

[JUDICIAL ETHICS]

BENCHBOOK FOR TRIAL COURT JUDGES

I. THE ROLE OF THE JUDGE

In administering justice, the judiciary decides controversies between the party litigants. At the same time, it also contributes to the establishment of the Rule of Law without which there will be chaos in the community. What is more significant, however, is that the judiciary achieves such goal by relying on the moral force generated by the quality of its work in administering justice. It has been pointed out that:

Among the three powers of government, the judiciary is in the material sense the weakest. Although its function in society is as noble and important as the ones entrusted to the legislative and executive powers, and there is none loftier that our mind may conceive or to which the most ambitious heart may aspire, it needs the active and positive help of other agencies to make it effective. Congress must provide for the adequate budget, and the executive power the necessary force to make effective the orders and decisions of tribunals.

To compensate for that comparative physical weakness of the judicial power, it is necessary that judges and courts should acquire the unbounded moral force which springs from the general faith and confidence of government and people alike. That moral force, although intangible, immeasurable and imponderable, is as effective as any cosmic force, if not more. We hold as an axiom that spiritual energy is stronger than atomic energy, the mighty basic force of material universe. But to obtain and retain public faith and confidence, it is necessary that courts and judges should show by their acts that they are actually entitled to such faith and confidence. Recalcitrant insubordination and indiscipline are not the means. On the contrary, they will only provoke public suspicion and distrust, if not popular wrath and condemnation.^[1]

To gain and maintain such confidence of the people, the Judiciary must, in the words of the Code of Judicial Conduct, be 'honorable, competent and independent.'

These are the same qualities that every judge must possess. Section 7 (3), Article VIII of the Constitution ordains that 'a member of the judiciary must be a person of proven competence, integrity, probity, and independence.'^[2] The Code of Judicial Conduct adds that 'a judge should be the embodiment of competence, integrity and independence.'^[3] It is the judge who gives flesh and bone to the judiciary. Although the court over which he presides may be a humble one, it is part of the legal system of the land. As pointed out above, it is necessary that courts and judges should show by their acts that the judiciary is entitled to the faith and confidence of the people.

II. ETHICAL RULES OF JUDICIAL CONDUCT

1. Necessity and Sources of Judicial Ethics

The quality and character of judges are matters of public interest. That is why the process for their selection and appointment has been insulated as far as possible from politics. The Constitution now provides for a Judicial and Bar Council whose main function is to recommend appointees to the judiciary. The President's choice in the appointment of judges is limited to the list of at least three (3) nominees prepared by the Judicial and Bar Council for every vacancy.^[4] Confirmation by the Commission on Appointments is no longer required.

The maintenance of the quality of the judiciary is also the reason for ethical rules developed throughout the years to guide and govern the conduct of judges. Although such rules have largely been codified in the Code of Judicial Conduct, the Constitution, statutes, the Rules of Court, Canons of Judicial Ethics, and decisions of the Supreme Court are still rich sources of refinements and precedents.

Thus, aside from the aforementioned provision of Section 7, Article VIII of the Constitution mandating that a member of the judiciary must be a person of proven competence, integrity, probity and independence, there is also Section 1, Article XI of the same Constitution which declares that:

Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, loyalty and efficiency, act with patriotism and justice, and lead modest lives.

In line with this principle, Congress has enacted Republic Act No. 6713,^[5] otherwise known as the "Code of Conduct and Ethical Standards for Public Officers and Employees," which is also applicable to judges.

2. Ethical Rules Relating to Competence

A judge should be competent. Rule 3.01 of the Code of Judicial Conduct requires that the judge should maintain "professional competence."

2.1 Proficiency in the Law

Competence means, first of all, that the judge should be proficient in the law. Time and again, the Supreme Court has pointed out that a judge should have more than a cursory acquaintance with the law and rules of procedure.^[6] He owes it to the public and to the legal profession to know the law he is supposed to apply to a given controversy.^[7]

This requires a continuous study of law and jurisprudence on his part.^[8]

We, likewise, reiterate the pressing responsibility of judges to keep abreast with the law and changes therein, as well as with latest decisions of the Supreme Court. Ignorance of the law, which everyone is bound to

know, excuses no one - not even judges. *Ignorantia juris quod quisque scire tenetur non excusat*. Moreover, the role of justices and judges in the administration of justice requires a continuous study of the law and jurisprudence lest public confidence in the judiciary would be eroded by the incompetent and irresponsible conduct of judges. A judge in accordance with sworn duties should be faithful to the law and maintain professional competence in it.^[9]

Even if a judge is already nearing the compulsory retirement age, he is still called upon to study.

Even in the remaining years of his stay in the judiciary, he should keep abreast with the changes in the law and with the latest decision and precedents. Although a judge is nearing retirement, he should not relax in his study of the law and court decisions. Service in the judiciary means a continuous study and research on the law from beginning to end.^[10]

2.2 Faithfulness to the Law

A judge should not only know the law, but he must be faithful to it. He should apply the law in spite of his personal opinion about its merit. The Supreme Court has aptly explained, thus:

Obedience to the rule of law forms the bedrock of our system of justice. If judges, under the guise of religious or political beliefs were allowed to roam unrestricted beyond boundaries within which they are required by law to exercise the duties of their office, then law becomes meaningless. A government of laws, not of men, excludes the exercise of broad discretionary powers by those acting under its authority. Under this system, judges are guided by the Rule of Law, and ought to protect and enforce it without fear or favor, resist encroachments by governments, political parties, or even the interference of their own personal beliefs.^[11]

Earlier, the Supreme Court explained that:

"xxx For the discretion which the respondent judge speaks of in his order is not an unfettered one, though this may sound paradoxical. The judge, writes Cardozo, even when he is free, is still not wholly free. He is not a knight-errant roaming at will in pursuit of his own ideal of beauty or of goodness. He is to draw his inspiration from consecrated principles. He is not to yield to spasmodic sentiment, to vague and unregulated benevolence. He is to exercise a discretion informed by tradition, methodized by analogy, disciplined by system, and subordinated by the primordial necessity of order in social life. Wide enough in all conscience is the field to discretion that remain.' And we might add that the kind of

justice which courts are called upon to dispense is justice according to the precepts of law.^[12]

However, the Supreme Court has also decided that where a provision of law is silent or ambiguous, judges ought to invoke a solution 'responsive to the vehement urge of conscience.'^[13]

Moreover, it is the duty of a judge to apply the law as interpreted by the Supreme Court^[14] and not in accordance with his personal views.^[15] If he does not agree with the Supreme Court's doctrine, he may express his view on the matter; nevertheless, he should follow and apply the said doctrine.

2.3 Ascertainment of Facts

A judge should not only be faithful to the law, but he should also be proficient in the ascertainment of facts.^[16] He should firmly enforce the Rules of Court in the conduct of the trial. He should basically observe due process of law which requires that he should hear both sides and give them the opportunity to present their evidence.^[17] His findings of fact must be based on the evidence presented and admitted, and not on his personal knowledge. Moreover, '[w]hile a judge may, to promote justice, prevent waste of time or clear up some obscurity, properly intervene in the presentation of evidence during the trial, it should always be borne in mind that undue interference may prevent the proper presentation of the cause or the ascertainment of the truth.'^[18]

However, a judge may validly render a decision although he did not, or has only partly heard, the testimony of the witnesses, such as when he has taken over a case from a previous judge.^[19]

2.4 Order and Decorum

Competence also means that the judge should maintain order and decorum in the court.^[20] Proceedings in court must be conducted formally and solemnly, and the judge himself should set the example and the tone.

The judge must always keep in mind that he is the visible representative of the law. From him, the people draw their will and awareness to obey the law.^[21]

Towards this end, a judge should be punctual in holding hearings and strictly observe the requirement of at least eight hours of service a day, of which five hours should be devoted to trial.^[22]

A judge should be dressed appropriately and use proper language. It has been held that it is improper for a judge to hear a case in sleeveless polo shirt and slippers^[23] or attired only in 'polo jacket.'^[24]

A judge should not allow himself to be moved by pride, passion or pettiness in the performance of his duties.^[25] A judge should be patient, attentive, and courteous to

lawyers, especially the inexperienced, to litigants, witnesses, and others appearing before the court.^[26] An over-speaking judge is no well-tuned cymbal.^[27] 'A judge, mindful of his high calling and his mission, should refrain from the use of inflammatory and excessive rhetoric.'^[28]

The judge should not tolerate unnecessary taking of pictures of the court proceedings. Live radio and television coverage of court proceedings has been prohibited by the Supreme Court to protect the parties' right to due process, prevent distraction of the participants to the proceedings, and to avoid miscarriage of justice.^[29]

2.5 Speedy Disposition of Cases

Competence also means that the judge should dispose of the court's business promptly and decide cases within the required periods.^[30] It is not enough that judges pen their decisions; it is also important to promulgate and make them known at the earliest possible time and within the mandated period.^[31] Sec. 15 (1), Art. VIII of the Constitution provides that "all cases or matters filed after the effectivity of this Constitution must be decided or resolved within twenty four months from date of submission for the Supreme Court, and, unless reduced by the Supreme Court, twelve months for all lower collegiate courts, and three months for all other lower courts." The Constitution even goes to the extent of clarifying that a case or matter shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief or memorandum required by the Rules of Court or by the court itself.^[32]

The duty to decide cases promptly is due to the time-honored precept that justice delayed is justice denied.^[33] Relative to this, a judge should make a periodic physical inventory of the cases assigned to him to enable him to keep track of their status.^[34]

2.6 Contents of a Decision

The Constitution requires the judge to state clearly and distinctly the facts and the law on which he bases his judgment.^[35] A competent judge should find no difficulty with this requirement. This will show that he has not disregarded any evidence and argument of counsel. This will also "show his full understanding of the case, avoid suspicion of arbitrary conclusion, promote confidence in his intellectual integrity and contribute useful precedent to the growth of law."^[36]

2.7 Performance of Administrative Duties

Finally, competence means that the judge should be a good manager. He 'should diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of other judges and court personnel.'^[37] He should 'organise and supervise the court personnel to ensure prompt and efficient dispatch of service and require at all times the observance of high standards of public service and fidelity.'^[38] He should 'take or initiate appropriate disciplinary measures against