**Judicial Ethics in an Electronic Age**

**Hypothetical #1 – Judge accessing net porn[[1]](#footnote-1)**

The allegation was that a High Court judge in New Zealand accessed sexually explicit movies over the Internet while at work. He also downloaded porn on court computers materially altering official court records. During the course of an internal investigation into this matter, it was revealed that three other district court judges also visited adult movie sites. When the matter was made public, the judge admitted to his actions but maintained that what he did was not illegal. He apologized for what he did and said it would not happen again. Despite this, civil society groups called for the resignation of the judicial officer, since they considered that it was inappropriate to have a judge with "pro-pornography views" presiding over cases such as rape. Their claim was that the judge's credibility was damaged and that he must go. A judicial inquiry into the matter found that there was no unlawful behavior by the High Court judge.  In New Zealand, even though, the judiciary is independent of the executive, a judge can be forced to step down if the majority of parliament votes in favor. However, the Attorney General stated that the Justice had accessed the sexually explicit material for work-related reasons and therefore there were no grounds to seek a parliamentary vote to force him to resign. Further action on this issue was ruled out.

Questions

How do you evaluate the credibility of the judge?

Would you recommend any action against the judge?

**Hypothetical #2 – Bondage judge[[2]](#footnote-2)**

Justice D learned in 2011 that she would be the subject of a public judicial inquiry to determine her fitness to remain as Associate Chief Justice, Family Division of Manitoba’s Queens Bench. The story of the judge and her lawyer husband, Mr. K, was splashed in newspapers beginning in 2010. A divorce client of her husband, Mr. C who was black and originally from Trinidad, revealed that Mr. K had tried to arrange a sexual liaison between him and Judge D several years earlier. Justice D stepped down from her post in the wake of a complaint from Mr. C. At the material time, Justice D and Mr. K were partners at a prestigious law firm. Mr. C alleged that after Mr. K completed his divorce, K befriended him and tried to persuade Mr. C to engage in a sexual tryst with his wife, Ms. D.

Mr. K gave Mr. C photographs of his wife and a password for an internet site called Darkcavern.com that caters to those who have an interest in inter-racial sex. The pictures of Judge D portrayed her nude engaged in bondage and in other more explicit sexual acts. When Mr. C complained to Mr. K’s law firm in 2003, K paid Mr. C $25,000 in exchange for C's agreement not to sue him or the firm and to destroy the photos. K resigned from his firm after the payment was made. Judge D’s career was going much better. In 2005, she was appointed to the bench. She gained a reputation for being a highly competent and respected judge, and in 2009 she was promoted as associate chief justice. Unfortunately for Judge D, five years after the settlement – Mr. C filed a $10-million lawsuit against Mr. K, a $50-million claim against Mr. K's former law firm, and a $7-million claim against the judge herself. He complained of racial harassment and emotional distress. Mr. C ignored his agreement to remain silent and also delivered the photos to the Law Society and the media.

Even though misconduct is writ in this sordid tale, none of it was committed by Justice D nor did she know anything about her husband's kinks. Instead, she was victimized by her disturbed husband.

Questions

Can Judge D survive this intrusion into her personal life and does it affect her professional duties?

You being a member of the inquiry committee please determine her fitness for the bench?

Is Judge D liable for having withheld vital information about her judicial fitness?

1. Source: <http://www.theregister.co.uk/2002/02/18/kiwi_judges_caught_in_net/> [↑](#footnote-ref-1)
2. Source: <http://www.theglobeandmail.com/news/opinions/opinion/the-persecution-of-lori-douglas/article2096462/> [↑](#footnote-ref-2)