

GOVERNMENT NOTICE NO. 1001. published on 20/11/2020

THE JUDICIARY ADMINISTRATION ACT,
(CAP. 237)

REGULATIONS

(Made under section 66(2)(c))

CODE OF CONDUCT AND ETHICS FOR JUDICIAL OFFICERS, 2020

PREAMBLE

WHEREAS, an independent, strong and respectable Judiciary is indispensable for the impartial administration of justice in a democratic society;

AND WHEREAS, exemplary conduct of judicial officers inspires public confidence and trust in the courts, and conveys the values of impartiality, equity and fairness that bring integrity to court's work;

AND WHEREAS, judicial officers are expected to adhere to the highest standards of ethical behaviour;

AND WHEREAS, it is desirable that minimum standards of conduct which a judicial officer should observe be prescribed and published for the information of the judicial officers and the public in general so that the objectives set out in this Preamble may be achieved;

AND WHEREAS, to advance these values and to achieve justice, this Code establishes minimum standards of ethical conduct for judicial officers. It provides guidance to judicial officers and affords the Judiciary a framework for regulating judicial conduct. It intends also to assist members of the executive, the legislature, the lawyers and the public in general, to better understand and support the Judiciary;

AND WHEREAS, the principles in this Code presuppose that judicial officers 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 judicial officers;

NOW THEREFORE, these Regulations prescribes for the Code of Conduct and Ethics for Judicial Officers as follows:

CITATION

This code may be cited as the Code of Conduct and Ethics for Judicial Officers, 2020.

INTERPRETATION

1. In this Code, unless the context otherwise requires-

Cap.237 “Code” means the Code of Conduct and Ethics for Judicial Officers, 2020 prescribed under section 66(2)(c) of the Judiciary Administration Act;

“immediate family member” shall include a spouse, child, grandchild, parent, grandparent, great grandparent, sibling, uncle, aunt, niece, nephew, cousin, in laws or any person living in the same household as a family member of the judicial officer;

Cap. 237 “judicial officer” shall have a meaning ascribed to it under section 3 of the Judiciary Administration Act.

PURPOSE

2. The purpose of this Code shall be to provide guidelines for and prescribe ethical conduct for all judicial officers in Tanzania Mainland, and thus it does not propose to set out an exhaustive set of ethical conducts or acts of misconduct of judicial officers.

CONSTRUCTION OF STATEMENT AND RULES

3.-(1) The Statements and Rules contained in this Code describes the very minimum standards towards which all judicial officers should strive to achieve. They are principles of reason to be applied in the light of all the relevant circumstances and consistently with the requirements of judicial independence and the law.

(2) The Statements and Rules shall bind all judicial officers. Their ultimate goal is to assist judicial officers with ethical and professional issues which confront them.

(3) An independent Judiciary is the right of every person in Tanzania. A judicial officer shall be free and be seen to be free to decide honestly and impartially on the basis of the law and the evidence, without external pressure or influence and without fear or interference from anyone. Nothing in these Statements and Rules is intended to limit or restrict judicial independence in any manner. Judicial officers have the duty to uphold and defend judicial independence, not as a privilege of judicial office but as a Constitutionally guaranteed right of everyone to have their disputes heard and decided by impartial judicial officer.

ENFORCEMENT

- Cap.237 **4.** The Code shall be enforced by the Judicial Service Commission and the Committees established under the Judiciary Administration Act.

JUDICIAL INDEPENDENCE

Statement

An independent Judiciary is indispensable to impartial justice under the law. A judicial officer must, therefore, uphold and exemplify judicial independence in both its individual and institutional aspects to reinforce public confidence in the Judiciary.

Rules

- 1.-(1) A judicial officer shall exercise his judicial functions independently and free of extraneous influence.
- (2) A judicial officer shall firmly reject any attempt to influence his decisions in any matter before the court outside the proper process of the court.
- (3) A judicial officer shall encourage and uphold all such arrangements and safeguards to maintain and enhance the institutional and operational independence of the Judiciary.

INTEGRITY

Statement

Judicial officers shall conduct themselves with integrity so as to sustain and enhance public confidence in the Judiciary. To that end, every judicial officer should demonstrate soundness of moral character through consistency of action, values, honesty and trustfulness.

Rules

- 2.-(1) A judicial officer shall ensure that his conduct is above reproach, in his public or private life and in the view of the reasonable observer.
- (2) A judicial officer's behaviour and conduct shall reaffirm the public's faith in the integrity of the Judiciary.
- (3) A judicial officer, in addition to observing these standards personally, shall promote collegiality, encourage and support their observance by his judicial colleagues.
- (4) A judicial officer or member of his family shall not accept a gift, bequest, favour or loan from any person for purposes of a bribe or corrupt

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practice or which is calculated to influence the officer in the execution of his duties:

Provided that a gift, award, loan or other benefit which cannot reasonably be perceived as a bribe or corrupt practice or one accompanied by intention to influence the judicial officer in the performance of his duties shall be excluded.

(5) A judicial officer shall not be regarded to have solicited or received a bribe if a gift, an award or a benefit comes from immediate family members or from public leaders elsewhere;

(6) For the avoidance of doubt and subject to the law and to any legal requirements of public disclosure, a judicial officer 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 judicial officer in the performance of judicial duties or otherwise give rise to an appearance of partiality.

(7) A judicial officer shall not give legal or investment advice, except to members of his immediate family and for no fee.

(8) A judicial officer shall not issue any statement, criticism or argument against the Judiciary.

PROPRIETY

Statement

A judicial officer shall avoid impropriety and the appearance of impropriety in all his public and private activities.

Rules

3.-(1) A judicial officer shall devote his professional activity to judicial duties which include not only performance of judicial functions and responsibilities in court and the making of decisions, but other tasks relevant to the judicial office or the court's operation.

(2) A judicial officer shall not release or say anything regarding a decision of the court before it is published. A judicial officer should not discuss details of individual cases outside court.

(3) A judicial officer should not release information about the judicial officer's discussions with colleague when making their decisions.

(4) A judicial officer being a subject of constant public scrutiny must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judicial officer shall conduct himself in a way that is consistent with the dignity of the judicial office.

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(5) A judicial officer shall not practise law while holding a judicial office.

(6) A judicial officer may form or join associations of judicial officers or participate in other organisations representing the interest of the judicial officer concerned.

(7) A judicial officer may, subject to the proper performance of judicial duties:

- (a) write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
- (b) 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;
- (c) 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 judicial officer; or
- (d) 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.

COMPETENCE AND DILIGENCE

Statement

A judicial officer shall engage in training and preparation so as to be competent in performing his duties. He shall be diligent in the performance of their judicial duties.

Rules

4.-(1) A judicial officer shall take reasonable steps to maintain and enhance his knowledge, skills and personal qualities necessary for the proper performance of judicial duties.

(2) A judicial officer shall keep himself informed about relevant developments of the law, amendments and new precedents.

(3) A judicial officer shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.

(4) A judicial officer should conduct court hearings at scheduled and published times and should observe punctuality.

(5) A judicial officer should give decisions within the prescribed or reasonable time with full reasons identifying the relevant law(s) and the evidence relied upon.

(6) A judicial officer shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, assessors, witnesses, lawyers and others with whom the

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judicial officer deals in an official capacity. The judicial officer shall require similar conduct from legal representatives, court staff and others subject to his influence, direction or control.

(7) A judicial officer shall not engage in conduct incompatible with the diligent discharge of judicial duties.

EQUALITY

Statement

A judicial officer should ensure that every one is treated with respect and courtesy and with equality according to the law.

Rules

5.-(1) A judicial officer should ensure that every proceeding is conducted fairly.

(2) A judicial officer shall strive to be aware of and understand differences arising from gender, race, religion, culture, ethnic background, disability or health condition and shall not discriminate on these or any other ground.

(3) A judicial officer shall not be a member of any organization that practises any form of discrimination that contravenes the law, or that brings disrepute to the Judiciary.

(4) A judicial officer shall, in the course of proceedings before him disassociate himself from and disapprove of any clearly irrelevant comments or conduct by court staff, legal practitioners or anyone subject to the judicial officer's direction which are sexist, racist or otherwise demonstrate discrimination on grounds prohibited by law, or frowned upon in a judicial atmosphere.

IMPARTIALITY

Statement

Impartiality in both the decision and the decision making process is essential to the proper discharge of judicial duties.

Rules

A. General

6.-(1) A judicial officer shall ensure that his conduct, both in and out of court, maintains and enhances confidence in the impartiality of the Judiciary.

(2) A judicial officer shall conduct his personal and private affairs in such a manner as to minimise the occasions on which it will be necessary to be disqualified or to recuse himself from hearing cases.

B. Civic and Charitable Activity

7.-(1) A judicial officer is free to participate in civic and charitable activities subject to the following considerations shall:

- (a) avoid any activity or association that could reflect adversely on his impartiality or interfere with the performance of judicial duties;
- (b) not solicit funds or lend prestige of judicial office to such solicitations except for appropriate purposes; and
- (c) not be involved in causes or organizations that are to his knowledge likely to be engaged in litigation.

(2) A judicial officer may, subject to the provisions of this Code, engage in writing and participate in activities concerning the law, the legal system, the administration of justice and related matters.

(3) A judicial officer may, subject to the provisions of this Code, speak publicly on non-legal subjects and engage in historical, educational, cultural, sporting or like recreational activities, if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.

(4) A judicial officer shall not be a member of groups or organizations or participate in public discussions which, in the mind of a reasonable, fair minded and informed person, would undermine confidence in the judicial officer's impartiality with respect to issues that could come before the courts.

C. Political Activity

8.-(1) A judicial officer shall cease all partisan political activities upon appointment and refrain from conduct that, in the mind of a reasonable, fair minded and informed person, could give rise to the appearance that the judicial officer is engaged in political activity.

(2) A judicial officer shall refrain from:

- (a) membership in political parties and political fund raising;
- (b) attendance at political gatherings and political fund raising events;
- (c) contributing to political parties or campaigns;
- (d) taking part publicly in controversial political discussions except in respect of matters directly affecting the operation of the courts, the independence of the Judiciary or fundamental aspects of the administration of justice; or
- (e) signing petitions to influence a political decision.

(3) Although members of a judicial officer's family have every right to be politically active, a judicial officer shall recognize that such activities of immediate family members may, even if erroneously, affect the public perception of a judicial officer's impartiality. A judicial officer may not sit

in any case before the court in which there could reasonably be such a perception.

D. Conflict of Interest

9.-(1) A judicial officer shall disqualify himself in any case in which that judicial officer:

- (a) believes he will be unable to adjudicate impartially;
- (b) believes that a reasonable, fair minded and informed person, would have a reasonable suspicion of conflict between a judicial officer's personal interest or that of a judicial officer's immediate family and his judicial functions;
- (c) has a personal bias or prejudice concerning a party or personal knowledge or facts;
- (d) served as a lawyer in a matter in controversy or a lawyer with whom he previously practised law served during such association as a lawyer concerning the matter or the judicial officer or such lawyer has been a material witness in the matter;

(2) Disqualification is not appropriate if:

- (a) the matter giving rise to the perception of a possibility of conflict is trifling or would not support a plausible argument in favour of disqualification; or
- (b) no other judicial officer can deal with the case or because of urgent circumstances, failure to act could lead to a miscarriage of justice;
- (c) upon disclosure of the ground(s) of intended recusal by the judicial officer, the parties agree that the judicial officer may participate in the proceedings. The consent by the parties or their representatives shall be recorded and shall form part of the record of proceedings.

E. Judicial Demeanour

10. A judicial officer shall, while acting decisively, maintain firm control of the process and ensure expedition and treat everyone before the court with appropriate courtesy.

Dar es Salaam,
21st October, 2020

IBRAHIM HAMISI JUMA
Chairman of the Commission