

**THE SUMMARY RECORD OF
THE ROUND-TABLE MEETING OF CHIEF JUSTICES
TO REVIEW THE BANGALORE DRAFT CODE OF JUDICIAL CONDUCT**

**The Peace Palace
The Hague
Netherlands**

November 25 and 26, 2002

ROUND TABLE MEETING OF CHIEF JUSTICES

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**The Japanese Room
25-26 November 2002**

INTRODUCTION

1. On the initiative of Judge C. G. Weeramantry, former Vice-President and Judge Ad-Hoc of the International Court of Justice and Chairman of the Judicial Group on Strengthening Judicial Integrity, a Round-Table Meeting of Chief Justices was convened in the Japanese Room of the Peace Palace at The Hague, Netherlands, on November 25 and 26, 2002.
2. The meeting was facilitated by a grant from the Department for International Development, United Kingdom, and supported by the United Nations Centre for International Crime Prevention, Vienna, and the Office of the United Nations High Commissioner for Human Rights, Geneva. The meeting was organized with the assistance of the Carnegie Foundation at The Hague. The working languages were English, French and Spanish.
3. The purpose of the meeting was to seek and obtain the views of a representative group of Chief Justices (or senior Justices) from legal systems and traditions outside the common law system on the Bangalore Draft Code of Judicial Conduct prepared by a group of eight Chief Justices from common law jurisdictions (The Judicial Group on Strengthening Judicial Integrity).

MEMBERSHIP

4. The Round-Table Meeting was chaired by Judge Weeramantry. The other participants were: Justice Vladimir Passos de Freitas (Brazil), Chief Justice Iva Brozova (Czech Republic), Chief Justice Mohammad Fathy Naguib (Egypt), Justice Christine Chanet (France), Chief Justice Genaro David Gongora Pimentel (Mexico), Chief Justice Mario Fumo Bartolomeu Mangaze (Mozambique), Chief Justice Pim Haak (Netherlands), Justice Trond Dolva (Norway), and Chief Justice Hilario G. Davide Jr (Philippines).
5. Chief Justice Gunter Hirsch (Germany), who had also agreed to participate, was unable to attend the meeting.

6. Eight Judges of the International Court of Justice attended and participated in one session. They were Judge Raymond Ranjeva (Madagascar), Judge Geza Herczegh (Hungary), Judge Carl-August Fleischauer (Germany), Judge Abdul G. Koroma (Sierra Leone), Judge Rosalyn Higgins (United Kingdom), Judge Francisco Rezek (Brazil), Judge Nabil Elaraby (Egypt), and Judge Ad-Hoc Thomas Frank (United States of America). The Registrar of the International Court of Justice, Mr Philippe Cuvreur, was also present.

7. Dato' Param Cumaraswamy, UN Special Rapporteur on the Independence of Judges and Lawyers, participated as an Observer, and Dr Nihal Jayawickrama, Coordinator of the Judicial Integrity Programme, served as Rapporteur.

8. Justice Adel Omar Sherif (Egypt) and Justice Reynato S. Puno (Philippines) assisted their respective Chief Justices.

9. Mr Jeremy Pope, Executive Director, Centre for Innovation and Research, Transparency International, London, Mr Michael Anderson, Senior Justice Advisor, Department for International Development, United Kingdom, Mr Jan van Dijk, Deputy Director, UN Centre of International Crime Prevention, Vienna, and Dr Petter Langseth, Programme Manager, Global Programme Against Corruption, UN Centre for International Crime Prevention, Vienna, served as resource persons.

10. Others present were Dr Edgar Corzo Sosa, Director General of International Relations, Supreme Court of Mexico, Mr Jorge Camargo Zurita, Assistant to the Chief Justice of Mexico, and Mr Simon Tucker, Office Manager, Centre for Innovation and Research, Transparency International, London.

DOCUMENTATION

11. In addition to the Bangalore Draft Code of Judicial Conduct (in English and French), the Round-Table Meeting had before it the following documents:

(a) The Comments of the Working Party of the Consultative Council of European Judges (CCJE-GT) on "Code of Judicial Conduct: The Bangalore Draft";

(b) Opinion on "The Code of Judicial Conduct: The Bangalore Draft" prepared by CCJE-GT specialist, Denis Salas;

(c) Annotated version of the Bangalore Code of Judicial Conduct containing comments made by Judges and Judges Associations, including Judges of Central and Eastern European Countries;

(d) Observations of Justice Michael Kirby, Judge of the High Court of Australia and Rapporteur of the Judicial Group on Strengthening Judicial Integrity;

- (e) UN Basic Principles on the Independence of the Judiciary;
- (f) UN Basic Principles on the Role of Lawyers;
- (g) UN Guidelines on the Role of Prosecutors; and (h) the Draft Bangalore Principles of Judicial Conduct.

INAUGURAL SESSION

12. The Chairman, Judge Weeramantry, welcomed the participants and noted that it was rarely that both national and international judges met together for a common purpose. He explained the reasons for undertaking the task of preparing a statement of principles of judicial conduct. He referred to public perception surveys which indicated that in many parts of the world people were losing confidence in their judicial systems. Following a workshop on corruption in the judiciary held during the 9th International Anti-Corruption Conference in 1999, and an expert group meeting convened by the International Commission of Jurists in early 2000, the United Nations Centre for International Crime Prevention, in collaboration with Transparency International, invited a group of Chief Justices from common law countries to a preparatory meeting in Vienna to consider formulating a concept of judicial accountability. This group - The Judicial Group on Strengthening Judicial Integrity - recognized the need for a code against which the conduct of judges could be measured. At a second meeting held in Bangalore, the Judicial Group agreed on a draft code of judicial conduct - The Bangalore Draft. The purpose of this meeting was to enable a group of Chief Justices from the civil law and other legal systems to review the Bangalore Draft and agree upon a text that would be of universal applicability. He noted that the UN Basic Principles on the Independence of the Judiciary were addressed to states, and that as yet there was no international instrument which required judges to be accountable for their own conduct. It was proper that such an instrument should be drafted and implemented by judges.

13.. Mr Jan van Dijk, Deputy Director of the UN Centre for International Crime Prevention in Vienna, said that strengthening judicial independence, integrity and accountability was an integral element of the Global Programme Against Corruption which UNCICP initiated in 1999. It was the belief that true judicial independence could not be achieved without at the same time ensuring judicial accountability that led UNCICP to host the first meeting of the Judicial Group in 2000. He noted that the UN Basic Principles on the Independence of the Judiciary remained silent on issues relating to integrity and accountability. He proposed, therefore, that the draft statement of principles of judicial conduct adopted at this meeting be submitted to the UN General Assembly. He suggested that the appropriate channel for reaching the General Assembly would be the UN Commission on Crime Prevention and Criminal Justice - the governing body of UNCICP - which had already secured General Assembly endorsement not only of the Basic Principles on the Independence of the Judiciary, but also of Procedures for their Effective Implementation, as well as the Basic Principles on the Role of Lawyers and the Guidelines on the Role of Prosecutors.

14. Dato' Param Kumaraswamy, United Nations Special Rapporteur on the Independence of Judges and Lawyers, said that in the execution of his mandate, a common concern often expressed to him by governments had been the lack of judicial accountability. But while the executive is often apprehensive of judicial independence, the judiciary is no less apprehensive of calls by governments for judicial accountability. In that context, the work of the Judicial Group was both relevant and important. The Bangalore Draft was the product of Chief Justices from the common law system. He referred to discussions on the Bangalore Draft held in June this year in Strasbourg with the Working Party of the Consultative Council of European Judges which advises the Committee of Ministers of the Council of Europe on judicial matters, and the exercise undertaken earlier in the year in which the views of judges of Central and Eastern Europe were sought through the American Bar Association's Central and East European Law Initiative. It was his intention to submit the draft finalized at this meeting in The Hague - the seat of international justice - as an attachment to his report to the next session of the Commission on Human Rights. It was his hope that the Commission would endorse the draft.

WORKING SESSIONS

15. At four working sessions - two on Monday 25 November, and two on Tuesday 26 November, the participants reviewed and revised the Bangalore Draft. The Judges of the International Court of Justice referred to above participated in the first session. It was agreed that the following amendments be made to the Bangalore Draft:

Title and Structure

- (1) Delete all references to a 'code' of judicial conduct', and describe the document as 'principles of judicial conduct'.
- (2) Move the explanatory note from the beginning to the end of the document.
- (3) Re-prioritize the values as follows: 1. Independence; 2. Impartiality; 3. Integrity; 4. Propriety; 5. Equality; and 6. Competence and Diligence. Delete Value 7 'Implementation and Accountability'.
- (4) Each 'value' and 'principle' to be followed by its 'application' (instead of 'code')¹.

¹ Other terms considered and not found acceptable included 'rules' and 'commentary'.

Preamble

- (5) In paragraph 2, insert the words ‘without undue delay’ which appear in ICCPR 14(3)(c), so that the new paragraph reads: ‘WHEREAS the *International Covenant on Civil and Political Rights* guarantees that all persons shall be equal before the courts, and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without undue delay, to a fair and public hearing by a competent, independent and impartial tribunal established by law’.
- (6) Delete paragraph 5², and substitute the following new paragraph: ‘WHEREAS a competent, independent and impartial judiciary is likewise essential if the courts are to fulfil their role in upholding constitutionalism and the rule of law’.
- (7) Delete paragraph 6³, and substitute the following new paragraph: ‘WHEREAS public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society’.
- (8) Delete paragraph 7⁴, and substitute the following new paragraph: ‘WHEREAS it is essential that judges, individually and collectively, respect and honour judicial office as a public trust and strive to enhance and maintain confidence in the judicial system’.
- (9) Add the following two new paragraphs after paragraph 7: ‘WHEREAS the primary responsibility for the promotion and maintenance of high standards of judicial conduct lies with the judiciary in each country’; and ‘AND WHEREAS the *United Nations Basic Principles on the Independence of the Judiciary* are designed to secure and promote the independence of the judiciary, and are addressed primarily to States’.
- (10) Delete the original paragraph 8⁵, and substitute the following new paragraph: ‘THE FOLLOWING PRINCIPLES are intended to establish standards for

² ‘WHEREAS an independent judiciary is likewise essential if the courts are to fulfil their roles as guardians of the rule of law and thereby to assure good governance’.

³ ‘WHEREAS the real source of judicial power is public acceptance of the moral authority and integrity of the judiciary’.

⁴ ‘AND WHEREAS consistently with the *United Nations Basic Principles on the Independence of the Judiciary*, it is essential that judges, individually and collectively, respect and honour judicial office as a public trust and strive to enhance and maintain confidence in the judicial system’.

⁵ ‘The following principles and rules are intended to establish standards for ethical conduct of judges. They are principles and rules of reason to be applied in the light of all relevant circumstances and consistently

ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge’.

- (11) Delete the original paragraph 9⁶.

Independence

- (12) Reformulate the principle in the following terms: ‘Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects’.⁷
- (13) Re-number paragraph 2.1 as paragraph 1.1.
- (14) Delete paragraph 2.2⁸, and substitute the following new paragraph 1.2: ‘A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judge has to adjudicate’.
- (15) Insert the following new paragraph 1.3: ‘A judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must appear to a reasonable observer to be free therefrom’.
- (16) Delete paragraph 2.3⁹, and substitute the following new paragraph 1.4: ‘In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently’.

with the requirements of judicial independence and the law. They are designed to provide guidance to judges and to afford a structure for regulating judicial conduct. They are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge’.

⁶ ‘The values which this Code upholds are: Propriety, Independence, Integrity, Impartiality, Equality, Competence and Diligence, Accountability’.

⁷ The principle in its original form read thus: ‘An independent judiciary is indispensable to impartial justice under law. A judge should therefore uphold and exemplify judicial independence in both its individual and institutional aspects’.

⁸ ‘A judge shall reject any attempt to influence his or her decision in any matter before the judge for decision where such attempt arises outside the proper performance of judicial duties’.

- (17) Re-number paragraph 2.4 as paragraph 1.5.
- (18) Re-number paragraph 2.5 as paragraph 1.6, and insert the words ‘in the judiciary’ after the words ‘reinforce public confidence’.

Impartiality

- (19) Reformulate the principle in the following terms: ‘Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made’.¹⁰
- (20) Re-number paragraph 4.1 as paragraph 2.1.
- (21) Re-number paragraph 4.2 as paragraph 2.2.
- (22) Re-number paragraph 4.3 as paragraph 2.3.
- (23) Re-number paragraph 4.4 as paragraph 2.4.
- (24) Delete paragraphs 4.5¹¹, 4.6¹² and 4.9¹³, and substitute the following new paragraph 2.5: ‘A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is

⁹ ‘In performing judicial duties, a judge shall, within the judge’s own court, be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently’.

¹⁰ The principle in its original form read thus: ‘Impartiality is essential to the proper discharge of the judicial office. It applies not only to the making of a decision itself but also to the process by which the decision is made’.

¹¹ ‘A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which a reasonable, fair-minded and informed person might believe the judge is unable to decide the matter impartially’.

¹² ‘A judge shall disqualify himself or herself in any proceedings in which there might be a reasonable perception of a lack of impartiality of the judge including, but not limited to, instances where:

- 4.6.1. the judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
- 4.6.2. the judge previously served as a lawyer or was a material witness in the matter in controversy;
- 4.6.3. the judge, or a member of the judge’s family, has an economic interest in the outcome of the matter in controversy’.

¹³ ‘Disqualification of a judge is not required if necessity obliges the judge to decide the matter in controversy including where no other judge may lawfully do so or where, because of urgent circumstances, failure of the judge to participate might lead to a serious miscarriage of justice. In such cases of necessity, the judge shall still be obliged to disclose to the parties in a timely way any cause of disqualification and ensure that such disclosure is included in the record’.

unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where

- 2.5.1 the judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
- 2.5.2 the judge previously served as a lawyer or was a material witness in the matter in controversy; or
- 2.5.3 the judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy:

Provided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

(25) Move paragraph 4.7¹⁴ to Value 4: Propriety.

(26) Delete paragraphs 4.8¹⁵ and 4.10¹⁶.

Integrity

(27) Reformulate paragraph 3.1 in the following terms: 'A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer'.¹⁷

(28) Delete paragraph 3.3.¹⁸

Propriety

(29) Re-number paragraph 1.1 as paragraph 4.1.

¹⁴ 'A judge shall inform himself or herself about the judge's personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of the judge's family'.

¹⁵ 'A judge who would otherwise be disqualified on the foregoing grounds may, instead of withdrawing from the proceedings, disclose on the record the basis of such disqualification. If, based on such disclosure, the parties, independently of the judge's participation, agree in writing or on record, that the judge may participate, or continue to participate, in the proceedings, the judge may do so'.

¹⁶ 'Save for the foregoing, a judge has a duty to perform the functions of the judicial office and litigants do not have a right to choose a judge'.

¹⁷ Paragraph 3.1 in its original form read thus: 'A judge shall ensure that his or her conduct is above reproach in the view of reasonable, fair-minded and informed persons'.

¹⁸ 'A judge, in addition to observing personally the standards of this Code, shall encourage and support their observance by others'.

- (30) Re-number paragraph 1.2 as paragraph 4.2.
- (31) Delete paragraph 1.3¹⁹, and substitute the following new paragraph 4.3: ‘A judge shall, in his or her personal relations with individual members of the legal profession who practise regularly in the judge’s court, avoid situations which might reasonably give rise to the suspicion or appearance of favouritism or partiality’.
- (32) Delete paragraph 1.4²⁰, and substitute the following new paragraph 4.4: ‘A judge shall not participate in the determination of a case in which any member of the judge’s family represents a litigant or is associated in any manner with the case’.
- (33) Delete paragraph 1.5²¹, and substitute the following new paragraph 4.5: ‘A judge shall not allow the use of the judge’s residence by a member of the legal profession to receive clients or other members of the legal profession’.
- (34) Delete paragraphs 1.6²², 1.7²³ and 1.8²⁴, and substitute the following new paragraph 4.6: ‘A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary’.

¹⁹ ‘A judge shall avoid close personal association with individual members of the legal profession, particularly those who practise in the judge’s court, where such association might reasonably give rise to the suspicion or appearance of favouritism or partiality’.

²⁰ ‘Save in exceptional circumstances or out of necessity, a judge shall not participate in the determination of a case in which any member of the judge’s family represents a litigant or is associated in any manner with the case’.

²¹ ‘A judge shall avoid the use of the judge’s residence by a member of the legal profession to receive clients or other members of the legal profession in circumstances that might reasonably give rise to the suspicion or appearance of impropriety on the part of the judge’.

²² ‘A judge shall refrain from conduct such as membership of groups or organizations or participation in public discussion which, in the mind of a reasonable, fair-minded and informed person, might undermine confidence in the judge’s impartiality with respect to any issue that may come before the courts’.

²³ ‘A judge shall, upon appointment, cease all partisan political activity or involvement. A judge shall refrain from conduct that, in the mind of a reasonable, fair-minded and informed person, might give rise to the appearance that the judge is engaged in political activity’.

²⁴ ‘A judge shall refrain from:

- 1.8.1. membership of political parties;
- 1.8.2. political fund-raising;
- 1.8.3. attendance at political gatherings and political fund-raising events;
- 1.8.4. contributing to political parties or campaigns; and
- 1.8.5. taking part publicly in controversial discussions of a partisan political character’.

- (35) Insert paragraph 4.7 as the new paragraph 4.7²⁵.
- (36) Re-number paragraph 1.9 as paragraph 4.8.
- (37) Re-number paragraph 1.10 as paragraph 4.9.
- (38) Delete paragraph 1.11²⁶.
- (39) Delete paragraph 1.16²⁷, and substitute the following new paragraph 4.10: ‘Confidential information acquired by a judge in the judge’s judicial capacity shall not be used or disclosed by the judge for any other purpose not related to the judge’s judicial duties’.
- (40) Delete paragraphs 1.12²⁸, 1.13²⁹, 1.14³⁰, 1.15³¹, 1.16³², and 1.18³³, and substitute the following new paragraph 4.11: ‘Subject to the proper performance of judicial duties, a judge may:

²⁵ See footnote 13.

²⁶ ‘A judge shall not testify voluntarily as a character witness, except that a judge may testify as a witness in a criminal proceeding if the judge or a member of the judge’s family is a victim of the offence or if the defendant is a member of the judge’s family or in like exceptional circumstances’.

²⁷ ‘Confidential information acquired by a judge in the judge’s judicial capacity shall not be used or disclosed by the judge in financial dealings or for any other purpose not related to the judge’s judicial duties’.

²⁸ ‘Subject to the proper performance of judicial duties, a judge may engage in activities such as:

- 1.12.1 the judge may write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice and related matters;
- 1.12.2 the judge may appear at a public hearing before an official body concerned with matters relating to the law, the legal system and the administration of justice or related matters; and
- 1.12.3 the judge may serve as a member of an official body devoted to the improvement of the law, the legal system, the administration of justice or related matters’.

²⁹ ‘A judge may speak publicly on non-legal subjects and engage in historical, educational, cultural, sporting or like social and recreational activities, if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties in accordance with this Code’.

³⁰ ‘A judge may participate in civic and charitable activities that do not reflect adversely on the judge’s impartiality or interfere with the performance of judicial duties. A judge should not be involved in fund-raising or membership solicitation’.

³¹ ‘A judge shall not serve as the executor, administrator, trustee, guardian or other fiduciary, except for the estate, trust or person connected with a member of the judge’s family and then only if such service will not interfere with the proper performance of judicial duties’.

³² ‘Save for holding and managing appropriate personal or family investments, a judge shall refrain from being engaged in other financial or business dealings as these may interfere with the proper performance of judicial duties or reflect adversely on the judge’s impartiality’.

- 4.11.1 write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
 - 4.11.2 appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;
 - 4.11.3 serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a judge; or
 - 4.11.4 engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.
- (41) Re-number paragraph 1.17 as paragraph 4.12.
- (42) Delete paragraph 1.19³⁴, and substitute the following new paragraph 4.13: ‘A judge may form or join associations of judges or participate in other organizations representing the interests of judges’.
- (43) Re-number paragraph 1.20 as paragraph 4.14.
- (44) Insert the following new paragraph 4.15: ‘A judge shall not knowingly permit court staff or others subject to the judge’s influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions’.
- (45) Re-number paragraph 1.21 as paragraph 4.16.
- (46) Delete paragraphs 1.22³⁵ and 1.23³⁶.

³³ ‘Except as consistent with, or as provided by, constitutional or other law, a judge shall not accept appointment to a government commission, committee or to a position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system, the administration of justice or related matters. However, a judge may represent the judge’s country or the state on ceremonial occasions or in connection with historical, educational, cultural, sporting or like activities’.

³⁴ ‘A judge may form or join associations of judges or participate in other organizations representing the interests of judges to promote professional training and to protect judicial independence’.

³⁵ ‘A judge may receive compensation and reimbursement of expenses for the extra-judicial activities permitted by this Code, if such payments do not give the appearance of influencing the judge in the performance of judicial duties or otherwise give the appearance of impropriety, subject to the following restrictions: (a) such compensation and reimbursement shall not exceed a reasonable amount nor shall it exceed what a person who is not a judge would receive for the same activities; and (b) reimbursement shall be limited to the actual cost of travel and accommodation reasonably incurred by the judge and, where appropriate to the occasion, by the judge’s family. Any payment in excess of such an amount is compensation’.

Equality

- (47) In paragraph 5.1, replace the words ‘A judge shall strive to be aware of, and to understand’ with the words ‘A judge shall be aware of, and understand’.
- (48) Delete paragraph 5.3³⁷, and substitute the following new paragraph 5.3: ‘A judge shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties’.
- (49) Delete paragraph 5.5³⁸, and substitute the following new paragraph 5.5: ‘A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy’.
- (50) Delete paragraphs 5.6³⁹, 5.7⁴⁰ and 5.8⁴¹.

Competence and Diligence

- (51) Delete paragraph 6.2⁴², and substitute the following new paragraph 6.2: ‘A judge shall devote the judge’s professional activity to judicial duties, which

³⁶ ‘A judge shall make such financial disclosures and pay all such taxes as are required by law’.

³⁷ ‘A judge shall carry out his or her duties with appropriate consideration for all persons (for example, parties, witnesses, lawyers, court staff and judicial colleagues) without unjust differentiation on any irrelevant ground, immaterial to the proper performance of such duties’.

³⁸ ‘A judge shall require lawyers in proceedings before a court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds. This requirement does not preclude legitimate advocacy where any such grounds are legally relevant to an issue in the proceedings’.

³⁹ ‘A judge shall not be a member of, nor associated with, any society or organization that practices unjust discrimination on the basis of any irrelevant ground’.

⁴⁰ ‘Without authority of law and notice to, and consent of, the parties and an opportunity to respond, a judge shall not engage in independent, personal investigation of the facts of a case’.

⁴¹ ‘Without authority of law and notice to, and consent of, the parties and an opportunity to respond, a judge shall not, in the absence of the other parties to the proceedings, communicate with any party to proceedings in the judge’s court concerning such proceedings’.

include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations'.

- (52) Delete paragraph 6.3⁴³, and substitute the following new paragraph 6.3: 'A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges'.
- (53) Delete paragraph 6.4⁴⁴, and substitute the following new paragraph 6.4: 'A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms'.
- (54) Redraft paragraph 6.6 in the following terms: 'A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy'.

Implementation

- (55) Delete Value VII: Implementation and Accountability, and the Principle and Code which follow, and substitute the following paragraph: 'By reason of the nature of judicial office, effective measures shall be adopted by national judiciaries to provide mechanisms to implement these principles if such mechanisms are not already in existence in their jurisdictions'.

Definitions

- (56) Delete the words 'in this Code', and substitute the words 'In this statement of principles'.

⁴² 'A judge shall devote his or her professional activity to judicial duties. Such duties are broadly defined and include not only the performance of judicial duties in court and the making of decisions but other tasks relevant to the court's operations or to the judicial office'.

⁴³ 'A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties'.

⁴⁴ 'A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms and, within any applicable limits of constitutional or other law, shall conform to such norms as far as is feasible'.

- (57) Delete the definition of “*Judge*”⁴⁵ and substitute the following new definition: ““*Judge*” means any person exercising judicial power, however designated’.
- (58) Redraft the definition of “*Judge’s family*” as follows: ‘ *Judge’s family*’ includes a judge’s spouse, son, daughter, son-in-law, daughter-in-law, and any close relative or person who is a companion or employee of the judge and who lives in the judge’s household’.

Explanatory Note

- (59) Insert a new explanatory note at the end of the document explaining the drafting process and describing the consultations that preceded the Hague Meeting.

NEXT STEPS

16. Dato’ Param Kumaraswamy informed the meeting that he proposed to attach the *Principles of Judicial Conduct* to his next report to the UN Commission on Human Rights, and that for that purpose he would require the document to be translated into all the official UN languages before 15 December 2002. It was agreed that this be done.

17. Mr Jan van Dijk suggested the following road map: (1) Request governments to seek and obtain the views of their judiciaries on the *Principles*; (2) Convene an expert group of judges to consider the views of judiciaries and make amendments, if any, to the *Principles*; (3) Forward the final draft to governments; (4) Present the final draft of the *Principles* for adoption by the next UN Congress on the Prevention of Crime and the Treatment of Offenders in 2005; (5) The Congress on Crime to submit the *Principles* for adoption by the UN General Assembly. He added that step (1) could be taken by the UN Commission on Crime Prevention and Criminal Justice. These suggestions were noted. It was agreed, however, that any decision on whether the route to the UN General Assembly be through the Crime Commission or the Commission on Human Rights should be taken in consultation with the UN Special Rapporteur on the Independence of Judges and Lawyers.

18. Reference was made to several forthcoming meetings of judges at which the *Principles of Judicial Conduct* could be disseminated. These included the Conference of Chief Justices of Hispanic Countries in Mexico in November 2002; the Conference of Chief Justices of Constitutional Courts of Arab Countries in Mauritania in January 2003; the Conference of Chief Justices of African Countries in Abuja in February 2003; and the Conference of Chief Justices of Asian and Pacific Countries in Tokyo in September 2003.

⁴⁵ ““*Judge*” includes a magistrate, a member of customary or village courts and any person exercising judicial office, however designated’.

The Co-ordinator of the Judicial Integrity Programme was requested to make the necessary arrangements for this purpose. The Chairman announced that the *Principles* will be placed before the next meeting of the Judicial Group on Strengthening Judicial Integrity in Colombo in January 2003.

ACKNOWLEDGMENTS

19. The Chairman thanked all the participants, including the Judges of the International Court of Justice who attended the first session, and the Observer and Resource Persons. He also thanked, on behalf of the participants, Mr Steven van Hoogstraten, General Director of the Carnegie Foundation and Treasurer of the Hague Academy of International Law, for his considerable assistance in the successful organization of the meeting; Chief Justice Pim Haak of the Supreme Court of the Netherlands for his hospitality; the staff of the Peace Palace and the management of the Steigenberger Kurhaus Hotel; Mr Simon Tucker for his secretarial assistance; the interpreters, and the Department for International Development, United Kingdom, for making it possible for this meeting to be convened and held. On behalf of the participants, Chief Justice Davide thanked the Chairman, and Dato' Param Cumaraswamy thanked the Rapporteur.

20. The Round-Table Meeting closed at 6.00 p.m. on Tuesday 26 November 2002.

Annexures

- A: List of Participants
- B: Provisional Agenda
- C: Statement by Dato' Param Cumaraswamy, UN Special Rapporteur on the Independence of Judges and Lawyers.
- D: The Bangalore Principles of Judicial Conduct

LIST OF PARTICIPANTS

<i>Chairperson</i>
H.E. Judge Christopher Gregory Weeramantry Judge Ad-Hoc, and former Vice-President, of the International Court of Justice.
<i>Special Guests</i>
H. E. Judge Raymond Ranjeva (Madagascar) Judge of the International Court of Justice
H. E. Judge Geza Herczegh (Hungary) Judge of the International Court of Justice
H. E. Judge Carl-August Fleischauer (Germany) Judge of the International Court of Justice
H. E. Judge Abdul G. Koroma (Sierra Leone) Judge of the International Court of Justice
H. E. Judge Rosalyn Higgins (United Kingdom) Judge of the International Court of Justice
H. E. Judge Francisco Rezek (Brazil) Judge of the International Court of Justice
H.E. Judge Nabil Elaraby (Egypt) Judge of the International Court of Justice

H. E. Judge Thomas Frank (United States of America) Judge Ad-Hoc of the International Court of Justice
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**ROUND-TABLE MEETING
OF CHIEF JUSTICES**

**The Japanese Room, Peace Palace, The Hague
November 25-26, 2002**

Provisional Agenda

Chair:
H. E. Judge C. G. Weeramantry,
Judge Ad-Hoc, and former Vice-President,
International Court of Justice.

Monday 25 November

10.00 - 12.45 : **SESSION 1**

Introductory remarks:

Mr Jan van Dijk, Chief Crime Reduction and Analysis Branch, Centre for International Crime Prevention, United Nations Office for Drug Control and Crime Prevention, Vienna.

*Dato' Param Cumaraswamy
Special Rapporteur on the Independence of Judges and Lawyers, United Nations Commission on Human Rights, Geneva.*

Statement of objectives:

Judge Weeramantry. Chairman, Judicial Group on Strengthening Judicial Integrity.

General observations by participants on:

- (a) Title of document
International Code of Judicial Conduct / Principles of Judicial Conduct / Universal Declaration of Judicial Standards / Principles of Judicial Accountability / etc.
- (b) Scheme of document

Values / Principles / Code or Illustrations or Explanation or Rules, etc.

(c) The Preamble.

(d) The Values
Any additions / deletions? Prioritizing the values.

13.00 - 1445 : Lunch in the Restaurant des Juges, Peace Palace.

15.00 - 1800 : SESSION 2

Value 1: Propriety (or other re-prioritized Value)

Value 2: Independence

Value 3: Integrity

1805 - 1830 : Refreshments in the foyer.

Tuesday 26 November

10.00 - 12.45 : SESSION 3

Value 4: Impartiality

Value 5: Equality

Value 6: Competence and Diligence

13.00 - 1445 : Lunch in the Restaurant de Juges, Peace Palace.

15.00 - 18.00 : SESSION 4

Value 7: Implementation and Accountability (if retained)

Definition

Approval of revised draft

Suggestions re. further steps in the process leading to endorsement by the UN General Assembly.

20.00

Dinner hosted by the Hon. Pim Haak, Chief Justice of the Supreme Court of the Netherlands at Hotel “Des Indes”, Lange Voorhout, The Hague. (Cocktails served at 19.15 at Hoge Raad der Nederlanden, Lange Voorhout, The Hague).

Note:

1. Arrangements have been made for the use of English, French and Spanish as working languages
2. Tea/coffee will be served in the foyer during each session.

ROUND TABLE MEETING OF CHIEF JUSTICES

The Japanese Room, Peace Palace, The Hague
November 25-26, 2002

Introductory Remarks

Dato' Param Cumaraswamy

UN Special Rapporteur on the Independence of Judges and Lawyers

It is indeed a great honour and privilege for me to participate in this gathering of eminent jurists and in particular Chief Justices from across the regions. I thank Dr Nihal Jayawickrama, the Coordinator of the Judicial Group on Strengthening Judicial Integrity, for inviting me to say a few words at the opening of this Round Table Meeting.

Since the Seventies and the early Eighties, there was considerable pressure on the United Nations to formulate minimum standards for the promotion and protection of the independence of the judiciary and that of lawyers. The pressure came largely from concerned international NGOs and organizations of jurists who were then monitoring attacks on judges and lawyers worldwide. These efforts resulted in the adoption by way of UN General Assembly endorsement of the Basic Principles on the Independence of the Judiciary in 1985 and later in 1990 the adoption of the Basic Principles on the Role of Lawyers.

These principles, though general and very basic, represent the first intergovernmental standards of judicial independence and lawyer independence, and are today the acknowledged yardstick by which the international community measures their independence.

Since the creation of my mandate in 1994 and my appointment to that mandate, I have had the benefit and advantage to inquire from, and discuss with, governments and all the actors in the administration of justice whenever the judiciary as an institution and judges in their individual capacities are put at risk. In the defence of judicial independence a common concern often expressed by the executive arm of the government is want of judicial accountability.

Let me give an example. In South Africa in October 1990, in sentencing a 54 year old man to seven years imprisonment in the Cape Town Court for raping his 16 year old daughter, the judge said that while raping his daughter was "morally reprehensible", the act was "confined" to his daughter, and that therefore the man did not pose a threat to society. He further said that the girl had a good chance of recovery. In a country where it is said that rape is committed every 36 seconds, and where the law provides a minimum sentence of life imprisonment unless there are mitigating circumstances, these pronouncements unleashed a wave of anger in women's rights groups. The prosecutor instantly filed a notice of appeal. In the aftermath, the newspapers reported that a Parliamentary Committee had summoned the judge to appear and explain himself over the sentence. This began a counter protest from judicial circles as such action by Parliament would amount to encroachment into judicial independence. The wisdom of the Minister of Justice in a public statement quelled the situation. He said, inter alia:

“In terms of our constitution, the judiciary is independent from both the legislative and the executive. The principle of separation of powers and the independence is strongly entrenched in our constitution.

The judiciary as an organ of State had to be accountable in its actions, but this did not mean that judges should appear before a parliamentary committee to explain their judgments.”

While the executive arm is often apprehensive of political independence, the judicial arm is apprehensive of judicial accountability. There has been much written on this since. Among others, in 1996, the former Chief Justice of Canada, Antonio Lamer, delivered an address at the Singapore Law Academy on “*The tension between Judicial Accountability and Judicial Independence*”.

The UN Basic Principles do not provide for judicial accountability save for the provision on procedure for judicial discipline.

It is in this context of this debate on judicial independence and judicial accountability that this initiative of the Judicial Group on Strengthening Judicial Integrity becomes relevant and important.

As would be seen, considerable work had gone into the preparation of the Bangalore Draft. As the draft was the product of some eminent Chief Justices representing the common law systems, it was felt that for universal application the input from the other systems are essential, particularly the continental civil law system.

The Council of Europe was approached. In June this year, the Bangalore Draft was discussed with the Working Party of the Consultative Council of European Judges in Strasbourg. The 40 member Consultative Council of European Judges advises the Committee of Ministers of the Council of Europe on judicial matters. The Working Party has since submitted its written views on the Bangalore Draft. This is indeed a very valuable contribution representing the views of the continental system.

Earlier last year we also sought the views of the judges of the Eastern European countries through the ABA – Central and East European Law Initiative (CEELI). CEELI submitted a document containing the views from many of the 22 countries in that region.

We have before us today the annotated document incorporating the views obtained thus far on the Bangalore Draft for the consideration of this esteemed gathering of eminent Chief Justices.

What is desirable is to adopt a set of principles of judicial conduct which could be the benchmark for judicial accountability for universal application. A set of such principles could complement the present Basic Principles on the Independence of the Judiciary.

It is my intention to have this document, if finalized here in The Hague, the seat of international justice, to submit to the next session of the Human Rights Commission in March next year for possible endorsement. At the last Commission session in April this year, there was considerable interest shown by some Member States, particularly of the European region, on the Bangalore Draft, when I drew attention to the work of the Judicial Group on this initiative.

In conclusion, may I take this opportunity to express my appreciation to all those who worked hard towards the realization of this project: in particular, our Chair, H.E. Judge Weeramantry; our Rapporteur, Justice Michael Kirby; the Honourable Chief Justices in the Judicial Group; and our untiring Coordinator, Dr Nihal. Last, but not the least, our loyal funders of this initiative, DFID.

**THE BANGALORE PRINCIPLES
OF JUDICIAL CONDUCT**

Preamble

WHEREAS the *Universal Declaration of Human Rights* recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of rights and obligations and of any criminal charge.

WHEREAS the *International Covenant on Civil and Political Rights* guarantees that all persons shall be equal before the courts, and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without undue delay, to a fair and public hearing by a competent, independent and impartial tribunal established by law.

WHEREAS the foregoing fundamental principles and rights are also recognized or reflected in regional human rights instruments, in domestic constitutional, statutory and common law, and in judicial conventions and traditions.

WHEREAS the importance of a competent, independent and impartial judiciary to the protection of human rights is given emphasis by the fact that the implementation of all the other rights ultimately depends upon the proper administration of justice.

WHEREAS a competent, independent and impartial judiciary is likewise essential if the courts are to fulfil their role in upholding constitutionalism and the rule of law.

WHEREAS public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society.

WHEREAS it is essential that judges, individually and collectively, respect and honour judicial office as a public trust and strive to enhance and maintain confidence in the judicial system.

WHEREAS the primary responsibility for the promotion and maintenance of high standards of judicial conduct lies with the judiciary in each country.

AND WHEREAS the *United Nations Basic Principles on the Independence of the Judiciary* are designed to secure and promote the independence of the judiciary, and are addressed primarily to States.

THE FOLLOWING PRINCIPLES are intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge.

Value 1:

INDEPENDENCE

Principle:

Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Application:

- 1.1 A judge shall exercise the judicial function independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.
- 1.2 A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judge has to adjudicate.
- 1.3 A judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.
- 1.4 In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently.
- 1.5 A judge shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.
- 1.6 A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

Value 2:

IMPARTIALITY

Principle:

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Application:

- 2.1 A judge shall perform his or her judicial duties without favour, bias or prejudice.
 - 2.2 A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.
 - 2.3 A judge shall, so far as is reasonable, so conduct himself or herself as to minimise the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.
 - 2.4 A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.
 - 2.5 A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where
 - 2.5.1 the judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
 - 2.5.2 the judge previously served as a lawyer or was a material witness in the matter in controversy; or
 - 2.5.3 the judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy:
- Provided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

Value 3:

INTEGRITY

Principle:

Integrity is essential to the proper discharge of the judicial office.

Application:

- 3.1 A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.
- 3.2 The behaviour and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

Value 4:

PROPRIETY

Principle:

Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

Application:

- 4.1 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.
- 4.2 As a subject of constant public scrutiny, a judge must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.
- 4.3 A judge shall, in his or her personal relations with individual members of the legal profession who practise regularly in the judge's court, avoid situations which might reasonably give rise to the suspicion or appearance of favouritism or partiality.
- 4.4 A judge shall not participate in the determination of a case in which any member of the judge's family represents a litigant or is associated in any manner with the case.
- 4.5 A judge shall not allow the use of the judge's residence by a member of the legal profession to receive clients or other members of the legal profession.
- 4.6 A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.
- 4.7 A judge shall inform himself or herself about the judge's personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of the judge's family.
- 4.8 A judge shall not allow the judge's family, social or other relationships improperly to influence the judge's judicial conduct and judgment as a judge.
- 4.9 A judge shall not use or lend the prestige of the judicial office to advance the private interests of the judge, a member of the judge's family or of anyone else, nor shall a judge convey or permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties.
- 4.10 Confidential information acquired by a judge in the judge's judicial capacity shall not be used or disclosed by the judge for any other purpose not related to the judge's judicial duties.

- 4.11 Subject to the proper performance of judicial duties, a judge may:
- 4.11.1 write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
 - 4.11.2 appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;
 - 4.11.3 serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not inconsistent with the perceived impartiality and political neutrality of a judge; or
 - 4.11.4 engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.
- 4.12 A judge shall not practise law whilst the holder of judicial office.
- 4.13 A judge may form or join associations of judges or participate in other organisations representing the interests of judges.
- 4.14 A judge and members of the judge's family, shall neither ask for, nor accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties.
- 4.15 A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.
- 4.16 Subject to law and to any legal requirements of public disclosure, a judge may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality.

Value 5:

EQUALITY

Principle:

Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Application:

- 5.1 A judge shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes ("irrelevant grounds").
- 5.2 A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.
- 5.3 A judge shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.
- 5.4 A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or control to differentiate between persons concerned, in a matter before the judge, on any irrelevant ground.
- 5.5 A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy.

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Value 6:

COMPETENCE AND DILIGENCE

Principle:

Competence and diligence are prerequisites to the due performance of judicial office.

Application:

- 6.1 The judicial duties of a judge take precedence over all other activities.
- 6.2 A judge shall devote the judge's professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations.
- 6.3 A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.
- 6.4 A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.
- 6.5 A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.
- 6.6 A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity. The judge shall require similar conduct of legal representatives, court staff and others subject to the judge's influence, direction or control.
- 6.7 A judge shall not engage in conduct incompatible with the diligent discharge of judicial duties.

IMPLEMENTATION

By reason of the nature of judicial office, effective measures shall be adopted by national judiciaries to provide mechanisms to implement these principles if such mechanisms are not already in existence in their jurisdictions.

DEFINITIONS

In this statement of principles, unless the context otherwise permits or requires, the following meanings shall be attributed to the words used:

"*Court staff*" includes the personal staff of the judge including law clerks.

"*Judge*" means any person exercising judicial power, however designated.

"*Judge's family*" includes a judge's spouse, son, daughter, son-in-law, daughter-in-law, and any other close relative or person who is a companion or employee of the judge and who lives in the judge's household.

"*Judge's spouse*" includes a domestic partner of the judge or any other person of either sex in a close personal relationship with the judge.

Explanatory Note

1. At its first meeting held in Vienna in April 2000 on the invitation of the United Nations Centre for International Crime Prevention, and in conjunction with the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Judicial Group on Strengthening Judicial Integrity (comprising Chief Justice Latifur Rahman of Bangladesh, Chief Justice Y. Bhaskar Rao of Karnataka State in India, Justice Govind Bahadur Shrestha of Nepal, Chief Justice M.L. Uwais of Nigeria, Deputy President Pius Langa of the Constitutional Court of South Africa, Chief Justice F.L. Nyalali of Tanzania, and Justice B.J. Odoki of Uganda, meeting under the chairmanship of Judge Christopher Weeramantry, Vice-President of the International Court of Justice, with Justice Michael Kirby of the High Court of Australia as Rapporteur, and with the participation of Dato' Param Cumaraswamy, UN Special Rapporteur on the Independence of Judges and Lawyers) recognized the need for a code against which the conduct of judicial officers may be measured. Accordingly, the Judicial Group requested that codes of judicial conduct which had been adopted in some jurisdictions be analyzed, and a report be prepared by the Co-ordinator of the Judicial Integrity Programme, Dr Nihal Jayawickrama, concerning: (a) the core considerations which recur in such codes; and (b) the optional or additional considerations which occur in some, but not all, such codes and which may or may not be suitable for adoption in particular countries.

2. In preparing a draft code of judicial conduct in accordance with the directions set out above, reference was made to several existing codes and international instruments including, in particular, the following:

- (a) The Code of Judicial Conduct adopted by the House of Delegates of the American Bar Association, August 1972.
- (b) Declaration of Principles of Judicial Independence issued by the Chief Justices of the Australian States and Territories, April 1997.
- (c) Code of Conduct for the Judges of the Supreme Court of Bangladesh, prescribed by the Supreme Judicial Council in the exercise of power under Article 96(4)(a) of the Constitution of the People's Republic of Bangladesh, May 2000.
- (d) Ethical Principles for Judges, drafted with the cooperation of the Canadian Judges Conference and endorsed by the Canadian Judicial Council, 1998.
- (e) The European Charter on the Statute for Judges, Council of Europe, July 1998.
- (f) The Idaho Code of Judicial Conduct 1976.
- (g) Restatement of Values of Judicial Life adopted by the Chief Justices Conference of India, 1999.
- (h) The Iowa Code of Judicial Conduct.
- (i) Code of Conduct for Judicial Officers of Kenya, July 1999.
- (j) The Judges' Code of Ethics of Malaysia, prescribed by the Yang di-Pertuan Agong on the recommendation of the Chief Justice, the President of the Court of Appeal and the Chief Judges of the High Courts, in the exercise of powers conferred by Article 125(3A) of the Federal Constitution of Malaysia, 1994.
- (k) The Code of Conduct for Magistrates in Namibia.
- (l) Rules Governing Judicial Conduct, New York State, USA.
- (m) Code of Conduct for Judicial Officers of the Federal Republic of Nigeria.
- (n) Code of Conduct to be observed by Judges of the Supreme Court and of the High Courts of Pakistan.
- (o) The Code of Judicial Conduct of the Philippines, September 1989.

- (p) The Canons of Judicial Ethics of the Philippines, proposed by the Philippines Bar Association, approved by the Judges of First Instance of Manila, and adopted for the guidance of and observance by the judges under the administrative supervision of the Supreme Court, including municipal judges and city judges.
- (q) Yandina Statement: Principles of Independence of the Judiciary in Solomon Islands, November 2000.
- (r) Guidelines for Judges of South Africa, issued by the Chief Justice, the President of the Constitutional Court, and the Presidents of High Courts, the Labour Appeal Court, and the Land Claims Court, March 2000.
- (s) Code of Conduct for Judicial Officers of Tanzania, adopted by the Judges and Magistrates Conference, 1984.
- (t) The Texas Code of Judicial Conduct
- (u) Code of Conduct for Judges, Magistrates and Other Judicial Officers of Uganda, adopted by the Judges of the Supreme Court and the High Court, July 1989.
- (v) The Code of Conduct of the Judicial Conference of the United States.
- (w) The Canons of Judicial Conduct for the Commonwealth of Virginia, adopted and promulgated by the Supreme Court of Virginia, 1998.
- (x) The Code of Judicial Conduct adopted by the Supreme Court of the State of Washington, USA, October 1995.
- (y) The Judicial (Code of Conduct) Act, enacted by the Parliament of Zambia, December 1999.
- (z) Draft Principles on the Independence of the Judiciary ("Siracusa Principles"), prepared by a committee of experts convened by the International Association of Penal Law, the International Commission of Jurists, and the Centre for the Independence of Judges and Lawyers, 1981.
- (aa) Minimum Standards of Judicial Independence adopted by the International Bar Association, 1982.
- (bb) United Nations Basic Principles on the Independence of the Judiciary, endorsed by the UN General Assembly, 1985.
- (cc) Draft Universal Declaration on the Independence of Justice ("Singhvi Declaration") prepared by Mr L.V. Singhvi, UN Special Rapporteur on the Study on the Independence of the Judiciary, 1989.
- (dd) The Beijing Statement of Principles of the Independence of the Judiciary in the Lawasia Region, adopted by the 6th Conference of Chief Justices, August 1997.
- (ee) The Latimer House Guidelines for the Commonwealth on good practice governing relations between the Executive, Parliament and the Judiciary in the promotion of good governance, the rule of law and human rights to ensure the effective implementation of the Harare Principles, 1998.
- (ff) The Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System, adopted by the expert group convened by the Centre for the Independence of Judges and Lawyers, February 2000.

3. At its second meeting held in Bangalore in February 2001, the Judicial Group (comprising Chief Justice Mainur Reza Chowdhury of Bangladesh, Justice Claire L'Heureux Dube of Canada, Chief Justice P.V. Reddi of Karnataka State in India, Chief Justice Keshav Prasad Upadhyay of Nepal, Chief Justice M.L. Uwais of Nigeria, Deputy Chief Justice Pius Langa of South Africa, Chief Justice S.N. Silva of Sri Lanka, Chief Justice B.A. Samatta of Tanzania, and Chief Justice B.J. Odoki of Uganda, meeting under the chairmanship of Judge Weeramantry, with Justice Kirby as Rapporteur, and with the participation of the UN Special Rapporteur and Justice P.N. Bhagwati, Chairman of the UN Human Rights Committee, representing the UN High Commissioner for Human Rights) proceeding by way of examination

of the draft placed before it, identified the core values, formulated the relevant principles, and agreed on the Bangalore Draft Code of Judicial Conduct. The Judicial Group recognized, however, that since the Bangalore Draft had been developed by judges drawn principally from common law countries, it was essential that it be scrutinized by judges of other legal traditions to enable it to assume the status of a duly authenticated international code of judicial conduct.

4. The Bangalore Draft was widely disseminated among judges of both common law and civil law systems and discussed at several judicial conferences. In June 2002, it was reviewed by the Working Party of the Consultative Council of European Judges (CCJE-GT), comprising Vice-President Gerhard Reissner of the Austrian Association of Judges, Judge Robert Fremr of the High Court in the Czech Republic, President Alain Lacabarats of the Cour d'Appel de Paris in France, Judge Otto Mallmann of the Federal Administrative Court of Germany, Magistrate Raffaele Sabato of Italy, Judge Virgilijus of the Lithuanian Court of Appeal, Premier Conseiller Jean-Claude Wiwinius of the Cour d'Appel of Luxembourg, Juge Conseiller Orlando Afonso of the Court of Appeal of Portugal, Justice Dusan Ogrizek of the Supreme Court of Slovenia, President Johan Hirschfeldt of the Svea Court of Appeal in Sweden, and Lord Justice Mance of the United Kingdom. On the initiative of the American Bar Association, the Bangalore Draft was translated into the national languages, and reviewed by judges, of the Central and Eastern European countries; in particular, of Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo, Romania, Serbia and Slovakia.

5. The Bangalore Draft was revised in the light of the comments received from CCJE-GT and others referred to above; Opinion no.1 (2001) of CCJE on standards concerning the independence of the judiciary; the draft Opinion of CCJE on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality; and by reference to more recent codes of judicial conduct including the Guide to Judicial Conduct published by the Council of Chief Justices of Australia in June 2002, the Model Rules of Conduct for Judges of the Baltic States, the Code of Judicial Ethics for Judges of the People's Republic of China, and the Code of Judicial Ethics of the Macedonian Judges Association.

6. The revised Bangalore Draft was placed before a Round-Table Meeting of Chief Justices (or their representatives) from the civil law system, held in the Peace Palace in The Hague, Netherlands, in November 2002, with Judge Weeramantry presiding. Those participating were Judge Vladimir de Freitas of the Federal Court of Appeal of Brazil, Chief Justice Iva Brozova of the Supreme Court of the Czech Republic, Chief Justice Mohammad Fathy Naguib of the Supreme Constitutional Court of Egypt (assisted by Justice Dr Adel Omar Sherif), Conseillere Christine Chanet of the Cour de Cassation of France, President Genaro David Gongora Pimentel of the Suprema Corte de Justicia de la Nacion of Mexico, President Mario Mangaze of the Supreme Court of Mozambique, President Pim Haak of the Hoge Raad der Nederlanden, Justice Trond Dolva of the Supreme Court of Norway, and Chief Justice Hilario Davide of the Supreme Court of the Philippines (assisted by Justice Reynato S. Puno). Also participating in one session were the following Judges of the International Court of Justice: Judge Raymond Ranjeva (Madagascar), Judge Geza Herczegh (Hungary), Judge Carl-August Fleischhauer (Germany), Judge Abdul G. Koroma (Sierra Leone), Judge Rosalyn Higgins (United Kingdom), Judge Francisco Rezek (Brazil), Judge Nabil Elaraby (Egypt), and Ad-Hoc Judge Thomas Frank (USA). The UN Special Rapporteur was in attendance. The *Bangalore Principles of Judicial Conduct* was the product of this meeting.