

For Eastern Caribbean Supreme Court Judges

CANON 1

A JUDGE SHOULD UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

An independent and honourable judiciary is indispensable to justice in our society. A judge should participate in establishing, maintaining, and enforcing high standards of conduct, and should personally observe those standards, so that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

COMMENTARY

1. Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favour. Although judges should be independent, they should comply with the law, as well as with the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary.
2. These Canons are rules of reason. They should be applied consistent with constitutional requirements and other law, and in the context of all relevant circumstances. The Code is to be construed so as to enhance the essential independence of judges in making judicial decisions.
3. The Code is designed to provide guidance to judges and nominees for judicial office. The Code may also provide standards of conduct for application in proceedings under the Courts Order, although it is not intended that disciplinary action would be appropriate for every violation of its provisions
4. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable application of the text and should depend on such factors as the seriousness of the violation, the intent of the judge, whether there is a pattern of improper conduct, and the effect of the improper conduct on others or on the judicial system. Many of the proscriptions in the Code are necessarily cast in general terms, and it is not suggested that disciplinary action is appropriate where reasonable judges might be uncertain as to whether or not the conduct in question is proscribed. The Code is not designed or intended as a basis for civil liability or criminal prosecution.
5. The purpose of the Code would be subverted if the Code were invoked by lawyers or litigants for mere tactical advantage in a proceeding.

CANON 2

A JUDGE SHOULD AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL ACTIVITIES

A Judge should respect and comply with the law and at all times act in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

A Judge should not

- allow family, social, political or other relationships to influence judicial conduct or judgment;
- lend the prestige of the judicial office to advance the private interests of others; nor convey or permit others to convey the impression that they are in a special position to influence the judge.
- testify voluntarily as a character witness.
- hold membership in any organization that practises invidious discrimination on the basis of race, gender, religion, or national origin.

COMMENTARY

1. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. Judicial office carries with it the burden of constant public scrutiny. A judge must accept restrictions that might be viewed as onerous by other persons and should do so freely and willingly.
2. The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.
3. The testimony of a judge as a character witness injects the prestige of the judicial office into the proceeding in which the judge testifies and may be misunderstood to be an official testimonial. This Canon, however, does not afford the judge a privilege against testifying in response to an official summons. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.
4. A judge should avoid lending the prestige of judicial office for the advancement of the private interests of the judge or others. For example, a judge should not use the judge's

judicial position to gain advantage in litigation involving a friend or a member of the judge's family. A judge should be sensitive to possible abuse of the prestige of the office.

CANON 3

A JUDGE SHOULD PERFORM THE DUTIES OF THE OFFICE IMPARTIALLY AND DILIGENTLY

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

The Judge should adhere to the following standards

A Judge Should

- Maintain professional competence in the law, and should not be swayed by partisan interests, public clamor, or fear of criticism.
- Hear and decide matters assigned to him/her expeditiously and fairly.
- Maintain decorum in all judicial proceedings.
- Be patient, dignified, respectful, and courteous to all those who appear before him/her in an official capacity
- Avoid public comment on the merits of a pending or impending action.

Administrative Responsibilities

1. A Judge should diligently discharge his/her administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.
2. A Judge should require court officials, staff and others subject to his/her direction and control to observe high standards of fidelity and diligence.
3. A Judge should initiate appropriate action when he/she becomes aware of reliable evidence indicating unprofessional conduct by a judge or a lawyer.
4. A Judge who is called upon to approve, make or participate in the making of appointments should make any such decisions on the basis of merit only avoiding favouritism.
5. The Chief Justice should take reasonable measures to ensure the timely and effective performance by judges of their judicial work.

Disqualification

1. A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which:
 1. the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

2. the judge served as lawyer in the matter in controversy, or a lawyer with whom the judge previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness;
 3. the judge knows that, individually or as a fiduciary, the judge or the judge's spouse or minor child residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be affected substantially by the outcome of the proceeding;
 4. the judge or the judge's spouse, or a person known by the judge to be related to him or her:
 1. is a party to the proceeding, or an officer, director, or trustee of a party
 2. is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding; or
 3. is, to the judge's knowledge, likely to be a material witness in the proceeding;
 4. one of the lawyers appearing in the matter before the judge is the spouse of the judge or a member of the judge's household or a member of the judge's family
 5. the judge has expressed an opinion concerning the merits of the particular case in controversy.
2. A judge should keep informed about the judge's personal and fiduciary financial interests, and make a reasonable effort to keep informed about the personal financial interests of the judge's spouse and minor children residing in the judge's household.
 3. For the purposes of this section:
 1. "fiduciary" includes such relationships as executor, administrator, trustee, and guardian;
 2. "financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:
 1. ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;
 2. an office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by such organization;
 3. the proprietary interest of a policy holder in a mutual insurance company, or a depositor in a financial institution or credit union, or a similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;
 3. ownership of government securities is a "financial interest" in the issuer only if the outcome of the proceeding could substantially affect the value of the securities.

4. "member of the judge's family" includes a spouse, child, sibling, grandchild, parent, grandparent, or other relative or person, with whom the judge maintains a close family relationship or in relation to whom the Judge stands *in loco parentis*;
5. "member of the judge's household" means any person residing in the same house as that of the Judge

COMMENTARY

1. The duty to hear all proceedings fairly and with patience is not inconsistent with the duty to dispose promptly of the business of the court. Courts can be efficient and businesslike while being patient and deliberate.
2. The duty under Canon 2 to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary applies to all the judge's activities, including the discharge of the judge's adjudicative and administrative responsibilities. For example, the duty to be respectful of others includes the responsibility to avoid comment or behavior that can reasonably be interpreted as manifesting prejudice or bias towards another on the basis of personal characteristics like race, gender, religion, or national origin.
3. The proscription against communications concerning a proceeding does not preclude a judge from consulting with other judges, or with court personnel whose function is to aid the judge in carrying out adjudicative responsibilities.
4. In disposing of matters promptly, efficiently and fairly, a judge must demonstrate due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. A judge should monitor and supervise cases so as to reduce or eliminate dilatory practices, avoidable delays and unnecessary costs. A judge should encourage and seek to facilitate settlement, but parties should not feel coerced into surrendering the right to have their controversy resolved by the courts.
5. Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court and expeditious in determining matters under submission, and to insist that court officials, litigants and their lawyers cooperate with the judge to that end. Reserved judgments should be delivered within three months, or such longer time as the circumstances may reasonably require.
6. The admonition against public comment about the merits of a pending or impending action continues until completion of the appellate process. If the public comment involves a case from the judge's own court, particular care should be taken that the comment does not denigrate public confidence in the integrity and impartiality of the judiciary or seem to promote the judge's own image or personal interests.
7. Maintaining professional competence requires a judge actively to participate in judicial education and training exercises on an ongoing basis and to keep himself/herself reasonably informed on new developments in the law

CANON 4

A JUDGE SHOULD REGULATE EXTRA-JUDICIAL ACTIVITIES TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL DUTIES AND OBLIGATIONS.

General Rule

A judge may engage in such extra-judicial activities that do not, in the minds of right-thinking members of the community:

- cast reasonable doubt on the Judge's capacity to act impartially as a Judge
- compromise the dignity of the office of the Judge; or
- interfere or be in conflict with the performance of the judicial duties or the office of the Judge.

Vocational Activities

A Judge is encouraged to write, lecture, teach, speak and participate in activities on legal subjects provided that such vocational activities are not directly related to matters pending or impending or that the judge's ability to make independent decisions is not thereby compromised.

Avocational Activities

A Judge may speak, write, lecture, teach or participate in activities on non-legal subjects, and engage in the arts, sports and other social and recreational activities, provided that such avocational activities do not detract from the dignity of the office of Judge

Governmental Activities

A judge should not appear at a public hearing before an executive or legislative body or official except:

1. on matters concerning the law, the legal system or the administration of justice with the concurrence of the Chief Justice; or
2. when acting in a personal capacity in a matter involving the Judge or the Judges interests.

A Judge shall not accept appointment to a governmental committee or commission of inquiry that is concerned with political matters or matters which may affect the public perception of the independence impartiality and integrity of the judiciary as a whole other than for the improvement of the law, the legal system or the administration of justice.

A Judge may be a member or serve as an officer, director, trustee or non-legal advisor of an organization or governmental agency devoted to the improvement of the law, the legal system or the administration of justice provided that such organization or agency is not likely to be engaged in litigation before any Court.

CIVIC AND CHARITABLE ACTIVITIES

A judge may be a member or serve as an officer, director, trustee or non-legal advisor of an educational, religious, charitable, fraternal or civil organization not conducted for profit or political aims, subject to but not limited to the following prohibitions:-

1. A Judge shall not serve as an officer, director, trustee or non-legal advisor if it is likely that such organization will be engaged in proceedings that would ordinarily come before the Judge or will be regularly engaged in litigation in any Court.
2. A Judge shall not solicit funds or actively engage in fundraising activities for any such organization, or use or permit the use of the prestige of the judicial office for that purpose, but the Judge may assist such an organization in planning fund-raising and may participate in the management and investment of the funds solicited by the organization. A Judge may be listed only by name and office or other position held on the stationery of the organisation for funding or membership solicitation.
3. A Judge shall not personally participate in membership solicitation of such organisation if the solicitation might be perceived as coercive or is essentially a fundraising mechanism.

Financial Activities

1. A judge shall not engage in financial and business dealings that:
 1. may tend to be reasonably perceived to exploit the Judge's judicial position; or
 2. involve the Judge in frequent transactions or continuing business relationship with lawyers or other persons likely to come before the Court on which the Judge serves
 3. Subject to the General Rule, a Judge may hold and manage investments, inclusive of real estate, belonging to the Judge or members of the Judges family.
2. A Judge shall not serve as an officer, director, partner, adviser, employee or other active participant of any business other than a business controlled by the Judge's immediate family.
3. A Judge shall manage the Judge's investments and other financial interests in such a manner as to minimize the number of cases in which the Judge is disqualified. As soon as the Judge can do so without serious financial detriment, the judge should divest himself or herself of investments or other financial interests that might require frequent disqualification.
4. A Judge shall not accept, and shall urge members of his family and household not to accept a gift, bequest, favour or loan from anyone except:-

1. a gift incident to a public testimonial, books, tapes and other resource materials supplied by publishers on a complimentary basis for official use, or an invitation to the Judge and the Judge's spouse or guest to attend a bar-related function or an activity devoted to the improvement of the law, the legal system or the administration of justice;
 2. a gift, award or benefit incident to the business, profession or other separate activity;
 3. ordinary social hospitality;
 4. a gift from a relative or friend for a special occasion such as a wedding, anniversary or birthday, if the gift is commensurate with the occasion and the relationship;
 5. a gift, bequest favour or loan from a relative or close personal friend whose appearance or interest in a case would in any event require disqualification;
 6. a loan from a commercial lending institution in the ordinary course of business on the same terms generally available to persons who are not Judges; or
 7. a scholarship or fellowship awarded on the same terms and based on the same criteria applied to other applicants.
5. Information acquired by a Judge confidentially in the Judge's judicial capacity shall not be used or disclosed by the Judge in financial dealings or for any other purpose not relevant to the Judge's judicial duties.

Fiduciary Activities

1. A Judge shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney or other fiduciary except for the estate, trust or person of a member of the Judge's family or a person not a member of the Judge's family with whom the Judge had maintained a longstanding personal relationship of trust and confidence, and then only if such service will not interfere with the proper performance of judicial duties.
2. The same restrictions on financial activities that apply to a Judge personally shall also apply to the Judge while acting in a fiduciary capacity.

Arbitration

A judge shall not act as an arbitrator, mediator or conciliator or otherwise perform judicial functions in a private capacity unless expressly authorised.

Practice Of Law

A Judge shall not practice law. Notwithstanding this prohibition, a Judge may act for himself in his personal affairs. The Judge may, without compensation give legal advice to, draft or review documents for a member of the Judge's family.

Chambers, Resources or Staff

A Judge should not use judicial chambers, resources or staff to engage in activities permitted by this Canon, except for uses that are de minimis.

COMMENTARY

1. This Canon is aimed at preserving the independence, impartiality and integrity of the Judge, the Judiciary and the administration of justice, while acknowledging the right of the Judge to take his/her place and perform his/her chosen individual role as a family member, citizen and member of the community. Appropriate involvement in family, social intercourse and non-political civic activities can enhance the standing of the Judge in his official capacity and heighten his awareness of the community as a whole.
2. A judge must not abdicate his/her role as a leader in the administration of justice and should hold himself/herself responsive to requests to elucidate the law and the judicial function to legal and non-legal persons alike. A judge must be careful not to become engaged in the discussion of issues currently before or likely to come before any Court.
3. A Judge ought to be free to indulge in extra-legal activities of personal interest. A Judge should, however, avoid being ensnared in controversial issues that may do harm to the dignity of the judicial office. By the same token, the judicial office ought not to be used to advance the Judge's point of view or to secure any personal advantage for the Judge.
4. A Judge should absolutely refrain from any partisan or other political activity as detailed in Canon 5.
5. A Judge should appear at a public hearing under the aegis of the Executive or Legislature only with the express consent of the Chief Justice for the purpose of advancing the cause of the administration of justice or where his or her personal interests are likely to be directly affected thereby.
6. The fact of a Judge sitting on a committee, commission or other body with a political agenda can be perceived as collusion between the Judiciary and the other arms of Government. Such perception carries with it the real possibility of the diminution of confidence in the judicial branch of government in the minds of litigants in particular and the public at large.
7. It is conceivable and indeed desirable that a Judge may lend his knowledge and experience to an entity, whether governmental or non-governmental, the sole stated purpose of which is to improve the legal system and the administration of justice.
8. The organizations contemplated under the heading 'Civic and Charitable' embrace service clubs such as Rotary, Lions, Kiwanis and Jaycees, other local charitable bodies, international bodies such as the Red Cross, Boy Scouts, Girl Guides and Saint John's Ambulance Brigade, denominational groups, fraternal organizations such as Freemasons, Foresters and other Lodges and sports governing bodies or clubs. With regards to such bodies, Judges in their capacity as members or office-bearers thereof should be wary of becoming involved in the soliciting of funds. Such involvement should be restricted to making an input in the planning of the activities. Judges should be alive to the possibility that the presence of their name and title on the letterhead of the organisation may have the effect of providing an incentive to a potential contributor for reasons other than philanthropy.

9. A judge must be sensitive to the fact that fraternal bodies are traditionally shrouded in mystery and clothed with a perception of secrecy and of members unconditionally coming to each other's aid in times of need, trouble and distress. Non-members are therefore apt to conclude that an opposing litigant belonging to the same Lodge as the Judge enjoys an unfair advantage. This is rendered more acute in smaller communities. In this regard, it would therefore be appropriate for a judge to disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned. If the judge is placed in a situation where he or she will be required frequently to disqualify himself or herself then the judge should consider disassociating himself or herself from such body.
10. A Judge should refrain from engaging in any business or financial activity that might interfere with the impartial performance of the Judge's judicial function. A Judge must nevertheless be free to make financial and investment decisions for his or her immediate family's well-being. A Judge may participate in his or her family's business to the extent that it does not occupy an inordinate amount of the judge's time or compromise the Judge's judicial duties.
11. A newly appointed Judge or a Judge at the time this Code is brought into force, should be afforded a reasonable opportunity to achieve compliance with these provisions.

CANON 5

A JUDGE SHOULD REFRAIN FROM POLITICAL ACTIVITY

1. A Judge should not:
 1. Be a member or hold any office in a political organization;
 2. Make speeches for a political organization or candidate or publicly endorse or oppose a candidate for public office;
 3. Solicit funds for or pay an assessment or make a contribution to a political organization or candidate;
 4. Attend political gatherings; or
 5. Purchase tickets for political party dinners, or other functions.
2. A judge should resign the judicial office when the judge becomes a candidate in a general election for any political office
3. A judge should not engage in any other political activity; provided, however, this should not prevent a judge from engaging in the activities described in Canon 4.

COMMENTARY

The Judges of the Eastern Caribbean States preside in small islands where political rivalries are often intense. Judges should be extremely sensitive to the necessity for

them not only to be absolutely non-partisan but also to refrain from any conduct that might appear to be partisan. The test to be used here is similar to the one set out in Canon 2 i.e. whether the conduct would create in reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, a perception that the judge's ability to carry out judicial responsibilities with integrity and impartiality is impaired.