

Judicial Ethics Issues and the Millennial Judge (Facing Challenges on the Bench)

More than half a century ago, about August of 1946, the country came out with its first ***Canons of Judicial Ethics***. This early version was proposed by the Philippine Bar Association based on the 1924 United States *Canons of Judicial Ethics* written by an American Bar Association's committee chaired by Chief Justice William Howard Taft. Prior to the 1924 *Canons*, the US did not have one cohesive framework that informed judges of the ethical obligations of their position. Our own ***Canons of Judicial Ethics*** were approved by the judges of the Court of First Instance of Manila (now known as Regional Trial Court of Manila) and were subsequently adopted by the Secretary of Justice who issued Administrative Order No. 162 on the first of August of the same year. This executive issuance adopted the ***Canons of Judicial Ethics*** “for the guidance of and observance by all judges under the administrative supervision of the Department of Justice.”

These canons established standards for both official and private judicial conduct set forth in thirty one sections that addressed topics ranging from relations of the judiciary and the public interest, avoidance of appearances of impropriety, to independence, essential conduct, industry, promptness and punctuality, amongst others. Lacking in sanctions as they were only *“for the guidance of and observance by judges,”* these canons did not achieve much by way of enforcing discipline.

It is, however, quite interesting to note that in its last section, the **1946 Canons of Judicial Ethics**, summarized a judge's obligation to be as follows:

“A judge's conduct should be above reproach and in the discharge of his judicial duties he should be conscientious, studious, thorough, courteous, patient, punctual, just, impartial, fearless of public clamor, and regardless of private influence should administer justice according to law and should deal with the

patronage of the position as a public trust; and he should not allow outside matters or his private interests to interfere with the prompt and proper performance of his office.”

The exhortation to be conscious, studious, thorough, courteous, patient, punctual, just, impartial, fearless, etc., reminds one of the Scout Law: A Scout is Trustworthy, Loyal, Helpful, Friendly, Courteous, Kind, Obedient, Cheerful, Thrifty, Brave, Clean and Reverent. It is not remote that one, some or all of those who had a hand in crafting the 1946 Canons, particularly the summary quoted above, may have been scouters. Thus, the uncanny resemblance of the summary of the judge's obligation to the Scout Law.

On 20 September 1989, a ***New Code of Judicial Conduct*** went into force upon the directive of the Supreme Court. The revised code consisted of a preamble, five canons and thirty two rules. The canons addressed the general principles of judicial conduct, while the rules prescribed the specific ethical behavior required of judges. The 1989 Code further

required that “*all judges shall strictly comply with the Code.*” To promote compliance, the Supreme Court imposed penalties in administrative cases against judges and court personnel who were found to have violated the Code.

In November of 2002, the then Chief Justice Hilario G. Davide, Jr. represented the Philippines in a Roundtable Conference of Chief Justices held at the Peace Palace in The Hague. At the conference, the Judicial Group on Strengthening Judicial Integrity amended and approved the **Bangalore Draft of the Code of Judicial Conduct**. Interestingly, the American Bar Association again had something to do with the Bangalore draft as it was developed with their assistance. Just as it influenced the birth of our *1946 Canons of Judicial Ethics*, so did the ABA assist in the early draft of the Bangalore Code.

Founded upon the principles that:

- (1) a universal recognition that a

- competent, independent and impartial judiciary is essential if the courts are to fulfill their role in upholding constitutionalism and the rule of law;
- (2) public confidence in the judicial system and in the moral authority and integrity of the judiciary is of utmost importance in a modern democratic society; and
 - (3) it is essential that judges, individually and collectively, respect and honor judicial office as a public trust and strive to enhance and maintain confidence in the judicial system;

the Bangalore draft, intended to be the Universal Declaration of Judicial Standards applicable to all judiciaries, was eventually adopted by the Philippine Supreme Court and promulgated on 27 April 2004 as ***The New Code of Conduct for the Philippine Judiciary***. The new code articulates the six values expressed by the Bangalore Principles via six canons, namely: Canon 1 – **Independence**; Canon 2 – **Integrity**; Canon 3 – **Impartiality**; Canon 4 – **Propriety**; Canon 5 -

Equality; and Canon 6 – Competence & Diligence.

Thus, in just over a period of sixty years, we have had a succession of three cohesive, ethical frameworks with which to base behavior and guide judges in the performance of their roles and responsibilities. Under the New Code of Conduct for the Philippine Judiciary, quite a number of judges have been disciplined with several being removed from the Bench. The number of disciplinary measures imposed over the years since the inception of the new code of conduct seems to suggest that the judges are either unaware of the code of conduct or are unmindful of it. Whatever be the reason, the reality is that there continue to be challenges that judges face throughout their career and the inability to overcome or surpass these challenges invariably results in some form of administrative entanglements.

The Judge and “Debt of Gratitude” (“Utang na Loob”). It is not uncommon for Filipinos to acknowledge debts of gratitude or

“ang pagtanaw ng utang na loob.” Judges are not necessarily immune from this malady. That is why, a judge must avoid as much as possible being placed in a predicament where this card may be brought up to the prejudice of his position.

The Judge and his Court Staff. Judges of newly organized courts have the special opportunity to obtain good staff and they must not squander this rare chance. A good court staff paves the way for a smooth operation of the court. In the many instances that a judge gets to be appointed to a court with almost a full complement of existing staff, ample attention must be given to letting the staff know that the judge is there to work with them in administering justice. The judge must get to know the existing staff. The sooner professional and harmonious rapport are established the better to avoid intra-court disputes.

The Judge and his Docket. Many administrative cases involving judges have to do with the management of court dockets.

Clogged court dockets are not only caused by heavy volumes of cases that are filed, but are brought about by insufficient attention to case flow and delay in case processing. Too much liberality in allowing continuances causes clogging and delay. Decisions have to be rendered seasonably to avoid a pile-up.

The Judge and Kinship, Comradeship, Fellowship, Friendship. In not a few cases, judges have been penalized for not exerting enough efforts to insulate the court's work from the influences of kith and kin. In one case, the judge was taken to task for allowing his mistress the run of the office, allowing the use of his chamber for her many activities. It is understandable for a new judge to feel his way around and to get the acceptance or acknowledgment of his colleagues who have been on the bench much earlier. Getting accepted, however, should not be the pre-occupation of the new judge. He would be better off knowing his court and his caseload. Brushing up with his law and the rules of procedure will do him well instead of spending

too much time on social acquaintances.

The Judge and the Lawyers. On top of his clerk of court, the public prosecutor and public attorney who are assigned to his sala, a myriad of other lawyers will be having frequent contacts with the judge. These lawyers will be of different caliber, character and persuasions. A number of them will be a real challenge to the young and youthful judge. It is best to deal with all lawyers on a professional level at all times. The judge must expect that occasions will arise when lawyers will be testing his mettle.

The Judge and Economic Considerations. To many judges, the current remuneration level, although still modest when compared to “world best practices” standards or to comparable functions in the private sector, is ample enough to address the bare necessities plus a bit more. If one were to factor in the local support allowance given to judges in varying degrees, one can say that the total compensation may be good enough. To the others who may have acquired a taste for or

been used to the finer things in life, to luxuries and all, the current remuneration may prove to be inadequate. If a judge's pay is the only source of revenue, then it may be quite a challenge to maintain a lifestyle way above the rest. Living within one's means can never be a wrong proposition no matter the time, no matter the clime.

The Judge and Media. In dealing with the mass media, the judge must be cognizant of the role that media play in the community. Courts may not be too secretive and guarded of their processes lest misreporting and misunderstanding be engendered. Except in those cases wherein law and rules proscribe public viewing, public scrutiny, it will not be wrong for courts to be open and liberal about their workings. After all, is it not the rule that trials be held in open, public sessions?

The Judge and his Other Interests. It may be asked, may a judge not have any other interests? The Canons do not particularly prevent judges from having other interests, but

the pursuit of these other interests must not collide with the primary role and responsibility of adjudicating cases and controversies, settling disputes. Many judges do teach and teaching law or other subjects is not discouraged. Teaching, however, must not be carried out to the extent that it becomes the primary pre-occupation of the judge who devotes more time to it than he does to his work as a judge. Hobbies, leisures and sports activities may be pursued using private time. How about officiating in a boxing match? Being a judge in a beauty contest?

The millennial judge does face a myriad of challenges and throughout his, hopefully long and fruitful career, he would have learned and lived the Canons that have lighted the path for judges since 1946; the Canons which have been synthesized and we have come to know as the Canons of: **Independence, Integrity, Impartiality, Propriety, Equality, Competence & Diligence**. Imbibing these principles will go a very long way indeed in fortifying the millennial judge against the myriad of challenges that will

surely be confronting him. To ignore them and to pay mere lip service to these principles would be to seduce a short and celeritous career on the bench.

jadbjr/21sep2017