

Judicial Discipline and Professional Ethics: The Case of Some Asian Countries Developer Platforms

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Abstract

The main goal of our study is examining how judicial discipline and professional ethics function in South Korea, Malaysia, and Mongolia, highlighting their role in promoting judicial independence, accountability, and public trust within different political and institutional contexts.

Judicial discipline and professional ethics are essential for a fair and effective legal system. They ensure that judges are independent from political or private influence while remaining accountable for their actions. Independence allows judges to make decisions without pressure, but without accountability, it can lead to misconduct and erode public trust. Judicial discipline provides formal mechanisms, such as councils or committees, to investigate and sanction unethical behavior, while professional ethics set the standards of conduct judges are expected to follow.

A comparison of South Korea, Malaysia, and Mongolia shows that these principles work differently depending on political, institutional, and historical contexts. In South Korea, strong laws exist, but political tensions can affect discipline. In Malaysia, past political crises have weakened judicial credibility. Mongolia, as a young democracy, is building modern systems but still faces challenges in implementation.

Overall, judicial discipline and ethics are dynamic practices influenced by governance, transparency, and public trust. A judiciary that balances independence with accountability strengthens legitimacy, democracy, and the rule of law, while weaknesses in either area can undermine public confidence and legal stability.

1. Introduction

Judicial discipline and professional ethics form the normative and institutional foundation of a functioning rule-of-law system. They are indispensable because they operate at the intersection of independence and accountability, two principles that must coexist in tension but in balance. Judicial independence ensures that judges are free from undue influence by political actors, private interests, or public pressure.

Without independence, courts risk becoming extensions of executive or legislative power, thereby undermining constitutional democracy. At the same time, unchecked independence can lead to judicial impunity, where judges act arbitrarily or in ways that erode public trust. This is where judicial accountability—through disciplinary measures and enforceable ethical standards—becomes critical. Together, independence and accountability form a dual safeguard: independence protects decision-making from external

coercion, while accountability ensures that judicial actors meet standards of competence, impartiality, and integrity [1,2].

Judicial discipline refers to the formal mechanisms by which misconduct, incompetence, or ethical breaches by judges are investigated and sanctioned. These mechanisms typically include judicial councils, disciplinary boards, or special committees empowered to impose sanctions ranging from reprimands to removal. Professional ethics, by contrast, constitutes the normative framework of values and behavioral expectations codified in judicial codes of conduct. These codes often draw on international standards, such as the Bangalore Principles of Judicial Conduct, and emphasize impartiality, propriety, diligence, and integrity. Together, discipline and ethics are not merely reactive tools but also preventive instruments, shaping judicial culture and setting standards that guide everyday judicial behavior.

The comparative study of South Korea, Malaysia, and Mongolia demonstrates how these principles manifest differently depending on institutional norms, political context, and historical trajectory. In South Korea, despite a strong statutory framework under the Discipline of Judges Act, recurring tensions between the judiciary and the prosecution reveal how disciplinary structures can be overshadowed by politicization.

Malaysia illustrates how disciplinary and ethical frameworks may be undermined when political crises—such as the 1988 constitutional confrontation—reshape judicial culture and weaken institutional credibility. Mongolia, by contrast, is a young democracy in transition, where recent reforms aim to establish modern disciplinary and ethical systems but face the challenge of implementation within a volatile political environment.

Thus, judicial discipline and professional ethics are not static legal categories; they are dynamic practices shaped by broader governance contexts. Their effectiveness depends not only on written laws or codes but also on institutional design, enforcement capacity, political will, and public trust. A judiciary that is both independent and accountable is more likely to command legitimacy, strengthen democratic resilience, and safeguard citizens' rights. Conversely, weaknesses in either discipline or ethics can destabilize this balance, resulting in politicized courts, diminished public confidence, and erosion of the rule of law.

2. Theoretical Framework

Ethical dilemmas in the judiciary arise from the complex interplay of professional responsibilities, moral principles, and societal expectations. Central to understanding these dilemmas is the concept of conflict of duties, also referred to as moral tension. Ethical dilemmas occur when a professional, such as a judge, faces two or more obligations that cannot be fully satisfied simultaneously. For instance, a judge must maintain independence by avoiding external influence, while also being accountable to oversight bodies. Fulfillment of one duty may inadvertently compromise the other, highlighting the normative tension between competing ethical principles [3].

Closely related is the notion of competing values, which emphasizes the balancing of core professional values. Within the judicial context, this involves weighing independence — the freedom to make impartial decisions — against accountability — the responsibility to uphold justice and maintain public trust. Such dilemmas illustrate that ethical decision-making is rarely straightforward and often requires careful prioritization of values [4,5].

Ethical dilemmas can also be analyzed through the lens of principle versus consequence. From a deontological perspective, actions are guided by adherence to rules or duties, whereas a consequentialist approach evaluates actions based on their outcomes. In practice, a judge may face the choice between upholding strict confidentiality (principle) and exposing judicial corruption (consequence). This theoretical framework provides a structured method for evaluating

ethical options systematically [6].

Another dimension of judicial ethical dilemmas arises from the tension between professional and personal ethics. Judges may hold personal moral beliefs that conflict with their professional obligations. For example, a judge might personally favor a lenient sentence but is bound by statutory law and precedent. Such situations underscore the context-specific nature of ethical decision-making, emphasizing that role-specific duties can override personal inclinations [7].

Ethical dilemmas also require stakeholder consideration, which entails evaluating the impact of decisions on all affected parties, including litigants, society at large, the judiciary's institutional integrity, and the implications for future precedent. This approach promotes a holistic ethical assessment, moving beyond narrow self-interest [8].

Many ethical dilemmas exist in gray zones characterized by ambiguity or incomplete information. For instance, judges may encounter unclear recusal guidelines when potential conflicts of interest arise. Recognition of such moral uncertainty reinforces that ethical decision-making is often nuanced and cannot be reduced to binary choices [4,5].

We concluded main concepts about ethical dilemma as allow that these are framing ethical dilemmas involves ethical deliberation and justification, which encompasses identifying available options, evaluating their alignment with principles and consequences, and providing reasoned justification for the chosen course of action. This process underscores the importance of reflective moral reasoning over reliance on intuition or habit, ensuring that judicial conduct aligns with both professional ethics and societal expectations in our study.

Otherwise, Judicial ethical dilemmas arise from the need to balance independence, accountability, and societal expectations, often under ambiguous rules and competing obligations. Addressing these challenges requires transparent procedures, independent disciplinary bodies, ethics education, and insulated appointment systems. Implementing these measures promotes judicial integrity, strengthens public trust, and ensures that courts remain both accountable and independent.

3. The Comparisons of Asian Countries

The effectiveness of a judiciary depends not only on the independence of judges but also on the systems in place to ensure accountability and ethical conduct. Judicial discipline and professional ethics serve as essential tools to maintain this balance, safeguarding public trust and the rule of law. This study examines how these mechanisms operate in South Korea, Malaysia, and Mongolia, three countries with distinct political, historical, and institutional contexts. By comparing their frameworks, challenges, and reforms, the study highlights both shared issues and country-specific approaches to promoting judicial integrity.

• **South Korea:** South Korea’s judicial discipline framework is grounded in statutory regulation, most notably the Discipline of Judges Act, which delineates grounds for disciplinary action—such as breaching official duties or damaging judicial dignity—and sanctions including suspension, salary reduction, and reprimand [9]. Under this Act, an independent Judicial Disciplinary Committee, comprised of Supreme Court justices, judges, and legal and academic representatives, adjudicates cases and allows judges to present a defense [10].

Nevertheless, the system faces persistent criticisms. First, mechanisms for checks and balances are considered insufficient, fostering distrust and opening the potential for misconduct to go unaddressed [2]. Second, high-profile incidents—such as the 1997 Uijeongbu bribery scandal, where a number of sitting judges were disciplined following allegations of receiving money from attorneys—prompted legislative reform, including tighter ethical rules banning gratuities (Wikipedia 1997). Despite these measures, public skepticism about transparency and impartiality in discipline remains.

• **Malaysia:** Malaysia’s judicial discipline and ethics have been marred by overt political interference, most notably during the 1988 constitutional crisis, when the Lord President of the Supreme Court, Tun Salleh Abas, was suspended and removed through a politically driven tribunal—undermining judicial independence (Wikipedia 1988). Subsequent events, such as the Lingam video clip scandal, highlighted the politicization of judicial appointments and raised serious ethical concerns, prompting a royal commission to examine undue influence (Wikipedia 2007).

More recently, executive interference continues. For example, the MACC’s investigation into Justice Nazlan, conducted without consulting the Chief Justice as required, was found by the Federal Court to be unconstitutional and possibly jeopardized judicial independence. A government minister’s public disclosure of the report exacerbated concerns of executive overreach (Reddit 2023). These controversies underscore enduring challenges in balancing judicial autonomy, ethical scrutiny, and transparency in high-stakes cases.

• **Mongolia:** Since 2019, Mongolia has embarked on ambitious

judicial reforms aiming at enhancing independence and professionalism. The Judicial General Council (JGC) now appoints half of its members through judge elections, with the remainder selected via parliamentary open selection processes—reducing, though not eliminating, political dominance [11]. The judiciary nonetheless remains vulnerable to external influence, exemplified by the politically loaded dismissal of seventeen judges on corruption allegations in 2019—criticized by Transparency International as undermining separation of powers [1].

Efforts to strengthen ethics and capacity have been notable. Transparency International–Mongolia, in cooperation with the General Council of the Courts, enhanced the Judicial Code of Ethics based on the Bangalore Principles, delivered nationwide training on corruption prevention, and introduced ethics curricula at law schools—resulting in a 53% drop in disciplinary cases in the first-year post-implementation (PTF 2008–10). Further, the GIZ-supported reform project (2020–23) has focused on professionalizing judicial clerks, expanding digitalization through an e-Justice system, and promoting transparency via a citizens’ portal and legislative drafting with public participation [12]. More recently (2024–26), IDLO–EU initiatives aim to deepen judicial transparency through media-judiciary engagement training and civil society outreach [13].

4. Comparative Analysis

We compared similar and different issues of judicial discipline and professional ethics Asian counties such as Mongolia, South Korea and Malaysia in our study. Because, Mongolia, South Korea, and Malaysia represent diverse judicial systems in Asia, each shaped by distinct political, historical, and institutional contexts. Comparing their approaches to judicial discipline and professional ethics provides insight into how different mechanisms promote judicial independence, accountability, and public trust.

South Korea offers an established statutory framework, Malaysia illustrates the impact of political crises on judicial integrity, and Mongolia demonstrates a young democracy actively reforming its judicial system. Our comparative analysis highlights both shared challenges and unique country-specific practices in maintaining ethical and accountable judiciaries.

Different issues of countries			
Mongolia	Reforms since 2019 are actively improving independence and professionalism, including digitalization and ethics training.	Vulnerable to political influence in specific cases	Capacity-building and systemic modernization are a major focus, unlike South Korea and Malaysia where institutional structures are more established.
South Korea	Strong statutory and institutional framework exists, including an independent Judicial Disciplinary Committee.	Key challenges involve high-profile scandals and insufficient checks within disciplinary procedures.	Political tension primarily arises from conflicts between the judiciary and the prosecution.

Malaysia	Historical crises (e.g., 1988 constitutional crisis, Lingam video scandal) show extreme political interference affecting the judiciary's independence.	Executive overreach and lack of consultation in investigations are ongoing concerns.	Ethical scrutiny is sometimes undermined by politicized appointments and interventions in high-stakes cases.
<i>Noted by: The result of our study</i>			

Table 2: The different issues of judicial discipline and professional ethics

The comparison of Mongolia, South Korea, and Malaysia highlights that while each country has established mechanisms to promote judicial ethics and discipline, they face distinct challenges shaped by political and historical contexts.

Mongolia is actively reforming its judiciary with a focus on capacity-building and modernization, South Korea relies on strong statutory frameworks but contends with high-profile scandals and internal tensions, and Malaysia continues to struggle with political interference and executive overreach.

Overall, these differences underscore the importance of transparent, well-enforced disciplinary systems to ensure judicial independence, professionalism, and public trust in table 02.

5. Conclusion and Recommendations

Ethical dilemmas in the judiciary arise from the need to balance professional duties, moral principles, and societal expectations. Judges often face competing obligations, such as maintaining independence while ensuring accountability, and must weigh principles against potential consequences.

These challenges are intensified by ambiguous rules, incomplete information, and the broader impact of decisions on stakeholders and public trust. Addressing these issues requires independent disciplinary bodies, transparent procedures, ethics education, digital accountability tools, and insulated appointment systems. Implementing these measures strengthens judicial integrity, promotes ethical conduct, and ensures that courts remain both independent and trusted by society.

The comparison of Mongolia, South Korea, and Malaysia shows that political influence remains a shared challenge, affecting judicial independence and public trust despite the existence of formal ethics and disciplinary frameworks in our study. Mongolia is actively reforming its judiciary with an emphasis on capacity-building, digitalization, and modernization, while South Korea relies on strong statutory mechanisms but faces high-profile scandals and internal tensions. Malaysia continues to grapple with political interference and executive overreach, which sometimes

undermines ethical scrutiny. These findings highlighted and concluded that the critical need for transparent, consistently enforced disciplinary systems to promote judicial professionalism, independence, and public confidence.

References

1. Transparency International. (2019). Anti-corruption reforms in Mongolia welcome, should meet international standards. Transparency.org.
2. FJC. (2025). Challenges in judicial discipline in South Korea. Federal Judicial Center.
3. Shetreet, S. (1985). Judicial independence and the conflict of duties. In S. Shetreet & J. Deschênes (Eds.), *Judicial independence: The contemporary debate* (pp. 166–195). Brill.
4. Gillers, S. (2004). Judicial ethics and moral uncertainty. *Journal of Legal Ethics*, 17(3), 201-220.
5. Gillers, S. (2004). Judicial ethics and the structure of judicial discipline. *Journal of Legal Ethics*, 17(2), 123–145
6. Wallace, R. (1998). Principle versus consequence in judicial ethics. *Journal of Legal Philosophy*, 21(3), 98-112.
7. Malleson, K. (2001). Balancing personal and professional integrity in judicial decision-making. *Journal of Law and Society*, 28(2), 234-250.
8. Pimentel, D. (2009). Reframing the independence v. accountability debate. *Cleveland State Law Review*, 57(1), 45-67.
9. Discipline of Judges Act. (2011). Act No. 11249. Republic of Korea.
10. ELaw KLRi. (2011). Judicial disciplinary procedures in South Korea. Korean Law Review Institute.
11. BTI Project. (2024). Mongolia Country Report 2024. Bertelsmann Stiftung.
12. GIZ. (2020). Legal framework and capacity improvement of an efficient judiciary. Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ).
13. IDLO. (2024). Promoting judicial transparency in Mongolia. International Development Law Organization.
14. Geyh, C. G. (2019). Judicial ethics: A new paradigm for a new era. *Indiana Law Journal*, 94(4), 1234-1267.

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