



Ibero-American Committee for Judicial Ethics

Ethical considerations in the relationship between judges and the media.

Introduction

The Ibero-American Committee for Judicial Ethics has decided, following the deliberations of its members, to draft the following document with the goal of setting out considerations concerning the relationship between judges and the media from an ethical perspective. Recommendations will be made as to how judges should act with regard to the media and its direct operators, namely journalists.

The Committee believes that in doing so, it will achieve the objectives set in Article 83 of the Ibero-American Code of Judicial Ethics: to advise the various Ibero-American Judiciaries and Judicial Councils; to facilitate the discussion, dissemination and development of judicial ethics; and to raise awareness of judicial ethics among Ibero-American justice professionals.

The importance of this topic is clear. The relationship between judges and the media is the subject of ongoing debate and disagreements between journalists and judges.

In the second decade of the 21st century, rapid developments in communications, and the demand for responses in real time that have arisen from those advances, have meant that judiciaries need to critically assess and rethink their conventional relationship with the media, whether in print, on the radio, on TV or through a whole host of electronic media.

The justice system and news relating to it are matters of great public interest in society. Judges and other professionals are key players in the balance between the demand for real-time information and the procedural time for adopting judicial decisions.

Legal context

As the introduction of the Ibero-American Code of Judicial Ethics (hereinafter the Code) states: "It is important to recall that in States governed by the rule of law, judges are required to make efforts to find a fair solution in accordance with the law in the legal case under their competence. The power and *imperium* that they exercise comes from society itself which, through established constitutional mechanisms, chooses them for such an important and necessary social function on the basis of proof of a certain set of specific skills.





The power conferred on each judge implies specific requirements which would be inappropriate for the common citizen exercising private powers; acceptance of the judicial function brings benefits and advantages but also liabilities and disadvantages.

From this perspective of a governing society it is understood that the judge must not only be concerned with “being” according to the dignity proper to the power conferred, but also with “seeming to be” in a manner which will not raise legitimate doubts in society regarding the manner in which the judicial service is carried out.

Law should be oriented towards the general good or interest; however, in the scope of the judicial function, certain interests of those subject to justice, as well as lawyers and others working in the service of justice acquire a special importance which must necessarily be taken into consideration.

Judicial ethics should be proposed and applied from a weighted logic which seeks a reasonable point of balance between values: if you will, between the values of the judge as a citizen and also as the holder of power, the exercise of which has repercussions on the good and the interests of both specific individuals and on society in general.”

The ethical issues surrounding the relationship with the media will be explored based on this statement. Owing to their *imperium* and the social significance of their role, judges hold a special status with restrictions – advantages and disadvantages – and the duty of “being” and “seeming to be”.

The legitimacy of the judicial system and its judges lies in the Constitution and international human rights law. The source of that legitimacy – a democratic State governed by the rule of law – is often questioned by those who hold other positions within the State and whose legitimacy comes from the popular vote.

For that reason, the legitimacy of the Judiciary’s management is continually being called into question. Beyond institutional developments and the specific conduct of judges, this is a constant cause of concern in the judicial service.

Judges have a duty of disclosure that extends beyond the traditional model in which “they speak through their judgments”.

Legitimacy requires, in addition to honesty, integrity, effectiveness and efficiency in performing the role assigned to the Judiciary by the Constitution, an ongoing commitment to free and open communication, with society as the beneficiary of the justice service.



Disclosure recognises two essential rights in any democratic society: freedom of expression and freedom to access public information as a direct result of the obligation of transparency in managing the affairs of the State.

Freedom of expression and freedom to access public information: transparency¹

According to inter-American case law in freedom of expression matters:

“165. Freedom of expression, particularly in matters of public interest, ‘is a cornerstone of the very existence of a democratic society.’ Without an effective guarantee of freedom of expression the democratic systems is weakened and there is a breakdown of pluralism and tolerance; the mechanisms of control and complaint that citizens have may become inoperable and, indeed, a fertile ground is created for authoritarian systems to take root. Freedom of expression must be guaranteed not only as regards the dissemination of information and ideas that are received favourably or considered inoffensive or indifferent, but also those that the State or any sector of the population consider objectionable [...]

166. The Court’s case law has provided extensive content to the right to freedom of thought and expression established in Article 13 of the Convention. The Court has indicated that this norm protects the right to seek, receive and impart ideas and information of all kinds, as well as to know and receive information and ideas disseminated by others. In addition, it has indicated that freedom of expression has both an individual dimension and a social dimension and, thus, has concluded that a series of rights are protected under this article. The Court has stated that both dimensions are equally important and must be fully guaranteed simultaneously in order to provide full effect to the right to freedom of expression in the terms of Article 13 of the Convention. For ordinary citizens, knowing other opinions or the information that others possess is as important as the right to impart their own opinions and information. Consequently, in light of both dimensions, freedom of expression requires that no one be arbitrarily impaired or prevented from imparting his own thoughts and, thus, represents a right of each individual, but also signifies a collective right to receive any information and to know the thoughts expressed by others.” (Case of López Lone vs. Honduras)

¹ Toolkit for Ibero-American judicial schools: Training for teachers on freedom of expression, access to information and safety of journalists, UNESCO, 2017.



The right to access public information is recognised by the American Convention on Human Rights.

As the Inter-American Commission on Human Rights maintains², “Access to information is a basic tool for building citizenship (...) it is also a particularly useful tool for the informed exercise of political as well as other human rights. Access to information allows people to learn what rights they have and how to defend them.”

It goes on to add “The right of access to information is a fundamental requirement for guaranteeing transparency and good public administration by the government and other State authorities. Effectively, the full exercise of the right of access to information is a guarantee that is indispensable in preventing abuses by public officials, holding public administration accountable and promoting its transparency, as well as preventing corruption and authoritarianism.”

Maximum disclosure and good faith are the guiding principles of this right. The former refers to transparency as a general rule, subject to “strict and limited exceptions”³. The principle of good faith complements the principle of maximum disclosure and suggests that “those bound to guarantee this right act in good faith (...) ensure the strict application of the right, provide the necessary measures of assistance to petitioners, promote a culture of transparency, contribute to making public administration more transparent, and act with due diligence, professionalism, and institutional loyalty.”

Supreme Courts and other bodies in the system are committed to administering justice according to the values of transparency, integrity and accountability. Transparency means “constantly having available to the public (...) the relevant information concerning its management and those involved, in a complete, up-to-date and easily accessible manner”. Accountability involves “explaining the source, use and application of funds available to the administration of justice; the compilation and application of the indicators relevant to the administrative and judicial management; and oversight of the completion of the procedures with due safeguards and within a reasonable time frame”. Finally, integrity refers to “the essential ethical lines for properly exercising the functions of the judicial administration”; the explanation of the mechanisms for obtaining posts, the regulations governing disciplinary proceedings, and promotion and performance

² IACHR (2012): *The Inter-American legal framework regarding the right to access to information. Second Edition*, p. x, Office of the Special Rapporteur for Freedom of Expression, Inter-American Commission on Human Rights

³ *Ibid*, p. 5.



evaluation⁴.

Along these same lines, the principle of publishing judicial documents is a way of safeguarding the values mentioned and achieving social legitimacy.

Furthermore, the 17th Ibero-American Judicial Summit held in Santiago de Chile in 2014 defined the rules and indicators to pave the way forward in measuring these dimensions. The transparency rules established include: “judiciaries should have a website with up-to-date, appropriate and accessible information of relevance to users; judiciaries should also have alternative methods of information to serve the population without internet access; (...) Judiciaries and Judicial Councils should create specific training processes to foster the adequate dissemination of judicial information via the media; Judiciaries and Judicial Councils shall promote institutional outreach policies, both internally and externally, which might include protocols for cases of high importance for the media or society; (...) To facilitate understanding, judicial decisions should be written in clear and simple terms.”

In that regard, it is important to add that Goal 16 of the 2030 Agenda for Sustainable Development of the United Nations encourages States to build effective, accountable and inclusive institutions and to provide access to justice for all.

The targets of the Goal are to: “Develop effective, accountable and transparent institutions at all levels” (16.6) and “Ensure responsive, inclusive, participatory and representative decision-making at all levels” (16.7).

As judges are called upon to resolve legal disputes between citizens and because they hold the power of imperium to impose their decisions, it is worth considering whether their right to freedom of expression has any legally justified limitation by virtue of the specific nature of their role.

In the case cited, the Inter-American Court of Human Rights affirmed:

170. The United Nations Basic Principles on the Independence of the Judiciary (hereinafter “the

⁴ Recommendations for Transparency, Accountability and Integrity in Ibero-American Justice Systems, 15th Ibero-American Judicial Summit, 2012, Argentina.



United Nations Basic Principles”) recognize that “members of the judiciary are like other citizens entitled to freedom of expression, belief, association and assembly; provided, however, that in exercising such rights, judges shall always conduct themselves in such a manner as to preserve the dignity of their office and the impartiality and independence of the judiciary.” In addition, the Bangalore Principles of Judicial Conduct establish that: “[a] judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.” Similarly, the European Court has indicated that certain restrictions to freedom of expression of judges are necessary “in all cases where the authority and impartiality of the Judiciary are likely to be called into question.”

171. The general purpose of guaranteeing independence and impartiality is, in principle, a legitimate reason for restricting certain rights of judges. Article 8(1) of the American Convention establishes that “[e]very person has the right to a hearing, with due guarantees and within a reasonable time, by a competent, independent, and impartial tribunal.” Thus, the State is obliged to ensure that its judges and courts comply with these precepts. Therefore, the restriction of certain conduct by judges in order to protect independence and impartiality in the imparting of justice is in keeping with the American Convention, as a “right or freedom of others.”

The case law of the European Court of Human Rights almost always makes similar judgments in exceptional cases in which no limit should be imposed, i.e. when public freedoms are in danger and to defend professional conditions.

Apart from these cases and, as the Strasbourg Court indicates, judges, as public officials, are bound by a duty of discretion.

The judgment *Baka v. Hungary* (2016) analyses its previous case law to establish as a general rule that the right to freedom of expression applies to public officials in general and judges in particular (§§ 140 et seq.)

To that end, in the opinion of the European Court, it is legitimate to impose a duty of reserve on public officials on account of their status, even though they are individuals who enjoy the right to freedom of expression. A fair balance therefore needs to be struck between respect for the freedom of expression and the legitimate interest of a



democratic State to ensure that they fulfil their public duty in accordance with Article 10 (2) of the European Convention on Human Rights (§ 162). More specifically, in relation to judges, the European Court reiterates the prominent place among State organs that the judiciary occupies in a democratic society, placing them on an equal footing with public officials for these purposes (§ 163). The Court then goes on to reiterate its case law according to which public officials serving in the judiciary can be expected to show restraint in exercising their freedom of expression in all cases where the authority and impartiality of the judiciary are likely to be called in question; the dissemination of even accurate information must be carried out with moderation and propriety. It also recalls that on many occasions the Court has emphasised the special role in society of the judiciary, which, as the guarantor of justice, a fundamental value in a law-governed State, must enjoy public confidence if it is to be successful in carrying out its duties. It is for this reason that judicial authorities, in so far as concerns the exercise of their adjudicatory function, are required to exercise maximum discretion when imparting justice in order to preserve their image as impartial judges (§ 164).

The judgment in *Kudeshkina v. Russia* (2009), concerning the dismissal of a judge, who had run as a candidate in parliamentary elections, for criticising the judicial system, recognises the right to freedom of expression of public officials, while observing that employees owe to their employer a duty of loyalty, reserve and discretion⁵. This applies to civil servants since disclosure by civil servants of information obtained in the course of their work, even on matters of public interest, should be examined in the light of their duty of loyalty and discretion (§ 85). Applying this principle to judges, the Court holds that judges also enjoy protection of the right to freedom of expression. However, the confidence that society places in judges, who are subject to a duty of discretion, may preclude them from replying against destructive attacks, even where such attacks are essentially unfounded (§ 86).

Article 10 (2) of the Convention talks of “the authority and impartiality of the judiciary” as justification for certain restrictions on the freedom of expression and the European Court explains that the phrase “authority of the judiciary” includes, in particular, the notion that the courts are, and are accepted by the public at large as being, the proper

⁵ ECHR, judgment of 26 February 2009, *Kudeshkina v. Russia*, application No. 29492/05 (dismissal of a judge, who had run as a candidate in parliamentary elections, for criticising the judicial system).



forum for the settlement of legal disputes and for the determination of a person's guilt or innocence on a criminal charge. Therefore, what is at stake as regards protection of the judiciary's authority is the confidence which the courts in a democratic society must inspire in the accused, as far as criminal proceedings are concerned, and also in the public at large. For this reason, the exercise of their freedom of expression should be restrained in all cases where the authority and impartiality of the judiciary are likely to be called into question (§ 86).

In the judgment of *Di Giovanni v. Italy* (2013), the Court ruled on the freedom of expression of an Italian judge who had made statements to the press in Naples regarding the selection of judges that favoured, in particular, a certain judge who belonged to a judicial association and who had been a member of the National Council of the Judiciary. The judge was ultimately given a warning for having named a specific judge⁶.

In this case, the European Court upheld the sanction imposed, not only because it was minor but also because the judge in question had failed to exercise the discretion required of judges, to the extent that her statements left no margin for doubt as to the veracity of the information. She presented a rumour that was well-founded in the public eye but that later proved false (§ 79).

In its reasoning, the European Court reiterated that judicial authorities are required to exercise maximum discretion and recalls that such discretion must mean that judges cannot use the press to respond even to provocation, owing to the higher imperatives of justice and of the dignity of the judicial function (§ 80).

The case law of the Inter-American Court of Human Rights and the European Court have recognised certain restrictions on the freedom of expression of judges as legitimate, essentially in order to preserve two principles and fundamental ethics in the course of their work: independence and impartiality.

Lifting of restrictions in circumstances that threaten the rule of law or judicial independence

⁶ ECHR, judgment of 9 July 2013, *Di Giovanni v. Italy* (confirmation of a disciplinary sanction against a judge for an opinion regarding a judge selection process).



This is covered in the case law of the Inter-American Court of Human Rights in cases such as *Quintana Coello et al. v. Ecuador* (2013)⁷, *Camba Campos et al. v. Ecuador* (2013)⁸ and *López Lone et al. v. Honduras* (2015)⁹, concerning judges who report *coups d'état* and are thus dismissed or subject to disciplinary proceedings.

In these cases, the Inter-American Court has stated: “at times of grave democratic crises (...) the norms that ordinarily restrict the right of judges to participate in politics are not applicable to their actions in defence of the democratic order. Thus, it would be contrary to the independence inherent in the branches of State, as well as the international obligations of the State derived from its membership of the OAS, that judges could not speak out against a *coup d'état*.” In fact, the Court insists: “in view of the particular circumstances of this case, the conducts of the presumed victims on the basis of which disciplinary proceedings were instituted against them cannot be considered contrary to their obligations as judges and, thus, violations of the disciplinary regime that was applicable to them under ordinary circumstances. To the contrary, such conducts should be understood as a legitimate exercise of their rights as citizens to take part in politics, to freedom of expression, to the right of assembly and to protest, as applicable to the specific action taken by each of these presumed victims.” (paragraph 175).

The Inter-American Court prohibits criminal proceedings that may have “an intimidating or inhibiting effect on the exercise of freedom of expression, contrary to the state obligation to ensure the free and full exercise of this right in a democratic society” (paragraph 176). In the case at hand, it arrives at the conclusion that even though criminal proceedings are not involved, the Court considers that the mere fact of instituting disciplinary proceedings against the judges and the justice based on their actions against the *coup d'état* and in favour of the rule of law could have had this

⁷ IACHR. *Case of the Supreme Court of Justice (Quintana Coello et al.) v. Ecuador. Preliminary Objection, Merits, Reparations and Costs. Judgment of 23 August 2013 Series C No. 266 (parliamentary removal of 27 judges from the Supreme Court of Justice of Ecuador).*

⁸ IACHR. *Case of the Constitutional Tribunal (Camba Campos et al.) v. Ecuador. (Preliminary Objections, Merits, Reparations and Costs) Judgment of 28 August 2013 Series C No. 268, §§ 188-199 (judicial independence and dismissal of judges).*

⁹ IACHR. *Case of López Lone et al. v. Honduras. Preliminary Objection, Merits, Reparations and Costs. Judgment of 05 October 2015 Series C No. 302 (disciplinary proceedings against judges who report a *coup d'état*).*



intimidating effect and, therefore, constituted an undue restriction of their rights” (paragraph 176).

In European codes, there is no doubt whatsoever that in the event of a risk to democracy judges can and must intervene.

Thus, the London Declaration clearly states: “When democracy and fundamental freedoms are in peril, a judge’s reserve may yield to the duty to speak out”.

In Spain, principle 21 establishes that: “When democracy, the rule of law and fundamental freedoms are in danger, the obligation of secrecy is relinquished in favour of the duty to speak out.”

Ethical approaches to the relationship between judges and the media

Bangalore Principles of Judicial Conduct (2002): Value 2 Impartiality: A judge’s conduct shall ensure, both in and out of court, his or her independence and impartiality (2.2), prohibition of conduct or behaviour that might affect a fair trial; Value 3 Integrity: The behaviour and conduct of a judge must reaffirm the people’s faith in the judiciary; justice must not merely be done but must also be seen to be done (3.2); Value 4:

4. Propriety

Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

4.6 A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.

Code of Conduct for Members and former Members of the Court of Justice of the European Union, December 2016, in force from 2017

Independence, integrity and dignity (Art. 3): “Members shall not act or express themselves, through whatever medium, in a manner which adversely affects the public perception of their independence, their integrity or the dignity of their office.”

(3.4).



Impartiality (Art. 4): “Members shall not act or express themselves, through whatever medium, in a manner which adversely affects the public perception of their impartiality.”
(4.2)

Discretion, Art. 7, secrecy of the deliberations

The London Declaration on Judicial Ethics in 2010 (according to the English version)

Integrity, dignity and honour: “Courtesy and intellectual probity govern his relations with all the professionals within the justice system, the secretariat, clerks, advocates and other lawyers, magistrates, the parties involved in cases and the press.”

Impartiality: “He is entitled to complete freedom of opinion but must be measured in expressing his opinions, even in countries in which a judge is allowed to be a member of a political organisation. In any event, this freedom of opinion cannot be manifested in the exercise of his judicial duties.” Reserve and discretion: “The judge’s reserve and discretion involve a balance between the rights of the judge as a citizen and the constraints linked to his function.”





In politics, a judge, like any citizen, has the right to have a political opinion. His task, by showing this reserve, is to ensure that individuals can have every confidence in justice, without worrying about the opinions of the judge. A judge exercises the same reserve in his dealings with the media. He cannot, in the name of freedom of expression, appear to be partial or in favour of one party. In facing criticism or attacks, a judge exercises the same caution. A judge will refrain from commenting on his decisions, even if they are criticised by the media or by academic commentators and even if they are overturned on appeal.

Principles of Judicial Ethics of 20 December 2016, Spain

Impartiality

19. In their social lives and in their relationship with the communications media judges may contribute reflections and opinions, but at the same time they must be prudent in order to ensure their appearance of impartiality is not affected by their public statements, and they must show, in any event, discretionary respect for the information that could prejudice the parties or the development of the proceedings.

20. In their relationships with the communications media, judges may carry out a valuable educational function in terms of explaining the law and the way in which fundamental rights operate at the core of the process.

21. When democracy, the State of Law and fundamental freedoms are in danger, the obligation of secrecy is relinquished in favour of the duty to speak out.

Integrity

31. Judges, as citizens, have the right to freedom of expression, which they will exercise with prudence and moderation with the objective of preserving their independence and appearance of impartiality, and maintain social trust in the judicial system and jurisdictional bodies. Transparency

35. Judges must assume a positive attitude towards transparency as a normal way of



functioning for the Judicial Administration, to which they may rely on the means of institutional communication at their disposal.

Ibero-American Code of Judicial Ethics. Principles applicable to the relationship with the media

Although two articles of the Code make express mention of media relations, several principles are covered which will be mentioned below.

As regards independence, Article 3 states:

“The judge, through his/her attitude and conduct, should indicate that he/she is in no way influenced – either directly or indirectly – by any other private or public power, either outside of or within the judicial system.”

Article 6:

“The judge has the right and duty to report any attempt to undermine his/her independence.”

Impartiality, Article 13:

“The judge should avoid all manifestations of preferential or special treatment with lawyers and those being judged, arising from his/her own conduct or that of the other members of the judicial profession.” Knowledge and skills, Article 30:

“The requirement of the ongoing training of judges extends both to specifically legal matters and to knowledge and techniques which may promote a greater degree of fulfilment of judicial functions.” Institutional responsibility, Article 43:

“The judge is required to promote an attitude in society, rationally based, of respect and trust in the administration of justice.”

Article 44: “The judge should be prepared to respond voluntarily for his/her actions or omissions.”

Courtesy, Article 50:

“The judge should provide as much explanation and clarification as required in that such measures are appropriate and do not infringe any legal regulations.”



Article 52: “The judge should show a tolerant and respectful attitude towards any criticisms of his/her decisions and conduct.”

Integrity, Article 55:

“The judge should be aware that exercise of the judicial function presupposes requirements that cannot be imposed on other citizens.”

Transparency, Article 57:

“The judge should endeavour to offer without infringing the law in force, useful, pertinent, comprehensible and reliable information.”

Publicity principle, Article 58:

“Although the law does not require it, the judge should document, insofar as is possible, all actions taken and allow them to be made public.”

Articles:

59: “The judge should behave, in respect of social communications, in a fair and prudent manner, and above all ensure that the legitimate rights and interests of the parties and the lawyers are not undermined or harmed.”

60: “The judge should avoid behaviours or attitudes which may be construed as unjustifiably or disproportionately seeking social recognition.”

Professional secrecy, Article 62:

“Judges are obliged to maintain strict confidentiality and professional secrecy in respect of cases in progress with the facts and information heard in the exercise of their duties.”

Article 63: “Judges who belong to collegiate courts should ensure the secrecy of the court’s deliberations, save for the exceptions established by the legal regulations in force.”

Caution, Article 68:

“Caution is oriented towards self-regulation of the decision-making power of judges and to strict compliance with the judicial function.”





The complexities of the relationship between judiciary and media operators: journalists¹⁰

The relationship between judiciaries and journalists entails obvious complexities owing to two functions that are strictly necessary in a democratic society: the judicial function that plays an impartial and independent role in conflicts involving threats against or violations of the rights of journalists and individuals.

Journalists and the media outlets they work for are the channels through which freedom of expression is exercised. To that end, they need to gather information by using their freedom to access public information.

Just like judges, they have their own protected status since their role is essential in a democratic, law-governed society. They have their own rules of ethics.

UNESCO affirms in the International Code of Journalistic Ethics¹¹ that information is a “social good”, and that the foremost task of journalists is therefore to “serve the people's right to true and authentic information through an honest dedication to objective reality whereby facts are reported conscientiously in their proper context, pointing out their essential connections and without causing distortions”.

Furthermore, professionals are obliged to respect the “right of the individual to privacy and human dignity, in conformity with provisions of international and national law concerning protection of the rights and the reputation of others, prohibiting libel, calumny, slander and defamation”.

It clearly follows from the principles and obligations governing the press and the Judiciary that there are common objectives and tensions whose very nature complicates the relationship between them. The natural tensions in the relationship between both players are far from static. They change and evolve over time, with the

¹⁰ Best practices to guide the dialogue between the Judiciary and the press. Guide for judges and journalists, Communication and Information Discussion Notebooks 10, UNESCO

¹¹ International Principles of Professional Ethics in Journalism, published by the fourth consultative meeting of international and regional journalists, in Paris, 1983, under the auspices of UNESCO.



advent of new technologies and the cultural evolution of all societies. The ongoing assessment and identification of areas for improvement and the design of mechanisms to optimise the link between both spheres have the same ultimate goal of putting forward solutions¹².

Journalists are vested with certain rights in the performance of their work, namely the right of investigation, preservation of the secrecy of their sources and personal safety. They are justified because they are real ways in which the people's right to free and complete information is fulfilled.

Judges must often face sensationalist news or prejudgements by the media, which must be refuted with adequate and timely information, dialogue and the necessary obligation for everyone involved to comply with their professional ethics.

The Ibero-American Committee for Judicial Ethics has decided to make recommendations, based on judicial ethics, regarding the ethical principles that should guide judges when dealing with social media and journalists. Proposals for best practice will be made in the next chapter.

Summary

“A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.”
(Bangalore Principles, 4.6)

¹² Same document, Note 4



1. Judges have the right and the duty to interact with the media in the course of their work, within the legal framework applicable to them as citizens, while performing their task of passing judgment and disengaging from any direct or indirect pressure against the media to safeguard their independence.
2. Judges must not disclose information where prohibited by professional secrecy and the obligation of discretion. They must faithfully observe the legal regulations in that regard. If they use social networks, they must ensure that they are open-access and that they follow the recommendations of this Committee concerning such matters.
3. Judges enjoy limited freedom of expression in their role to the extent that they can only make moderate criticisms of institutions in relation to strictly professional matters. However, this restriction does not apply when the rule of law is at risk. On the contrary; they have a duty to speak out in such cases.
4. Judges must not take advantage of their position to exercise freedom of expression or seek excessive or extravagant notoriety or recognition to their own benefit.
5. Judges must exercise discretion and caution, virtues that are especially applicable to the task of settling legal disputes entrusted to them by society.
6. Judges should promote transparency in the judiciary and in their own actions, particularly their decisions. They should spread this information through the appropriate channels, such as press offices, where they exist.
7. Judges should ensure the coherence of the information, taking particular care not to superimpose their own statements over those of individuals who are authorised to that end by law or, for reasons of proximity to the subject of the information or because of their control over it, are best placed to disseminate it.



As regards information on cases being dealt with by the judge, it is the responsibility of the judge to determine what content should be disclosed.

8. Judges must be prepared, when the circumstances warrant it and national legislation so permits, to establish direct contact with the media.
9. Judges may participate in broadcasting events covering topics of legal or public interest such as conferences, debates, programmes or reports in the media. They must maintain their independence and impartiality, and take care not to share thoughts or opinions that might exclude them from participating in any proceedings.
10. Judges may take part in activities to raise awareness of the justice system in law-governed States and, in particular, of their own role as guarantors of the rights of individuals, in order to build public trust in the justice service.
11. Judges should set out their decisions using clear language and in a manner that is concise and easy to understand by the public, bearing in mind the principles of maximum disclosure, publicity and good faith.

