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OF LAWFULNESS



GLOBAL  
JUDICIAL  
INTEGRITY  
NETWORK

## Global Judicial Integrity Network Substantive Breakout Session Report

### I. TITLE OF THE SESSION:

Title of the Session:	Thematic Work Stream I: Strengthening Judicial Integrity & Accountability
Date and time of the Session:	10 April 2018 from 10:45 – 12:00 pm
Topic of the session:	What's missing - New Approaches to Promote Judicial Integrity
Organizer(s):	Commonwealth Judicial Education Institute
Contact information of the session coordinator:	<a href="mailto:cjei@dal.ca">cjei@dal.ca</a>

### II. RAPPORTEUR<sup>1</sup>

Rapporteur:	The Honourable Chief Justice Sophia A.B. Akuffo
Position:	Chief Justice of Ghana
Organization:	Supreme Court of Ghana

### III. MODERATOR AND PANELLISTS:

Moderator:	The Honourable Mr. Justice Adrian Saunders
Position:	Justice and President Elect
Organization:	Caribbean Court of Justice

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<sup>1</sup> Responsible for drafting the session report.



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**PANELLISTS BY VIDEO**

- The Right Honourable Sir Dennis Byron, President, Caribbean Court of Justice
- Highlighted the impact of judicial delay on justice and integrity and reiterated the need to establish measurable standards as part of the judicial evaluation and the disciplinary process.
- The Honourable Justice Madan Lokur, Supreme Court of India
- Highlighted the issue of financial integrity and the need for internal disciplinary mechanisms in tackling corruption-based judicial improprieties.
- The Honourable Judge Rya Zobel, United States District Court, Massachusetts
- Highlighted the effects of external institutional threats and intimidation on judicial integrity, adding that at every opportunity, the independence of the judiciary must be sustained and reinforced in order to achieve impartiality in all matters.

**PANELLISTS**

Name:	The Honourable Chief Justice Kenneth Benjamin
Position:	Chief Justice
Organization:	Supreme Court of Belize
Topic of presentation:	The challenges in the administration of your judiciary’s budgetary processes that threaten judicial integrity and accountability.
Outline of presentation (max. 1000 characters):	<p>The budgetary process in small jurisdictions can affect judicial integrity. In many cases, such judiciaries do not have independence in their budgetary process. The judiciary never knows whether its recommended budget has been cut or otherwise. Judges buy their own textbooks. This state of affairs undermines judicial independence. Attendance at overseas conferences is at the pleasure of the Ministry of Finance. Sometimes the permission does not come until too late. One never knows whether withheld monies represent retaliation for some judicial decision. Judiciary is unable to properly plan and engage in judicial reform and is often beholden to the Executive.</p> <p>The remedy could include:</p> <ul style="list-style-type: none"> <li>A prescribed institutional arrangement that defines the relationship between the judiciary and the executive. In some countries, there is a constitutional requirement that the judiciary gets a fixed part of the budget.</li> </ul>



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	<ul style="list-style-type: none"> <li>• A predetermined allocation of tranches.</li> <li>• The judiciary must also build its capacity to garner and manage its own funds.</li> <li>• Enabling the judiciary to enter into strategic relationships for external funds. Protocols and prescribed procedures are necessary.</li> <li>• There is the need to study the Caribbean Court of Justice funding mechanism.</li> </ul>
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Name:	The Honourable Justice Kashim Zannah
Position:	Chief Judge
Organization:	High Court of Borno State, Nigeria
Topic of presentation:	The challenges in the administration of your judiciary's budgetary processes that threaten judicial integrity and accountability.
Outline of presentation (max. 1000 characters):	<p>Highlighted issues that affect the checks and balances that must exist to assure judicial integrity and independence:</p> <ul style="list-style-type: none"> <li>• Identifying areas of the budget process that threaten judicial integrity. Whoever controls the budget also controls the execution of the budget. The principal players in the budget process are the Executive and the Legislature. There is a check on the judiciary but there is no balance. The best remedial measure is an enlightened public. The public needs to know that a well funded judiciary is a benefit to the citizenry.</li> <li>• The greatest threats to human rights and the rule of law come from the Executive. The public must be enlightened. Need for a mechanism that is transparent and for a budget that is scientifically determined and audited. It should not be whimsical as it is now.</li> <li>• The judiciary must be accountable for the monies they receive.</li> </ul>

Name:	The Honourable Justice Dr. Henry Adonyo
Position:	Executive Director
Organization:	Judicial Studies Institute, Uganda
Topic of presentation:	What is the role of Judicial Education in strengthening judicial integrity and increasing public trust and confidence?



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<p>Outline of presentation (max. 1000 characters):</p>	<p>A system for continuous judicial education is very necessary for building a structured framework for public confidence. Some issues that arise are:</p> <ul style="list-style-type: none"> <li>• Whether the establishment of a Judicial Education Institute is necessary.</li> <li>• Judicial code of conduct, but how do you enforce it?</li> <li>• Who should be the judicial educators?</li> <li>• Judges learn better from their peers but sometimes they lack the teaching skills. <b>Solution:</b> We need to train judicial trainers who are themselves judges.</li> <li>• Should retired Supreme Court judges be allowed to go back to practice before subordinate courts?</li> <li>• Re social media – should judges use social media and disclose their judgeship?</li> </ul>
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<p>Name:</p>	<p>Judge (R) Sandra E. Oxner</p>
<p>Position:</p>	<p>Founding President</p>
<p>Organization:</p>	<p>Commonwealth Judicial Education Institute</p>
<p>Topic of presentation:</p>	<p>Identification of areas of concern to judicial integrity. These will include an emphasis on first level courts.</p>
<p>Outline of presentation (max. 1000 characters):</p>	<p>Judiciaries have no armies or police forces or taxing powers. Their support comes from the public. Their work in protecting constitutional rights against attempted incursion by the executive or legislature. The use of judicial education as a tool to win community confidence in judges and respect for the judicial processes and outcomes. Judicial education should serve to narrow the gap between reality and the ideal judge by instilling in judges and their work the qualities of independence, competence, efficiency and effectiveness.</p> <p>She also stated that, however well conceived, judicial education has its limits and must be accompanied by a credible appointment process and a fair, transparent and effective disciplinary process. She noted that it is a well conceived and designed appointment process that will ensure that judicial appointees are of integrity and have the right character and personal qualities for judicial work. For instance, arrogant judges are not very trainable or transformable. Integrity and humility should be important articulated criteria in the appointment process.</p> <p>She noted further that not many subordinate (first level) court judges are present at conferences such as this; their situations are often overlooked. This is a serious omission as they constitute the face of</p>



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	<p>justice since the majority of court users appear before them. But what is their appointments process? Often their appointment is on the civil service model and character qualities are often ignored or minimized. More attention should be paid to their appointment, disciplinary and continuing education processes as this level of the judiciary creates the image of justice and is often a source of judges for higher courts. The same criteria must be used for appointments to the first level benches as those for the superior courts.</p> <p>She added furthermore that New Zealand, Canada and Singapore have strong subordinate courts because they have provided extremely reasonable terms and conditions of service for their lower court judges. The salaries and perks come closer to those of High Court trial judges and their jurisdictions have been greatly enlarged over the jurisdictions of historical first level courts. In some Commonwealth jurisdictions i.e. India, some “subordinate courts” are similar to that of High Courts but without prorogative Writ Powers.</p>
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#### IV. BACKGROUND INFORMATION ON THE TOPIC:

This session is to identify judicial ethics concerns omitted from the previous conference discussions and to illicit:

- (a) new remedial approaches to avoid possible areas that could encourage corruption and,
- (b) remedies to ameliorate existing corruption.

#### V. SUMMARY OF THE SESSION:

The panellists highlighted according to their different perspective and extended experience in the judicial system key priorities and challenges to promote integrity and impartiality, mainly, training of the judiciary, accountability mechanisms, and budgetary issues. After identifying these issues, the different panellists proposed remedies and their personal views of how to overcome them. These practices are key aspects to promote public trust and confidence in the judiciary. The session ended with a group exercise based on a real case where the participants decided on the appropriate disciplinary measure to apply in a case where a judge hearing a sexual assault case displayed open bias against sexual assault victims. It was decided that an appropriate result was dismissal of such a judge.



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**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 session discussed the different challenges to promote integrity and transparency in the contemporary judicial system. The session considered practical issues existing in the reality of the judiciaries. Identifying prioritized remedial responses to these challenges is a key exercise. Additionally, the session provided remedial recommendations based on personal/country based experiences to overcome the challenges in different scenarios. All these recommendations are aimed at increasing integrity and transparency and, therefore, public trust and confidence in the judiciary.

The need for training opportunities among the judges connects with the Judicial Integrity online training that the Judicial Integrity initiative will launch shortly.

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

1. The session identified priorities and judicial integrity challenges in six regions of the world, particularly budget independence and training on judicial conduct. The panellist proposed remedial recommendations to overcome them based on their national/regional practices. During the session, the panellists also indicated key qualities to be a good judge. These qualities enhance the confidence of the community towards the judiciary.
2. The session identified issues threatening judicial integrity not covered in the previous sessions and provided remedial recommendations. For instance, judges' retirement pensions that permit them to be independent of the executive, the private sector or other stakeholders throughout their judicial career.
3. The session identified the need for independence in the judicial budget process from the executive and legislative powers. Practical mechanisms should be created to increase transparency in that matter, to avoid and restrict influence, and to create an independent body that is in charge of the control of the budget. Additionally, the session proposed fixing a percentage of the budget to the judiciary and training.



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4. The session identified the role of judicial education in strengthening judicial integrity and increasing public trust and confidence. The main debatable aspects were: who should train the judges, when it should be done and which topics to include in the training. Several participants and panellists considered that training should be provided in judicial training institutes and, if possible, by senior judges although some content non-judge specialists will always be required. In addition, the education should continue during the judicial life of the judge and updated according to new issues.

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

Throughout the session, several issues concerning judicial integrity and accountability could be identified and solutions were offered by the panellists. The guiding message of the session was that judicial independence is the cornerstone of judicial integrity, especially when it comes to budgetary issues. Continuous education for judges and ethical values help to promote judicial integrity and independence.

The recommendations made can pave the next steps to be made within the Global Judicial Integrity Network:

1. The creation of a body that is independent of the control of the budget,
2. Practical mechanisms that increase the transparency of the funding and budget for the judiciary,
3. Continued education and training given by senior and retired judges, and
4. Review of appointment processes to promote trust in the judiciary with an emphasis on first level courts.

## **IX. ADDITIONAL OBSERVATIONS, IF APPLICABLE**

The Global Judicial Integrity Network Website will provide the judicial ethics training tools which could be a useful resource for judges' training at the national level and to be used in the training centres.