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## **COMBATTING CORRUPTION IN THE JUDICIAL SYSTEM – GOOD PRACTICES AND LESSONS LEARNED**

### **Introduction**

The focus of this session, organised by Justice Roslyn Atkinson, President of the first Study Commission of the International Association of Judges (“IAJ”), and Justice of the Supreme Court of Queensland, was to explore practical measures to promote integrity and to combat corruption.

The first Study Commission of the IAJ had devoted its 2016 meeting to the issue of combatting corruption and its 2017 meeting to the theme of economic threats to judicial independence. The 2016 report (attachment 1) concentrated on best practices to promote transparency of court proceedings, judicial selection, and judicial administration; methods for supporting judicial integrity and non-corrupt practices; and major threats to those ideals. The 2017 report (attachment 2) focused on issues relating to appointment, security of tenure, remuneration, workloads, budgetary allocation and criticisms of the judiciary. At the 2017 meeting the IAJ also adopted a new Universal Charter of the Judge (attachment 3) where general standards for respecting judicial independence internally and externally were identified.

### **Supporting the overall objective of the Global Judicial Integrity Network**

The work of the session was central to the core objective of the Global Judicial Integrity Network for strengthening judicial integrity and preventing corruption in the judicial system. The panellists and rapporteurs in the session represented judges from civil law countries (Italy and Slovenia) and common law countries



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(Australia, England and Wales). Each had significant experience in setting and applying ethical standards for judges in their national judicial associations and internationally. Each was asked to speak on aspects of combatting corruption in the judicial system from which they were drawn.

### **Issues addressed during the session by the panellists**

Justice Atkinson (Australia) drew from the findings of the first Study Commission of the IAJ to identify best practices to safeguard transparency of court proceedings, the selection of judges and the administration of the judiciary. She identified the key threats to the integrity of a judicial system and to the prevention of judicial corruption. Her talk focused upon the importance of establishing conditions in which judicial integrity was maintained and corruption was eliminated. A robust system for judicial education was also important to those aims, as was a fair process to respond to complaints of corruption.

Judge Giacomo Oberto (Italy) gave a brief history to the adoption by the IAJ in 2017 of a new universal charter of the judge. Amongst the issues he considered in that context was the need for judges to be internally independent from interference in their work, and the role of the head of jurisdiction to uphold principles of judicial independence and freedom from external and internal interference. His Honour considered also mechanisms to deal with indirect threats to judicial independence and to the rule of law.

Judge and President Roblek (Slovenia) considered core values for combatting corruption in the judicial system, the need for increased public confidence in the judiciary and in the rule of law. Her Honour also focused upon the need for judges to exercise judicial function independently of social, economic, political



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or other external pressures and, at the same time, being independent from other judges and members of the judicial and legal administration. Codes of judicial ethics were important to setting standards and principles by which all were to be guided in their conduct.

The Honourable Sir Nicholas Blake (England and Wales) focused upon the definition of corruption adopted by the International Bar Association as involving any improper pressure brought to bear directly or indirectly upon a judicial officer in the exercise of the judicial officer's duty. His Honour identified four key elements to an effective judicial system by reference to: appointment; codes of conduct to guide behaviour; a system of independent judicial investigation of credible complaints of judicial misconduct; and the collective obligation of judges to ensure vigilant reporting where there is evidence of a breach of applicable principles by other judges. His Honour noted the corrosive influence upon public confidence in the judiciary by the press and the executive arm of government. Threats to the independence of judges needed to be answered, and an important aspect in that was collective responsibility of judges. An approach by the common law to maintaining appropriate standards and public confidence involved judges being cautious in their personal conduct and in the articulation of clear reasons for their decisions.

### **Issues raised by the audience and discussed with the panel**

The presentations by the panellists gave rise to meaningful and active participation from the audience broadly. Some of the issues raised by the audience supported, or deepened, some of the observations which had been made by the panellists. One of the interventions from the audience, for example,



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focused upon the need for mechanisms to deal with the “perception” of corruption and the prejudgement of corruption by social media where corruption might not exist or had not been proven. Other interventions raised different issues that had not specifically been considered by the panellists, such as the potential for corruption that might arise by judges retiring from the bench to resume full time practice. In that context it was noted that perceptions of corruption might arise where a retired judge accepted a position with a prominent law firm, or prominent commercial entity, soon after retirement where the law firm or entity might have had cases in the judge’s docket for decision. The relationship between generous pension entitlements upon retirement, and restrictions upon returning to practice after retirement were topics of lively discussion amongst a number of the audience with different views about different practices within the different jurisdictions. The situation of one judge in Ireland was discussed whose pension entitlements had been reduced as a result of financial pressures experienced by the country which had led the retired judge to return to practice. Some jurisdictions do not permit retired judges to resume full time practice, or to appear in court, but permit non-litigious practice after retirement. A different issue which was raised by a number of participants in the audience concerned the relationship between the Chief Justice and the individual judges in relation to the management and allocation of cases. In that context a difficulty was noted where the Chief Justice sought to ensure that cases were adequately managed without inappropriate interference in the independent discharge of a judge’s function.

### **Proposed outcomes of the session**

The principal outcomes of the session was the identification of issues for consideration and a healthy discussion about the practical measures to promote



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integrity and to prevent or to combat corruption. Those topics included the need to identify the causes of corruption so that those causes could be dealt with; the need to establish standards of judicial conduct, and the standards and procedures by which lapses of conduct were to be determined and dealt with; and the importance of adequate conditions to remove the risk of corruption by providing adequate and secure salary during the term of office and in retirement.

### **Conclusions and recommendations**

The general conclusions and recommendations were that conditions needed to be in place in each judicial system to prevent, and detect, corruption. Those conditions required adequate and secure tenure and remuneration during the term of office and upon retirement. Education programs were necessary, as were the identification of guidelines for appropriate behaviour. Processes needed to be established to deal with external threats to the independence of the judiciary, including perceptions of corruption, by due process and by heads of jurisdiction defending and maintaining the integrity of judges in the discharge of their functions.