

The 2nd Meeting of the Judicial Group on Strengthening Judicial Integrity

Bangalore, February 24-26, 2001

1. INTRODUCTION

1.1 Context

In April 2000, under the framework of the United Nations Global Programme Against Corruption and in conjunction with the tenth United Nations Congress on the Prevention of Crime and Treatment of Offenders, a two day workshop for Chief Justices and other senior judges from eight Asian and African countries was convened in Vienna. The initiators of the Judicial Group were the United Nations Centre for International Crime Prevention and Transparency International. A second meeting of the Judicial Group took place in Bangalore, India between 24-26 February 2001. On this occasion, the meeting was facilitated by the Department for International Development (DFID), United Kingdom, and organized with the assistance of the High Court and the Government of Karnataka State, India, and supported by the United Nations High Commissioner for Human Rights (UNHCHR). The purposes of the meeting were:

- to continue the work of the Judicial Group begun in Vienna;
- to consider, and agree upon, the elements of a draft Code of Judicial Conduct;
- to investigate ways of authenticating this Code for use throughout the world to secure judicial accountability and promote judicial integrity;
- to consider methodologies for diagnosing systemic weaknesses, including corruption, in the judicial system; and
- to agree upon focus countries in which to undertake pilot programmes designed to strengthen judicial integrity.

1.2 Membership

The Judicial Group was chaired by HE Judge Christopher Weeramantry (former Vice-President of the International Court of Justice). The other participants were:

Chief Justice M L Uwais (Nigeria); Chief Justice B A Samatta (Tanzania); Chief Justice B J Odoki (Uganda); Deputy President of the Constitutional Court, Justice Pius Langa (South Africa); Chief Justice S N Silva (Sri Lanka); Chief Justice P V Reddi (Karnataka, India); Justice M R Chowdhury (Bangladesh); Chief Justice K P Upadhyaya (Nepal).

The rapporteur of the Group was Justice Michael Kirby (High Court of Australia). A specially invited participant at the meeting was Madame Justice Claire L'Heureux Dubé (Supreme Court of Canada and President of the International Commission of Jurists). The observers were the Hon P N Bhagwati (Vice-Chairman of the UN Human Rights Committee, representing UNHCHR); Dato' Param Cumaraswamy (UN Special Rapporteur on the Independence of the Judges and Lawyers); Justice Vishwanatha Shetty (High Court of Karnataka, India); Justice G C Bharuka (High Court of Karnataka, India); Hon A N Jayaram (Advocate-General, Karnataka, India). The resource persons included Mr Jeremy Pope (Executive Director, Transparency International); Hon Y Bhaskar Rao (former Chief Justice of Karnataka, India); Mr David Wood (Deputy Chief Governance Adviser, DFID, UK); and Dr Nihal Jayawickrama (Coordinator, Programme on Strengthening Judicial Integrity).

1.3 Introduction

The inaugural session of the Bangalore meeting took place at the Karnataka Judicial Academy, Bangalore. The participants were welcomed by Chief Justice P V Reddi. The inaugural address was given by Justice S P Bharucha (Supreme Court of India). He described the procedures and protocols observed in India for considering complaints against judges. He emphasised the importance of education of the public concerning judicial independence and the vital causes served by the judge. He favoured procedures for the disclosure of assets by judges and made suggestions for the consideration of the Judicial Group.

The presidential address was delivered by Judge Weeramantry. He placed the work of the group in the context of other developments of international law. He emphasised the universality of the expectation of judicial integrity. He explained that it was important to be alert not only to financial corruption but to intellectual corruption, given the choices which it falls to judges to make in the discharge of their judicial duties.

Dr Jayawickrama described the origins of the Judicial Group and the purposes of the meeting. He mentioned many initiatives which had been taken in Bangalore in the past and viewed the venue as propitious for the success of the second meeting.

2. DRAFT CODE OF JUDICIAL CONDUCT

2.1 Secretariat draft

Much of the second meeting was devoted to consideration of a draft Code of Judicial Conduct prepared by the Secretariat and considered by the participants. This draft was introduced by Dr Jayawickrama who described the way in which it had had been developed after study of codes of judicial conduct accepted by the judiciary in many countries in all parts of the world. The participants agreed to proceed by way of examination of the draft. They agreed to the reorganisation of some of the concepts and the addition of others.

2.2 Adoption of the Bangalore Draft

By the conclusion of deliberations the Judicial Group adopted as a draft the draft Code of Judicial Conduct which is Annexure A to this record.

2.3 Explanatory note

The participants agreed that Dr Jayawickrama would prepare an explanatory note to accompany the draft Code. This would set out the origins of the project and describe the way in which the Code had been developed by reference to operative codes adopted elsewhere. The Chief Justice of Nepal and the Chief Justice of Karnataka insisted, and the participants agreed, that the explanatory note would make it clear (as is in any case the law which judges would fully understand) that the judicial duty is to conform to any

code of conduct which, by law or practice, is already in force in a judge's jurisdiction. The development and existence of an international code cannot relieve judges of their duties under municipal law to comply with currently operating codes of conduct applicable to their jurisdiction. Nevertheless, the present Code is designed:

- to spread the example of codes of judicial conduct to those jurisdictions which do not yet have them;
- to encourage deliberation amongst judges and others concerning the terms of the code and the improvement of codes of judicial conduct already in force; and
- to develop the broad principles appropriate to a code drawing on the best practice and precedents in many jurisdictions of the world.

3. IMPLEMENTATION

3.1 Civil law jurisdictions

The participants considered the way in which the project of the Judicial Group should be taken further. They recalled the deliberations at the first meeting at which it had been proposed that the draft Code, developed by judges from common law countries, should be scrutinized by judges of other legal traditions. Dato' Param Cumaraswamy emphasised the need to take the draft Code to other regions of the world. He indicated his own interest and that of the UN High Commissioner for Human Rights to promote the eventual adoption by the UN General Assembly of a duly authenticated international code of judicial conduct.

3.2 Institution of Chief Justices

Justice L'Heureux Dubé mentioned the desirability of organising a body representative of Chief Justices from all countries around the world. She said that such a body could promote a draft international Code, test local codes by reference to the international draft, and speak on behalf of the judiciary when attacks occurred on judges and the judicial institutions anywhere in the world.

3.3 African Chief Justices Meeting

Chief Justice Uwais (Nigeria) mentioned a meeting of African Chief Justices that would take place in September 2001 in Nigeria, supported by the World Bank. It was agreed that the Bangalore Draft should be available for distribution and discussion at that meeting. Judge Weeramantry offered to take the draft to the International Court of Justice and to provide it to the judges of that Court who were interested in such themes. They in turn, might choose to pass it on to judicial authorities in their own countries.

3.4 Commonwealth Chief Justices Meeting

Chief Justice Odoki (Uganda) reported that a meeting of Chief Justices of the Commonwealth in April 2001 was designated for Uganda. It was agreed that the Bangalore Draft should be distributed at that meeting.

3.5 The World Bank

The Hon P N Bhagwati emphasised the importance of consulting judges of the civil law tradition, given that they sometimes approached issues of judicial organisation and conduct in ways different from the approach of common law. He indicated that he would bring the work of the Group and the Bangalore Draft to the notice of the International Advisory Council of the World Bank, upon which he served, concerned with matters of legal reform. The participants agreed to this.

3.6 Home Jurisdictions

The participants also agreed that they would bring the work of the project to the notice of judicial and governmental authorities in their own jurisdictions, as appropriate. They agreed that it was important to promote consideration of the project, understanding of its objects and study of the Bangalore Draft with a view to its refinement, improvement and final adoption.

4. SURVEY INSTRUMENTS AND CASE AUDITS

The participants agreed that the Secretariat should continue to develop the survey instruments proposed at the meeting. It was noted that trial implementation of such surveys in a number of jurisdictions would take place provided appropriate funding was

forthcoming. The participants noted the offer of Chief Justice Silva (Sri Lanka), of Chief Justice Uwais (Nigeria) and Chief Justice Odoki (Uganda) to facilitate the administration of pilot studies for the implementation of the survey in their countries. It was agreed that the surveys would need to be carefully revised by the judges concerned to ensure that they were appropriate to their particular jurisdictions. It was to be emphasised that the conduct of the survey, and the priority given to particular jurisdictions, was not to be interpreted as indicating any special concern about the judicial institutions in those jurisdictions.

The participants agreed that the survey instruments and case audits should proceed with a view to reinforcing and supporting the efforts of the judiciary in the countries concerned, in their attempt to address the improvement of judicial standards and the effective implementation of codes of judicial conduct.

The participants noted that reports on the implementation of the survey instruments and case audits would be received at the third meeting of the Judicial Group.

5. EXISTING BEST PRACTICE

The participants were briefed on existing practice observed in a number of jurisdictions. In particular, Chief Justice P V Reddi and his two colleagues, Justice Bharuka and Justice Vishwanatha Shetty, briefed the participants on two initiatives adopted in the Karnataka High Court, building upon those instituted by Chief Justice Bhaskar Rao, namely the use of information technology to refine the judicial process, and the structure and activities of the Karnataka Judicial Academy. The participants expressed their interest in the developments reported in Karnataka and elsewhere.

6. NEXT MEETING

The participants noted with thanks the offer of Chief Justice Uwais to convene the third meeting of the Judicial Group in Nigeria. They agreed, in principle, that this meeting should be held in a country in

which a pilot programme had been undertaken and completed. The Secretariat will liaise with the members of the Judicial Group concerning the timing of the third meeting.

7. THANKS

On behalf of the participants, the President of the Judicial Group, Judge Weeramantry, expressed thanks to the Governor of Karnataka, Her Excellency Smt V S Rama Devi and for the official dinner given to the participants on 24 February 2001; to the Chief Justice and judges of the High Court of Karnataka for the official reception given to the participants on 25 February 2001. Thanks were also expressed to the Government of Karnataka, the Advocate General, the Director of the Judicial Academy, the Registrar-General and Senior Protocol Officer of the High Court of Karnataka, and others who had contributed to the success of the second meeting. The meeting closed at 5 p.m. on 26 February 2001.

**THE RECORD OF THE SECOND MEETING
OF THE
JUDICIAL GROUP ON STRENGTHENING JUDICIAL
INTEGRITY**

BANGALORE

FEBRUARY 24-26, 2001