

Hon. John G. Roberts, Jr.  
Chief Justice of the United States  
Supreme Court of the United States  
One First Street NE  
Washington, DC, 20543

Feb. 2, 2022

Dear Chief Justice Roberts:

We, the undersigned legal ethics scholars, write to urge the Court to complete and adopt a Code of Conduct for the Supreme Court of the United States.

We were encouraged when, nearly three years ago, Justice Elena Kagan told a House Appropriations Subcommittee that you were “studying the question of whether to have a Code of Judicial Conduct that’s applicable only to the United States Supreme Court” and that it’s “something that’s being thought very seriously about.” To our knowledge, though, this project remains unfinished.

We do not question the integrity of any justice; nor do we write in response to any single speech, interview or other extrajudicial activity undertaken by any of the justices in recent years. We simply believe that a written Code, even if primarily aspirational, would have a broad salutary impact, assisting current and future members of the Court to transparently address potential conflicts and other issues in a way that builds public trust in the institution.

We agree, as you wrote in your 2011 Year-End Report on the Federal Judiciary, that the lower courts’ Code of Conduct for United States Judges does “not adequately answer some of the ethical considerations unique to the Supreme Court,” so simply adopting it, as some have suggested, would not suffice. And although there remain efforts in Congress to impose a formal Code for the Court, we acknowledge the view, articulated in your 2021 Year-End Report, that there is a “need for the Judiciary to manage its internal affairs, both to promote informed administration and to ensure independence of the Branch.” We prefer that the Supreme Court draft a Code of Conduct and avoid the weighty questions that might arise if Congress imposed one.

Finally, there is no question that every justice who serves on the Supreme Court faces their share of ethics challenges. We believe that in the vast majority of cases, the justices have made the right call. But at a time when public institutions are redoubling their efforts to improve the public’s trust, we maintain that a formal, written Code, offering a uniform set of principles that justices and the public alike would look to for guidance, would benefit the Court and the nation.

Sincerely,\*

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