INCEPTION MEETING REPORT

United Nations Development Programme

JUDICIAL INTEGRITY CHAMPIONS IN APEC
WITH THE SUPPORT OF

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BACKGROUND

Strengthening the rule of law and promoting human rights are cornerstones of UNDP’s work to achieve sustainable human development and end poverty in all its forms. The 2030 Agenda for Sustainable Development’s Goal 16, in particular, articulates the key role that governance and the rule of law play in promoting peaceful, just, and inclusive societies and the importance of delivering justice for all.

Since 2008, UNDP’s Global Programme on Strengthening the Rule of Law and Human Rights for Sustaining Peace and Fostering Development has provided assistance to national partners to build resilient communities that are supported by just institutions. Judicial integrity is a key pillar of the programme, recognizing that measures to strengthen the rule of law and prevent corruption are the basis for creating accountability between citizens and their governments.

Delivering Justice for All

UNDP, in 2016, published the report ‘A Transparent and Accountable Judiciary to Deliver Justice for All’, prepared in cooperation with the U4 Anti-Corruption Resource Centre. The report presents a series of successful experiences from Afghanistan, Bosnia and Herzegovina, Colombia, Indonesia, Kenya, Kosovo, Nepal, Nigeria, Paraguay, the Philippines and Somalia, in promoting transparency and accountability within the judiciary.

These experiences prove that opening up judicial systems fosters integrity and increases public trust without impeding independence of the judiciary. The report advocates for judiciaries to open up to peer learning by engaging representatives of other countries in capacity assessments to improve judicial integrity. It also encourages judiciaries to consult end-users, associations of judges and use new technologies to foster transparency and accountability.

The findings highlighted that judicial reforms are most effective when:

- Judicial integrity standards are anchored in judicial performance frameworks.
- Courts have full ownership of the assessments that guide judicial reforms.
- Judges provide peer advice to each other in conducting reform efforts.

1 All references to Kosovo in this report shall be understood to be in the context of Security Council Resolution 1244 (1999).
Building on the lessons learned, the Judicial Integrity Champions in APEC project aims to:

1. Nurture a network of judicial integrity champions in APEC to learn from each other in their reform efforts to deliver justice for all;
2. Support judiciaries in anchoring judicial transparency and accountability into quality management systems;
3. Expand UNDP’s technical assistance to judicial integrity initiatives in Indonesia, Malaysia, the Philippines, Thailand and Viet Nam.

<table>
<thead>
<tr>
<th>PROJECT TITLE</th>
<th>UNDP Project on Judicial Integrity Champions in APEC</th>
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<tbody>
<tr>
<td>IMPLEMENTATION PERIOD</td>
<td>3 years (2017 – 2020)</td>
</tr>
<tr>
<td>TARGET COUNTRIES</td>
<td>APEC economies with specific focus on Indonesia, Malaysia, the Philippines, Thailand and Viet Nam</td>
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<tr>
<td>DONORS</td>
<td>United States Department of State, Bureau of International Narcotics and Law Enforcement Affairs (INL) United Kingdom Foreign and Commonwealth Office</td>
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HIGHLIGHTS FROM THE INCEPTION MEETING

The ‘Judicial Integrity Champions in APEC’ Project was launched on 8-9 March 2018 in Bangkok, Thailand. The meeting brought together senior representatives of judiciaries from APEC economies, members of the Judicial Integrity Group, members of the International Consortium on Court Excellence as well as development partners.

UNDP representatives explained the project will support efforts to champion judicial integrity reforms by:

✓ Promoting international standards such as the Bangalore Principles of Judicial Conduct and Article 11 of the UN Convention against Corruption;

✓ Supporting judiciaries in strengthening transparency and accountability in courts based on quality management tools such as the International Framework on Court Excellence (IFCE) which has been used by 33 judiciaries across the globe;

✓ Facilitating peer-to-peer learning and providing in-country assistance on judicial integrity reforms;

✓ Leveraging synergies with other regional and global initiatives, such as the Global Judicial Integrity Network.
BOX 1: MAIN OUTCOMES OF THE INCEPTION MEETING

✓ Launched a network of judicial integrity champions to support each other in their reform efforts through exchange of good practices and peer-to-peer learning.

✓ Confirmed the interest of judges and court administrators in learning from one another, while recognizing the diversity of systems and cultures among the economies in APEC.

✓ Recognized the significance of the Bangalore Principles of Judicial Conduct in promoting judicial integrity reforms in the last decade, and the need for continued implementation support at the country level.

✓ Acknowledged the value of using quality management systems such as the International Framework on Court Excellence to ensure the sustainability of judicial integrity reforms.

✓ Highlighted potential synergies with initiatives such as the Council of ASEAN Chief Justices and the Global Judicial Integrity Network.
The Inception Meeting of the Regional Project ‘Judicial Integrity Champions in APEC’ engaged about forty participants including senior judges and court representatives from Indonesia, Malaysia, the Philippines, and Thailand, as well as distinguished members of the Judicial Integrity Group, members of the Executive Committee of the International Consortium for Court Excellence (ICCE), and development partners such as UNODC, the U4 Anti-Corruption Resource Centre, the International Commission of Jurists, and Transparency International.

The project was launched with the support of the U.S. Bureau of International Narcotics and Law Enforcement Affairs (INL), and the Inception was opened by Mr. Nicholas Booth, Regional Cluster Leader, Governance and Peacebuilding team at the UNDP Bangkok Regional Hub, and Ms. Jenny Malheiro, INL Director at the U.S. Embassy in Bangkok.

Mr. Booth noted that the poor and marginalized are often the most in need of judicial responses to protect their human rights in criminal justice processes, to access public services, to claim labour rights, or to resolve disputes over legal titles of land and property. Unfortunately, their access to justice is often precluded due to corruption. According to a survey by Transparency International, 23% of people in Asia and the Pacific reported having to pay a bribe in 2016 to access courts (Global Corruption Barometer 2017). There is no justice if those in charge of upholding and defending the rule of law are corrupt.

In the past, UNDP has worked with National Human Rights Institutions (NHRIs) to conduct capacity assessments consisting of a self-assessment, undertaken by the institutions themselves, and facilitated by external expert facilitators. The institutions’ ownership and independence must be guaranteed, however, impartiality can be assured by the involvement of other international peers and partners (see box 2). UNDP is ready to support judiciaries in APEC to conduct similar exercises, facilitating mutual exchange among judges through peer learning.

Ms. Malheiro illustrated the negative consequences of corruption in the judiciary, highlighting that economic security cannot be achieved without justice, and that lack of integrity undermines citizens’ trust in the judiciary. She further pinpointed capacity building as crucial to improving effectiveness, performance and integrity of judicial institutions. Given the wide scope of the initiative, countries’ reform efforts will benefit from UNDP’s capacity for technical support and strong regional presence.

Ms. Elodie Beth, Programme Advisor, Governance and Peacebuilding Team at UNDP BRH, highlighted the importance of judicial integrity for achieving SDG 16. She explained that the project will follow a human rights-based approach to ensure the delivery of justice for all by promoting transparency, integrity and accountability within judiciaries. The project will build on existing efforts, drawing on the Bangalore Principles of Judicial Conduct and on knowledge and tools such as the UNCAC Implementation Guide and Evaluative Framework for Article 11. Building on the lessons learned from UNDP’s report ‘A Transparent and Accountable Judiciary to Deliver Justice for All’, the project aims to build the capacities of judiciaries interested in championing judiciary integrity reforms and benefiting from peer-to-peer learning from judiciaries in other countries.
BOX 2: LESSONS FROM UNDP’S CAPACITY ASSESSMENT METHODOLOGY FOR NATIONAL HUMAN RIGHTS INSTITUTIONS

The Capacity Assessment (CA) of National Human Rights Institutions (NHRIs) consists of a self-assessment, undertaken by the institutions’ own leaders, senior managers and all staff. The process is assisted by external expert facilitators to help identify specific organizational challenges. Internal ownership over the process and the product is therefore one of its main features as the CA is not perceived as an external exercise. The success of the capacity assessment developed by UNDP, OHCHR and the Asia Pacific Forum for NHRIs can inform the approach to design a tool to strengthen judicial integrity mechanisms.

Unlike evaluations which tend to look to the past, CAs look forward to the future: What skills, processes, or capacities do the institution need to develop, if it is to be as effective as possible in the future? The CA is also participatory and inclusive. It seeks to involve everyone - leaders, senior managers, and all staff members, including lawyers, investigators, administrative and finance staff, secretaries, etc. All perspectives are sought and listened to. Therefore, unlike other forms of assessment, the CA can reflect the full range of perspectives within the organization and draw on the expertise of all the NHRI’s leaders and staff.

The findings from the CA served as the point of departure for formulating a capacity development response for the NHRI. In the case of the judiciary, UNODC’s self-evaluation checklist for Article 11 can help guide the development of the action plan for Integrity Capacity Development.

A CA report to each NHRI is confidential to that organization, unless it decides to release it publicly. Such confidentiality of the report could also encourage open and honest discussions during the assessment.

To ensure ownership of the CA report within the NHRI leadership, it is important to pay attention to the timing when the CA is conducted. As with any planning or review process, it is essential that those commissioning the work are the ones who receive the report, consider the recommendations, and take responsibility for implementing them. CAs are thus better conducted early on in leaders’ office term than later.

Source: APFNHRI & UNDP-APRC (2014)
TAKING STOCK OF JUDICIAL INTEGRITY REFORMS AND TOOLS

The Hon. Justice Ibrahim Tambaru Maddi from Indonesia, the Hon. Presiding Justice Amparo Tang from the Philippines, the Hon. Justice Murray Kellam from Australia, and the Hon. Judge Nitithorn Wongyuen from Thailand presented judicial reform efforts and experiences from their respective countries. The following institutions, mechanisms and preconditions were recognized as essential to achieve judicial integrity:

- The constitution as central reference point that stipulates honesty, integrity and measures against corruption as fundamental principles for public officers.
- A specific council involved in the appointment of judges.
- A working group on judicial integrity within a relevant institution.
- A case information system that allows the public to access the status of cases online.
- A complaint mechanism that is easy to use, for example, based on SMS.
- Risk management and monitoring and evaluation mechanisms for the court.
- Good cooperation between international organizations and the court leadership.
- The adoption and implementation of the Bangalore Principles of Judicial Conduct.
- The involvement of judicial staff in judicial integrity reform efforts.

In addition, the participants identified the following key challenges to achieving judicial integrity:

- The reluctance of witnesses to testify against judges.
- Overcoming resistance to change which may be related to cultural and historical backgrounds.
- Defining a conflict of interest, as the concept is strongly shaped by respective cultural contexts.
- Defending human rights in potentially difficult legal contexts.

Existing tools and methodologies designed by judicial experts, practitioners and development partners to assess judicial integrity were presented and discussed. Panelists highlighted that assessing judicial integrity can be essential to fostering effective judicial reform.

Ms. Roberta Solis Ribeiro, Crime Prevention and Criminal Justice Officer and Judicial Integrity Team Leader, UNODC, introduced the new Global Judicial Integrity Network and demonstrated its strong synergies with the Judicial Integrity Champions in APEC Network. She emphasized the relevance of judicial integrity as integral component of the Doha Declaration Global Programme. She further presented the UNCAC Implementation Guide and Evaluative Framework for Article 11 as a tool for judiciaries to identify areas to focus reform efforts.
Ms. Chan Wai Yin, Senior Director at the Criminal Justice Division of the State Courts of Singapore, shared Singapore’s experience in adopting the International Framework for Court Excellence (IFCE). Singapore is one of the founding members of the International Consortium for Court Excellence (ICCE) in 2007 and already implemented court self-assessments in 2012 and 2015. In 2016, Singapore revised the methodology to better adapt it to its context whilst retaining the core statements. The changes made included incorporating new criteria statements on corporate governance, ethics, corporate social responsibilities, knowledge management, workforce management, among others.

**CO-DESIGNING THE NETWORK OF JUDICIAL INTEGRITY CHAMPIONS IN APEC**

The Hon. Michael Kirby, member of the Judicial Integrity Group and former Justice of the High Court of Australia, moderated the review of lessons learned from other networks, and the discussion on the needs and priorities of the network members. He stressed the importance of basing judicial integrity efforts on human rights and benefiting from a diverse composition of the network, ensuring adequate representation of different gender, ethnicity, culture, etc.

Further, Dr. Nihal Jayawickrama, coordinator of the Judicial Integrity Group, recounted the lessons learned from that network, including the development of the Bangalore Principles of Judicial Conduct. He emphasized the need for a sense of ownership by the judges and court staff to ensure their understanding of compliance instruments. He also highlighted the benefits of cooperating with UN agencies (see box 3).

Dr. Sofie Schütte, Senior Anti-Corruption Advisor at the U4 Anti-Corruption Resource Centre, outlined general features of anti-corruption networks. Most networks range between 10 and 20 members of either individual or organizational types. Some have rotating chairs, others have secretariats fixed to a larger regional organization, some are sponsor-driven. In terms of financing, regular instruments used include membership fees and donor funding. However, little evidence is available on the actual impact and results of such networks.

During group discussions, participants identified the following as priorities and effective means of management of the network:

- The network’s objectives should be to exchange good practices and to support judiciaries in anchoring judicial integrity within broader quality management systems, building on tools such as the International Framework for Court Excellence. It is important to ensure a diverse representation of stakeholders from the region, for example aiming for a gender balance, equal representation of economies from the Global South and the Global North as well as common law and civil law systems.

- Participants suggested to leverage synergies with global initiatives such as the Global Judicial Integrity Network and the International Association of Court Administrators, including through the use of
the UNODC online platform to be set up in the coming months. At the regional level, some participants suggested linking this initiative to the Council of ASEAN Chief Justices.

- Discussions of the network can generally be open to external stakeholders and only need to be closed when sensitive topics are discussed. Other external stakeholders could include civil society and academia to bring a variety of perspectives. Engagement with the media, such as investigative journalists, might also be considered when discussing ways to positively influence the public perception of the judiciary.

- On the governance structure, it was suggested to have a rotating secretariat and to hire a dedicated staff to ensure the sustainability and efficiency of the network.

**BOX 3: LESSONS LEARNED FROM THE JUDICIAL INTEGRITY GROUP IN DEVELOPING THE BANGALORE PRINCIPLES OF JUDICIAL CONDUCT**

- Ownership of judges and court staff was crucial for courts’ acceptance.
- Compliance instruments should be easy to follow - a code of conduct only serves its purpose if it is adequately understood by judges and communities.
- Cooperation with UN agencies is vital to reach a global level.

**JUDICIAL INTEGRITY AS KEY ELEMENT FOR COURT EXCELLENCE**

The International Framework for Court Excellence (IFCE) was introduced to the network. The proposed changes to the methodology to include a judicial integrity perspective were jointly discussed. Participants also shared their experiences in applying the framework in their respective countries. Mr. Laurie Glanfield, Deputy President of the Australasian Institute of Judicial Administration, outlined the two main purposes of the framework. Firstly, it serves as a tool for courts to assess their performance against areas of court excellence.

Secondly, it provides clear guidance for courts intending to improve their performance. Mr. Glanfield highlighted that courts have ownership over the process in applying the IFCE since the methodology is developed specifically for them.

The IFCE is a particularly useful tool as it has already been widely used in several jurisdictions. It has been used in 20 countries and 33 jurisdictions globally, including 9 in APEC economies (see box 3).
Feedback on possible ways to improve the current version of the IFCE to further anchor integrity in areas of court excellence was collected from the members of the network.

Furthermore, participants reflected on how to measure judicial integrity, as well as ways to collect and integrate the users’ perspective in judicial reforms. Dr. Victor Alistar, coordinator of the Programme for Integrity, Independence and Accountability in Judiciary at the Global Thematic Network Initiative of Transparency International, presented some of the challenges judicial integrity reforms at times face. Namely, that judges often do not consider themselves accountable for reforms and that they often do not regard non-judges as knowledgeable enough to grasp the field. To better understand the perspective of court end-users, focus group discussions and surveys can be valuable tools in monitoring trends.

**BOX 4: THE INTERNATIONAL FRAMEWORK FOR COURT EXCELLENCE**

The International Framework for Court Excellence (IFCE), currently in its second edition, provides a methodology for building court performance based on internationally accepted court values and their application to all areas of court activities. It was developed by the International Consortium on Court Excellence.

The IFCE has been used by 20 countries and 33 jurisdictions globally, including 9 in APEC economies. An integral part to applying the IFCE includes training sessions for judges and court personnel on different topics such as strategic planning and the relationship between judges and court staff. In some cases, modifications to the original framework have been made to better align with local contexts.

In Indonesia, the IFCE has been adopted in several jurisdictions such as by the Supreme Court, the Batulicin District Court, the Kepanjen District Court in East Java, the Karanganyar District Court in Central Java, the Palembang District Court in South Sumatra and the Religious Court of District of Palu. In Malaysia, the Customs Appeal Tribunal has also adopted the IFCE, and The Supreme Court of the Philippines applied the framework in 2011. In Thailand, the Office of the Judiciary is exploring the possibility of using the IFCE to assess court performance.

**NEXT STEPS OF THE PROJECT**

Members of the network discussed how they would like to champion judicial integrity reforms and ways in which the network can support their domestic reforms. Participants expressed interest in:

- Anchoring judicial transparency and accountability within their court quality management systems to measure performance over time;
- Advocating for the use of the Bangalore Principles in APEC;
- Consulting court users and stakeholders in the design of the reforms;
- Having peer-to-peer exchanges with other members of the network, for example by focusing on the following good practices:
Malaysia would be eager to share its reform success in improving their case management and noted that the network could help to organize short seminars for judicial officers.

Indonesia expressed interest in sharing good practices such as different mechanisms to ensure transparent recruitment processes, a case tracking system, complaint handling, an oversight information system, and e-payment.

The Philippines highlighted their experience with the use of personal pledges as a commitment to integrity.

Thailand emphasized the importance of self-reflection and measuring progress of judicial reform efforts and expressed interest in focusing on these areas in their exchange with the network.

The following next steps were agreed upon:

1. Develop a charter with objectives and mission statement of the network, and outline a potential governance structure based on further consultations with the network members (e.g. online survey).

2. Consolidate a list of focal points to ensure continuity in the memberships of the network.

3. Share the results of the inception meeting both domestically and at international fora, such as the Global Judicial Integrity Network.