agreed upon therein (Hariharan et al, 2016, p.7).

# Explaining Breach of Rules

The breach of the rules that give frame to this judicial debate brings with it dire consequences for the justiciable. The jurisdictional debate is the last redoubt to which people entrust the recognition of their rights, which, being violated, await the results of that deliberation to find their protection (Montgomery et al, 2017, p.78). If that debate does not follow the rules that ensure equal information among all the people involved, access to legal representation of all subjects interested in that debate, the guarantee of freedom and independence of those who participate in that deliberative game , by enunciating some of the principles of professional ethics that regulate this process, unfailingly the defendant will not find justice in the case brought to this discussion. If the defendant does not find an adequate response to his claim, by defect in any of the procedural rules (whether they are rules of the processes or those derived from professional ethics), his right will continue to be violated (Gallagher and Hodge, 2016, p.45). If there is a violation of a right then it is not complying with any of the substantial rules obtained from the democratic deliberation. Consequently, the social validity of the The right will be affected, and the justice service of the community will lose credibility and diminish its legitimacy. At the Conference of the Supreme Courts of the Americas in 2009, which took place in Buenos Aires, on September 3 and 4, in the panel on Organization and Management of the Judiciary, the President of the Court (Forrow et al, 2017, p.112).

# Ethics of Legal System in the Political Era

In a political era in which greater "democratization of justice" is called for, the opening of this power to society and a critical attitude to its action can not be conceived, for example, a Judge who uses inappropriate forms, authoritarian, discourteous treatment , bad manners and devaluates the agents that provide collaboration, lawyers and people in general, or questions in certain judicial cases, because the judicial task demands a singular exemplarity of life, that transcends the strictly functional performance of the position (Carbo and Almagno, 2016, p.12). The "good conduct" that magistrates demand our Magna Carta covers the full and respectful performance of magistrates, inside and outside the court, and exceeds the limited scope of the rules, to embrace ethical principles and education (Pollock-Byrne et al, 2018, p.140). In this sense, it is appropriate at this stage to oppose the two antagonistic positions that exist regarding *judicial ethics* : On the one hand, those who believe that the specific deontology of the judicial function is a fundamental part of the exercise of the judiciary, an opinion that I share; and, on the other hand, those who believe that the judge should only limit himself to applying the law, relativizing moral values. That is to say, it is a matter of defining if judicial ethics is exhausted in terms of norms; if the concept of "good judge" is left to be defined exclusively in normative terms, or if, on the contrary, it requires the development of certain character traits that constitute judicial virtues that, on the other hand, can not be very different from those that characterize to other professions or social practices, without prejudice to the particularities of the judicial function (Carbo and Almagno, 2016, p.12).

# Criterion for Legal Ethics

Even more broad and clear is the criterion adopted by the cited code at the moment of enunciating its principles, stating that citizens deserve to submit their controversies to reliable judges . Here he not only refers to courtesy, but also to decorum, defining such magistrates as those known for their dedication to the magistracy as a service, their contraction to judicial work, their own criteria in the assessments, their diligence, prudence, sensitivity and probity. both in the decisions and actions, the moderation in the passions, a measured and affable treatment with the defendants, their honorability in public and private life, and a marked vocation for study, updating and professional improvement (Posner et al, 2016, p.1921). The correct concept of Judge Reliable poured into the Cordovan Code of Ethics makes it clear that it is not enough with the contraction to work and training-vitally important, but that, in addition, the magistrate must proclaim the good treatment and lead a public life and unimpeachable private. On the other hand, from the ethical duty of courtesy certain derivations arise (Singhapakdi et al, 2018, p.153). Thus, the Ibero-American Code, states thatthe judge must provide explanations and clarifications that are requested, to the extent that they are appropriate and appropriate (Article 50); and that within the scope of its court, the judge must relate to officials, assistants and employees without incurring -or pretending to do so- in favoritism or any type of arbitrary conduct (Article 51); and demonstrate a tolerant and respectful attitude toward criticism directed at their decisions and behavior (article 52).

# Code of Ethics for Magistrate

In the same line of thought, the Code of Ethics for Magistrates and Officials of the Judicial Branch of Córdoba completes its chapter on Social Rules referring to the assistance of judges, dignity and modesty. In this sense, it establishes thatmagistrates must attend their offices and take care that they are maintained in conditions that safeguard their dignity and decorum. In addition, they must cultivate their personal virtues and ensure their good name and honor in all areas of their personal development; showing in his public and private actions with public transcendence, prudence and sobriety in his words, attitudes and behaviors (Strike and Ternasky, 2016, p.1). Establishes, in terms of decorum, the ethical duty to be prudent regarding the places and people they frequent, refusing those that may raise suspicions about their impartiality, dedication or probity, as well as involving them in violent disputes, or exposing them to situations that go to the detriment of its functional dignity or the prestige that belongs to the Judicial Power (Valentine and Fleischman, 2018, p.301). While it seems that a code without sanctions is useless; or as Ihering used to say about a Law without coercion: a fire that does not burn, a light that does not shine. It does not have to be like that (Werth et al, 2018, p.12). The code of ethics serves to make judges have to reflect on their own practice, for preventive and guidance purposes; to make explicit certain criteria that, in fact, inspire its practice and consequently to guide it; and finally to facilitate (to others) justified criticism of their profession based on the unification and drafting of a basic consensus regarding social morality, with ethical principles and irreplaceable ethical virtues that officials and magistrates can not ignore (Van Hoose and Kottler, 2016, p.23).

# Conclusion

The certain thing is that the Magistrates in particular, and the organisms linked to the judicial function in general (Judicial Power and Public Ministries) can not be other people's to the process of modernization own of the times in which we lived.A Judicial Power that is far from society can no longer be conceived. The Judge *"owner of his office"* who, in solitude, dictates sentences and only through them addresses the company. Judge who knows the law, but little to those to whom it applies. That intentionally generates distance from those who do not exercise the magistracy, as a victim and victimizer of a judicial divinism caused by the Judge himself and the environment that surrounds him. Submissive and complacent employees. Friends of power. Huge offices and extravagant furniture. The Judge who believes he is *Justice.* On the contrary, it is about progress towards judicial republicanism: men and women trained, transparent, honest in every act of their lives, to whom the State has given them responsibility, and the honor of providing the transcendental *public service* of imparting justice.

References

Carbo, T. and Almagno, S., 2016. Information ethics: The duty, privilege and challenge of educating information professionals.

Forrow, L., Arnold, R.M. and Frader, J., 2017. Teaching clinical ethics in the residency years: preparing competent professionals. *The Journal of medicine and philosophy*, *16*(1), pp.93-112.

Gallagher, A. and Hodge, S. eds., 2016. *Ethics, law and professional issues: a practice-based approach for health professionals*. Macmillan International Higher Education.

Hariharan, S., Jonnalagadda, R., Walrond, E. and Moseley, H., 2016. Knowledge, attitudes and practice of healthcare ethics and law among doctors and nurses in Barbados. *BMC Medical ethics*, *7*(1), p.7.

Koehler, W.C. and Pemberton, J.M., 2018. A search for core values: Towards a model code of ethics for information professionals. *Journal of Information Ethics*, *9*(1), p.26.

Maurer, N.M. and Mischler, L.F., 2014. Introduction to lawyering: Teaching first-year students to think like professionals. *J. Legal Educ.*, *44*, p.96.

Menkel-Meadow, C.J., 2016. Can a law teacher avoid teaching legal ethics. *J. Legal Educ.*, *41*, p.3.

Montgomery, J., 2017. Health Care Law and Ethics: Abortion; Fertility; Maternity Care; Selective Treatment of the Newborn; Transplantation; Terminal Care and Euthanasia.

Pollock-Byrne, J.M. and Pollock, J.M., 2018. *Ethics in crime and justice: Dilemmas and decisions* (p. 140). Pacific Grove, CA: Brooks/Cole.

Posner, R.A., 2016. The deprofessionalization of legal teaching and scholarship. *Mich. L. Rev.*, *91*, p.1921.

Singhapakdi, A., Karande, K., Rao, C.P. and Vitell, S.J., 2018. How important are ethics and social responsibility?-A multinational study of marketing professionals. *European Journal of Marketing*, *35*(1/2), pp.133-153.

Strike, K.A. and Ternasky, P.L., 2016. *Ethics for Professionals in Education: Perspectives for Preparation and Practice*. Teachers College Press, 1234 Amsterdam Avenue, New York, NY 10027 (paperback: ISBN-0-8077-3215-X; hardcover: ISBN-0-8077-3216-8)..

Valentine, S. and Fleischman, G., 2018. Ethics codes and professionals' tolerance of societal diversity. *Journal of Business Ethics*, *40*(4), pp.301-312.

Van Hoose, W.H. and Kottler, J.A., 2016. *Ethical and legal issues in counseling and psychotherapy*. Jossey-Bass.

Werth Jr, J.L., Welfel, E.R.E. and Benjamin, G.A.H., 2018. *The duty to protect: Ethical, legal, and professional considerations for mental health professionals*. American Psychological Association.