**[Advisory Opinion No. 3]**

**Public Comment or Opinion on a Particular Case by Judge**

When expressing his or her opinion, a judge shall preserve dignity, shall refrain from conducting any activities for which impartiality and integrity might reasonably be questioned, shall not influence the cases of judicial colleagues, and shall preserve political neutrality (the Judicial Code of Conduct 2, 3(1), 5(2), and 7(1)). Further, unless for the sake of of education, scholarly research, or exact media report, a judge shall avoid public commentary of his opinion on a particular case (the Judicial Code of Conduct 4(5)).

A judge shall not be abstained from expressing his or her personal views and criticizing legal points on a case after the final disposition of the case. As a judicial officer and a person specially trained in the law, a judge would contribute to the development of legal systems and jurisprudence by freely expressing his or her opinion on legal issues. At the same time, however, a judge making any public comment on the merits of any pending matter might lead to the perception that the opinion by the judge could interfere with a fair trial or hearing.

In this regard, the Supreme Court Public Service Ethics Commission is referring to situations where a judge must exercise special caution when making public comments on the merits of a particular case.

**1. Making Public Comments on a Case Handled by a Judge**

A judge may make public comments involving a case when the judge is at scholarly presentations made for purposes of legal education, e.g., at seminars, symposiums, conferences, or at the Judicial Research and Training Institution. Thus, a judge may give explanations through media interviews for the purpose of exact media reports. However, even in the circumstances listed above, the judge shall explain legal points based only on the fact discovered during the proceeding, and the judge shall not appear to justify or defend any of the judge's decisions, opinions, or reasons therein. Also, the judge should avoid sensationalism and comments that may result in confusion or misunderstanding of the judicial function, or any comments that might detract from the dignity of the office.

Further, a judge should avoid making public comments which may be interpreted as a public endorsement or a statement of opposition towards a certain political party in order to preserve public confidence for impartiality and integrity in performing judicial duties.

Most importantly, to follow the principal that "no conference of a collegiate court shall be open to the public (the Court Organization Act 65)", a judge shall not disclose agreements or opinions from the proceedings of a collegiate court. Therefore, the judge should take particular care to not express personal opinions in public regarding conclusions or opinions of the case that were drawn from the collegiate court in which the judge has participated.

**2. Making Public Comments on a Case Handled by Other Judge**

The opinion regarding a case should be based on all parties' arguments before the court and should be a result of thorough examination of the documents presented. Therefore, a judge publicly making any statements regarding a legal conclusion on a case handled by other judges based only on hearsay might substantially interfere with the maintenance of the public confidence of the judiciary.

Furthermore, making a public statement on a case handled by other judges might reasonably raise suspicion of an effort to affect the outcome or impair the fairness of the matter. Thus, the statements might provide a basis for collateral attack on the judgement and lead to otherwise unnecessary appeal procedures.

**3. Making Public Comments on Matters Impending before a Court**

A judge shall exercise special caution in making public comments not only when a proceeding is currently pending before a court but also when an issue is very likely to come before a court. The reasons are, first, the personal public comments of a judge may be misinterpreted as a formal opinion of the court and, second, the comments may be expected to affect its outcome.

In conclusion, every judge shall exercise special caution to the fact that his or her public comments on a particular case may adversely affect the perception of the judge's impartiality and could make it difficult to preserve a level of respect and confidence in the judicial office. Therefore, a judge should consider the language, intent, and spirit of any comments and strive to be as objective as possible and to not denigrate public confidence in the integrity and impartiality of the judiciary.

**February 04, 2009**

**The Supreme Court Public Service Ethics Commission**

**[Advisory Opinion No.5】**

Judge's participation in an organization

Judges may engage in activities to improve the law, the legal system, and the administration of justice (hereinafter referred as organizational activities). Doing so allows them to enjoy academic freedom and freedom of assembly and association. Judges should be encouraged to participate in organizational activities, but restrictions and limitations should be placed on the activities considering the responsibilities and duties of judges and the general expectations regarding judicial position.

**Recognizing this, the Public Service Ethics Committee of the Supreme Court publishes an advisory opinion on judges' engagement in organizational activities.**

First, a judge may participate in organizational activities that do not detract from the dignity of the judge's office, reflect adversely upon the judge's impartiality, or interfere with the performance of a judge's official duties. A judge should keep in mind that performing judicial duties and obligations takes precedence over exercising his or her freedom of participating in organizational activities (4(5) of Judicial Code of Conduct).

Second, a judge shall not engage in any political activity and a judge shall avoid organizational activities that impair an independent, fair, and competent judiciary and may bring up suspicions of impropriety in any activities (1, 3, 7 of Judicial Code of Conduct). A judge shall refrain from engaging in public debate as part of organizational activities because doing so would create the appearance of impropriety and appear to compromise the impartiality of judicial decisions.

Third, a judge shall not participate in organizations in which composition or operational practice is not disclosed and is thus dubious to the public, or organizational activities that create the appearance of providing favors and preferences to its members based on prior relationships. Membership by a judge in such organizations may not only raise questions about the dignity of the judge but also give rise to perceptions that the judge's impartiality and integrity are impaired.

Fourth, a judge shall not join an organization whose financial information is not reliable, transparent, or accurate, nor shall he solicit or receive operating funds from those organizations which have an interest in pending or impending cases.

Last, a judge should remain knowledgeable about the organization's activities in order to regularly reassess whether participation in the organization continues to be appropriate and to determine whether organizational activities do not conflict with the code of conduct due to changes in the operational direction or plan of the organization.

Judges shall take as much caution in participating in organizational activities as they do in performing judicial activities in order to avoid eroding public confidence in the judiciary due to the suspicion of improper conduct or the appearance of impropriety.

**March 15, 2010**

**Public Service Ethics Committee of the Supreme Court**

**【Advisory Opinion No.7】**

Judge's Use of Social Network Service(SNS)

'Social Networking Service' hereinafter referred to as 'SNS' has a feature that enables swift communication and forming various personal relationships. However, communications through the SNS are done instantly. Information updated in the SNS is spread without the user’s actual intention and can continue to exist. Therefore, it is undeniable that communications through the SNS has the characteristic of being public.

Considering such characteristic of SNS of being public, Public Service Ethics Committee for the Supreme Court proposes advisory opinion on the things that judges should be mindful of when they use the SNS in line with the Judicial Code of Ethics.

First, judges must understand the characteristic of the SNS and how to use it correctly in order to prevent any unintended consequences in the process of using the SNS. Also, judges should be cautious: when uploading posts related to personal information, when setting the range of making public their posts, and when managing posts written by others in their own SNS.

Second, even when using the SNS, judges must retain their dignity by complying with the Judicial Code of Ethic, act in a way fairness and integrity of judges do not become doubtful, be careful not to display bias, discrimination, or not to create any misunderstanding.

Third, in the SNS, when networking with lawyers or others who might become parties to their case, judges should not create any appearance that might raise question about judge's fairness. If a judge faces a situation where doubts can be raised about fairness as a judge, the judge should immediately stop networking or take some appropriate measures.

Fourth, because of the characteristic of the SNS being public, judge are refrained from making comments or from expressing his/her personal opinions on the SNS about any specific case(refer to Advisory Opinion No.3 "Public Comment or Opinion on a Particular Case by Judge). Judges are also refrained from giving legal advice or any specific information to anyone about a particular case.

Fifth, even when expressing social or political issues on the SNS, judges must retain dignity based on self-restraint and a balanced thinking. Judges must act cautiously not to be at the center of social controversy, or not to create any appearance that might raise concerns about judge's fair trial in the future.

**May 17, 2012**

**Public Service Ethics Committee for the Supreme Court**

**【Advisory Opinion No.10】**

Judge's Expressing of Opinions on the Anonymity in the Internet

As the Internet advances at a rapid pace, means to communicate through the Internet has also become various. Judges are increasingly expressing their opinions on the Internet through various ways including uploading their posts, etc.

As a judge is also an entity whose fundamental right to free expression is guaranteed under the Constitution, he/she can freely express opinions in the Internet space. However, there is limit to the freedom of expression by a judge. Such personal opinions expressed by a judge should not violate other's honor and rights, public moral, social ethic, not to mention dignity or authority of the judiciary(Refer to the Supreme Court Decision on January 30, 2009, case no. 2007CHU127).

In particular, when a judge anonymously uploads posts about his opinion in various Internet portal sites, or when a judge uploads posts in a closed Internet space where reading such posts are limited to certain people, such as closed Internet cafes or blogs, judges might be tempted to upload posts that are inappropriate in its format or contents, going beyond the parameter of judge's freedom of expression and taking advantage of being anonymous and closed where the judge can hide his/her status.

However, uploaded posts in the Internet, regardless of its being anonymous or being only public in a closed Internet space, are stored for a long time and easily spread. The identity of the person who uploaded the post can also be traced through various ways. Therefore, it is not guaranteed that the contents of the post or the identity of the person who wrote the post will not be revealed. If a post uploaded in the Internet by a judge without revealing his/her status as a judge is inappropriate in its contents or format, and when the contents of the post and the identity of the writer are somehow disclosed, then the dignity of the judge will be undermined, not to mention, public confidence in fair trial.

Therefore, the Public Service Ethics Committee for the Supreme Court proposes points judges should bear in mind when uploading posts in the Internet anonymously or when uploading posts in closed Internet spaces where reading such posts are limited to certain people.

Even when uploading posts in the Internet anonymously or when uploading posts in closed Internet spaces where reading such posts are limited to certain people,

First, judges should neither use any expression that can mar dignity of a judge such as defamation, nor expressions that are offensive, threatening, obscene and vulgar.

Second, judges should not use any expression that plainly displays prejudice or discrimination against race, age, and region, not to mention aversive expressions against the socially vulnerable or minorities. It is because, if the person who uploaded the post is revealed to be a judge, then such expressions not only undermine dignity of the judge himself, but can also trigger serious distrust in the fairness of a trial that the judge is currently in charge of or will handle in the future due to the prejudice revealed from his post.

Third, judges should not reveal contents of settlement of a case that they handled, not to mention undisclosed contents of a case that they found out during the procedure. Judges should not disclose personal information of parties. Also, it is desirable for judges not to unilaterally emphasize legitimacy of a trial that they handled and not to express any personal opinion about contents of the trial which can lead to unnecessary misunderstanding.

All judges must bear in mind that even if their posts are uploaded anonymously in the Internet, there is possibility that somehow such posts can be disclosed. Also, judges should be mindful that they should always be cautious not to be involved in any incident that can undermine dignity of a judge or can raise question about fairness of their trials.

**March, 11, 2015**

**Public Service Ethics Committee for the Supreme Court**