

# THE JUDICIAL INTEGRITY GROUP

## Contribution to the Consultative Process in Preparation for the UN General Assembly Session against Corruption 2021

### Combating Judicial Corruption

An independent and impartial judiciary comprising judges of competence and integrity is an essential ingredient of the rule of law in a democratic society. Article 11 (1) of the United Nations Convention Against Corruption (UNCAC) states that:

*Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.*

#### Developing the concept of judicial accountability

In 2000, on the invitation of the United Nations Centre for International Crime Prevention (now UNODC), and within the framework of its Global Programme Against Corruption, a representative group of Chief Justices and senior Justices, met in Vienna to address the problem that was created by evidence that, in many countries, across all the continents, people were losing confidence in their judicial systems because they were perceived to be corrupt. That group, the “Judicial Group on Strengthening Judicial Integrity” (now known as the “*Judicial Integrity Group*”) recognized the urgent need for a universally acceptable statement of judicial standards that was consistent with the principle of judicial independence and which could be enforced by national judiciaries without the intervention of either the executive or legislative branches of government, thereby establishing the concept of judicial accountability. These standards, which were developed over a period of two years, in consultation with Judges from over 75 countries applying both common law and civil law systems, are now known as “*The Bangalore Principles of Judicial Conduct*” (named after the city in which the drafting process commenced).

## **The Bangalore Principles of Judicial Conduct**

The Bangalore Principles are based on six core judicial values:

- Independence,
- Impartiality,
- Propriety,
- Integrity,
- Equality,
- Competence and Diligence.

In 2003, the United Nations Human Rights Commission unanimously adopted resolution 2003/43 which brought the Bangalore Principles “*to the attention of Member States, the relevant United Nations organs and intergovernmental and nongovernmental organizations for their consideration*”. In the following year, the UN Special Rapporteur on the Independence of Judges and Lawyers recommended that the Bangalore Principles be made available in national languages to all law faculties and professional associations of judges and lawyers. In 2006, the UN Economic and Social Council (ECOSOC), in its resolution 2006/23: “Strengthening basic principles of judicial conduct”, invited Member States

*“to encourage their judiciaries to take into consideration the Bangalore Principles of Judicial Conduct when reviewing or developing rules with respect to the professional and ethical conduct of members of the judiciary”*

## **Commentary on the Bangalore Principles**

The Judicial Integrity Group, noting the need for a commentary in the form of an authoritative guide to the application of the Bangalore Principles, agreed that such a commentary would enable judges and teachers of judicial ethics to understand not only the drafting and cross-cultural consultation process of the Bangalore Principles and the rationale for the values and principles incorporated in it, but would also facilitate a wider understanding of the applicability of those values and principles to issues, situations and problems that might arise or emerge. In 2007, at the request of ECOSOC, the draft Commentary prepared by the Judicial Integrity Group was submitted to, and approved by, an Open-ended Intergovernmental Expert Group convened

by UNODC. The 175-page Commentary has since been published by UNODC in all the UN languages, and been translated by several Judiciaries into their national languages. One and a half decades after its adoption, the Commentary on the Bangalore Principles of Judicial Conduct is now in the process of being revised and updated by the Judicial Integrity Group to meet contemporary challenges, including the emergence of social media and artificial intelligence.

### **Measures for the Effective Implementation of the Bangalore Principles**

In 2010, the Judicial Integrity Group formulated a statement of measures which it offered as guidelines or benchmarks for the effective implementation of the Bangalore Principles. That statement is in two parts. *Part One* describes the measures that are required to be adopted by the judiciary. *Part Two* describes the institutional arrangements that are required to ensure judicial independence and which are exclusively within the competence of the State. In 2015, UNODC published the *Implementation Guide and Evaluative Framework for Article 11 of UNCAC*. That Guide draws extensively from the Bangalore Principles, its Commentary, and its Implementation Measures.

### **The Judicial Integrity Group**

The Judicial Integrity Group is an independent, autonomous, not-for-profit and voluntary entity, owned and driven by its members, all of whom are (or have been) heads of the judiciary or senior judges in their respective countries, enjoying independence from the executive, and who share common values and beliefs in the integrity of the judiciary and a determination to deepen and broaden the quality of the administration of justice in appropriate ways. It is now an active participant in the Global Judicial Integrity Network. During the past twenty years, its objectives have been realized due to the financial support it received from UNODC, the Department for International Development (DfID) of the United Kingdom, and the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and its predecessor GTZ. Chaired since its inception by the late Prof. Dr. C.G. Weeramantry, Vice-President of the International Court of Justice, its current membership is as follows:

The Hon. Prof. Dr.h.c. Rudolf Mellinghoff, *former Justice of the Federal Constitutional Court of Germany and former President of the Federal Supreme Finance Court of Germany* (Chairperson).

The Hon. Michael Kirby, *former Justice of the High Court of Australia*.

The Hon. M.L. Uwais, *former Chief Justice of Nigeria*.

The Hon. Barnabas Samatta, *former Chief Justice of Tanzania.*

The Hon. Dr. Benjamin Odoki, *former Chief Justice of Uganda (Deputy Chairperson)*

The Hon. Dr. Adel Omar Sherif, *Deputy President of the Supreme Constitutional Court of Egypt.*

The Hon. Christine Chanet, *former President of the Criminal Division of the Cour de Cassation of France.*

The Rt. Hon. The Lord Mance, *former Deputy President of the Supreme Court of the United Kingdom.*

The Hon. Dr. Mogoeng Mogoeng, *Chief Justice of South Africa.*

The Hon. Adrian Saunders, *President of the Caribbean Court of Justice.*

The Hon. Shiranee Tilakawardena, *former Justice of the Supreme Court of Sri Lanka (Deputy Chairperson).*

The Hon. Dr. Mathilda Twomey, *Justice of the Court of Appeal and former Chief Justice of the Supreme Court of the Seychelles.*

The Hon. Daniela Salazar Marin, *Vice-President of the Constitutional Court of Ecuador.*

The Rapporteur and Coordinator of the Group since its inception is Prof. Dr. Nihal Jayawickrama, *former Attorney General and Permanent Secretary to the Ministry of Justice of Sri Lanka, and a former Professor of Constitutional Law and Human Rights Law.*

Former members of the Group include the late Pius Langa, *former Chief Justice of South Africa;* the late P.N. Bhagwati, *former Chief Justice of India;* and Hilario G. Davide Jr., *former Chief Justice of The Philippines.*

## **Proposal**

The Judicial Integrity Group draws its existence and work, and the influential text of the *Bangalore Principles of Judicial Conduct*, to the notice of the *Special Session of the General Assembly against Corruption 2021*. It requests that the Special Session take the *Bangalore Principles of Judicial Conduct* and the *Measures for the Effective Implementation of the Bangalore Principles* (which are attached to this submission) into close consideration in developing its recommendations for adoption and implementation by member States and their judiciaries.

Annex 1: *The Bangalore Principles of Judicial Conduct.*

Annex 2: *Measures for the Effective Implementation of the Bangalore Principles.*

Submitted by

*Prof. Dr. h.c. Rudolf Mellinshoff*  
*Chairperson,*  
*The Judicial Integrity Group*

*rm@mellinshoff.org*