

Judicial Ethics and Conduct:
A Proposed Curriculum for Algerian Magistrates

Prepared by the Honorable Eugene E. Brott
Judge of the California Bar Court (Retired)
On behalf of the American Bar Association
Algiers, October 2008

For

ECOLE SUPERIEURE DE LA MAGISTRATURE



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(Course Outline)

JUDICIAL ETHICS AND CONDUCT

ABA Judicial Training
Algiers, October 2008
Eugene E. Brott

I. INTRODUCTION

- A. The Trainer**
- B. The Subject**
- C. The Method**
- D. The Trainee**

II. THE RULE OF LAW

A. The Law is Supreme

1. All individuals and government are subject to the law
2. All are treated equally

B. Laws Express the Will of the People

1. A representative legislature passes laws reflecting the popular will
2. People tend to obey laws passed by their duly elected representatives
3. Legislation should be prospective, not retrospective
4. The Law rests on a moral foundation
5. Basic freedoms are guaranteed by constitution and legislation
 - a. Speech
 - b. Press
 - c. Assembly
 - d. Association

C. Rule of Law Requires a Strong, Independent Court System

1. Judges are guardians of the Rule of Law
2. Judges stand between the individual and the power of the State
3. Judges are faithful to the law
4. Some elements of judicial independence are:

- a. Freedom from outside influence and control
- b. Freedom from political considerations
- c. Authority to check government's excessive use of power
- d. Security of tenure

D. Rule of Law Requires an Honest Judiciary

- 1. Judicial honesty and integrity are foundations of any true justice system
- 2. Judges must respect and honor their judicial office as a special trust
- 3. If Rule of Law is to work, the public must have faith in the system

E. Transparency of the Judiciary

- 1. Publish periodic reports of judicial activities and spending
- 2. Allow public access to cases, records and court procedures
- 3. Require public proceedings (except those of sensitive nature)
- 4. Make periodic disclosures of personal assets
- 5. Permit journalists to comment on proceedings
- 6. Monitor and report on judicial corruption.

III. REGULATION AND ACCOUNTABILITY OF THE JUDICIARY

A. Regulation

- 1. How independent and transparent should the judiciary be?
 - a. Do we need regulation?
 - b. Who should regulate judges?
- 2. Who sets and maintains standards of conduct?
 - a. Algerian sources
 - b. International sources
- 3. What is the definition of an ethics code?
 - a. Ethics is a system of moral standards or values
 - b. A judicial ethics code adapts those standards or values to the particular needs of judges

4. Why is an ethics code needed?
 - a. For Rule of Law
 - b. For the public
 - c. For the profession

B. Accountability of the Judiciary

1. Judges are held responsible for their own behavior, if:
 - a. They are subject to an effective ethics code
 - b. Ethics code violations result in corrective measures
 - c. There is an effective, predictable disciplinary result
 - d. Enforcement is uniform throughout the country
2. Judicial accountability is essential for the public's confidence
3. Judges have a duty to report violations by colleagues

IV. THE UNOFFICIAL JUDGE

A. Essential Character Traits of Judges

1. Honesty and integrity
2. Courage to do what is right
3. Independent of outside influence
4. Law-abiding and free of corruption

B. Improper Special Treatment for Judges

1. Misuse of judicial prestige
 - a. Going to the head of the line
 - b. Receiving discounts on tickets, merchandise
 - c. Interceding in another judge's case or investigation
 - d. Using court stationery or business cards for personal business
 - e. Accepting special treatment for family members
2. Misuse of court facilities
 - a. Making personal copies and "borrow" supplies
 - b. Doing personal work on court computers

- c. Utilizing court staff for personal business
- d. Gaining improper access to official records

C. Social Behavior of Judges Outside the Courtroom

1. Nexus between public and private behaviors
 - a. Actual impropriety vs. appearance of impropriety
 - b. Open disobedience of the law
 - c. Improper activities of a judge's family members
2. Improper Behaviors in Public
 - a. Participating in public disputes
 - b. Wearing inappropriate dress
 - c. Being drunk in public
 - d. Imprudently choosing where, when and what to eat or drink
 - e. Choosing questionable friends or acquaintances
 - f. Fraternizing with attorneys or litigants
3. Improper Declarations in Public
 - a. Displaying bias or prejudice
 - b. Disclosing confidential court business
 - c. Discussing pending cases
4. Private Activities
 - a. Giving legal advice
 - b. Participating in business or financial dealings
 - c. Taking part in political activities

D. Improper Gifts, Loans and Invitations

1. Gifts from a party, attorney, or person associated with a case
 - a. Pending
 - b. Non-pending
2. Gifts from someone who regularly appears in your court
3. Gifts from a single source, exceeding monetary limitation,
 - a. To the judge
 - b. To the judge's family

4. Loans from friends, attorneys, and others
5. Invitations to social events beyond ordinary hospitality
6. Fees for teaching, lecturing, and writing

V. THE JUDGE IN OFFICIAL CAPACITY

A. Causes for Disqualification

1. Personal knowledge or involvement
 - a. Previous connection with the case
 - b. Financial interest in the outcome
2. Relationships with friends, parties, witnesses, or attorneys
3. Bias or prejudice toward party, witness or attorney
4. Judge “doubts” own ability to be fair
5. Judge “appears” not be impartial
6. Disclosure by judges of grounds for their disqualification

B. Waiver of Disqualification

1. Parties may agree in certain cases
2. The Court does not have to accept the waiver

C. Standards of Behavior for Judges in the Courtroom

1. Judges are subject to constant public scrutiny and must:
 - a. Give precedence to judicial duties over all other activities
 - b. Follow the law regardless of partisan interests or prejudices
 - c. Respect higher courts
2. Judges should control their courtrooms while:
 - a. Acting with patience, dignity and courtesy
 - b. Maintaining decorum in the courtroom
 - c. Affording every party an opportunity to be heard
3. Judges’ decisions must be:

- a. Rendered promptly
- b. Written well
- c. Reasoned well
- 4. The judge must avoid abusive conduct such as:
 - a. Mistreating parties, attorneys, prosecutors, witnesses, or court staff
 - b. Interfering with attorney/client relationship
 - c. Retaliating for appeals
 - d. Depriving a person of basic rights

D. Questionable Communications and Comments

- 1. *Ex parte* Communications
 - a. With attorneys, prosecutors, and litigants
 - b. With friends who have cases in court
 - c. Giving legal advice to a litigant lawyer or prosecutor
 - d. Administrative and scheduling matters
 - e. Fraternalizing with litigants and attorneys
 - f. Emergency situations
- 2. Public or Private Comments
 - a. Concerning a pending or completed case
 - b. Criticizing a party, lawyer, prosecutor or judge
- 3. Press relations
 - a. In-court or out-of-court comments reported by the press
 - b. Interviews with the media

VI. CONCLUSION

A. Questions

B. Summary

C. Evaluations

D. Close

(Curriculum)

JUDICIAL ETHICS AND CONDUCT

ABA Judicial Training
Algiers, October 2008
by Eugene E. Brott

SESSION ONE - 90 MINUTES

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1. Judicial honesty and integrity are foundations of any true justice system
2. Judges must respect and honor their judicial office as a special trust
3. If Rule of Law is to work, the public must have faith in the system

SESSION TWO – 60 MINUTES

The Rule of Law (continued from session one)

E. Transparency of the Judiciary

1. Publish periodic reports of judicial activities and spending
2. Allow public access to cases, records and court procedures
3. Require public proceedings (except those of sensitive nature)
4. Make periodic disclosures of personal assets
5. Permit journalists to comment on proceedings
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 - b. For the public
 - c. For the profession

SESSION THREE – 90 MINUTES

ROLE PLAY – SITUATIONS INVOLVING UNOFFICIAL BEHAVIOR

1. Selected trainees role play a prepared written problem for the entire group. **(25 minutes)**
2. Large group breaks into small groups to discuss the problem. **(25 minutes)**
 - a. What issues are raised?
 - b. What laws or customs apply?
 - c. What solutions are recommended?
 - d. What is the best solution?
 - e. How may a judge avoid such issues in the future?
3. Each group's reporter summarizes its conclusions (total for all, **20 minutes**)
4. The large group comments on each small group presentation. **(15 minutes)**
5. Trainer summarizes issues raised. **(5 minutes)**

SESSION FOUR – 60 MINUTES

Regulation and Accountability of the Judiciary (continued from session two)

B. Accountability of the Judiciary

1. Judges are held responsible for their own behavior, if:
 - a. They are subject to an effective ethics code
 - b. Ethics code violations result in corrective measures
 - c. There is an effective, predictable disciplinary result

- d. Enforcement is uniform throughout the country
2. Judicial accountability is essential for the public's confidence
3. Judges have a duty to report violations by colleagues

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 - a. Making personal copies and "borrow" supplies
 - b. Doing personal work on court computers
 - c. Utilizing court staff for personal business
 - d. Gaining improper access to official records

SESSION FIVE – 90 MINUTES

The Unofficial Judge (continued from session four)

C. Social Behavior of Judges Outside the Courtroom

1. Nexus between public and private behaviors
 - a. Actual impropriety vs. appearance of impropriety
 - b. Open disobedience of the law
 - c. Improper activities of a judge's family members

2. Improper Behaviors in Public
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4. Private Activities
 - a. Giving legal advice
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SESSION SIX – 60 MINUTES

The Unofficial Judge (continued from session five)

D. Improper Gifts, Loans and Invitations

1. Gifts from a party, attorney, or person associated with a case
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6. Disclosure by judges of grounds for their disqualification

B. Waiver of Disqualification

1. Parties may agree in certain cases
2. The Court does not have to accept the waiver

SESSION SEVEN – 90 MINUTES

SMALL GROUPS – PROBLEMS INVOLVING OFFICIAL BEHAVIOR

1. Break into small groups
2. Small groups select, discuss, and analyze one ethical problems they have had or heard about
(30 minutes)
 - a. What issues are raised?
 - b. What laws or customs apply?
 - c. What solutions are recommended?
 - d. Is there a best solution?
 - e. How may a judge avoid such issues in the future?
3. Each small group’s reporter summarizes its conclusions (total for all groups, **25 minutes**).
4. After small group reports, the large group comments on suggested issues and solutions.
(about 5 minutes each, for a total of about **25 minutes**).
5. Trainer relates the identified problems to materials previously covered. (**10 minutes**).

SESSION EIGHT – 60 MINUTES

The Judge in Official Capacity (continued from session six)

C. Standards of Behavior for Judges in the Courtroom

1. Judges are subject to constant public scrutiny and must:
 - a. Give precedence to judicial duties over all other activities
 - b. Follow the law regardless of partisan interests or prejudices
 - c. Respect higher courts
2. Judges should control their courtrooms while:
 - a. Acting with patience, dignity and courtesy
 - b. Maintaining decorum in the courtroom
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3. Judges' decisions must be:
 - a. Rendered promptly
 - b. Written well
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VI. CONCLUSION

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(International Materials)

I. Materials to Review Before Studying Judicial Ethics

A. The Constitution of the People's Republic of Algeria (Excerpts)

1. Article 6
2. Article 7
3. Article 8
4. Article 11
5. Article 14
6. Article 22
7. Article 24
8. Article 29
9. Article 31
10. Article 32
11. Article 33
12. Article 34
13. Article 39
14. Article 41
15. Article 49
16. Article 63
17. Article 138
18. Article 139
19. Article 140
20. Article 141

21. Article 144
22. Article 145
23. Article 147
24. Article 148
25. Article 149
26. Article 154
27. Article 155

B. The Algerian Charter of Ethics for Judges

[Revised Translation from Original French – 13.07.08]

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THE HIGHER COUNCIL OF THE MAGISTRACY

Deliberation with respect to a Charter of Ethics for Judges.1

The Higher Council of the Magistracy meeting in its second ordinary session on December 23, 2006,

Considering organic law N° 04-11 of 21 Rajab 1425 corresponding to September 6, 2004 with respect to the Statute of the Magistracy, in particular its article 64;2

Considering organic law N° 04-12 of 21 Rajab 1425 corresponding to September 6, 2004 providing for the composition, operation and attributions of the Higher Council of the Magistracy, in particular its article 34;

Considering law N° 06-01 of 21 Moharram 1427 corresponding to February 20, 2006 relating to the prevention and the fight against corruption, in particular its article 12;3

1 The word “judge” will be used throughout to translate the French “magistrat”. In the Algerian system, however, included in the corps of the magistracy (and thus all under the title of “magistrat”) are prosecutors (“procureurs”), investigative judges (“juges d’instruction”), and judges who may be working in the Ministry of Justice, as well as sitting judges.

2 Article 64 reads: “The Charter of Ethics for Judges, drawn up by the Higher Council of the Magistracy, shall determine the other professional violations.”

3 Article 12 reads: “In order to shield the Corps of the Magistracy from the risks of corruption, ethics rules shall be drawn up in conformity with the laws, rules and other texts currently in force.”

After deliberation in accordance with the law;

Adopts the Charter of Ethics for Judges the content of which is as follows:

PREAMBLE

One of the primary missions of the Just State of justice and the Rule of Law is to guarantee tranquillity to its citizens and to protect their freedoms and their rights. This can only be carried out through recourse to the arbitration of the law, which must remain equal for all, whether it is with respect to the State or to the individual.

Whatever the degree of perfection of the laws, these cannot achieve their objective of the consecration of the law and the establishment of justice, unless the mission of judging is entrusted to men of law who dedicate themselves to concretizing these goals through taking care to implement their power for the service of all, without any discrimination in accordance with the word of Allah: (. . . *And if you are called upon to judge your fellow men, judge between them with equity because God loves equitable men . . .*) Sourate El Meïda - verse 42 -.

Moral values will be thus preserved and the citizen will only be more reassured about his life in society, his honour and his property as well as about the reinforcement of the feeling of belonging to his homeland.

To these principles which are already consecrated by the Constitution in its articles 138 and following which state that the judicial power is independent, that it is exercised within the framework of the law, and where judgements are rendered with their reasoning spelled out,⁴ in the name of the Algerian people, are added the attachment to Justice, to the principles of independence, neutrality, equity and legality (articles 29, 44, 140, 141). These are the fundamental guarantees which aim at the protection of the rights and freedoms and not of personal privileges for the profit of the judge.

With respect to society, it is the duty of the judge to see scrupulously to the accomplishment of his mission and of the preservation of the sacred work of justice. This constrains him to assume difficult tasks and more responsibilities, while bearing in mind the concepts of rectitude, integrity, impartiality, neutrality, and independence as well as a total devotion to the accomplishment of his duty and to respect for ethics and for the rules which enable him to ensure justice as well as primacy of the law.

In conformity with the Constitution, the Statute of the Magistracy imposes on the judge, as of his taking office, swearing of an oath in the following terms:

" أقسم بالله العلي العظيم أن أقوم بمهمتي بعناية وإخلاص

⁴ The reference is to the requirement that judgments be reasoned ("motivés"), not just conclusory.

وأن أحكم وفقاً لمبادئ الشرعية والمساواة؛
وأن أكتُم سر المداولات؛ وأن أسلك في كل الظروف
سلوك القاضي النزيه و الوفي لمبادئ العدالة؛ والله على ما أقول شهيد"
المادة 4.

"I swear by Allah the almighty that I will carry out my duty with care and devotion; and that I will judge in accordance with the principles of legality and equity, and that I will keep the secrecy of deliberations and that I will behave in all circumstances as a judge of integrity loyal to the principles of justice. Allah is a witness to what I say." Article 4.

By consecrating in this way the principle of the independence and neutrality of the judge, by determining his civic and moral duties, this oath constitutes, in itself, the reflection of the reinforcement of democracy, in that it defines the rights and duties of the judge, while making them in addition accessible to all.

The law creating the Statute of the Magistracy envisages, in its article 64, the elaboration of a Charter of Ethics for Judges in order to remind judges of his real commitment to respect the duties of independence, neutrality, integrity and legality, including the application of the law and knowledge of the relevant provisions, as well as the obligation to hand down judgements within reasonable time limits and through clearly reasoned decisions.

This Charter is also intended to encourage judges to respect the provisions of the law, in particular those dealing with the protection of the rights of the citizen and society and with the obligation of "reserve"⁵ in order to preserve their credibility and not to harm trust and respect due to their function, as well as to oblige judges to maintain tactful relations with their colleagues, litigants,⁶ court personnel and other assistants and also to show respect to their superiors.

The particularity of the mission requires from the judge hard and sustained efforts, all the more so that its achievement imposes on him, both in his professional life as well as his social life, imperatives designed to safeguard the honour and the dignity of the judicial system.

On the other hand, this Charter in no way blots out the private life of the judge, who remains a human being all the same, who cannot entirely be separated from his human condition. The Charter also reminds the judge of his humanity and invites him not to treat it with disdain, in his relationships with litigants and his entourage. However, it draws limits for him in order to preserve him from any deviation susceptible of harming the honour and the dignity of the corps of judges, thus ensuring for him a credibility and an impartiality above all suspicion, and this by taking into account the recommendations

⁵ The French word (somewhat untranslatable) is "réserve". This is the only use of the term in the Charter. However it does appear in the Statute of the Magistracy. See Art. 7.

⁶ The French word is "justiciable" meaning anyone who is before the courts as a subject of justice.

made in these terms by Omar Ibn El Khattab, may God bless him, to his judge Abou Moussa El-Achaari:

« . . Behave equally with all people, in the expression of your face, in your deliberations as well as in your judgement so that no noble can hope for your partiality and no weak person despair of your justice . . . ». These words are completely in conformity with international standards guaranteeing fair trials and respect of for human rights.

Thus, the function of the judge requires not only lucidity, wisdom, serenity and courtesy in the remarks which the judge makes, but it also requires a constant fight against temptations. Moreover, the judge must, continuously, take care to quest for knowledge by improving his specific knowledge and perfecting his professional capabilities.

This edifice of ethics can only be maintained under the umbrella of the rule of law which requires that the independence of the judiciary be guaranteed by ensuring it the necessary conditions and sufficient means to allow it to achieve, freely, its noble mission within the framework of the law and the rules of ethics, while reiterating the primacy of the law and the protection of society and by preserving the fundamental rights and freedoms of citizens as well as their property, all while respecting human dignity.

Consequently, the Charter of Ethics for Judges contains:

First: General principles

1 - The principle of the independence of the judicial power:

The judge is required:

- To carry out his mission within the framework of the law in conformity with the independence of the judicial power,
- To protect fundamental rights and freedoms,
- To abstain from any activity which is incompatible with the exercise of the judicial power,

Comment: The judicial power is independent and is carried out within the framework of the law in accordance with articles 138 and 147 of the Constitution. The consecration of this independence, under the rule of the law, is expressed by the guarantee of an impartial justice through which the judge must play a preponderant role in area of protecting society, freedoms and fundamental rights.

This can only be realized through an independent justice that is exercised outside of any influence from any source whatsoever.

2 - The principle of legality:

The judge must:

- Judge in accordance with the law and by respecting the presumption of innocence,
- Preserve the moral values of the society and the dignity of the citizen within the framework of the law.

Comment: The protection of fundamental rights and the individual freedoms depends on a sound application of the law.

3 - The principle of equality:

The judge must:

- Guarantee the equality of all before the law,
- Ensure equity for litigants.

Comment: The just must behave so as to ensure equal treatment for all and in conformity with the law. He should manage the matters submitted to him equitably and without discrimination, and this far from any subjective or external influence.

Second: Obligations of the judge

In addition to the obligations provided in the Statute of the Magistracy, the judge must:

- Honour the commitment he made at the time of taking the oath of office,
- Be impregnated with principles of impartiality and neutrality,
- Carry out the duties which are required of him in the judicial realm with all necessary efficiency and celerity,
- Render justice in conformity with the law,
- Keep professional secrecy and not express his convictions during proceedings and before taking any initiative or delivering a judgment,
- Personally explain the reasoning of his judgments and within the required time-limits,
- Take care that the orders⁷ of judgments are precise and capable of being carried out,
- Respect working hours and master his cases,
- Refuse any interference from wherever it comes which might be capable of influencing his judicial work,
- Avoid exerting any pressure on the parties to the lawsuit,
- Improve his scientific knowledge and his professional capacities.

⁷ The French word is “dispositif”, meaning the part of the judgment that disposes of the case and provides for what should happen next.

Comment: The judge must personally, and the shortest possible time, rule on the cases which are submitted to him, and this without delegation of responsibility and without any influence, temptation, pressure, threat or interference, direct or indirect, from wherever it comes and whatever its cause may be.

He must not exert any physical or moral pressure on the parties to the lawsuit including on the witnesses when they are heard and should not take any arbitrary measure against them.

Moreover, the magistrate is required to provide sufficient reasoning for his judgments and to take care that their orders are precise and ready to be implemented, preserving, by so doing, the rights of the parties and the credibility of justice.

Third: Judges' behaviour

In addition to the duties provided in the Statute of the Magistracy, the judge must:

- Demonstrate that he has mastery and wisdom,
- Guarantee the exercise of the right of defence to litigants or their counsel,
- See to the order and respect of hearings,
- Keep the secrecy of judges' deliberations and, in no case, reveal them to anyone and for any reason.
- Recuse himself from a case each time he knows that he has links with the litigants or material or moral interests in the case,
- Avoid using his office for personal ends,
- Avoid receiving a litigant individually in his office,
- Avoid receiving any present from or on behalf of a litigant,
- Respect subordinates, superiors and colleagues,
- Promote the spirit of solidarity and mutual assistance among judges,
- Respect court and judicial personnel,
- Arm himself against all suspicion,
- Avoid all external influences in connection with the cases submitted to him,
- Observe in his private life behaviour which will not in any way affect the respect due to justice.

Comment: The judge is required to protect himself against all suspicion and to avoid getting into conflictual situations with others so as not to be suspected of misuse of his office or of his influence to consolidate his own interests or those pertaining to others. Moreover, he should avoid being influenced by the opinions that the media may have about the cases submitted to him and should obey only his conscience and conviction in accordance with the law.

To promote the spirit of solidarity and mutual assistance among judges, he should adopt exemplary behaviour of positive advice and confraternity, in order to preserve the credibility of the magistracy.

In addition, in spite of his heavy responsibility, the judge, who cannot ignore either his human condition or his social inclinations, must however, because of his functions and sacred character of his profession submit himself to restrictions and constraints

required by the very nature of his mission in order to preserve authority of the magistracy and the dignity of judges.

Fourth: Final provision

This Charter can be revised under the same conditions which governed its adoption,

This Charter shall be published in the *Official Journal* of the People's Democratic Algerian Republic.

C. The Universal Declaration of Human Rights (Excerpted)

*Adopted and proclaimed by General Assembly resolution 217 A (III) of 10
December 1948*

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

(1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21.

(1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.....

D. UN Basic Principles on the Independence of the Judiciary

Basic Principles on the Independence of the Judiciary

Adopted by the Seventh United Nations Congress on the Prevention of Crime and the Treatment of Offenders held at Milan from 26 August to 6 September 1985 and endorsed by General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985

Whereas in the Charter of the United Nations the peoples of the world affirm, inter alia, their determination to establish conditions under which justice can be maintained to achieve international co-operation in promoting and encouraging respect for human rights and fundamental freedoms without any discrimination,

Whereas the Universal Declaration of Human Rights enshrines in particular the principles of equality before the law, of the presumption of innocence and of the right to a fair and public hearing by a competent, independent and impartial tribunal established by law,

Whereas the organization and administration of justice in every country should be inspired by those principles, and efforts should be undertaken to translate them fully into reality,

Whereas rules concerning the exercise of judicial office should aim at enabling judges to act in accordance with those principles,

Whereas judges are charged with the ultimate decision over life, freedoms, rights, duties and property of citizens,

Whereas the Sixth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, by its resolution 16, called upon the Committee on Crime Prevention and Control to include among its priorities the elaboration of guidelines relating to the independence of judges and the selection, professional training and status of judges and prosecutors,

Whereas it is, therefore, appropriate that consideration be first given to the role of judges in relation to the system of justice and to the importance of their selection, training and conduct,

The following basic principles, formulated to assist Member States in their task of securing and promoting the independence of the judiciary should be taken into account and respected by Governments within the framework of their national legislation and practice and be brought to the attention of judges, lawyers, members of the executive and the legislature and the public in general. The principles have been formulated principally with professional judges in mind, but they apply equally, as appropriate, to lay judges, where they exist.

Independence of the judiciary

1. The independence of the judiciary shall be guaranteed by the State and enshrined in the Constitution or the law of the country. It is the duty of all governmental and other institutions to respect and observe the independence of the judiciary.

2. The judiciary shall decide matters before them impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason.

4. There shall not be any inappropriate or unwarranted interference with the judicial process, nor shall judicial decisions by the courts be subject to revision. This principle is without prejudice to judicial review or to mitigation or commutation by competent authorities of sentences imposed by the judiciary, in accordance with the law.

6. The principle of the independence of the judiciary entitles and requires the judiciary to ensure that judicial proceedings are conducted fairly and that the rights of the parties are respected.

7. It is the duty of each Member State to provide adequate resources to enable the judiciary to properly perform its functions.

Freedom of expression and association

8. In accordance with the Universal Declaration of Human Rights, members of the judiciary are like other citizens entitled to freedom of expression, belief, association and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.

9. Judges shall be free to form and join associations of judges or other organizations to represent their interests, to promote their professional training and to protect their judicial independence.

Conditions of service and tenure

11. The term of office of judges, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.

12. Judges, whether appointed or elected, shall have guaranteed tenure until a mandatory retirement age or the expiry of their term of office, where such exists.

13. Promotion of judges, wherever such a system exists, should be based on objective factors, in particular ability, integrity and experience.

14. The assignment of cases to judges within the court to which they belong is an internal matter of judicial administration. Professional secrecy and immunity

15. The judiciary shall be bound by professional secrecy with regard to their deliberations and to confidential information acquired in the course of their duties other than in public proceedings, and shall not be compelled to testify on such matters.

16. Without prejudice to any disciplinary procedure or to any right of appeal or to compensation from the State, in accordance with national law, judges should enjoy personal immunity from civil suits for monetary damages for improper acts or omissions in the exercise of their judicial functions.

Discipline, suspension and removal

17. A charge or complaint made against a judge in his/her judicial and professional capacity shall be processed expeditiously and fairly under an appropriate procedure. The judge shall have the right to a fair hearing. The examination of the matter at its initial stage shall be kept confidential, unless otherwise requested by the judge.

18. Judges shall be subject to suspension or removal only for reasons of incapacity or behavior that renders them unfit to discharge their duties.

19. All disciplinary, suspension or removal proceedings shall be determined in accordance with established standards of judicial conduct.

20. Decisions in disciplinary, suspension or removal proceedings should be subject to independent review. this principle may not apply to the decision of the highest court and those of the legislature in impeachment or similar proceedings.

E. Bangalore Principles of Judicial Conduct (Complete)

(The Bangalore Draft Code of Judicial Conduct 2001 adopted by the Judicial Group on Strengthening Judicial Integrity, as revised at the Round Table Meeting of Chief Justices held at the Peace Palace, The Hague, November 25-26, 2002)

Preamble

WHEREAS the *Universal Declaration of Human Rights* recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of rights and obligations and of any criminal charge.

WHEREAS the *International Covenant on Civil and Political Rights* guarantees that all persons shall be equal before the courts, and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without undue delay, to a fair and public hearing by a competent, independent and impartial tribunal established by law.

WHEREAS the foregoing fundamental principles and rights are also recognized or reflected in regional human rights instruments, in domestic constitutional, statutory and common law, and in judicial conventions and traditions.

WHEREAS the importance of a competent, independent and impartial judiciary to the protection of human rights is given emphasis by the fact that the implementation of all the other rights ultimately depends upon the proper administration of justice.

WHEREAS a competent, independent and impartial judiciary is likewise essential if the courts are to fulfill their role in upholding constitutionalism and the rule of law.

WHEREAS public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society.

WHEREAS it is essential that judges, individually and collectively, respect and honor judicial office as a public trust and strive to enhance and maintain confidence in the judicial system.

WHEREAS the primary responsibility for the promotion and maintenance of high standards of judicial conduct lies with the judiciary in each country.

AND WHEREAS the United Nations Basic Principles on the Independence of the Judiciary are designed to secure and promote the independence of the judiciary, and are addressed primarily to States.

THE FOLLOWING PRINCIPLES are intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of

the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge.

Value 1:

INDEPENDENCE

Principle:

Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Application:

1.1 A judge shall exercise the judicial function independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.

1.2 A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judge has to adjudicate.

1.3 A judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.

1.4 In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently.

1.5 A judge shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.

1.6 A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

Value 2:

IMPARTIALITY

Principle:

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Application:

2.1 A judge shall perform his or her judicial duties without favor, bias or prejudice.

2.2 A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

2.3 A judge shall, so far as is reasonable, so conduct himself or herself as to minimize the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.

2.4 A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.

2.5 A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where

2.5.1 the judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;

2.5.2 the judge previously served as a lawyer or was a material witness in the matter in controversy; or

2.5.3 the judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy:

Provided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

Value 3:

INTEGRITY

Principle:

Integrity is essential to the proper discharge of the judicial office.

Application:

3.1 A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.

3.2 The behavior and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

Value 4:

PROPRIETY

Principle:

Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

Application:

4.1 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.

4.2. As a subject of constant public scrutiny, a judge must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.

4.3. A judge shall, in his or her personal relations with individual members of the legal profession who practice regularly in the judge's court, avoid situations which might reasonably give rise to the suspicion or appearance of favoritism or partiality.

4.4 A judge shall not participate in the determination of a case in which any member of the judge's family represents a litigant or is associated in any manner with the case.

4.5 A judge shall not allow the use of the judge's residence by a member of the legal profession to receive clients or other members of the legal profession.

4.6 A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

4.7 A judge shall inform himself or herself about the judge's personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of the judge's family.

4.8 A judge shall not allow the judge's family, social or other relationships improperly to

influence the judge's judicial conduct and judgment as a judge.

4.9 A judge shall not use or lend the prestige of the judicial office to advance the private interests of the judge, a member of the judge's family or of anyone else, nor shall a judge convey or permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties.

4.10 Confidential information acquired by a judge in the judge's judicial capacity shall not be used or disclosed by the judge for any other purpose not related to the judge's judicial duties.

4.11 Subject to the proper performance of judicial duties, a judge may:

4.11.1 write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;

4.11.2 appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;

4.11.3 serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a judge;
or

4.11.4 engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.

4.12 A judge shall not practice law whilst the holder of judicial office.

4.13 A judge may form or join associations of judges or participate in other organizations representing the interests of judges.

4.14 A judge and members of the judge's family, shall neither ask for, nor accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties.

4.15 A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favor in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.

4.16 Subject to law and to any legal requirements of public disclosure, a judge may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality.

Value 5:
EQUALITY

Principle:

Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Application:

5.1 A judge shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, color, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes ("irrelevant grounds").

5.2 A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.

5.3 A judge shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.

5.4 A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or control to differentiate between persons concerned, in a matter before the judge, on any irrelevant ground.

5.5 A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy.

Value 6:
COMPETENCE AND DILIGENCE

Principle:

Competence and diligence are prerequisites to the due performance of judicial office.

Application:

6.1 The judicial duties of a judge take precedence over all other activities.

6.2 A judge shall devote the judge's professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the

making of decisions, but also other tasks relevant to the judicial office or the court's operations.

6.3 A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.

6.4 A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.

6.5 A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

6.6 A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity. The judge shall require similar conduct of legal representatives, court staff and others subject to the judge's influence, direction or control.

6.7 A judge shall not engage in conduct incompatible with the diligent discharge of judicial duties.

IMPLEMENTATION

By reason of the nature of judicial office, effective measures shall be adopted by national judiciaries to provide mechanisms to implement these principles if such mechanisms are not already in existence in their jurisdictions.

DEFINITIONS

In this statement of principles, unless the context otherwise permits or requires, the following meanings shall be attributed to the words used:

"Court staff" includes the personal staff of the judge including law clerks.

"Judge" means any person exercising judicial power, however designated.

"Judge's family" includes a judge's spouse, son, daughter, son-in-law, daughter-in-law, and any other close relative or person who is a companion or employee of the judge and who lives in the judge's household.

"Judge's spouse" includes a domestic partner of the judge or any other person of either sex in a close personal relationship with the judge.

F. The International Covenant on Civil and Political Rights (Excerpts)

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgment rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

Article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

G. African Commission on Human and Peoples' Rights, Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa, DOC/OS(XXX) 247 (Excerpts)

PRINCIPLES AND GUIDELINES ON THE RIGHT TO A FAIR TRIAL AND LEGAL ASSISTANCE IN AFRICA

....

Recognizing that it is necessary to formulate and lay down principles and rules to further strengthen and supplement the provisions relating to fair trial in the Charter and to reflect international standards;

A. GENERAL PRINCIPLES APPLICABLE TO ALL LEGAL PROCEEDINGS:

1. Fair and Public Hearing

In the determination of any criminal charge against a person, or of a person's rights and obligations, everyone shall be entitled to a fair and public hearing by a legally constituted competent, independent and impartial judicial body.....

1. Independent tribunal

(a) The independence of judicial bodies and judicial officers shall be guaranteed by the constitution and laws of the country and respected by the government, its agencies and authorities;

(b) Judicial bodies shall be established by law to have adjudicative functions to determine matters within their competence on the basis of the rule of law and in accordance with proceedings conducted in the prescribed manner;....

(f) There shall not be any inappropriate or unwarranted interference with the judicial process nor shall decisions by judicial bodies be subject to revision except through judicial review, or the mitigation or commutation of sentence by competent authorities, in accordance with the law;

(g) All judicial bodies shall be independent from the executive branch.

(h) The process for appointments to judicial bodies shall be transparent and accountable and the establishment of an independent body for this purpose is encouraged. Any method of judicial selection shall safeguard the independence and impartiality of the judiciary.

(i) The sole criteria for appointment to judicial office shall be the suitability of a candidate for such office by reason of integrity, appropriate training or learning and ability.

(j) Any person who meets the criteria shall be entitled to be considered for judicial office without discrimination on any grounds such as race, color, ethnic origin, language, sex, gender, political or other opinion, religion, creed, disability, national or social origin, birth, economic or other status. However, it shall not be discriminatory for states to:

1. prescribe a minimum age or experience for candidates for judicial office;
2. prescribe a maximum or retirement age or duration of service for judicial officers;
3. prescribe that such maximum or retirement age or duration of service may vary with different level of judges, magistrates or other officers in the judiciary;
4. require that only nationals of the state concerned shall be eligible for appointment to judicial office.

(a) No person shall be appointed to judicial office unless they have the appropriate training or learning that enables them to adequately fulfill their functions.

(b) Judges or members of judicial bodies shall have security of tenure until a mandatory retirement age or the expiry of their term of office.

(c) The tenure, adequate remuneration, pension, housing, transport, conditions of physical and social security, age of retirement, disciplinary and recourse mechanisms and other conditions of service of judicial officers shall be prescribed and guaranteed by law.

(d) Judicial officers shall not be:

1. liable in civil or criminal proceedings for improper acts or omissions in the exercise of their judicial functions;
2. removed from office or subject to other disciplinary or administrative procedures by reason only that their decision has been overturned on appeal or review by a higher judicial body;
3. appointed under a contract for a fixed term.

(a) Promotion of judicial officials shall be based on objective factors, in particular ability, integrity and experience.

(b) Judicial officials may only be removed or suspended from office for gross misconduct incompatible with judicial office, or for physical or mental incapacity that prevents them from undertaking their judicial duties.

(c) Judicial officials facing disciplinary, suspension or removal proceedings shall be entitled to guarantees of a fair hearing including the right to be represented by a legal

representative of their choice and to an independent review of decisions of disciplinary, suspension or removal proceedings.

(d) The procedures for complaints against and discipline of judicial officials shall be prescribed by law. Complaints against judicial officers shall be processed promptly, expeditiously and fairly.

(e) Judicial officers are entitled to freedom of expression, belief, association and assembly. In exercising these rights, they shall always conduct themselves in accordance with the law and the recognized standards and ethics of their profession.

(f) Judicial officers shall be free to form and join professional associations or other organizations to represent their interests, to promote their professional training and to protect their status.

(g) States may establish independent or administrative mechanisms for monitoring the performance of judicial officers and public reaction to the justice delivery processes of judicial bodies. Such mechanisms, which shall be constituted in equal part of members the judiciary and representatives of the Ministry responsible for judicial affairs, may include processes for judicial bodies receiving and processing complaints against its officers.

(h) States shall endow judicial bodies with adequate resources for the performance of its their functions. The judiciary shall be consulted regarding the preparation of budget and its implementation.

5. Impartial Tribunal

(a) A judicial body shall base its decision only on objective evidence, arguments and facts presented before it. Judicial officers shall decide matters before them without any restrictions, improper influence, inducements, pressure, threats or interference, direct or indirect, from any quarter or for any reason.

(b) Any party to proceedings before a judicial body shall be entitled to challenge its impartiality on the basis of ascertainable facts that the fairness of the judge or judicial body appears to be in doubt.

(c) The impartiality of a judicial body could be determined on the basis of three relevant facts:

1. that the position of the judicial officer allows him or her to play a crucial role in the proceedings;

2. the judicial officer may have expressed an opinion which would influence the decision-making ;

3. the judicial official would have to rule on an action taken in a prior capacity.

(a) The impartiality of a judicial body would be undermined when:

1. a former public prosecutor or legal representative sits as a judicial officer in a case in which he or she prosecuted or represented a party;
2. a judicial official secretly participated in the investigation of a case;
3. a judicial official has some connection with the case or a party to the case;
4. a judicial official sits as member of an appeal tribunal in a case which he or she decided or participated in a lower judicial body.

In any of these circumstances, a judicial official would be under an obligation to step down.

(a) A judicial official may not consult a higher official authority before rendering a decision in order to ensure that his or her decision will be upheld.....

C. RIGHT TO AN EFFECTIVE REMEDY:

(a) Everyone has the right to an effective remedy by competent national tribunals for acts violating the rights granted by the constitution, by law or by the Charter, notwithstanding that the acts were committed by persons in an official capacity.....

(a) Every State has an obligation to ensure that:

1. any person whose rights have been violated, including by persons acting in an official capacity, has an effective remedy by a competent judicial body;
2. any person claiming a right to remedy shall have such a right determined by competent judicial, administrative or legislative authorities;
3. any remedy granted shall be enforced by competent authorities;
4. any state body against which a judicial order or other remedy has been granted shall comply fully with such an order or remedy.....

C. COURT RECORDS AND PUBLIC ACCESS:

(a) All information regarding judicial proceedings shall be accessible to the public, except information or documents that have been specifically determined by judicial officials not to be made public.

(b) States must ensure that proper systems exist for recording all proceedings before judicial bodies, storing such information and making it accessible to the public.

(c) All decisions of judicial bodies must be published and available to everyone throughout the country.

(d) The cost to the public of obtaining records of judicial proceedings or decisions should be kept to a minimum and should not be so high as to amount to a denial of access.....

F. ROLE OF PROSECUTORS:

(a) States shall ensure that:

1. Prosecutors have appropriate education and training and should be made aware of the ideals and ethical duties of their office, of the constitutional and statutory protections for the rights of the suspect and the victim, and of human rights and fundamental freedoms recognized by national and international law, including the Charter.

2. Prosecutors are able to perform their professional functions without intimidation, hindrance, harassment, improper interference or unjustified exposure to civil, penal or other liability.

(a) Reasonable conditions of service of prosecutors, adequate remuneration and, where applicable, tenure, housing, transport, conditions of physical and social security, pension and age of retirement and other conditions of service shall be set out by law or published rules or regulations.

(b) Promotion of prosecutors, wherever such a system exists, shall be based on objective factors, in particular professional qualifications, ability, integrity and experience, and decided upon in accordance with fair and impartial procedures.

(c) Prosecutors like other citizens are entitled to freedom of expression, belief, association and assembly. In exercising these rights, prosecutors shall always conduct themselves in accordance with the law and the recognized standards and ethics of their profession.

(d) Prosecutors shall be free to form and join professional associations or other organizations to represent their interests, to promote their professional training and to protect their status.

(e) The office of prosecutors shall be strictly separated from judicial functions.

(f) Prosecutors shall perform an active role in criminal proceedings, including institution of prosecution and, where authorized by law or consistent with local practice, in the investigation of crime, supervision over the legality of these investigations, supervision

of the execution of decisions of judicial bodies and the exercise of other functions as representatives of the public interest.

(g) Prosecutors shall, in accordance with the law, perform their duties fairly, consistently and expeditiously, and respect and protect dignity and uphold human rights, thus contributing to ensuring due process and the smooth functioning of the criminal justice system.

(h) In the performance of their duties, prosecutors shall:

1. carry out their functions impartially and avoid all political, social, racial, ethnic, religious, cultural, sexual, gender or any other kind of discrimination;
2. protect the public interest, act with objectivity, take proper account of the position of the suspect and the victim, and pay attention to all relevant circumstances, irrespective of whether they are to the advantage or disadvantage of the suspect;
3. keep matters in their possession confidential, unless the performance of duty or needs of justice require otherwise;
4. consider the views and concerns of victims when their personal interests are affected and ensure that victims are informed of their rights in accordance with the provisions below relating to victims.

(a) Prosecutors shall not initiate or continue prosecution, or shall make every effort to stay proceedings, when an impartial investigation shows the charge to be unfounded.

(b) Prosecutors shall give due attention to the prosecution of crimes committed by public officials, particularly corruption, abuse of power, grave violations of human rights and other crimes recognized by international law and, where authorized by law or consistent with local practice, the investigation of such offences.

(c) When prosecutors come into possession of evidence against suspects that they know or believe on reasonable grounds was obtained through recourse to unlawful methods, which constitute a grave violation of the suspect's human rights, especially involving torture or cruel, inhuman or degrading treatment or punishment, or other abuses of human rights, they shall refuse to use such evidence against anyone other than those who used such methods, or inform the judicial body accordingly, and shall take all necessary steps to ensure that those responsible for using such methods are brought to justice.

(d) In order to ensure the fairness and effectiveness of prosecution, prosecutors shall strive to cooperate with the police, judicial bodies, the legal profession, paralegals, non-governmental organizations and other government agencies or institutions.

(e) Disciplinary offences of prosecutors shall be based on law or lawful regulations. Complaints against prosecutors, which allege that they acted in a manner that is

inconsistent with professional standards, shall be processed expeditiously and fairly under appropriate procedures prescribed by law. Prosecutors shall have the right to a fair hearing including the right to be represented by a legal representative of their choice. The decision shall be subject to independent review.

(f) Disciplinary proceedings against prosecutors shall guarantee an objective evaluation and decision. They shall be determined in accordance with the law, the code of professional conduct and other established standards and ethics.....

1. Rights during a trial:

(a) Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

1. The presumption of innocence places the burden of proof during trial in any criminal case on the prosecution.

2. Public officials shall maintain a presumption of innocence. Public officials, including prosecutors, may inform the public about criminal investigations or charges, but shall not express a view as to the guilt of any suspect.....

H. ABA MODEL CODE OF JUDICIAL CONDUCT (Excerpts)

**ABA MODEL CODE OF JUDICIAL CONDUCT
FEBRUARY 2007**

**ABA MODEL CODE OF
JUDICIAL CONDUCT
FEBRUARY 2007 (Excerpts)**

PREAMBLE

[1] An independent, fair and impartial judiciary is indispensable to our system of justice. The United States legal system is based upon the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law. Inherent in all the Rules contained in this Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.

[2] Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensures the greatest possible public confidence in their independence, impartiality, integrity, and competence.

[3] The Model Code of Judicial Conduct establishes standards for the ethical conduct of judges and judicial candidates. It is not intended as an exhaustive guide for the conduct of judges and judicial candidates, who are governed in their judicial and personal conduct by general ethical standards as well as by the Code. The Code is intended, however, to provide guidance and assist judges in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through disciplinary agencies.....

CANON 1

A JUDGE SHALL UPHOLD AND PROMOTE THE INDEPENDENCE, INTEGRITY, AND IMPARTIALITY OF THE JUDICIARY, AND SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY.

RULE 1.1

Compliance with the Law

A judge shall comply with the law,* including the Code of Judicial Conduct.

RULE 1.2

Promoting Confidence in the Judiciary

A judge shall act at all times in a manner that promotes public confidence in the independence,* integrity,* and impartiality* of the judiciary, and shall avoid impropriety and the appearance of impropriety.

RULE 1.3

Avoiding Abuse of the Prestige of Judicial Office

A judge shall not abuse the prestige of judicial office to advance the personal or economic interests* of the judge or others, or allow others to do so.

CANON 2

A JUDGE SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE IMPARTIALLY, COMPETENTLY, AND DILIGENTLY.

RULE 2.1

Giving Precedence to the Duties of Judicial Office

The duties of judicial office, as prescribed by law,* shall take precedence over all of a judge's personal and extrajudicial activities.

RULE 2.2

Impartiality and Fairness

A judge shall uphold and apply the law,* and shall perform all duties of judicial office fairly and impartially.

RULE 2.3

Bias, Prejudice, and Harassment

(A) A judge shall perform the duties of judicial office, including administrative duties, without bias or prejudice.

(B) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice, or harassment based upon race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, and shall not permit court staff, court officials, or others subject to the judge's direction and control to do so.

(C) A judge shall require lawyers in proceedings before the court to refrain from manifesting bias or prejudice, or engaging in harassment, based upon attributes including but not limited to race, sex, gender, religion, national origin, ethnicity, disability, age, sexual orientation, marital status, socioeconomic status, or political affiliation, against parties, witnesses, lawyers, or others.

(D) The restrictions of paragraphs (B) and (C) do not preclude judges or lawyers from making legitimate reference to the listed factors, or similar factors, when they are relevant to an issue in a proceeding.

RULE 2.4

External Influences on Judicial Conduct

(A) A judge shall not be swayed by public clamor or fear of criticism.

(B) A judge shall not permit family, social, political, financial, or other interests or relationships to influence the judge's judicial conduct or judgment.

(C) A judge shall not convey or permit others to convey the impression that any person or organization is in a position to influence the judge.

RULE 2.5

Competence, Diligence, and Cooperation

(A) A judge shall perform judicial and administrative duties, competently and diligently.

(B) A judge shall cooperate with other judges and court officials in the administration of court business.

RULE 2.6

Ensuring the Right to Be Heard

(A) A judge shall accord to every person who has a legal interest in a proceeding, or that person's lawyer, the right to be heard according to law.*

(B) A judge may encourage parties to a proceeding and their lawyers to settle matters in dispute but shall not act in a manner that coerces any party into settlement.

RULE 2.7

Responsibility to Decide

A judge shall hear and decide matters assigned to the judge, except when disqualification is required by Rule 2.11 or other law.

RULE 2.8

Decorum, Demeanor, and Communication with Jurors

(A) A judge shall require order and decorum in proceedings before the court.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

(C) A judge shall not commend or criticize jurors for their verdict other than in a court order or opinion in a proceeding.

RULE 2.9

Ex Parte Communications

(A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending* or impending matter,* except as follows:

(1) When circumstances require it, ex parte communication for scheduling, administrative, or emergency purposes, which does not address substantive matters, is permitted, provided:

(a) the judge reasonably believes that no party will gain a procedural, substantive, or tactical advantage as a result of the ex parte communication; and

(b) the judge makes provision promptly to notify all other parties of the substance of the ex parte communication, and gives the parties an opportunity to respond.

(2) A judge may obtain the written advice of a disinterested expert on the law applicable to a proceeding before the judge, if the judge gives advance notice to the parties of the person to be consulted and the subject matter of the advice to be solicited, and affords the parties a reasonable opportunity to object and respond to the notice and to the advice received.

(3) A judge may consult with court staff and court officials whose functions are to aid the judge in carrying out the judge's adjudicative responsibilities, or with other judges, provided the judge makes reasonable efforts to avoid receiving factual information that is not part of the record, and does not abrogate the responsibility personally to decide the matter.

(4) A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to settle matters pending before the judge.

(5) A judge may initiate, permit, or consider any ex parte communication when expressly authorized by law* to do so.

(B) If a judge inadvertently receives an unauthorized ex parte communication bearing upon the substance of a matter, the judge shall make provision promptly to notify the parties of the substance of the communication and provide the parties with an opportunity to respond.

(C) A judge shall not investigate facts in a matter independently, and shall consider only the evidence presented and any facts that may properly be judicially noticed.

(D) A judge shall make reasonable efforts, including providing appropriate supervision, to ensure that this Rule is not violated by court staff, court officials, and others subject to the judge's direction and control.

RULE 2.10

Judicial Statements on Pending and Impending Cases

(A) A judge shall not make any public statement that might reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court, or make any nonpublic statement that might substantially interfere with a fair trial or hearing.

(B) A judge shall not, in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.

(C) A judge shall require court staff, court officials, and others subject to the judge's direction and control to refrain from making statements that the judge would be prohibited from making by paragraphs (A) and (B).

(D) Notwithstanding the restrictions in paragraph (A), a judge may make public statements in the course of official duties, may explain court procedures, and may comment on any proceeding in which the judge is a litigant in a personal capacity.

(E) Subject to the requirements of paragraph (A), a judge may respond directly or through a third party to allegations in the media or elsewhere concerning the judge's conduct in a matter.

RULE 2.11

Disqualification

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality* might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer, or personal knowledge* of facts that are in dispute in the proceeding.

(2) The judge knows* that the judge, the judge's spouse or domestic partner,* or a person within the third degree of relationship* to either of them, or the spouse or domestic partner of such a person is:

(a) a party to the proceeding, or an officer, director, general partner, managing member, or trustee of a party; (b) acting as a lawyer in the proceeding;

(c) a person who has more than a de minimis* interest that could be substantially affected by the proceeding; or

(d) likely to be a material witness in the proceeding.

(3) The judge knows that he or she, individually or as a fiduciary,* or the judge's spouse, domestic partner, parent, or child, or any other member of the judge's family residing in the judge's household,* has an economic interest* in the subject matter in controversy or in a party to the proceeding.

(4) The judge knows or learns by means of a timely motion that a party, a party's lawyer, or the law firm of a party's lawyer has within the previous [insert number] year[s] made aggregate* contributions* to the judge's campaign in an amount that [is greater than \$[insert amount] for an individual or \$[insert amount] for an entity] [is reasonable and appropriate for an individual or an entity].

(5) The judge, while a judge or a judicial candidate,* has made a public statement, other than in a court proceeding, judicial decision, or opinion, that commits or appears to commit the judge to reach a particular result or rule in a particular way in the proceeding or controversy.

(6) The judge:

(a) served as a lawyer in the matter in controversy, or was associated with a lawyer who participated substantially as a lawyer in the matter during such association;

(b) served in governmental employment, and in such capacity participated personally and substantially as a lawyer or public official concerning the proceeding, or has publicly expressed in such capacity an opinion concerning the merits of the particular matter in controversy;

(c) was a material witness concerning the matter; or

(d) previously presided as a judge over the matter in another court.

(B) A judge shall keep informed about the judge's personal and fiduciary economic interests, and make a reasonable effort to keep informed about the personal economic

interests of the judge's spouse or domestic partner and minor children residing in the judge's household.

(C) A judge subject to disqualification under this Rule, other than for bias or prejudice under paragraph (A)(1), may disclose on the record the basis of the judge's disqualification and may ask the parties and their lawyers to consider, outside the presence of the judge and court personnel, whether to waive disqualification. If, following the disclosure, the parties and lawyers agree, without participation by the judge or court personnel, that the judge should not be disqualified, the judge may participate in the proceeding. The agreement shall be incorporated into the record of the proceeding.

RULE 2.12

Supervisory Duties

(A) A judge shall require court staff, court officials, and others subject to the judge's direction and control to act in a manner consistent with the judge's obligations under this Code.

(B) A judge with supervisory authority for the performance of other judges shall take reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the prompt disposition of matters before them.

RULE 2.13

Administrative Appointments

(A) In making administrative appointments, a judge:

- (1) shall exercise the power of appointment impartially* and on the basis of merit; and**
- (2) shall avoid nepotism, favoritism, and unnecessary appointments.**

(B) A judge shall not appoint a lawyer to a position if the judge either knows* that the lawyer, or the lawyer's spouse or domestic partner,* has contributed more than \$[insert amount] within the prior [insert number] year[s] to the judge's election campaign, or learns of such a contribution* by means of a timely motion by a party or other person properly interested in the matter, unless:

- (1) the position is substantially uncompensated;**
- (2) the lawyer has been selected in rotation from a list of qualified and available lawyers compiled without regard to their having made political contributions; or**

(3) the judge or another presiding or administrative judge affirmatively finds that no other lawyer is willing, competent, and able to accept the position.

(C) A judge shall not approve compensation of appointees beyond the fair value of

RULE 2.14

Disability and Impairment

A judge having a reasonable belief that the performance of a lawyer or another judge is impaired by drugs or alcohol, or by a mental, emotional, or physical condition, shall take appropriate action, which may include a confidential referral to a lawyer or judicial assistance program.

RULE 2.15

Responding to Judicial and Lawyer Misconduct

(A) A judge having knowledge* that another judge has committed a violation of this Code that raises a substantial question regarding the judge's honesty, trustworthiness, or fitness as a judge in other respects shall inform the appropriate authority.*

(B) A judge having knowledge that a lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question regarding the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects shall inform the appropriate authority.

(C) A judge who receives information indicating a substantial likelihood that another judge has committed a violation of this Code shall take appropriate action.

(D) A judge who receives information indicating a substantial likelihood that a lawyer has committed a violation of the Rules of Professional Conduct shall take appropriate action.

RULE 2.16

Cooperation with Disciplinary Authorities

(A) A judge shall cooperate and be candid and honest with judicial and lawyer disciplinary agencies.

(B) A judge shall not retaliate, directly or indirectly, against a person known* or suspected to have assisted or cooperated with an investigation of a judge or a lawyer.

CANON 3

A JUDGE SHALL CONDUCT THE JUDGE'S PERSONAL AND EXTRAJUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH THE OBLIGATIONS OF JUDICIAL OFFICE.

RULE 3.1

Extrajudicial Activities in General

A judge may engage in extrajudicial activities, except as prohibited by law* or this Code. However, when engaging in extrajudicial activities, a judge shall not:

(A) participate in activities that will interfere with the proper performance of the judge's judicial duties;

(B) participate in activities that will lead to frequent disqualification of the judge;

(C) participate in activities that would appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality;*

(D) engage in conduct that would appear to a reasonable person to be coercive; or

(E) make use of court premises, staff, stationery, equipment, or other resources, except for incidental use for activities that concern the law, the legal system, or the administration of justice, or unless such additional use is permitted by law.

RULE 3.2

Appearances before Governmental Bodies and Consultation with Government Officials

A judge shall not appear voluntarily at a public hearing before, or otherwise consult with, an executive or a legislative body or official, except:

(A) in connection with matters concerning the law, the legal system, or the administration of justice;

(B) in connection with matters about which the judge acquired knowledge or expertise in the course of the judge's judicial duties; or

(C) when the judge is acting pro se in a matter involving the judge's legal or economic interests, or when the judge is acting in a fiduciary* capacity.

RULE 3.3

Testifying as a Character Witness

A judge shall not testify as a character witness in a judicial, administrative, or other adjudicatory proceeding or otherwise vouch for the character of a person in a legal proceeding, except when duly summoned.

RULE 3.4

Appointments to Governmental Positions

A judge shall not accept appointment to a governmental committee, board, commission, or other governmental position, unless it is one that concerns the law, the legal system, or the administration of justice.

RULE 3.5

Use of Nonpublic Information

A judge shall not intentionally disclose or use nonpublic information* acquired in a judicial capacity for any purpose unrelated to the judge's judicial duties.

RULE 3.6

Affiliation with Discriminatory Organizations

(A) A judge shall not hold membership in any organization that practices invidious discrimination on the basis of race, sex, gender, religion, national origin, ethnicity, or sexual orientation.

(B) A judge shall not use the benefits or facilities of an organization if the judge knows* or should know that the organization practices invidious discrimination on one or more of the bases identified in paragraph (A). A judge's attendance at an event in a facility of an organization that the judge is not permitted to join is not a violation of this Rule when the judge's attendance is an isolated event that could not reasonably be perceived as an endorsement of the organization's practices.

RULE 3.7

Participation in Educational, Religious, Charitable, Fraternal, or Civic Organizations and Activities

(A) Subject to the requirements of Rule 3.1, a judge may participate in activities sponsored by organizations or governmental entities concerned with the law, the legal system, or the administration of justice, and those sponsored by or on behalf of educational, religious, charitable, fraternal, or civic organizations not conducted for profit, including but not limited to the following activities:

- (1) assisting such an organization or entity in planning related to fund-raising, and participating in the management and investment of the organization's or entity's funds;
- (2) soliciting* contributions* for such an organization or entity, but only from members of the judge's family,* or from judges over whom the judge does not exercise supervisory or appellate authority;

(3) soliciting membership for such an organization or entity, even though the membership dues or fees generated may be used to support the objectives of the organization or entity, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice;

(4) appearing or speaking at, receiving an award or other recognition at, being featured on the program of, and permitting his or her title to be used in connection with an event of such an organization or entity, but if the event serves a fund-raising purpose, the judge may participate only if the event concerns the law, the legal system, or the administration of justice;

(5) making recommendations to such a public or private fund-granting organization or entity in connection with its programs and activities, but only if the organization or entity is concerned with the law, the legal system, or the administration of justice; and

(6) serving as an officer, director, trustee, or nonlegal advisor of such an organization or entity, unless it is likely that the organization or entity:

(a) will be engaged in proceedings that would ordinarily come before the judge; or

(b) will frequently be engaged in adversary proceedings in the court of which the judge is a member, or in any court subject to the appellate jurisdiction of the court of which the judge is a member.

(B) A judge may encourage lawyers to provide pro bono publico legal services.

RULE 3.8

Appointments to Fiduciary Positions

(A) A judge shall not accept appointment to serve in a fiduciary* position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person of a member of the judge's family,* and then only if such service will not interfere with the proper performance of judicial duties.

(B) A judge shall not serve in a fiduciary position if the judge as fiduciary will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.

(C) A judge acting in a fiduciary capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(D) If a person who is serving in a fiduciary position becomes a judge, he or she must comply with this Rule as soon as reasonably practicable, but in no event later than [one year] after becoming a judge.

RULE 3.9

Service as Arbitrator or Mediator

A judge shall not act as an arbitrator or a mediator or perform other judicial functions apart from the judge's official duties unless expressly authorized by law.

RULE 3.10

Practice of Law

A judge shall not practice law. A judge may act pro se and may, without compensation, give legal advice to and draft or review documents for a member of the judge's family,* but is prohibited from serving as the family member's lawyer in any forum.

RULE 3.11

Financial, Business, or Remunerative Activities

(A) A judge may hold and manage investments of the judge and members of the judge's family.*

(B) A judge shall not serve as an officer, director, manager, general partner, advisor, or employee of any business entity except that a judge may manage or participate in:

(1) a business closely held by the judge or members of the judge's family; or

(2) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

(C) A judge shall not engage in financial activities permitted under paragraphs (A) and (B) if they will:

(1) interfere with the proper performance of judicial duties;

(2) lead to frequent disqualification of the judge;

(3) involve the judge in frequent transactions or continuing business relationships with lawyers or other persons likely to come before the court on which the judge serves; or

(4) result in violation of other provisions of this Code.

RULE 3.12

Compensation for Extrajudicial Activities

A judge may accept reasonable compensation for extrajudicial activities permitted by this Code or other law* unless such acceptance would

appear to a reasonable person to undermine the judge's independence,* integrity,* or impartiality.

(1) items with little intrinsic value, such as plaques, certificates, trophies, and greeting cards;

(2) gifts, loans, bequests, benefits, or other things of value from friends, relatives, or other persons, including lawyers, whose appearance or interest in a proceeding pending* or impending* before the judge would in any event require disqualification of the judge under Rule 2.11;

(3) ordinary social hospitality;

(4) commercial or financial opportunities and benefits, including special pricing and discounts, and loans from lending institutions in their regular course of business, if the same opportunities and benefits or loans are made available on the same terms to similarly situated persons who are not judges;

(5) rewards and prizes given to competitors or participants in random drawings, contests, or other events that are open to persons who are not judges;

(6) scholarships, fellowships, and similar benefits or awards, if they are available to similarly situated persons who are not judges, based upon the same terms and criteria;

(7) books, magazines, journals, audiovisual materials, and other resource materials supplied by publishers on a complimentary basis for official use; or

(8) gifts, awards, or benefits associated with the business, profession, or other separate activity of a spouse, a domestic partner,* or other family member of a judge residing in the judge's household,* but that incidentally benefit the judge.

(C) Unless otherwise prohibited by law or by paragraph (A), a judge may accept the following items, and must report such acceptance to the extent required by Rule 3.15:

(1) gifts incident to a public testimonial;

(2) invitations to the judge and the judge's spouse, domestic partner, or guest to attend without charge:

(a) an event associated with a bar-related function or other activity relating to the law, the legal system, or the administration of justice; or (b) an event associated with any of the judge's educational, religious, charitable, fraternal or civic activities permitted by this Code, if the same invitation is offered to nonjudges who are engaged in similar ways in the activity as is the judge; and

(3) gifts, loans, bequests, benefits, or other things of value, if the source is a party or other person, including a lawyer, who has come or is likely to come before the judge, or whose interests have come or are likely to come before the judge.

RULE 3.14

Reimbursement of Expenses and Waivers of Fees or Charges

(A) Unless otherwise prohibited by Rules 3.1 and 3.13(A) or other law,* a judge may accept reimbursement of necessary and reasonable expenses for travel, food, lodging, or other incidental expenses, or a waiver or partial waiver of fees or charges for registration, tuition, and similar items, from sources other than the judge's employing entity, if the expenses or charges are associated with the judge's participation in extrajudicial activities permitted by this Code.

(B) Reimbursement of expenses for necessary travel, food, lodging, or other incidental expenses shall be limited to the actual costs reasonably incurred by the judge and, when appropriate to the occasion, by the judge's spouse, domestic partner,* or guest.

(C) A judge who accepts reimbursement of expenses or waivers or partial waivers of fees or charges on behalf of the judge or the judge's spouse, domestic partner, or guest shall publicly report such acceptance as required by Rule 3.15.

RULE 3.15

Reporting Requirements

(A) A judge shall publicly report the amount or value of:

- (1) compensation received for extrajudicial activities as permitted by Rule 3.12;
- (2) gifts and other things of value as permitted by Rule 3.13(C), unless the value of such items, alone or in the aggregate with other items received from the same source in the same calendar year, does not exceed \$[insert amount]; and
- (3) reimbursement of expenses and waiver of fees or charges permitted by Rule 3.14(A), unless the amount of reimbursement or waiver, alone or in the aggregate with other reimbursements or waivers received from the same source in the same calendar year, does not exceed \$[insert amount].

(B) When public reporting is required by paragraph (A), a judge shall report the date, place, and nature of the activity for which the judge received any compensation; the description of any gift, loan, bequest, benefit, or other thing of value accepted; and the source of reimbursement of expenses or waiver or partial waiver of fees or charges.

(C) The public report required by paragraph (A) shall be made at least annually, except that for reimbursement of expenses and waiver or partial waiver of fees or charges, the report shall be made within thirty days following the conclusion of the event or program.

(D) Reports made in compliance with this Rule shall be filed as public documents in the office of the clerk of the court on which the judge serves or other office designated by law,* and, when technically feasible, posted by the court or office personnel on the court's website

CANON 4

A JUDGE OR CANDIDATE FOR JUDICIAL OFFICE SHALL NOT ENGAGE IN POLITICAL OR CAMPAIGN ACTIVITY THAT IS INCONSISTENT WITH THE INDEPENDENCE, INTEGRITY, OR IMPARTIALITY OF THE JUDICIARY.

RULE 4.1

Political and Campaign Activities of Judges and Judicial Candidates in General

(A) Except as permitted by law,* or by Rules 4.2, 4.3, and 4.4, a judge or a judicial candidate* shall not:

- (1) act as a leader in, or hold an office in, a political organization;*
- (2) make speeches on behalf of a political organization;
- (3) publicly endorse or oppose a candidate for any public office;

- (4) solicit funds for, pay an assessment to, or make a contribution* to a political organization or a candidate for public office;
 - (5) attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for public office;
 - (6) publicly identify himself or herself as a candidate of a political organization;
 - (7) seek, accept, or use endorsements from a political organization;
 - (8) personally solicit* or accept campaign contributions other than through a campaign committee authorized by Rule 4.4;
 - (9) use or permit the use of campaign contributions for the private benefit of the judge, the candidate, or others;
 - (10) use court staff, facilities, or other court resources in a campaign for judicial office;
 - (11) knowingly,* or with reckless disregard for the truth, make any false or misleading statement;
 - (12) make any statement that would reasonably be expected to affect the outcome or impair the fairness of a matter pending* or impending* in any court; or
 - (13) in connection with cases, controversies, or issues that are likely to come before the court, make pledges, promises, or commitments that are inconsistent with the impartial* performance of the adjudicative duties of judicial office.
- (B) A judge or judicial candidate shall take reasonable measures to ensure that other persons do not undertake, on behalf of the judge or judicial candidate, any activities prohibited under paragraph (A). must be conducted differently from campaigns for other offices. The narrowly drafted restrictions upon political and campaign activities of judicial candidates provided in Canon 4 allow candidates to conduct campaigns that provide voters with sufficient information to permit them to distinguish between candidates and make informed electoral choices.

RULE 4.2

RULE 4.3

Activities of Candidates for Appointive Judicial Office

A candidate for appointment to judicial office may:

- (A) communicate with the appointing or confirming authority, including any selection, screening, or nominating commission or similar agency; and
- (B) seek endorsements for the appointment from any person or organization other than a partisan political organization.

RULE 4.4

RULE 4.5

Activities of Judges Who Become Candidates for Nonjudicial Office

- (A) Upon becoming a candidate for a nonjudicial elective office, a judge shall resign from judicial office, unless permitted by law* to continue to hold judicial office.
- (B) Upon becoming a candidate for a nonjudicial appointive office, a judge is not required to resign from judicial office, provided that the judge complies with the other provisions of this Code.