

ANNEXURE-I

Restatement of Values of Judicial Life (Code of Conduct) Adopted in the Chief Justices' Conference in December, 1999

The Conference of Chief Justices of all High Courts was held on 3rd and 4th December, 1999 in the Supreme Court premises. During the said Conference, the Chief Justices unanimously resolved to adopt the "Restatement of Values of Judicial Life" (Code of Conduct).

WHEREAS by a Resolution passed in the Chief Justices Conference held at New Delhi on September 18-19, 1992, it was resolved that it is desirable to restate the pre-existing and universally accepted norms, guidelines and conventions reflecting the high values; of judicial life to be followed by Judges during their tenure of office;

AND WHEREAS the Chief Justice of India was further requested by that Resolution to constitute a Committee for preping the draft restatement to be circulated with their colleagues, which was duly circulated on 21.11.1993;

AND WHEREAS suggestions have been received from the Chief Justices of the High Courts after discussion with their colleagues;

AND WHEREAS a Committee has been reconstituted by the Chief Justice of India on April 7, 1997, to finalize the 'Restatement of Values of Judicial Life' after taking note of the draft Restatement of Values of Judicial Life prepared by a Committee appointed pursuant to the Resolution passed in the Chief Justices' Conference 1992 and placed before the Chief Justices' Conference in 1993;

AND WHEREAS such a committee constituted by the Chief Justice of India has prepared a draft restatement after taking into consideration the views received from various High Courts to the draft which was circulated to them;

NOW THEREFORE, on a consideration of the views of the High Courts on the draft, the restatement of the pre-existing and universally accepted norms, guidelines and conventions called the 'RESTATEMENT OF VALUES OF JUDICIAL LIFE' to serve as a guide to be observed by Judges, essential for an independent, strong and respected judiciary, indispensable in the impartial administration of justice, as redrafted, has been considered in the

Full Court Meeting of the Supreme Court of India on May 7, 1997
and has been ADOPTED for due observance.

Restatement of Values of Judicial Life

- (1) Justice must not merely be done but it must also be seen to be done. The behaviour and conduct of members of the higher judiciary must reaffirm the people's faith in the impartiality of the judiciary. Accordingly, any act of a Judge of the Supreme Court or a High Court, whether in official or personal capacity, which erodes the credibility of this perception has to be avoided.
- (2) A Judge should not contest the election to any office of a Club, society or other association; further he shall not hold such elective office except in a society or association connected with the law.
- (3) Close association with individual members of the Bar, particularly those who practise in the same court, shall be eschewed.
- (4) A Judge should not permit any member of his immediate family, such as spouse, son, daughter, son-in-law or daughter-in-law or any other close relative, if a member of the Bar, to

appear before him or even be associated in any manner with a cause to be dealt with by him.

- (5) No member of his family, who is a member of the Bar, shall be permitted to use the residence in which the Judge actually resides or other facilities for professional work.
- (6) A Judge should practise a degree of aloofness consistent with the dignity of his office.
- (7) A Judge shall not hear and decide a matter in which a member of his family, a close relation or a friend is concerned.
- (8) A Judge shall not enter into public debate or express his views in public on political matters or on matters that are pending or are likely to arise for judicial determination.
- (9) A Judge is expected to let his judgments speak for themselves; he shall not give interview to the media.
- (10) A Judge shall not accept gifts or hospitality except from his family close relations and friends.
- (11) A Judge shall not hear and decide a matter in which a company in which he holds shares is concerned unless he has disclosed his interest and no objection to his hearing and deciding the matter is raised.
- (12) A Judge shall not speculate in shares, stocks or the like.
- (13) A Judge should not engage directly or indirectly in trade or business, either by himself or in association with any other

person. (Publication of a legal treatise or any activity in the nature of a hobby shall not be construed as trade or business).

(14) A Judge should not ask for, accept contributions or otherwise activity associate himself with the raising of any fund for any purpose.

(15) A Judge should not seek any financial benefit in the form of a perquisite or privilege attached to his office unless it is clearly available. Any doubt in this behalf must be got resolved and clarified through the Chief Justice.

(16) Every Judge must at all times be conscious that he is under the public gaze and there should be no actor omission by him which is unbecoming of the high office he occupies and the public esteem in which that office is held.

These are only the “Restatement of the Values of Judicial Life” and are not meant to be exhaustive but illustrative of what is expected of a Judge.

ANNEXURE-II

Code of Conduct: Resolution Adopted by the Supreme Court in Respect of Declaration of Assets

The following two Resolutions have been ADOPTED in the Full Court Meeting of the Supreme Court of India on May 7, 1997:

RESOLVED that an in-house procedure should be devised by the Hon'ble Chief Justice of India to take suitable remedial action against Judges who by their acts of omission or commission do not follow the universally accepted values of judicial life including those indicated in the "Restatement of Values of Judicial Life".

RESOLVED FURTHER THAT every Judge should make a declaration of all his/her assets in the form of real estate or investments (held by him/her in his/her own name or in the name of his/her spouse or any person dependent on him/her) within a reasonable time of assuming office and in the case of sitting Judges within a reasonable time of adoption of this Resolution and thereafter whenever any acquisition of the substantial nature is made, it shall be disclosed within a reasonable time. The declaration so made should be to the Chief Justice of the Court. The Chief Justice should make a similar declaration for the purpose of the record. The declaration made by the Judges or the Chief Justice, as the case may be, shall be confidential.

ANNEXURE-III

Report of the Committee on In-House Procedure for Remedial Action against Judges

This Committee has been constituted with a view to devise an In-House Procedure for taking suitable remedial action against Judges who, by their acts or omission or commission, do not follow universally accepted values of judicial life including those included in the Restatement of Values of Judicial Life.

Complaints are often received containing allegations against a Judge pertaining to the discharge of his judicial functions. Sometimes complaints are received with regard to the conduct and behaviour of the Judge outside the court. The complaints are generally made by a party to the proceedings who feels dissatisfied with the adverse order passed by the Judge or by persons having a personal grudge against the judge. Most of these complaints are found to be false and frivolous. But there may be complaints which cannot be regarded as baseless and may require deeper probe. A complaint casting reflection on the independence and integrity of a Judge is bound to have a prejudicial effect on the image of the higher judiciary of which the Judge is an honoured

member. The adoption of the In-House Procedure would enable a complaint against a Judge being dealt with at the appropriate level within the institution. Such a procedure would serve a dual purpose. In the first place, the allegations against a Judge would be examined by his peers and not by an outside agency and thereby the independence of the judiciary would be maintained. Secondly, the awareness that there exists a machinery for examination of complaints against a Judge would preserve the faith of the people in the independence and impartiality of the judicial process. The Committee has approached the task assigned to it in this perspective.

High Court Judge

A complaint against a Judge of a High Court is received either by the Chief Justice of that High Court or by the Chief Justice of India (CJI) directly. Sometimes such a complaint is made to the President of India.

The complaints that are received by the President of India

The complaints that are received by the President of India are generally forwarded to the CJI. The Committee suggests the adoption of the following procedure for dealing with such complaints:

(1) Where the complaint is received against a Judge of a High Court by the Chief Justice of the High Court, he shall examine it. If it is found by him that it is frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file the complaint and inform the CJI accordingly. If it is found by him that the complaint is of a serious nature involving misconduct or impropriety, he shall ask for the response thereto of the Judge concerned. If on a consideration of the allegations in the complaint in the light of the response of the Judge concerned, the Chief Justice of a High Court is satisfied that no further action is necessary he shall file the complaint and inform the CJI accordingly. If the Chief Justice of the High Court is of the opinion that the allegations contained in the complaint need a deeper probe, he shall forward to the CJI the complaint and the response of the Judge concerned along with his comments.

(2) When the complaint is received by the CJI directly or it is forwarded to him by the President of India the CJI shall examine it. If it is found by him that it is either frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file it. In other cases the complaint shall be sent by the CJI to the Chief Justice of the concerned High court for his comment. On

the receipt of the complaint from the CJI the Chief Justice of the concerned High Court shall ask for the response of the Judge concerned. If on a consideration of the allegations in the complaint in the light of the response of the Judge concerned the Chief Justice of the High Court is satisfied that no further action is necessary or if he is of the opinion that the allegations contained in the complaint need a deeper probe, he shall return the complaint to the CJI along with a statement of the response of the Judge concerned and his comments.

(3) After considering the complaint in the light of the response of the Judge concerned and the comments of the Chief Justice of High Court, the CJI, if he is of the opinion that a deeper probe is required into the allegations contained in the complaint, shall constitute a three-member Committee consisting of two Chief Justice of High Courts other than the High Court to which the Judge belongs and one High Court Judge. The said Committee shall hold an inquiry into the allegations contained in the complaint. The inquiry shall be in the nature of fact finding inquiry wherein the Judge concerned would be entitled to appear and have his say. (But it would not be a formal judicial inquiry involving the examination and cross-examination of witnesses and representation by lawyers).

(4) For conducting the inquiry the Committee shall devise its own procedure consisting with the principles of natural justice.

(5) After such inquiry the Committee may conclude and report to the CJI that (a) there is no substance in the allegations contained in the complaint, or (b) there is sufficient substance in the allegations contained in the complaint and the misconduct disclosed is so serious that it calls for initiation of proceedings for removal of the Judge, or (c) there is substance in the allegations contained in the complaint but the misconduct disclosed is not of such a serious nature as to call for initiation of proceedings for removal of the Judge.

A copy of the Report shall be furnished to the Judge concerned by the Committee.

(6) In a case where the Committee finds that there is no substance in the allegation contained in the complaint, the complaint shall be filled by the CJI.

(7) If the Committee finds that there is substance in the allegations contained in the complaint and the misconduct disclosed in the allegations is such that it calls for initiation of proceedings for removal of the judge, the CJI shall adopt the following course:-

(i) The Judge concerned should be advised to resign his office or seek voluntary retirement.

(ii) In case the Judge expresses his unwillingness to resign or seek voluntary retirement, the Chief Justice of the concerned High Court should be advised by the CJI not to allocate any judicial work to the Judge concerned and the President of India and the Prime Minister shall be intimated that this has been done because allegations against the Judge had been found by the Committee to be so serious as to warrant the initiation of proceedings for removal and the copy of the report of the Committee may be enclosed.

(8) If the Committee finds that there is substance in the allegations but the misconduct disclosed is not serious as to call for initiation of proceedings for removal of the Judge, the CJI shall call the Judge concerned and advise him accordingly and may also direct that the report of the Committee be placed on record.

Chief Justice of the High Court

A complaint against the Chief Justice of a High Court is normally received either by the CJI or by the President of India who forwards it to the CJI. On receipt of such a complaint the CJI shall examine it and if it is found by him that it is either frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file the complaint without any further action.

In case it is found by the CJI that the complaint is of a serious nature involving misconduct or impropriety, he shall ask for the response of the Chief Justice concerned about the allegations contained in the complaint. If, on a consideration of the allegations in the light of the response of the Chief Justice concerned, the CJI is satisfied that no further action is necessary he shall file the complaint. If, however, he is of the opinion that the allegations contained in the complaint need a deeper probe, he shall constitute a three member Committee consisting of a Judge of the Supreme Court and two Chief Justices of other High Courts. The Committee shall hold an inquiry on the same pattern as the committee constituted to examine a complaint against a Judge of the High Court and further action in the light of the findings of the Committee shall be taken by the CJI on the same lines.

Judge of Supreme Court

If a complaint is received against a Judge of the Supreme Court by the CJI or if such a complaint is forwarded to him by President of India, the CJI shall first examine it and if it is found by him that it is either frivolous or directly related to the merits of a substantive decision in a judicial matter or does not involve any serious complaint of misconduct or impropriety, he shall file the complaint without any further action. In case it is found by him that the

complaint is of a serious nature involving misconduct or impropriety, he shall ask for the response thereto of the Judge concerned. If, on a consideration of the allegations in the light of the response of the Judge concerned, the CJI is satisfied that no further action is necessary he shall file the complaint. If, however, he is of the opinion that the matter needs a deeper probe, he would constitute a Committee consisting of three Judges of the Supreme Court. The said Committee shall hold an enquiry on the same pattern as the committee constituted to examine a complaint against a Judge of a High Court and further action on the same lines in the light of the findings of the Committee shall be taken by the CJI.

The Committee feels that In-House Procedure suggested herein will allay the misgivings in certain quarters that the members of the higher judiciary are not accountable for their conduct. At the same time, it will also serve as a safeguard for the members of the higher judiciary from being maligned or being subjected to vilification by false and frivolous complaints. The Committee earnestly hopes that the occasions for invoking the In-House Procedure will seldom arise.

Committee Report submitted on 31.10.1997.

ANNEXURE - IV

The Bangalore Draft Principles

The values of judicial ethics which the Bangalore Principles crystallises are: (i) independence; (ii) impartiality; (iii) integrity; (iv) propriety; (v) equality; and (vi) competence and diligence.

The above values have been further developed in the Bangalore Principles as under:

- Judicial *independence* is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.
- *Impartiality* is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also the process by which the decision is made.
- *Integrity* is essential to the proper discharge of the judicial office.
- *Propriety*, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

- Ensuring *equality* of treatment to all before the courts is essential to the performance of all the activities of a judge.
- *Competence and diligence* are prerequisites to the due performance of judicial office.
- *Implementation* – By reason of the nature of judicial office, effective measures shall be adopted by national judiciaries to provide mechanisms to implement these principles if such mechanisms are not already in existence in their jurisdictions.

The Preamble to the Bangalore Principles of Judicial Conduct states *inter alia* that the principles are intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges 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 are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge. There are a few interesting facts relating to the Bangalore Principles. The first meeting to prepare the Draft Principles was held in Vienna in April

2000 on the invitation of the United Nations Centre for International Crime Prevention, and in conjunction with several other institutions concerned with justice administration. In preparing the draft Code of Judicial Conduct, the core considerations which recur in such codes were kept in view. Several existing codes and international instruments more than three in number including the Restatement of Values of Judicial Life adopted by the Indian judiciary in 1999 were taken into consideration. At the second meeting held in Bangalore in February 2001, the draft was given a shape developed by judges drawn principally from Common Law countries. It was thought essential that it will be scrutinized by judges of all other legal traditions to enable it to assume the status of a duly authenticated international code of judicial conduct. The Bangalore Draft was widely disseminated amongst judges of both common law and civil law systems and discussed at several judicial conferences. The draft underwent a few revisions and was finally approved by a Round-Table Meeting of Chief Justices (or their representatives) from several law system, held in Peace Palace in The Hague, Netherlands, in November 2002. 'Accountability' as one of the principles which was included in the original draft was dropped in the final draft. It is apparently for two reasons. Firstly, it was thought that the principles enshrined in the Bangalore Principles

presuppose the 'accountability' on the part of the judges and are inherent in those principles. Secondly, the mechanism and methodology of 'accountability' may differ from country to country and therefore left to be taken care of individually by the participating jurisdictions.

ANNEXURE - V

The Oath of Affirmation by Judge

The Constitution of India obligates the Indian judiciary to reach the goal of securing to all its citizens-Justice, Liberty, Equality and Fraternity. How this goal is to be achieved is beautifully summed up in the form of oath or affirmation to be made by the Judges of the Supreme Court and High Courts while entering upon the office.

Swearing in the name of God or making a solemn affirmation a judge ordains himself:-

- (i) that I will bear true faith and allegiance to the Constitution of India as by law established;
- (ii) that I will uphold the sovereignty and integrity of India;
- (iii) that I will truly and faithfully and to the best of my ability, knowledge and judgment perform the duties of office without fear or favour, affection or ill-will; and
- (iv) that I will uphold the Constitution and the laws.