**MATTERS ARISING IN ISSUES OF CODE OF CONDUCT AND JUDICIAL ETHICS FOR JUDGES OF THE LOWER COURTS**

**A Paper Presented By**

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1. INTRODUCTION

I will begin this paper by expressing my gratitude to the Honourable Chief Judge of the High Court of the Federal Capital Territory, Hon Justice Husseini Baba Yusuf for granting me permission to be here today to deliver this paper. May I also register my profound gratitude to the Hon. Administrator of the National Judicial Institute (NJI), Hon. Justice Salisu Garba Abdullahi and the Management Team for affording me the opportunity to share my thoughts on this topic with this auspicious gathering of Judges of the lower Courts. I consider it a privilege to make this presentation to such a distinguished set of participants.

The Judiciary plays a vital role in upholding the rule of law and ensuring justice. Being saddled with this onerous responsibility is predicated on the fact that adjudicators must be people of integrity. This means that the integrity of the judiciary depends on the ethical conduct of judges. Hence the need to constantly discuss and remind ourselves of the standards expected as provided in the Code of Conduct for judicial Officers. This was encapsulated brilliantly by Judge Thomas in the following terms:

*No one doubts that judges are expected to behave according to certain standards both in and out of court. Are these mere expectations of voluntary decency to be exercised on a personal level, or are they expectations that a certain standard of conduct needs to be observed by a particular professional group in the interests of itself and the community?*

*As this is a fundamental question, it is necessary to make some elementary observations. We form a particular group in the community. We comprise a select part of an honourable profession. We are entrusted, day after day, with the exercise of considerable power. Its exercise has dramatic effects upon the lives and fortunes of those who come before us. Citizens cannot be sure that they or their fortunes will not someday depend upon our judgment. They will 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.[[1]](#footnote-1)*

1. CODE OF CONDUCT FOR JUDGES

A Code of Conduct is a set of guidelines and principles that outline the expected behaviour and ethical standards within an organization. It serves as a framework for employees to understand how they should conduct themselves in line with what their organisation represents. In turn, it helps to create a positive work environment, promotes trust and respect among employees whilst maintaining the organisation’s reputation. In addition, it provides a structure for resolving ethical conflicts and maintaining a level of professionalism in all interactions.[[2]](#footnote-2)

As it relates specifically to adjudicators in Nigeria, the National Judicial Council has provided a Code of Conduct for Judicial Officers to serve as a minimum standard of conduct to be observed by each and every one of them; this Code is designed to ensure and preserve transparently, the integrity and respect for the independence of the Judiciary. The duties of a Judicial Officer prescribed by law, takes precedence over all his other activities.[[3]](#footnote-3)

**CODE OF CONDUCT FOR JUDICIAL OFFICERS**

In order to ensure this high degree of moral value a Code of Conduct for Judicial Officers of the Federal Republic of Nigeria has been put in place in 1998 and revised in February, 2016.

The Code contained 15 Rules and a preamble which constitutes integral part of the code and its provisions shall be as enforceable as the provisions of the specific rules in the code. The code as adopted came into force on the 24th February, 2016 which serves as the minimum standard of conduct to be observed by each and every judicial officer as defined under the code.

The definition of judicial officer under the code, means “a holder of the office of the Chief justice; a Justice of the Supreme Court; the President or the Justice of the Court of Appeal; the Chief Judge or Judge of the Federal High Court; the President or Judge of the National Industrial Court; the Chief Judge or Judge of the High Court of a state and of the Federal Capital Territory, Abuja; the Grand Khadi or Khadi of the Sharia Court of Appeal of a State and the Federal Capital Territory, Abuja and every holder of similar office in any office and tribunal where the duties involve adjudication of any dispute or disagreement between persons and persons (Natural or legal) or person and government at Federal, State and Local Government levels including the agent and privies of any such person.”

According to the Code, it applies to the categories of judicial officers throughout the Federation as defined in the code. And any violation of any of the rules contained therein shall constitute judicial misconduct and/or, misbehavior and shall attract disciplinary action.

The Nigerian Constitution also provides a foundation for judicial conduct particularly in Sections 36 and 158[[4]](#footnote-4) that unequivocally provides for the right to a fair trial and emphasizes the independence of the judiciary. In other words, the gravity of these provisions necessitate ethical standard of impartiality from judges as they maintain public trust.

Furthermore, Nigeria is also bound by best international practices which are enunciated in the Bangalore Principles of Judicial Conduct.[[5]](#footnote-5) It is contained in Article 19 of the Universal Declaration of Human Rights which was proclaimed by the United Nations General Assembly on 10 December 1948, that:

*Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.[[6]](#footnote-6)*

Therefore, a competent, independent and impartial judiciary is essential if the courts are to fulfill their role of protecting human rights which lies on the fact that the implementation of all the other rights ultimately depends upon the proper administration of Justice.[[7]](#footnote-7)

1. MATTERS ARISING IN ISSUES OF CODE OF CONDUCT AND JUDICIAL ETHICS FOR JUDGES OF THE LOWER COURTS

In view of the brief introduction above, one question that must be asked is;

Who then is a lower Court Judge?

A lower Court Judge is a Judge serving in Courts such as Magistrate Courts, Customary Courts, Area courts or District courts. These Judges handle a range of cases, including minor criminal offences, civil disputes, and family matters but with limited judicial powers. They can only get involved in specific cases within their area of jurisdiction.

The role of judicial officers is to serve the community in the pivotal role of administering justice according to law. Judicial officers- including judges, magistrates and other officials with powers to facilitate and decide legal disputes- have the authority to protect human rights, make wrongs right, and resolve intractable conflicts. Once judicial officers have assumed their role, conduct and track record matter; more generally, judicial officers must abide by relevant standards of professional conduct, judicial ethics and act with independence, impartiality and integrity.

It is clear that judges of the lower court are judges in their right and of course, it is no secret that they face their unique challenges in adjudication. Nonetheless, they must uphold the Code of Conduct for judicial officers which is crucial for maintaining public trust in the system and ensuring justice.

Consequently, Judges of the lower courts must be seen to uphold the key principles of respect for the law, litigants and avoidance of conflict of interest, as well as maintenance of confidentiality as enumerated in the Code. There is no doubt that there are challenges such as poor remuneration, full dockets and external pressures such as executive interferences and media scrutiny which can threaten judicial independence. The ability of a judge to navigate these challenges while putting in the best in the adjudicatory role he performs is no mean feat.

* 1. MATTERS ARISING – IMPROPRIETY AND APPEARANCE OF IMPROPRIETY

A Judicial Officer should respect and comply with the laws of the land whilst conducting himself at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary. A judge shall devote his time 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, which is, maintaining professional competence in judicial administration.[[8]](#footnote-8)

Judges of the lower courts must ensure that they do not exceed their powers by assuming jurisdiction over matters for which they have none or where the extent of their powers have been clearly delineated.. Judges must be circumspect when approached for ex-parte orders such as detention orders, banker’s orders, freezing orders and the likes. Judicial officers are expected to be above board always.

In addition, a judicial officer must avoid improper or questionable social relationships that give an appearance of impropriety, or brings disrepute to the Judiciary. Notable things to avoid include; minimizing social gatherings in order to avoid meeting with litigants or potential litigants, maintaining a low profile, no drinking in pubs nor excessive drinking, avoid night clubs, gambling, inappropriate relationships such as extra marital affairs, minimise going to the market personally; rather delegate and must observe all due diligence while taking loans or investing in businesses or money cycles. In addition, a judicial officer must not be a member of any society or organisation that practices or represents discrimination on the basis of race, sex, religion or ethnic origin or whose aims and objectives are incompatible with the functions or dignity of his office.[[9]](#footnote-9)

* 1. MATTERS ARISING- INDEPENDENCE, CONFLICT OF INTEREST, BIAS AND IMPARTIALITY.

A Judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence. In other words, public acceptance of and support of court decisions depends upon public confidence in the integrity and independence of the judge. This in turn depends upon the judge upholding a high standard of conduct in court as one element of assuring the independence of the judiciary.[[10]](#footnote-10)

This encapsulates observance and guarantee of a fair trial with no iota of impartiality. In other words, a judicial officer shall be true and faithful to the Constitution and the law.

Similarly, a Judge must give right of fair hearing to every person legally interested in a proceeding or his legal representative, and except as authorized by law he must not encourage or undertake communications in a pending or impending proceedings with one party in the absence of the other.

Impartiality is essential to the proper discharge of the judicial office, as it applies beyond the decisions of the court but also to the process by which decisions are reached. Impartiality lies at the bedrock of the quality of a judge and the core attribute of the judiciary. It must exist both as a matter of fact and as a matter of reasonable perception. This is because, once impartiality is reasonably perceived, that perception is likely to leave a sense of grievance and injustice; which destroys confidence in the judicial system. After all, it is said that the perception of impartiality is measured by the standard of a reasonable observer. This may arise in the observance of a judge’s behaviour in the sense of a conflict of interest, court room decorum and mannerisms and his extra judicial associations and activities.[[11]](#footnote-11)

A judge is also enjoined to maintain professional secrecy and avoid discussing any confidential information which he may acquire in the course of his duties with anybody including his family.

Impartiality is a cardinal requirement; thus, a Judge must show clearly that in respect to or in connection with proceedings in his Court, he shall remain impartial. He is required to evaluate facts as presented to him by the parties in a balance manner without any predilection. He must hold the balance of the scale of justice evenly it is as a result of this fundamental requirement of impartiality that it is often said justice must not be only done but must manifestly and undoubtedly be seen to be done. See **The Administrators & Executors of the Estate of Abacha Vs. Eke-Spiff & Ors (2009) LPELR-3152 (SC).**

A conflict of interest occurs when an individual’s personal interest or bias - family, friendships, financial or social factors- could compromise his or her judgment, decisions or actions in a workplace.[[12]](#footnote-12) A judicial officer must avoid all activity that suggests that his decisions are tainted by self-interest, bias or favoritism, since such abuse of power can lead to miscarriage of justice. In tandem with this, a judicial officer has a duty to refrain from making comments about a pending or impending proceeding in any court in Nigeria. Secrecy in regard to deliberations and confidential information acquired in the course of his duties must be upheld at all times. Despite the freedom of expression, the judge must also refrain from public discussions, comments, occasions and circumstances where in exercising his freedom of expression, he may say things that might undermine confidence in the impartiality and independence of his office and the judiciary; especially political comments. Hence a judicial officer is strongly advised to maintain political silence.[[13]](#footnote-13)

* 1. MATTERS ARISING - CORRUPTION AND BRIBERY

A Judge must be *Dominus Litus* all the time. To be in total control of his court, require that a Judge is above board. By Rule 10.1 (iii) provides that; “A judge shall not give or take and shall not encourage or condone the giving or taking of any benefit advantage, bribe, however disguised for anything done or to be done in the discharge of a judicial duty.”

In addition, a judicial officer must strive to maintain financial integrity, judicial morality and transparency at all times.[[14]](#footnote-14) By all means, it should be unheard of that a judicial officer is connected to extortion, bribery, embezzlement and corruption.

A judge in performing his judicial duties must maintain order and decorum, he must be patient and courteous to all those who appear before him as parties, counsel and witnesses. He must possess self-control and must never lose his temper or be angry. Do not ever be seen as descending into the arena of conflict. Always keep in mind that you ought to be the impartial arbiter. Avoid interjecting too often in the course of proceedings.

In addition, Judges should be patient, dignified and courteous to accused persons and litigants, assessors, witnesses, legal practitioners and all others with whom they have to deal with in their official capacity. Similar conduct is demanded of legal practitioners, the court staff and others under the judge’s direction and control.[[15]](#footnote-15) Judges should understand that the roles of the Bench and Bar are complementary, there should be harmonious and smooth interaction with the Bar and Bench for easy dispensation of justice.

3.4 MATTERS ARISING – EXTERNAL PRESSURES

External pressures include executive interference, legislative influence and the media pressure. A judicial officer must stand tall at all times with integrity as his watch word in order to not fall into the pitfalls of external pressures. The consequences of such are far reaching to say the least which ordinarily include the erosion of judicial independence, the taint of impartiality on the judiciary and loss of public confidence in the system.

Justice Oputa, J.S.C. of blessed memory, in the case of **Fawehinmi Vs. Akilu (2002) 7 NWLR (Pt. 769) 527** stated thus:

“Judges must be fearless and independent in the discharge of their duties. They must be prepared to stand up to the executive and legislative branches of government, even in the face of threats and intimidation. The Judiciary is the last line of defense against tyranny and oppression. Judges must be prepared to protect the constitution with all that they’ve got.”

1. THE IMPACT OF ETHICAL BREACHES

It is not new that the judiciary has in recent times faced significant flow of public bashing due to allegations of corruption or bias. When judges are perceived to be corrupt or bias, it grossly undermines the legitimacy of judicial decisions and pronouncements. This invariably erodes public confidence in the judiciary.[[16]](#footnote-16)

Non-compliance with the Code of Conduct can lead to miscarriage of justice with grave consequences for both the individuals and the society at large. It is not wrong to say that the integrity of the legal outcomes of various matters across board, hinges on the ethical behaviour of the judges. In fact, the Code of Conduct provides that any violation of any of the Rules contained therein, shall constitute judicial misconduct and or, misbehaviour and shall attract disciplinary action. In time past, we have witnessed dismissal from office, warnings and the likes of judicial officers for misconduct. Therefore, the integrity of the legal outcomes of various matters across board, hinges on the ethical behaviour of the judges.[[17]](#footnote-17)

The Judicial Service Commission typically plays a crucial role in overseeing the conduct and discipline of judges of the lower courts. They investigate complaints against them and where they find that there are violations or misconduct, the JSC may recommend disciplinary measures. By handling complaints and disciplinary matters, the JSC promotes transparency and accountability within the judiciary, fostering public confidence in the judiciary. The Commission serves as a guardian of judicial integrity.

1. RECOMMENDATIONS
   1. Enhance Judicial Education and Training

The National Judicial Institute (NJI) and other judicial platforms should keep up the good work of providing regular training on ethics, integrity and accountability. Implementing such comprehensive training programs focused on judicial ethics can go a long way in equipping judges with the necessary skills and knowledge to navigate ethical dilemmas effectively. The introduction of modern case management technologies can aid to streamline processes and reduce backlogs. The case load of Judges of the lower courts is very heavy and these case management systems may help to properly manage same.

* 1. Enhance Judicial Accountability- establish robust mechanisms for investigating and addressing misconduct. This will help to maintain sanity, judicial morality, independence and uphold public confidence in the judiciary. The Judges should also be protected by same mechanism against incessant complaints and petition writers where they are simply performing their judicial functions without fear or favour.
  2. Increased Funding, Welfare and Security enhancements- The government should endeavour as a matter of necessity to provide improved welfare and infrastructure and ensuring adequate resource allocation. This will go a long way in providing a better working environment for the Judges of the lower Courts, operational capacity and increased turnover. It is further recommended that the welfare package of Judges of the lower courts and security be further enhanced in light of the nature of the job and insecurity prevalent in the Country.

1. CONCLUSION

Judicial Officers and indeed the other Arms of Government must work together to strengthen judicial integrity. The onus is on everyone to play their own role diligently. Beyond that, judges of the lower courts must maintain judicial morality, establish and enforce same in order to preserve the integrity and respect for the independence of the Judiciary while upholding the law at all times.

Let me leave you with the quote attributed to Pubililius Syrius.

He said; “the greater a man is in power above others, the more he ought to excel them in virtue. None ought to govern who is not better than the governed”.

There is the need for Judges to be driven by the fear of God and personal integrity in the discharge of their judicial functions and the administration of justice. Judges should strive at all times to maintain a level of erudition and knowledge of the law.

I must apologize at this juncture if there are salient areas that the paper has not addressed. I am hopeful that in the course of interaction during the interactive session, we can address any such areas.

Thank you for your attention.

1. J. B. Thomas, Judicial Ethics in Australia, Sydney, Law Book Company (1988) 7 [↑](#footnote-ref-1)
2. Humaans, *Code of Conduct* <<https://humaans.io/hr-glossary/code-of-conduct>> accessed 11 October 2024 [↑](#footnote-ref-2)
3. National Judicial Council, *Code of Conduct*, (2018) < <https://njc.gov.ng/code-of-conduct> > accessed 10 October 2024 [↑](#footnote-ref-3)
4. Constitution of the Federal Republic of Nigeria, 1999 (as amended) [↑](#footnote-ref-4)
5. United Nations Office on Drugs and Crime, *Commentary on the Bangalore Principles of Judicial Conduct,* UNODC (2007) < <https://www.unodc.org.pdf> > accessed 10 October 2024 [↑](#footnote-ref-5)
6. United Nations Office on Drugs and Crime (n 5) [↑](#footnote-ref-6)
7. ibid [↑](#footnote-ref-7)
8. United Nations Office on Drugs and Crime (n 5) [↑](#footnote-ref-8)
9. National Judicial Council (n 3) [↑](#footnote-ref-9)
10. United Nations Office on Drugs and Crime (n 5) [↑](#footnote-ref-10)
11. United Nations Office on Drugs and Crime (n 5) [↑](#footnote-ref-11)
12. University of Central Florida, *Understanding Conflict of Interest-*University Compliance and Ethics <<https://compliance.ucf.edu/understanding-conflict-of-interest/>> accessed 15 October 2024 [↑](#footnote-ref-12)
13. National Judicial Council (n 3) [↑](#footnote-ref-13)
14. ibid [↑](#footnote-ref-14)
15. UNODC, *Federal Republic of Nigeria Code of Coduct for Judicial Officers,* UNODC [https://www.unodc.org/conig/uploads/documents/publications/Otherpublications/Nigeria\_Code\_of\_Conduct\_-for\_Judges\_Poster1.pdf](https://www.unodc.org/conig/uploads/documents/publications/Otherpublications/Nigeria_Code_of_Conduct_-for_Judges_Poster1.pdf%20)  > accessed 15 October 2024 [↑](#footnote-ref-15)
16. United Nations Office on Drugs and Crime (n 5) [↑](#footnote-ref-16)
17. National Judicial Council (n 3) [↑](#footnote-ref-17)