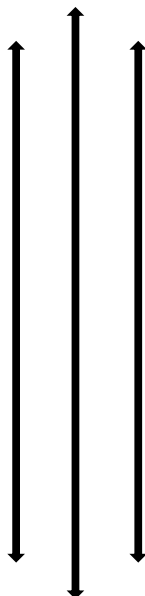


# AN INTENSIVE COURSE FOR JUDGES ON JUDICIAL INTEGRITY, JUDICIAL ETHICS AND CODE OF CONDUCTS

2079



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## **PART 1**

### **BACKGROUND AND INTRODUCTION**

#### **I. Institutional Background**

The National Judicial Academy is a statutory body established originally under the National Judicial Academy ordinance in 2004 which is now substituted by the National Judicial Academy Act, 2006. The National Judicial Academy works under the guidance of its Governing Council headed by the Rt. Honorable Chief Justice of Nepal. In the executive level, the Act provides for the Executive Committee which requires representation of all the justice sector actors i.e. the Supreme Court, the Ministry of Law and Justice, the Judicial Council, the Office of the Attorney General and the Nepal Bar Association. The rationale behind the establishment of the Academy is to work towards enhancing competence and professional development of judges, government attorneys, court officials and other officers of the Nepal Judicial Service and private law practitioners. The main functions of the NJA set out in the Act are to: Conduct training, workshop, seminar, interaction and symposium as per the need, undertake research and publish research works in the area of law and justice and Establish itself as a legal information Centre and provide consultation and information service in the area of law and justice etc.

#### **II. Introduction of the Curriculum**

To have an effective and competent justice system, politicians and stakeholders of this system, i.e. judges, prosecutors, and law enforcement officials, should perform their functions legally and ethically. Judges are the public face of justice and of the rule of law. As such, they have a duty to live up to the highest standards of integrity and impartiality in order to preserve public trust in what is the most fundamental pillar of democracy. Codes of conduct are a pivotal instrument to translate core values into behavioral norms. They do not only have an aspirational nature, showing the best path to resolve ethical dilemmas, but they must also be effectively implemented in practice.

A Judge is considered a neutral arbiter in the context of litigation, thereby engendering trust in the judicial process. Maintaining standards of judicial integrity is critical at many levels, at the macro level for purposes of promoting global peace and stability; at the meso level (state) for purposes of judicial confidence and a system of checks and balances, and, at the micro level (individual) for promoting equity, fairness and justice. Judicial integrity is a core foundation for the survival of the judicial branch of government.

In this backdrop, NJA has developed this curriculum to achieve its purpose of enhancing competence and professional development of Judges. Training in the contemporary world is regarded as the most effective and important tool for enhancing skill and knowledge on the human resources involved in any organization. Taking this into account, this curriculum has been introduced to conduct training for all Judges of High Courts and District courts.

### **III. Objectives of the Curriculum**

1. Judicial ethics and training of judges for preventing corruption and maintaining judicial integrity so as to secure judicial independence.
2. Expanding opportunities for learning about judicial integrity, judicial governance and ethics of judges among the judges.
3. Enhancing Judicial Integrity and Judicial Ethics among the judges.
4. Heighten the level of persuasion of code of ethics among the judges in reality.
5. To build up the public trust and confidence towards judiciary by achieving the wellbeing of judicial functions.

### **IV. Participants, Participants number and Duration of Interaction Programme**

1. **Participants:** Respected Judges of the High Courts from all around Nepal will be the participants in this interaction programme.
2. **Participants Number:** Approximately 20 to 30 participants.
3. **Duration:** Duration of this interaction programme will be 5 working days.

### **V. Framework of the Curriculum**

This curriculum has been developed with the purpose of enhancing competence and professional development of Judges. Part 1 of this curriculum titled Background and Introduction includes Institution Background, Introduction of the Curriculum, Objectives, Participants, Participants number, Duration and Evaluation of the Interaction Programme. Part 2 includes sessions distributed as per the Modules. Reference Materials has been provided at the end of this curriculum.

### **VI. Modules and Sessions of Curriculum**

#### **Module 1: Conceptual & Theoretical Aspects**

- Session 1: Concept of Judicial Integrity & Code of Conduct
- Session 2: Development of Code of Conduct of Judges
- Session 3: Judicial Freedom and Accountability
- Session 4: Court, Bench and Code of Conduct of Judges
- Session 5: Off the Bench Activities and Code of Conduct of Judges
- Session 6: Practicing Code of Conduct: Issues and Challenges in Nepalese Cases
- Session 7: Judicial Code of Conduct and Judicial Reform/Public Trust towards Judiciary

## **Module 2: Judicial Practice**

- Session 8: Some Landmark Case on the Judicial Code of Conduct and Practices
- Session 9: Managing Spoilers in Judiciary
- Session 10: Problems, Challenges, Solutions and Way Forward (Case Study/Group Work): Panel Presentation.

## PART 2

### MODULES AND SESSIONS

<b>Module 1: Conceptual &amp; Theoretical Aspects</b>			
<b>Session</b>	<b>Session Topics</b>	<b>Methodology</b>	<b>Duration</b>
<b>1: Concept of Judicial Independence and Judicial Imaginary</b>	1.1 Concept and Emergence of Judicial Independence	<b>Lecture, Interactions, Group Discussions</b>	<b>1 Hour 30 Mins</b>
	1.2 Basic Principles on the Independence of Judiciary, 1985		
	1.3 Role of Judges to maintain Judicial Independence		
	1.4 Fairness, Impartiality and Trust Building towards Judiciary.		
<b>2: Development of Code of Conduct of Judges</b>	2.1 Judicial Code of Conduct	<b>Lecture, Interactions, Group Discussions</b>	<b>1 Hour 30 mins</b>
	2.2 Conflict of Interest and Judicial Recusal		
	2.3 Ethical values in judiciary: learnings from philosophy (both eastern and western)		
	2.4 Bangalore Principle on the Code of Conduct of Judges		
<b>3: Issues and Challenges on Practicing Judicial Freedom</b>	3.1 Theoretical Perspectives and Dimensions of Judicial Freedom	<b>Lecture, Interactions, Group Discussions</b>	<b>1 Hour 30 mins</b>
	3.2 Judicial Impartiality		
	3.3 Judicial Freedom, Self-restraint, and Practicing Judicial Accountability,		
	3.4 Conflict of Interest & Recusal		
	4.1 Fairness in Court administration and Bench		
	4.2 Understanding problems and digging deep in to issues to decide		

<b>4: Judicial Management (Court, Bench)</b>	4.3 Judicial Etiquette	<b>Lecture, Interactions, Group Discussions</b>	<b>1 hour 30 mins</b>
	4.4 Judicial Conduct and Language of the Bench		
	4.5 Uniformity in Judicial orders and Decisions		
<b>5. Off the Bench Activities and Code of Conduct of Judges</b>	5.1 Integrative/Permissive Approach	<b>Lecture, Interactions, Group Discussions</b>	<b>1 hour 30 mins</b>
	5.2 Restrictive Approach		
	5.3 Use of the Social Media and Judicial Ethics		
	5.4 Protection of Victims and Harassment at Workplace		
<b>6: Practicing Code of Conduct: Issues and Challenges in Nepalese Cases</b>	<p>6.1 Issues and Challenges in Judicial Independence and a Trust in Nepalese cases:</p> <ul style="list-style-type: none"> <li>➤ Code of Conduct and Rule of Judicial Council</li> <li>➤ Independence</li> <li>➤ Impartiality</li> <li>➤ Integrity</li> <li>➤ Propriety</li> <li>➤ Equality</li> <li>➤ Competence and Diligence</li> </ul>	<b>Group exercise and presentation</b>	<b>1 hour 30 mins</b>
<b>7: Judicial Code of Conduct and Judicial Reform/Public Trust Toward Judiciary</b>	7.1 Judicial Accountability, Judicial Reforms,	<b>Panel discussion</b>	<b>1 hour 30 mins</b>
	7.2 Corruption Control and Judicial Code of Conduct		
	7.3 Complaints and Disciplinary Mechanism, Procedure of Monitoring of Code of Conduct and Role of the Judicial Council.		
	7.4 Judicial Reform, Public Trust Towards Judiciary and Code of Conduct		

<b>Module 2: Judicial Practices</b>			
<b>8: Some Landmark Case on the Judicial Code of Conduct and Practices</b>	<ul style="list-style-type: none"> <li>I. IN Senator RE PINOCHET (House of Lords)</li> <li>II. The Government of Nepal v. Shankar Bishowkarma</li> <li>III. Birendra Lal Karn v. Judicial Council</li> <li>IV. Indore Development Authority vs Manoharlal and Ors. Etc. on 6 March, 2020</li> <li>V. Ganesh Panjiyar v. Judicial Council</li> </ul>	<b>Lecture, Interactions, Group Discussions</b>	<b>1 hour 30 mins</b>
<b>9: Managing Spoilers in Judiciary</b>	<ul style="list-style-type: none"> <li>9.1 Concept of Spoilers in Judiciary</li> <li>9.2 Understanding the Power of Reform Spoilers</li> <li>9.3 Strategies of Managing Reform Spoilers in Judiciary</li> </ul>	<b>Interactive lecture and group exercise</b>	<b>1 hour 30 mins</b>
<b>10: Problems, Challenges, Solutions and Way Forward (Case Study/Group Work): Panel Presentation</b>	<ul style="list-style-type: none"> <li>➡ Problems, Challenges, Solutions and Way Forward</li> </ul>	<b>Lecture, Interactions, Case Study, Group Work/Discussions, Panel Presentation</b>	<b>1 hour 30 mins</b>



## **Reference Materials /Recommended Readings**

1. Commission for the Investigation of Abuse of Authority Act, 2048 (1991)
2. Judicial Council Act, 2073 (2016)
3. Supreme Court Rules 2074 (2017)
4. Bangalore Principle of Judicial Conduct 2002  
([https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwi9nqLbyfz3AhWWDt4KHQK6CmQQFnoECCUQAQ&url=http%3A%2F%2Fwww.oas.org%2Fjuridico%2FPDFs%2Fmesicic4\\_bhs\\_ban\\_prin\\_jus\\_con\\_2002.pdf&usg=AOvVaw2PbBDCVv2EJbaWuJfZR1bp](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwi9nqLbyfz3AhWWDt4KHQK6CmQQFnoECCUQAQ&url=http%3A%2F%2Fwww.oas.org%2Fjuridico%2FPDFs%2Fmesicic4_bhs_ban_prin_jus_con_2002.pdf&usg=AOvVaw2PbBDCVv2EJbaWuJfZR1bp))
5. Code of Judicial Ethics (Published by International Criminal Court)  
([https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj79fjLw\\_j3AhWKT2wGHU\\_iCzMQFnoECA4QAQ&url=https%3A%2F%2Fwww.icc-cpi.int%2Fsites%2Fdefault%2Ffiles%2FPublications%2FCode-of-Judicial-Ethics.pdf&usg=AOvVaw0foXzPV8DcyQL7nkq9BKpm](https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKEwj79fjLw_j3AhWKT2wGHU_iCzMQFnoECA4QAQ&url=https%3A%2F%2Fwww.icc-cpi.int%2Fsites%2Fdefault%2Ffiles%2FPublications%2FCode-of-Judicial-Ethics.pdf&usg=AOvVaw0foXzPV8DcyQL7nkq9BKpm))
6. How to Develop and Implement Codes of Judicial Conduct?  
([https://www.unodc.org/documents/ji/knowledge\\_products/Codes\\_of\\_Conduct\\_PRINT\\_DOHA.pdf](https://www.unodc.org/documents/ji/knowledge_products/Codes_of_Conduct_PRINT_DOHA.pdf))
7. Judicial ethics for a global judiciary: How judicial networks create their own codes of conduct?  
<https://www.cambridge.org/core/services/aop-cambridge-core/content/view/9D79D4B5E0A3E6B65324493A407BDFFB/S2071832200001188a.pdf/judicial-ethics-for-a-global-judiciary-how-judicial-networks-create-their-own-codes-of-conduct.pdf>