

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 legal proceeding, everyone shall be entitled 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 recognised or reflected in the Constitutions of Member States of the Caribbean Community (CARICOM), at common law and civil law and in judicial conventions and traditions.

WHEREAS an independent judiciary is essential to the

maintenance of the rule of law and for ensuring good governance.

WHEREAS public acceptance of the moral authority and integrity of the judiciary contributes to the maintenance of the rule of law and the promotion of good governance.

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

The following principles and rules promulgated in the Code are intended to establish standards for ethical conduct of judges. They are principles and rules of reason to be applied in the light of all relevant circumstances and consistently with the requirements of judicial independence and the law. They are designed to provide guidance to judges and to afford a structure for the regulation of judicial conduct. They are intended to supplement and not to derogate from existing rules of law or rules of conduct which bind judges.

- Propriety**
- Independence**
- Equality**
- Integrity**
- Impartiality**
- Competence and Diligence**
- Accountability**

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values

Court staff includes the personal staff of the judge including law clerks. Judge means a Judge of the Caribbean Court of Justice.

Judge's family includes a judge's spouse, the judge's son, daughter, son-in-law or daughter-in-law. It also includes 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 the opposite sex in a close personal relationship with the judge.

definitions

In this Code, 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 a Judge of the Caribbean Court of Justice.

Judge's family includes a judge's spouse, the judge's son, daughter, son-in-law or daughter-in-law. It also includes 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 the opposite sex in a close personal relationship with the judge.

Principle

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

Code

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

1.2. 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.

1.3. A judge shall avoid close personal association with individual members of the legal profession, particularly those who practise in the judge's court, where such association might reasonably give rise to the suspicion or appearance of favouritism or partiality.

1.4. Save in exceptional circumstances or out of necessity, 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.

1.5. A judge shall avoid the use of the judge's residence by a member of the legal profession to receive clients or other members of the legal profession in circumstances that might reasonably give rise to the suspicion or appearance of impropriety on the part of the judge.

1.6. A judge shall refrain from conduct such as membership of groups or organizations or participation in public discussion which, in the mind of a reasonable, fair-minded and informed person, might undermine confidence in the judge's impartiality with respect to any issue that may come before the courts.

1.7. A judge shall, upon appointment, cease all partisan political activity or involvement. A judge

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I propriety

shall refrain from conduct that, in the mind of a reasonable, fair-minded and informed person, might give rise to the appearance that the judge is engaged in political activity.

1.8. A judge shall refrain from:

1.8.1. Membership of political parties;

1.8.2. Political fund-raising;

1.8.3. Attendance at political gatherings and political fund-raising events;

1.8.4. Contributing to political parties or campaigns; and

1.8.5. Taking part publicly in controversial discussions of a partisan political character.

1.9. 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.

1.10. 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 permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties.

1.11. A judge shall not testify voluntarily as a character witness, except that a judge may testify as a witness in a criminal proceeding if the judge or a member of the judge's family is a victim of the offence or if the defendant is a member of the judge's family or in like exceptional circumstances.

1.12. Subject to the proper performance of judicial duties, a judge may engage in activities such as:

1.12.1. writing, lecturing, teaching and participating in activities concerning the law, the legal system, the administration of justice and related matters;

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

1.12.3. serving as a member of an official body devoted to the improvement of the law, the legal system, the administration of justice or related matters.

1.13. A judge may speak publicly on non-legal subjects and engage in historical, educational, cultural, sporting or like social and recreational activities, if such activities do not detract from the dignity of the judicial office or otherwise with the performance of judicial duties in accordance with this Code.

1.14. A judge may participate in civic and charitable activities that do not reflect adversely on the judge's impartiality or interfere with the performance of judicial duties. A judge should not be involved in

1.15. A judge shall not serve as the executor, administrator, trustee, guardian or other fiduciary, except for the estate, trust or person connected with a member of the judge's family and then only if such service will not interfere with the proper performance of judicial duties.

1.16. Save for holding and managing appropriate personal or family investments, a judge shall refrain from being engaged in other financial or business dealings as these may interfere with the proper performance of judicial duties or reflect adversely on the judge's impartiality.

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

1.18. A judge shall not practise law whilst the holder of judicial office.

1.19. Except as consistent with, or as provided by,

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constitutional or other law, a judge shall not accept appointment to a government commission, committee or to a position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, the administration of justice or related matters. However, a judge may represent the judge's country or the state on ceremonial occasions or in connection with historical, educational, cultural, sporting or like activities.

public disclosure, a judge may receive a small 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.

1.20. A judge may form or join associations of judges or participate in other organizations representing the interests of judges to promote professional education and training and to protect judicial independence.

1.21. A judge and members of the judge's family, shall neither ask for, nor accept, any gift, bequest, loan or favour 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.

1.22. Subject to law and to any legal requirements of

1.23. A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if such payments do not give the appearance of influencing the judge in the performance of judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions:

- (a) Such compensation and reimbursement shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activities; and
- (b) Reimbursement shall be limited to the actual cost of travel and accommodations reasonably incurred by the judge and,

where appropriate to the occasion, by the judge's family. Any payment in excess of such an amount is compensation.

1.24. A judge shall make such financial disclosures and pay all such taxes as are required by law.

II independence

Principle:

An independent judiciary is indispensable to impartial justice under law. A judge should therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Code

- 2.1. 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.
- 2.2. A judge shall reject any attempt to influence his or her decision in any matter before the judge for decision where such attempt arises outside the proper performance of judicial duties.

- 2.3. In performing judicial duties, a judge shall, within the judge's own court, be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently.
- 2.4. 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.
- 2.5. A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary and in a requirement that is fundamental to the maintenance of judicial independence.

Principle:

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

Code

- 3.1. A judge shall ensure that his or her conduct is above reproach in the view of reasonable, fair-minded and informed persons.
- 3.2. The behaviour 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.
- 3.3. A judge, in addition to observing personally the standards of this Code, shall encourage and support their observance by others.

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III integrity

A judge shall not knowingly, while a proceeding is before, or could come before the judge, make any comment that might reasonably be viewed as likely 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. 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 a reasonable, fair-minded and informed person might believe that the judge is unable to decide the matter impartially.

IV impartiality

Principle:

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

Code

- 4.1. A judge shall perform his or her judicial duties without favour, bias or prejudice.
- 4.2. 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.
- 4.3. A judge shall, so far as is reasonable, so conduct himself or herself as to minimise the occasions on which it will be necessary for the judge to be

disqualified from hearing, ruling or adjudicating in a cause or matter.

- 4.4. A judge shall not knowingly, while a proceeding is before, or could come before the judge, make any comment that might reasonably be viewed as likely 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.
- 4.5. 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 a reasonable, fair-minded and informed person might believe that the judge is unable to decide the matter impartially.
 - 4.5.1. A judge must be sensitive to the fact

that fraternal bodies are shrouded in mystery and clothed with a perception of secrecy and of providing unconditional assistance to members in times of need, trouble and distress. Persons who are not members of such bodies are likely to conclude that a litigant, belonging to the same fraternal body as a judge, enjoys an unfair advantage. In such circumstances, it would be appropriate for a judge to disqualify himself or herself in any proceeding in which the impartiality of the judge might reasonably be questioned.

- 4.5.2. A judge should therefore recognise that transparency assists in combating

corruption and suspicions, and he or she should encourage judicial colleagues and the court staff to assist in promoting the intrinsic merits of transparent conduct and infusing public confidence in the role, functions and operations of the court.

- 4.6. A judge shall disqualify himself or herself in any proceedings in which there might be a reasonable perception of a lack of impartiality of the judge including, but not limited to, instances where:
 - 4.6.1. The judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;

- 4.6.2. The judge previously served as a lawyer or was a material witness in the matter in controversy.
- 4.6.3. The judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy.
- 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 who would otherwise be disqualified on the foregoing grounds may, instead of withdrawing from the proceedings, disclose on the record the basis of such disqualification. If, based on such disclosure, the parties, independently of the judge's participation, agree in writing or on the record, that the judge may participate, or continue to participate, in the proceedings, the judge may do so.
- 4.9. Disqualification of a judge is not required if necessity obliges the judge to decide the matter in controversy including where no other judge may lawfully do so or where, because of urgent circumstances, failure of the judge to participate might lead to a serious miscarriage of justice. In such cases of necessity, the judge shall still be obliged to disclose to the parties in a timely way any cause of disqualification and ensure that such disclosure is included in the record.
- 4.10. Save for the foregoing, a judge has a duty to perform the functions of the judicial office and litigants do not have a right to choose a judge.

Principle:

Ensuring equality of treatment to all before the courts is an indispensable precept that governs the due discharge of the duties of judicial office.

Code

- 5.1. A judge shall strive to be aware of, and to understand, diversity in society and differences arising from various sources, including but not limited to race, colour, 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 his or her duties with appropriate consideration for all persons be they lawyers, parties, witnesses, lawyers, court staff or judicial colleagues while upholding the paramountcy of adjudication according to law.
- 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 which is before the judge, on any irrelevant ground.
- 5.5. A judge shall require lawyers in proceedings before his or her court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds. This requirement does not preclude legitimate advocacy where any such grounds are legally relevant to an issue in the proceedings.

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V equality

- 5.6. A judge shall not be a member of, nor associated with, any society or organization which practises unjust discrimination such that it may or might inhibit or thwart the judicial process.
- 5.7. Without authority of law and notice to, and consent of, the parties and an opportunity to respond, a judge shall not engage in independent, personal investigation of the facts of a case before him or her.
- 5.8. Without authority of law and notice to, and consent of, the parties and an opportunity to respond, a judge shall not, in the absence of the other parties to the proceedings, communicate with any party to proceedings in the judge's court concerning such proceedings.

Principle:

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

Code

- 6.1. The judicial duties of the judge take precedence over all other activities.
- 6.2. A judge shall devote his or her professional activity to judicial duties. Such duties are broadly defined and include not only the performance of judicial duties in court, including rulings and the making of decisions, but such other tasks that are related to the judicial function or the operations of the court.
- 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.

- 6.4. A judge shall keep himself or herself informed about relevant developments of law, including international conventions and other instruments establishing human rights norms and, within any applicable limits of constitutional or other law, shall conform to such norms wherever they are applicable.
- 6.5. A judge shall perform all judicial duties efficiently. These duties extend to the delivery of reserved decisions fairly and with reasonable promptness.
- 6.6. A judge shall maintain order and decorum in all proceedings in which the judge is involved. He or she shall be patient, dignified and courteous in relation to lawyers, litigants, witnesses and others with whom the judge is called upon to deal in an official capacity. The judge shall require similar

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VI competence and diligence

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.

Principle:

Compliance of judges with the principles of this Code is essential to the effective achievement of its objectives.

Code:

- 7.1. Institutions and procedures for the implementation of this Code shall provide a publicly credible means for considering and determining complaints against judges. This is to be pursued without prejudice or hindrance to the universally recognised and hallowed principle of judicial independence.
- 7.2. By the very nature of their judicial office, judges are not, except in accordance with the law, accountable for their decisions to any organ or entity within the jurisdiction of the Caribbean Court of Justice or

elsewhere, but are accountable for their conduct to institutions that are specifically established to implement and administer this Code.

- 7.3. The implementation of this Code shall take into account the legitimate needs of a judge, by reason of the nature of the judicial office, to be afforded protection from vexatious or unsubstantiated accusations and due process of law in the resolution of complaints against the judge.
- 7.4. The judiciary and any institution established to implement this Code shall promote awareness of these principles and the provisions of this Code.

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VII accountability



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 legal proceeding, everyone shall be entitled 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 recognised or reflected in the Constitutions of Member States of the Caribbean Community (CARICOM) and in their national laws and civil law, in judicial conventions and traditions. WHEREAS the independence of the courts is essential to the maintenance of the rule of law and for ensuring good governance.

code of judicial conduct