

PUBLIC PERCEPTION INDEX AND LINKS FOR ACTION PROJECT

JUDICIARY HANDBOOK

MODEL CODE OF CONDUCT AND PRACTICE OF COURT REPORTERS

Foreword

The freedom of expression and the right of the public to information are fundamental to the establishment, nurturing and sustenance of a democratic society. Respect for truth and for the right of the public to truth is the first duty of a journalist and the right of the public to know must be balanced against the need to protect the privacy of individuals in a manner that secures the public interest¹.

This handbook is a publication aimed at supporting effective interest group demand for judicial reform. It is part of a series of four code of conduct handbooks aimed at promoting judicial independence, accountability and effectiveness.

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This publication seeks to outline some of the key principles of ethics and conduct specifically designed for court reporters. In our case, we have limited court reporters to media practitioners who report specifically on the proceedings in courts as well as other developments in the judiciary as a whole.

The publication is intended to lead debate and discussion on the professionalism of court reporters. Provisions in this code are borrowed from various Codes of Ethics. This includes Code of ethics of East Africa, South Africa, Sweden and Federation of International Editors of Journals (FEIJ) and the Kenya Union of Journalists' Model Code of Conduct.

Principles of Court Reporting

- I. Court reporting should be objective. At any stage of the preparation of lawsuits and trials and during the hearing by the court, the journalists should aim at a qualitatively equal representation of the points of view of the parties - in criminal cases the points of view of the counsel for the prosecution and the counsel for the defence,

¹ From the preamble of the Code of conduct and practice of journalism in Kenya, Media Industry Steering Committee, 2001

respectively. A mention of a criminal case should be followed up by an account of the end of the case, whether this takes place in the form of a withdrawal of the charge, acquittal, or conviction.

- II. The mention of persons' family history, occupation, race, nationality, creed, or membership of organisations should be avoided unless this has something directly to do with the case.
- III. As long as a criminal case has not been finally decided or the charge has not been withdrawn, no information must be published which may obstruct the clearing up of the case, nor must pronouncements to the effect that a suspect or an accused is guilty be published.
- IV. An accused's names or other identification should be omitted if no public interest calls for the publication of the name.
- V. Caution should be exercised in publishing statements to the effect that the police have been informed about a crime committed by a person mentioned by name. Such information should as a rule not be published, until the information to the police has resulted in the intervention of the police or the prosecution.
- VI. A suspect, accused, or convicted person shall be spared from having attention called to an earlier conviction if it is without importance in relation to the facts which he is suspected of, charged with, or convicted of.
- VII. A court reporter and the mass media shall avoid prejudiced, pejorative or stigmatizing language in reference to, among other things a person's nationality, ethnicity, class, religion, political affiliation or sex, or to any physical or mental illness or disability. Such references shall be eschewed unless they are germane to a story.
- VIII. In making the official record, a Court Reporter shall:
 - a) Accept only those assignments when the Court Reporter's level of competence will result in the preparation of an accurate transcript. The Court Reporter should remove himself from an assignment when the Court Reporter believes his/her abilities are inadequate, recommending or assigning another reporter only if such reporter has the competence required for such assignment.
 - b) Prepare the record in accordance with Court guidelines or Court order, by local custom and usage.
 - c) Notify whenever possible, the parties engaging the Court Reporter if a substitute reporter, equally qualified, will be assigned to report the proceedings.
 - d) Strive to become and remain proficient in the Court Reporter's professional skills.
 - e) Keep abreast of current literature, technological advances and developments, and participate in continuing-education programs.

- f) Assist in improving the reporting profession by participating in activities that advance the quality and standards of the journalist profession.
- g) Co-operate with the bench and bar for the improvement of the administration of justice.
- h) A court reporter shall issue unbiased, accurate, balanced and comprehensive information on any case or any party in a suit. Reports shall be presented in the correct context and in a balanced manner; without intentional or negligent departure from the facts whether by;
 - a. Distortion, exaggeration or misrepresentation
 - b. Material omissions, or
 - c. Summarisation

MODEL GUIDELINES

1. A Court Reporter shall be fair and impartial toward each participant in all aspects of reported proceedings, and always offer to provide comparable services to all parties in a proceeding. The right to reply from any person mentioned in an unfavourable context shall be obtained as appropriate.
2. A Court Reporter shall be alert to situations that are conflicts of interest or that may give the appearance of a conflict of interest. If a conflict or a potential conflict arises, the Court Reporter shall disclose that conflict or potential conflict.
3. A Court Reporter shall guard against not only the impropriety but the appearance of impropriety.
4. A Court Reporter shall preserve the confidentiality and ensure the security of information, oral or written, entrusted to the Court Reporter by any of the parties in a proceeding.
5. A Court Reporter shall refrain from freelance reporting activities that interfere with official duties and obligations.
6. A Court Reporter shall refrain from giving or receiving, directly or indirectly, any gift, incentive, reward or anything of value to advocates, clients, witnesses, Court clerks or any other persons or entities associated with the litigation.
7. A Court Reporter shall maintain the integrity of the reporting profession in collecting and disseminating information on a given case or any party to a suit. A court reporter shall bear in mind his/her responsibility to the public at large and various interests in society.

8. A Court Reporter shall abide by the 2001 code of conduct and practice of journalism in Kenya agreed upon by the Media Industry Steering Committee.
9. A court reporter shall respect and defend basic freedoms and rights of human beings as stipulated in the Kenya Constitution, all international and regional charters and conventions, with sensitivity to socio-economic status and socio-cultural issues.
10. A Court reporter shall refrain from engaging in any conduct that offends the dignity and decorum of proceedings before a court, and shall be respectful of all rules and procedures. He/she shall be conversant with the rules governing reportage of various types of court cases and the penalties for breaking these rules.