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Workshop

Standard-setting: Lessons Learned for the Future

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THE BANGALORE PRINCIPLES OF JUDICIAL CONDUCT

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1. During my tenure as the UN Special Rapporteur on the Independence of Judges and Lawyers and since 2000 in my annual reports to the UN Commission on Human Rights I expressed, inter alia, about the growing concerns over judicial corruption and about member States seeking greater accountability from the judiciary. This issue was on the agenda of the Ninth International Anti-Corruption Conference organised by Transparency International (TI) in Durban, South Africa in October 1999. I participated in that programme. TI was then pursuing ways to curb corruption in the judicial systems and sought partnerships with like mind institutions and NGOs including the UN Centre for Crime Prevention and Criminal Justice, the UNDP, the ICJ, the Commonwealth Secretariat and financial institutions like the World Bank and the Asian Development Bank.
2. The Centre for the Independence of Judges and Lawyers (CIJL) of the ICJ in co-operation with TI convened a workshop of experts in Geneva in February 2000 to consider a framework to strengthen judicial independence and eliminate judicial corruption. I participated in that workshop of fifteen experts from the regions. At the conclusion a Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System was adopted. (See CIJL Year Book 2000 Volume IX).
3. Following that workshop a Judicial Group for the Strengthening of Judicial Integrity (JGSJI) comprising of ten Chief Justices from Asia and Africa was set up. They were all from the common law countries. It was chaired by H.E. Judge Weeramantry, a former Vice-President of the International Court of Justice, the Rapporteur was the Hon. Justice Michael Kirby of the High Court of Australia and the Co-ordinator Dr. Nihal Jayawickrama. This group met for the first time in Vienna in April 2000 at a workshop organised within the framework of the Global Programme Against Corruption and in conjunction with the Tenth UN Congress on Prevention of Crime and Treatment of Offenders. It was funded by the UN Centre for Crime Prevention and Criminal Justice. I attended and participated in that Workshop though on an observer status.

4. In my report to the Commission at its fifty-seventh Session 2001 I again drew attention to the growing concerns over judicial corruption and calls for formal mechanisms to deal with complaints against judges.
5. Following its Workshop in Vienna the JGSJI met in Bangalore, India, in February 2001 where it deliberated on and endorsed a draft code of judicial conduct which came to be known as the Draft Bangalore Code. This workshop was funded by the Department for International Development (DFID) United Kingdom.
6. During the fifty-eighth session of the Commission 2002 I drew attention to the Draft Bangalore Code at my meetings with the various regional groups and distributed a copy of the code to interested member States. There was considerable interest expressed. In my report to the Commission I also drew attention to the fact that I intended to develop this code further to ensure universal acceptance of the principles contained therein.
7. Realising that the Draft Bangalore Code was based substantially on the common law tradition and needed input from other legal traditions, particularly the continental civil law system, in order to achieve universal acceptance, I sought the assistance of the Council of Europe. The Council readily co-operated. On 18 and 19 June 2002 together with the Co-ordinator of the Judicial Group, we attended a meeting in Strasbourg with the Working Party of the Consultative Council of European Judges. This 40-member council advises the Committee of Ministers of the Council of Europe on judicial matters. At the meeting the Draft Bangalore Code was discussed and it was followed by the working party's submitting its views on the code in writing. This submission was most useful from the Civil Law System perspective. Earlier, in February 2002, through the American Bar Association and Central and Eastern European Law Initiative (ABA/CEELI) I sought the views of the judges of the Central and Eastern European countries. ABA/CEELI subsequently submitted the views of some of the judges in that region and in particular judges from Bosnia and Herzegovina, Bulgaria, Croatia, Kosovo, Romania, Serbia and Slovakia.
8. In November 2002 a meeting of several Chief Justices from the civil law system was convened at the Peace Palace at The Hague by the JGSJI to consider the Draft Bangalore Code in the light of the submissions by the Working Party of the Consultative Council and ABA/CEELI. Among the Chief Justices present at this meeting were the Chief Justices of Brazil, the Czech Republic, Egypt, Mexico, Mozambique, the Netherlands and the Philippines. Some judges of the International Court of Justice attended part of the meeting and expressed their views on the Draft Bangalore Code. Senior judges from France and Norway also attended and participated in the meeting. This meeting revised the Draft Bangalore Code and renamed it the Bangalore Principles of Judicial Conduct. This meeting too was funded by DFID United Kingdom.
9. A third meeting of the JGSJI was convened in Colombo from Jan. 10-12, 2003 where the Bangalore Principles of Judicial Conduct was finalised. Ten Chief Judges from Common and Civil Law countries were present. It was then decided that the Principles be disseminated as broadly as possible beginning with the Chairman sending them to all 200 Chief Judges of the World. This meeting was also funded by DFID.
10. As the principles set out in this document had the general support of eminent Chief Justices of many of the States of the two major legal traditions, namely the common law and the civil law, I urged the Commission at its fifty-ninth session 2003 to endorse, or at least take note, of this document in its resolution on the mandate. I expressed that the principles set out in this document would go some way, when adopted and applied in member States, to support the

integrity of judicial systems and could be used to complement the United Nations Basic Principles on the Independence of the Judiciary to secure greater judicial accountability.

11. There was unanimous support for these Principles from member States present at the fifty-ninth Session. During the interactive dialogue after the presentation of my report I was asked for my views on the ways in which the Principles could be effectively disseminated. I expressed that the Principles should be brought to the attention of judiciaries. The judiciaries should be encouraged to initiate incorporation of the Principles into their codes of conduct, if they are not already. I emphasised that the initiative should come from the judiciaries.
12. Subsequently in its resolution the Commission noted these Principles and called upon member States, the relevant UN organs, intergovernmental organisations and non-governmental organisations to take them into consideration.
13. In conjunction with the sixtieth Session of the Commission in 2004 a parallel informal meeting was convened in Geneva to discuss these Principles and the progress made in the adoption by member States. While these principles are viewed by some judicial quarters as too detailed yet they are accepted as a comprehensive set of standards to enhance judicial integrity and extract greater judicial accountability.