

APPENDIX 1

JUDICIAL ETHICS IN SOUTH AFRICA.

With Regard to Judicial Duties;

1. A judge should uphold the independence of the judiciary and the authority of the courts, and should maintain an independence of mind in the performance of judicial duties. A judge should also take all reasonable steps to ensure that no person or organ of state interferes with the functioning of the courts.
2. A judge should always, not only in the discharge of official duties, act honourably and in a manner befitting the judicial office.
3. A judge should at all times comply with the laws of the land.
4. In conducting judicial proceedings judges should themselves avoid and where necessary disassociate themselves from comments or conduct by an person subject to their control which are racist, sexist or otherwise manifest discrimination in violation of the equality guaranteed by the Constitution. In court and in chambers judges should also always act courteously and respect the dignity of all who have business there.
5. In conducting judicial proceedings, a judge should give special attention to the right of equality before the law and the right of equal protection and benefit of the law. A judge should not in the performance of judicial duties manifest any bias or prejudice.
6. Judges should take reasonable steps to enhance the accessibility of the courts and improve public understanding of the judicial proceedings. Therefore judicial proceedings are ordinarily conducted and decisions are announced and motivated in open court.
7. A judge should resolve disputes by making findings of fact and applying the appropriate law in a fair hearing. This includes: (1) observing the *audi alteram partem* rule (2) remaining manifestly impartial and (3) giving adequate reasons for decisions.
8. In conducting judicial proceedings, a judge should maintain order, act in accordance with commonly accepted decorum, remain patient and

courteous to legal practitioners, parties and the public and require them to act likewise.

9. A judge should recuse him/herself from a case if there is a conflict of interest or if there is a reasonable suspicion of bias based upon objective facts. However, a judge should not recuse him/herself on insubstantial grounds.
10. A judge should attend chambers and court in such a manner and at such times as necessary and appropriate to perform all official duties properly, timeously and in an orderly manner.
11. A judge should perform all properly assigned judicial duties diligently, investigate the matter at hand thoroughly and dispose of the business of the court promptly in an efficient and businesslike manner. A judge should not engage in conduct that is prejudicial to the effective and expeditious administration of justice or the business of the court, should avoid any personality issues and should seek to foster collegiality.
12. A judge should take reasonable steps to maintain the necessary level of professional competence in the law.
13. A judge should not exert undue influence in order to promote a settlement or obtain a concession from any party. In this regard, a judge usually refrains from expressing views about the merits or demerits of the case.
14. A judge should give judgment or any ruling in a case promptly and without undue delay.
15. Upon appointment, a judge should sever all professional links and recover speedily all fees and other amounts outstanding and organize his/her personal and business affairs to minimize the potential for conflict of interest. A judge previously in private practice should not sit in any case in which the judge or the judge's former firm is or was directly involved as either attorney of record or in any other capacity before the judge's appointment. Such a judge should not sit in any case in which the former firm is involved until all indebtedness between the judge and the firm has been settled.
16. An acting judge who is practising attorney should not sit in any case in which the acting judge's firm is or was involved as attorney of record or in any other capacity.

17. Upon resignation, ceasing to be on active service or expiry of an acting appointment, a judge is obliged to complete all part-heard cases and to deliver all reserved judgments as soon as possible and to do such work at the applicable rate.
18. A judge should in respect of judicial activity refrain from any conduct that may be interpreted as personal advertisement.
19. A judge should respect the confidences of colleagues.
20. A judge should inform the relevant professional body or a Director of Public Prosecutions of any conduct on the part of a legal practitioner or public prosecutor, which may be unprofessional.
21. A judge who reasonably believes that a colleague has been acting in a manner, which is unbecoming of the judicial office, should raise the matter with that colleague or with the head of the court concerned.

With Regard to Extra-judicial Activities

22. A judge may not, without the consent of the Minister of Justice, accept, hold or perform any other office of profit, or receive in respect of any service any fees, emoluments or other remuneration apart from the salary and any allowances payable to the judge in a judicial capacity.
23. A judge should not directly or indirectly accept any gift, advantage or privilege that can reasonably be perceived as being intended to influence the judge in the performance of judicial duties or to serve as a reward therefor.
24. While judges should be available to use their judicial skill and impartiality to further the public interest, they should remain mindful of the separation of powers and the independence of the judiciary when considering a request to perform non-judicial functions for or on the behalf of the State. A judge should not accept an appointment that is likely to affect or be seen to affect the independence of the judiciary, or which could undermine the separation of powers.
25. A judge's judicial duties should take precedence over all other activities.
26. A judge may not act as advocate, attorney or legal adviser but may give informal legal advice to family members, friends, charitable organizations and the like without compensation.

27. A judge may not be involved in any undertaking, business, fundraising or other activity that may affect the status, independence or impartiality of the judge.
28. A judge should not belong to any political party or secret organization. Except insofar as necessary for the discharge of the judicial office, a judge should not become involved in any political controversy or activity.
29. A judge should not take part in the activities of any organization that practises discrimination inconsistent with the Constitution.
30. A judge should not lend the prestige of the judicial office to advance the private interests of the judge or others.
31. Save in the discharge of judicial office, a judge should refrain from commenting on the merits of any case pending before that judge or in any other court. Unless necessary for or in judicial proceedings, a judge should refrain from public criticism of another judge or branch of the judiciary.
32. A judge ought to refrain from any action, which may be construed as a device to stifle legitimate criticism of that or any other judge.
33. A judge, while free to participate in public debate on matters pertaining to legal subjects, the judiciary or the administration of justice, should refrain from expressing views in a manner, which may undermine the standing and integrity of the judiciary.
34. A judge should not disclose or use, for any purpose unrelated to judicial duties, non-public information acquired in a judicial capacity.