



Regional Preparatory Meeting for the Launch of a Global  
Judicial Integrity Network

16 – 17 October 2017

Swakopmund Hotel and Entertainment Centre

Swakopmund, Namibia

**Summary Report**



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## 1. MEETING DETAILS

<b>Title</b>	Regional Preparatory Meeting for the Launch of a Global Judicial Integrity Network
<b>Venue</b>	Swakopmund Hotel & Entertainment Centre, Swakopmund, Namibia
<b>Date</b>	16 – 17 October 2017
<b>Participants</b>	<p>A total of 76 participants from judiciaries, think-tanks and associations attended the preparatory meeting. Judicial participants came from the following countries:</p> <ul style="list-style-type: none"> <li>(i) Angola</li> <li>(ii) Botswana</li> <li>(iii) Ghana</li> <li>(iv) Kenya</li> <li>(v) Lesotho</li> <li>(vi) Malawi</li> <li>(vii) Mozambique</li> <li>(viii) Namibia</li> <li>(ix) Nigeria</li> <li>(x) Seychelles</li> <li>(xi) South Africa</li> <li>(xii) Swaziland</li> <li>(xiii) Tanzania</li> <li>(xiv) Uganda</li> <li>(xv) Zambia</li> <li>(xvi) Zanzibar</li> <li>(xvii) Zimbabwe</li> </ul> <p>Participants from think-tanks, judicial networks and associations present were:</p> <ul style="list-style-type: none"> <li>(i) Democratic, Governance and Rights Unit, University of Cape Town</li> <li>(ii) Commonwealth Magistrates' and Judges' Association (CMJA)</li> <li>(iii) International Association of Judges (IAJ)</li> <li>(iv) National Centre for State Courts (NCSC)</li> </ul> <p>Seven Chief Justices attended the meeting (Botswana, Mozambique, Namibia, Nigeria, Seychelles, Zanzibar and Zimbabwe). Two Deputy Chief Justices attended the meeting (Namibia and Zambia).</p> <p>In addition to the seven chief justices mentioned above, the Chief Justice of Cuba was the special guest of the Chief Justice of Namibia and he also attended the meeting with the Ambassador of Cuba to Namibia.</p>

<b>Moderators</b>	<p>The Deputy Chief Justice of Namibia, Justice Petrus Damaseb was the master of ceremonies for the two days.</p> <p>Moderators include:  Dr Oliver Stolpe, Senior Programme Officer, UNODC  Justice Kashim Zannah, Chief Judge of Borno State, Nigeria, and Member of the Anti-Corruption Committee of the National Judicial Council  Mr Jeff Apperson, Vice President, National Centre of State Courts</p>
<b>Organizers</b>	<p>Namibian Judiciary  UNODC</p>
<b>Support</b>	<p>Global Programme for the Implementation of the Doha Declaration, GLOZ82</p>



## 2. OBJECTIVES

The regional preparatory meeting was conducted with the following objectives in mind:

- (a) Raise awareness among members of the judiciary regarding the proposal for the creation of a Global Judicial Integrity Network.
- (b) Collect the ongoing efforts, good practices and priorities of judiciaries across regions in terms of strengthening judicial integrity.
- (c) Assess the needs and expectations of judiciaries in terms of capacity-building support, advisory services, tools, networking opportunities and other resources which could be provided through a Global Judicial Integrity Network and related platform of resources and services, and to identify members of the judiciary and judicial administration who would be interested to join the Network once launched; and
- (d) Identify members of the judiciary and judicial administration who would be interested in joining the network.

The meeting was designed to promote dialogue and exchange of ideas between the judiciaries of Anglophone and Lusophone speaking countries in Africa on a broad range of topics in the interest of countries in the region. These included:

- Strengthening and enforcing Codes of Conduct;
- Establishing complaints mechanisms and protecting reporting persons;
- Integrating professional ethics, integrity and the prevention of corruption into judicial education;
- Using assessment tools, risk mapping, qualitative assessments, surveys, courts inspections as well as performance evaluations as tools to monitor and identify integrity challenges;
- Integrating integrity related aspects into vetting and appointments procedures;
- Using public outreach and court transparency measures to strengthen external monitoring of integrity by the public and to instill public confidence in the judiciary.

### 3. SUMMARY

#### Welcoming and Opening Remarks

The meeting was officially opened with welcoming remarks by the Chief Justice of Namibia, Peter Shivute. He expressed gratitude to UNODC in partnering with the Namibian Judiciary in organizing this meeting. He stressed the importance of judicial integrity as a cornerstone of the rule of law and fundamental with regard to upholding public confidence in the justice system. In his opening remark Dr Oliver Stolpe, Senior Programme Officer, indicated that UNODC has long supported judiciaries in strengthening judicial integrity and fighting corruption across the region. He mentioned that one of the key pillar's in UNODC Southern Africa's strategy is to make the Southern African region safer from crime and drugs by strengthening the criminal justice system and its integrity. Having referred to the new Development Agenda 2030, Ms Zhuldyz Akisheva, UNODC Representative for Southern Africa highlighted the role that independent Judiciary plays in promoting the rule of law and good governance. She welcomed the discussion at the meeting aimed at establishment of the Global Judicial Integrity Network.

In his keynote address President of the People's Supreme Court of Cuba, Ruben Remigio spoke of the experience of Cuba in strengthening judicial ethics and integrity. He emphasised that "the mission of judges is not to be simple enforcers of norms and dispositions to the case before them, but also implies the duty to do so with a clear notion and sense of what is fair, so that their decisions are characterized not only by their legal support, but also by their transparency and the level of equity, rationality and weighting they denote." A full copy of the English translation of his statement can be read here: <http://www.judiciary.na/wp-content/uploads/2017/10/Cuba.pdf>.

#### Session I – The Global Judicial Integrity Network: Introduction and Overview

Dr Oliver Stolpe presented an overview of the proposed Global Judicial Integrity Network. He explained the origins of the proposal as being born out of the Doha Declaration which was adopted by the 13<sup>th</sup> UN Congress on Crime Prevention and Criminal Justice in 2015 as well as the United Nations Convention against Corruption. He explained the proposed functions of the Network as:

- providing its membership with opportunities for the exchange of experiences and good practices;
- collecting and disseminating resources relevant to upholding and strengthening judicial integrity;
- supporting the development of new tools;
- offering, upon request, technical and policy advice;
- delivering training and other capacity building opportunities;

Dr Stolpe emphasized the importance of consultations of this nature, as it would be critical to further develop and refine the proposed functions and services to be provided by the Network in accordance with the needs and preferences of judges around the globe. Dr Stolpe also highlighted the work that UNODC is doing in parallel to the consultations on the Global Judicial Integrity Network. In this regard UNODC is currently developing judicial ethics training in the form of both an online and classroom course. He mentioned that in Africa, Mozambique and Uganda are pilot countries that will be testing the applicability of this training.

He mentioned that this was the final consultation in preparation for the launch, which will take place on 9-10 April 2018 at UNODC's headquarter in Vienna, Austria.

## **Session II – Regional Developments in Judicial Integrity**

The session was moderated by the Hon. Petrus Damaseb, Deputy Chief Justice of Namibia and featured presentations by the following representatives, per country (in order of presentation):

- (i) The Hon. Chief Justice Peter Shivute – Namibia
- (ii) The Hon. Chief Justice Maruping Dibotelo – Botswana
- (iii) The Hon. Chief Justice Ozias Pondja – Mozambique
- (iv) The Hon. Chief Justice Walter Samuel Nkanu Onnoghen - Nigeria
- (v) The Hon. Chief Justice Mathilda Twomey – The Seychelles
- (vi) The Hon. Chief Justice Omar Makungu – Zanzibar
- (vii) The Hon. Deputy Chief Justice Marvin Mwanamwambwa – Zambia
- (viii) The Hon. Justice Faith Mwondha - Uganda
- (ix) The Hon. Justice Joseph Moiloa- Lesotho
- (x) The Hon. Justice Chris Mkandawire - Malawi
- (xi) The Hon. Justice Nkululeko J. Hlophe - Swaziland
- (xii) The Hon. Justice R. Makarau - Zimbabwe

Speakers highlighted key initiatives that had been undertaken within their respective jurisdictions to strengthen judicial integrity, remaining challenges as well as their expectations towards the event. Many speakers outlined several challenges their respective judiciaries continued to face including attempts of the executive to interfere with judicial decision making as well as judicial appointments, public perception of corruption, a lack of budgetary autonomy frequently resulting in weak public confidence.

Speakers gave an account of a vast array of innovative approaches which had been developed and implemented within their respective jurisdictions to enhance integrity, safeguard independence and prevent corruption and other forms of misconduct. All jurisdictions had introduced codes of conduct, mostly based on the Bangalore Principles of Judicial Conduct and the Latimer House Principles on the Three Branches of Government. They had strengthened their existing disciplinary mechanisms and created new bodies tasked with receiving and investigating complaints, proactively monitoring the performance and integrity of judges including through the regular conduct of townhall meetings and court inspections, as well as providing ethics advisories to judges and assisting the Chief Justice in assessing the conduct of individual judges. Several speakers reported of specific measures which had been taken to ensure that public complaints would be investigated swiftly and thoroughly as well as measures to encourage complainants to come forward including the introduction of whistle-blower policies. Most of the jurisdictions had introduced some form of judicial ethics training for the members of their judiciaries as well as regular interactive discussion sessions at court or district level with the aim to identify, discuss and help resolving recurring ethical challenges. In several cases existing codes of conduct had been complemented by more specific ethical guidance regulating the acceptance of gifts and hospitality by judges, the taking of loans, and engaging in outside activities as well as the use of social media.



Other measures which had been successfully introduced in some of the participating jurisdictions included the requirement for judges to submit annual asset and income declarations, the establishment of case management systems and electronic recording of proceedings to reduce backlog and the disappearance of case files and rigorous performance evaluation of judges using both quantitative and qualitative assessment methodologies. Several speakers also highlighted efforts to better educate the public about the role and functions of the judiciary through the establishment of a public relations office, the hiring of a court spokesperson and the conduct of annual open court house events.

Many reported on the development of sophisticated appointment, selection and vetting procedures aimed equally to assess the legal excellence, aptitude and integrity of candidates, establishing objective criteria, ensuring the wide distribution of vacancy announcements, involving the public including through public hearings, using detailed questionnaires and requiring an extensive list of supporting documentation to be provided by shortlisted candidates. Several jurisdictions had adjusted the composition of their judicial service commissions to ensure wider participation of relevant stakeholders while seeking to reduce political interference.

Several speakers mentioned the practical difficulties encountered when seeking to uphold the independence of the judiciary due to the dependence on the executive for the release of resources. Even where financial autonomy had been guaranteed in the constitution there seemed little assurance that sufficient funds would be allocated and released on time. One speaker reported on an ongoing effort in his jurisdiction to introduce a new constitutional provision to guarantee a minimum percentage of the overall government budget to the judiciary.

When talking about their expectations, speakers mostly expressed an interest to learn from their peers about their respective efforts, as well as the potential training and learning opportunities provided through a future Global Judicial Integrity Network.

### **Session III – Strengthening Integrity and Preventing Corruption in the Judiciary**

The session was moderated by Honourable Justice Kashim Zannah, the Chief Judge of Borno State, Nigeria and Member of the Anti-Corruption Committee of the National Judicial Council, Nigeria. The panel of speakers consisted of Honourable Justice Charles Mkandiwire, a judge from Malawi, representing the Commonwealth Magistrates and Judges Association who provided an overview of regional developments with regard to the adoption and implementation of Codes of Conduct; the Honourable Cagney Musi, a judge from South Africa, Vice President of the the International Association of Judges who presented on judicial accountability and ethics in South Africa; and the Honourable Justice Sophia Adinyira, who spoke about strengthening judicial integrity in Ghana and preventing corruption after the 2015 judicial crises.

Panellists were asked to focus their presentations on specific measures adopted in their jurisdictions with regards to issues such as strengthening and enforcing codes of conducts; establishing complaints mechanisms and protecting persons who report; and integrating professional ethics, integrity and the prevention of corruption into judicial education.

Justice Mkandawire, in his presentation highlighted the continental and sub-regional developments. He emphasised that almost all countries in the region had adopted Codes of Conduct largely based on the Bangalore Principles. He also recalled the Latimer House Principles on the Separation of Powers of 2003 and the respective plan of action adopted in 2005 and stressed the need of judiciaries on Common Law tradition to use these tools when implementing codes of conduct. In his conclusion he listed the following challenges in the sphere of judicial integrity: (a) lack of commitment of financial resources to implemented anti-corruption measures; (b) lack of resources, skills and capacity in particular at the lower levels of the judiciary; (c) weaknesses in the disciplinary structures within the judiciary; (d) lack of capacity in investigation techniques by anti-corruption agencies; (e) lack of inter-institutional coordination; (f) flaws in or interference with the Constitution by the Executive and Legislative branches of Government; and (g) political interference with the judiciary or with the judicial process.

Judge Musi provided an overview of the measures adopted in South Africa in the post Apartheid area. He highlighted the strong protections of judicial independence enshrined in the Constitution and described the various measures which had been adopted to create a system of judicial accountability, including the requirement of well –reasoned judgements which are available to the public and media, the adoption of a code of conduct, the introduction of a highly responsive complaints system, the conduct of regular judicial ethics training, the establishment of an income and asset declaration system covering both judges and magistrates as well as the creation of a rigorous performance management system for judges and magistrates. He further mentioned that in 2017 so far there had been around 60 complaints against judges and 200-300 complaints against magistrates. While none of the complaints against judges had led to the initiation of an impeachment procedures, there were several cases pending against magistrates and in three cases procedures had resulted in impeachments.

Justice Adinyira spoke about the impact of the corruption scandal of 2015 in Ghana. As a result of this scandal a five member investigative committee had been established leading to the removal of 19 judges. Most significantly the “agent provocateur” defence had been dismissed as irrelevant. The scandal had also led the judiciary to introduce preventive measures including the regular conduct of mandatory judicial ethics training, the stricter vetting of the integrity of judicial applicants, the establishment of clear guidelines on the acceptance of gifts and the strengthening of the public complaints system.

#### **Session IV – Strengthening Integrity and Prevention Corruption in the Judiciary continued**

This session was moderated by Dr Oliver Stolpe, Senior Programme Officer at UNODC. The panel of speakers consisted of Mr Chris Oxtoby, Senior Researcher at the Democracy, Governance and Rights Unit at the University of Cape Town, who presented on the development of best practice principles and guidelines for judicial appointments in Southern and Eastern Africa. The Honourable Chief Justice Luke Malaba from Zimbabwe presented on the judicial appointment process in Zimbabwe, with a particular focus on the townhall approach, while the Honourable Justice Patrick Kiage from Kenya presented a paper entitled “Kenya’s Radical Search for Judicial Integrity.”

Panellists were asked to focus their presentations on specific measures adopted in their jurisdictions with regards to issues such as using assessment tools, risk mapping, qualitative assessments, surveys, court inspections as well as performance evaluations as tools to monitor and identify integrity

challenges; using public outreach and court transparency measures to strengthen external monitoring of integrity by the public and to instil public confidence in the judiciary.

The session focused on selection and appointment of judicial officers and put particular emphasis on the need for transparency and objectivity in the process, including the establishment of well defined selection criteria, the wide dissemination of vacancy announcements, the transparency in the process of reviewing applications and creating a shortlist, the stringent requirements in terms of submission of documentation by candidates, confirming education, professional experience as well as integrity. The balanced composition of the committee or panel responsible for the review of candidates, the creation of the shortlist and the interviewing, as well as the importance of maintaining confidentiality of interview questions and written tests where these were required. Finally, panellists discussed different methods to ensure that also the integrity of candidates were subjected to scrutiny by publishing the names of shortlisted candidates, inviting the bar association to comment on candidates, as well considering to conduct interviews publicly.

Chief Justice Malaba provided an overview of the current legal framework, procedures and practices which had been put in place with a view to both improving the quality of the selection and appointment process as well as its transparency. Multiple steps had been taken to develop objective criteria, ensure the wide dissemination of vacancies, and designing measures to test more accurately the suitability and qualification of candidates.

Justice Kiage briefed participants on the efforts of the Kenyan judiciary over the past two decades to tackle corruption, political interference and other forms of misconduct within its own ranks and to regain public trust. The fruits of these efforts had been evidenced in the handling of the various complaints which the judiciary had to adjudicate in the context of the 2017 Presidential election. However, he also warned against any complacency, judicial independence and integrity required continuous nurturing as judges who had been issuing rulings were now facing complaints pulling their impartiality into doubt.

Mr. Oxtoby presented the key findings of a research carried out by the Democracy, Governance and Rights Unit of the Cape Town University on behalf of the Southern Africa Chief Justices' Forum. The research had focused on studying the current laws, procedures and practices in place to vet, select and appoint judicial officers across the countries in the region. The objective of the research was to identify commonalities, challenges, lessons learned as well as good practices with a view to providing the basis for the development of best practice guidelines for judicial appointments at the regional level.

### **Session V and VI – The Global Judicial Integrity Network: Group Discussions (V) and Feedback (VI)**

This session divided participants into three small groups where they were tasked to discuss how to make the Global Judicial Integrity Network a reality, including what should constitute its priorities, core activities and functions in support of judiciaries at global, regional and country-specific levels. The participants had to discuss the following three points, taking the substantive discussions of sessions II, III and IV into account:

- (i) priority challenges and emerging issues;
- (ii) development of technical tools and training materials; and

(iii) opportunities for exchanging experiences and structure of the Network

During session VI the small groups provided feedback via nominated rapporteurs. Jeff Apperson, Vice President of the National Center of State Courts moderated this session.

(i) Priority challenges and emerging issues

- Designing and delivering Judicial Ethics Training;
- Composition of Judicial Service Commissions and the design of vetting and selection procedures and tools with a view to ensuring that they are merit based and lead to the identification of the most qualified and best suited candidates;
- Budgetary and financial autonomy of the judiciary;
- Effective Performance Management;
- Upholding the independence of the judiciary and of individual judges;
- How to prevent apparent or actual conflicts of interest, in particular arising from judges accepting appointments with the executive;
- Vetting of candidates for judicial appointments;
- Interference of the executive in judicial appointments;
- Transparency of the selection and appointment of judges;
- Developing objective assessment criteria and methods for identifying and selecting the most promising and qualified candidates for judicial office, including for assessing their integrity;
- Ensuring the effective implementation of Codes of Conduct, including what type of legal status they should have in order to foster compliance and to make sure judges conduct can be assessed and, where required, sanctioned.

(ii) development of technical tools and training materials

- Best practice compilation on the establishment, composition, functions and workin procedures of judicial service commission and similar governance bodies;
- Comparative review of judicial resource allocation and implementation, including the development and presentation of budgets, the release of budgetary allocations, the management of judicial budget, etc.
- Use of case management systems for the purpose of assessing and managing performance of courts and individual judges;
- Guidelines on peer reviewing of judgments or decisions;
- A tool for the vetting of integrity of candidates for judicial office
- A database of judicial training facilities and programmes
- Good practices in judicial and court performance management;
- Survey tools to assess levels of judicial integrity;
- Proposed UNODC Judicial Ethics Training tool should function both in an online and offline environment;
- Creation of an ethics hotline;
- Judicial ethics training;

- Assistance with the establishment of ethics and anti-corruption committees in the judiciary;

(iii) opportunities for exchanging experience and structure of the Network

- Facilitate networking and the exchange of good practices at the regional level;
- Develop guidelines on the use of social media, income and asset declaration and similar issues which cause challenges across the region;
- A global network with regional substructures would not only require a global but also regional secretariat structures;
- Create a website with resources on judicial integrity;
- Facilitate both virtual as well as personal meetings and consultations among judges;
- Consider the establishment of judicial integrity focal points in each jurisdiction participating in the network;
- Organise annual gatherings of chief justices;
- Provide for train the trainer opportunities related to topics relevant to judicial integrity;
- Mainstreaming integrity into existing judicial training programmes;
- Develop guidelines on the conduct of disciplinary proceedings and the application of sanctions for misconduct

**Open Discussion:**

Effective judicial performance evaluation and management was a recurring theme across all groups. Several participants shared their jurisdictions challenges introducing meaningful systems which helped to enhance performance both at the individual judge's as well at the court level. Some participants felt that case management systems could be made better use of to monitor court performance.

Participants further discussed the functions of judicial service commissions and what should be their functions with regard to selection, appointment and recruitment, complaints and discipline, performance management and other aspects of governance.

As concerns the Global Judicial Integrity Network, participants discussed what should be the relationship between the Network and existing judicial associations at regional and global levels and how the Network's secretariat would ensure coordination of various initiatives relevant to the strengthening of judicial integrity at global and regional levels.

Finally, participants felt that the Network should have a strong focus on assisting judiciaries at the national level as it was here that challenges of upholding and strengthening judicial integrity manifested themselves.

As concerns the accessibility of resources, the moderator also drew participants attention to the website of the National Centre for States Courts website which provides a rich collection of codes of conduct as well as ethics advisory opinions on different aspects relating to the effective implementation of the basic principles of judicial conduct. <http://www.ncsc.org/Topics/Judicial-Officers/Ethics/Center-for-Judicial-Ethics.aspx>

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## Closing Session

### (i) Next Steps

Dr Oliver Stolpe reiterated the dates for the launch of the Global Judicial Integrity Network. These are: 9 and 10 April 2018. He mentioned that the following topics are being considered for discussion at this launch:

- Surveys and assessments
- Court assessments
- Income and asset declarations
- Handling of social media
- Codes of conduct
- Appointments
- Judicial Budgeting
- Performance evaluation and management
- Whistle blower protection
- Special anti-corruption courts

### (ii) Closing Remarks by the Hon. Chief Justice Shivute

Following the invitation of the Namibian Office of the Judiciary and the United Nations Office of Drugs and Crime the Chief Justices, Senior Judges and other justice sector stakeholders from Angola, Botswana, Ghana, Mozambique, Kenya, Lesotho, Malawi, Namibia, Nigeria, Seychelles, South Africa, Swaziland, Tanzania, Zanzibar, Uganda, Zambia and Zimbabwe gathered to discuss good practices and challenges in strengthening judicial integrity and preventing corruption in the judiciary and to guide the establishment of the Global Judicial Integrity Network.

Participants shared a vast array of innovative approaches which had been taken to effectively implement Codes of Conduct and hold judicial officers accountable. Individual good practices mentioned included the introduction of performance evaluation systems, income and asset declaration for judicial officers, ethics advisory boards, judicial ethics training, court inspections as well as the protection of whistleblowers.

Specific challenges remained with regard to continuous attempts of the executive and the legislature in some countries to interfere with judicial decision-making and judicial appointments. Challenges also related to the lack of full financial autonomy of many judiciaries throughout the region.

Participants welcomed the proposal to launch a Global Judicial Integrity Network as a platform to allow for further exchange around issues of mutual concern, to access resources and capacity building opportunities and to develop new tools. Participants were particularly interested in sharing good practices and lessons learned in the selection, appointment and vetting of judicial candidates with a view to possibly developing basic principles to guide the improvement of existing systems.

The meeting concluded by thanking the Namibian Judiciary for hosting the event and all the partners for their invaluable support, and expressed their appreciation to UNODC for supporting the establishment of the Global Judicial Integrity Network.