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Agenda: Deciding Whether to Represent a Client: Group #5

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AGENDA:

DECIDING WHETHER TO REPRESENT A CLIENT

Group #5

- I. Facilitating discussion of a lawyer's discretion in accepting clients:
 - A. Educational programs for lawyers and law students should place significant emphasis on a lawyer's discretion to decide whether:
 1. to decline to represent particular persons or causes;
 2. to withdraw from representation of particular persons or causes;
 3. to represent only certain types of persons or causes; and
 4. to seek to represent particular types of persons or causes.
 - B. Lawyers and the legal profession should seek to identify situations where the lawyer's discretion to decide which clients and causes to represent is limited and to provide guidance to lawyers about how to conduct the representation in those situations.
 - C. Lawyers should be encouraged to discuss, and be assisted in discussing, the role of a lawyer's spiritual and moral understandings in the lawyer's making of significant decisions or choices in the practice of law. In particular, lawyers should be encouraged to discuss, and be assisted in discussing, whether and how to bring their spiritual and moral understandings to bear on their choices of which clients and causes to represent and how the representation should be conducted. Toward this end:
 1. We encourage the preparation of written or audio-visual materials that would illustrate how actual lawyers have made and continue to make such decisions.
 2. We encourage religious institutions and counselors to assist lawyers in understanding the spiritual traditions that bear on these decisions.
 3. In light of recent threats, we encourage courts, legislatures and bar associations to continue to recognize lawyers' discretion in making these decisions.

- II. Lawyers and the legal profession should examine and discuss the following questions:
 - A. Should a lawyer advise a client about whether the lawyer's spiritual or moral understandings are likely to influence materially how the lawyer conducts the representation? How and when should clients be so advised?
 - B. In deciding whether to represent a client where the client's spiritual and moral understandings will be relevant to the representation, should the lawyer be willing and able to become sufficiently acquainted with the client's spiritual and moral tradition to represent the client effectively? How and when should clients be so advised?