

Telephone: Nairobi 0202739180

REPUBLIC OF KENYA

Email: jscsecretariat@jsc.go.ke

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JUDICIAL SERVICE COMMISSION
Re-insurance Plaza, podium Floor,
Taifa Road,
P. O. BOX 40048-00100,
NAIROBI.

Ref. No.JSC.8

15th June,2020

The Clerk,
The National Assembly,
Parliament Building,
NAIROBI.

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OF KENYA
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① DhsP
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tabled

Dear Sir,

RE: TRANSMITTAL FOR TABELING OF THE JUDICIAL SERVICE (CODE OF CONDUCT & ETHICS) REGULATIONS- LEGAL NOTICE NO. 102 OF 2020.

The **Judicial Service (Code of Conduct and Ethics) Regulations- Legal Notice No. 102 of 2020** was published on 12th June 2020 *vide* the Kenya Gazette Vol. CXXII- NO.109.

I am pleased to forward to you a copy of the published Judicial Service (Code of Conduct & Ethics) together with the evidence of Public Participation and an Explanatory Memorandum for tabling before the National Assembly in accordance with **Section 11** of the **Statutory Instruments Act No. 23 of 2013**.

Thank you for your continued support and cooperation.

Yours Faithfully,



Anne A. Amadi, CBS,
Secretary,
JUDICIAL SERVICE COMMISSION.

② Head, Table Office
To register, case tabling,
& approval to Committee
& accountable receipt
19/6/20 22/6/20

Copy to,

The Chairperson,
Judicial Service Commission.

Encl.




THE NATIONAL ASSEMBLY
PAPERS LAJD

DATE: 23 JUN 2020

DAY: TUE

TABLED BY: HON AMOS KIMUNYA (LEADER OF MAJORITY)

CLERK-AT-THE-TABLE: 

NATIONAL ASSEMBLY
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P. O. Box 41842, NAIROBI

EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM TO THE JUDICIAL CODE OF CONDUCT AND ETHICS, 2020

Name of Statutory Instrument: The Judicial service (Code of Conduct and Ethics) Regulations, 2020

Name of the Parent Act: The Judicial Service Act (Cap 185B)

Other Enabling Statutes: Leadership and Integrity Act, 2012, and Public Officer Ethics Act, 2003

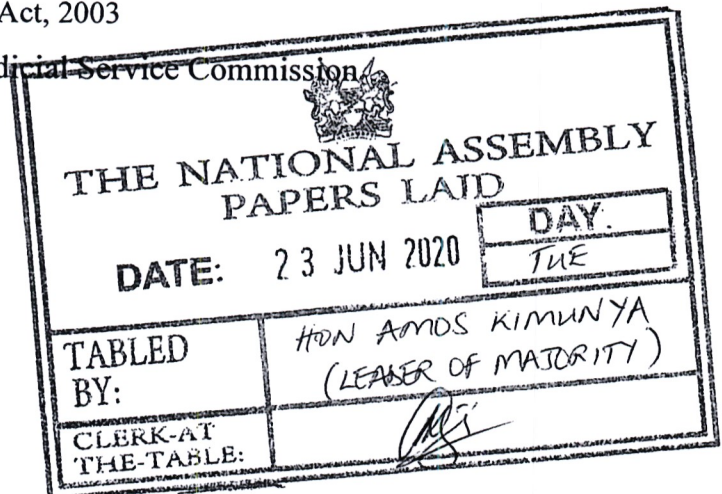
Enacted Pursuant to: Sections 13 and 37 of the Leadership and Integrity Act, 2012, and Section 5(1) of the Public Officer Ethics Act, 2003

Name of the Ministry/Authority: Judicial Service Commission

Gazetted on: 12th June, 2020

Tabled on:2020

PART 11



1. Purpose of the statutory instrument

The statutory instrument is intended to establish standards for ethical conduct and integrity of judges, judicial officers and judicial staff as they serve in the high office, judicial office, and public office respectively.

2. Legislative Context

- 2.1 The statutory instrument is intended to establish standards for ethical conduct of judges, judicial officers and judicial staff pursuant to Chapter six of the constitution on Leadership and Integrity, Articles 168(2) and 172 of the Constitution, Section 39 of the Judicial Service Act, Sections 13 and 37 of the Leadership and Integrity Act, 2012, and Section 5(1) of the Public Officer Ethics Act, 2003.
- 2.2 The Code establishes standards for ethical conduct of judges, judicial officers and judicial staff. It is designed to provide guidance to judges, judicial officers and judicial staff and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that judges and 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 judges, judicial officers and judicial staff.
- 2.3 The Code consists of broad statements or rules which are authoritative. The Code is based on the rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and judicial precedence and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of the Judiciary. It is designed to provide guidance to judges, judicial officers, and judicial staff and to provide a structure for regulating conduct through disciplinary agencies.

3. Policy Background

- 3.1 An independent, fair and impartial judiciary is indispensable to the county's system of justice. The Kenyan legal system is based on the principle that an independent, impartial, and competent judiciary, composed of men and women of integrity, will interpret and apply the law that governs our society. This principle is anchored on Article 160 of the constitution which provides for the independence of the Judiciary. Thus, the judiciary plays a central role in preserving the principles of justice and the rule of law.
- 3.2 Inherent in all the Rules contained in this Code are the precepts that judges and judicial officers individually and collectively, must respect and honour the judicial office as a public trust and strive to maintain and enhance confidence in the legal system.
- 3.3 Judges should maintain the dignity of judicial office at all times, and avoid both impropriety and the appearance of impropriety in their professional and personal lives. They should aspire at all times to conduct that ensure the greatest possible public confidence in their independence, impartiality, integrity, and competence.
- 3.4 As already noted, the Judicial Code of Conduct and Ethics establishes standards for the ethical conduct of judges, judicial officers and judicial staff. It is not intended as an exhaustive guide for the conduct of judges, judicial officers or judicial staff who are governed in their judicial and personal conduct by general ethical standards as well as by the Code. The Code is intended, however, to provide guidance and assist judges, judicial officers and judicial staff in maintaining the highest standards of judicial and personal conduct, and to provide a basis for regulating their conduct through disciplinary agencies.

3.5 The Code is anchored both in the Constitution of Kenya and other enabling legislations including the Judicial Service Act, the Leadership and Integrity Act, 2012, and the Public Officer Ethics Act, 2003. The Code also takes cognizance of and has captured all the principles provided for in the Bangalore Principles for Judicial conduct, 2002.

4. Consultation outcome

The following institutions were consulted during the development of the Code; the Office of the Attorney General, the Director of Public Prosecution, the Ethics and Anti-Corruption Commission, Kenya Judges and Magistrates Association, Superior Judges, Judicial Officers, Judicial Staff, Law Society of Kenya, Federation of Women Lawyers(FIDA), Kenya Women Judges Association, civil society organisations including ICJ(K), Transparency International(K), Kituo cha Sheria among others, and the public generally. The institutions submitted their views through written memoranda and at several regional workshops organized by the Committee.

The views received have since been incorporated in the draft presented before Parliament.

5. Impact

5.1 The Code shall have effect to the rights and freedoms of individuals and is prepared in line with the Constitution.

5.2 The Code is designed to provide guidance to judges, judicial officers, and judicial staff and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive, the legislature, lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that judges and judicial officers are

accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial.

6. Monitoring and Evaluation

- 6.1 The success criteria of this Code will be the enhanced monitoring and managing interventions and reduced cases of indiscipline among judicial offices while the monitoring phase will allow the tracking of progress and identifying key issues at an early stage during implementation and thereby providing an opportunity to take or suggest corrective action or make proactive improvement as required.
- 6.2 The Commission through the office of the Chief Justice assisted by the Chief Registrar of the Judiciary will ensure that there is increased responsibility among judicial offices etc.

Yours *Sincerely,*



Ms Anne A. Amadi
Chief Registrar of the Judiciary/ Secretary, Judicial Service Commission
15th June, 2020

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THE KENYA GAZETTE

Published by Authority of the Republic of Kenya
(Registered as a Newspaper at the G.P.O.)

Vol. CXXII—No. 109

NAIROBI, 12th June, 2020

Price Sh. 60

CONTENTS

GAZETTE NOTICES	PAGE
The Judicial Service Act—Extension of Time.....	2106
The Sports Act—Appointment	2106
The Kenya Roads Board Act— Appointment	2106
County Governments Notices	2106–2107, 2125
The Land Registration Act—Issue of Provisional Certificates, etc	2107–2113
The Land Act—Addendums	2113–2116
The Energy and Petroleum Regulatory Authority—Fuel Energy Cost Charge, etc	2116–2118
The Legal Education Act—Passing of Examinations and Pupilage	2118–2124
The Kenya School of Government—Administrative Officers Examination, November 2019	2124–2125
The Political Parties Act—Change of Party Details	2125–2126
The Insolvency Act—Liquidation Order and Appointment of Liquidator	2125–2126
The Physical and Land Use Planning Act—Completion of Part Development Plan	2126

GAZETTE NOTICES —(Contd.)

The Environmental Management and Co-ordination Act— Environmental Impact Assessment Study Reports	2126–2132
Disposal of Uncollected Goods	2132–2133
Change of Names	2133

SUPPLEMENT No. 87

Acts, 2020

	PAGE
The Kenya Institute of Curriculum Development (Amendment) Act, 2020	67

SUPPLEMENT No. 88

Legislative Supplements, 2020

LEGAL NOTICE NO.	PAGE
101—The Supreme Court Rules, 2020	1213
102—The Judicial Service (Code of Conduct and Ethics) Regulations, 2020	1253

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10	For drawing an order, for each folio or part thereof	100
11	For drawing a bill or costs, for each folio or part thereof	100
12	For drawing any other necessary documents to be filed or used in the court, for each folio or part thereof	100
13	For making any necessary copies, for each folio or part thereof—	
(a)	for the first copy	20
(b)	for each subsequent copy	20
14	For attendance at the Registry	200
15	For attendance on the Registrar	
(a)	for the first 15 minutes	300
(b)	for each subsequent 15 minutes	100
16	For attending on a judge in chambers—	
(a)	for the first 30 minutes	1,000
(b)	for each subsequent 30 minutes	500
17	For attending in court where the matter was listed but not reached, for each day	750
18	For attending in court on the hearing of any petition, reference or application—	
(a)	for the first 30 minutes	1,000
(b)	for each subsequent 30 minutes	500
19	For attending in court to take judgment	1,000

Made on the 29th May, 2020

DAVID MARGA

Chief Justice, President of the Supreme Court

LEGAL NOTICE NO. 107

THE JUDICIAL SERVICE ACT

(No. 1 of 2011)

THE JUDICIAL SERVICE CODE OF CONDUCT AND ETHICS REGULATIONS, 2020

Regulation

PART I—PRELIMINARY PROVISIONS

1—Enactment

2—Interpretation

- 3 – Objects of Regulations
- 4 – Guiding principles of the Code
- 5 – Application
- 6 – Moral and ethical requirements

PART II – CODE OF CONDUCT AND ETHICS FOR JUDGES

- 7 – Independence
- 8 – Dignity and integrity of the court processes
- 9 – Impartiality
- 10 – Private communication
- 11 – Integrity
- 12 – Responsibility for Social media activities, etc.
- 13 – Accountability and prohibition against bribery, and other corrupt practices
- 14 – Propriety
- 15 – Equality and non-discrimination
- 16 – Professionalism
- 17 – Involvement in other activities
- 18 – Commenting on matters pending in court.
- 19 – Offers of future benefits.
- 20 – Conflict of interest
- 21 – Recusal
- 22 – Public collections
- 23 – Participation in tenders
- 24 – Care of public property
- 25 – Bank account outside Kenya
- 26 – Gaitful employment
- 27 – Tax, financial, and legal obligations.
- 28 – Bullying
- 29 – Prohibition against sexual harassment
- 30 – Acting through others
- 31 – Confidentiality
- 32 – Obtaining documents unlawfully
- 33 – Misleading the public and falsification of records

- 63 - Prohibition of improper enforcement
- 64 - Accountability and prohibition against bribery and corrupt practices
- 65 - Integrity
- 66 - Responsibilities for Social media activities etc
- 67 - Prohibition from sexual harassment
- 68 - Bullying
- 69 - Misuse of official information
- 70 - Bank accounts outside Kenya
- 71 - Care of property
- 72 - Public collections
- 73 - Participation in tender
- 74 - Gambling employment
- 75 - Tax, financial and legal obligations
- 76 - Obtaining documents unlawfully
- 77 - Misleading the public and falsification of records

PART V - ENFORCEMENT, OVERSIGHT AND IMPLEMENTATION OF THE CODE

- 78 - Disciplinary procedure for breach of the code by a judge or a judicial officer
- 79 - Breach of the Code
- 80 - Implementation of the Code
- 81 - Guidelines and administrative process
- 82 - Signing and subscription to the Code
- 83 - Code to supplement other legal requirements
- 84 - Review of the Code
- 85 - Review of L.N. No. 112, 2019

SCHEDULE

"judicial officer" has the meaning assigned to it under section 2 of the Act.

"judicial officer's family" includes a judicial officer's spouse, son, daughter, son-in-law, daughter-in-law, or other person who forms part of the judicial officer's household as a relative;

"judicial officer's spouse" means the wife or husband of a judicial officer married under any recognized system of law in Kenya.

"judicial staff" includes a person, other than a judge or a judicial officer, employed by the Judiciary whether on a permanent and pensionable basis, or on contractual basis including legal researchers, consultants, any person on secondment to the Judiciary, casual employee, interns, pupils, and any other person undertaking an attachment programme in the Judiciary;

"judicial staff's spouse" means the wife or husband of a judicial officer married under any recognized system of law in Kenya; and

"judicial staff's family" includes a judicial staff's spouse, son, daughter, son-in-law, daughter-in-law, or other person who forms part of the judicial staff's household as a relative.

3. The objects of this Code are to —

- (a) give effect to Articles 168 (1) (b) and 172 (1) (e) of the Constitution;
- (b) give effect to Article 10 of the Constitution on national values and principles of governance;
- (c) give effect to the provisions of the Leadership and Integrity Act, 2012, the Public Service (Values and Principles) Act, 2015 and the Public Officer Ethics Act, 2003;
- (d) provide for the Judicial Code of Conduct and Ethics, as a guide on ethical conduct for judges, judicial officers and judicial staff;
- (e) state basic standards governing the conduct of judges, judicial officers and judicial staff;
- (f) provide guidance to assist judges, judicial officers, and judicial staff in establishing and maintaining high standards of judicial and personal conduct; and
- (g) provide a framework for the judiciary to regulate judicial conduct of judges, judicial officers and judicial staff.

Objects of the Code

No. 29 of 2012
No. 1A of 2015
No. 4 of 2003

4. This Code is founded on the —

Guiding Principles of the Code

(f) recognition that judges, judicial officers and judicial staff shall comply with the law, including this Code

Application

5. This Code applies to —

(a) judges of superior courts;

(b) judicial officers; and

(c) judicial staff

Moral and ethical requirements

6. For purposes of Article 196(2)(c) of the Constitution and section 13 of the Leadership and Integrity Act, 2012, a judge, judicial officer and judicial staff shall observe and maintain the following ethical and moral requirements —

(a) to demonstrate honesty in the conduct of public affairs subject to the Public Officer Ethics Act, 2003;

(b) not engage in activities that amount to abuse of office;

(c) accurately and honestly represent information to the public

(d) not to engage in wrongful conduct in furtherance of personal benefit

(e) prudently use public resources;

(f) not to discriminate against any person, except as expressly provided for under the law;

(g) not to falsify records;

(h) not to engage in actions which would lead to the person's removal from the membership of a professional body in accordance with the law; and

(i) not commit offences and in particular, any of the offences under Parts XV and XVI of the Penal Code the Sexual Offences Act, 2006.

Cap. 103
No. 3 of 2006

PART II CODE OF CONDUCT AND ETHICS FOR JUDGES

Independence

7. A judge shall exercise judicial authority independently and

shall —

(a) uphold the independence and integrity of the judiciary and the authority of the courts

(b) maintain an independence of mind in the performance of judicial duties

- (a) deliver an oral decision;
 - (b) alter the substance of reasons given, or the transcript of evidence or of the summing up thereof; or
 - (c) after delivery of a decision, hold or keep a file in his or her custody beyond twenty-four (24) hours from the time the decision was delivered, except where the holding or keeping of a file is provided for in any written law.
- (3) A judge shall –

- (a) not accept any gifts, personal loans, bequests, benefits, or other things of value, if acceptance is prohibited by law, or would compromise the judge's independence, integrity, or impartiality;
- (b) conduct the judge's personal and extrajudicial activities in such a manner as to minimize the risk of conflict with the obligations of judicial office.

12 A judge is responsible for his or her online activity and should avoid any activity, action, or association that may reflect adversely on the Judge's impartiality or interfere with the performance of judicial duties or status of the office.

Responsibility for
Social media
activities etc.

13 (1) A judge shall not –

- (a) use the judicial office to unlawfully or wrongfully enrich himself or herself, or any other person; or
- (b) subject to Article 76(2)(b) of the Constitution, accept a personal loan or benefit which may compromise the judge in carrying out the duties of the office of a judge.

Accountability
and prohibition
against bribery,
and other corrupt
practices

(2) A judge, or any member of the judge's family, shall not directly or indirectly negotiate or accept remuneration, loan, gift, advantage, or privilege that is incompatible with judicial office or that can reasonably be perceived as being intended to influence the judge in the performance of his or her judicial duties, or to serve as a reward.

(3) A judge, or any member of the judge's family, shall not ask for, or accept any bribe, gift, loan, hospitality, advantage, privilege or favour, in relation to anything done or to be done or omitted to be done by the judge, in connection with the conduct of judicial duties, or which might reasonably be perceived as being intended to influence the discharge of judicial duties.

14 (1) A judge shall avoid impropriety or appearance of impropriety and shall –

Propriety

(c) take reasonable steps to maintain and enhance his or her knowledge, skills, and personal qualities necessary for the proper performance of judicial duties, taking advantage for that purpose of the training and other facilities available to judges and

(d) comply with administrative rules or reasonable directives of a presiding judge.

12. (1) Subject to regulation (5), a judge may –

investigate in other activities

(a) write, lecture, teach and participate in activities concerning the advancement of the law, the legal system, the administration of justice, or related matters;

(b) engage in arts, sports and other social and recreational activities if such vocational activities do not adversely affect the dignity of the judicial office or interfere with the performance of the judge's duties;

(c) 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;

(d) 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 judge; or

(e) 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.

(2) No salary is payable to a judge for the performance of any of the activities mentioned under this regulation.

13. A judge shall not engage in consultancy or practice law by offering legal advice or drafting pleadings for litigants or members of the public, while holding judicial office.

14. Subject to any legal requirements relating to public disclosure, a judge may receive a token gift, award, honorarium, benefit or allowance as appropriate to the occasion, if the gift, award, honorarium or benefit would not be reasonably perceived as intended to influence the performance of judicial duties.

Continuing in
members pending in
court

15. (1) A judge shall not comment on proceedings pending in any court, and shall require similar abstention on the part of the court personnel subject to the judge's direction and control.

(2) Subject to subregulation (1), a judge may make statements in the course of his or her official duties or to explain for public or private information the procedure of the court provided such

(b) because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

(c) the merits of the application for recusal have been considered by a plural bench of judges, and recusal held to be unnecessary.

(4) In the case of a collegiate bench, the decision to dispense with the disqualification of any judge shall be made by the bench.

22 (1) A judge shall not solicit for contributions from the public for a public purpose unless the President has, by notice in the *Gazette*, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.

Public collections

(2) A judge shall not participate in a public collection of funds in a way that reflects adversely on that judge's integrity or impartiality or interferes with the performance of his or her judicial duties.

(3) Subject to subregulation (2), a judge may participate in voluntary fund-raising only if the same does not reflect adversely on the judge's integrity, or if it does not compromise the performance of the judge's duties.

23 A judge shall not participate either directly or indirectly in a tender for the supply of goods or services to the judiciary or the Judicial Service Commission, though the holding of shares by a judge in a company shall not be construed as participating in a tender of the judiciary or the Commission, except where the judge has a controlling shareholding in the company, or is a director of the Company.

Participation in tenders

24 (1) A judge shall take all reasonable steps to ensure that public property in the judge's custody, possession, or control, is safely kept.

Care of public property

(2) A judge shall return to the Chief Registrar of the Judiciary all public property in the custody, possession or control of the judge when the judge leaves office.

25 (1) Subject to Article 76(2)(a) of the Constitution, a judge shall not open or continue to operate a bank account outside Kenya without the approval of the Commission.

Bank account outside Kenya

(2) A judge who has reasonable grounds for opening or operating a bank account outside Kenya shall apply to the Commission through the office of the Chief Justice for approval to open or operate a bank account.

(3) A judge who operates or controls the operation of a bank account outside Kenya shall submit statements of the account annually to the Commission, and shall authorize the Commission to verify the

making including noises, jokes or comments or innuendos regarding another person's sexuality.

31 (1) A judge contravenes this Code if the judge –

(a) causes anything to be done through another person that would constitute a contravention of this Code if done by the judge personally; or

(b) allows or directs a person under the judge's supervision or control to do anything that is in contravention of the Code.

(2) Subregulation (1)(b) shall not apply where anything is done without the judge's knowledge or consent, or if the judge has taken reasonable steps to prevent it.

(3) A judge who acts under an unlawful direction is responsible for his or her action.

32 A judge shall not disclose to any unauthorized person for any purpose any confidential information acquired in the course of employment.

33 A judge shall not without lawful authority take possession, control, disseminate or access for personal use or the use of any other person, official documents or court records.

34 A judge shall not –

(a) knowingly give false or misleading information to any person; or

(b) falsify any records or knowingly misrepresent information to the public.

PART III – CODE OF CONDUCT AND ETHICS FOR JUDICIAL OFFICERS

35 A judicial officer shall exercise judicial authority independently and shall –

(a) uphold the independence and integrity of the judiciary and the authority of the courts;

(b) maintain an independence of mind in the performance of judicial duties;

(c) exercise the judicial function on the basis of the judicial officer's own assessment of the facts of the case, in accordance with a conscientious understanding of the law, and without reference to any extraneous influences;

Misleading the public and falsification of records

Obtaining documents unlawfully

Confidentiality

Acting through others

Independence

39. A judicial officer is responsible for his or her online activity and should avoid any activity, action, or association that may reflect adversely on the judicial officer's impartiality or interfere with the performance of judicial duties or status of the office.

Responsibility for social media activities etc.

40. (1) A judicial officer shall avoid impropriety, or appearance of impropriety and shall —

Propriety

- (a) not subject himself or herself to improper influences;
- (b) not participate in activities as tend to impair the dignity and esteem of the court;
- (c) ensure order and decorum in proceedings before the court;
- (d) act courteously, and respect the dignity of others in court and in chambers;
- (e) treat members of the public, staff and other public officers with courtesy and respect;
- (f) not lend the prestige of the judicial office to the advancement of private interests;
- (g) not engage in any type of trade or business in court premises or encourage others to do so; and
- (h) not serve as executor, administrator or other personal representative, trustee, guardian or other fiduciary engagement, except for the estate, trust, or person within the judicial officer's family, and only if the service does not compromise the proper performance of judicial duties.

(2) A judicial officer may be involved in extra-judicial activities, such as those relating to their rights as citizens, unless such activities are incompatible with the principles of impartiality or independence of the judicial officer, or affect or may be perceived to affect the judicial officer's availability for the discharge of his or her judicial obligations.

(3) A judicial officer shall conduct his or her private affairs in such a manner as that maintains public confidence in the integrity of the office.

41. A judicial officer shall endeavor to uphold the right of equality before the law and the right of equal protection, and benefit of the law, and shall not manifest bias or prejudice in the performance of judicial duties.

Equality and non-discrimination

42. A judicial officer shall —

Professionalism

- (a) carry out duties of the office in a manner that maintains public confidence in the integrity of the office;

accountability
and probity
of our
judges
and
magistrates

(2) Subject to subregulation (1) a judicial officer may make statements in the course of his or her official duties or explain for public or private information the procedure of the court provided such statements are not prejudicial to the integrity of the judiciary and the administration of justice.

45. (1) A judicial officer shall not use the office to unlawfully or wrongfully enrich himself or herself or any other person.

Conflict
of
interest

(2) Subject to Article 70(2)(b) of the Constitution, a judicial officer shall not accept a personal loan or benefit which may compromise the judicial officer in carrying out the duties of the office.

(3) A judicial officer or any member of the judicial officer's family shall not directly or indirectly negotiate or accept remuneration, gift, advantage, or privilege that is incompatible with judicial office or that can reasonably be perceived as being intended to influence the judicial officer in the performance of his or her judicial duties or to serve as a reward for them.

(4) A judicial officer or any member of the judicial officer's family shall not ask for or accept any bribe, gift, loan, hospitality, advantage, privilege or favour in relation to anything done or to be done or omitted to be done by the judicial officer in connection with the performance of judicial duties, or which might reasonably be perceived as being intended to influence the performance of judicial duties.

(5) A judicial officer shall avoid being in situations in which his or her personal interests conflict or appear to conflict with the duties of his or her office.

(6) A judicial officer may hold shares, or have any other interest in a company, partnership or other body, directly or through another person, if holding such shares or having such interest does not amount to conflict between the judicial officer's personal interests and his or her duties.

(7) A judicial officer whose personal interests conflict with his or her official duties shall declare the personal interests to the Chief Registrar.

(8) The Chief Registrar may give direction in writing, on the appropriate action to be taken by a judicial officer to avoid the conflict of interest in the judicial officer's discharge of duty.

(9) The judicial officer shall –

(a) comply with the directions and

(b) refrain from participating in any deliberations with respect to the matter

- (e) has a personal interest or is in a relationship with a person who has a personal interest in the outcome of the matter;
- (f) had previously acted as a counsel for a party in the same matter;
- (g) is precluded from hearing the matter on account of any other sufficient reason; or
- (h) a member of the judicial officer's family has economic or other interest in the outcome of the matter in question.

(2) Recusal by a judicial officer shall be based on specific grounds to be recorded in writing as part of the proceedings.

- (3) A judicial officer may not recuse himself or herself if
 - (a) no other judicial officer can deal with the case; or
 - (b) because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

48. (1) A judicial officer shall not solicit for contributions from the public for a public purpose unless the President has, by notice in the *gazette*, declared a national disaster and allowed a public collection for the purpose of the national disaster in accordance with the law.

Public collection

(2) A judicial officer shall not participate in a public collection of funds in a way that reflects adversely on the judicial officer's integrity or impartiality or interferes with the performance of his or her judicial duties.

(3) Subject to subregulation (2), a judicial officer may participate in voluntary fund-raising only if the same does not reflect adversely on the judicial officer's integrity, or if it does not compromise the performance of the judicial officer's duties.

49. A judicial officer shall not either directly or indirectly participate in a tender for the supply of goods or services to the judiciary or the Judicial Service Commission, though the holding of shares by a judicial officer in a company shall not be construed as participating in a tender of the judiciary or the Commission, except where the judicial officer has a controlling shareholding in the company, or is a director of the Company.

Participation in tender

50. A judicial officer contravenes this Code if that officer

Acting through others

- (a) causes anything to be done through another person that would constitute a contravention of this Code if done by the judicial officer personally; or

72. A judicial officer shall not sexually harass a fellow member of each of any of the person

73. For purposes of this Code, sexual harassment has the meaning assigned to it in the Sexual Offences Act 2006, the Employment Act 2002 and the Public Officers Act 2005 and includes doing any of the following if the person doing it knows or ought to know that it is

(a) bullying or coercion of a sexual nature or the use of economic and inappropriate promise or rewards in exchange for sexual favours

(b) exerting unwarranted pressure for sexual activity or favours

(c) making intentional or reckless physical contact that is sexual in nature or

76. A judicial officer shall not disclose to any unauthorized person for any purpose any confidential information acquired in the course of employment

77. A judicial officer shall not disclose to any unauthorized person for any purpose any confidential information acquired in the course of employment

78. A judicial officer shall not

(a) knowingly give false or misleading information to any person or

(b) falsify any records or knowingly misrepresent information to the public

PART IV – THE CODE OF CONDUCT AND ETHICS FOR MEMBERS OF JUDICIAL STAFF

79. (1) A judicial staff shall at all times perform official duties properly and with diligence and shall confine themselves exclusively to the business and responsibilities of the office during working hours

(2) A judicial staff shall responsibly enforce rules and implement order of the court within the limits of their authority

Parliamentary

the code of conduct and ethics for members of judicial staff

the code of conduct and ethics for members of judicial staff

the code of conduct and ethics for members of judicial staff

62. (1) A judicial staff shall avoid being in situations in which his or her personal interests conflict or appear to conflict with the duties of his or her office.

Conflict of interest

(2) A judicial staff may hold shares, or have any other interest in a company, partnership or other body, directly or through another person, if holding such shares or having such interest does not occasion conflict between the judicial staff's personal interests and his or her duties.

(3) A judicial staff whose personal interests conflict with his or her official duties shall declare the personal interests to the Chief Registrar.

(4) The Chief Registrar may give direction in writing, on the appropriate action to be taken by a judicial staff, to avoid the conflict of interest in the judicial staff's discharge of duty.

(5) The judicial staff shall

- (a) comply with the directions; and
- (b) refrain from participating in any deliberations with respect to the matter.

(6) Where a judicial staff is present at a meeting, and an issue which is likely to result in a conflict of interest arises, the judicial staff shall declare the interest at the beginning of the meeting, or before the issue is deliberated upon.

(7) A declaration of a conflict of interest under subregulation (6) shall be recorded in the minutes of that meeting.

(8) For purposes of sub-rule (6), the Chief Registrar shall maintain a register of conflicts of interest, which shall be open to the public for inspection.

(9) The Chief Registrar shall maintain an open register of conflicts of interest in the prescribed form in which an affected judicial staff shall register the particulars of registrable interests, stating the nature and extent of the conflict.

(10) For purposes of sub-rule (9), the registrable interests shall include—

- (a) the interests set out in the Second Schedule to the Leadership and Integrity Act, 2012;
- (b) any application for employment or other form of engagement with the judiciary, by a family member or friend of the judicial staff, or by a company associated with the judicial staff; and

64. A judicial staff or any member of the judicial staff's family shall not ask for or accept any bribe, gratuity, hospital, advantage, privilege or favour in relation to anything done, or to be done, or to be done by the judicial officer in connection with the performance of their duties, or which might reasonably be perceived as being intended to influence the performance of their duties.

integrity

65. (1) A judicial staff shall not accept any gifts, loans, benefits, benefits or other things of value, if acceptance is prohibited by law or would appear to a reasonable person to undermine the integrity of the judicial staff's duties.

(2) A judicial staff shall conduct his or her personal and extrajudicial activities in such a manner as to minimize the risk of conflict with the obligations of his or her office.

Responsibility for
social media
activities etc.

66. A judicial staff is responsible for his or her online activity and should avoid any activity, action or association that may reflect adversely on the officer's impartiality or interfere with the performance of his or her duties or status of the office.

Prohibition from
sexual
harassment

67. (1) A judicial staff shall keep himself or herself informed about and shall duly observe the laws and policies relating to sexual harassment.

(2) A judicial staff shall not sexually harass a fellow member of staff or any other person.

(3) For purposes of this Code, "sexual harassment" has the meaning assigned to it in the Sexual Offences Act, 2006, the Employment Act, 2007 and the Public Office Ethics Act, 2003 and includes doing any of the following if the person doing it knows or ought to know that it is

(a) bullying or coercion of a sexual nature, or the unwelcome and inappropriate promise of rewards in exchange for sexual favours;

(b) exerting unwarranted pressure for sexual activity or favours; making intended or careless physical contact that is sexual in nature; or

(c) unwelcome sexual advances or requests for sexual favours, verbal or physical contact, sending of suggestive electronic text messages, pictures and videos or gestures of a sexual nature including noises, jokes or comments, or innuendos regarding another person's sexuality.

Bullying

68. (1) A judicial staff shall not bully any person.

(2) For purposes of subsection (1), "bullying" includes repeated offensive behaviour which is unduly exact, malicious or humiliating and is intended to undermine a person.

73. A judicial staff shall not either directly or indirectly participate in a tender for the supply of goods or services to the judiciary or the Judicial Service Commission, but the holding of shares by a judicial staff in a company shall not be construed as participating in a tender of the judiciary or the Commission unless the judicial staff has a controlling shareholding in the company or is a Director of the Company.

Participating in tenders.

74. (1) Subject to subregulation (2), a judicial staff shall not participate in any other gantful employment.

Gantful employment.

(2) In this section, 'gantful employment' means work that a person can pursue and perform for money or other form of compensation or remuneration which is inherently incompatible with the responsibilities of the judicial staff or which results in the impairment of the prudence of the judicial staff in the execution of the functions of the judicial staff, or results in a conflict of interest in terms of this Code.

75. (1) A judicial staff shall pay any taxes due from the judicial staff as prescribed by law.

Tax, financial, and legal obligations.

(2) A judicial staff shall not neglect his or her financial or legal obligations.

76. A judicial staff shall not without lawful authority, take possession, control, disseminate, or access for personal use or the use of any other person, official documents or court records.

Obtaining documents unlawfully.

77. A judicial staff shall not—

- (a) knowingly give false or misleading information to any person, or
- (b) falsify any records or knowingly misrepresent information to the public.

Misleading the public and fabrication of records.

PART V—ENFORCEMENT, OVERSIGHT AND IMPLEMENTATION OF THE CODE

78. (1) Without derogating from the provisions of Articles 168 and 172 of the Constitution, breaches of this Code that amount to minor infractions and administrative lapses by judges and judicial officers, shall be dealt with by the Chief Justice as the administrative head of the judiciary.

Disciplinary procedure for breach of the code by a judge or a judicial officer.

(2) Any person may lodge a complaint alleging a breach of this Code by a judge, a judicial officer, or judicial staff, using the procedure for handling complaints that may be prescribed by the Commission.

SCHEDULE

COMMITMENT TO THE CODE

[821

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holder of National ID and Passport No

PJ

No

having been appointed as a

(Designation), do hereby confirm that I have read and understood this Code and hereby solemnly declare and commit faithfully to abide by the provisions of the Code in all

Signed

_____ day

of _____ 20

Dated the 20th May, 2020

DAVID MARAGA,

Chief Justice and President of the Supreme Court of Kenya

EVIDENCE

OF

PUBLIC

PARTICIPATION

JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION

S.NO	DATE	ACTIVITY
1.	22ND-27TH APRIL 2018	HIGH COURT JUDGES ANNUAL CONFERENCE
2.	10TH-14TH APRIL 2018	RETREAT FOR COURT OF APPEAL JUDGES
3.	20TH MARCH, 2018	COMMUNICATION TO REQUEST FOR INTERNAL STAKEHOLDERS INPUTS
4.	15 TH FEBRUARY, 2018	JSC AND JTI RETREAT ON DRAFT CODE OF CONDUCT
5.	28 TH AUGUST 2017	CODE OF CONDUCT COMMITTEE MEETING
6.	16 TH -19 TH AUGUST 2017	CODE OF CONDUCT COMMITTEE RETREAT
7.	20TH FEBRUARY 2017	COMMUNICATION TO REQUEST FOR INPUTS FROM STAKEHOLDERS
8.	6TH JUNE 2017	NAIROBI PUBLIC PARTICIPATION FORUM
9.	9TH MAY 2017	CODE OF CONDUCT STAKEHOLDERS ENGAGEMENT
10.	4 TH MAY 2017	CODE OF CONDUCT COMMITTEE MEETING
11.	6 TH JUNE 2016	NAIROBI PUBLIC PARTICIPATION MEETING
12.	2 ND JUNE 2016	GARISSA STAKEHOLDERS ENGAGEMENT
13.	31 ST MAY 2016	KISUMU STAKEHOLDERS ENGAGEMENT
14.	31 ST MAY 2016	MEDIA NEWSPAPER
15.	6TH -10 TH APRIL 2016	MOMBASA STAKEHOLDERS MEETING
16.		VIEWS FROM ICI
17.		VIEWS FROM FIDS KENYA
18.		VIEWS FROM THE OFFICE OF THE ATTORNEY GENERAL
19.		VIEWS FROM KMJA
20.		VIEWS FROM THE SUPREME COURT OF KENYA



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA

DAY ONE. 23RD APRIL, 2018

22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET

NO	NAME	STATION	SIGNATURE
1.	Isiah N. Ochieng	Milimani	
2.	John M. Mathira	Milimani	
3.	JKISS R. Ron	Milimani	
4.	Johns W. M. Ogo	Milimani	
5.	Hedberg Ong'ala	Milimani	
6.	Aggrey Muehela	Milimani	
7.	Joseph Oluoch	Milimani / Voi	
8.	MARSHALL NDIKI MURUKI	Mombasa	
9.	Daniel Drembo	Milimani	
10.	Jackie Vanou	Milimani	
11.	Rosekive Njiru	Sing'ar	

(2)



THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA

22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET

DAY ONE. 23RD APRIL, 2018

NO	NAME	STATION	SIGNATURE
1.	Mourseen A Odere	Nakuru	
2.	STELLA WUTUKU	NAROB	
3.	P. THURAKIA-JADEN	NAROB	
4.	Pauline Nyamwaya	NAROB	
5.	Lucy M. NJUGUNA.	NAROB	
6.	Sand Chifembwe	Marsabit	
7.	JUSTUS BWAHWONGA	NAROB	
8.	Mumba Ngugi	NAROB	
9.	Patricia J.O. Shemo	Mombasa	
10.	Folence Mueleni	Mombasa	
11.	Jesse Njagi	Nakuru	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA

22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET
DAY ONE, 23RD APRIL, 2018

NO	NAME	STATION	SIGNATURE
1.	DAVID K. KEMEI	MACHAKOS	
2.	A. MSHYA	NYERI	
3.	J.B. KARATI	LAISNI	
4.	J. LEWIS	NAINDI	
5.	Asemath Ongeri	NAKURU	
6.	Nancy Kasanda	Nanyuki	
7.	Kicande Waweru Kicandie	BUSIA	
8.	Mugure Thande	MOMBASA	
9.	HELENA AMO SOYIN	Tomt Bay	
10.	Francis Gikonyo	MERA	
11.	JAMES A. MACHAKI	SIRAYA	

(4)



THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA

22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET

DAY ONE. 23RD APRIL, 2018

NO	NAME	STATION	SIGNATURE
1.	Theresa Wasiku Mherere	KISUMU	<i>[Signature]</i>
2.	CHRISTINE W. ANGOLI	KIAMBU	<i>[Signature]</i>
3.	Francis Inyeki	NAIROBI (COMMERCIAL)	<i>[Signature]</i>
4.	CECILIA GITUA	NAIROBI (CIVIL)	<i>[Signature]</i>
5.	ROBERT LIND	CHVILA	<i>[Signature]</i>
6.	Rachel C.B. Ngetel	Mulungu Commercial	<i>[Signature]</i>
7.	Anthony K. Ndungu	Nakuru	<i>[Signature]</i>
8.	CHARLES KARUNA	NAKURU	<i>[Signature]</i>
9.	Abida ah-aroni	Mombasa	<i>[Signature]</i>
* 10.	Nancy Kamuyu	JIPP	<i>[Signature]</i>
11.	William MUSAFA	MILIMANI	<i>[Signature]</i>



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA

DAY ONE. 23RD APRIL, 2018

22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET

NO	NAME	STATION	SIGNATURE
1.	R Mwendu	MILIMANI	
2.	ROSEMARY WERTHO	MURURO RURU	
3.	GEORGE BILU	GRASSY	
4.	DAVID N STATI	KAKHURGA	
5.	Hlang Clement	BURO	
6.	Esther N' Mwangi	KISUMU	
7.	Isel	NAKURU	
8.	MARVIN NYRA	BURU	
9.	WILFRIDA A-OSODI OKOINGI	NAIROBI	
10.	David A. S. Kapeera	KESERA	
11.	Miguel Jimenez	Nyeru	

(9)



THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA

22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET

DAY ONE, 23RD APRIL, 2018

NO.	NAME	STATION	SIGNATURE
1.	Rumben Nyakundi	Kajiado	<i>[Signature]</i>
2.	LORDAN KORR	MALINDI	<i>[Signature]</i>
3.	ALFRED MAGEYH	MERU	<i>[Signature]</i>
4.	ANNE CAA-ONGIND	MERU	<i>[Signature]</i>
5.	ANTONY C. MARIYA	MURURI	<i>[Signature]</i>
6.	Feresia Mumbane Mabereta	Mururi	<i>[Signature]</i>
7.	Euseb Muriu	MURURI	<i>[Signature]</i>
8.	Grace -L. Njoki	NANOKO	<i>[Signature]</i>
9.	KANYI KIMONDO	MURANGA/ECDOMET	<i>[Signature]</i>
10.	MARGARET W. MWIGA	MURURI	<i>[Signature]</i>
11.	LUCY W. GITARI	KERUHOYA	<i>[Signature]</i>



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
 HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
 MOMBASA

22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET
DAY ONE. 23RD APRIL, 2018

NO	NAME	STATION	SIGNATURE
1.	George Odura	MACHAKOS	<i>[Signature]</i>
2.	Rose Ouga.	KISII	<i>[Signature]</i>
3.	A' Mbatia Mwangi	PARISI	<i>[Signature]</i>
4.	Lydia Achode	Eldoret	<i>[Signature]</i>
5.	Jean Amaro Ochieng	MILIMANI	<i>[Signature]</i>
6.	Grace Ngandu	NALINDA	<i>[Signature]</i>
7.	Janet Ndulwa	NALINDA	<i>[Signature]</i>
8.	Luka Kimaru	NDIROBI	<i>[Signature]</i>
9.	Reselene Kim	NALINDA	<i>[Signature]</i>
10.	Stephen Cutting	KAPENGA	<i>[Signature]</i>
11.	Olga Sewe	MILIMANI, NBI	<i>[Signature]</i>

(8)



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA

22ND APRIL - 27TH APRIL, 2018

JUDGES ATTENDANCE SHEET

DAY ONE. 23RD APRIL, 2018

NO	NAME	STATION	SIGNATURE
1.	ERIC OGOLA	MOMBASA	<i>[Signature]</i>
2.	DORA O. CHEKWIYOT	MOMBASA	<i>[Signature]</i>
3.	HATARI WANJAU	MULANG'A	<i>[Signature]</i>
4.	LILIAN NUNDE	KITUI	<i>[Signature]</i>
5.	HEDWIG ONG'UDI	MILIMANI	<i>[Signature]</i>
6.	JUDITH OMANGE	MILIMANI	<i>[Signature]</i>
7.	Benjamin Kariuki	MUMBAI	Judy
8.	Joyne Hubei	Milimani	<i>[Signature]</i>
9.	Lily Ndumbi	Milimani	<i>[Signature]</i>
10.	Jackson Apia	MILIMANI	<i>[Signature]</i>
11.	Bernard Kimondo	Milimani	<i>[Signature]</i>



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
 HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
 MOMBASA

22ND APRIL - 27TH APRIL, 2018
 FACILITATORS ATTENDANCE SHEET
 DAY ONE, 23RD APRIL, 2018

NO	NAME	ORGANIZATION	E-MAIL	TELEPHONE NO	SIGNATURE
1.	Dr Paul Kureki	Judiciary	kinolupri@gmail.com	0722362826	
2.	Agnes Mwangi	Judiciary	amwangemwangi@jke	0722709293	
3.	Walter Mwangi				
4.	R. Musendo	Secrecary			
5.	D.S. Wanyuki	Judiciary			
6.	Judith Omollo	Judiciary	shuboro2050@gmail.com	0798418441	
7.			omangus@yahoo.com		
8.					
9.					
10.					
11.					



THE JUDICIARY

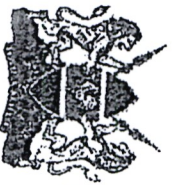
OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
 HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
 MOMBASA

22ND APRIL - 27TH APRIL, 2018

FACILITATORS ATTENDANCE SHEET

DAY TWO. 24TH APRIL, 2018

NO	NAME	ORGANIZATION	E-MAIL	TELEPHONE NO	SIGNATURE
1.	J. Hellen Wasilwa	EHRC	hwasilwa@ghareta.org	0713806677	[Signature]
2.	L. Oryango	DTFA	lorua.oryango@dtfa.or.ke	0723167328	[Signature]
3.	DR. EDWARD ADUMBA	SPDS	edumba@ghareta.org	0726664422	[Signature]
4.	ANNIE MUKO	RLRU	anniemuko@ghareta.org	0714824001	[Signature]
5.	Miriam Kariuki	Law Society		0728886014	[Signature]
6.	R. Mwangi	OPI			[Signature]
7.	J. Nguni	HIGH COURT	nguni.jed@ghareta.org	0725325777	[Signature]
8.	J. PAULINE NYAMWETA	HIGH COURT	nyamweta.j@ghareta.org	0722/222113	[Signature]
9.	J. Lesitie	High Court	lesitie@ghareta.org	0722791993	[Signature]
10.					
11.					



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY TWO, 24TH APRIL, 2018

JUDGES ATTENDANCE SHEET

NO.	NAME	STATION	SIGNATURE
1.	HON. JUSTICE A. MBOGHOLI MSAGHA	MILIMANI	
2.	HON. LADY JUSTICE A. MSHILA	NYERI	
3.	HON. LADY JUSTICE ABIDA ALI ARONI	MILIMANI	
4.	HON. JUSTICE AGGREY MUCHELULE	MILIMANI	
5.	HON. JUSTICE ALFRED MABEYA	MERU	
6.	HON. LADY JUSTICE ANNE C. A. ONGTUNJO	MERU	
7.	HON. JUSTICE ANTHONY K. NDUNG'U	NAKURU	

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THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES ATTENDANCE SHEET

DAY TWO. 24TH APRIL, 2018

NO	NAME	STATION	SIGNATURE
8.	HON JUSTICE ANTONY C. MRIMA	MIGORI	
9.	HON. LADY JUSTICE ASENATH ONGERI	GARSEN	
10.	HON. LADY JUSTICE B. THURANIRA JADEN	MILIMANI	
11.	HON. LADY JUSTICE CECILIA GITHUA	MILIMANI	
12.	HON. JUSTICE CHARLES KARIUKI	MAKUJENI	
13.	HON. LADY JUSTICE CHRISTINE MEOLI	KIAMBU	
14.	HON. JUSTICE DANIEL OGEMBO	MILIMANI	

2018



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY TWO, 24TH APRIL, 2018

JUDGES ATTENDANCE SHEET

NO.	NAME	STATION	SIGNATURE
15.	HON. JUSTICE DAVID A. S. MAJANJA	KISUMU	
16.	HON. JUSTICE DAVID K. KEMEI	MACHAKOS	
17.	HON. LADY JUSTICE DORA O. CHEPKWONY	MOMBASA	
18.	HON. JUSTICE ENOCH MWITA	MILIMANI	
19.	HON. JUSTICE ERIC OGOLA	MOMBASA	
20.	HON. LADY JUSTICE ESTHER N. MAINA	KISUMU	
21.	HON. LADY JUSTICE FARAH AMIN	MILIMANI	

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THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY TWO, 24TH APRIL, 2018

JUDGES ATTENDANCE SHEET

NO.	NAME	STATION	SIGNATURE
22.	HON. LADY JUSTICE FLORENCE MUCHEMI	EMBU	
23.	HON. JUSTICE FRANCIS GIKONYO	MERU	
24.	HON. JUSTICE FRANCIS TUYIOT	MILIMANI	
25.	HON. JUSTICE FRED ANDAGO OCHIENG	MILIMANI	
26.	HON. JUSTICE GEORGE DULLU	GARISSA	
27.	HON. JUSTICE GEORGE ODUNGA	MACHAKOS	
28.	HON. LADY JUSTICE GRACE L. NZIOKA	MILIMANI	

15

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THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL, MOMBASA
22ND APRIL - 27TH APRIL, 2018

JUDGES ATTENDANCE SHEET

DAY TWO. 24TH APRIL, 2018

<u>NO.</u>	<u>NAME</u>	<u>STATION</u>	<u>SIGNATURE</u>
29.	HON. LADY JUSTICE GRACE NGENYE	MILIMANI	
30.	HON. JUSTICE HATARI WAWERU	MURANG'A	
31.	HON. LADY JUSTICE HEDGWIG ONG'UNDI	MILIMANI	
32.	HON. LADY JUSTICE HELLEN AMOLO OMONDI	HOMA BAY	
33.	HON. JUSTICE HILLARY CHEMITEI	KITALE	
34.	HON. LADY JUSTICE J. LESIIT	MILIMANI	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY TWO, 24TH APRIL, 2018

JUDGES ATTENDANCE SHEET

NO.	NAME	STATION	SIGNATURE
35.	HON. JUSTICE J. R. KARANJA	KISII	
36.	HON. LADY JUSTICE JACKIE KAMAU	MILIMANI	
37.	HON. JUSTICE JAIRUS NGAAH	NYERI	
38.	HON. JUSTICE JAMES A. MAKAU	SIAYA	
39.	HON. JUSTICE JAMES WAKIAGA	MILIMANI	
40.	HON. LADY JUSTICE JANET MULWA	NAKURU	
41.	HON. JUSTICE JESSIE NJAGI	KAKAMEGA	

(17)

JK



THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES ATTENDANCE SHEET

DAY TWO. 24TH APRIL, 2018

No.	NAME	STATION	SIGNATURE
42.	HON. JUSTICE JOEL NGUGI	NAKURU	
43.	HON. JUSTICE JOHN M. MATIVO	MILIMANI	
44.	HON. JUSTICE JOHN N. ONYIEGO	MILIMANI	
45.	HON. JUSTICE JOSEPH K. SERGON	MILIMANI	
46.	HON. JUSTICE JUSTUS BWONWONGA	NAROK	
47.	HON. JUSTICE KANYI KIMONDO	ELDORET	
48.	HON. JUSTICE KIARIE WAWERU KIARIE	BUSIA	

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THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY TWO. 24TH APRIL, 2018

JUDGES ATTENDANCE SHEET

NO.	NAME	STATION	SIGNATURE
49.	HON. LADY JUSTICE LUCY M. NJUGUNA	MILIMANI	
50.	HON. LADY JUSTICE LUCY W. GITARI	KERUGOYA	
51.	HON. JUSTICE LUKA KIMARU	MILIMANI	
52.	HON. LADY JUSTICE LYDIA ACHODE	ELDORET	
53.	HON. LADY JUSTICE MARGARET NJOKI MWANGI	MOMBASA	
54.	HON. LADY JUSTICE MARGARET W. MUIGAI	MILIMANI	

19

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THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES ATTENDANCE SHEET

DAY TWO. 24TH APRIL, 2018

<u>NO</u>	<u>NAME</u>	<u>STATION</u>	<u>SIGNATURE</u>
55.	HON. JUSTICE MARTIN MUYA	BOMET	
56.	HON. LADY JUSTICE MARY KASANGO	NANYUKI	
57.	HON. LADY JUSTICE MAUREEN ODERO	NAKURU	
58.	HON. LADY JUSTICE MUGURE THANDE	MOMBASA	
59.	HON. LADY JUSTICE MUMBI NGUGI	KERICHO	
60.	HON. LADY JUSTICE OLGA SEWE	MILIMANI	
61.	HON. JUSTICE PATRICK J. O. OTIENO	MOMBASA	

PR



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY TWO, 24TH APRIL, 2018

JUDGES ATTENDANCE SHEET

NO.	NAME	STATION	SIGNATURE
62.	HON. LADY JUSTICE PAULINE NYAMWEYA	MILIMANI	
63.	HON. LADY JUSTICE RACHEL C. B. NG'ETICH	MILIMANI	
64.	HON. JUSTICE REUBEN NYAKUNDI	KAJIADO	
65.	HON. JUSTICE RICHARD MWONGO	MILIMANI	
66.	HON. JUSTICE ROBERT LIMO	CHUKA	
67.	HON. LADY JUSTICE ROSE OUGO	KISII	

RS



THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES ATTENDANCE SHEET

DAY TWO. 24TH APRIL, 2018

NO	NAME	STATION	SIGNATURE
68.	HON. LADY JUSTICE ROSELINE WENDOH	NYAHURURU	
69.	HON. LADY JUSTICE ROSELYN KORIR	NAKURU	
70.	HON. LADY JUSTICE ROSELYNE ABURILI	SIAYA	
71.	HON. LADY JUSTICE RUTH N. SITATI	KAKAMEGA	
72.	HON. JUSTICE SAID CHITEMBWE	MARSABIT	
73.	HON. LADY JUSTICE STELLA MUTUKU	MILIMANI	
74.	HON. JUSTICE STEPHEN GITHINJI	KAPENGURIA	

TW



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY TWO, 24TH APRIL, 2018

JUDGES ATTENDANCE SHEET

NO	NAME	STATION	SIGNATURE
75.	HON. LADY JUSTICE TERESIA MATHEKA	NYERI	
76.	HON. LADY JUSTICE THRIPSISA WANJIKU CHERERE	KISUMU	
77.	HON. JUSTICE WELDON KORIR	MALINDI	
78.	HON. LADY JUSTICE WILFRIDA A. OSODO ONKWANY	MILIMANI	
79.	HON. JUSTICE WILLIAM MUSYOKA	MILIMANI	
80	HON. LADY JUSTICE LILIAN MUTENDE KITSI	KITUI	

23



**OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA**

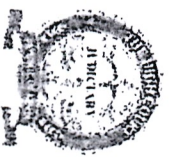
**22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET**

DAY TWO. 24TH APRIL, 2018

NO.	NAME	STATION	SIGNATURE
1.	NANCY KAMUKU	J.P. NBI	<i>[Signature]</i>
2.	Judith Omani	RHC HBI	<i>[Signature]</i>
3.	Benjamin Kinuthia	Muhuru	<i>[Signature]</i>
4.	Jackson Apilo	Muhuru	<i>[Signature]</i>
5.	Bernard Kimendo	Muhuru	<i>[Signature]</i>
6.	Laryne Adubi	Muhuru	<i>[Signature]</i>
7.	Lily Odumbo	Muhuru	<i>[Signature]</i>
8.			
9.			
10.			
11.			



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET
DAY THREE, 25TH APRIL, 2018

NO.	NAME	STATION	SIGNATURE
1.	HON. JUSTICE A. MBOGHOLI MSAGHA	MILIMANI	
2.	HON. LADY JUSTICE A. MSHILA	NYERI	
3.	HON. LADY JUSTICE ABIDA ALI ARONI	MILIMANI	
4.	HON. JUSTICE AGGREY MUCHELULE	MILIMANI	
5.	HON. JUSTICE ALFRED MABEYA	MERU	
6.	HON. LADY JUSTICE ANNE C. A. ONG'ENJO	MERU	
7.	HON. JUSTICE ANTHONY K. NDUNG'U	NAKURU	

25



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

NO	NAME	STATION	SIGNATURE
8.	HON JUSTICE ANTONY C. MRIMA	MIGORI	
9.	HON. LADY JUSTICE ASENATH ONGERI	GARSEN	
10.	HON. LADY JUSTICE B. THURANIRA JADEN	MILIMANI	
11.	HON. LADY JUSTICE CECILIA GITHUA	MILIMANI	
12.	HON. JUSTICE CHARLES KARIUKI	MAKUENI	
13.	HON. LADY JUSTICE CHRISTINE MEOLI	KIAMBU	
14.	HON. JUSTICE DANIEL OGEMBO	MILIMANI	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

NO.	NAME	STATION	SIGNATURE
15.	HON. JUSTICE DAVID A. S. MAJANJA	KISUMU	
16.	HON. JUSTICE DAVID K. KEMEI	MACHAKOS	
17.	HON. LADY JUSTICE DORA O. CHEPKWONY	MOMBASA	
18.	HON. JUSTICE ENOCH MWITA	MILIMANI	
19.	HON. JUSTICE ERIC OGOLA	MOMBASA	
20.	HON. LADY JUSTICE ESTHER N. MAINA	NYAMIRA	
21.	HON. LADY JUSTICE FARAH AMIN	MILIMANI	

27



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

<u>NO.</u>	<u>NAME</u>	<u>STATION</u>	<u>SIGNATURE</u>
22.	HON. LADY JUSTICE FLORENCE MUCHEMI	EMBU	
23.	HON. JUSTICE FRANCIS GIKONYO	MERU	
24.	HON. JUSTICE FRANCIS TUIYOTT	MILIMANI	
25.	HON. JUSTICE FRED ANDAGO OCHIENG	MILIMANI	
26.	HON. JUSTICE GEORGE DULU	GARISSA	
27.	HON. JUSTICE GEORGE ODUNGA	MACHAKOS	
28.	HON. LADY JUSTICE GRACE L. NZIOKA	MILIMANI	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY THREE. 25TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

NO.	NAME	STATION	SIGNATURE
29.	HON. LADY JUSTICE GRACE NGENYE	MILIMANI	
30.	HON. JUSTICE HATARI WAWERU	MURANG'A	
31.	HON. LADY JUSTICE HEDDWIG ONG'UNDI	MILIMANI	
32.	HON. LADY JUSTICE HELLEN AMOLO OMONDI	HOMA BAY	
33.	HON. JUSTICE HILARY CHEMITTEI	KITALE	
34.	HON. LADY JUSTICE J. LESITT	MILIMANI	










THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

NO.	NAME	STATION	SIGNATURE
35.	HON. JUSTICE J. R. KARANJA	KISII	
36.	HON. LADY JUSTICE JACKIE KAMAU	MILIMANI	
37.	HON. JUSTICE JAIRUS NGAAH	NYERI	
38.	HON. JUSTICE JAMES A. MAKAU	SIAYA	
39.	HON. JUSTICE JAMES WAKIAGA	MILIMANI	
40.	HON. LADY JUSTICE JANET MULWA	NAKURU	
41.	HON. JUSTICE JESSIE NJAGI	KAKAMEGA	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY THREE, 25TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

No.	NAME	STATION	SIGNATURE
42.	HON. JUSTICE JOEL NGUGI	NAKURU	
43.	HON. JUSTICE JOHN M. MATIVO	MILIMANI	
44.	HON. JUSTICE JOHN N. ONYIEGO	MILIMANI	
45.	HON. JUSTICE JOSEPH K. SERGON	MILIMANI	
46.	HON. JUSTICE JUSTUS BWONWONGA	NAROK	
47.	HON. JUSTICE KANYI KIMONDO	ELDORET	
48.	HON. JUSTICE KIARIE WAWERU KIARIE	BUSIA	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

NO.	NAME	STATION	SIGNATURE
49.	HON. LADY JUSTICE LILIAN MUTENDE	KITUI	
50.	HON. LADY JUSTICE LUCY M. NJUGUNA	MILIMANI	
51.	HON. LADY JUSTICE LUCY W. GITARI	KERUGOYA	
52.	HON. JUSTICE LUKA KIMARU	MILIMANI	
53.	HON. LADY JUSTICE LYDIA ACHODE	ELDORET	
54.	HON. LADY JUSTICE MARGARET NJOKI MWANGI	MOMBASA	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

DAY THREE, 25TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

NO	NAME	STATION	SIGNATURE
55.	HON. LADY JUSTICE MARGARET W. MUGAI	MILIMANI	
56.	HON. JUSTICE MARTIN MU YA	BOMET	
57.	HON. LADY JUSTICE MARY KASANGO	NANYUKI	
58.	HON. LADY JUSTICE MAUREEN ODERO	NAKURU	
59.	HON. LADY JUSTICE MUGURE THANDE	MOMBASA	
60.	HON. LADY JUSTICE MUMBI NGUGI	KERICHO	
61.	HON. LADY JUSTICE OLGA SEWE	MILIMANI	



THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA
HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL,
MOMBASA

22ND APRIL - 27TH APRIL, 2018
JUDGES ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

NO	NAME	STATION	SIGNATURE
1.	STEVEN IKLER	NATROBI	
2.	MURRAY KENNEDY	COMMITTEE	
3.	K. M'NOKI	NATROBI	
4.	N. ABDELLO	N/A	
5.	Justice David Maraga CJ	Supreme Court	
6.	Judith Omange	MULIMANI	
7.			
8.			
9.			
10.			
11.			



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET
DAY THREE, 25TH APRIL, 2018

NO.	NAMES	STATION	SIGNATURE
62.	HON. JUSTICE PATRICK J. O. OTIENO	MOMBASA	
63.	HON. LADY JUSTICE PAULINE NYAMWEYA	MILIMANI	
64.	HON. LADY JUSTICE RACHEL C. B. NG'ETICH	MILIMANI	
65.	HON. JUSTICE REUBEN NYAKUNDI	KAJIADO	
66.	HON. JUSTICE RICHARD MWONGO	MILIMANI	
67.	HON. JUSTICE ROBERT LIMO	CHUKA	










THE JUDICIARY

OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

No	NAME	STATION	SIGNATURE
68.	HON. LADY JUSTICE ROSE OUGO	KISII	
69.	HON. LADY JUSTICE ROSELINE WENDOH	NYAHURURU	
70.	HON. LADY JUSTICE ROSELYN KORIR	NAKURU	
71.	HON. LADY JUSTICE ROSELYNE ABURILI	SIAYA	
72.	HON. LADY JUSTICE RUTH N. SITATI	KAKAMEGA	
73.	HON. JUSTICE SAID CHITEMBWE	MARSABIT	
74.	HON. LADY JUSTICE STELLA MUTUKU	MILIMANI	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL
CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

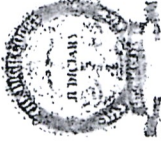
JUDGES/PARTICIPANTS ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

NO	NAME	STATION	SIGNATURE
75.	HON. JUSTICE STEPHEN GITHINJI	KAPENGURIA	
76.	HON. LADY JUSTICE TERESIA MATHEKA	NYERI	
77.	HON. LADY JUSTICE THRIPSISA WANJIKU CHERERE	KISUMU	
78.	HON. JUSTICE WELDON KORIR	MALINDI	
79.	HON. LADY JUSTICE WILFRIDA A. OSODO OKWANY	MILIMANI	



THE JUDICIARY



OFFICE OF THE PRINCIPAL JUDGE, HIGH COURT OF KENYA HIGH COURT JUDGES' ANNUAL CONFERENCE AT SERENA BEACH HOTEL, MOMBASA 22ND APRIL - 27TH APRIL, 2018

JUDGES/PARTICIPANTS ATTENDANCE SHEET

DAY THREE. 25TH APRIL, 2018

NO.	NAME	STATION	SIGNATURE
80.	HON. JUSTICE WILLIAM MUSYOKA	MILIMANI	<i>William Musyoka</i>
81.	NANCY KANYAGO	JPIP-NRB	<i>Nancy Kanyago</i>

82 FREDRICK NOMANYI O C J *Fredrick Nomany*

83 ZAKHEEM RAJAN *Zakheem Rajan*

84 JUBITH OMAHIE *Jubith Omahie*

85. Bernard Kimondo *Bernard Kimondo*

DPAC

MILIMANI

Milimani



REPUBLIC OF KENYA

THE JUDICIARY

Justice be our Shield and Defender



ANNUAL JUDGES CONFERENCE
HELD AT THE SERENA BEACH RESORT & SPA MOMBASA BETWEEN
22ND - 26TH APRIL 2018
SECURITY ATTENDANCE REGISTER

DAY 2, WEDNESDAY 25 TH APRIL 2018 (DAY SHIFT)						
No	NAME	FORCE NO	MOBILE NUMBER	SIGNATURE	TIME IN	TIMEOUT
1.	IP Pius Muthiani	218160	0726750455	<i>[Signature]</i>	0600hrs	1800hrs
2.	S/SGT Swalehe Nyoka	223753	0713239170	<i>[Signature]</i>	0600hrs	1800hrs
3.	SGT ABDI FARAH	223746	0729887002	<i>[Signature]</i>	0600hrs	1800hrs
4.	SGT SAMSON GITUMBA	225585	0720681958	<i>[Signature]</i>	0600hrs	1800hrs
5.	CPL MUNDAGE MURZIGE	215501	072755178	<i>[Signature]</i>	0600hrs	1800hrs
6.	APC ALVIN NYAKERI	255837	0712092612	<i>[Signature]</i>	0600hrs	1800hrs
7.	APC JOSEPHAT GIKONYA	247425	0704626572	<i>[Signature]</i>	0600hrs	1800hrs
8.	APC JOYCE GATHURI	231768	0712037435	<i>[Signature]</i>	0600hrs	1800hrs
9.	PC WESLEY CHARITHA	449906	0721676160	<i>[Signature]</i>	0600hrs	1800hrs
10.	PC NJ CHELU TO ALFARAH	107508	0723989822	<i>[Signature]</i>	0600hrs	1800hrs
11.	APC MOSES LEMAKO	235201	07202239090	<i>[Signature]</i>	0600hrs	1800hrs

39



THE JUDICIARY

Justice be our Shield and Defender



ANNUAL JUDGES CONFERENCE
HELD AT THE SERENA BEACH RESORT & SPA MOMBASA BETWEEN
22ND - 26TH APRIL 2018

SECURITY ATTENDANCE REGISTER

TUESDAY

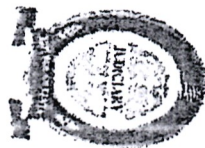
DAY 2, MONDAY 24TH APRIL 2018 (DAY SHIFT)

NO	NAME	FORCE NO	MOBILE NUMBER	SIGNATURE	TIME IN	TIMEOUT
1.	SAMSON GIONG'A	225585	0720681958		06:00 AM	1800 Hrs
2.	ALI MUSA	11122	0797178828		06:00 AM	1800 Hrs
3.	FYRE BATHUR	229768	072087485		06:00 AM	1800 Hrs
4.	MOSES LEMISO	235201	0702939096		06:00 AM	1800 Hrs
5.	WISLEY REHARCHER	44906	0721876160		06:00 AM	1800 Hrs



Justice be our Shield and Defender

THE JUDICIARY



ANNUAL JUDGES CONFERENCE
HELD AT THE SERENA BEACH RESORT & SPA MOMBASA BETWEEN
22ND - 26TH APRIL 2018
SECURITY ATTENDANCE REGISTER

DAY 2, MONDAY 23RD APRIL 2018 (DAY SHIFT)

No	NAME	FORCE NO	MOBILE NUMBER	SIGNATURE	TIME IN	TIMEOUT
1.	TURUS S. MUKHARMA	222590	0725391730		06:00 hrs	19:00 hrs
2.	SHIBS OCHIBIA	244782	0727062020		06:00 hrs	19:00 hrs
3.	WESTERN CARA CHIA	44906	0721676160		06:00 hrs	19:00 hrs
4.	JORGE GATHUJI	231768	0712037435		06:00 hrs	19:00 hrs
5.	MUSIA	11122	0799178828		06:00 hrs	19:00 hrs
6	PAUL LEPARE LEPARE LEPARE	76605	0721750627		06:00 hrs	19:00 hrs



THE JUDICIARY

Justice be our Shield and Defender



ANNUAL JUDGES CONFERENCE
HELD AT THE SERENA BEACH RESORT & SPA MOMBASA BETWEEN
22ND - 26TH APRIL 2018
SECURITY ATTENDANCE REGISTER

DAY 4, WEDNESDAY 25TH APRIL 2018 (NIGHT SHIFT)

NO	NAME	FORCE NO	MOBILE NUMBER	SIGNATURE	TIME IN	TIMEOUT
1.	NAJIBO OMAH	246964	070021159	<i>[Signature]</i>	1800hrs	0006
2.	JOSEPHAT GILSONYO	247495	0704626572	<i>[Signature]</i>	1800hrs	0006H
3.	DAMIANI NJI	32018513	0713030240	<i>[Signature]</i>	1800hrs	0606H
4.	DOUGLAS ETYANG	68180	0726778510	<i>[Signature]</i>	1800hrs	0006
5.	MURRAY MURZISHE	215501	0721565178	<i>[Signature]</i>	1800hrs	0006
6.						



THE JUDICIARY

Justice be our Shield and Defender



ANNUAL JUDGES CONFERENCE
HELD AT THE SERENA BEACH RESORT & SPA MOMBASA BETWEEN
22ND - 26TH APRIL 2018
SECURITY ATTENDANCE REGISTER

DAY 3, TUESDAY 24TH APRIL 2018 (NIGHT SHIFT)

No	NAME	FORCE NO	MOBILE NUMBER	SIGNATURE	TIME IN	TIMEOUT
1.	MATOKO OMAR	246964	0700021159		1800hrs	0800hrs
2.	TOSPHAT GIKENYO	247495	0704626572		1800hrs	0800hrs
3.	AMAKO HANI K21	22318573	0713578248		1800hrs	0800hrs
4.	DOUGLAS ETYONG	68180	0720778510		1800hrs	0800hrs
5.	WASSANKE MUMAZIGANE	215501	0727565778		1800hrs	0800hrs

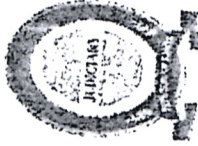
(43)

WIGHT SHFT 20/04/18



THE JUDICIARY

Justice be our Shield and Defender



ANNUAL JUDGES CONFERENCE HELD AT THE SERENA BEACH RESORT & SPA MOMBASA BETWEEN 22ND -26TH APRIL 2018

SECURITY ATTENDANCE REGISTER

MONDAY

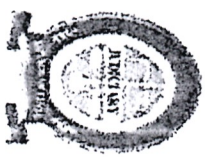
DAY 1, SUNDAY-23RD APRIL 2018 (NIGHT SHIFT)

NO	NAME	FORCE NO	MOBILE NUMBER	SIGNATURE	TIME IN	TIMEOUT
1.	Paul Lepir	76705	0721750627	[Signature]	18:05:00	06:00:00
2.	Nasor Omar	246964	0700021159	[Signature]	18:05:00	06:00:00
3.	Josphat Gikonyo	247495	0704626572	[Signature]	18:05:00	06:00:00
4.	Jonglas Etheny	68186	0720077510	[Signature]	18:05:00	06:00:00
5.	Penadha Aji	118264	0713530248	[Signature]	18:05:00	06:00:00



Justice be our Shield and Defender

THE JUDICIARY



ANNUAL JUDGES CONFERENCE HELD AT THE SERENA BEACH RESORT & SPA MOMBASA BETWEEN 22ND - 26TH APRIL 2018

SECURITY ATTENDANCE REGISTER

DAY 1, SUNDAY 22ND APRIL 2018 (NIGHT SHIFT)

No	NAME	FORCE NO	MOBILE NUMBER	SIGNATURE	TIME IN	TIMEOUT
1.	JURIS S. MURITHIWA	222592	0722391732		1800hrs	0600hrs
2.	Samuel Hgare	259468	0708795992		1800hrs	0600hrs
3.	Toniik FAKKALA	256250	0714102486		1800hrs	0600hrs
4.	RAMADHAN HI MWAHANGU	113264	0715530248		1800hrs	0600hrs
5.	DOUGLAS ERYANG	68180	0720778510		1800hrs	0600hrs
6.	SAMSON KIRONDA	225585	0720691958		1800hrs	0600hrs

* * *

(45)

REPUBLIC OF KENYA

THE JUDICIARY

THE HIGH COURT OF KENYA

OFFICE OF THE PRINCIPAL JUDGE

THE ANNUAL JUDGES CONFERENCE

VENUE: SERENA BEACH HOTEL, MOMBASA

THEME: 'Sustaining Judiciary Transformation'

PROGRAM

22ND - 26TH APRIL 2018

DAY 1: SUNDAY, 22ND APRIL 2018 - ARRIVAL

Time	Activity	Facilitator(s)
2:00pm	Check in	Secretariat

DAY 2: MONDAY, 23RD APRIL, 2018

Time	Activity	Facilitator
8:30 am - 9:00 am	Registration	Hon Lady Justice Nyamweya
9:00 am - 9:15 am	Welcome remarks	Hon. Lady Justice Christine Meoli
9:15 am - 9:45 am	The High Court Score Card & Milestones for the HCAC	Hon Justice Richard Mwongo
9:45 am - 10:00 am	Highlights of the 2017 Election Process	Hon. Justice Msagha Mboghohi
10:00am-10:30 am	Performance Management and Measurement standards for the High court	Hon. Lady Justice Agnes Murgor
10:30am-11:00am	Tea Break	
11:00am-11:45am	Progress Report on Implementation of Performance Management in the High Court	Dr. Paul Kimalu
11:45am-12:30pm	Plenary	



(47)

12:30pm-12:45pm	Evaluation Tool for Judicial Performance	Judiciary Training Institute	
12:45pm- 1:00pm	Plenary		
1:00pm- 2:00pm	Lunch		
2:00pm- 2:30pm	Facilitation of Judges	Hon. Judy Omenge	
2:30pm-3:00pm	Feedback on facilitation of Judges	Hon. Judy Omenge	
3:00pm- 3:20pm	PJ Candidates: Pitching	Principal Judge IEBC	
3:20pm- 5:00pm	Elections of the Principal Judge		
5:00pm	Health Break		
6:00 pm	<i>Welcome reception /PJ's Dinner</i>		

DAY 3: TUESDAY, 24TH APRIL, 2018

Time	Activity	Facilitator	Day Chair
8:30am -9:00a.m	Registration	Secretariat	PJ Elect
9:00 am-9:15 am	Recap	Hon Justice Odunga	
9:15 am -9:45am	Court Annexed Mediation Rollout: <i>A solution by you for you.</i>	Hon. Justice Fred Ochieng	
9:45am-10:15am	Highlights on Alternative Justice System Taskforce	Hon. Justice Joel Ngugi	
10:15am-10:30am	Plenary		
10:30 am-11:00am	Tea Break		
11.00 am-11.30 am	Obtaining feedback on the Human Resource Manual.	Hon. Lady Justice Hellen Wasilwa	Kanyi Kimondo
11:30 am-12:00 pm	Highlights and feedback on the Judiciary Code of Conduct	Hon. Prof. Justice Odek D-JTI	
12:00pm- 12:30pm	Judges Mortgage Scheme Administration	KCB In charge - Lucy Kibiru	
12:30pm-1:15pm	Don't pack your bag yet!! Don't stay here; Perspectives on retirement.	Dr. Edward Odundo	
1:15 pm- 2:00 pm	Lunch Break		
2.00 pm-5:00 pm	High Court Leaders Meeting: Presiding Judges	Principal Judge	
5:00 pm	Health Break		

DAY 4: WEDNESDAY, 25th APRIL, 2018

Time	Activity	Facilitator	Session Chair
8:00 am – 8:30 am	Registration	Secretariat	
8:30 am -8.45 am	Recap	Principal Judge	
8.45 am- 9.30 am	Chief Guest's address	Hon. Chief Justice David Maraga and President of Supreme Court of Kenya	
9:30 am- 9:45 am	The roadmap to a digital strategy; Role of Judges in S/T ICT initiatives	Hon. Justice Kathurima M'noti	
9:45 am- 10:15 am	Demonstration of the case management system	Steven Ikieng	
10:15 am-10:30am	Plenary		
10.30 am-11.00am	Tea Break		
11:00 am-11.45am	Emerging Grey areas of conflicting jurisdiction; a) Supervision of Magistrates Courts <i>vis a vis</i> Land and Labour Matters b) Grey Areas of Jurisdiction on: Charges of land ; Land under Administration of Estates; Labour	Hon. Lady Justice Jessie Lesit, Mr Walter Amoko	Mr. Justice Odunga
11:45 am-12:10pm	Other emerging issues of Law & Practice: The Supreme Court ruling on the death penalty • Policy on Service Weeks and Mobile Courts	Hon. Justice Luka Kimaru	
12:10pm-12:30pm	Plenary		

(149)

Time	Activity	Facilitator	Session Chair
12:30pm -1:00 pm	The High Court we want: PJ Elect Vision for HC	PJ Elect	Hon. Justice Msagha Mbogholi
1:00 pm-2:00pm	Lunch		
2:00pm- 4:00pm	Team Building		
4:00pm	Health Break		
7:00pm	Gala dinner		

DAY 5, THURSDAY 26th APRIL 2018 -DEPARTURE

Time	Facilitator(s)
10:00am	RHC & OPJ

HIGH COURT LEADERS MEETING

AFTERNOON PROGRAMME FOR 24th APRIL, 2018, 2.00PM-5.00PM

Time	Activity	Facilitator
2:00pm - 2:40pm	Sustaining the Judiciary Transformation (SJT) Agenda: Feedback and Feed-forward	Dr. Monica Keretts- Makau
2:40pm - 3:30pm	<ul style="list-style-type: none"> • Organization Review of the Judiciary • The Judge as a leader in sustaining Judiciary • Criteria for Appointment of Presiding Judges 	Hon. Justice Richard Mwongo
3:30pm - 4:00pm	Group Reports	
4:00pm - 5:00pm	Emerging thought on Institutionalizing Governance and Management in the Judiciary	Dr. Monica Keretts- Makua
5:00pm	Tea Break & Close of Day	

(51)



JUDICIARY TRAINING INSTITUTE
RETREAT FOR COURT OF APPEAL
HELD AT SERENA BEACH HOTEL, MOMBASA
10TH - 14TH APRIL, 2018
PARTICIPANTS' REGISTRATION FORM

DAY TWO: WEDNESDAY, 11TH APRIL, 2018

	NAME	PJNO	SIGNATURE
1.	Athabhai Wairimu	COA	[Signature]
2.	Agnes Muger	CSA	[Signature]
3.	EM SITHIPI	4703	[Signature]
4.	Hannah Okwemugn	COA	[Signature]
5.	Mertua Isomwe	39083	[Signature]
6.	Mahmed Mahson	COA	[Signature]
7.	Patrick Kibici	CSA	[Signature]
8.	Jane M. Mwangi	49949	[Signature]
9.	MSES K. SERENI	CSA	[Signature]
10.	Harrison Abika	D.R CSA N1324	[Signature]
11.	A. Njoki	CSA	[Signature]
12.			

(52)



REPUBLIC OF KENYA
THE JUDICIARY



JUDICIARY TRAINING INSTITUTE
RETREAT FOR COURT OF APPEAL
HELD AT SERENA BEACH HOTEL, MOMBASA
10TH - 14TH APRIL, 2018
PARTICIPANTS' REGISTRATION FORM

DAY TWO: WEDNESDAY, 11TH APRIL, 2018

NAME	PJ/NO.	SIGNATURE
1. Gatenbu Kigiru	COA	
2. Otiemo Odek	JTI	
3. K. M/wot	COA	
4. F. SICHAKO	COA	
5. Sole Kantari	COA	
6. W. Ouko		
7. DANIEL MRSINGA	COA	
8. J. Mohammed	COA	
9. W. Karamji	COA	
10. Tomutje	COA	
11. W. OUKO	COA	
12. P. K. Rotich	COA	

**JUDICIARY TRAINING INSTITUTE
RETREAT FOR COURT OF APPEAL JUDGES
10TH - 14TH APRIL 2018, SERENA HOTEL, MOMBASA**

Theme: Vision for Court of Appeal



DAY ONE TUESDAY 10th April, 2018 Arrival from 2.00pm (Hotel Staff and Secretariat)	
DAY TWO WEDNESDAY 11th April, 2018	
8.30-9.00am	Registration of Participants
OPENING CEREMONY	
SESSION CHAIR: HON. MOSES SEREM	
9.00-9.20am	<ul style="list-style-type: none"> Welcome Remarks
9.20-9.40am	<ul style="list-style-type: none"> My Vision for the Court of Appeal
9.40-10.00am	<ul style="list-style-type: none"> Hon. Justice Oieno Odek, <i>v</i> Director, JTI Hon. Justice William Okuo, President, Court of Appeal Hon. Lady Justice Philomena <i>v</i> Mwili, Deputy Chief Justice Hon. Justice Phillip Waki <i>v</i>
9.40-10.00am	<ul style="list-style-type: none"> EDR Statistics & Management of EDR appeals Process: Case Management and Logistical and Administrative Issues
9.40-10.00am	<ul style="list-style-type: none"> Overall Statistics of Civil and Criminal Cases in the Court of Appeal
9.40-10.00am	<ul style="list-style-type: none"> Mr. Peter Kamau <i>+</i>
10.00-10.20am	<ul style="list-style-type: none"> Statistics and Strategies to clear case backlog (5 Years Old & above) from all Court of Appeal Stations)
10.30-11.00am	<ul style="list-style-type: none"> Hon. Lady Justice Fatuma Sicalal
10.30-11.00am	<ul style="list-style-type: none"> Plenary Session
11.00-11.30am PHOTO SESSION AND TEA BREAK	
SESSION CHAIR: HON. LADY JUSTICE WANJIRU KARANJA	
11.30-12.00pm	<ul style="list-style-type: none"> Court of Appeal proposed Workplan for 2018/2019 and the budget making process
12.00-12.30pm	<ul style="list-style-type: none"> Road map to digitization of the Court of Appeal
12.30-1.00pm	<ul style="list-style-type: none"> Plenary Session

54

DAY FOUR FRIDAY 13th April, 2018		
SESSION CHAIR: HON. JUSTICE MOHAMED WARSAME		
9.00 - 9.30am	Registration of Participants	Secretariat
9.30-10.00am	Emerging and conflicting jurisprudence in Labour related issues	Hon. Justice Otieno Odek
10.00-10.30am	Women & Labour Rights in Kenya	FIDA (K) <i>Jacqueline Wriken</i>
10.30- 11.00am	Plenary Discussions	
11.00-11.30am HEALTH BREAK		
SESSION CHAIR: HON. JUSTICE AGNES MURGOR		
11.30-12.00pm	Strategies to avoid conflicting decisions at the Court of Appeal	Hon. Justice Otieno Odek
12.00-12.30pm	Reproductive and Health Rights in Kenya	Hon. Justice Hannah Okwengu
12.30-1.00pm	Plenary Discussions	
1.00-2.00pm LUNCH		
SESSION CHAIR: HON. JUSTICE WILLIAM OUKO		
2.00-3.30pm	Architectural designs for the Court of Appeal	Hon. Justice William Ouko PCO
3.30-4.00pm	Closing & Way forward	Hon. Justice William Ouko PCO
4.00pm	HEALTH BREAK AND END OF RETREAT	
DAY FIVE SATURDAY 14th April, 2018		
Departure after Breakfast (07:00-10:00am) (Hotel Staff and Secretariat)		

55

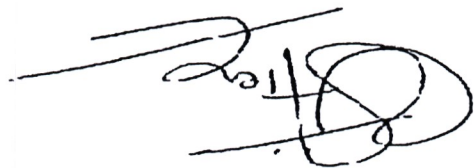
56

The Judiciary Code of Conduct & Ethics Committee under the leadership of Hon. Justice Erastus Githinji, JA, was tasked by the Judicial Service Commission to review and revise the Judicial Code of Conduct & Ethics and present the same to JSC for approval. As you may be aware, the Judicial Code of Conduct & Ethics had been gazetted vide Legal Notice No. 132 dated 29th July 2016 which was later revoked. To discharge its mandate and revise the Code, the Committee engaged various internal and external stakeholders.

REF:INTERNAL STAKEHOLDER PARTICIPATION IN FINALIZATION OF JUDICIARY CODE OF CONDUCT & ETHICS

DATE: MARCH 20, 2018

TO: ALL JUDGES
ALL MAGISTRATES
ALL DIRECTORS
ALL REGISTRARS
ALL JUDICIAL STAFF
PRESIDENT, KENYA MAGISTRATES AND JUDGES ASSOCIATION
CHAIRPERSON, KENYA WOMEN JUDGES ASSOCIATION
CHAIRPERSON, KENYA JUDICIAL STAFF ASSOCIATION



FROM: DIRECTOR, JTI

MEMO





JUDICIARY TRAINING INSTITUTE

JUDICIAL SERVICE COMMISSION & JTI RETREAT ON THE JUDICIAL CODE OF

CONDUCT HELD AT SAFARI PARK HOTEL

15TH FEBRUARY 2018

PARTICIPANTS REGISTRATION FORM

NAME	STATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1.				
2.				
3.				
4. Hon. Anne Amadi	JUDICIARY	0722707322	Annamadi@yahoo.com	Anne
5. DR JOHNSON OKELLO	CONSULTANT	0722426447	okellothorced@yahoo.com	[Signature]
6. KOSSY BOR	Nairobi	0722710926	Kossybor@yahoo.com	K'BOR
7. Freda Githim	JTI	0720930342	fgithim@yahoo.com	[Signature]
8. CHARLES ONDIEKI	JTI	0715053280	charlesondieki2011@yahoo.com	[Signature]
9. EMMAN ORUA	JTI	0720458002	emman.orua@gmail.com	[Signature]
10. BENEDICT OUFICANGI	JSC	0706976988	ooufichangibenedict@gmail.com	[Signature]
11. FLODA MOKAYA	JSC			[Signature]
12. LOENA OMANYO	JUNILIARY	0723167328	loena.omyo@gmail.com	[Signature]



THE JUDICIARY
REPUBLIC OF KENYA



REPUBLIC OF KENYA
THE JUDICIARY

JUDICIARY TRAINING INSTITUTE

JUDICIAL SERVICE COMMISSION & JTI RETREAT ON THE JUDICIAL CODE OF

CONDUCT HELD AT SAFARI PARK HOTEL

15TH FEBRUARY 2018



PARTICIPANTS REGISTRATION FORM

	NAME	STATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1.	CATHERINE MUGURU	JTI	0724444698	katentubun@gmail.com	
2.	Judy Muthiani	Nairobi	0723847521	judy.muthiana@gmail.com	
3.	Rashid Ali	Nairobi	0720955752	egyan02@yahoo.com	
4.	Evans K Makeni	Mombasa	0722220778	edmaxridge@aol.com	
5.	Em Githanyi	Kisumu	0722-635408		
6.	Merey Dorhe	JSC	0722355809	merey@mercydoras-llc.com	
7.	John N. Mwangi	Mombasa	0722355952	johnmangi@gmail.com	
8.	Nyambira Kingua	JSC	0722220413	nyambirakingua@gmail.com	
9.	Hella Mwaribwa	NRB	0713806077	hella.mwaribwa@gmail.com	
10.	Nancy N. Ngunjiri	JSC	0722319948	nancy.ngunjiri@gmail.com	
11.	Rashed Khan	JSC	0722924432	rashed@jsc.go.ke	
12.	Morera Sauti	JSC	0722289557	morera@jsc.go.ke	

(2)



THE JUDICIARY

JUDICIARY TRAINING INSTITUTE

JUDICIAL SERVICE COMMISSION & JTI RETREAT ON THE JUDICIAL CODE OF

CONDUCT HELD AT SAFARIPARK HOTEL

15TH FEBRUARY 2018



PARTICIPANTS REGISTRATION FORM

	NAME	STATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1.	BALAZI G.M	H/Q	0727490869	Balazigm@gmail.com	
2.	Simon K. Arunga	JSC	0722258286	Sarunga@jsc.go.ke	
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					
11.	(59)				
12.					

MINUTES OF THE JSC AND JTI RETREAT ON THE DRAFT JUDICIAL
CODE OF CONDUCT HELD ON 15TH FEBRUARY 2018 AT SAFARI PARK
HOTEL, NAIROBI.

Members Present

JSC Commissioners and Secretariat:

- | | | | |
|-----|-----------------------------------|---|-------------------|
| 1. | Hon. Chief Justice David Maraga | - | Chair, JSC |
| 2. | Hon. Justice Mr. Aggrey Muchelule | - | JSC Commissioner |
| 3. | Hon. Emily Ominde | - | JSC Commissioner |
| 4. | Ms. Mercy Deche | - | JSC Commissioner |
| 5. | Hon. Anne Amadi, CRJ | - | Secretary, JSC |
| 6. | Hon. Winfrida Mokaya | - | Registrar, JSC |
| 7. | Hon. Benard Ochieng | - | D/ Registrar, JSC |
| 8. | Wellington Amukaya | - | HR & Admin, JSC |
| 9. | Simon Aruwa | - | |
| 10. | Christine Kinjua | - | |
| 11. | Nancy Nyamama | - | |
| 12. | Morton Saulo | - | |
| 13. | Richard Otene | - | |

Committee Members on the Judicial Code of Conduct and Ethics:

- | | | | |
|-----|---------------------------------------|---|-------------|
| 14. | Hon. Justice Mr. Erastus Githinji, JA | - | Chairperson |
| 15. | Hon. Justice James Otieno-Odek | - | Secretary |
| 16. | Hon. Justice Gatembo Kairu, JA | - | Member |
| 17. | Hon. Justice Edward Muriithi | - | Member |
| 18. | Hon. Lady Justice Linnat Ndolo | - | Member |
| 19. | Hon. Lady Justice Kossy Bor | - | Member |
| 20. | Hon. Justice Mr. John Onyiego | - | Member |
| 21. | Hon. Mr. Evans Makori | - | Member |

5. Remarks from Hon. Justice Erastus Githinji, JA-Committee on Judicial Code of Conduct
6. Development of the Draft Judicial Code of Conduct and Ethics
7. Overview of the New Draft Code of Conduct
8. Committee's Proposed Way Forward and Resolutions
9. Plenary Discussion
10. Minute 8/15.02/2018: Way-forward from Plenary Discussion:
11. Enforcement, Overview and Implementation of the Code
12. Any Other Business

Minute 1/15.02.2018: Prayers and Introductions:

Hon. Lady Justice Kossy Bor called the meeting to order. She then invited Hon. Rashid Omar, Deputy Chief Kadhi to give an opening prayer.

Hon. Anne Amadi, the Chief Registrar of the Judiciary was requested to introduce the JSC Commissioners present.

Hon. Justice Erastus Githinji JA, chair Code of Conduct Committee introduced the committee members present.

Lorna Onyango, Ag. Director of HR & Administration introduced the members of HR Directorate present in the meeting. Hon. Justice Otieno-Odek, director JTI introduced the JTI deputy directors and staff present.

Minute 2/15.02.2018: Brief Remarks from the Chief Justice Hon. Justice David Maraga

The Honorable Chief Justice thanked all members for finding time to attend this important meeting.

Chief Justice noted that the Judicial Code of Conduct is important as it provides the rules upon which the Judiciary will judge itself and how it will be judged by our stake holders and the people of Kenya.

He reminded members that the JSC is the body which is charged with the responsibility of holding the Judiciary accountable to what we do to mwananchi.



(62)

- i. The committee requires JSC's guidance on the enforcement mechanism of the code.
- ii. Way forward after today's meeting. Assuming the code is finalized, will the committee go back again to the internal stakeholders for their views?

JSC's Guidance:

Further, Justice Odek pointed out the issues that require guidance from the JSC.

Justice Odek informed members that the current draft Judicial Code of Conduct and Ethics captures everything from the Safaripark stakeholders' forum and suggestions from the consultant. Some were included in the code for JSC's comments and way forward. When JTI received the stakeholders' views, the committee set for a committee meeting. In the meeting, the committee identified areas of consensus and contention that arose from the stakeholder forum at Safaripark Hotel. Issues that were not contested were immediately incorporated in to the code. The contentious issues were deliberated on and discussed in length. The committee then called for a stakeholders' forum in 2017 at Safaripark Hotel. Among the stakeholders who attended the stakeholder forum included KMJA, FIDA Kenya, ICJ, ODP, EACC, Katiba Institute, LSK among others. Internal stakeholders were also represented. Justice Ojwang and Lady Justice Njoki Ndung'u represented the Supreme Court of Kenya. Justice Ojwang; Gave a written paper with comments from Supreme Court of Kenya, KJSA Chairman was present to represent judiciary staff. There was also a written memorandum form KMJA. recommendations in Mombasa were incorporated in the code.

Dr. Odek informed members that one of the TORs of the consultant was to ensure that the JSC the Voyager retreat in Mombasa. Justice Odek noted that the committee took the gazetted code as a zero draft. They sought services of a consultant to come up with a new code. Through the support of IDLO, Dr. Johnson Okello was hired as the consultant to develop the Judicial Code of Conduct and Ethics. The committee met the consultant and deliberated on his terms of reference. The committee looked at the zero draft and incorporated what JSC had commented and recommended during the Voyager retreat in Mombasa.

draft. Justice Githinji noted however, that the recommendations received would give direction on the best approach to take towards development of an acceptable Code. He added that the draft Code had taken into consideration the Constitution, the Leadership and Integrity Act, the Bangalore Principles, Public Officers Ethics Act, Judicial Service Act, the 2015 Court of Appeal Organization and Administration Act, the High Court Organization and Administration Act and the Magistrates Courts Act.

Hon. Justice Githinji added that following consultations, the JSC had determined that it was the sole authority with power under the Constitution and the Judicial Service Act to prescribe and implement a code of conduct. He observed however, that other procedures to deal with other conduct such as peer review mechanism had been proposed while the statutes governing the different courts had given powers to the President of the Court of Appeal and Principal Judge of the High Court power to monitor implementation of the Code. The final Code had therefore, provided for enforcement of the Code to the JSC. Therefore, the main contention in respect of the Code was on the enforcement mechanism.

Chairman noted that the Ethics and Integrity Act has a provision that gives an entity like JSC to prescribe a code other than for state officers. That is the authority under which the code for judicial officers had been developed.

Justice Githinji notified members that the committee has incorporate views made by Justice Ojwang and Lady Justice Njoki Ndung'u during the stakeholders' forum at Safaripark Hotel.

Minute 6/15.02.2018: Development of the Draft Code of Conduct by Hon. Justice Linnet Ndolo

Applicable Law:

Hon. Lady Justice Linnet Ndolo pointed out the applicable law and legislations that prescribe a Judicial Code of Conduct for the Judiciary. The High Court (Organization & Administration)

(64)

Justice Linnert informed members of the committee's views that not every inquiry into the conduct of a judge will lead to the constitution of a tribunal. The inquiry procedure is well set out in the Regulations under the Judicial Service Act

The Committee was also of the view that issues of performance of Judges may be dealt with via administrative structures and processes within the Judiciary

Form and Content:

At the stakeholders' workshop held in May 2017, the draft Code was said to be too prescriptive of Justice Ndolo informed members that the content of the Code complies with requirements of the Leadership and Integrity Act.

The committee was of the view that since the Code attracts sanctions, there ought to be clarity on what constitutes breach of the code.

Recusal:

Regarding recusal, there were differing views from the Safaripark stakeholders' forum as to what constitutes recusal.

Justice Linnert Ndolo informed members that the Committee sought to make a distinction between recusal and abdication.

Can a Judge or Magistrate down tools without assigning specific reasons?

She informed members that the Committee on Judicial Code of Conduct took the view that recusal is a judicial process. It is therefore required that the reasons for recusal be placed on the court record

Members were informed that the decision of the Committee was informed by the need for accountability and a desire to guard against abuse of the provision for recusal.

**Minute 7/15.02.2018: Overview of the New Draft Code of Conduct by Dr. Johnson Okello,
IDLO Consultant**

Background:

Dr. Okello started by giving members a brief profile of himself as the consultant brought on board to support the Committee to review and redraft the proposed Judicial Code of Conduct.

He notified members that the working documents relied upon included the Judicial Service Act, the Constitution, Existing Acts of Parliament, Code of Conduct and Ethics issued under the Public Officer Ethics Act, and the Legal Notice No. 132 of 2016 issued under section 47(2) of the Judicial Service Act, Bangalore Principles among other relevant document.

He noted that as part of the ToRs for the review, the drafting team was requested to consider and provide guidance on the following issues:

- i. legal basis for the Code;
- ii. application of the Code;
- iii. the drafting style i.e. whether the code should be in the form of Regulations or Guidelines and the
- iv. enforcement mechanisms.

Legal Basis:

Dr. Okello informed members that the revised Code is anchored on Section 47 of the Judicial Service Act (Cap 185B); sections 19 and 37 of the Leadership and Integrity Act, 2012, and Section 5(1) of the Public Officer Ethics Act, 2003;

In terms of legislative drafting and use of enabling provision, Dr. Okello noted that nothing the reliance on different provisions to form the basis of a subsidiary legislation;

He noted that regulation 3 also gives effect to all other relevant legislation that make reference to a Code such as the Court of Appeal (Organisation and Administration) Act, the High Court (Organisation and Administration) Act, and the Magistrates' Courts Act.

The Code is developed as subsidiary legislation.

(65)

66

- The following were the committee's proposals to JSC:
- i. The Commission should give guidance on the identified contentious issues and any other matter that the Commission deems fit;
 - ii. The Commission to consider the Draft Code of Conduct and Ethics and adopt the same;
 - iii. The Commission to give guidance as to further consultations with internal stakeholders, EACC and other relevant stakeholders;
 - iv. The Commission to direct the Committee to finalize the Draft Code and present in for publication and transmission to Parliament.
- Resolution Sought:**
- i. Draft Code is approved by the Commission subject to any amendments arising from this meeting;
 - ii. The Commission to fast-track the internal consultations and consultation with EACC and other relevant Stakeholders;
- The Commission to present the final draft Code to the Commission for approval and signature for further processing.

Minute 8/15.02.2018: Committee's Proposed Way forward and Resolutions

- ii. How should a judge or judicial officer treat a private communication regarding a pending or impending matter?
- iii. How should the Code provide for the matter of recusal by a judge or judicial officer in a matter? What are the parameters to be considered?
- iv. The procedure for enforcement and oversight of the Code? What is the role of Chief Justice vis a vis the Commission in so far as enforcement is concerned? What role should the President of the Court of Appeal, principal judge, or presiding judge play in the enforcement and oversight of the implementation of the Code?

be affected by the code will be judges, magistrates and staff, it would be important to have their views as stakeholders before the code is gazetted. This he said, will cushion the judiciary just in case somebody decided to challenge the procedure in a court of law.

The Chief justice suggested that the document can be circulated again to the stakeholders for their views before it is presented to JSC for adoption.

Minute 10/15.02/2018: Way Forward from Plenary Discussion:

- i. Committee to circulate the draft internally then receive views
- ii. Prepare document on public participation and explanatory notes memorandum
- iii. Revoke legal notices no. 50 of 2003 and no. 132 of 2016.
- iv. Justice Githinji's explanatory notes should capture the purpose of the reconstituted committee indicating that this was in addition to the stakeholders' views collected before this new committee started sitting.

Minute 11/15.02.2018: Enforcement, Oversight and Implementation of the Code:

Regarding enforcement, oversight and implementation of the code; Dr. Okello noted that the Office of the Chief Justice J is the principle enforcer of the code. However, the Chief Justice can delegate this authority at station level.

It was noted that, for Judicial staff, the enforcement function is for the Chief Registrar of the Judiciary. Both the CJ and CRJ have powers to delegate this enforcement power for efficient implementation of the code.

Commissioner Deche suggested that the committee sticks to the language of the Judicial Service Act and let JSC be the enforcing organ of the Judicial Code of Conduct and Ethics.

Commissioner Ominde noted that the Commission has express powers to discipline judges, judicial officers and judicial staff. She added that the Judicial Service Act was amended to

67

68

be guided by the judicial Code of Conduct and Ethics.

Court judges felt the provisions interfere with the independence of judges. Recusal should not
Regarding section 20 (f), 20 (2) and 20 (3) on recusal, members were informed that the Supreme

It was agreed that section 24 be removed from the code.

Consensus:

Commissioner Deche was of the view that the section 24 is oppressive to a retired judge.

has left the institution.

Commissioner Omindé noted that the JSC cannot discipline a judge who is already retired and

of the view that the section is more of provisions in the Advocates Act.

Okello noted that the whole idea is to avoid any chance of conflict of interest. Members were

Regarding Section 24 on 'Retired judge not to act in a matter previously dealt with', Dr.

ready and will soon be handed to JTI for public participation process.

Commissioner Muchelule informed members that have the draft on the complaints manual is

79 so that we live out the manual.

Dr. Okello suggested that since the complaints manual is not in place, we should redraft section

Section 79 (2) and (3) to go to in the complainant's manual.

Section 79 (1)-Guidelines and Administrative Process remains in the code as it is.

Consensus:

makes the determination on whether an act is gross misconduct or

Commissioner Muchelule noted that it is important for members to clearly understand who

in the manual.

said that the code had a lot of dos and don'ts. This occasioned the committee to put peer review

Justice Linnert informed members that, from the previous stakeholder forum, most stakeholders

not.

peer review can be left open for JSC to decide on whether a matter should go to peer review or

Section 16: Involvement in quasi-judicial duties:

The issue of judges being paid honorarium was widely discussed. Most members were of the view that it is quite justifiable where a judge goes to lecture and gets honorarium.

Other members were of the view that before a judge receives any honorarium, they should get a letter from their superior allowing them to receive the honorarium.

Consensus:

It was unanimously agreed that Section 16 on involvement in quasi-judicial duties be retained in the code as it is.

Summary:

- Secretariat to work with the consultant to improve the draft
- Committee to convene a meeting before tabling the document to JSC
- Committee to circulate draft internally then receive comments.
- Committee will then take back the document to JSC within 60 days.

Minute 12/15.02.2018: Any Other Business:

There being no other business, the meeting ended at 3.00pm.

(69)



REPUBLIC OF KENYA
THE JUDICIARY

JUDICIARY TRAINING INSTITUTE

CODE OF CONDUCT COMMITTEE MEETING

HELD AT JTI, 28TH AUGUST, 2017

REGISTRATION FORM



NAME	NATION	EMAIL ADDRESS	SIGNATURE
1. Elizabeth M. Gilberg	Kenya	gilberge@judiciary.co.ke	<i>Elizabeth M. Gilberg</i>
2. Akenbu Kain	Kenya	akenbukain@gmail.com	<i>Akenbu Kain</i>
3. OTIENO ODEK	Kenya	otienodek@yahoo.com	<i>Otiemo Odek</i>
4. Edward Mwendu	Kenya	edwardmwendu@gmail.com	<i>Edward Mwendu</i>
5. Harold Ngala	Kenya	haroldngala@gmail.com	<i>Harold Ngala</i>
6. Evans K. Mwakari	Kenya	evansm@gmail.com	<i>Evans K. Mwakari</i>
7. Judy Muthiani	Kenya	judy.muthiani@gmail.com	<i>Judy Muthiani</i>
8. ROSSY BOB	Kenya	rossybob@yahoo.com	<i>Rossy Bob</i>
9.			
10.			
11.			
12.			

70

MINUTES OF THE JUDICIAL CODE OF CONDUCT COMMITTEE MEETING

HELD AT JTI ON 28TH AUGUST, 2017

Members Present:

1. Hon. Justice E.M. Githinji-Chair, JA
2. Hon. Justice(Prof.) Otieno Odek-Director, JTI
3. Hon. Justice Gatembu Kairu, CA
4. Hon. Lady Justice Linnet Ndolo, LRC
5. Hon. Justice Edward Muriithi, HC
6. Hon. Lady Justice Kossy Bor, HC
7. Hon. Evans Makori-Chief Magistrate
8. Dr. Okello-Consultant
9. Judy Muthiani-judicial staff

In Attendance:

10. Hon. Becky Cheloti-JTI
11. Roselyn Khamala-JTI Rapportour
12. Innocent Makaka- JTI Rapportour
13. Emmanuel Nyongesa-JTI

Apologies:

1. Hon. Justice (Prof.) J.B. Ojwang,SC
2. Hon. Justice Kihara Kariuki, Alternate Chair and President Court of Appeal
3. Hon. Lady Justice Martha Koome, SC
4. Hon. Justice Joel Ngugi,HC
5. Hon. Justice Joel Onyiego, HC
6. Hon. Roselyn Oganyo, CM

Min 1/28/8/2007: Welcome Remarks

Director JTI, Prof. Odek welcomed members to the meeting. He briefed members about JSC's communication requesting an update of how far the committee had gone with the code. It was agreed that the consultant incorporates changes to be made in the meeting, then the committee will look at the draft again before the same can be sent to JSC. The committee was also briefed about Justice J.B. Ojwang's comments which were to be considered in the meeting.

Prof. Odek welcomed Justice Ginthinji, committee Chair who then welcomed the consultant to take members through version 3 of the code which had changes incorporated from the Safari park retreat.

(71)

(72)

There being no other business, the meeting ended at 2:20pm with a word of prayer from Hon. Lady Justice Linnet Ndolo.

AOB:

It was agreed that the consultant cleans up version 4 of the draft by 29th August, 2017. Prof. Odek, Lady Justice Linnet Ndolo and Lady Justice Kossy Bor to meet on 30th August 2017 to go through the cleaned-up version 4 before the same can be sent to JSC.

Minute 4/8/2017: Agenda with consultant:

- i. Present version 4 to JSC
- ii. JSC to give the committee its input
- iii. Committee to consider JSCs input before dissemination

Minute 3/8/2017: Agenda with JSC

Clause 17-Offers of future benefits	<ul style="list-style-type: none"> • Add 'judicial office' in 17 (1) second line
Clause 18-Prohibition against sexual harassment	<ul style="list-style-type: none"> • This clause to be moved towards the end of the code
Clause 19-Conflict of interest	<ul style="list-style-type: none"> • Enter to start point number 2 • 19(2) replace 'judicial officer' with 'judge' • 19 (2) end with '.....not amount to a conflict of interest such as will compromise the judge's performance in the judicial office'
Clause 20-Recusal	<ul style="list-style-type: none"> • 20(c) of version 3 deleted • 20(3) reworded to read 'a judge shall not refuse himself/herself if...' • Delete 'in the last two years' and replace with 'preceding his/her retirement'
Clause 24-Retired judge not to act in a matter previously dealt with	
Part iii clause 35, 36, 37	To apply <i>mutatis mutandis</i>
Clause 50-Performance of duty	To apply <i>mutatis mutandis</i>
Clause 54-Professional Judicial Staff	New clause 54 introduced to version 3
Clause 55-intergrity	<i>Mutatis mutandis</i>
Clause 63-Public collections	<i>Mutatis mutandis</i>
Clause 67-falsification of records	To be reworded
Clause 68-obtaining documents unlawfully	Introduced as new clause



THE JUDICIARY



JUDICIARY TRAINING INSTITUTE
CODE OF CONDUCT COMMITTEE RETREAT

HELD AT SAFARI PARK HOTEL 16TH -19TH AUGUST, 2017

REGISTRATION FORM

18TH AUGUST 2017

	NAME	STATION	EMAIL ADDRESS	SIGNATURE
1.	Justice Jackton B. Ojwang	SC Nairobi	jbojwang@gmail.com	
2.	Justice Erastus Githinji	CA Kisumu		
3.	Justice Otieno Odek	DJTI	otienoodek@yahoo.com	
4.	Justice Gatembu Kairu	CA Nairobi	gatembukairu@gmail.com	
5.	Lady Justice Martha Koome	CA Malindi	marthakoome@yahoo.com	
6.	Justice John Onyiego	HC Milimani	johnonyiego@yahoo.com	
7.	Justice Edward Muriithi	HC Kabarnet	edwardmuriithi@yahoo.com	
8.	Justice Joel Ngugi	HC Kiambu	ngugijoel@gmail.com	
9.	Lady Justice Linnet Ndolo	ELRC Nairobi	linnetndolo@gmail.com	
10.	Lady Justice Kossy Bor	ELC Milimani	kossybor@yahoo.com	
11.	Steve Ouma	DD-JTI	steveouma@gmail.com	
12.	Hon. Evans Makori	HC Mombasa	ekmakori@gmail.com	

73



REPUBLIC OF KENYA
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JUDICIARY TRAINING INSTITUTE

CODE OF CONDUCT COMMITTEE RETREAT

HELD AT SAFARI PARK HOTEL 16TH -19TH AUGUST, 2017

REGISTRATION FORM

18TH AUGUST 2017

NAME	STATION	EMAIL ADDRESS	SIGNATURE
13. Hon. Roselyne Oganyo	City Court	reselynakingyi@yahoo.com roselynakingyi@oganyo.com	
14. Judy Muthiani	HC Naivasha	judy.munyiva@gmail.com	
15. Johnson Okello	Consultant	okothokello@yahoo.com	
16. George Oieno	Consultant	gotieno820@gmail.com	
17.			
18.			
19.			
20.			

ht





JUDICIARY TRAINING INSTITUTE

**REPORT ON
JUDICIAL CODE OF CONDUCT COMMITTEE RETREAT
HELD AT SAFARI PARK HOTEL
16TH - 19TH AUGUST, 2017**

August 2017

Report on Judicial Code of Conduct Committee Retreat Held at Safaripark Hotel: August 2017 0

(75)

76

ABBREVIATIONS

- CJ - Chief Justice
- JSC - Judicial Service Commission
- JTI - Judiciary Training Institute
- EACC - ethics and antic-corruption Commission
- JA - Judge of Appeal
- SC - Supreme Court
- AG - Attorney General

Upon receiving comments from the stakeholders' forum, the Committee met and interrogated the report keeping regard to the stakeholders' views. The Committee was of the view that a new Consultant be engaged. JTI was tasked to get a consultant to work on the draft. Interviews were conducted and a Dr. Johnson Okello, a Legislative Drafting Consultant was hired under instruction to redraft a new version of the Code that incorporates Stakeholders' views and concerns.

JTI has held several meetings with the Consultant and an inception report was produced. The Consultant was furnished with the degazetted Code and all the written comments from the Stakeholders' forum as well as all relevant documentation on the Code. He was also given the report from the Stakeholders meeting and also the status report presented by Hon. Justice Edward Muriithi during the Judges' Colloquium that was held in Mombasa.

The new Consultant was instructed to;

- i. To come up with a revised draft of the Code of Conduct and Ethics for Judicial Officers taking into account all the views and concerns raised during the stakeholders' forum
- ii. To come up with the tracked changes in the Code to be presented before the committee
- iii. To Come with explanatory notes after tracking the changes

2. Remarks by Dr. Okello - Legislative Drafter, Consultant

The Legislative Drafter started by thanking JTI for engaging him to redraft the Code. He briefed members on the changes he made to the code, this included the following;

- i. Redrafted the code to use direct language as opposed to passive language.

2.2 Session 2: Comments on each clause of the degazetted code

Members suggested comments on the Code and various issues were agreed upon.

Consensus:

- a) Regulations - For purposes of the independence of the Judiciary, the Judicial Service Act, 2011 is the primary law, it is the parent Act. Leadership and integrity Act, 2012 and Public Officer Ethics Act, 2003 are supportive legislations.

b) Citation - Part I should be roman ii

c) All definitions to be arranged in Alphabetical order

d) Interpretation - Judge's spouse and Judicial Officer's spouse definition has now been standardized

e) Judicial Officer is now as defined in the Constitution, 2010

f) 'Judicial Office' should be defined

g) Application of the Code - Interns, Pupils and consultants are not to be included in the definition of Judicial staff but should be included in the section 'Application of the Code'

h) Application of the Code - Staff on contract to be bound by the Code for the period attached to the Judiciary.

i) Code of Conduct does not apply to Candidates and Applicants for Judicial Office and retired Judges - Clause 5(d) on Application of the Code should be removed

j) Guiding principles of the Code - Clause 4 (6) on principle of equality before the Law is too verbose and repetitive, it should be rewarded as guided under Article 172(1) of the Constitution, 2010

k) include the definition of a 'Commission' which is JSC

l) include the definition of a 'Judicial staff's spouse'

m) Preamble has been removed from the Code

Day Two: Friday 18th August, 2017

3. Session 1: Brief from Dr. Okello on the incorporated changes arising from the previous day's discussion

The Consultant took members through the incorporated changes in the draft arising from the previous day's consensus, the following changes were been integrated;

- a) There was need to define 'Commission' which has now been defined.
- b) Definition of judicial office- distinguishing between administrative function and judicial function
- c) Definition of primary employment has been deleted
- d) provision on gainful employment is now included in the Code
- e) the word 'enforcement' in clause 4(i) has been removed and replaced with 'implementation'
- f) Clause 5 (d) on application of the code to candidates and applicants for judicial Office/retired Judges has been deleted
- g) Clause 11 (2) has captured provision on bribery as was in the first draft of the Code
- h) It was proposed that the section on recusal should stand alone. import the degazetted provisions (page2411) Clauses 6,7,8 should come back on the recusal provision
- i) On recusal, add 'lawful reasons to be recorded as part of the proceedings'
- j) clause 21(1)- 'Chief Registrar' to be deleted and be replaced by the 'Commission'
- k) Clause 21 (3)- 'Chief Registrar' to be deleted and replaced with 'Commission through the CJ'
- l) Clause 21(3) 'Chief Justice' and 'Chief Registrar' to be deleted and replaced with 'Commission'

4.2 Session 3: Way Forward by Hon. Justice Edward Muriithi

Justice Muriithi pointed out the need for the committee to engage both the internal and external stakeholders in accordance with the law.

As such, it was agreed that;

a) The Consultant to clean up the draft incorporating all the recommendations and changes made during the retreat. The draft copy emanating from the retreat will then be circulated to stakeholders, Judges, Judicial Officers and Judicial Staff.

b) A final draft from the Committee will be presented to the JSC for their comments.

c) The draft will then be placed before the EACC for approval. There is 30 day window to approve after the 1st day of presentation

d) After approval by EACC, the next step is gazettelement of the Code. The AG will present the code for gazettelement and 7 days after gazettelement, the same will be presented before parliament for debate.

e) Parliament will approve or reject the same within 28 days

f) After approval by parliament, there will be need for a sensitization forum for the Judges, Magistrates and Judiciary Staff

g) Between now and 15th September, the committee should plan to have stakeholder engagement and validation of the code.

It was suggested;

i. That the Committee to schedule a meeting to look at the final draft before dissemination to JSC and stakeholders.

ii. The Committee to recall the same stakeholders who had been invited in the previous forum for the final stakeholder validation. This will however be done once Committee gets comments from the JSC and internal stakeholders.

Members Present:

1. Hon. Justice E.M. Githinji-Chair, JA
2. Hon. Justice J. B. Ojwang', SC
3. Hon. Justice(Prof.) Otieno Odek-Director, JTI
4. Hon. Justice Gatembu Kairu, CA
5. Hon. Lady Justice Martha Koome, CA
6. Hon. Lady Justice Linnet Ndolo, LRC
7. Hon. Justice Edward Muriithi, HC
8. Hon. Lady Justice kossy Bor, HC
9. Hon. Justice John Onyiego, HC
10. Hon. Roselyne Oganyo, CM
11. Dr. Steve Ouma-Deputy Director Research and Policy, JTI
12. Judy Muthiani-judicial staff

In Attendance:

13. Hon. Becky Cheloti-JTI
14. Roselyn Khamala-JTI Rapporteur
15. Innocent Makaka- JTI Rapporteur
16. Emmanuel Nyongesa-JTI

Apologies:

1. Hon. Justice Kihara Kariuki, Alternate Chair and President Court of Appeal.



REPUBLIC OF KENYA
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JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT AND ETHICS COMMITTEE MEETING
HELD AT JTI: 16TH JUNE, 2017



PARTICIPANTS REGISTRATION FORM

NAME	STATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1. SIM GILBERT	Kisumu	0722635418		
2. Judy Muthoni	Nairobi	0733847821	judy.munyira@gmail.com	
3. Akembo Kim	(57) Kisumu	0721783784	gamboliki@gmail.com	
4. Jonathan Otieta	Nairobi	0722359542	Jonathan.ogoti@jti.org.ke	
5. EDWARD MURUTHI	KARURU	0720467361	edward.muruthi@judiciary.go.ke	
6. Martha Koome	Malindi	072424104	Martha_koome@uam.go.ke	
7. ⁽⁸²⁾ OTIENO OD EK	JK	075771	Otieno.odak@gmail.com	
8. Joceline A. Dgany	city camp.	0725233571	Joceline2012star@gmail.com	
9. ⁽⁸²⁾ N. Njoroge	Siaya			
10. Joel Nguni	Kisumu	0795325777	ngunij10@gmail.com	

← no record →

MINUTES OF THE JUDICIARY CODE OF CONDUCT COMMITTEE MEETING

HELD AT JUDICIARY TRAINING INSTITUTE ON 16TH JUNE, 2017.

Members Present

1. Hon. Justice E.M. Githinji, Court of Appeal - Chairperson
2. Hon. Justice Kihara Kariuki, Court of Appeal-Interim Chairperson
3. Hon. Justice Otieno Odek, Director, JTI
4. Hon. Justice Gatembu Kairu, Court of Appeal
5. Hon Lady Justice Martha Koome, Court of Appeal
6. Hon. Justice Edward Muriithi, High Court
7. Hon. Joel Ngugi, High Court
8. Hon. Justice John Onyiego-High Court
9. Hon. Roselyn Oganyo
10. Judy Muthiani, Naivasha Law Courts

In attendance:

1. Dr. Steve Ouma-Deputy Director Research and Policy, JTI
2. Hon. Becky Cheloti, RM JTI
3. Emmanuel Nyongesa, JTI Secretariat
4. Innocent Makaka, JTI Secretariat
5. Roselyn Khamala, JTI Rapportour

Absent with Apologies

1. Hon. J.B. Ojwang, Supreme Court
2. Hon. Lady Justice Linet Ndolo,ELRC
3. Hon. Lady Justice Antonina Kossy Bor
4. Hon. Evans Makori,CM Mombasa Law Courts

AGENDA

1. Welcome & Introductions
2. Review of minutes for the previous meeting
3. Review of Report for the Stakeholders' Forum
4. Issues arising from the Stakeholders' Forum

84

JSC brought the Judicial Code of Conduct under Section 47 of.....but not as a regulation attached to the Judicial Service Act. The JSC Act being an Act of parliament, was thought to be enough enabling law. Section 37 which gives JSC power to make a code is not mentioned in this new code. JSC said the 3 Acts were made without their knowledge and that the CJ has no powers to make a code of conduct. This act is made under the Constitution. It is the one that gives JSC power to make a code of conduct.

2003 code?

1. Under which law is the code inclined on? There is need to consider the provisions of the Constitution, the Leadership and Integrity Act, the 2003 Code. (Becky, which is this

1. The Enabling Law:

Chair suggested that members address the concerns raised from the stakeholders' forum then make resolutions on whether to adopt suggestions made or not. This will enable the consultant work with the recommendations already approved.

Chair suggested that members address the concerns raised from the stakeholders' forum then make resolutions on whether to adopt suggestions made or not. This will enable the consultant work with the recommendations already approved.

- i. Clarifies the procedure to adopt moving forward.
- ii. The committee clarifies who will be invited for the validation.
- iii. The committee agrees on whether there is need for the Code to have a part for JSC or not
- iv. There is need for the committee to agree on the role of JSC in respect to disciplinary procedure.

It was suggested that the committee does the following:

Members were taken through the report of the stakeholders' forum held at Safari Park. Members were concerned about the numbering of the draft which was not harmonised.

MINUTE 3/06/2017: REVIEW OF THE STAKEHOLDERS' FORUM REPORT

Murithi.
the meeting as proposed by Justice Gatembu Kairu and seconded by Hon. Justice Edward
Members reviewed minutes of the previous meeting. They were adopted as a true reflection of

MINUTE 2/06/2017: REVIEW OF PREVIOUS MEETING'S MINUTES

other is public officers. Stakeholders felt the document is voluminous because of the identical part for judges and magistrates. A member said the reason is because there was a fear if the 2 are combined, there will be a contention considering the procedure for removal of office for judges is different from that of themagistrates. This is the reason it was decided that the 2 parts remain the as they are.

Part 1 of the code covers state officers, part 3 covers judiciary officers who are state officers and some are public officers. It should be stated at the preamble that part 3 includes Kadhis and Registrars.

Resolution

It was agreed that we retain the 3 codes in one. Stakeholders will need to be sensitized on the same. In the Leadership and Integrity Act, Section 52(1) provides enabling provisions for public officers to have a code of conduct.

MINUTE 05/16/06/2017: RECOMMENDATIONS

Draft the code in the forms of regulation because under article 47 JSC cannot make a reeregulation. The committee may have to invite the drafters from the AG to help us with drafting before it can be placed before parliament.

Content of the Code:

1. Part II Clause 5(3)-Members were of the view that rather than dealing away with the whole clause, the committee can let the Supreme Court discuss the clause both with the provisions of sexual harassment then they can give their views to the committee.
2. Part (iv) (25) (3)-adopt definitions in the Sexual Offences Act.
3. Misconduct and gross misconduct-stakeholders were of the view that the committee defines the two words separately. The position of the JSC is that it is only the JSC that can define what misconduct is and what gross misconduct is. Defining it on the Code of Conduct will be against the constitution.

It was resolved that the code should not attempt to define what misconduct and gross misconduct is.

MINUTE 4/16/06/2017: ISSUES ARISING FRO SAFARIPARK'S STAKEHOLDERS' FORUM

MINUTE 06/16/06/2017: WAY FORWARD

1. There is need to engage a new consultant to come on board
2. The secretariat to circulate today's minutes to all the committee members
3. The secretariat to generate TORS for the new consultant coming on board
4. The committee shall convene another meeting immediately after the Judges' Colloquium
5. There is need to have an additional Judiciary male staff in the committee
6. The committee needs to have a draft to be circulated before end of July, 2017
7. The Chair to get Supreme Court views to clarify two issues in the code; recusal of a Judge and sexual harassment clause
8. Director JTI to advice on the Judiciary's complaints manual and if possible have the draft during the Magistrates Colloquium and Judges' Colloquium.

MINUTE 07/16/06/2017: ANY OTHER BUSINESS

There being no other business, the meeting ended at 3:00pm.

86



THE JUDICIARY

JUDICIAL CODE CONDUCT AND ETHICS STAKEHOLDERS' WORKSHOP
HELD AT SAFARI PARK HOTEL: 9TH MAY, 2017



PARTICIPANTS REGISTRATION FORM

TUESDAY
MONDAY: 9TH MAY, 2017

NAME		ORGANIZATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1.	Kene Oman	NCAJ	0722994411	Oman-norca@gmail.com	
2.	Roseline A. Ogamba	Judiciary	0725233571	roselynaumi@yahoo.com	
3.	TEMBA A SIRATI	JUDICIARY	0715836302	allan-tamba@judiciary.go.ke	
4.					
5.	ANDAYI H. FRANCIS	JUDICIARY	0713016149	francis.andayi@judiciary.go.ke	
	Maurien bolero	Judiciary	0734666523	mauriedero@yahoo.com	
6.	LINDSEY rebooto	Judiciary	0714884006	lindseylrebooto@gmail.com	
7.	STENG QUMBO	JTI	0712652645	Stengqumb@gmail.com	
8.	BRENDA OJERA	LSK	0725907585	ojerabrenda@gmail.com	
9.	MUNYAO SILA	JUDICIARY	0722790641	silamunya@yahoo.com	ms.
10.	NAAILI FITZLANGA	FIDA-K	0727416866	naki1@fidaKenya.org	

(27)



THE JUDICIARY

Tuesday 1

MONDAY: 9TH MAY, 2017

JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT AND ETHICS STARRHOOLDERS' WORKSHOP
HELD AT SAFARI PARK HOTEL: 9TH MAY, 2017

PARTICIPANTS REGISTRATION FORM



NAME	ORGANIZATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1. Judy Muthiani	Judiciary	0723847821	judy.muthiani@gmail.com	
2. Njugare Peter	Judiciary	0721571463	mpeter2011@gmail.com	
3. James Levari	NCAJ	0725850987	levari4@gmail.com	
4. Edward Muriithi	Judiciary	0720467361	edwardmuriithi@judiciary.go.ke	
5. Hannah Okwaga	KWJFA Judiciary	0722657498	hannahokwaga@gmail.com	
6. Martha Mueni	Judiciary - OCS	0710750850	Mkaren2012@yahoo.com	
7. Naomi Kabisa	Judiciary	0721694613	naomikabisa@judiciary.go.ke	
8. R.K. Ondisobi	Judiciary	0722784152	robisonondisobi@gmail.com	
9. A.K. Nwiciigi	JUDICIARY	0722-322374	Nwiciigi74@gmail.com	
10. Sango Mawua	Judiciary/ KJSA	0721980899	Sangomawua@gmail.com	

(8)



THE JUDICIARY

JUDICIARY TRAINING INSTITUTE

JUDICIAL CODE OF CONDUCT AND ETHICS STAKEHOLDERS' WORKSHOP
HELD AT SAFARI PARK HOTEL: 9TH MAY, 2017



TUESDAY

MONDAY: 9TH MAY, 2017

PARTICIPANTS REGISTRATION FORM

NAME		ORGANIZATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1.	HARUGONGO WANCH	ORG & DOS	0726651390	hwa@knu.org@gmail.com	
2.	JANEZ KABAYA	KNCHR	0723-8189627	janez@knchr.org	
3.	Regina Nwuli	ETCC	0723 223476	mnwuli@legalitygo.ke	
4.	ANNE WOKYE	COA	0722866732	anneyoke@falso.com	
5.	KIDI SAKO BATHA	COA	0722585674	kidi2001@yahoo.com	
6.	JAMES KIRONZI	LSM	0702591888	jkironzi@ym.org	
7.	Richard Nworo	Judiciary	0734 534686	rnworo@gmail.com	
8.	Peter M. Mulu	Judiciary	0735345734	mulu-peter@gmail.com	
9.	Charles Keaga	Judiciary	0721 541774	keaga.charles@rocketmail.com	
10.	MARY GITUMBI	Judiciary	0725761305	marygitumbi@yahoo.com	



REPUBLIC OF KENYA
THE JUDICIARY

JUDICIAL TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT AND ETHICS STAKEHOLDERS' WORKSHOP
HELD AT SAFARI PARK HOTEL: 9TH MAY, 2017

TUESDAY
MONDAY, 9TH MAY, 2017

PARTICIPANTS REGISTRATION FORM



NAME	ORGANIZATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1. Daniel Sepu	KWETA	07228519324	danielsepul.kweta@gmail.com	
2. Ndasa, Ndoyim	Judiciary	9717555207	ndalhasindoyim@p.ha.com	
3. Dave Mwangi	KJSSA	07222250909	mwangidave11@gmail.com	
4. Samuel Makocci	ICJ Kenya	0722818470	Samuel.makocci@icj-kenya.org	
5. Roseanne Abudull	Hqgromt	0718580626	ecurapa.abudul@yaleu.com	
6. Ben Nyagizi	Kotiba Institute	0724548088	nyagiziben@kotiba.org	
7. Rashid Ali	KMJA	0780955752	rgyan02@palim	
8. Collins Odhiambo	LSK	0722865265	collins.h@lsk.or.ke	
9. Mugabe Gaito	N.A	0722370121	Mugabegaito@gmail.com	
10. Helen Ombeki	Kenya A	0780949582	helenombeki@kenya.com	

(2)



THE JUDICIARY

JUDICIAL CODE OF CONDUCT AND ETHICS STAKEHOLDERS' WORKSHOP
HELD AT SAFARI PARK HOTEL: 9TH MAY, 2017



PARTICIPANTS REGISTRATION FORM

TUESDAY
MONDAY: 9TH MAY, 2017

NAME	ORGANIZATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1. HATPOY WAWEM	HIGH COURT	0721-906641	katanwawem@gmail.com	
2. PETER W. WATIKI	KMJA	0721 357964	Wasike.Wab@kmja.co.ke	
3. FRANKLINE JUMA	JJI	0722-382212	frankline@jji.co.ke	
4. INDUSA OLWER	C.O.A	0721-869087	OLWER_INDUSA@COA.KE	
5. GORDON O. MUNDI	C.O.A	0722289966	Gordon.mundi@judiciary.co.ke	
6. EM GILBERTI	COA	0722635408	gilberti@judiciary.co.ke	
7. BEAUTYTA SIGANGA	OAG	0723 700001	bsiganga@gmail.com	
8. William Ojijo	SCJ	0724 856207	ojijobama@gmail.com	
9. Wallace Hdayu	ICJ-Kenya	0724 851297	wallace-hdayu@icj-kenya.org	
10. Jackie Kamau	High Court	0710-220221	jackie.kamau54@gmail.com	

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REPUBLIC OF KENYA
THE JUDICIARY

JUDICIAL CODE CONDUCT AND ETHICS STAKEHOLDERS' WORKSHOP
HELD AT SAFARI PARK HOTEL: 9TH MAY, 2017

TUESDAY

MONDAY: 9TH MAY, 2017

JUDICIARY TRAINING INSTITUTE
PARTICIPANTS REGISTRATION FORM



	NAME	ORGANIZATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1.	Njoroge Njoroge	Supreme Court			
2.	Justice J.B. Gwangwa	Supreme Court			
3.	BENNY OCHIENG'	J.S.C	0735467591	ochienj_benard@gmail.com	
4.	MARTHA OGDITTO	KITDO CHA SHERIA	0710500804	martha@khuochastlers.org.ke	
5.	ROBERT Mwangi	JJI	0700908498	Mwangi Robert A @ JJI, Com. o	
6.	OTIENO ODERO	JJI			
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THE JUDICIARY

JUDICIAL CODE OF CONDUCT AND ETHICS STAKEHOLDERS' WORKSHOP
HELD AT SAFARI PARK HOTEL: 9TH MAY, 2017



PARTICIPANTS REGISTRATION FORM

MONDAY: 9TH MAY, 2017

NAME		ORGANIZATION	PHONE NO.	EMAIL ADDRESS	SIGNATURE
1.	KINDI MURUGI	KJSA	0721615536	kindi2017@yahoo.com	
2.	MBOGHOH MSAHITA	Judiciary	0722518824	mbooghoh@yahoo.com	
3.	OLWANDE EVERLYNE	KMJA JUDICIARY	0717168585	olwandey@yahoo.com	
4.	Mkara Harun	Judiciary	← 0722518824	← mkara.harun@yahoo.com	
5.	Boniface Nyamwaya	KJSA	0720768703	bonnienyamwaya@gmail.com	
6.	ERIC	FEACS	—	—	
7.	Grady's Wamaithe	HSK	0722761102	wamaitheak93@gmail.com	
8.	Rodah Ogoma	ODPP	0722310276	rodah@odpp.go.ke	
9.					
10.					

(96)

1

Report

Safari Park Hotel
9th May 2017

**Stakeholders Workshop on Judicial
Code of Conduct and Ethics**

.1.0 INTRODUCTION AND BACKGROUND

The Director JTI, Hon. Justice (Prof.) Odek began the meeting, by giving a background of the process leading to the day's convening. The meeting followed concerns about the Judicial Code of Conduct and Ethics, Legal Notice No. 132 of 2016 that was published in the Special Issue of the Kenya Gazette Supplement No. 124 of 29th July 2016. The Committee was consequently reappointed; its membership was maintained and is chaired by Hon. Justice Erastus Githinji. Thereafter, by a letter from the Honorable Chief Justice of 20th February 2017, several stakeholders were invited to submit their views, which process had culminated into the stakeholder's workshop. The objective of the meeting was therefore to:

- a) Receive views of the various stakeholders on the Judicial Code of Conduct and Ethics, 2016 (zero draft).
- b) Collect views and identify areas of consensus and areas of divergence on the basis of which the draft Code would be improved. .

1.1 OVERVIEW OF THE CODE OF CONDUCT

Hon. Justice Githinji, gave a brief overview of the processes leading to the development of the Judicial Code of Conduct and Ethics. The process that led to the development of the current draft Code had been revived again in 2014, and facilitated by the JTI. It was required to consider the issues raised with the draft previously developed with the assistance of a consultant/expert on Bangalore Principles, while also ensuring that compliance with the Constitution, 2010. Thereafter, two consultants were engaged to assist the Committee and came up with different proposals on the code. Consequently, another consultant was engaged to support the Committee in harmonizing the divergent proposals and develop a draft code that would be considered by stakeholders. This was followed by several Committee meetings to consider the draft.

The JSC as well as Judges and judicial officers were engaged. The Committee grappled with several issues including whether or not to have the Code as an Act of Parliament, and following consultations, it was resolved at the meeting held in Mombasa from 6th - 10th April 2017 that the Code would be prescribed by the Judicial Service Commission not by the Chief Justice as subsidiary legislation under section 47 of the Judicial Service Act. It was also resolved that there would be one Code of Conduct with three parts for judges, judicial officers and staff. The Committee also led a series of stakeholder engagement sessions around the country. The various views were collated and incorporated into the final draft. The Committee held its final meeting on 10th June 2016 and the final draft Code presented to the Chief Justice on 15th June 2016.

Following the recent reconstitution, the Committee determined that the 2016 Code would be the basis for engagement with stakeholders as the zero draft. Justice Githinji noted however, that the recommendations received would give direction on the best approach to take towards development of an acceptable Code. He added that the draft Code had taken into consideration the Constitution, the Leadership and Integrity Act, the Bangalore Principles, Public Officers Ethics Act, Judicial Service Act, the 2015 Court of Appeal Organization and Administration Act, the High Court Organization and Administration Act and the Magistrates Courts Act.

96

- j) performance of duties, confidentiality and use of official information,
 - k) confidentiality and use of official information,
 - l) avoiding conflict of interest,
 - m) prohibition of improper enrichment,
 - n) general
- Demonstration of the above was given as follows:
- 1. Personal Responsibility
 - 1.1 General Rules
- Each judge, judicial officer, and judicial staff must accept personal responsibility for compliance with the Judicial Code of Conduct and Ethics. In particular, all judicial employees must:
- i) Discharge their official functions with honesty, care, diligence, professionalism, impartiality and integrity.
 - ii) Strive for the highest ethical standards to sustain the trust and confidence of the public in the judiciary
 - iii) Take the time to read and understand the Judicial Code of Conduct and Ethics
 - iv) Not hold any interests that conflict with the conscientious performance of duties
 - v) Act impartially and not give preferential treatment to any private organisation or individual
 - vi) Not use their office for private gain.
- *Drafting language:* there is too much focus on the don'ts. The Code should adopt a more positive approach e.g. clauses 5 and 6 focusing on such terms as *promote, ensure, focus on, excel, initiate, endeavor*. Taking the approach of using ethical standards proposed above would also help focus the Code on the positives.
 - *Limitation of certain rights and freedoms:* provisions that limit certain fundamental rights and freedoms should be removed or rephrased to remove such limitations. More safeguards should instead be provided for e.g. fair hearing in disciplinary proceedings.
 - *Definition of terms:* some terms such as *reasonably, reasonable person* should be redefined to avoid unfair presumptions and exposing officers to subtle forms of discrimination.
 - *Not more than one Code:* judges and judicial officers should not be subjected to more than one code of conduct, thus the Code should be made pursuant to all the laws cited, without repetition. It was proposed either that:
 - a) The applicable laws be listed and the quoted provisions from those laws be deleted to avoid repetition or
 - b) All the sections of the law be included in one part e.g. at the introduction, or key elements and removed from the substantive provisions of the code to avoid repetition or
 - c) A section on ethical principles be provided and have each principle exhaustively discussed and applicable to all judges, judicial officers and staff.
 - *Merging of provisions:* Some ethical standards overlap and should therefore be collapsed e.g. accountability and prohibition against corrupt practices; conflict of interest and prohibition of improper enrichment; independence and impartiality (especially in respect of judges and judicial officers).
 - *Scope of prescribed standards:* The Code should only prescribe standards that have a corresponding seriousness, breach of which would legitimately and reasonably lead to removal of dismissal.
 - *Definitions:* definition of a spouse should be harmonized for all categories using the definition provided in respect of judges.

- Complaints raised before the JSC which do not raise grounds justifying removal or disciplinary action ought to be cascaded down to the institutional organs for intervention.
- Peer reviews should also be accommodated to operate appropriately freely without apprehension of control by the JSC
- There is need for clear demarcation of roles of the JSC and the Judiciary.

Hon. Justice Nduma Nderi as a member of the Council adopted the views by Hon. Justice Mwongo and welcomed views from other stakeholders.

2.1.4 Judges of the Supreme Court

Hon. Justice J.B. Ojwang' highlighted his written views proposing the following:

- *General*: Aspects of the Code that would undermine integrity and independence of the Judiciary should be removed.
- *Clause 5*
 - *5(3)*: should be deleted for being inconsistent with Article 160(1) of the Constitution as it seeks to direct a judge on how to discharge his work in court. The clause touches on matters that are the substance of the hearing, which are determinable by the judge alone and appealable to the higher court. The Code in this respect also disregards that Judges are only guided by evidence and the law as they perceive and should not be directed as the Code attempts to. Further, only the court determines when not to take judicial notice of a matter accordingly as prescribed by the Evidence Act.
 - *5(5)* should also be edited, taking note of the safeguards to judicial independence. For instance comments by a court in the discharge of its duty on a matter resting with another court should not entitle a non-judicial authority to commence disciplinary proceedings since discretion in that matter emanates only from the court. Furthermore, privileges and immunities to judges under the Judicature Act must be respected
- *Clauses 11(4)(d), 19(4)(d) and 25(3)(d)*: the proviso should be amended by striking out the paragraph and replacing it with the following clause accordingly:

'And in any event, even normal and consensual sexual behavior of any kind shall take place away from the workplace.'
- *Clause 13*: Provisions on disqualification of a judge need to take into account instances when disqualification may be dispensed with if no other tribunal can be constituted to deal with the case (rule of necessity). Furthermore, the avenue for determination of any question of disqualification is for the court only, not a question for regulation by the Code.

Hon. Lady Justice N. Ndungu gave additional remarks, which would be complemented by written views to be shared. She noted the following:

- *New Code or 2003 Code*: there is need for considering the rationale for having a new Code of Conduct yet there was an existing 2003 Code. She proposed that focus should have been on improving the 2003 Code as opposed to developing a new code which failed to take into account some positive aspects of that Code.
- *Form and structure*
 - The Code as drafted is not clear whether it is meant to be a Bill, regulations or a handbook.

- *General*: the Code should not have the effect of limiting fundamental freedoms and human rights.
- *Section 26(6)*: phrased in very general terms, and may end up prohibiting what is otherwise an ordinary activity for instance in a family setting where relatives are soliciting for funds

2.2 External Stakeholders

2.2.1 Office of the Attorney General

Mr. Beutah Siganaga, representing the Office of the Attorney General made the following recommendations:

- *Preamble/clause 3*: should be included providing for among others the law under which the Code is published and other applicable laws that govern the conduct and ethics of judges, judicial officers and staff. If made under the Judicial Service Act, the Chief Justice should sign off the Code in his capacity as the Chairperson of the Judicial Service Commission.
- *Clarity on applicable law*:
 - Clarification is needed on whether the 2016 Code under section 47 of the Judicial Service Act is the also the code envisaged under section 5 of the Public Officers Ethics Act
 - It should also be clarified whether the 2016 Code repeals the 2003 Code or whether the two codes would operate simultaneously.
 - There is need to consider the other code envisaged under the Leadership and Integrity Act applicable to judges and judicial officers who are state officers by virtue of Article 160 of the Constitution.
 - There should be one comprehensive code embracing the Judicial Service Act, Leadership and Integrity Act and the Public Officers Ethics Act with a clarification that the code is enacted under the Judicial Service Act with a provision in the preamble or clause 3 that it is also the code envisaged under the Leadership and Integrity Act and the Public Officers Ethics Act
- *Consistency in use of terms*: sections 21(1)(4) and 4(3)(a) should be harmonized on reference to litigants in one part and plaintiff or defendant in another.
- *Section 22(1)(e)*: the Code provides a wider context for staff on conflict of interest than for judges and judicial officers. This should be reconsidered, to be more applicable to judges.
- *Categorization of misconduct*: need to prescribe what amounts to misconduct, to make the provisions enforceable.
- *Tone of the Code*: The code gives too much focus on sanctioning instead of intervening, failing to recognise causative factors such as disability, sickness, or alcoholism. The Judiciary should be more proactive in assisting as opposed to punishing by interrogating contributing factors in order to provide an appropriate remedy.
- *Power to punish litigants*: there is need for provisions to sanction judges and judicial officers to deal with litigants in court without suffering any victimization as opposed to having such complaints dealt with in a subsequent disciplinary process that would also need judges and judicial officers to provide information as witnesses.
- *Mandate of JSC*: the position of having the JSC handle all complaints should be revisited. The Judiciary should also guard against duplication of mechanisms that would result in forum shopping and conflicting decisions.

2.2.3 Office of the Director of Public Prosecutions

Ms. Rhoda Ogoma shared oral views of the ODPP as follows:

- *Drafting*: Need to consult with the State Law Office in respect of drafting.
- *EACC approval* should be complied with.
- *Anchorage*: need to clarify the parent law under which the Code ought to be anchored. As currently structured, the Code has been prepared pursuant to section 47 of the Judicial Service Act yet its focus is on compliance under the Leadership and Integrity Act and Public Officers Ethics Act.
- *Distinction between state and public officers*: separate Codes for state officers and public officers should be considered.
- *Drafting language*: should be reconsidered, to make the document simpler, for easy reference and avoid too many restrictions by reference to too many *donts*'. It is advisable to consider both obligations with rights, including incentives.

2.2.4 Law Society of Kenya:

Mr. Collins Odhiambo, the Deputy CEO represented the LSK and gave oral views, adding further views would be received from members. He shared the following views:

- *Purpose of the Code*: the Code does not meet the threshold required of a Code, i.e. to foster judicial integrity, independence and foster conducive atmosphere at the workplace
- *Drafting language* used is extremely absolute and dictatorial and needs to avoid use of such terms such as *shall not*. The provisions should also take into account matters that should be left to the discretion of judges and judicial officers. The Code should be focused on the long-term good and maintain respect due to judges and judicial officers. The drafting should be SMART (Specific, measurable, achievable, realistic, and time-bound).
- *Scope of prohibited conduct*: certain conduct should not be legislated e.g. issue of relationships.
- *Mandate of JSC*: Powers of the JSC as expressed in the Code are beyond the constitutional limits.
- *Simplified document*: The Code should be a simple document or ease of reference and consumption. The 2003 Code should therefore, be considered as the working document on the basis of which improvements can be made to ensure compliance with the Constitution.

2.2.5 FIDA Kenya

FIDA Kenya shared both oral and written views, presented by Ms. Nakili Fitzwanga as follows:

- *Interpretation section*
 - *Immediate family* - Include the word *any other* before *person living in*.'
 - *Spouse*: the definition provided under judges and judicial officers should be combined
 - *Primary employment*: should be amended by adding *judge and judicial officer*
- *Sections 4(4); 8(2); 12(4)(a); 16(2) Equality*: reference to the term pregnancy is sexist and should be deleted. The Code should adopt the grounds considered under the Bangalore Principles (Para. 5.1).
- *Editorial changes*: Capitalize the terms *Judge* and *Judiciary* uniformly throughout the document
- *Section 11(4)*: should be reconsidered in view of the fact that sexual relations at the workplace between senior and junior officers are not encouraged e.g. between a judge/judicial officer and a secretary/clerk which can result in compromise or laxity at the workplace.

100

2.2.8 International Justice Mission (IJM)
 The IJM gave oral views presented by Mr. James Kironji as follows:
 - *Legal force:* Need to consider whether the Code has binding legal force and consequent implications.
 - *Anchorage:* of the Code should be clarified, whether under the Judicial Service Act, Leadership and Integrity Act, or the Public Officers Ethics Act
 - *Drafting language:* should avoid use of extreme language, but adopt a balanced approach e.g. reference to *unfettered freedom* in sections 4(2) (5) and 12(5)
 - *Independence*

2.2.7 National Assembly
 Ms. Mugure Gitoto, representing the National Assembly highlighted the following:
 - *Drafting style:* The drafting language is very aspirational and not prescriptive (intent). It is not categorical/crisp. The language used is also negative, and is not clear on the intent/aspiration of the Code.
 - *Comprehension of issues:* the Code has not addressed all issues that had been catered for in the 2003 Code.
 - *Clarification on conduct:* the Code needs to be clear on the categories of conduct that would amount to misconduct, and what conduct is allowable or not
 - *Section 7(15) Gift:* needs to expressly state the allowable amount of a monetary gift
 - *One or separate codes:* determination of this aspect should consider separate issues applicable to a state and public officers. The Code should therefore, address judges and judicial officers as a specific category and judicial staff as another category.

2.2.7 National Assembly
 Ms. Mugure Gitoto, representing the National Assembly highlighted the following:
 - *Anchorage of the Code:* There is need for resolving the dilemma on where the Code should be anchored, the Judicial Service Act or other statute.
 - *Purpose of the Code:* An introduction/preamble should be added to clarify the purpose of and rationale for the Code.
 - *Categories of conduct:* there should be provisions that provide for categories/levels of conduct, including specification of the exceptional conduct that can warrant grounds for removal.
 - *Recommendation on approach:* The drafting of the Code should proceed on the consideration of the minimum standards of a well written code of conduct including a document that clarifies values and principles, linking them with standards of professional conduct and one that guides in the performance of duties, and engagements away from the work place. A code ought not to be a tool for policing or instilling fear on officers.
 - *Enforcement:* Provisions on enforcement should be clarified, particularly on levels of sanctions where there is breach. There is also need for appreciation of section 32 of the Judicial Service Act, as read together with the Third Schedule. Further provision should be made for categories or levels of conduct; elements of conflict of interest and how they apply to all or particular categories of people, e.g. the British approach.

accountability, access to information, and public confidence, with linkages to the Judiciary Ombudsman which already receives complaints.

- More positive language should be used, focusing on values and aspirations of the organisation.
 - The drafting language used in respect of the Bangalore Principles being soft law, should not be adopted into the Code. The principles should instead be infused into the Code as applicable principles e.g. Scotland and New Zealand.
 - Use of terms that are ambiguous and subjective to perception should be avoided e.g. *reasonable observer, conventionally accepted standards* among others.
 - Focus should be on and assisting officers to handle issues and enable the public to know expectations, including provision for positive conduct as opposed to of don'ts.
- *Scope of restrictions:* the prohibitions should not be too restrictive.
 - *Section 5(6)(5)(g):* is too restrictive, need to be careful on scope of restriction since not all representations by counsel were personal as to affect a judge's impartiality. The provision needs to be qualified.
 - *Section 5(7):* There should be discretion for a judge/judicial officer to determine when to provide written reasons for recusal which is not appropriate for every recusal.
 - *Section 7(10):* the provision is too restrictive.
 - Strict liability placed on a judge in some provisions in ambiguous terms without placing a qualification such as knowledge of existence of certain facts. E.g. section 7(8), section 6(6)(c) which presume that a judge has knowledge of economic interests of family members.
 - The Code is too restrictive as to presume that judges should not lead normal lives.
- *Definitions:* definition of terms should be harmonized and simplified i.e. family, spouse. Family should be simplified to *a person related to judicial officer through consanguinity, affinity, or employment*. Definition of a spouse should be the same in respect of a judge or judicial officer.
- *One Code or separate Codes:*
 - There should be one document for judges and judicial officers.
 - Document should apply to all categories of employees focusing on purpose of inculcating work place culture at all levels. It should also be a document that does not cause discord among ranks. There should be a single document as was initially contemplated, which approach does not mean usurping of Constitution since the criteria for removal a judge can be specially provided for while other provisions remain equally applicable to all.
 - Implications of the court specific statutes should also be taken into account i.e. the Court of Appeal Organisation and Administration Act, the High Court Organisation and Administration Act and the Magistrates Courts Act, which if viewed strictly, would imply court specific Codes. It was noted on behalf of the Committee, that the separation of the Codes was informed by the Article 168 requirement which only affects judges of superior courts.
 - Others appreciated the difficulty of having a single, in both context, content and structure owing to the varied applicable legal regimes are varied.

102

Areas of Consensus	Reference	Recommendations
Part V	Enforcement	<ul style="list-style-type: none"> - Enforcement mechanism should be re-examined - This should clarify role of JSC and other internal mechanisms - e.g. President Court of Appeal, Office of the Principal Judge, Presiding Judges, LMTs - Implementation provision to include training and empowerment on expectations - A peer review mechanism within the JSC, with advisory role to supplement other administrative structures.
Stakeholder engagement	5(5)	<ul style="list-style-type: none"> - A feedback mechanism as a channel for the public - Both internal and external stakeholders should be engaged. - Persons directly affected by the Code are consulted directly. - Delete for inconsistency with Article 160(1) of the Constitution - Matters of evidence should not be issues for regulation by the Code - Judicial independence, privileges and immunities should be preserved and not regulated by the Code.
4(4); 8(2); 12(4)(a); 16(2) Equality;	11(4)(d), 19(4)(d), 25(3)(d)	<ul style="list-style-type: none"> - Delete reference to the term pregnancy
18(2)	18(2)	<ul style="list-style-type: none"> - Definition of corrupt practices should be expanded to include such practices as influence, peddling promise, fee, reward, appointment, consideration
25(3)	25(3)	<ul style="list-style-type: none"> - Provisions on sexual harassment should be reconsidered, and be aligned with statutory provisions on definition of sexual harassment
26(5)	26(5)	<ul style="list-style-type: none"> - Declaration of wealth should also be prescribed for judges as well judicial officers. - There is no clear demarcation on what acts amount to misconduct and the corresponding action that needs to be taken.
Classification of conduct	27 -	<ul style="list-style-type: none"> - Different categories of conduct should be provided, to clarify misconduct that would justify removal or other disciplinary action and misconduct that may not be serious as to justify intervention by JSC - Levels of sanctions where there is breach should be defined. - There should be separation of ethical principles and code of conduct - The Code should clearly which content entails guidelines, good practice, advisory duty of care and which is conduct attracts penalties and the corresponding penalties including process for determining breach and penalty - (13) be separated as <i>extra judicial activities</i>
Class 7	Class 7	<ul style="list-style-type: none"> - (13) be separated as <i>extra judicial activities</i>
Propriety	Scope of	<ul style="list-style-type: none"> - The Code is too prescriptive on prohibited conduct, even restrictive on personal lives. - Clause 7 - generally too broad. Sub-clause (14): may prohibit assistance given to litigants in good faith - Clause 5(6)(5)(g): should be qualified since not all previous representations as counsel were personal as to affect a judge's impartiality - Clause 7(10)
Prohibited conduct	Scope of	<ul style="list-style-type: none"> - Some of the provisions are ambiguous and open to subjective application.

Areas of Contention

Reference	Recommendations
	<p><u>Separation on basis of statutes</u></p> <ul style="list-style-type: none">- Different statutes envisage different Codes of conduct. The Leadership and Integrity Act provides for a general code and specific leadership and integrity code. Another code is envisaged under the Public Officers Ethics Act. Reference to a code of conduct is also made by the Judicial Service Act; the Court of Appeal Organisation and Administration Act, the High Court Organisation and Administration Act and the Magistrates Courts Act- There should be clarity as to whether the zero draft code under the Judicial Service Act encompasses all Codes envisaged by the various statutes, thus repealing any other existing code or whether they would operate simultaneously.- JSC as a public entity needs to have its own Code distinct from the Judiciary which also needs to submit its own institutional Code under the Leadership and Integrity Act- The parent Act on which the Code is anchored should also be clarified. The zero draft is anchored under the Judicial Service Act yet its provisions relate to requirements under the Public Officers Ethics Act and the Leadership and Integrity Act. There were views that the parent Act ought to be the Public Officers Ethics Act which gives the JSC authority to prescribe a code of conduct.- There should be one code pursuant to all the relevant laws without repetition of content.- Reference to commission should be harmonized to clarify whether Commission referred to is the JSC or the EACC. Necessary amendments may be made to provide where necessary, reference to the EACC means the Judiciary Service Commission
5(3)	<ul style="list-style-type: none">- Should be deleted as it is inconsistent with the Constitution for attempting to direct how a judge should conduct proceedings, and therefore, encroaches on judicial independence
5(7) Recusals	<ul style="list-style-type: none">- Recusal is an aspect of judicial independence that should not be governed by the Code- Discretion should be allowed in respect of recusal for judges and judicial officers to determine whether or not to provide written reasons for recusal
5, 13(8) Disqualification	<ul style="list-style-type: none">- Provisions should acknowledge the rule of necessity in disqualification- It should provide that a determination of an issue on disqualification is a judicial question that should be determined in court.
22(1)(e) Conflict of interest	<ul style="list-style-type: none">- Clause 22(1)(e) covers a wider scope on judicial staff than judges,- Corresponding provisions should be made in respect of judges and judicial officers more- Other aspects of conflict of interest under the Public Officers Ethics Act, the Anti-Corruption and Economic Crimes Act.
Zero draft or 2003 Code or a new code	<ul style="list-style-type: none">- The Committee should consider working on the basis of the 2003 Code and improve on it to address gaps and ensure compliance with the Constitution. 2003 is still operational- Zero draft (Gazetted draft) null and void. It did not repeal the 2003 as it was not approved by Parliament as regulations.- No rationale given to depart from the 2003 Code in order to come up with a new Code.- Positive aspects of the 2003 not considered which is a simpler document and easy reference
Form and structure	<ul style="list-style-type: none">- There should be distinction between ethical principles and prohibited conduct: ethical principles, which are aspirational, ought to be applicable to all equally should be distinct from aspects on prohibited behavior. This distinction would also inform what aspects of the Code are advisory guidelines and those prescribing conduct that would attract a penalty.- It is not clear whether the Code as drafted is structured as a Bill or regulations.



PARTICIPANTS REGISTRATION FORM



	NAME	PJ.NO	STATION	EMAIL ADDRESS	SIGNATURE
1.	JUSTICE J.B. OTWANG		NHERRI	jbwang@gmail.com	J.B. Otwang
2.	Justice E.M. Githonyi				
3.	Institute of Legal Practitioners		Private	githonyi@equity.or.ke	E.M. Githonyi
4.	Shiraz MURITHI		KARURU	edward.murithi@equity.or.ke	Shiraz M
5.	Judith Muthiga		Nairobi	judith.muthiga@equity.or.ke	Judith Muthiga
6.	Rosemary Wamara		JTI	rosemary.wamara@equity.or.ke	Rosemary W
7.	O TIENO - ODEK		JTI		O. Tieno
8.	STEVE QUAK		JTI	stevequak@gmail.com	Steve Quak
9.	YISRAEL KAREUKI		JTI	no_yisrael	Yisrael Kareuki
10.	Beverly Achechi		JTI	bchechi@equity.or.ke	Beverly Achechi
11.	Emmanuel Nyongesa		JTI	emmanuelnyongesa@gmail.com	Emmanuel Nyongesa

(185)

MINUTES OF THE JUDICIARY CODE OF CONDUCT COMMITTEE MEETING ON
4TH MAY, 2017 AT JTI

Members Present

1. Hon. Justice E.M. Githinji, Court of Appeal - Chairperson
2. Hon. Justice Kihara Kariuki, Court of Appeal
3. Hon. Justice J.B. Ojwang', Supreme Court
4. Hon. Justice Gatembu Kairu, Court of Appeal
5. Hon. Justice Edward Muriithi, High Court
6. Judy Muthiani, Naivasha Law Courts

Absent with Apologies

1. Hon. Lady Justice Martha Koome, Court of Appeal
2. Hon. Justice Joel Ngugi, High Court
3. Hon. Justice John Onyiego, High Court
4. Hon. Roselyne Oganyo, City Court

In attendance

1. Hon. Justice Otieno Odek, Director, JTI
2. Dr. Steve Ouma-Deputy Director Research and Policy, JTI
3. Hon. Becky Cheloti, RM JTI
4. Roselyn Khamala-JTI Rapportour
5. Emmanuel Nyongesa - JTI
6. Innocent Makaka - JTI

AGENDA

1. Welcome & Introductions
2. JSC Resolutions & Status of the proposed Code Of Conduct
3. Brief on efforts to revise the Judicial Code of Conduct
4. Identification of procedural defects in the Gazetted Code of Conduct
5. Terms of Reference for Re-Appointed Committee
6. Stakeholders Workshop and approval of Draft Programme
7. Judicial Code of Conduct Committee Workplan
8. A.O.B

(107)

The following Action Points were proposed by members at the end of the meeting:

- i. The members recommended the need to have a full time Secretary for the Committee. Justice Otiemo Odek and Justice Edward Muriithi were proposed for appointment by the Hon. CJ as Joint Secretaries. JTI would continue to offer the general secretariat support to the committee.
- ii. The committee recommended that a consultant with appropriate competencies in drafting be engaged to finalize the Code of Conduct.
- iii. The Committee should request JSC for an extension of time to enable it finalize the Code of Conduct

Chairperson *Justice FM Gilamba* Signature: *[Signature]* 16/6/2017

Secretary *Otiemo Odek* Signature: *[Signature]* 18/6/17

4. Facilitate stakeholder engagement on the Code of Conduct through the stakeholders forums and validation workshops.
5. Submit Code of Conduct as approved by JSC to EACC for approval and onward transmission to the National Assembly.
6. Develop the Committee work plan for finalization of the code of conduct

MINUTE 6/05/2017: STAKEHOLDERS WORKSHOP AND APPROVAL OF DRAFT PROGRAMME

The Judicial Service Commission directed JTI to conduct a Stakeholders Workshop to receive input on the Code of Conduct. Communication requesting for input on the Code had been sent to various stakeholders by the Hon. CJ. JTI sent a follow up communication inviting the Stakeholders for a workshop to be held on 9th May 2017 at Safari Park Hotel, Nairobi. The main objective of the workshop was to receive further input on the Code of Conduct.

Director JTI confirmed that input had been received from the office of the Attorney General, the Supreme Court, FIDA(K), & KMJA.

It was suggested that the programme for the stakeholders workshop should focus more on receiving input from the invited stakeholders. It was further proposed that the Code of Conduct should be presented at the Magistrates Colloquium to enable Judicial Officers submit their views as internal stakeholders.

MINUTE 7/05/2017: JUDICIAL CODE OF CONDUCT COMMITTEE WORKPLAN

A draft workplan was presented to the members as follows:

No.	ACTIVITY	TIMELINE	PERSON RESPONSIBLE	STATUS
1.	INVITATION LETTERS SENT FOR STAKEHOLDERS WORKSHOP	26TH APRIL 2017	BECKY/EMMANUEL	DONE
2.	INVITATION FOR COMMITTEE MEETING SENT TO MEMBERS	26TH APRIL 2017	OLIVIA	DONE
3.	REQUEST FOR PROCUREMENT OF VENUE FOR STAKEHOLDERS WORKSHOP	26TH APRIL 2017	BECKY/EMMANUEL	DONE

REPUBLIC OF KENYA

Telephone: Nairobi 2221221

Email: jscsecretariat@judiciary.go.ke

When replying please quote:

REF: JSC/1



JUDICIAL SERVICE COMMISSION

P. O. BOX 30041-00100

NAIROBI

February 20, 2017

**The Hon. Attorney General,
State Law Office,
NAIROBI.**

**Hon. Lady Justice Hannah Okwengu,
Chairperson,
Kenya Women Judges Association,
NAIROBI.**

**Hon Lady Justice Hedwig Ong'udi
President,
Kenya Magistrates and Judges Association,
NAIROBI.**

**Retired Archbishop Eliud Wabukala,
Chairman,
Ethics and Anti-corruption Committee,
NAIROBI.**

**The Chairman,
Parliamentary Accounts Committee,
PARLIAMENT.**

**Mr. Isaac Okero,
Chairman,
Law Society of Kenya,
NAIROBI.**

**All Members of NCAJ
NAIROBI**

**The Executive Director
Kituo Cha Sheria
Ole Odume Road
Off Argwings Kodhek
NAIROBI**

(109)

102

The Judicial Service Commission is mandated under Section 47(2) (a) of the Judicial Service Act to develop a Code of Conduct and Ethics for Judges, Judicial Officers and Staff. The Constitution under Article 10 further requires

RE: JUDICIAL CODE OF CONDUCT FOR JUDGES, JUDICIAL OFFICERS AND STAFF

Dear All,

NAIROBI
Lavinton,
Amboseli Road off Gitanga Road,
RIDA Kenya
The Chairperson

NAIROBI
Harambee Avenue,
Commission House between KICC and Harambee House
Public Service Commission
The Chairperson

NAIROBI
1st Floor, CVS Plaza, Lenana Road,
Kenya National Commission of Human Rights
The Chairperson
Ms. Kagwira Mbogori

NAIROBI
Gitanga Road opp. Valley Arcade Shopping Center,
Kenya Human Rights Commission
Executive Director
Mr. George Kegoro


NAIROBI
1st Ngong Avenue, ACK Garden Annex, 2nd floor
The Independent Policing Oversight Authority
The Director

NAIROBI
Vihiga Rd, off Othaya Rd. Kileleshwa
The Kenyan Section
The International Commission of Jurists (ICJ).
Executive Director
Mr. Samuel Muktra Mohochi

that the Draft Code of Conduct be subjected to public participation for in -put and review before the Code is passed and adopted by parliament.

In this regard, we attach the Draft Code of Conduct and Ethics for Judges, Judicial officers and Staff developed by the JSC and urge you to kindly send us your views and suggestions on the same within the **next thirty (30) days** to facilitate further progress on the same.

Yours Sincerely,



**HON. JUSTICE DAVID K. MARAGA, EGH,
CHIEF JUSTICE & CHAIRMAN,
JUDICIAL SERVICE COMMISSION.**

Copy to: The Director
Judiciary training Institute
NAIROBI

Encl.

(101)

SPECIAL ISSUE

2409

Kenya Gazette Supplement No. 124

29th July, 2016

(Legislative Supplement No. 55)

LEGAL NOTICE NO. 132

THE JUDICIAL SERVICE ACT

(Cap. 185B)

THE JUDICIAL CODE OF CONDUCT AND ETHICS

PART I—PRELIMINARY

1. This Code may be cited as the Judicial Code of Conduct and Ethics. Citation
2. In this Code, unless the context otherwise requires— Interpretation
- “confidential information” means information that has not been made a matter of public record relating to pending cases, as well as information not yet made public concerning the work of any Judge or magistrate relating to pending cases, including notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations and similar papers;
- “Code” means the Judiciary Code of Conduct and Ethics;
- “fiduciary interest” includes relationships such as those associated with a business partner, an executor, administrator, a trustee and guardian;
- “immediate family” includes, spouse, son, daughter, brother, sister, parent, grandparent, grandchildren, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister or person living in the household of a Judge or judicial officer;
- “Judge’s family” includes a Judge’s spouse, son, daughter, son-in-law, daughter-in-law, or other person who forms part of the Judge’s household whether as a relative, companion or employee;
- “Judge’s spouse” means the wife or husband of a Judge married under any recognized system of law in Kenya;
- “judicial officer’s family” includes a judicial officer’s spouse, son, daughter, son-in-law, daughter-in-law, or other person who forms part of the judicial officer’s household whether as a relative, companion or employee;
- “judicial officer’s spouse” includes any person who is in a relationship with the judicial officer which, but for the absence of marriage, has the character of a relationship between two persons who are married;
- “judicial staff member” includes every employee of the judiciary whether casual, permanent, or on contractual basis but does not include a Judge or a judicial officer; and

102

"primary employment" means the position that ordinarily takes up the normal working hours of the judicial staff member and requires his or her exclusive attention in performing official duties.

3. This Code applies as follows—

Application of the Code

(a) Part I applies to interpretation of terms;

(b) Part II applies to Judges only;

(c) Part III applies to judicial officers only;

(d) Part IV applies to members of judicial staff only; and

(e) Part V applies to general enforcement, oversight and implementation of the Code.

PART II—CODE OF CONDUCT AND ETHICS FOR JUDGES

(4.) (1) Judicial independence is a constitutional requirement to the rule of law and a fundamental guarantee of fair trial and a Judge shall therefore uphold and exemplify independence in both individual and institutional aspects.

(2) A Judge shall exercise the judicial authority 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.

(3) A Judge shall not deviate from the law to appease public clamour, to avoid criticism, or to advance an illegitimate interest.

(4) A Judge shall not be improperly influenced by—

(a) the race, sex, gender, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, political association, culture, dress, nationality, socio-economic status, language or place of birth, or other irrelevant ground of a victim of crime, witness, accused person, plaintiff or defendant;

(b) the Judge's personal feelings concerning a victim of crime, witness, accused person, plaintiff or defendant; or

(c) control, direction or pressure from any person or authority claiming to have an interest in a particular case.

(5) A Judge shall be independent in relation to society in general and in relation to the particular parties to a dispute that the Judge has to adjudicate and shall resist and reject any external influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason, and shall have unfettered freedom to decide a case impartially, in accordance with his or her conscience and the application of the law to the facts.

(6) A Judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.

103

(7) In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions that the judge is obliged to make independently.

(8) 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.

(9) A Judge shall exhibit and promote high standards of judicial conduct in order to enhance public confidence in the judiciary, which is fundamental to the maintenance of judicial independence.

(10) A Judge who is assigned an administrative role shall promote judicial independence in the discharge of such duties, and shall cooperate with other judges in the discharge of their judicial duties by ensuring a unity of purpose and collegiality.

5. (1) Impartiality is essential to the proper discharge of the judicial office and a Judge shall promote impartiality not only to the decision itself but also to the process by which the decision is made. Impartiality

(2) Impartiality requires that a judge shall make decisions based on objective criteria, rather than on the basis of bias, prejudice or conferring the benefit to one person over another for improper reasons.

(3) A Judge shall neither initiate nor consider ex parte communications on the merits, or procedures affecting the merits of a proceeding that is before, or could come before, the judge except as authorised by law.

(4) A judge shall, as far as is reasonable, so conduct himself or herself as to minimize the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.

(5) 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 of 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.

(6) A Judge shall disqualify himself or herself in any proceedings in which his or her impartiality might reasonably be questioned, that is to say if the judge—

- (a) is a party to the proceedings;
- (b) was or is a material witness in the matter in controversy;
- (c) or a member of the judge's family, has an economic or other interest in the outcome of the matter in controversy;
- (d) has personal knowledge of disputed evidentiary facts concerning the proceedings;
- (e) has actual bias or prejudice concerning a party;
- (f) has a personal interest or is in a relationship with a person who has a personal interest in the outcome of the matter;

104

105

- (g) had previously acted as counsel for a party; or
- (h) is precluded from hearing the matter on account of any other sufficient reason.
- (7) Every disqualification of a judge shall be based on a specific reason, to be recorded in writing as part of the proceedings, including an explanation for the judicial officer's recusal on personal reasons.
- (8) A disqualification of a judge may be dispensed with if no other judge can deal with the case and if because of urgent circumstances, failure to act could lead to a serious miscarriage of justice, and in the case of a collegiate bench, the decision to dispense with the disqualification of any judge shall be made by the bench.
- 6. (1) Integrity is essential to the proper discharge of the judicial office.
- (2) A Judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.
- (3) The behavior and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary and a judge shall uphold the principle that Justice must not merely be done but must also be seen to be done.
- (4) A Judge shall not use the judicial office to improperly enrich himself, herself or other person.
- (5) A Judge shall not knowingly permit a member of the judicial staff or other person subject to the judge's influence, direction or authority, to ask for, or accept, any gift, loan, hospitality, advantage, privilege or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.
- (6) A Judge shall not alter the substance of reasons for a decision given orally, or the transcript of evidence or of the summing up thereof.
- 7. (1) Propriety, and the appearance of propriety, is essential to the performance of judicial duties and a judge shall avoid any act that demeans the office.
- (2) A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.
- (3) 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.
- (4) A judge shall conform to conventionally accepted standards of behaviour and morality and shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.
- (5) A judge shall, in his or her personal relations with individual members of the legal profession who practise regularly in the courts, avoid situations which might reasonably give rise to suspicion or appearance of favouritism or partiality.
- (6) A judge shall not allow a member of the legal profession to use his or her residence to receive clients.

(7) A Judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

(8) 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) A Judge shall inform himself or herself about the judge's personal fiduciary interests and shall make reasonable efforts to be informed about the financial interests of members of the judge's family.

(10) A Judge shall not serve as an administrator, executor or trustee of any estate except the estate of a member of the judge's family only if such service will not interfere with the proper performance of judicial duties.

(11) A Judge shall refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of judicial duties, exploit the judicial office, or involve the Judge in transactions with lawyers and other persons likely to come before the court in which the Judge serves.

(12) Confidential information acquired by a Judge in the judge's judicial capacity shall not be used or disclosed by the Judge for any other purpose not related to the Judge's judicial duties.

(13) Subject to the provisions of any other law, a Judge may—

- (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 Judge; 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:

Provided that no salary may be payable to a Judge for the performance of any of the activities mentioned under this sub rule.

(14) A Judge shall not practice law by offering legal advice or drafting pleadings for litigants or members of the public, whether for a fee or free of charge while the holder of judicial office.

(15) Subject to any legal requirements relating to public disclosure, a Judge may receive a token gift, award, honoraria,

106

107

(2) The judicial duties of a Judge take precedence over all other activities.

9. (1) Competence and diligence are prerequisites to the due performance of judicial office.

facilities of such an organization to any significant extent.

(6) A Judge shall not hold membership in any organization that practices invidious discrimination, and shall not use the benefits or

between persons concerned, in a matter before the Judge.

(5) A Judge shall not knowingly permit court staff or others subject to the Judge's influence, direction or control to differentiate

court staff and judicial colleagues, without differentiation.

(4) A Judge shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers,

group.

(3) A Judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or

like station herein referred to as "irrelevant grounds".

(2) A Judge shall be aware of, and understand, diversity in society and differences arising from various sources, including but not

limited to race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, political association, culture, dress, language, place of birth or other

(1) Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

8. (1) Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

where a Judge contributes towards or attends such fund-raising, the Judge shall not play a central part in its organization or preside over the same.

(ii) where a Judge contributes towards or attends such fund-raising, the Judge shall not play a central part in its organization or preside over the same.

(i) a Judge may participate in voluntary fund-raising only if the same does not reflect adversely upon the Judge's impartiality and if it does not interfere with the performance of the Judge's judicial duties or compromise the Judge's impartiality in a future case; and

Provided that—

(a) solicit contributions from the public for whatever cause; or

(b) participate in a public collection of funds contrary to any law.

(17) A Judge shall not—

(16) A Judge shall primarily speak through his or her judgments and shall not enter into correspondence with a litigant or other person relating to a matter before or likely to come before the Judge.

allowance or benefit as appropriate to the occasion on which it is made perceived as intended to influence the Judge in the performance of judicial duties or otherwise give rise to an appearance of partiality.

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

(4) 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, taking advantage for that purpose of the training and other facilities that should be made available, under judicial control, to Judges.

(5) A Judge shall keep himself or herself informed about relevant developments in the law, including international conventions and other instruments establishing human rights norms.

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

(7) A Judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the Judge deals in an official capacity. The Judge shall require similar conduct of advocates, court staff and other persons before the court.

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

(9) A Judge shall, within the limits of his or her powers, adopt procedures to facilitate and promote access to justice as envisaged in the Constitution of Kenya.

(10) Subject to individual independence of a Judge, a Judge who serves in a collegiate bench shall maintain orderly consultations with colleagues for purposes of arriving at a judicious decision.

10. (1) Corruption among members of the judiciary undermines the rule of law and affects public confidence in the judicial system.

Accountability
and prohibition
against corrupt
practices

(2) A Judge or any member of the Judge's family, shall neither ask for, nor accept, any bribe, gift, loan, hospitality, advantage, privilege 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, or which might reasonably be perceived as being intended to influence the performance of judicial duties.

(3) A Judge shall maintain an honest and impeccable conduct in and out of court, whether in official or private capacity and shall at all times uphold the dignity and integrity of the judiciary to enhance confidence of the public, the legal profession and litigants in the impartiality of the Judge and of the judiciary.

11. (1) Sexual harassment in the workplace or other professional or social situation undermines the dignity of the victim and compromises the ability to perform the duties of the office.

Prohibition
against sexual
harassment

(2) A Judge shall keep himself or herself informed about and observe the laws and policies relating to sexual harassment.

108

109

- (4) A judicial officer shall not be improperly influenced by—
interest.
- (3) A judicial officer shall not deviate from the law to appease public clamour, to avoid criticism, or to advance an illegitimate interest.
- (2) A judicial officer shall exercise the judicial authority independently on the basis of the judicial officer'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.
- (1) Judicial independence is a constitutional requirement to the rule of law and a fundamental guarantee of fair trial and a judicial officer shall therefore uphold and exemplify independence in both individual and institutional capacities.

PART III—CODE OF CONDUCT AND ETHICS FOR JUDICIAL OFFICERS

- (6) Investigations into allegations of sexual harassment shall be conducted in utmost confidentiality and shall take into account the circumstances of a particular case.
- (5) An action may be considered to constitute sexual harassment if it is so frequent and severe that it creates a hostile or offensive work environment and results in an adverse employment decision including the victim being dismissed, transferred, demoted or forced to quit the job.
- (4) An action may be considered to constitute sexual harassment if it is so frequent and severe that it creates a hostile or offensive work environment and results in an adverse employment decision including the victim being dismissed, transferred, demoted or forced to quit the job.
- (3) A Judge shall not sexually harass a fellow member of staff or any other person in the workplace, or other professional or social situation.
- (2) For purposes of this Code, "sexual harassment" has the meaning assigned to it in the Sexual Offences Act, the Employment Act and the Public Officer Ethics Act and includes doing any of the following, if the person doing it knows or ought to know that it is—
 - (a) bullying or coercion of a sexual nature, or the unwelcome and inappropriate promise of rewards in exchange for sexual favours;
 - (b) exerting unwarranted pressure for sexual activity or favours;
 - (c) making intentional or careless physical contact that is sexual in nature; or
 - (d) unwelcome sexual advances or requests for sexual favour, verbal or physical conduct, sending of suggestive electronic text messages, pictures and videos or gestures of a sexual nature including noises, jokes or comments, innuendos regarding another person's sexuality;
- Provided that consensual sexual behaviour that is based on mutual attraction and reciprocated shall not constitute sexual harassment.
- (1) An action may be considered to constitute sexual harassment if it is so frequent and severe that it creates a hostile or offensive work environment and results in an adverse employment decision including the victim being dismissed, transferred, demoted or forced to quit the job.
- (6) Investigations into allegations of sexual harassment shall be conducted in utmost confidentiality and shall take into account the circumstances of a particular case.

- (a) the race, sex, gender, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, political association, culture, dress, nationality, socio-economic status, language or place of birth, or other irrelevant ground of a victim of crime, witness, accused person, plaintiff or defendant;
 - (b) the judicial officer's personal feelings concerning a victim of crime, witness, accused person, plaintiff or defendant; or
 - (c) control, direction or pressure from any person or authority claiming to have an interest in a particular case.
- (5) A judicial officer shall be independent in relation to society in general and in relation to the particular parties to a dispute that the judicial officer has to adjudicate and shall resist and reject any external influence, inducement, pressure, threat or interference, direct or indirect, from any quarter or for any reason, and shall have unfettered freedom to decide a case impartially, in accordance with his or her conscience and the application of the law to the facts.
- (6) A judicial officer shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.
- (7) In performing judicial duties, a judicial officer shall be independent of judicial colleagues in respect of decisions that the judicial officer is obliged to make independently.
- (8) A judicial officer 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.
- (9) A judicial officer shall exhibit and promote high standards of judicial conduct in order to enhance public confidence in the judiciary, which is fundamental to the maintenance of judicial independence.
- (10) A judicial officer who is assigned an administrative role shall promote judicial independence in the discharge of such duties, and shall cooperate with other judicial officers in the discharge of their judicial duties by ensuring a unity of purpose and collegiality.

Impartiality

13. (1) Impartiality is essential to the proper discharge of the judicial office and a judicial officer shall promote impartiality not only to the decision itself but also to the process by which the decision is made.
- (2) Impartiality requires that a judicial officer shall make decisions based on objective criteria, rather than on the basis of bias, prejudice or conferring the benefit to one person over another for improper reasons.
- (3) A judicial officer shall neither initiate nor consider ex parte communications on the merits, or procedures affecting the merits of a proceeding that is before, or could come before, the judicial officer except as authorised by law.

110



- (4) A judicial officer shall, as far as is reasonable, so conduct himself or herself as to minimize the occasions on which it will be necessary for the judicial officer to be disqualified from hearing or deciding cases.
- (5) A judicial officer shall not knowingly, while a proceeding is before, or could come before, the judicial officer, 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 judicial officer make any comment in public or otherwise that might affect the fair trial of any person or issue.
- (6) A judicial officer shall disqualify himself or herself in any proceedings in which his or her impartiality might reasonably be questioned, that is to say if the judicial officer—
- (a) is a party to the proceedings;
- (b) was or is a material witness in the matter in controversy;
- (c) or a member of the judicial officer's family, has an economic or other interest in the outcome of the matter in controversy;
- (d) has personal knowledge of disputed evidentiary facts concerning the proceedings;
- (e) has actual bias or prejudice concerning a party;
- (f) has a personal interest or is in a relationship with a person who has a personal interest in the outcome of the matter;
- (g) had previously acted as counsel for a party; or
- (h) is precluded from hearing the matter on account of any other sufficient reason.
- (7) Every disqualification of a judicial officer shall be based on a specific reason, to be recorded in writing as part of the proceedings, including an explanation for the judicial officer's recusal on personal reasons.
- (8) Disqualification of a judicial officer may be dispensed with if no other judicial officer can deal with the case or, if because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.
14. (1) Integrity is essential to the proper discharge of the judicial office.
- (2) A judicial officer shall ensure that his or her conduct is above reproach in the view of a reasonable observer.
- (3) The behaviour and conduct of a judicial officer must reaffirm the people's faith in the integrity of the judiciary and a judicial officer shall uphold the principle that justice must not merely be done but must also be seen to be done.
- (4) A judicial officer shall not use the judicial office to improperly enrich himself, herself or other person.

(5) A judicial officer shall not knowingly permit a member of the judicial staff or other person subject to the judicial officer's influence, direction or authority, to ask for, or accept, any gift, loan, hospitality, advantage, privilege or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.

(6) A judicial officer shall not alter the substance of reasons for a decision given orally, or the transcript of evidence or of the summing up thereof.

15. (1) Propriety, and the appearance of propriety, is essential to the performance of judicial duties and a judicial officer shall avoid any act that demans the office.

Propriety

(2) A judicial officer shall avoid impropriety and the appearance of impropriety in all of the judicial officer's activities.

(3) As a subject of constant public scrutiny, a judicial officer must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

(4) A judicial officer shall conform to conventionally accepted standards of behaviour and morality and shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.

(5) A judicial officer shall, in his or her personal relations with individual members of the legal profession who practise regularly in the courts, avoid situations which might reasonably give rise to suspicion or appearance of favouritism or partiality.

(6) A judicial officer shall not allow the use of his or her residence by a member of the legal profession to receive clients.

(7) A judicial officer, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judicial officer shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

(8) A judicial officer shall not use or lend the prestige of the judicial office to advance the private interests of the judicial officer, a member of the judicial officer's family or of anyone else, nor shall a judicial officer convey or permit others to convey the impression that anyone is in a special position improperly to influence the judicial officer in the performance of judicial duties

(9) A judicial officer shall inform himself or herself about the judicial officer's personal fiduciary interests and shall make reasonable efforts to be informed about the financial interests of members of the judicial officer's family.

(10) A judicial officer shall not serve as an administrator, executor or trustee of any estate except the estate of a member of the judicial officer's family only if such service will not interfere with the proper performance of judicial duties.

113

- (a) solicit contributions from the public for whatever cause; or
 - (b) participate in a public collection of funds contrary to any law.
- (17) A judicial officer shall not—

- (16) A judicial officer shall primarily speak through his or her judgments and shall not enter into correspondence with a litigant or other person relating to a matter before or likely to come before the judicial officer.
- (15) Subject to any legal requirements relating to public disclosure, a judicial officer may receive a token gift, award, honoraria, allowance 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.
- (14) A judicial officer shall not practice law by offering legal advice or drafting pleadings to litigants or members of the public, whether for a fee or free of charge while the holder of judicial office.
- (13) Subject to the provisions of any other law, a judicial officer may—
- (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;
- Provided that no salary may be payable to a judicial officer for the performance of any of the activities mentioned under this sub rule.

- (12) Confidential information acquired by a judicial officer in the judicial officer's judicial capacity shall not be used or disclosed by the judicial officer for any other purpose not related to the judicial officer's judicial duties.
- (11) A judicial officer shall refrain from financial and business dealings that tend to reflect adversely on the judicial officer's impartiality, interfere with the proper performance of judicial duties, exploit the judicial officer, or involve the judicial officer in transactions with lawyers and other persons likely to come before the court in which the judicial officer serves.

Provided that—

- (i) a judicial officer may participate in voluntary fund-raising only if the same does not reflect adversely upon the judicial officer's impartiality and if it does not interfere with the performance of the judicial officer's judicial duties or compromise the judicial officer's impartiality in a future case; and
- (ii) where a judicial officer contributes towards or attends such fund-raising, the judicial officer shall not play a central part in its organization or preside over the same.

16. (1) Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Equality and non-discrimination

(2) A judicial officer shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, political association, culture, dress, language, place of birth or other like station herein referred to as "irrelevant grounds".

(3) A judicial officer shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.

(4) A judicial officer shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.

(5) A judicial officer shall not knowingly permit court staff or others subject to the judicial officer's influence, direction or control to differentiate between persons concerned, in a matter before the judicial officer, on any irrelevant ground.

(6) A judicial officer shall not hold membership in any organization that practises invidious discrimination on any irrelevant ground, and shall not use the benefits or facilities of such an organization to any significant extent.

17. (1) Competence and diligence are prerequisites to the due performance of judicial office.

Professionalism

(2) The judicial duties of a judicial officer take precedence over all other activities.

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

(4) A judicial officer shall take reasonable steps to maintain and enhance the judicial officer's knowledge, skills and personal qualities

114

necessary for the proper performance of judicial duties, taking advantage for that purpose of the training and other facilities that should be made available, under judicial control, to judicial officers.

(5) A judicial officer shall keep himself or herself informed about relevant developments in the law, including international conventions and other instruments establishing human rights norms.

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

(7) A judicial officer shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, witnesses, lawyers and others with whom the judicial officer deals in an official capacity. The judicial officer shall require similar conduct of advocates, court staff and other persons before the court.

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

(9) A judicial officer shall, within the limits of his or her powers, adopt procedures to facilitate and promote access to justice as envisaged in the Constitution of Kenya.

18. (1) Corruption among members of the judiciary undermines the rule of law and affects public confidence in the judicial system.

Accountability and prohibition against corrupt practices

(2) A judicial officer or any member of the judicial officer's family, shall neither ask for, nor accept, any bribe, gift, loan, hospitality, advantage, privilege or favour in relation to anything done or to be done or omitted to be done by the judicial officer in connection with the performance of judicial duties, or which might reasonably be perceived as being intended to influence the performance of judicial duties.

(3) A judicial officer shall maintain an honest and impeccable conduct in and out of court, whether in official or private capacity and shall at all times uphold the dignity and integrity of the judiciary to enhance confidence of the public, the legal profession and litigants in the impartiality of the judicial officer and of the judiciary.

Prohibition against sexual harassment

19. (1) Sexual harassment in the workplace or other professional or social situation undermines the dignity of the victim and compromises the ability to perform the duties of the office.

(2) A judicial officer shall keep himself or herself informed about and observe the laws and policies relating to sexual harassment.

(3) A judicial officer shall not sexually harass a fellow member of staff or any other person in the workplace, or other professional or social situation.

(4) For purposes of this Code, "sexual harassment" has the meaning assigned to it in the Sexual Offences Act, the Employment Act and the Public Officer Ethics Act and includes doing any of the following, if the person doing it knows or ought to know that it is—

115

- (a) bullying or coercion of a sexual nature, or the unwelcome and inappropriate promise of rewards in exchange for sexual favours;
- (b) exerting unwarranted pressure for sexual activity or favours;
- (c) making intentional or careless physical contact that is sexual in nature; or
- (d) unwelcome sexual advances or requests for sexual favour, verbal or physical conduct, sending of suggestive electronic text messages, pictures and videos or gestures of a sexual nature including noises, jokes or comments, innuendos regarding another person's sexuality:

Provided that, consensual sexual behaviour that is based on mutual attraction and reciprocated shall not constitute sexual harassment.

(5) An action may be considered to constitute sexual harassment if it is so frequent and severe that it creates a hostile or offensive work environment and results in an adverse employment decision including the victim being dismissed, transferred, demoted or forced to quit the job.

(6) Investigations into allegations of sexual harassment shall be conducted in utmost confidentiality and shall take into account the circumstances of a particular case.

PART IV—THE CODE OF CONDUCT AND ETHICS FOR MEMBERS OF JUDICIAL STAFF

20. (1) A judicial staff member shall at all times perform official duties properly and to the utmost of his or her ability and with diligence, and shall commit themselves exclusively to the business and responsibilities of the office during working hours.

Performance of duties

(2) A judicial staff member shall expeditiously enforce rules and implement orders of the court within the limits of their authority.

(3) A judicial staff member shall perform their responsibilities to the public in a timely, impartial, diligent and courteous manner.

(4) In performing official duties, a judicial staff member shall not discriminate, nor manifest by word or conduct, bias or prejudice based on race, colour, sex, religion, conscience, belief, culture, dress, language, birth, ethnic or social origin, disability, age, marital status, social or economic status or other like causes.

(5) A judicial staff member shall not discriminate by dispensing special favours to anyone. Judicial staff member shall not allow kinship, rank, position or favours from any party or person to influence official acts or duties.

(6) A judicial staff member shall not alter, falsify, destroy or mutilate, or fail to make required entries on, any record within their control. This provision does not prohibit the alteration or expunction of records or documents pursuant to a court order.

116

111

- (7) A judicial staff member shall not recommend private advocates to litigants, prospective litigants, or anyone dealing with the judiciary.
- (8) A judicial staff member shall avoid close personal association with lawyers, litigants or their agents and other court users, where such association may reasonably give rise to suspicion or appearance of favoritism.
- (9) A judicial staff member is not precluded from responding to inquiries concerning court procedures, but they shall not give legal advice.
- (10) A judicial staff member shall not, while on official duty, perform duties outside their primary employment.
- (11) A judicial staff member shall abide by the professional requirements of the officer's profession.
- 21. (1) A judicial staff member shall not disclose to any unauthorized person any confidential information acquired while employed in the judiciary, whether such information came from authorized or unauthorized sources
- (2) Confidential information available to specific individuals by reason of a written law, court rule or administrative policy shall be provided only by judicial staff member authorized to do so.
- (3) A judicial staff member shall report confidential information to the appropriate authority when they reasonably believe this information is or may be evidence of a violation of law or of unethical conduct. Judicial staff member shall not be disciplined for disclosing such confidential information to an appropriate authority.
- (4) A judicial staff member shall not initiate ex parte communication with litigants, witnesses or advocates on behalf of a Judge, judicial officer, or any other person.
- (5) A judicial staff member shall not, unless authorized—
 - (a) access information contained in any file, computer system or program;
 - (b) make any input, alteration, modification, deletion, suppression or generation of any information concerning a matter before the court;
 - (c) cause any interference, hindrance, impairment or obstruction with the functioning of a computer system; or
 - (d) copy, transfer, share or move information contained in any file, computer or other medium; or
 - (e) leak or disclose any court decision on any matter, before delivery by the court.
- (6) A former judicial staff member shall abide by the law relating to communication of official information and shall not, unless authorized under the law, disclose confidential information acquired

Confidentiality

during employment in the judiciary when disclosure by current judicial staff member of the same information would constitute a breach of confidentiality.

22. (1) A conflict of interest exists when--

Conflict of
Interest

(a) a judicial staff member's objective ability or independence of judgment in performing official duties is impaired or may reasonably appear to be impaired; or

(b) a judicial staff member, his or her immediate family, or his or her business or other financial interests, would derive financial gain because of the officer's position.

(2) A judicial staff member shall avoid conflicts of interest in the performance of official duties. A judicial staff member is required to exercise utmost alertness on conflicts of interest, and shall disclose conflicts to an appropriate authority, and terminating them when they arise.

(3) Conflict of interest does not exist if any benefit accrues to a judicial staff member as a member of a profession, business or organization to the same extent as any other member of such profession, business or organization who does not hold a position within the judiciary.

(4) A judicial staff member shall not--

(a) enter into any contract with the judiciary for services, supplies, equipment, or lease or sale of property, apart from the employment contract relating to the judicial staff member's position; nor use that position to assist any member of the judicial staff member's immediate family in securing a contract with the judiciary in a manner not available to any other interested party;

(b) participate in any official action involving a party with whom either a judicial staff member or any member of the judicial staff member's immediate family is negotiating for future employment;

(c) knowingly influence or recommend for employment any member of the judicial staff member's family; or

(d) solicit or accept any gift, loan, hospitality, advantage, privilege or favour under circumstances from which it is, or could be, reasonably inferred that a major purpose of the donor is to influence the judicial staff member in performing official duties.

(5) The position in the judiciary of every judicial staff member shall be such member's primary employment.

23. (1) A judicial staff member shall not use or attempt to use his or her official position to secure unwarranted privileges or exemptions for, or to confer any corrupt or unfair advantage upon, himself or herself or any relation or associate.

Prohibition of
improper
enrichment

118

119

- (2) A judicial staff member shall not request or accept any fee, compensation, or benefit of any kind, as a condition for the performance of his or her duties, for himself or herself or on behalf of any person, on account of anything done or omitted to be done by him or her in the discharge of the duties of his or her office.
- (3) A judicial staff member shall not practice law by offering legal advice or drafting pleadings for litigants or members of the public, whether for a fee or free of charge while the person is the holder of a judicial office.
- (4) A judicial staff member shall not appropriate to himself or herself or disburse by way of loan to himself or herself or any person, court fees, fines or other funds in his or her custody.
- (5) A judicial staff member shall not engage in any type of trade or business in court premises during office hours, or encourage others to do so.
- (6) A judicial staff member shall not offer legal advice, canvass, tout or present himself or herself in such a manner as to give the impression of being capable of influencing the course of justice.
24. (1) Corruption among members of the judiciary undermines the rule of law and affects public confidence in the judicial system.
- (2) A judicial staff member shall perform his or her judicial duties without favour, bias or prejudice and shall not be influenced by any improper motive or corrupt practice.
- (3) A judicial staff member shall maintain an honest and impeccable conduct in and out of court, whether in official or private capacity, and shall at all times uphold the dignity and integrity of the judiciary to enhance the confidence of the public, the legal profession and litigants in the impartiality of the judicial staff member and of the judiciary.
- (4) A judicial staff member or any member of the judicial staff member's family, shall neither ask for, nor accept, any bribe, gift, loan, hospitality, advantage, privilege or favour in relation to anything done or to be done or omitted to be done by the judicial staff member in connection with the performance of judicial duties, or which might reasonably be perceived as being intended to influence the performance of judicial duties.
25. (1) A judicial staff member shall keep himself or herself informed about, observe and promote the Kenyan Judicial Sexual Harassment Policy.
- (2) A judicial staff member shall not sexually harass a fellow member of staff or any other person in the workplace, or other professional or social situation.
- (3) For purposes of this Code, "sexual harassment" has the meaning assigned to it in the Sexual Offences Act, the Employment Act and the Public Officer Ethics Act and includes doing any of the following, if the person doing it knows or ought to know that it is—

Prohibition of sexual harassment

Accountability and prohibition against corrupt practices

- (a) bullying or coercion of a sexual nature, or the unwelcome and inappropriate promise of rewards in exchange for sexual favours;
- (b) exerting unwarranted pressure for sexual activity or favours;
- (c) making intentional or careless physical contact that is sexual in nature; or
- (d) unwelcome sexual advances or requests for sexual favour, verbal or physical conduct, sending of suggestive electronic text messages, pictures and videos or gestures of a sexual nature including noises, jokes or comments, innuendos regarding another person's sexuality:

Provided that consensual sexual behaviour that is based on mutual attraction and reciprocated shall not constitute sexual harassment.

(4) An action may be considered to constitute sexual harassment if it is so frequent and severe that it creates a hostile or offensive work environment and results in an adverse employment decision including the victim being dismissed, transferred, demoted or forced to quit the job.

(5) Investigations into allegations of sexual harassment shall be conducted in utmost confidentiality and shall take into account the circumstances of a particular case.

26. (1) A judicial staff member who intends to maintain a bank account outside Kenya shall inform the Commission of such intention before opening the account.

General

(2) Where a judicial staff member maintains a bank account outside Kenya, that judicial staff member shall annually supply the Commission with the bank statement relating to that account.

(3) A judicial staff member shall not seek or accept a personal loan or benefit in circumstances that compromise the integrity of the officer.

(4) A judicial staff member shall take all reasonable steps to ensure that property that is entrusted to his or her care is adequately protected and not misused or misappropriated.

(5) Every judicial staff member shall, once every two years, submit to the Commission a declaration of the income, assets and liabilities of that officer, his or her spouse or spouses and his or her dependent children under the age of eighteen years in the manner and procedure applicable for such declarations under any other law.

(6) A judicial staff member shall not—

- (a) solicit contributions from the public; or
- (b) participate in a public collection of funds contrary to any law.

120

121

- (g) to ensure complete confidentiality in the resolution of complaints.
 - (f) to set up suitable administrative framework, including an advisory peer support mechanism to ensure compliance with the Code; and
 - (e) to ensure efficient disposal of complaints within set time frames, appoint ethics officers and establish appropriate mechanisms;
 - (d) to facilitate the referral of complaints to and from other institutions including the Commission, the Commission for Administrative Justice and the judicial offices;
 - (c) to resolve complaints against judicial officers and members of staff, through the offices of the presiding Judges, station and division heads and the Registrars;
 - (b) to establish collegial peer review panels for resolution of complaints against Judges through the offices of the President of the Court of Appeal, the principal Judges and presiding Judges;
 - (a) to promote compliance, and the implementation of the inspirational aspects of the Code, through mentorship, counselling, and promotion of employee wellness;
 - (b) to establish collegial peer review panels for resolution of complaints against Judges through the offices of the President of the Court of Appeal, the principal Judges and presiding Judges;
 - (2) Without limiting the generality of sub rule (1), the Commission and the Chief Justice may prescribe administrative and procedural mechanisms including measures—
28. (1) The Chief Justice may, from time to time, issue guidelines and directions on the oversight and implementation of the Code including the lodgement and resolution of complaints against Judges, judicial officers and members of staff of the judiciary.
27. A breach of this Code may amount to misconduct for which appropriate lawful action may be taken.

Branch of the Code
 Institutional framework for implementation of the Code

PART V ENFORCEMENT, OVERSIGHT AND IMPLEMENTATION OF THE CODE

- (7) Pursuant to section 52 of the Leadership and Integrity Act, Chapter Six of the Constitution and any other law relating to public officers shall, with necessary modifications, apply to a judicial staff member.
- (i) a judicial staff member may participate in voluntary fund-raising only if the same does not reflect adversely upon the judicial staff member's integrity and if it does not interfere with the performance of the judicial staff member's duties; and
- (ii) where a judicial staff member contributes towards or attends such fund-raising, the judicial staff member shall not play a central part in its organization or preside over the same.

Provided that—

(3) A peer review panel set up under this rule shall, to the extent possible attempt to reach a consensus and report to the appointing authority.

29. A Judge, judicial officer and member of staff of the judiciary shall sign and subscribe to this Code.

Signing and
subscription to the
Code

30. (1) The provisions of this Code apply in addition to, and not in derogation from, the requirements of any other law relating to code of conduct and ethics.

Code to
supplement other
legal
requirements

(2) For purposes of—

- (a) section 5 of the Public Officer Ethics Act, 2007;
- (b) section 37 of the Leadership and Integrity Act; and
- (c) section 17 of the Public Service (Values and Principles) Act, 2015,

this Code shall be the prescribed specific Code for the Judiciary through which the requirements of the three Acts are given effect.

(3) This Code is further intended to—

- (a) give effect to Articles 168 (1) (b) and 172 (1) (c) of the Constitution;
- (b) give effect to the Bangalore Principles of Judicial Conduct as adopted by the Judicial Group on Strengthening Judicial Integrity, and revised at the Round Table Meeting of Chief Justices held at the Peace Palace, in the Hague from the 25th to the 26th of November, 2002; and
- (c) supplement and not derogate from the General Leadership and Integrity Code for State officers prescribed under Part II of the Leadership and Integrity Act, and any other law and conduct which is intended to bind judges and judicial officers.

30. (1) The Commission and the Chief Justice may, from time to time, review this Code.

Review of the
Code

(2) The Judicial Service Code of Conduct and Ethics issued under section 5 (1) of the Public Officer Ethics Act, 2003 is hereby revoked.

Dated the 15th July, 2016

WILLY MUTUNGA,
Chief Justice and President of the Supreme Court of Kenya.



**CODE OF CONDUCT PUBLIC PARTICIPATION FORUM
HELD AT JTI ON 6th JUNE, 2016**

REGISTRATION FORM

No.	NAME	ORGANIZATION	CELL PHONE	EMAIL ADDRESS	SIGNATURE
1.	Mr. James Kasombo	RUSI	0736426831	james.kasombo@rusi.luse kasombojames@gmail.com	
2.	SILL COITRELL GHA1	KATIIBA INIST	0714512391	Jed.g.lai@gmail.com	Jca
3.	Hon Benson MUYSSA	KMSA	072719782	bennygg@yahoo.com	
4.	Anita A. Nyanyang	ICJ Kenya	0729363281	anyanyang@icjkenya.org	
5.	Catherine M'ayale	Judiciary	0724474123	cunigale@judiciary.go.ke	
6.	Sylvester Sylvester Mbatia	NGEC	0727570430	smbatia@ngeckenya.org	
7.	LEGINA MUDIUKI	ETAC	0723223476	kmudiuki@legality.go.ke	

(23)



CODE OF CONDUCT PUBLIC PARTICIPATION FORUM
HELD AT JTI ON 6th JUNE, 2016



REGISTRATION FORM

No.	NAME	ORGANIZATION	CELL PHONE	EMAIL ADDRESS	SIGNATURE
1.	Hassan Abed Abdille	MURKI	0728592078	A.abdille@murki.org	
2.	Dominic D'Ambrase	PNP	07166622	dominic.d'ambrose@pnp.gov.ke	
3.	Sango Maewa	KISA	0721960899	SangoMaewa@gmail.com	
4.	GATHAMBIRA NDUNGU	Kenya PHISWA SERVICE	0733 148 265	restidjgktyw@3@gmail.com	
5.	HERBERT MUSAUMU	DSO	073321899	hmimonde@pshn.com	
6.					
7.					

(124)



**CODE OF CONDUCT PUBLIC PARTICIPATION FORUM
HELD AT JTI ON 6th JUNE, 2016**

COMMITTEE REGISTRATION FORM

No.	NAME	ORGANIZATION	CELL PHONE	EMAIL ADDRESS	SIGNATURE
1.	Judy Muthira	Judiciary	0703847801	Judy.Muthira@gmail.com	
2.	Roseline Ogando	Judiciary	0725233571	roseline2012star@gmail.com	
3.	Erasmus M. Githira	Judiciary	0722635408		
4.	Martha Kooame	Judiciary	0724204104	Martha_kooame@yahoo.com	
5.	James Ndiaga	Judiciary	071442993	James.ndiaga@jti.or.ke	
6.					
7.					

(125)

**NAIROBI PUBLIC PARTICIPATION FORUM
HELD AT THE JUDICIARY TRAINING INSTITUTE ON 6TH JUNE, 2016**

The Director Prof. Odek welcomed the participants to the meeting. He asked them to feel at home and wished them fruitful discussions. He asked the committee to develop clear action plans for validation and sensitization on the code of conduct so that he could include this in the work plan for the next financial year.

The Chair of the committee, Hon. Justice Erastus Githinji welcomed the participants to the meeting and gave the background. He said the need to have a judicial code of conduct for the judiciary was captured in the Court of Appeal Organisation & Administration Act, High Court Organisation & Administration Act, The Magistrates Court Act and the Judicial Service Act. Judge informed the participants that the code of conduct team had visited several areas to collect views with the aim of improving the draft judicial code of conduct and that the Nairobi meeting was the last such public forum.

Judge Githinji explained that there were different codes for Judges, Judicial Officers and Judicial Staff. The Code of conduct for Judges was in accordance with Article 168. Article 172 required the JSC to make a code for the Judicial Officers and Staff. Judge clarified that the contents of the codes for Judges and judicial officers was similar and had been heavily borrowed from the Bangalore principles. The code also includes a section on sexual harassment. The principles in the code of conduct for judicial staff include conflict of interest, confidentiality, and unjust enrichment. As regards the enforcement of the code, Justice Githinji informed the participants that are no provisions had been made.

Judge Koome explained to the participants that the committee had initially provided for an elaborate peer review mechanism which was removed after consultations with the JSC who were of the view that the commission had the sole mandate of disciplining judges, judicial officers and judicial staff

Reactions from the participants were as follows:

COMMENTS from COMMITTEE	REACTIONS	
	<ul style="list-style-type: none"> Code of practice is developed by the judiciary and is not supposed to be approved by another arm of government The code should not allow for unambiguous and permissive criteria for removal of judges and judicial officers to preserve the independence of the judiciary 	Jill Cortrell- Ghai of Katiba Institute

(126)

	<p>relating to the law, the legal system, the administration of justice or related matters;</p> <p>(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 judge; or</p> <p>(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.</p> <p>Should this be provided for judicial staff?</p>	
<p>Dominic Nyambane-Performance Directorate</p>	<ul style="list-style-type: none"> • Whether provision on freedom expression applies to judicial staff as it applies to judicial officers and judges <p>(1) Page 3 A judge shall not be improperly influenced by—</p> <p>(a) the race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, political association, culture, dress, language or place of birth of a victim of crime, witness, accused person, plaintiff or defendant;</p>	<p>Committee to consider</p>

127

128

<p>can be • Page 7 (3) Subject to the provisions of any other law, a judge may—</p> <p>(e) write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;</p> <p>(f) 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;</p> <p>(g) 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 judge; or</p> <p>(h) 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.</p> <p>Can this be construed to be gainful employment under Article 77</p> <p>• Section 52 of the integrity & leadership Act makes the provisions on Page 24 under</p>	
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Justice Koome indicated that there will be sensitization of members of the public on the contents of the code of conduct. Judge Githinji thanked the participants for attending and for their useful contributions. He urged the participants to send their written comments. The meeting ended at 5:30p.m

129



REPUBLIC OF ALBANIA
THE JUDICIARY



JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT GARISSA LAW COURTS: 2ND JUNE, 2016
COMMITTEE MEMBERS REGISTRATION FORM

NO.	NAME	STATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1	HON. JUSTICE EDWARD MURIITHI	MACHAKOS	0720467361	edwardmuriithi@yahoo.com	
2	HON. CLARA OTIENO OMONDI	JTI	0722538617	claraotieno@gmail.com	



THE JUDICIARY

JUDICIARY TRAINING INSTITUTE

JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT GARISSA LAW COURTS: 2ND JUNE, 2016
PARTICIPANTS REGISTRATION FORM



	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1.	DANIEL MULELI DCJ	0725-095753	Muleli.daniel@gmail.com	
2.	ZEINAB AHMED UNICEF KENYA	0722-528354	Zahmed@unicef.org	
3.	MARGALIA ABANS UNICEF	0715460636	abdel@unicef.org	
4.	C. P. ONONO Rw. ABV	0722-936059	chumba_onono@yahoo.co.ke	
5.	B. MUTTHURI COURT OFFICER (Prisons)	0722918892	Muthuri509@gmail.com	

(131)



THE JUDICIARY



JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT GARISSA LAW COURTS: 2ND JUNE, 2016
PARTICIPANTS REGISTRATION FORM

NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. Rev. DAVID MATOLO	Redeemed Church	0722019220	dauidmatolo@yahoo.com	
2. C. O. OMSIJI	E. A. C. S.	0712874809	cowithanintegrity.go.ke	
3. IP PETER K. NABET	GANACEA MAIN	0727551639	pblubetraining@aol.com	
4. SP OLIVER RAPANBO	USA MED PRISON	0721231810	rapso1mver@gmail.com	
5. Ndindi Njanga	RCK	0727800983	ndindi@rckkenya.org	

132



REPUBLIC OF KENYA
THE JUDICIARY

JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT GARISSA LAW COURTS: 2ND JUNE, 2016
PARTICIPANTS REGISTRATION FORM



NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. NYMWA PAUL MUKHWE	LSK	0720829738	info@paulmugweadvocates.co.ke	
2. HASSAN DAFFA KADHI		0703748755	lwoshir1977@gmail.com	
3. Edward Dwan	oe's	0722635755	edward.lincage@gmail.com	
4. PAUL MACHIRA	ATPU	0720170427	paulmachira@gmail.com	
5. BIRAZ Boman	UNKEN	0722198057	mslhamelb@unken.or.ke	

133



REPUBLIC OF RWANDA
THE JUDICIARY



JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT GARISSA LAW COURTS: 2ND JUNE, 2015
PARTICIPANTS REGISTRATION FORM

NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. GEORGE FULU	JUDICIARY-CARISA			
2. BONNY S. OKEMWA	ODPP	0721447449	bonny.okemwa@yahoo.com	
3. NIKSUND MUYI	Judiciary	0711-837952	MMVudi3@gmail.com	
4. IBRAHIM MAHEM SAID	Judiciary	0720 831 473	ibrahim.said@judiciary.com	
5. ARON MORIASI	Octa Police	0721 840780	aronmoriasi62@gmail.com	

134



REPUBLIC OF KENYA
THE JUDICIARY

JUDICIARY TRAINING INSTITUTE

JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING

HELD AT GARISSA LAW COURTS: 2ND JUNE, 2016

PARTICIPANTS REGISTRATION FORM:



	NAME	ORGANISATION	TELEPHONE NO.	EMAIL ADDRESS	SIGNATURE
1.	Hussein H. Baka	NONDZ	072294838	hhbake@pauken	
2.	David Mwaruki	Gariissa Court	0726928892	David.Mwaruki@judiciary.go.ke	
3.	George Simon Gitau	Children's Dept	0726116525	simongitau@yahoo.com	
4.	VICTOR ASIRO	JUDICIARY	0722808725	vasiro@judiciary.go.ke	
5.					

135



THE JUDICIARY



JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT GARISSA LAW COURTS: 2ND JUNE, 2016
PARTICIPANTS REGISTRATION FORM

NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. CHARLES KAYALO MUNITHIKA	PROBATION	0721713854	ckmuthika@gmail.com	
2. MOHAMMAD ABD	C.W.S.K.	0713767009	Mohadga6@gmail.com	
3. DAUD A. MOHAMMAD	KENYA FOREST SERVICE	0721518071	dmsheum@gmail.com	
4. Abraham Aden	CSU-GSA.	8722374905		
5.				

136

GARISSA PUBLIC PARTICIPATION FORUM
HELD AT THE GARISSA HIGH COURT ON 2ND JUNE, 2016

The DR, Hon. Victor Asiyo called the meeting to order and meeting commenced at 9:32 a.m. with a word of prayer. The Presiding Judge Hon. Justice Dulu welcomed the participants to the forum and thanked them for honoring the invitation. The participants then introduced themselves. He then welcomed Hon. Justice Edward Muriithi who indicated that the committee was grateful for the attendance and looked forward to their contributions. He apologized for the rush and indicated that this was as a result of the committee's desire to complete the task before the Chief Justice leaves office on 16th June, 2016. He asked the participants to feel free to send their further written views by email to judicialcodeofconduct@gmail.com.

Justice Muriithi stated that the structure of the code was that it provided for a code of Judges, another for judicial officers and another for the judicial staff. This was in line with Art 172 of the Constitution requires the Judicial Service Commission to prepare a code of conduct for judicial officers and staff and Article 168 which makes provision for discipline Judges. He further stated that the Court of Appeal Organisation & Administration Act, High Court Organisation & Administration Act, The Magistrates Court Act and the Judicial Service Act all required the judiciary to develop code of conducts for judges, judicial officers and judicial staff. He informed the participants that the draft judicial code of conduct had a section on oversight of the code. The section allows that breach of the code of such nature that does not require the removal of a Judge, judicial officer or judicial staff may be processed by the JSC and the Chief Justice by way of peer review and support mechanism. This may be through institutions like JLAC

Judge highlighted the principles in the code as independence both of the institution and the person from any interference from colleagues, arms of government and society. Other principles included impartiality, integrity, propriety, equality, non-discrimination, accountability and prohibition of unjust enrichment. The principles in the code of conduct for judicial staff include conflict of interest, confidentiality, and unjust enrichment.

Reactions from the participants were as follows:

	REACTIONS	COMMENTS from COMMITTEE
Nyagah Advocate	(1) A judicial officer shall not be improperly influenced by— (a) the race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age,	Consider Include Nationality on provisions regarding discrimination (137)

	Does this negate consultation amongst colleagues?	Onono advocate
should consider adding "other interest" Committee to consider addition	At Page 5 Section 6(c) provides or a member of the judge's family, has an economic interest in the outcome of the matter in controversy;	Onono Advocate
Committee to consider	Page 13 Unger f) consider adding if the judicial officer is in a relationship with a person who has a personal interest in the outcome of a matter	Onono Advocate
Committee to consider	Consider adding provisions on dress code in the code of conduct	Onono Advocate
Issue well covered in the Penal code and Sexual Offences Act.	Page 10 Prohibition against sexual harassment. consider adding unnatural acts	Onono Advocate
The provision informed by the rise in number of disqualifications amongst judicial officers for flimsy reasons. Judicial officers would disqualify themselves at the tail end of hearing a case. This caused injustice. The provision aims at curing this.	Page 13 Section (7) (1) Every disqualification of a judicial officer shall be based on a specific reason, to be recorded in writing, including an explanation for the judicial officer's recusal on personal reasons. A judicial officer should be given lee way not to give reason for disqualification. Some reasons could be embarrassing	Onono advocate
Add s to the word moral	Page 6 Section 4 (4) A judge shall conform to conventionally accepted standards of behavior and moral and shall conduct himself or herself in a way that is consistent with the dignity of the judicial office	138

		<p>(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 judge; or</p> <p>(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.</p>	
Judge Dulu		Consider adding a general rule to deal with the relationship between staff and the brokers	
		Page 3 under the heading Independence Section too wordy	The section is elaborate
Nyagah		Need to give guidelines to the public on how they should conduct themselves regarding the judges, judicial officers and Judicial staff	Committee to consider having a popular version to be disseminated to the public
		Page 1 "judge's spouse" includes any person who is in a relationship with the judge which, but for the absence of marriage, has the character of a relationship between two persons who are married; Definition is too broad, consider adding partner to the provisions	Definition is for purposes of this code only.
		Include a section on compliance with the	

(139)



JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT KISUMU LAW COURTS: 31ST MAY, 2016

COMMITTEE MEMBERS REGISTRATION FORM

NAME	STATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. HON. JUSTICE JOEL NGUGI	JTI	0724114301	ngugijoel@gmail.com	
2. MR. JAMES NDIEGE	MILIMANI	0721442993	jamesndiegs@yahoo.com	
3. CLARA OTIENO-OMONDI	JTI	0722538617	claraotieno@gmail.com	

140



REPUBLIC OF KENYA
THE JUDICIARY

JUDICIARY TRAINING INSTITUTE

JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT KISUMU LAW COURTS: 31ST MAY, 2016

PARTICIPANTS REGISTRATION FORM



NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. HARRISON ANIKA		0736437263	mrharrisonanika@gmail.com	
2. MBSSES OMONDI MUBUKIRO	DEVELOP, KENYA & CO. LTD	0721242375	omondiml@gmail.com	
3. COLLINS KIPRONO	A.G.	0722-256-126	collinskiprono01@yahoo.com	
4. DANGO BERTHA A.	WAKAVU & COMPANY	0700932636	beryl.olangoi@gmail.com	
5. GETTY ODERA	WASUNA & COMPANY	0705442587	geodera@gmail.com	

(14)



REPUBLIC OF KENYA
THE JUDICIARY



JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT KISUMU LAW COURTS: 31ST MAY, 2016
PARTICIPANTS REGISTRATION FORM

NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. EDWARD MIHESU OMBIRI	JUDICIARY	0722814284	emombiri@gmail.com	
2. JAMES OLWETE	JUDICIARY	0722389801	james_olwete@judiciary.go.ke	
3. ROSE KARANJA	WPA	0725913975	roskaranja@gmail.com	
4. BRIGID MATINA	E.A.C.C	0720499050	brmatina@integrity.go.ke	
5. S.M. KIBUNJA	JUDICIARY	0722899013	kibunyastephens@gmail.com	

142



REPUBLIC OF KENYA
THE JUDICIARY

JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT KISUMU LAW COURTS: 31ST MAY, 2016
PARTICIPANTS REGISTRATION FORM



NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. Ken Omondib	Ken Omondib & Co.	0725608175	kenomondib@vodafone.co.ke	
2. Joan Nasiboli	Kalpa El Co. Advocates	0722286689	naswanjala1989@gmail.com	
3. Bruce Odery	Bruce Odery & Co. Advocates	0722-283539	oderybruce@yahoo.com	
4. LAVENDA MATHUO	Judiciary	0722657213	LAVENDAMATHUO @ -LATHUO.COM	
5.				

143



REPUBLIC OF KENYA
THE JUDICIARY

JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT KISUMU LAW COURTS: 31ST MAY, 2016
PARTICIPANTS REGISTRATION FORM



NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. GEORGE OBOBI	JUDICIARY	0723791025	Obungorose56@gmail	
2. Donald Arasa	Judiciary	0710321496	Donald.Ar@judiciary.com	
3. Kilfred Mwangi	Judiciary	071250052	Ochono Wiliam@judiciary.com	
4. JOHN QWIND	JUDICIARY	0712811861	John.Qwinda@judiciary.com	
5. LUMUMBA A RESERVE	JUDICIARY	0727947569	lumbagonda@jho.com. George-aragonda@judiciary.go.ke	

144



THE JUDICIARY

JUDICIARY TRAINING INSTITUTE
JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
HELD AT KISUMU LAW COURTS: 31ST MAY, 2016
PARTICIPANTS REGISTRATION FORM



NAME	ORGANISATION	TELEPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. Kenneth Omongo	Omongo & Co. Advocates	0716617803	nom.omongo@yahoo.com	
2. Okwelo EWEALINSE	M/E MOKUSU & ASS	0721715011	okwelo@gnocit.com	
3. Masachwe Helen	Mulondo & Co. Advn	0717925986	helen.masachwe@gmail.com	
4. Oriego Collins	Obero Yogo Quno.	0720458542.	coriego@yahoo.com	
5. Margaret A. Opondo	M.A. Oerthman-Opondo & Co. ADVOCATES	0733375522	maopondo@yahoo.com	

(143)

JUDICIARY TRAINING INSTITUTE
 JUDICIAL CODE OF CONDUCT PUBLIC PARTICIPATION MEETING
 HELD AT KISUMU LAW COURTS: 31ST MAY, 2016
 PARTICIPANTS REGISTRATION FORM

NAME	ORGANISATION	CELLPHONE NO.	EMAIL ADDRESS	SIGNATURE
1. Consolata Njiru	Judiciary	07165874534	ngesaconsolata@gmail.com	[Signature]
2.				
3.				
4.				
5.				

KISUMU PUBLIC PARTICIPATION FORUM

The session opened with a word of prayer from the DR Hon. Mbulika. Hon. Justice Kibunja welcomed the participants to the forum for discussion on the code of conduct. After a round of introductions from the participants present, he encouraged them to give suggestions to enrich the code. He then welcomed the Director JTI, Hon. Prof. Justice Joel Ngugi

The Director thanked the participants for coming to the forum. By way of overview, the Director said the Judiciary was required to come up with a new code of conduct as required under Section 47 of the Judicial Service Act and the Magistrates Act, High Court Administration & Organisation Act and Court of Appeal Administration & Organisation Act.

The code is meant to regulate the behavior of the judges, judicial officers and judicial staff. It should inspire them to ethical behavior and informs members of the public on how the staffs are expected to behave.

The Director informed the participants that the Judiciary had in the past attempted to write a code of conduct for its employees. The first attempt to write the code of conduct was in 2011. The committee produced three codes which were presented at a validation workshop in 2012. The codes were rejected. The committee began afresh and has now produced a new draft.

By way of Overview, Justice Ngugi stated that the draft judicial Code divided into two parts

- Part1 : Principles' of ethics and conduct that employees are expected to live by.
- Part2: the institutional arrangements for enforcement of the code

As regards Part 1, the code had domesticated the Bangalore principles in line with Article 2 of the Constitution. The committee had however added certain things that are uniquely Kenyan. These include an outright prohibition of corrupt activities and sexual harassment. The code now includes a specific code for members of judicial staff. This is from the realization that without ethical judicial staff governing judges and judicial officers would not be effective

He said the Institutional Arrangements are found in Part 5. The code intersects with the powers of oversight given to the JSC as per the Constitution and the Judicial Service Act. The JSC can only deal with conduct that requires removal from office. There's a lacuna when conduct has not reached the threshold of removal. The draft judicial code suggests ways of dealing with such conduct by use of peer review mechanism. The code provides some institutional arrangement for peer support.

He then urged the participants to actively participate in the discussion and feel free to send additional comments by email, post office or personally at the Judiciary Training Institute. In Kisumu, written memorandum may be dropped at the DRs office Hon. Mbulika.

(147)

(148)

sanctions. It is an aspirational documents		
Covered but not by name. Professionalism takes care of that for Judges and Judicial Officers Code provides	Absenteeism from duty not included in the code	EO Kisumu
Dress code is too intrusive to be included in the code of conduct. May be used to oppress employees. Can be handled at the station.	Absence of the dress code	EO Kisumu
Section on Performance of duties. Page 21. A judicial staff member shall abide by the professional requirements of the officer's profession.	Code doesn't seem to cover accountants and procurement officers	EO Kisumu
Recusals are major issues in the Judiciary. Applications for recusals and suo moto recusals have become an epidemic. Applications have become a vehicle for forum shopping. The provision as indicated in the code reflects the Bangalore principles.	Section 7 contradicts the High Court Act when it requires Judicial Officers to disclose reasons for recusals	Mbulika
Peer review not envisaged to be adversarial.	A peer review panel set up under this rule shall, to the extent possible attempt to reach a consensus and report to the appointing authority. This provision is not realistic and suggested that the sections should be reworded	Dave Siganga
Code does not override the provisions of statute.	A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness This contradicts the timelines set in other statutes	Otieno Advocate

	causes”	
	<p>Page 8</p> <p>(1) A judge shall not—</p> <p>(a) solicit contributions from the public for whatever cause; or</p> <p>(b) participate in a public collection of funds contrary to any law.</p> <p>Provided that—</p> <p>(i) a judge may participate in voluntary fund-raising only if the same does not reflect adversely upon the judge’s impartiality and if it does not interfere with the performance of the judge’s judicial duties or compromise the judge’s impartiality in a future case; and</p> <p>(ii) where a judge contributes towards or attends such fund-raising, the judge shall not play a central part in its organization or preside over the same.</p> <p>Is section too restrictive as judicial officers have a social life</p>	<p>Judicial officers should not be at the fore front of organizing fundraisers. Code will be reviewed from time to time if section is problematic or inhumane.</p>

(149)

Locals want Vipingo land given to them

By WILSON KIMANI

Residents have sought court orders restraining the transfer of land formerly owned by Vipingo Land Ltd. They want the land given to them as it is the land owned by the company.

Residents, they submitted, were not notified of the transfer and had been misled by the company. They also alleged that the transfer was illegal and that the company had been established to defraud them.

The petitioners, acting in the name of the Vipingo Community Development Committee, sought an order of injunction restraining the company from transferring the land to any other person.

They are also seeking the return of the land to the community.

SQUATTERS DEMANDS

An order to complete the registration of the land and to revoke the title deeds, which have been issued to a number of people.

They want all the land after the lease expires.

That the land should not be transferred to any other person.

That the company be dissolved and its assets be distributed to the community.

The petitioners also sought an order for the return of the land to the community.

JTI

THE JUDICIARY

THE JUDICIAL SERVICE COMMISSION AND THE CHIEF JUSTICE

INVITATION TO MEMBERS OF THE PUBLIC TO SUBMIT VIEWS ON THE JUDICIAL CODE OF CONDUCT

The Judicial Service Commission and the Chief Justice have directed that a Judicial Code of Conduct be developed to govern the conduct of Judges, Judicial Officers and Judicial Staff.

A Committee led by Hon. Mr. Justice Erastus Githinji, Judge of the Court of Appeal and hosted by the Judiciary Training Institute which draws its membership from judges, judicial officers and judicial staff was appointed to develop a Draft Judicial Code of Conduct. The committee has, in consultation with various stakeholders, developed a Draft Judicial Code of Conduct. The Committee wishes to receive views and comments from the public before finalization and presentation to the Judicial Service Commission and subsequently to Parliament for enactment.

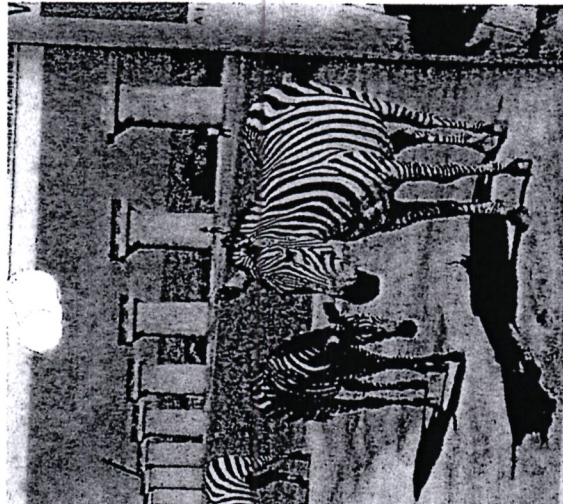
The committee invites the public to make submissions on the contents of the Draft Judicial Code of Conduct. The Draft Code is available at the Judiciary website: www.judiciary.go.ke. Hard copies are available at the Judiciary Training Institute. Soft copies can be sent upon request by sending an email to judicialcodeofconduct@gmail.com

The Committee has scheduled the following public forums to receive oral views from stakeholders and members of the public:

DATES	TIME	TOWN	VENUE
30th May, 2016	9:00 a.m.	Kakamega	Kakamega Law Courts
30th May, 2016	2:30 p.m.	Eldoret	Eldoret Law Courts
31st May, 2016	9:00 a.m.	Nakuru	Nakuru Law Courts
2nd June, 2016	9:00 a.m.	Kisumu	Kisumu Law Courts
2nd June, 2016	9:00 a.m.	Nyeri	Nyeri Law Courts
2nd June, 2016	2:30 p.m.	Embu	Embu Law Courts
2nd June, 2016	9:00 a.m.	Garissa	Garissa Law Courts
3rd June, 2016	9:00 a.m.	Mombasa	Mombasa Law Courts
6th June, 2016	2:30 p.m.	Nairobi	Judiciary Training Institute

Written memoranda on the Draft Judicial Code of Conduct will be received at the venue and may be sent to the committee:

- i) By post to the Chairperson on the Code of Conduct Committee, P.O. Box 28872-00200, Nairobi.
- ii) By email at judicialcodeofconduct@gmail.com to be received not later than 6th June, 2016.
- iii) By hand delivery to the Judiciary Training Institute along Coffee Garden Drive Off Kiambu Road.



Zebra stand close to fence at Three Hills Park, Ohia Road and bridge. Copyright of the photo is held by the Kenya Wildlife Service.

Section of Mombasa-Nairobi highway to be closed for 12 hours

By PHILIP MWANGI

Part of the Mombasa-Nairobi highway will be closed for 12 hours to allow the construction of a standard gauge railway (SGR) section between the two cities.

The closure will affect the highway between the two cities, which is a major transport route. The SGR section will be built on a 12km stretch of the highway.

The closure is expected to start on the 15th of May and will last for 12 hours. The highway will be closed from 6 a.m. to 6 p.m.

The closure is necessary to allow the construction of the SGR section. The SGR is a major infrastructure project that will improve transport between the two cities.

The closure will affect the transport of goods and passengers. The Kenya Railways Corporation (KRC) has advised that it will provide alternative transport services during the closure.

OBEDIENT DIRECTIONS

The Kenya Railways Corporation (KRC) has issued a public notice regarding the closure of the Mombasa-Nairobi highway. The notice states that the highway will be closed for 12 hours to allow the construction of a standard gauge railway (SGR) section between the two cities.

The closure will affect the transport of goods and passengers. The KRC has advised that it will provide alternative transport services during the closure.

The closure is necessary to allow the construction of the SGR section. The SGR is a major infrastructure project that will improve transport between the two cities.

Crocodiles relocated amid residents' protest

By WILSON KIMANI

Residents of a village in the Mombasa region have protested against the relocation of crocodiles from a nearby area. The crocodiles were relocated to a new area, but the residents are concerned that the crocodiles may pose a threat to their safety.

The residents have demanded that the crocodiles be returned to their original habitat. They are also seeking compensation for the damage caused by the crocodiles.

The Kenya Wildlife Service (KWS) has responded to the residents' concerns. It has stated that the crocodiles were relocated to a new area to protect them from poachers and to allow them to breed.

The KWS has also stated that the crocodiles are a protected species and that their relocation is necessary for their conservation.



THE JUDICIARY

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A Committee led by Hon. Mr. Justice Erastus Githinji, Judge of the Court of Appeal and hosted by the Judiciary Training Institute which draws its membership from judges, judicial officers and judicial staff was appointed to develop a Draft Judicial Code of Conduct. The committee has, in consultation with various stakeholders, developed a Draft Judicial Code of Conduct. The Committee wishes to receive views and comments from the public before finalization and presentation to the Judicial Service Commission and subsequently to Parliament for enactment.

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2nd June, 2016	9:00 a.m.	Nyeri	Nyeri Law Courts
2nd June, 2016	2:30 p.m.	Embu	Embu Law Courts
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JUDICIARY TRAINING INSTITUTE
MEETING AMONG THE JUDICIAL SERVICE COMMISSION,
CODE OF CONDUCT COMMITTEE AND SELECTED INTERNAL STAKEHOLDERS
ON DRAFT JUDICIAL CODE OF CONDUCT BILL
HELD AT VOYAGER BEACH RESORT, MOMBASA
6TH-10TH APRIL, 2016

ATTENDANCE SHEET

DAY 2. THURSDAY 7TH APRIL, 2016

No.	NAME	PJNO	SIGNATURE
1.	FRANCIS N'KYAMBIA	40814	
2.	Hewson Kiplangat	465656	
3.	Pauline Nyamwaya	55893	
4.	Erastus M. Gitthiji	4703	
5.	James Ndiogo	39766	
6.	George M.A. Dugendo	28317	
7.	Hannah Okwengu	11768	
8.	EMILY OTINDE	10871	
9.	Lucy Kwarau	57057	
10.	Winnie Gunchu	1	
11.	BARBARA JAPAN	1010	
12.	Shag A. Misaai	61705	



JUDICIARY TRAINING INSTITUTE
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CODE OF CONDUCT COMMITTEE AND SELECTED INTERNAL STAKEHOLDERS
ON DRAFT JUDICIAL CODE OF CONDUCT BILL
HELD AT VOYAGER BEACH RESORT, MOMBASA
6TH-10TH APRIL, 2016



DAY 2. THURSDAY 7TH APRIL, 2016

ATTENDANCE SHEET

No.	NAME	PJNO	SIGNATURE
1.	THEBELE INFANSA MADDIYO	20365	
2.	JANIFFER NZAMU	61886	
3.	CHRISTINE KUNGU	65149 65149	
4.	HARRISON ASIKA	40644	
5.	ALISTON O. OMONDIA	81899	
6.	P.D. MUCHEGWA	10899	
7.	JOTHAN N. DANIELS	20424	
8.	CHAGY PACHYGAO PHUSEU	61905	
9.	A. MUYOGHOLI MUYOGWA	14740	
10.	ISAAC JENAROLA	39211	
11.	YUSUF BAREASA	83228	
12.	KYANEN MSAKO	58744	

(152)



**JUDICIARY TRAINING INSTITUTE
MEETING AMONG THE JUDICIAL SERVICE COMMISSION,
CODE OF CONDUCT COMMITTEE AND SELECTED INTERNAL STAKEHOLDERS
ON DRAFT JUDICIAL CODE OF CONDUCT BILL
HELD AT VOYAGER BEACH RESORT, MOMBASA
6TH-10TH APRIL, 2016**

ATTENDANCE SHEET

DAY 2. THURSDAY 7TH APRIL, 2016

No.	NAME	PJNO	SIGNATURE
1.	Freda Mwangi A	21705	
2.	John L. Tamar	20775	
3.	Joseph L. Olyuwo	65220	
4.	Joel Nguni		
5.			
6.			
7.			
8.			
9.			
10.			
11.			

CODE OF CONDUCT MEETING MOMBASA

DRAFT REPORT

WELCOME AND INTRODUCTIONS

Justice Muchelule welcomed the participants to the workshop. He commenced by averring that no one doubts that Judges and judicial officers are expected to behave according to certain standards both in and out of court. He questioned whether these are mere expectations of voluntary decency to be exercised on a personal level, or they are expectations that a certain standard of conduct needs to be observed by a particular professional group in the interests of itself and the community.

He observed the following that judicial officers comprise of a select part of an honorable profession. They are entrusted, day after day, with the exercise of considerable power. This exercise has dramatic effects upon the lives and fortunes of those who come before the court. The Citizenry and their fortunes depend upon our judgment. They people do not wish such power to be reposed in anyone whose honesty, ability or personal standards are questionable. It is necessary for the continuity of the system of law as we know it, that there be standards of conduct, both in and out of court, which are designed to maintain confidence in those expectations are maintained. If these standards are not effectively maintained, public confidence in the independence and trustworthiness of the judiciary will erode and the administration of justice will be undermined.

The Judicial Service Commission is established under Article 171 of the Constitution of Kenya and has its mandate set out under Article 172 of the same Constitution. The mandate of the Commission is to promote and facilitate the independence and accountability of the Judiciary and the efficient, effective and transparent administration of justice.

Article 168 (1) (b) of the Constitution envisages a Code of Conduct for Judges of the Superior Courts by an Act of Parliament upon whose breach could lead to the removal of a Judge.

Section 47 of the Judicial Service Act provides that the Commission may make regulations for the better carrying out of the purpose of the Act. Section 47 (2) (a) of

153

- (i) Judges,
 - (ii) Judicial Staff and
 - (iii) Magistrates
- Justice Mureithi then outlined the dilemma of the Code of Conduct that the committee
- (i) Article 168 (1) (b) of the Constitution of Kenya 2010 provides –
- 168. (1) a judge of a superior court may be removed from office only on the grounds of—**
- (b) a breach of a code of conduct prescribed for judges of the superior courts by an Act of Parliament;**
- (ii) 'Prescribe' means – 'to set down as a rule, law or direction'
 - (iii) 'By' defined in Collins Concise Dictionary a preposition used to indicate the **agent** after a passive verb – the **agent** by which something is done.
 - (iv) Could the word 'by' also mean *through, or under, or must* the instrument of prescription of the Code be an Act of Parliament? It need not be done through an Act of Parliament?
 - (v) Did the three (3) Acts of Parliament on the CA, the HCOA, the MCA overtake the requirements of section 47 of the Judicial Service Act, which requires tabling of the Rules/Regulations before Parliament?
 - (vi) The Statutory Instruments Act No. 23 of 2013 requires all subsidiary legislation, rules, regulations to be placed before Parliament. See sections 10-19 of the Statutory Instruments Act of 2013.
 - (vii) Hence the Questions:
- a. Who is responsible for making the code of conduct for Judges: is it the JSC under section 47 of the JSA or the Chief Justice under the 2015 Acts?
 - b. Whether it is the JSC under section 47 (3) of JSA or CJ under the Acts of 2015 Code must be placed before parliament.
 - c. Or should the Code for Judges be better dealt with by an Act of Parliament in strict interpretation of Article 168 (1) (b) of the Constitution.

- ❖ Justice Okwengu: What are the chief justice's court rules? Does the code of conduct fall under these rules?
- ❖ Justice Lenaola answered that while the Chief Justice is not a court, he is not exempt from making rules. These rules cannot be rules of court. He further stated that Article 168 stipulates that judicial officers must have a code of conduct. The history of Section 47 (from the draft of 2011) Section 47(3) was created to ensure that judges have a code of conduct. He asked whether these regulations would be tabled before the JSC or Parliament- There is a need to be clear on which direction it should be enacted. It was his understanding that Article 168(1) (b) let the code of conduct be a regulation created under Section 47. The new acts have a mistake. Why did they create section 41 if section 47(3) existed? Why are we elevating a part of the Article 168 of the Constitution to be an Act of parliament? Parliament cannot be avoided. It is easier to subject regulations rather than ACT of parliament. No Country has succeeded in enacting the Bangalore principles as an Act of Parliament. Code of Conducts are meant to be appendages. He urged the participants to stay away from a place where parliament can discipline Judges. It runs a risk of judicial independence, security of tenure and the Judiciary as an institution.
- ❖ Justice Mwongo added that in the High Court (Organization and Administration) Act, 2015, Section 41 was not founded by the committee. This was added by Parliamentarians. The Code of Conduct should be a regulation not a bill. Parliament can create sanctions at their will as they did with the three acts in 2015.
- ❖ Justice Muchelule heeded that we need to look at the Judicial Service Commission as a constitutional office and not as presently constituted.
- ❖ Justice Ngugi concurred with the view that Article 168 does not prescribe an Act of parliament for the code of conduct. He warned that to subject a code of conduct to parliament in the current political environment is irresponsible.

(157)

- ❖ Justice Warsame noted that Article 168(1) (b) says "may". This process must include peer review, the judicial service commission in its discretion goes through the motions.
- ❖ Justice Nyamweya added that before the process starts, it must be looked into what key breaches will be put in the code.
- ❖ Justice Okwengu contended that there is need for clarity as to what will lead to removal and what will lead to other processes.
- ❖ Justice Warsame noted that the participants must caution themselves to Article 168(4) when looking at 168(1) (b). The two must be looked at together.
- ❖ Justice Ndolo stated that what begins as not gross misconduct can lead to gross misconduct. She proposed that as the code is crafted to bear that in mind. When what amounts to gross misconduct is listed, something is bound to be left out. She urged for the definition of gross misconduct is looked at from the Employment Act. In response Justice Warsame urged that different standards should not be used for gross misconduct.
- ❖ Justice Nguni asked whether a definition of what amounts to gross misconduct or grounds in Article 168(3) are not defined. He noted that the other to the discretion of the Judicial Service Commission to decide what amounts to a breach. What other grounds amount to a breach? We must state them. It is a stand-alone ground.
- ❖ Hon. Guchu asked what mischief is trying to be cured that has not been captured by Article 168. Within any institution there are Human Resource manuals that deal with misconduct. The threshold should be so high to warrant the removal of a Judge. It should be spelled out what other the other misconduct can be.

for Judges, the lacuna must be fixed. The manual is a document that is flexible enough to give the commission clout to deal with the issue.

On the question of peer review, Justice Lenaola was of the opinion that it should not be legislated. This is an informal mechanism to deal with issues. Where the Judge's issue cannot be dealt with by his peers it can be escalated to the commission.

- ❖ Justice Nyamweya asked if a complaint is reported against a judge, to the level of removal, shall it be sent to JLAC. Commissioner Justice Wanjala responded in such instances it shall be sent to the Chief Justice by JSC. Justice Nyamweya suggested that some should be sent to the Principal Judge (PJ) of the High Court and the President of the Court of Appeal (PCA) by the Chief Justice. Then a peer review can be constituted by the PJ and PCA.
- ❖ Professor Kobia pointed out that institutional mechanisms are preventative mechanisms so that the aspirational spirit is met. For example, Training and mentorship programs. Other institutional mechanisms are in place we should align them with the code.
- ❖ Justice Ndolo argued that it runs the risk of instituting a structure within a structure. We should look at the structure that we have right now. Every member of staff has a supervisor. Every day performance issues should be dealt with at the station or division level. Must distinguish between peer review and disciplinary action.
- ❖ Justice Mwongo stressed that when a complaint is raised it is not framed as a misconduct per se. They are at different levels and warrant different measures. JLAC would not be receiving complaints directly, the complaints should emanate from JSC. President of the Court of Appeal will deal with Court of Appeal judges while the Principal Judge will deal with the High Court judges. Magistrates complaints can either be handled through the Principal Judge in Nairobi or the Resident Judge of the station where he

(159)

Unethical issues / exercising judicial functions to be sent to JLAC which prescribes a mechanism including peer review.

(4) Stream line the procedures: CJ, PCA, PJ to be the official communication channel. Complaints may be send PCA, PJ and referring it to the PJ.

(3) Ombudsman complaints to be referred to JSC as well/procedures before JLAC/ aspirational aspects of the code-preventive/developmental measures. Peer review mechanism-to include resolution of minor breaches, preventive mechanisms, mentorship, counselling, training etc

(2) Judges and Judicial Officers: lesser breaches of the code-JSC receives and refers matters to the CJ who determines how to address it through peer review mechanisms established e.g JLAC.

(1) Code of conduct as adapted to be developed under Section 47 JSA/ No need of establishing new frameworks. Align existing administrative/ institutional mechanisms to implement and oversee the code of conduct e.g office of the PJ/divisions heads/station heads.

Proposed Recommendations:

Justice Nyamweya asked that the Human Resource Directorate have specific timelines on complaints and when to hear a response. The current practice is unlawful.

- That the Code of Conduct committee to sit with the current advisory committee to hear on what the challenges they face. More so on the issues of timelines and the level of performance which is a framework that should be agreed upon.
- Proposed that PLS 10 and above petty issues can be dealt with by the advisory committee.
- The current committee made a resolution that all letters must be signed by the Chief Justice when one in interdicted.
- There is a need to streamline the process to make it more efficient and fair(in compliance with the Fair and Administration Act)

160

EMAIL: INFO@ICJ-KENYA.ORG/SAMWEL.MOHOCHI@ICJ-KENYA.ORG

Nairobi

Vihiga Road, Kileleshwa, P.O Box 59493 – 00200

The Kenyan Section of the International Commission of Jurists (ICJ- Kenya)

SUBMITTED BY:

ON RECOMMENDATIONS TO THE JUDICIAL CODE OF CONDUCT AND ETHICS

KENYAN SECTION | SINCE 1959

International
Commission
of Jurists

icj



MEMORANDUM SUBMITTED TO THE JUDICIARY TRAINING INSTITUTE

generally in understanding the code too. Examples can be given in the commentary or explanatory notes, which will be deemed best.

Recommendation

It is recommended that for the benefit of everyone as stated above, the code has a brief introduction of a principle and then the rest will be covered in the commentary or explanatory notes as adopted in the jurisdictions stated above. The code can also take the format of a hand book which will be user friendly and easy to reference.

Critique

The code of conduct covers persons serving in tribunals silently. Tribunals are quasi-judicial bodies and fall squarely within the judicial context under the judiciary. The persons serving in these tribunals more so the chairpersons, vice chairpersons and members are quasi-judicial officers and as such the code should have been made exhaustive to cover them. This is well established under Article 169 (1) (d).

Recommendation

We recommend that the code be all inclusive and state expressly that the code extends to persons serving in tribunals, this will also include members of staff working in these tribunals.

Critique

The code does not take into consideration the judges and judicial officers who retire from the judiciary. It is important that they carry on their activities in a manner that does not bring dishonor or spoil the reputation of the judiciary. Though retired, they carry on the image of the judiciary and will always be referred to as Justice or Honorable.

Recommendation

We recommend that this provision be included in the code so as to cover retired judges and judicial officers. The same can be borrowed from the South African code as it has set out this principle clearly.

Recommendations on the specific Principles

1. On the principle of Impartiality under section 5 sub section (5) we recommend that the word 'private' be added immediately after the word 'public'. This will ensure that every information a judge or judicial officers will have pertaining to proceedings before them or those that might come before them, will not be compromised and in turn will not affect the fair trial of any person or issue.
2. On the principle of Integrity though it can be implied from the reading of the code under section 6 that personal integrity is discussed, we recommend that the same be addressed expressly in the code so that the issue of integrity of judges and judicial officers is covered exhaustively that all loop holes are sealed.
3. We recommend that section 13 of the code under Propriety be separated from it and made a principle on its own called 'Extra Judicial Activities' as this section covers the extra judicial



MEMORANDUM

TO

THE JUDICIAL SERVICE COMMISSION

ON

**JUDICIAL CODE OF CONDUCT FOR JUDGES, JUDICIAL OFFICERS AND
STAFF**

SUBMITTED ON THE

30/3/2017

CONTACT PERSON:

**MRS. JOSEPHINE MONG'ARE
CHAIRPERSON,
FIDA KENYA
AMBOSELI ROAD, OFF GITANGA ROAD,
LAVINGTON, NAIROBI.
P. O. BOX 46324 00100
NAIROBI
254-020-3873511/3870444
FAX NUMBER: 254-020-3876372
info@fidakenya.org**

(162)

(163)

and deal appropriately.

the Judge will be compromised. We invite the JSC to consider the same or secretary. This can lead to insubordination or laxity at workplace and discouraged. For example, consensual sex between a Judge and a clerk senior officers and junior officers is frowned upon and should be mutual attraction and reciprocated...." Ideally sex at workplace between 11(4) the words "provided consensual sexual behavior that is based on purposes

• Generally under Part II note to edit.. A Judge not A judge for consistency

"5.1. A judge shall be aware of, and 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")."

Bangarole principles as follows:-

• We recommend what is provided as irrelevant grounds under the 2003

the female gender.

• 4(4)(a), and 8(2) delete word "(pregnancy)". We find that it is sexist to consider pregnancy as an irrelevant ground more so since it only affects

2. Part II (Code of conduct and ethics for Judges)

• "Primary employment" amend to add judge, and judicial officer.

Judicial officers instead of having duplicate definitions.

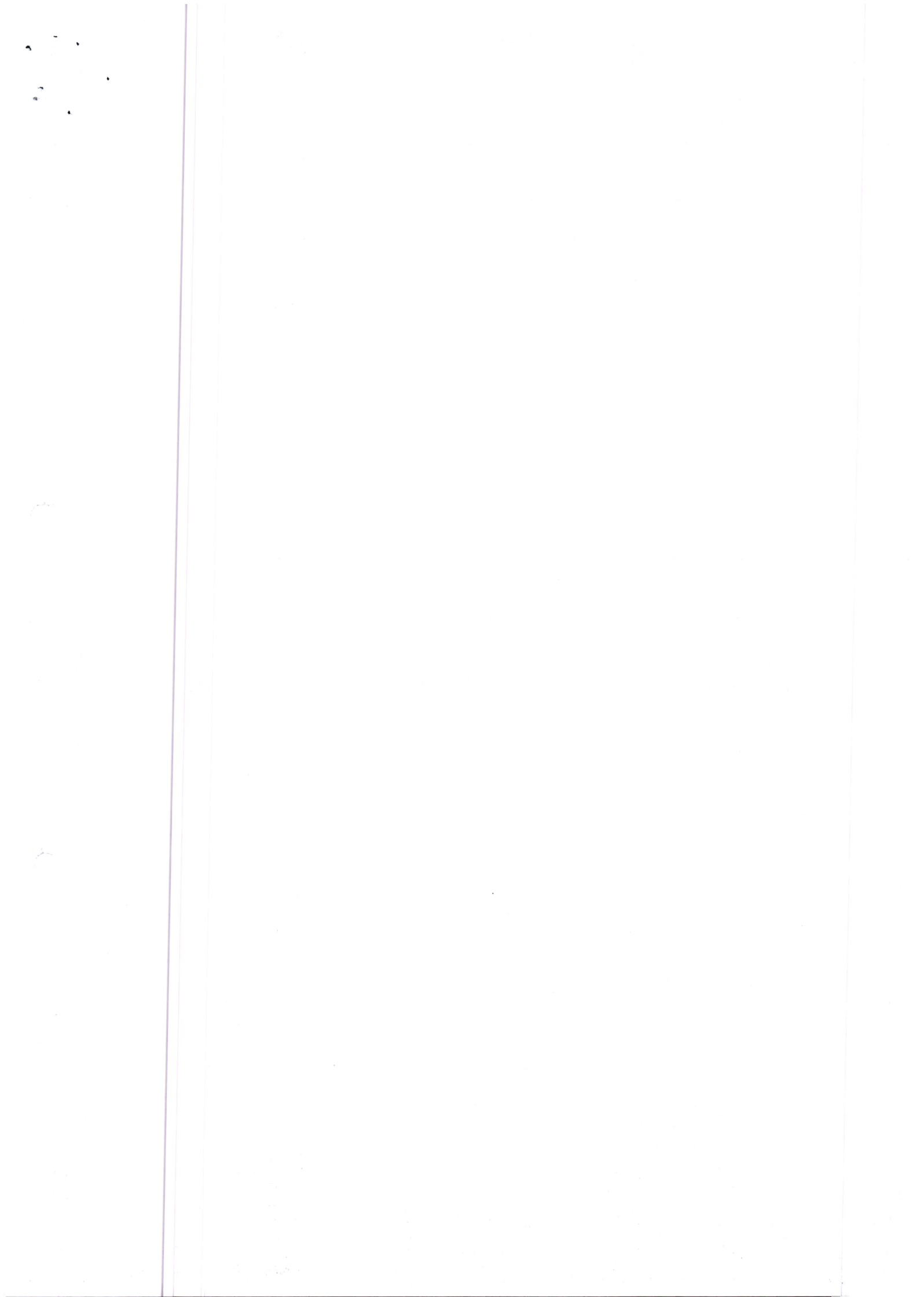
• In the definition of the Judge's family and spouse combine with the

"person living in the household"

• "Immediate family" add the words "any other" before the words

1. Part I (Interpretation)

RECOMMENDATIONS





REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL

DEPARTMENT OF JUSTICE

10th November 2016

Your Ref.: KMJA/AG/10/16
Our Ref.: AG/CONF/6/A/13 VOLXIV

Ms. Anne Amadi
Chief Registrar of the Judiciary
Supreme Court Building
NAIROBI

RE: REQUEST FOR LEGAL OPINION TO THE STATUS OF THE JUDICIAL CODE OF CONDUCT AND ETHICS OF 15TH JULY 2016 PUBLISHED AS LEGAL NOTICE NO. 132 IN GAZETTE SUPPLEMENT NO. 124 ON 29TH JULY 2016 IS A STATUTORY INSTRUMENT

We are in receipt of a letter dated 10th October 2016 by the Secretary General of Kenya Magistrates and Judges Association in which the association seeks legal interpretation as to the status of the Judicial Code of Conduct and Ethics of 15th July 2016 published in the Kenya Gazette Supplement No. 124 dated 29th July 2016 and particularly:

a. Whether the Judicial Code of Conduct and Ethics is a Statutory Instrument within the meaning of the Statutory Instruments Act No. 23 of 2013;

b. Whether the Code was tabled in Parliament as required under section 11 of the Statutory Instruments Act; and

c. If the answer to the above is in the negative, what is the status of the Judicial Service Code of Conduct and Ethics, 2003 published as Legal Notice No. 50 of 2003 under the Public Officers Ethics Act

This request is stated to be premised on the fact that the question of legal validity of the Judicial Code of Conduct and Ethics of 15th July 2016 was raised during the annual Judges colloquium held between 22nd and 28th August 2016.

SHERIA HOUSE, HARARBE AVENUE
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227+61/2251355/0700072929/0732529995
EMAIL: info@ag.go.ke WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILE SELASSIE AVENUE, P.O. Box 56057 - 00200 Nairobi - Kenya TEL: Nairobi
2224029/2240337
EMAIL: legal@justice.go.ke

CHIEF REGISTRAR OF THE JUDICIARY
11 NOV 2016
RECEIVED

164

15/11/16
Hon. Dir.

7. Section 47 of the Judicial Service Act, 2011 expressly permits the Judicial Service Commission to make regulations to govern such matters as includes "the code of conduct and ethics for judges, other judicial officers and staff".

8. It, therefore, follows that the Judicial Code of Conduct and Ethics is a Statutory Instrument as it conforms to the principles (a), (b) and (c) enumerated under paragraph 5 above.

9. Accordingly, the law required the Attorney General as the relevant Cabinet Secretary is required to transmit the Judicial Code of Conduct and Ethics, 2016 to the relevant Clerk of the Parliament for tabling before the relevant House of Parliament within seven days of its publication otherwise it would lapse and become void as stipulated under section 11 of the Statutory Instruments Act which states as follows:

(1) Every Cabinet Secretary responsible for a regulation-making authority shall within seven (7) sitting days after the publication of a statutory instrument, ensure that a copy of the statutory instrument is transmitted to the responsible Clerk for tabling before Parliament.

(4) If a copy of a statutory instrument that is required to be laid before Parliament is not so laid in accordance with this section, the statutory instrument shall cease to have effect immediately after the last day for it to be so laid but without prejudice to any act done under the statutory instrument before it became void.

10. The Judicial Code of Conduct and Ethics, 2016 paragraph 30(2) expressly revoked the previous Judicial Service Code of Conduct and Ethics of 2003 issued under section 5(1) of the Public Offices Ethics Act, 2003 and therefore it has no force of law.

11. In view of the above, we wish to make the following conclusions as to the status of the Judicial Code of Conduct and Ethics respectively;

a. The Judicial Code of Conduct and Ethics, 2016 is a Statutory Instrument as determined above and which effectively repealed the Judicial Service Code of Conduct and Ethics of 2003;

b. The Judicial Service Code of Conduct and Ethics of 2003 therefore has no force of law

c. The Judicial Code of Conduct and Ethics, 2016 ought to have been transmitted to Parliament by the Attorney General as the relevant Cabinet Secretary within seven (7) days of its publication in the Kenya Gazette on 29th July 2016;

d. In the event, that the Judicial Code of Conduct and Ethics, 2016 was not duly transmitted to Parliament as provided by the law, it is deemed to have lapsed and thus rendered void;



REPUBLIC OF KENYA
 OFFICE OF THE ATTORNEY-GENERAL
 &
 DEPARTMENT OF JUSTICE

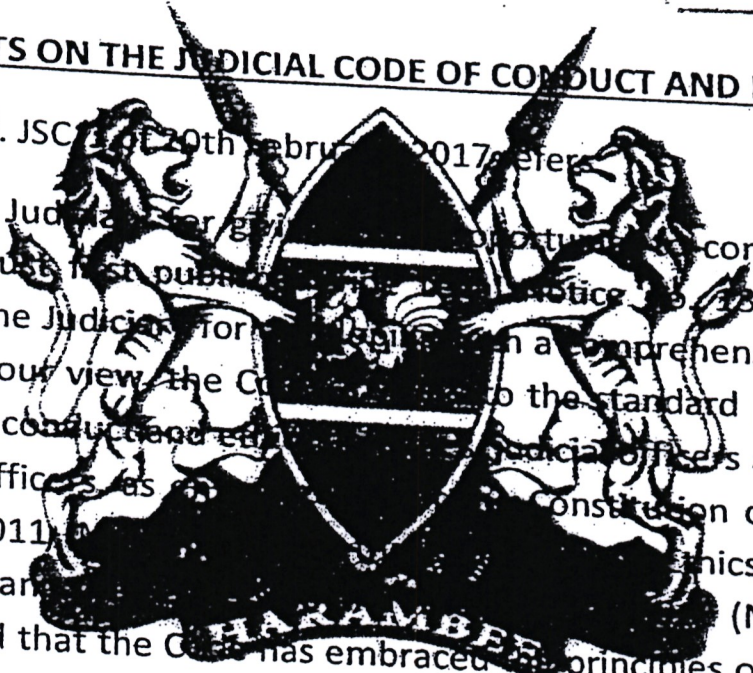
DOJ/CON/ACE/4/11/III/(63)

18th April, 2017.

RECEIVED
 19 APR 2017
 OFFICE OF THE CHIEF
 JUSTICE

The Office of the Chief Justice
 Supreme Court Building
 NAIROBI.

RE: COMMENTS ON THE JUDICIAL CODE OF CONDUCT AND ETHICS:



Your letter Ref. JSC/20th February 2017, referred to the opportunity to comment on its Judicial Code of Conduct first published in the Kenya Gazette of July, 2016. We congratulate the Judiciary for enacting a comprehensive Code of Conduct and Ethics. In our view, the Code is in line with the standard principles and norms relating to the conduct of public officers and judicial staff, and other public officers as provided for in the Constitution of Kenya, the Judicial Service Act, 2011, the Public Officers (Ethics) Act, 2003 (No. 4 of 2003) (POEA), and the Law of Access to Information Act (No. 19 of 2012) (LIA). We have noted that the Code has embraced the principles of judicial integrity set out in the Bangalore Principles of Judicial Conduct.

Granted that we had had an opportunity to comment on the draft Code of Conduct and Ethics a few years ago and noting that our proposals were incorporated into the current draft, we do not have any specific proposed amendments to the current draft.

SHERIA HOUSE, HARAMBEE AVENUE
 P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995
 E-MAIL: info.statelawoffice@kenya.go.ke WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE
 CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337
 E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

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166

FOR: THE ATTORNEY GENERAL

(DIRECTOR, LEGAL AFFAIRS)

JOHN K. TUTA, HSC



(67)

It is also noteworthy that the Leadership and Integrity Act, 2012 envisages yet another code of conduct which should apply to judges and magistrates. The Act is enacted pursuant to the provisions of Article 80 of the Constitution and is binding on all State officers. Judges and magistrates are State officers by virtue of Article 260 of the Constitution. Section 37(1) of the Leadership and Integrity Act, 2012 requires all public entities which have State officers, such as the Judiciary, to develop specific Leadership and Integrity Codes, which should then be approved by the Ethics and Anti-Corruption Commission (EACC) as per Section 39 of the Act. This means that the Judiciary is yet again expected to enact a Leadership and Integrity Code for its judges and magistrates, if it has not already done one. Notably, under section 40 of the Leadership and Integrity Act, every state officer is expected to sign the specific Code issued by their public entity, at the time of taking the Oath of Office or within seven days of assuming a State office.

In view of the foregoing, it is our considered view that in order to enhance the efficiency and effectiveness of enforcing the Judiciary Code of Conduct and Ethics, we propose the development of one comprehensive Code embracing the provisions of the Judicial Service Act, the Public Officer Ethics Act, and the Leadership and Integrity Act. Admittedly, the current draft substantially incorporates the codes of conduct and ethics principles set out in POEA and LIA though some harmonization may be necessary. Thus, in order to ensure clarity in terms of the precepts of the Code applicable to various categories of State public and public officers in the Judiciary, it could be clarified that the Code is enacted pursuant to the provisions of Section 47 of the Judicial Service Act and that it will also be the Judiciary's Code of Conduct and Ethics for purposes of Section 5 of POEA, and the Judiciary Leadership and Integrity Code envisaged under Section 37 of the Leadership and Integrity Act. This could be clarified in a Preamble to the Code or in Rule 3 of the Code (on the Application of the Code).

We remain at your disposal for further consultations over the matter.

168

Hon. Justice David K. Maraga, Chief Justice, President of the Supreme Court of Kenya
Hon. Justice Willy K. Kiambu, Deputy Chief Justice, President of the High Court of Kenya
Hon. Justice George O. Odunga, Justice of the Peace, President of the Kenya Magistrates and Judges Association

This is in reference to your Lordship's letter dated 20th February, 2017 with the reference to the draft Code of Conduct for Judges, Judicial Officers and Staff. We have found it necessary to share the following propositions through the draft Code of Conduct and forwarded their responses to us through various meetings and documents. The reverse approach would empower the users to focus more on what should be done as opposed to the inactivity of what should not be done. All provisions that purport to limit certain fundamental rights and freedoms should be removed or rephrased in a way that removes any such limitations. Judges and Magistrates should not be subjected to more than one code of conduct. Therefore the Draft Code of Conduct should be made pursuant to the laws cited in the draft. This way, the Code will afford Judges and Magistrates all the benefits under

RE: REVISION OF THE DRAFT JUDICIAL CODE OF CONDUCT

11 APR 2017
10th April, 2017

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17 APR 2017
CHIEF JUSTICE'S OFFICE

Hon. Mr. Justice David K. Maraga, CJ
The Hon. The Chief Justice/President
Of the Supreme Court of Kenya
P.O. Box 30041-00100
NAROBHI
Your Lordship

KMJA/CJ/04/17
The Secretariat
Kenya Magistrates and Judges Association
Muiruri Law Courts, 2nd Floor, Room No. 211
P.O. Box 30041-00100
Narobi, Kenya
Telephone Number: 3588237
Email: info@kmja.or.ke



Kenya Magistrates and Judges Association

justice: And the determination of such an issue shall be a judicial question, to be conducted before formal session in court.”;

- XI. Section 13 (8) should also conclude with the sentence: “And the determination of such issue shall be a judicial question, to be conducted before formal session in Court.”

Your Lordship, these are our contributions for your kind consideration.

Most kind regards,


HON LADY JUSTICE HEDWIG ONG'UDI

PRESIDENT, KMJA

Cc:

1. The Hon Secretary

Judicial Service Commission

NAIROBI

2. The Director

Judiciary Training Institute

KIAMBU

Executive Council Members:

*Hon. Justice Hedwig Ong'udi - President, Hon. Bryan Khaemba —Secretary General, Hon. Derrick Kuto - Treasurer,
Hon. Benson Ireri Nyaga - Vice President, Hon. Abdilatf Silau- Vice Secretary General, Hon. Sinkhyan - Vice Treasurer
Daniel M. Sepu - Executive Director*

(169)



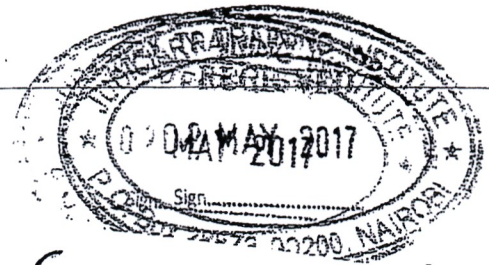
THE JUDICIARY



THE SUPREME COURT

THE HON. JUSTICE (PROF) JACKTON B. OJWANG, CBS
JUDGE OF THE SUPREME COURT OF KENYA

April 28, 2017



The Hon. Justice (Prof.) J. Otieno-Odek
Director,
Judiciary Training Institute
NAIROBI

RE: JUDICIAL CODE OF CONDUCT – FINALIZATION

This is a record for deliberations, at the scheduled meeting of the Judicial Code of Conduct and Ethics Committee scheduled for Thursday, 4th May, 2017 at 10.00 a.m.

Upon reading through the Special Issue of the *Kenya Gazette Supplement* No. 124 (29th July, 2016), I have noticed the inclusion of certain inappropriate elements, which ought to be excluded. These are as follows:

1. Clause 5(3) is wholly inconsistent with the terms of **Article 160(1) of the Constitution**, which stipulates:

“In the exercise of judicial authority, the Judiciary, as constituted by Article 161, shall be subject only to this Constitution and the

(171)

6. It is most evident that if anybody – whoever they may be – were to create syndrome outside the Court which renders it an impossibility for

or local notoriety;

5. And what may a Judge take judicial notice of? The Evidence Act, Section 60(1)(m) states that the Court may take judicial notice of *“the ordinary course of nature; and in Section 160(1)(o), “all matters of general*

Code of Conduct.

The Court itself takes judicial notice of a matter, as the Judge *in Court* finds it proper, and the Judge is *not* to be directed by outsiders, or by a

proved.”

“No fact of which the court shall take judicial notice need be

provides:

4. The Evidence Act (Cap.80, Laws of Kenya), in Section 59 thus

3. The *law of evidence* is the business of only *the Judge*, in Court.

outside, as the draft Code is attempting to do.

2. The foregoing point intimately touches on the fundamental constitutional theme of *judicial independence* – Judges hearing and determining matters as guided, *inside the Court*, only by *evidence and law as they themselves perceive it* – not being directed from

with the safeguarded principle of judicial independence.

(vi) To include such a clause in a Code of Ethics is to *grossly interfere*

Article 161(1) of the Constitution.

to the *judicial decision* – rendered by the *Court* as defined in

(v) It should be quite clear, that such a matter belongs exclusively

This safeguard for Judges and Magistrates logically *extends to any compromises to the authority of the Courts*, such as are being proposed by the draft Code of Conduct and Ethics in its Clause 5(5).

10. In relation to the foregoing point, suppose the Supreme Court, in the discharge of its constitutional duty, "~~makes comment~~" on a matter resting with the Court of Appeal, or the High Court, or indeed, the Magistrate's Court, is this something in respect of which a *non-judicial entity* can commence disciplinary proceedings? I would say, *no*: because the right exercise of discretion in that matter is precisely the one emanating from *the Court* – not that issuing forth from outside entities.

11. Para. 8(4)(d) of the draft Code ought to be modified, by deleting the proviso which begins "Provided....", and replacing it with the following clause:

"And in any event, even normal and consensual sexual behaviour of any kind shall take place away from the workplace."

12. Paragraph 19(4)(d) ought to be amended, by striking out the proviso beginning "provided that....", and replacing it with the following clause:

"And in any event, even normal and consensual sexual behaviour of any kind shall take place away from the workplace".

13. Paragraph 25(3) (d) should be amended by striking out the proviso, and substituting it with the following clause:

"And in any event, even normal and consensual sexual behaviour of any kind shall be conducted away from the workplace."



JUDICIARY TRAINING INSTITUTE
MEETING AMONG THE JUDICIAL SERVICE COMMISSION,
CODE OF CONDUCT COMMITTEE AND SELECTED INTERNAL STAKEHOLDERS
ON DRAFT JUDICIAL CODE OF CONDUCT BILL
HELD AT VOYAGER BEACH RESORT, MOMBASA
6th-10th APRIL, 2016

ATTENDANCE SHEET

DAY 2. THURSDAY 7TH APRIL, 2016

No.	NAME	PJNO	SIGNATURE
1.	FRANCIS N'KYAMBIA	40814	
2.	Hewson KIPLAGAT	465456	
3.	Pauline Nyamwaya	55793	
4.	Erastus M. Gitthini	4703	
5.	James Ndiogo	39766	
6.	George M.A. Dugendo	28317	
7.	Hannah Okweng'u	11768	
8.	EMILY OTINDE	10871	
9.	Lucy Kwareu	57057	
10.	Winnie Ganchu	1	
11.	BARBARA JAPAN	1010	
12.	Shag A. Inscari	61705	

(173)



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MEETING AMONG THE JUDICIAL SERVICE COMMISSION,
CODE OF CONDUCT COMMITTEE AND SELECTED INTERNAL STAKEHOLDERS
ON DRAFT JUDICIAL CODE OF CONDUCT BILL
HELD AT VOYAGER BEACH RESORT, MOMBASA
6th-10th APRIL, 2016

DAY 2. THURSDAY 7TH APRIL, 2016

ATTENDANCE SHEET

No.	NAME	PJNO	SIGNATURE
1.	Judy Muthiani	23927	
2.	PATRICIA GICHOHI	19855	
3.	ARTHUR MATHEU	51866	
4.	JULIUS K. MAMUNDA	33147	
5.	ROSELINE-A. OGWANO	21674	
6.	Kim Brown		
7.	EDWARD MURAITIH	39512	
8.	Lucy Sindemi	63244	
9.	Peter Nushyimi		
10.	ANTHONY NWICIGI	40123	
11.	Peter Muehoki XUMUHE	59588	
12.	P. Kibara KARUKI		

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CODE OF CONDUCT COMMITTEE AND SELECTED INTERNAL STAKEHOLDERS
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HELD AT VOYAGER BEACH RESORT, MOMBASA
6th-10th APRIL, 2016

DAY 2. THURSDAY 7TH APRIL, 2016

ATTENDANCE SHEET

No.	NAME	PJNO	SIGNATURE
1.	HELENE INFUSIA HARDIKU	20365	
2.	Jennifer NZAMU	61886	
3.	Christine Kinyua	6010 65149	
4.	HARRISON ADIMA	40644	
5.	SISTON O. OMBANSU	8189	
6.	P.D. MURCHELGA	10897	
7.	JOTHAN N. OMYIEGA	20424	
8.	Shag Sachifaba Inslen	61705	
9.	A. Mbughodi M sagwa	14740	
10.	Isaac Lemuel	39211	
11.	YUSUF BARASA	63228	
12.	KINNEL Nsolo	58744	

(575)



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CODE OF CONDUCT COMMITTEE AND SELECTED INTERNAL STAKEHOLDERS
ON DRAFT JUDICIAL CODE OF CONDUCT BILL
HELD AT VOYAGER BEACH RESORT, MOMBASA
6th-10th APRIL, 2016



DAY 2. THURSDAY 7TH APRIL, 2016

ATTENDANCE SHEET

No.	NAME	PJ/NO	SIGNATURE
1.	Mercy M.D. Mwingi	35306	
2.	Samkin Wairigh		
3.	Nestor Kasam	39083	
4.	Prof M. Kobia		
5.	Mi Wansang	39449	
6.	Juma brown gti	28503	
7.	Rosekyne H BURILLI	65238	
8.	Emrek Aumar	33697	
9.	Josell WIG NYGROLO	55039	
10.	Ricthas Mumbao		
11.	ATHMAN A. HUSTON	40416	
12.	SANGO MAEMA	41381	

176



JUDICIARY TRAINING INSTITUTE
 MEETING AMONG THE JUDICIAL SERVICE COMMISSION,
 CODE OF CONDUCT COMMITTEE AND SELECTED INTERNAL STAKEHOLDERS
 ON DRAFT JUDICIAL CODE OF CONDUCT BILL
 HELD AT VOYAGER BEACH RESORT, MOMBASA
 6th-10th APRIL, 2016

ATTENDANCE SHEET

DAY 2. THURSDAY 7TH APRIL, 2016

No.	NAME	PJ NO	SIGNATURE
1.	Frederic Mwangi	21705	<i>[Signature]</i>
2.	John L. Tamar	20775	<i>[Signature]</i>
3.	Joseph L. Dnyano	65220	<i>[Signature]</i>
4.	Joel Nguni		<i>[Signature]</i>
5.			
6.			
7.			
8.			
9.			
10.			
11.			
12.			

(177)

NAIROBI PUBLIC PARTICIPATION FORUM

HELD AT THE JUDICIARY TRAINING INSTITUTE ON 6TH JUNE, 2016

The Director Prof. Odek welcomed the participants to the meeting. He asked them to feel at home and wished them fruitful discussions. He asked the committee to develop clear action plans for validation and sensitization on the code of conduct so that he could include this in the work plan for the next financial year.

The Chair of the committee, Hon. Justice Erastus Githinji welcomed the participants to the meeting and gave the background. He said the need to have a judicial code of conduct for the judiciary was captured in the Court of Appeal Organisation & Administration Act, High Court Organisation & Administration Act, The Magistrates Court Act and the Judicial Service Act.

Judge informed the participants that the code of conduct team had visited several areas to collect views with the aim of improving the draft judicial code of conduct and that the Nairobi meeting was the last such public forum.

Judge Githinji explained that there were different codes for Judges, Judicial Officers and Judicial Staff. The Code of conduct for Judges was in accordance with Article 168 .Article 172 required the JSC to make a code for the Judicial Officers and Staff.

Judge clarified that the contents of the codes for judges and judicial officers was similar and had been heavily borrowed from the Bangalore principles. The code also includes a section on sexual harassment. The principles in the code of conduct for judicial staff include conflict of interest, confidentiality, and unjust enrichment. As regards the enforcement of the code, Justice Githinji informed the participants that are no provisions had been made.

Judge Koome explained to the participants that the committee had initially provided for an elaborate peer review mechanism which was removed after consultations with the JSC who were of the view that the commission had the sole mandate of disciplining judges, judicial officers and judicial staff

Reactions from the participants were as follows:

	REACTIONS	COMMENTS from COMMITTEE
Jill Cortrell- Ghai of Katiba Institute	<ul style="list-style-type: none">• Code of practice is developed by the judiciary for the judiciary and is not supposed to be approved by another arm of government• The code should not allow for unambiguous and permissive criteria for removal of judges and judicial officers to preserve the independence of the judiciary	

179

<p>Committee to consider</p>	<p>relating to the law, the legal system, the administration of justice or related matters;</p> <p>(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 judge; or</p> <p>(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.</p> <p>Should this be provided for judicial staff?</p> <ul style="list-style-type: none"> • Whether provision on freedom of expression applies to judicial staff as it applies to judicial officers and judges <p>(1) Page 3 A judge shall not be improperly influenced by—</p> <p>(a) the race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, political association, culture, dress, language or place of birth of a victim of crime, witness, accused person, plaintiff or defendant;</p>	<p>Dominic Nyambane-Performance Directorate</p>
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can be

- Page 7

(3) Subject to the provisions of any other law, a judge may—

- (e) write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
- (f) 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;
- (g) 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 judge; or
- (h) 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.

Can this be construed to be gainful employment under Article 77

- Section 52 of the integrity & leadership Act makes the provisions on Page 24 under

180

181

Justice Koome indicated that there will be sensitization of members of the public on the contents of the code of conduct. Judge Githinji thanked the participants for attending and for their useful contributions. He urged the participants to send their written comments. The meeting ended at 5:30p.m