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THE ST JAMES ETHICS CENTRE

LIVING ETHICS

TACKLING JUDICIAL CORRUPTION - GLOBALLY

Michael Kirby*

In his recent essay in these pages, Julian Disney has likened globalisation to a river. It can bring benefits; but can also swamp precious variety. I want to describe a new development. Even judges are thinking globally.

The life of a lawyer, and of a judge, is constantly involved in making ethical choices. Most of them are governed by written rules of law. Often the rules are broadly stated. In applying the rules, a choice must frequently be made about which different minds can legitimately reach different conclusions.

Take a recent case about judicial disqualification upon which the High Court of Australia divided. When a long trial was well advanced, the judge's mother died, leaving him a largish parcel of shares in the defendant bank. Through oversight, the judge did not disclose this to the parties. It was only discovered after the judge had given his decision in favour of the bank. What did the rule of manifest judicial impartiality then require? A majority of the High Court concluded that it did not require a retrial. I dissented. Underpinning the different opinions were different legal views informed by differing ethical imperatives.

A feature of this decision was the extent to which the participating judges referred to decisions in other countries, including several outside the usual source we look to for comparative law, England. The river of globalisation has long nourished the Australian legal system. Its link, through the Privy Council, to the laws of England gave it new ideas for most of Australia's modern history. Today, judges and lawyers in Australia are casting their net more widely.

Observant lawyers know that the law over the last decade or so, has taken on a truly global character. Once substantially the captives of their own jurisdiction (even their own State), Australian lawyers are now increasingly obliged to look to a wider world. Fortunately, the Internet and other resources come to the rescue. Yet we must be careful not to be swamped by too much data, so that we miss the principles in a mass of detail.

Take the principles on judicial integrity as an illustration. The controversy presented by the recent case in the High Court of Australia has many parallels for the judiciary around the world. Everywhere, judicial officers regularly face similar quandaries. To some extent the answers they give will differ according to their own legal traditions and national culture. In the past, such problems were substantially sorted out by local decision-makers. If they were operating within a common law country, they could at least call on the decisions of a number of top courts of that tradition which spoke the same language and applied the same basic doctrine.

In the days of British Empire, the spectre of a corrupt judge or magistrate was so horrible that it could largely be dismissed as impossible. The judicial traditions had a strong ethos of honesty and integrity. A judge on the take was unthinkable. The problems of the judiciary were different: laziness, bad temper, dilatoriness, ignorance of the law, prejudice. Financial corruption was out of the question, although it was not unknown for judges sometimes to be corrupted intellectually by ambition, the hope of promotion or the prayer for a title.

Nowadays, this fundamental assumption of the legal profession cannot always be taken for granted in every country of the Commonwealth of Nations, still less of the whole world. The international principles of human rights may promise that the judge shall be competent, independent and impartial. But in many countries, especially in the lower judiciary, corruption is sadly a way of life. Insidiously, it has invaded the judicial seat. It has intruded into court registries. Without a "tip", a file may be lost and will never make its way to a hearing. Without a bribe, a favourable decision may not be assured.

To meet this worldwide problem, an initiative has recently been taken jointly by the United Nations in cooperation with Transparency International (TI). The United Nations bodies involved are the UN Global Program Against Corruption based in Vienna and the Office of the

High Commissioner for Human Rights (Mrs Mary Robinson) based in Geneva. TI is a global non-governmental organisation that promotes an effective response to corruption. Some high level corruption in developing countries has been, in the past, funded by rich corporations seeking favourable decisions. Now, international treaties, supported by local laws, increasingly impose sanctions on those who set out to corrupt the vulnerable. TI teaches that putting corrupt officials behind bars is not enough. The solutions must be systemic. The basic causes must be addressed.

The UN-TI initiative has led to the creation of a high level judicial group. It is chaired by Judge Christopher Weeramantry, until recently Vice-President of the International Court of Justice. I am the rapporteur. The members include the Chief Justices or senior judges from Bangladesh, India, Nepal, Nigeria, South Africa, Tanzania and Uganda. The group has drafted an international code of judicial conduct. This draws on codes that have already been adopted in many parts of the world. The hope is that the draft code will stimulate those countries that have not yet adopted such an approach. Those that have, may be encouraged to bring their provisions into line. This is the way the influence of globalism in the law works today. It is not prescriptive as such. But it is often highly influential.

All of the foregoing countries share a common experience of the common law. Once the draft international code is completed, the intention is to take it to judges of the civil law tradition. Thus it will be considered by judges in Russia and Eastern Europe and in Latin America before the final code is recommended to the United Nations. It will probably take a decade or more for this process to be completed. But this is the way that global ethical principles work today. The law may differ from country to country. But the expectation of an uncorrupted judge is, or ought to be, universal.

The draft code of judicial conduct adopts as the prerequisites of the ethical discharge of judicial duties the values of independence, integrity, impartiality, propriety, respect for equality, competence and diligence. It accepts the need for accountability beyond open courts, the appeals system and parliamentary removal of incapable or corrupt judges. It also accepts that judges are specially vulnerable to complaint because, every day they are bound to disappoint contesting litigants. They are therefore often subject to accusations, many of which are misconceived and some vexatious. All of these principles are reflected in

the draft code. In a comparatively short time, judges linked by a common language and traditions but operating in widely differing countries, were able to agree on the basic principles.

Many judicial officers and lawyers in Australia question the need for such a code of conduct. They do so despite the adoption of such codes in Canada and the United States, countries with a judiciary not very different from our own. They point to our long judicial tradition, the strong conventions of ethical conduct and the dangers that codes might be used by disappointed litigants to harass judges who have only done their duty.

These are fair points. They must find reflection in the procedures adopted and in the due process provided to judges who are the subject of complaint. However, it seems scarcely likely that Australia's judiciary will be exempt from the world-wide movement to enhance the best judicial qualities by adopting principles of integrity available to judge and citizen alike. Already, judicial bodies in Australia are looking into the idea of an Australian Code of Judicial Conduct. This development can stimulate, and learn from, the international moves. The ultimate beneficiary is not just the litigant and the lawyer using the system. It is not even the new judge assured of a clear path to travel. It is the community, whose confidence in a judiciary of competence, independence and integrity is essential for the effectiveness and acceptance of judicial orders. The survival of the rule of law depends, in the end, on a respected and uncorrupted judiciary.

ANNEXURE

CODE OF JUDICIAL CONDUCT

THE BANGALORE DRAFT

Explanatory Note

At its first meeting held in Vienna in April 2000, the Judicial Group on Strengthening Judicial Integrity recognized the need for a code against which the conduct of judicial officers may be measured. Accordingly, the Judicial Group requested that codes of judicial conduct which had been adopted in some jurisdictions be analyzed, and a report be prepared concerning: (a) the core considerations which recur in such codes; and (b) the optional or additional considerations which occur in some, but not all, such codes

and which may or may not be suitable for adoption in particular countries.

In preparing a draft code of judicial conduct in accordance with the directions set out above, reference was made to several existing codes and international instruments including, in particular, the following:

- (a) Restatement of Values of Judicial Life adopted by the Chief Justices Conference of India, 1999.
- (b) Code of Conduct for the Judges of the Supreme Court of Bangladesh, prescribed by the Supreme Judicial Council in the exercise of power under Article 96(4)(a) of the Constitution of the People's Republic of Bangladesh, May 2000.
- (c) The Judges' Code of Ethics of Malaysia, prescribed by the Yang di-Pertuan Agong on the recommendation of the Chief Justice, the President of the Court of Appeal and the Chief Judges of the High Courts, in the exercise of powers conferred by Article 125(3A) of the Federal Constitution of Malaysia, 1994.
- (d) The Code of Judicial Conduct of the Philippines, September 1989.
- (e) The Canons of Judicial Ethics of the Philippines, proposed by the Philippines Bar Association, approved by the Judges of First Instance of Manila, and adopted for the guidance of and observance by the judges under the administrative supervision of the Supreme Court, including municipal judges and city judges.
- (f) Code of Conduct to be observed by Judges of the Supreme Court of the Supreme Court and of the High Courts of Pakistan.
- (g) Yandina Statement: Principles of Independence of the Judiciary in Solomon Islands, November 2000.
- (h) Code of Conduct for Judicial Officers of the Federal Republic of Nigeria.
- (i) Code of Conduct for Judicial Officers of Tanzania, adopted by the Judges and Magistrates Conference, 1984.
- (j) Code of Conduct for Judicial Officers of Kenya, July 1999.
- (k) Code of Conduct for Judges, Magistrates and Other

Judicial Officers of Uganda, adopted by the Judges of the Supreme Court and the High Court, July 1989.

- (l) The Judicial (Code of Conduct) Act, enacted by the Parliament of Zambia, December 1999.
- (m) Guidelines for Judges of South Africa, issued by the Chief Justice, the President of the Constitutional Court, and the Presidents of High Courts, the Labour Appeal Court, and the Land Claims Court, March 2000.
- (n) The European Charter on the Statute for Judges, Council of Europe, July 1998.
- (o) Ethical Principles for Judges, drafted with the cooperation of the Canadian Judges Conference and endorsed by the Canadian Judicial Council, 1998.
- (p) The Code of Judicial Conduct adopted by the House of Delegates of the American Bar Association, August 1972.
- (q) The Code of Conduct of the Judicial Conference of the United States.
- (r) The Canons of Judicial Conduct for the Commonwealth of Virginia, adopted and promulgated by the Supreme Court of Virginia, 1998.
- (s) The Iowa Code of Judicial Conduct.
- (t) Draft Principles on the Independence of the Judiciary ("Siracusa Principles"), prepared by a committee of experts convened by the International Association of Penal Law, the International Commission of Jurists, and the Centre for the Independence of Judges and Lawyers, 1981.
- (u) Minimum Standards of Judicial Independence adopted by the International Bar Association, 1982.
- (v) United Nations Basic Principles on the Independence of the Judiciary, endorsed by the UN General Assembly, 1985.
- (w) Draft Universal Declaration on the Independence of Justice ("Singhvi Declaration") prepared by Mr L.V. Singhvi, UN Special Rapporteur on the Study on the Independence of the Judiciary, 1989.
- (x) The Beijing Statement of Principles of the Independence of the Judiciary in the Lawasia Region, adopted by the 6th Conference of Chief Justices, August

1997.

(y) ~~The Latimer House Guidelines for the~~ Commonwealth on good practice governing relations between the Executive, Parliament and the Judiciary in the promotion of good governance, the rule of law and human rights to ensure the effective implementation of the Harare Principles, 1998.

(z) The Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System, adopted by the expert group convened by the Centre for the Independence of Judges and Lawyers, February 2000.

At its second meeting held in Bangalore in February 2001, the Judicial Group, proceeding by way of examination of the draft placed before it, identified the core values, formulated the relevant principles, and agreed on the code set out in this document: the Bangalore Draft. The Judicial Group recognized, however, that since the draft Code had been developed by judges drawn principally from common law countries, it was essential that it be scrutinized by judges of other legal traditions to enable it to assume the status of a duly authenticated draft international code of judicial conduct.

In deciding to publish the Bangalore Draft, the Judicial Group agreed that the judicial duty is to conform to any code of conduct which, by law or practice, is already in force in a judge's jurisdiction. The development and existence of an international code does not relieve a judge of his or her duty under municipal law to comply with a code of conduct currently in operation in that judge's jurisdiction. The Bangalore Draft is designed:

- to spread the example of codes of judicial conduct to those jurisdictions which do not yet have them;
- to encourage deliberation amongst judges and others concerning the terms of the code and the improvement of codes of judicial conduct already in force; and
- to develop the broad principles appropriate to an international code of judicial conduct drawing on the best practice and precedents in many jurisdictions of the world.

Preamble

WHEREAS the *Universal Declaration of Human Rights*

recognize 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 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 an independent judiciary is likewise essential if the courts are to fulfil their roles as guardians of the rule of law and thereby to assure good governance.

WHEREAS the real source of judicial power is public acceptance of the moral authority and integrity of the judiciary.

WHEREAS consistently with the *United Nations Basic Principles on the Independence of the Judiciary*, 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 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 regulating judicial conduct. They are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge.

The values which this Code upholds are:

§ Propriety

- § Independence
- § Integrity
- § Impartiality
- § Equality
- § Competence and diligence
- § Accountability

I

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

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].

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[2].

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[3].

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[4].

1.6 A judge shall refrain from conduct such as membership of groups or organisations 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[5].

1.7 A judge shall, upon appointment, cease all partisan political activity or involvement. A judge 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[6].

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[7].

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[8].

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 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[9].

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[10].

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

1.12.1 The judge may write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice and related matters;

1.12.2 The judge may appear 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; and

1.12.3 The judge may serve 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 interfere with the performance of judicial duties in accordance with this Code[11].

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 fund-raising or membership solicitation[12].

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[13].

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[14].

1.16 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[15].

1.17 A judge shall not practise law whilst the holder of judicial office[16].

1.18 Except as consistent with, or as provided by, 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[17].

1.19 A judge may form or join associations of judges or

participate in other organisations representing the interests of judges to promote professional training and to protect judicial independence[18].

1.20 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.

1.21 Subject to law and to any legal requirements of 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[19].

1.22 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 accommodation 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[20].

1.23 A judge shall make such financial disclosures and pay all such taxes as are required by law[21].

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.

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[22].

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[23].

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[24].

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[25].

2.5 A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence which is fundamental to the maintenance of judicial independence[26].

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

3.1 A judge shall ensure that his or her conduct is above reproach in the view of reasonable, fair-minded and informed persons[27].

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[28].

3.3 A judge, in addition to observing personally the standards of this Code, shall encourage and support their observance by others[29].

Impartiality is essential 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.

4.1 A judge shall perform his or her judicial duties without favour, bias or prejudice[30].

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[31].

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 or deciding cases[32].

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 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[33].

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[34].

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[35].

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[36].

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[37].

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[38]. 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.

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")[39].

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[40].

5.3 A judge shall carry out his or her duties with appropriate consideration for all persons (for example, parties, witnesses, lawyers, court staff and judicial colleagues) without unjust differentiation on any irrelevant ground, immaterial to the proper performance of such duties[41].

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 a 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[42].

5.6 A judge shall not be a member of, nor associated with, any society or organisation that practises unjust discrimination on the basis of any irrelevant ground[43].

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.

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[44].

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

[45].

[46].

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[47].

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 and, within any applicable limits of constitutional or other law, shall conform to such norms as far as is feasible[48].

6.5 A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness[49].

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 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[50].

6.7 A judge shall not engage in conduct incompatible with the diligent discharge of judicial duties[51].

Implementing these principles and ensuring the compliance of judges with them are essential to the effective achievement of the objectives of this Code.

7.2 By the nature of the judicial office judges are not, except in accordance with law, accountable to any organ or entity of the state for their judicial decisions but they are accountable for their conduct to institutions that are established to implement this Code.

7.3 The institutions and procedures established to

implement this Code shall be transparent so as to strengthen public confidence in the judiciary and thereby to reinforce judicial independence.

7.4 Ordinarily, except in serious cases that may warrant removal of the judge from office, proceedings established to implement this Code shall be conducted in confidence.

7.5 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.

7.6 The judiciary and any institution established to implement this Code shall promote awareness of these principles and of the provisions of the Code.

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*" includes a magistrate, a member of customary or village courts and any person exercising judicial office, however designated.

"*Judge's family*" includes a judge's spouse, the judge's son, daughter, son-in-law or daughter-or-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 either sex in a close personal relationship with the judge.

* Justice of the High Court of Australia.

[1] cf India.

[2] cf India.

[3] cf India.

- [4] cf India.
- [5] cf Canada.
- [6] cf Canada, Virginia.
- [7] cf Canada, Virginia, Alaska, India.
- [8] cf Tanzania, Alaska, Texas, Virginia, Washington, Iowa.
- [9] cf Tanzania, Virginia, Iowa.
- [10] cf Iowa, Alaska.
- [11] cf Tanzania, Alaska, Virginia, Texas, Washington, Tanzania, Iowa, USA.
- [12] cf Iowa.
- [13] cf Iowa, Tanzania, Washington, Nigeria, Alaska, Texas, Virginia.
- [14] cf Iowa, Nigeria, Alaska, Virginia, Texas, Washington.
- [15] cf Texas, Alaska, Virginia, Iowa.
- [16] cf Washington, Virginia, Texas, Iowa, Tanzania, Alaska, Nigeria.
- [17] cf Iowa, Washington, Texas.
- [18] cf Nigeria, Basic Principles, Singhvi Declaration; Siracusa Principles.
- [19] cf Iowa, Nigeria, Alaska, Texas, Washington, Virginia, India.
- [20] cf Washington, Texas, Alaska, Virginia, USA, Iowa.
- [21] cf Alaska, Washington.
- [22] cf Basic Principles; Singhvi Declaration; Siracusa Principles.
- [23] cf Canada.
- [24] cf Singhvi Declaration.
- [25] cf Canada, Iowa, Texas, Virginia.

- [26] cf Canada.
- [27] cf Canada.
- [28] cf India.
- [29] cf Canada.
- [30] cf Washington.
- [31] cf Canada.
- [32] cf Canada.
- [33] cf Iowa, Texas, Tanzania, Nigeria, Virginia, Alaska, Washington.
- [34] cf Canada.
- [35] cf Tanzania, Alaska, Washington, Iowa, Nigeria, Virginia, USA, India, Siracusa Principles.
- [36] cf Virginia, Tanzania, Alaska, Washington, Iowa, Nigeria.
- [37] cf Tanzania, Virginia, Washington, Iowa, Nigeria.
- [38] cf Canada.
- [39] cf Canada.
- [40] cf Alaska, Iowa, Texas, Virginia.
- [41] cf Canada.
- [42] cf Canada, Alaska, Texas.
- [43] cf Canada, Nigeria, Texas, Virginia, USA, Iowa.
- [44] cf Tanzania, Nigeria, Alaska, Texas, Virginia.
- [45] cf Iowa, Washington, Virginia, Texas, Alaska.
- [46] cf Canada.
- [47] cf Canada, Alaska, Tanzania.
- [48] cf Iowa, Tanzania, Nigeria, Alaska, Washington, Texas, Virginia.
- [49] cf Canada, Alaska, Nigeria.

[50] cf Virginia, Texas, Alaska, Tanzania, Nigeria,
Canada, Washington.

[51] cf Canada.