

**THE RELEVANCE AND ENFORCEMENT OF THE JUDICIAL CODE OF
CONDUCT, PUBLIC SERVICE CODE OF CONDUCT AND THE
LEADERSHIP CODE ACT TO JUDICIAL OFFICERS.**

**A paper Presented by Hon. Lady Justice Irene K Mulyagonja, The
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Public Service Code of Conduct and Leadership Code Act to
Judicial Officers**

Background

The subject that I have been asked to address at this Conference must relate to the theme of the conference which is “*Judicial Ethics, Integrity and Accountability: A Precondition for Improved Access to Justice and Sustainable Development.*”

But before I delve into whether the three codes of conduct referred to here are relevant and whether they are being enforced against judicial officers, it is pertinent to briefly state how judicial ethics, integrity and accountability relate to access to justice, which in turn contributes to sustainable development.

According to the *Global Corruption Barometer 2013*, the survey which covered 95 countries showed that on average the judiciary was the sector seen as most vulnerable to corruption, only second after the police. Specifically 31% of respondents to the survey had paid a bribe to the police and 24% had paid a bribe to the judiciary.

The 2015 Uganda National Service Delivery Survey solicited information on the respondent’s opinions of the most corrupt Government Institutions. Three quarters of the respondents (75%) reported that police was the most corrupt followed by Local Governments (50%) and Government Health Facilities (38%). The Judiciary came in as the fourth institution with 19% of respondents identifying it as one of the most corrupt.

The poor and marginalized can get trapped in inefficient and corrupt justice and penal systems when they lack adequate legal representation and aid during the initial stages of the judicial process.

They also most often lack the means to satisfy conditions for bail. Their extended absence from family and community life represents a loss in income and social status for the community, and in effect a loss of human potential for society as a whole.

At the same time, the poor and marginalized are often most in need of judicial responses to protect their human rights in criminal justice processes. They are also the most in need of access public services (such as health and education), to claim labour rights and social benefits, or to resolve disputes over legal title to land and property.

In Uganda, the ownership of and access to land use is crucial to sustainable development because it impacts upon the livelihoods of the majority of the population. Studies on Uganda reveal that land corruption and illegitimate demand for money both in land administration and dispute resolution is tremendously high, and on the increase (TI, Uganda).

Related to the above are allegations of corruption and bribery allegedly perpetrated by officials in institutions handling land disputes. The Uganda Human Rights Commission found that corruption and bribery were at all levels of land administration, right from the LC Courts, District Land Boards, Police, Judiciary and others, often leading to conflict of interest. Even the traditional leaders who used to adjudicate land matters with integrity and based on their indigenous knowledge were reported to have been affected by the vice (UHRC, 2017)¹.

UHRC also found that delays in resolving land disputes both at investigation level by police and the lengthy adjudication processes in the courts affect the right to effective remedies. Respondents informed the Commission that the delay in resolution of land matters has resulted in their loss of confidence in the justice system. The lack of access to justice by community members, especially vulnerable persons further exacerbated the challenges faced by victims of land disputes in achieving effective remedies (UHRC, 2017).

It is important to note that most of the cases reported to police were found to be criminal in nature and did not explicitly show any link with land disputes. However, during interactions with police officers, it

¹ Land disputes and human rights in selected regions of Uganda: Tracing the nexus, Uganda Human Rights Commission, 2017

was revealed that most of the criminal cases like arson, criminal trespass and assault resulted from land disputes. Therefore, the relationship between land disputes and crime was clearly established (UHRC, 2017).

While some poor and marginalized people might have the option to turn to informal justice systems to resolve local disputes and settle issues, the reason for resorting to these mechanisms should not be a lack of trust in the fairness of the formal justice system. Where resolution is not delivered in accordance with the law or where the law fails to protect and uphold the rights of vulnerable persons, the administration of justice can tragically contribute to maintaining or exacerbating existing conditions of exclusion and marginalization.

The UN 2030 Agenda for Sustainable Development provides governments with a renewed impetus for developing institutions and processes that are more responsive to the needs of ordinary people, including the poor and marginalized, and that promote sustainable development. The Agenda includes key targets on reducing corruption, improving access to justice, and protecting a number of human rights that were not part of the Millennium Development Goals. SDG 16 aims at peaceful and inclusive societies for sustainable development, universal access to justice and effective, accountable, and inclusive institutions.

Relevance and enforcement of the tools for ensuring accountability in the Judiciary

Accountability refers to the processes, norms and structures that require powerful actors (governors) to answer for their actions to another actor (the governed), and/or suffer some sanction if the performance is judged to be below the relevant standard. However, whenever there is a call for accountability by judicial officers, the question or argument of judicial independence comes to the fore. This is often done not from the perspective of the people that the Judiciary serves but from that of the institution or particular officers required to account. (Brings to mind the example of payment of guard's allowances)

On the contrary, judicial independence is the right enjoyed by people when they invoke the jurisdiction of the courts seeking and expecting justice. It is not a privilege accorded judicial officers and the judiciary.

It refers to the state of mind of the judge. It refers also to the institutional arrangements that enable the judge to enjoy that state of mind. These include constitutional guarantees of security of tenure and of remuneration, removal from office only for misbehaviour or infirmity of body or mind, and protection against vexatious litigation instituted by parties that are dissatisfied with decisions rendered by judges.

However, judicial power like most other power is given on trust. Because of the guarantees given to judicial officers, the public demands accountability for the responsibility given. Importantly, there must be a balance between the need for judicial officers to exercise autonomy in decision making and independence from external forces, as well as accountability to the community on the other. It is for those reasons that the Bangalore Principles of Judicial Conduct were formulated.

The presentation preceding this extensively discussed the applicability of the Bangalore Principles to the Uganda Judiciary. All of the six principles have been employed and as is required by Article 8 (2) of UNCAC,² embodied in the Uganda Code of Judicial (CJC). What remains for me is to present some views on the relevance and enforcement of the Code of Conduct in the current environment and I will employ only three of the cardinal principles embodied in it: independence, impartiality and integrity. This is not to underestimate the importance of propriety, equality and competence and diligence but only to exemplify the application, if at all, of the Code.

Independence

The Commentary on the Bangalore Principles (UNODC) and the CJC emphasise that independence must be both individual and institutional. Interference with the responsibility to render decisions must be resisted by the individual judicial officer both from the outside and inside the judiciary. Conditions for judicial independence suggested by UNODC are: security of tenure, financial security and institutional independence.

² Article 8 (2) of UNCAC provides that each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.

Of the three pre-requisites above, only one is guaranteed at all levels of the judiciary, i.e. security of tenure. This is protected by the Constitution and other rules pertaining to employment in the Public Service. It is protected, almost to a fault, sometimes compromising the application of the other principles set out in the CJC such as diligence and competence.

The 2016/2017 Annual Report of the Judicial Service Commission lists the cases handled by the Disciplinary Committee and the first on the list is the “*delayed delivery of judgment and rulings.*” The 2016 Annual Report of the JLOS Integrity Committee states the result as case backlog as follows:

“There was a general complaint of delay in the disposal of cases across all courts leading to overstay of prisoners on remand, an increase in case backlog and a decline of public confidence in the justice system.”

Many reasons are given for delay such as lack of financial and other resources. Rarely is diligence and competence advanced in spite of reports of the lack of these two attributes in some judicial officers; rarely are judicial officers sent home for failure to execute their duties as is required by the exigencies of the service.

Institutional independence is often discussed. The discussion usually focuses on the capacity of the judiciary to comprehensively administer itself and its resources. The Commentary on the Bangalore Principles emphasises that “*An external force must not be in a position to interfere in matters that are directly or immediately relevant to the adjudicative function.*” However, for the Uganda Judiciary, court clerks and other administrators are hired and can only be fired by the Public Service Commission. The law to change this (Judiciary Administration Bill) has taken a long time coming.

Financial security of the Judiciary is interpreted to mean that judicial officers have the right to a salary and pension that is established by law and that is not subject to arbitrary interference by the executive in a manner that could affect judicial independence. However, government may retain the authority to design specific plans of remuneration appropriate for the different courts.

In this regard, the reports of the JLOS Integrity Committee and the voices of judicial officers across the country are agreed. At almost all conferences for judges, the call has been made to improve the remuneration of judicial officers in order to limit temptation of resorting to corruption to meet personal needs or neglect of duty due to personal financial pressures. At the 20th Judges Conference the CJ pointed out that:

"Judicial salaries must be set at a comparatively high public service level in order to remove both the temptation to corruption and public contemplation of the possibility of such temptation." Financial security is a means to end judicial dependence."

This was re-echoed in His Lordship's the Chief Justice's opening remarks and in his speech to officially open this conference. His Excellency the President agreed though he explained that the delay to deal with this niggling problem is the need to ensure that use of current scarce resources is balanced between administrative and development costs, In this regard, history has consistently proved the old adage, "If you pay peanuts you get monkeys."³

Impartiality

It is essential to the proper discharge of the judicial office and applies not only to the decision but also to the process by which the decision is made. Independence is a necessary precondition for it. A judicial officer is required to perform his or her judicial duty without favour, bias or prejudice.

Perceptions of bias erode public confidence in the judicial process. Therefore, it is advised that judicial officers ensure that their conduct, both in and outside court maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and the judiciary.

As to whether this principle is applicable in the courts, there is evidence that the members of the legal profession and litigants have often called for the recusal of particular judicial officers on the suspicion of bias. Decisions on recusal by judicial officers on this

³ Lee Kwan Yew on emoluments of judicial officers.

particular subject abound. They emphasise the finer principle that frequent recusals should be avoided.

Regarding conduct of judicial officers, there is evidence that in the subordinate courts, conditions sometimes lead judicial officers to act in a manner that may be interpreted as biased in favour of particular litigants brought about by demands for facilitation from complainants to visit the locus in land matters. The lack of transparency in the listing of cases violating the criteria of *'first-in-first-out'* also portrays a sense of preferential treatment of some cases and discrimination against others.

Conflicts of interest have been cited in some land disputes where it is alleged that some judicial officers go on to dispose of cases in instances where the litigants are known to them or even remotely related to them. The continued participation of some judicial officers in private commercial enterprises, most times through relatives, spouses and friends, also causes litigants to suspect bias in the adjudication of some disputes.

Bias has also broadly been alleged against judicial officers in disputes that touch upon political matters that pit the opposition against the government of the day. It is believed by some sections of the public that the appointment of judges by the Executive arm through the President, with the approval of Parliament which is dominated by the ruling political party leaves the appointees no option but to render decisions in favour of the executive arm of the state. A statement attributed to a retired judge on the subject goes as follows:

"Yes, that thing [cadre judges] is there. It seems to be increasing because occasionally you get some of the judgments and you can't understand they are from judges who are supposed to be independent. There are rumours that some judges consult some politicians when they have cases with political implications to get a shape of the ruling. This is terrible! It is not proper."

As a result, the Judiciary is construed as being constituted of *'cadres'* and *'mafias;*' each of you should choose where you belong because as things stand, you (as judiciary) either loose or they (public) win.

The bottom line is that judges should not be beholden to the Government of the day. Judicial independence must be recognised by

all branches of government. An interesting quotation on the subject that reflects the desired position on the principle of independence from government appears in the UNODC Commentary on the Bangalore Principles:

*“They (judges) see governments come like water and go with the wind. They owe no loyalty to ministers, not even the temporary loyalty which civil servants owe. . . Judges are also lions under the throne but that seat is occupied in their eyes not by the Prime Minister but by the law and their conception of the public interest. It is to that law and to that conception that they owe allegiance. In that lies their strength and their weakness, their value and their threat.”*⁴

Integrity

The CJC states that *“Integrity is central to the proper discharge of the judicial office. The behaviour and conduct of a judicial officer must reaffirm the people’s faith in the integrity of the judiciary.”* The concept of integrity is laid out in the UNODC Commentary as follows:

“Integrity is the attribute of rectitude and righteousness. The components of integrity are honesty and judicial morality. A judge should always, not only in the discharge of official duties, act honourably and in a manner befitting the judicial office; be free from fraud, deceit and falsehood; and be good and virtuous in behaviour and in character. There are no degrees of integrity as so defined. Integrity is absolute. In the judiciary, integrity is more than a virtue; it is a necessity.”

It is emphasised that high standards are required both in public and private life and community standards should be respected in private life. In other words, once one becomes a judicial officer they all but lose their private life (in any public space). This is because the personal conduct of a judge affects the whole judiciary.

The analysis above shows that the intentions of the framers of the Code meet the current requirements of setting standards of conduct in the Judiciary. To the extent that it has been analysed in this paper, the CJC is still relevant.

⁴ J. A. G. Griffith, *The Politics of the Judiciary* (Reproduced from *Commentary on the Bangalore Principles*, UNODC)

Enforcement of the CJC

The CJC states that the principles in it will be enforced by the Judicial Integrity Committee and Peer Committees and that the Judiciary as a whole shall promote awareness of the principles and rules set out in the Code and encourage all judicial officers to comply with them.

According to the Judiciary Handbook, Key Functions of the Integrity Committee include:

“Restoring public confidence in the judicial system of Uganda; strengthening judicial integrity within the Judiciary; Revising and adopting the Judicial Code of Conduct and Sensitizing judicial and non-judicial officers and staff about judicial integrity and popularizing the revised Code.”

On the other hand Peer Committees are meant to:

“encourage Judicial Officers to uphold and adhere to the CJC; to give appropriate counseling/advice to a Judicial Officer who is reputed or alleged to be engaged in conduct unbecoming of the office; to give appropriate guidance to a Judicial Officer who seeks advice on or explanation of the CJC or on what is appropriate conduct in particular circumstances; and to do anything else that in its opinion will strengthen judicial integrity within its jurisdiction.”

The Judicial Integrity Committee work is now reflected in the inspections carried out to establish whether courts around the country adhere to ethical standards in the Judiciary. National Tours are conducted and reports issued. Several have been issued to this Conference over the last few years highlighting the areas that require efforts to improve.

On the other hand, the work of the Peer Committees has stalled. It is said that the Committees cannot or do not function because the resources for them to do their work are absent. Therefore, no meetings are held by judicial officers to discuss matters relating to observance of the CJC.

It is important to point out that the principles contained in the CJC are reflected in the Judicial Service Commission Regulations (2005). While the offences for which a judicial officer can be subjected to the disciplinary process before the Judicial Service Commission are laid out in Reg. 23 and 24, Regulation 24 (j) specifically provides that a judicial officer who acts in contravention of the Code of Judicial Conduct, the Judicial Oath or any other oath taken by a judicial officer commits an offence against discipline.

The Annual Report of the JSC for 2015/2016 shows that the JSC registered 102 cases. The Disciplinary Committee held 7 meetings and disposed of or concluded 26 cases. Three judicial officers were dismissed and one officer retired in the public interest while another was severely reprimanded.

The Annual Report for 2016/2017 shows that the JSC registered 157 cases. The Disciplinary Committee held 16 meetings and disposed of 287 cases. The result of the cases concluded is not indicated in the report but the issues dealt with in the cases are listed, such as: delayed delivery of judgements, delays in refund of bail, deliberate loss or misplacement of court records lack of financial integrity, etc.

It is difficult to tell from JSC reports how stringent the enforcement of the CJC by the JSC is. What remains evident is that the citizens still complain about corruption in the judicial process, absenteeism of judicial officers, poor time keeping, demands for facilitation to do court work and missing files, among other infractions.⁵ The general answer given by judicial officers for these defaults is that there are many other shortcomings that hinder access to justice other than the limited enforcement of the Code of Conduct of Judicial officers.

The enforcement of the CJC by the JSC might also be limited to judicial officers from the magistrates' courts. This is because rarely are judges brought to account before the JSC given the legal regime that is provided in Article 144 (3) and (4) of the Constitution of Uganda for the removal of judges from office. This is regardless of the fact that Article 147 (1) (a) provides that the JSC shall have disciplinary power and control over the persons and to remove from office the persons specified in Article 147 (3). The clause includes all judges and justices and registrars.

⁵ JLOS Integrity Committee Report, December 2016

It has been observed that the CJC cannot stand alone. It must be complemented with constitutional guarantees of judicial independence. For example, there should be provision for an independent appointment mechanism; qualifications for judicial office should be strictly prescribed, and these should include not merely legal expertise, but also social sensitivity and other essential qualities, such as the capacity of the officer to appreciate the social and economic environment in which a decision is made in order not to prejudice or actually frustrate efforts to implement projects for national or community development.

Judicial tenure must, of course, be guaranteed, and removal from judicial office should only be for conviction of a serious crime, proved physical or mental incapacity, gross incompetence, or conduct that is manifestly contrary to the impartiality and integrity of the judiciary.

Last but not least, it is important for the judiciary to be provided with sufficient funds to perform its functions efficiently and without an excessive workload for judicial officers. In addition judges should receive remuneration that is commensurate with the status, dignity and responsibilities of their office.⁶

The Public Service Code of Conduct

The Code of Conduct and Ethics of the Uganda Public Service is dated July 2005. It is stated to be a Code that sets out standards of behaviour for public officers in the Uganda Public Service. It is specifically stated in the preface thereto that:

“While there are ethical obligations and Codes of Conduct specific to each profession within the Public Service, like Education, Medical, Judicial, Engineering, Accounting, and so on, the Public Service Code of Conduct and Ethics is based on ethical standards or guiding principles that apply to the entire Public Service.”

The principles in the PSCC are laid out in a manner which is more detailed than the CJC. The principles are: accountability, decency, discipline, effectiveness, efficiency, impartiality, integrity, loyalty, professionalism and selflessness and transparency. Except integrity which is specifically provided for in the CJC, the rest of the principles

⁶ Nihal Jayawickrama, Coordinator, Judicial Integrity Group, “From Independence to Accountability – the Bangalore Principles

can be construed from the rest of the five principles in the CJC. To that extent therefore, the PSCC is relevant for the discipline of judicial officers.

As to whether it is enforceable against judicial officers, the PSCC states that the next stage of implementing it is for the MDALG to examine the services they provide to the customer and develop service charters that would specify the standards to be provided to the customers and members of the public.

The Judiciary as a whole has not developed a Service Charter. However, some of the courts have developed charters to which they are expected to adhere in the provision of services to the public. The exercise has got to continue till all courts have charters. The ultimate would be to have a unified charter for the Judiciary published for the benefit of the users of the services. But given the constraints experienced in the efforts to ensure access to justice for all, the charter would simply express good intentions. Implementation would then depend on the availability of personnel and other resources to enable attainment of the standards expressed in the charter.

The Leadership Code of Conduct

The Leadership Code of Conduct derives its mandate from the Constitution of the Republic of Uganda. Mindful of the fact that leadership in Uganda is undertaken as a service, not a privilege, in trust for, and under the authority of the people, Chapter 14 of the Constitution of the Republic of Uganda was enacted to empower Parliament to establish a Leadership Code of Conduct for persons holding such offices as they (Parliament) would specify.⁷

The Leadership Code of Conduct is, *among others*, meant to prohibit conduct that is likely to compromise the honesty, impartiality and integrity of specified officers⁸; likely to lead to corruption in public affairs⁹; or which is detrimental to the public good and welfare or good governance¹⁰. The Leadership Code also prescribes procedures and practices for ensuring its effective enforcement.¹¹ Therefore, the Leadership Code is not only relevant, but mandatory for the specified

⁷ Article 233 (1) of the Constitution of the Republic of Uganda

⁸ Article 233 (2) (b) (i), *ibid*

⁹ Article 233 (2) (b) (ii) *ibid*

¹⁰ Article 233 (2) (b) (iii), *ibid*

¹¹ Article 233 (2) (d), *ibid*

officers, because it is embedded in the Constitution, the supreme law of the land that is the primary set of rules by which the people of Uganda, in exercise of their sovereignty, have agreed to be governed.¹²

Parliament enacted the Leadership Code Act, 2002, which was assented to on 25th June 2002, with a commencement date of 12th July 2002. The Act's long title states that it is: "An Act to provide for a minimum standard of behaviour and conduct for leaders; to require leaders to declare their incomes, assets and liabilities; to put in place an effective enforcement mechanism and to provide for other related matters". The provisions of the Leadership Code Act, 2002, constitute the Leadership Code of Conduct provided for under Chapter Fourteen of the Constitution.¹³

The Leadership Code is relevant and binding on Judges of the Courts of Judicature as they are defined as leaders (specified officers) under the provisions of Section 2 (1) and Second Schedule, Part B, Clause 12 of the Leadership Code Act.

Judges of the Courts of Judicature have additional prohibited conduct under Section 15 (2) of the Leadership Code Act, which states that they cannot, without the approval of the Inspector General of Government:

- (a) hold office of director or any other office in a foreign business organisation, firm, company or property in any such foreign organisation which is owned and or managed by foreign citizens;*
- (b) operate a business as a commission agent; or*
- (c) accept or be involved in the acceptance of any gift, benefit or advantage from a company or in any such company or firm which is owned and or managed by foreign citizens*

Therefore, whereas the CJC is the Judiciary's internal personal and institutional initiative and commitment to promote its integrity, accountability and service delivery, the Leadership Code is the mandatory and legally enforceable minimum standard of conduct or behaviour expected of those that aspire and accept to exercise judicial authority as Judges in the Courts of Judicature. A breach of these standards will, in most instances result in a declaration that one is

¹² Article 1, *ibid*

¹³ Section 2 (2) of the Leadership Code Act, 2002

not a fit and proper person to hold such office and must vacate after due process.

Originally, the LCC was enforced by the Inspectorate of Government in accordance with the provisions of Chapters Thirteen and Fourteen of the Constitution; the Inspectorate of Government Act, and the Leadership Code Act.¹⁴ However, in 2005, Parliament enacted the Constitutional (Amendment) Act, 2005 – Act No. 11 of 2005, which introduced Article 235A to establish a Leadership Code Tribunal, whose composition, jurisdiction and functions would be prescribed by Parliament by law. The Inspectorate of Government continued to enforce the Leadership Code of Conduct partially, pending the establishment of the Leadership Code Tribunal and prescription of its jurisdiction and functions by Parliament.

In 2010, in **John Ken Lukyamuzi versus Attorney General and Electoral Commission, Supreme Court Constitutional Appeal No. 2 of 2007**, the Court ruled that the Inspectorate of Government in being the investigator, prosecutor and adjudicator in enforcement of the Leadership Code of Conduct offended the principle that no person shall be a judge in their own cause, effectively rendering the Leadership Code unenforceable to a certain extent until the Tribunal established under Article 235A is established and operationalized.

The situation above obtained until 2017, when the Leadership Code (Amendment) Act was finally enacted. It was assented to on 17th May 2017, with a date of commencement of 2nd June 2017. It, among other things, amended the Leadership Code Act, by inserting Part VIA for the establishment of the Leadership Code Tribunal and providing for its jurisdiction, functions and composition and other relevant provisions for the Tribunal's operationalisation.

In the current financial year, the Government of Uganda, with the support of development partners appropriated funds for the operationalization of the Tribunal, and the Judicial Service Commission is in the process of identifying and submitting candidates qualified and suitable to fill the positions on the Tribunal. Once the positions are filled, the Leadership Code shall be enforced by the Inspectorate and the Tribunal, in accordance with the provisions of

¹⁴ Articles 225 (1) (d); 234 of the Constitution; Section 8 (1) (d) of the Inspectorate of Government Act, 2002 and Section 3 (1) of the Leadership Code Act, 2002.

Section 3 of the Leadership Code Act, as amended by Section 2 of the Leadership Code (Amendment) Act, 2017. We are hopeful that the Tribunal shall be operational before the end of this financial year (2018/9).

Provisions of the Leadership Code and the Code of Judicial Conduct overlap in some instances, but should be looked at as complimentary. For instance, both Codes have provisions relating to how to treat gifts to a Judge; which ones are acceptable and which ones are not; which ones can be kept and which ones have to be treated as gifts to the Government.¹⁵ Conduct of business or commercial relations is also restricted by both Codes, as engagement in certain business or financial dealings is deemed capable of interfering with the proper performance of judicial duties.¹⁶

Conflict of interest is also prohibited under the provisions of both Codes, as a Judge is prohibited from lending the prestige of his judicial office to advance his or her private interest or the private interest of their family (CJC 4.3); or in the course of his/her judicial duty, deal with a matter in which he/she or his/her direct family has a direct or indirect interest and knowingly fail to disclose the nature of that interest (Section 12A, LCA, as amended).

The three examples above are by no means exhaustive, but give a glimpse as to how both Codes are different tools or avenues to achieve the same objective: the confidence, respect and support of the public that the Judiciary serves and derives its authority from.

The difference is in the enforcement, whereby while the CJC is an internal initiative, aimed at using mostly the soft, persuasive power and approach to achieve its end, the LCA employs a constitutional and mandatory approach, employing compulsive methods of enforcement, where a breach is identified. As such, it is the wish and prayer of the Inspectorate that the Judges, both personally and institutionally, adhere to the commitments made under the CJC, as I am confident that if so adhered to, there will not be any instance of breach of the LCA.

The CJC is a Code specific to judicial officers, while the LCA is much broader, covering all leaders and specified officer in Government. Both

¹⁵ Section 10 of the LCA, 2002, as amended; and Principle 4 (Propriety) Clause 4.7

¹⁶ Section 15 (2) of the LCA, 2002, as amended; and Principle 4 (Propriety) Clause 4.8

are relevant and enforceable, as I have enumerated above, but the compulsion and sanction-based mandate of the LCA is not necessary if all the Judges adhere to the commitment undertaken under the CJC.

I commend the Judges as to date, not a single Judge of the Courts of Judicature has been sanctioned under the LCA, and I am sure that this is because of the personal commitment each Judge made and the collective commitment of the Judiciary as an institution. I pray it does not only stay so, but is improved to the perception of the general public, so the esteemed institution regains the glory, integrity and confidence it deserves from all stakeholders, but mainly the general public to whom it renders such a crucial service.

Conclusion

Going back to the theme of this conference, *“Judicial Ethics, Integrity and Accountability: A Precondition for Improved Access to Justice and Sustainable Development,”*

Is having good integrity the same as observing ethical standards? Ethical standards are set by rules. Integrity is more than that; it goes to the root of character. It’s about doing what is right even in the absence of rules, legal or otherwise. It is based on rules of morality and belief of a particular individual. Though there are ethical rules that are considered to be universal, rules about integrity vary according, to mostly personal beliefs.

There is also the interesting notion that one can be ethical without necessarily having integrity. Many people do try to stay out of trouble, only because the rules have been spelled out for them. That does not mean they would not practice unethical behaviour if they were not prohibited. Integrity comes from a greater depth of character. Integrity is what provides the inspiration to convert awareness into action. Personal integrity is the foundation for ethics. Integrity can be defined as our internal system of principles that guides our behaviour and ethics is an external system of rule and regulations. Integrity is the rigid adherence to a code of behaviour, which can be measured only by a person’s actions.

So would the strict enforcement of the Judicial and other Codes of Conduct guarantee improved access to justice sufficient to contribute to sustainable development? It has been observed that if all the

Judiciary does is put in place a workable code of conduct and publish it to judicial officers, the principle therein will remain mere aspirations. Much more needs to be done to transform the aspirations in the code into something more tangible in the lives of the people served.

The bodies put in place to enforce the Code, like the Judicial Integrity Committee and the Peer Committees must be facilitated and functional to do the work expected of them. There also should be improved transparency in the procedures that promote access to justice such as modern methods of managing cases. Hearing of cases should be public and judgments should be made accessible. Surveys should be conducted about the quality of justice. The quality of judiciary officers should also be ensured through stringent recruitment mechanisms and the impartation of skills. The State should also take on its role of allotting and releasing adequate budgets to facilitate the judiciary to implement its constitutional mandate.

Finally, the Judiciary has developed and is linked to other institutions in Uganda. The development of all these institutions suffers similar hindrances. Almost all institutions complain about the lack of financial and human resources to fully implement their mandates, and political decisions that take limited cognizance of what obtains in the implementation of those mandates.

Yesterday we heard about the fact that we have a situation where *“those near the pot serve themselves first”* and possibly serve themselves more before serving those that they have to serve. And that the sharing of national resources is to a certain extent hindered by this practice.

“A state which assumes predatory or semi-predatory status can systematically incapacitate all institutions for good governance and effective implementation of policies. Thus formulation of policies cannot ensure effective implementation in the absence of good governance which in turn cannot be achieved in the absence of appropriate institutions. Hence, sustainable development requires good policies and effective provision of institutions conducive to good governance.”¹⁷

¹⁷ Good governance in sustainable development: the impact of institutions, K. C. Roy, International Journal of Social Economics, Vo. 25

Therefore, until the state achieves balance in what is spent on the implementation of vital policies and the development of sound institutions, corruption and an absence of good governance in institutions will continue to reign at the expense of the sustainable development that we so crave. Small changes in the bureaucratic structures and in the implementation of policies to try and improve the manner in which institutions deliver services will not deliver the development that we all desire. The contents of the 'pot' must be shared equitably for all to benefit. Only then can economic development be achieved and sustained.