



**Global Judicial Integrity Network
Substantive Breakout Session Report**

I. TITLE OF THE SESSION:

Title of the Session:	Are specialist anti-corruption courts an effective means to strengthen judicial integrity and the rule of law?
Date and time of the Session:	9 April 2018, 15:45-17:00
Topic of the session:	Special anti-corruption courts as a means to strengthen judicial integrity and the rule of law
Organizer(s):	U4 Anti-Corruption Resource Centre, Dr Sofie Arjon Schütte
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II. RAPPORTEUR¹

Rapporteur:	Dr Sofie Arjon Schütte
Position:	Senior Programme Adviser
Organization:	U4 Anti-Corruption Resource Centre at Chr. Michelsen Institute

III. MODERATOR AND PANELLISTS:

Moderator:	Dr Matthew Stephenson
Position:	Professor of Law
Organization:	Harvard University

PANELLISTS

Name:	Ms Amparo Cabotaje-Tang
Position:	Presiding Justice
Organization:	Sandiganbayan, Graft Court Philippines
Name:	Mr Lawrence Gidudu

¹ Responsible for drafting the session report.



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Position:	Head of the Anti-Corruption Division
Organization:	High Court of Uganda

Name:	Mr Jan Hrubala
Position:	Presiding Justice
Organization:	Specialised Criminal Court of Slovakia

IV. BACKGROUND INFORMATION ON THE TOPIC:

Many countries, prompted by frustration with the capacity of the ordinary machinery of justice to deal adequately with corruption, have created a special judicial body, division, or set of judges with a substantial or exclusive focus on corruption-related cases. Several other countries are currently considering whether to create a specialised anti-corruption court of some kind. The existing anti-corruption courts vary in their main objectives and in important aspects of their design. The majority of the countries that have set up specialised anti-corruption courts have done so mainly to increase judicial efficiency, but in some cases specialised anti-corruption courts have been created because the integrity and independence of the judiciary are in doubt.

(For more background information, please refer to the U4 Anti-Corruption Resource Centre's [dedicated topic-page on specialised anti-corruption courts: https://www.u4.no/topics/anti-corruption-courts](https://www.u4.no/topics/anti-corruption-courts)), which contains all U4 research on these courts, together with a compilation of statutes on specialised anti-corruption courts from around the world.)

V. SUMMARY OF THE SESSION:

This panel session was dedicated to a discussion of the integrity safeguards in place in specialised anti-corruption courts, such as special selection and recruitment procedures, working conditions, the location of the courts, and other factors., and whether these are applicable to other/ general courts.

This panel session started with a brief overview by the moderator Prof. Stephenson of the main findings of a recent U4 survey of anti-corruption courts (Stephenson and Schütte 2016), with a particular focus on issues of judicial integrity. This overview was followed by short contributions by three judges from specialised anti-corruption courts in the Philippines, Uganda, and Slovakia, who responded to questions from the moderator. At the end some questions from the audience were discussed.



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How is the integrity of anti-corruption court and its judges ensured? Is it any different from the rest of the court system?

In the Philippines the judges of the Sandiganbayan, as civil servants are subject to the same codes of conduct and ethical standards as other public officials, including declaration of assets. They are appointed by the President upon careful nomination by the Judicial and Bar Council. In addition to that there is special Judicial Code of Conduct following the Bangalore Principles, and Code of Conduct for Court Personnel.

In Uganda, judges for the Anti-Corruption Division are deployed from a pool of High Court judges by the Chief Justice based on career profiles and expertise that may go beyond pure Law, i.e. understanding of financial matters, procurement, accounting. The judicial officers (magistrates) of the Anti-Corruption Division are screened by the Head of the Division including on matters of behaviour and integrity in the past (although this has not been formalised).

In Slovakia, the selection process for all judicial officials is quite formalised and elaborate, including tests and publicly accessible interviews (posted on the internet). Initially, judges of the Specialized Criminal Court were subject to different treatment: twice the salary of their peers at other courts and special clearance procedures by the secret service. In 2008 the Constitutional Court decided that both the special benefits as well as screening of judges by an executive power were unconstitutional, and the working conditions of judges at the special courts have become more like that of their peers.

What do you consider the biggest achievements and challenges of your specialised court?

According to Presiding Justice Tang, the Sandiganbayan has succeeded in an ideological and technical sense. It is a concrete manifestation of the state's anti-corruption policy to in the 1973 constitution. The people know that the Sandiganbayan is the place where public officials are trialled for corruption charges. After the Supreme Court, the Sandiganbayan is the court most often covered in the media, due to the status of the accused. It has received moderate to good scores by the [Social Weather Stations in the Philippines](#). The court has disposed of more than 34004 cases since inception, a landmark of 1264 cases in 2017. Room for improvements continuous to exist regarding the duration of cases, still averaging around 5 years. With the Supreme Court's guideline of continuous trials for criminal cases, the aim is to now reduce case duration to max. one year.

Justice Gidudu asserted that the biggest achievement of the Anti-Corruption Division of the Ugandan High Court is that it has been able to punish corruption. Since 2008 to end of 2017 the Division has heard 1145 of 1411 filed cases with a 90% conviction rate. The Division is considered a role model for specialisation in other areas such as wildlife crimes and crimes in the utilities sector. Paradoxically, the ACD is now receiving fewer cases than before although corruption is not decreasing: corruption is changing and defendants are forum shopping at other courts. Some of the offenses the ACD is handling can also be handled by the ordinary courts, i.e. theft instead of embezzlement, and the defendants and their lawyers are making use of that.



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Another achievement is the seizure and recovery of assets, although better legislation on asset recovery is still needed. An efficient machine for assessing complicated case has been created. In the past, injunctions have impeded processes and even challenged the existence of the ACD, but this was overcome by a Supreme Court decision. One of the biggest challenges is the disconnect between the ACD at trial level and the Court of Appeal, which does not have specialisation, resulting in long delays, and in some cases the release of accused persons and assets.

Justice Hrubala shared that in Slovakia there were only a handful corruption cases in the past. It is only with specialisation in the investigation and prosecution services and the specialised court, that corruption cases go to trial, about 200-250 cases a year, with a conviction rate around 90%. Among the convicted were judges. This can also have a detrimental effect on the trust in the judiciary and public opinion. It is important to give good reasoning in the verdicts.

Anti-corruption courts can act as pilots of reform, but they can also divert scarce resources from general judicial reform. Would you recommend the establishment of a specialised court in another country where judicial integrity is a problem?

All three justices answered this in the affirmative, stressing that the creation of a specialised anti-corruption court will not only set an important ideological and political signal, but specialisation and training of investigators, prosecutors and judges will result in more cases going to court.

Questions from the audience:

- *Powers to impose penalties: Is there prison time for convicts?*
In all three jurisdictions, sentences based on law, including prison terms, fines, compensation or a combination of these.
- *Supreme Court Zimbabwe: Are we creating an elitist group within the judiciary?*
Justice Tang: No, specialisation needed to increase speed of
Justice Gidudu: Corruption is a white collar crime, often including cyber technology. The high level of sophistication of the crime needs to be met with sophistication.
- *Max Planck Foundation: Who watches the watchdogs (the judges of the anti-corruption courts)? Are there appeal mechanisms?*
Justice Tang: Filing administrative or criminal cases possible, if there is suspected misconduct of judges. Sandiganbayan cases go on appeal with Supreme Court.
Justice Gidudu: There is an appeals system.
In Slovakia the specialisation has come with centralisation at the capital and good access to media, who plays an important watchdog role.



- *Supreme Court Nigeria: Poor funding of courts is a big problem in Africa. Can we afford more specialisation? Why not taking a holistic approach to judicial integrity?*

There was already specialisation in the Ugandan judiciary, provided by the institution. Corruption is a special crime that needs specialisation.

VI. HOW THE SESSION SUPPORTS THE OVERALL OBJECTIVE OF THE GLOBAL JUDICIAL INTEGRITY NETWORK OF STRENGTHENING JUDICIAL INTEGRITY AND PREVENTING CORRUPTION IN THE JUSTICE SYSTEM:

The majority of the 20 countries that have set up specialised anti-corruption courts to date, have done so with reference to increasing efficiency and addressing back logs. They are, however, also countries where the integrity and independence of the judiciary is often in doubt. While anti-corruption courts are not per se a tool to prevent corruption in the justice sector, they may provide some examples of how to insulate parts of the judiciary from corrupt practices and/ or serve as a testing ground of integrity measures for larger parts of the judiciary.

VII. PROPOSED OUTCOME(S) OF THE SESSION AND THEIR ACHIEVEMENT:

The objectives of the panel session were:

- To encourage peer-to-peer experience exchange and networking
- To develop recommendations on follow-up steps, i.e. testing demand for a sub-group under the Global Judicial Integrity Network; suggestions for issues to be integrated into existing guidelines; the development of a guidance manual for judges at special anti-corruption courts. Please see the conclusion and recommendation below on the achievement of these objectives.

The panel session was video-recorded and a shortened and edited version will be made available on the special topic-page at the U4 Anti-corruption Resource Centre and also used for training purposes.

VIII. CONCLUSIONS OF THE SESSION AND RECOMMENDATIONS TO THE GLOBAL JUDICIAL INTEGRITY NETWORK:

The panel discussion has shown that there is great interest (and need) to understand the role judicial specialisation can play in bringing corrupt actors to justice, not only vis-à-vis the general court system, but also in comparison to other specialised judicial entities in other countries. As this was the first time to discuss the topic at an international forum and due to the time constraints, no discussion of follow-up steps was possible. Based on the research that informed this session and the reactions by both panellists and the high-ranking audience, we recommend to provide some space for further exchange and networking around specialised



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anti-corruption courts at future Judicial Integrity Network events, and perhaps even consider the setting up of a sub-group for judicial officers of these courts and other interested in the topic.

IX. ADDITIONAL OBSERVATIONS, IF APPLICABLE