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JUDICIAL INTEGRITY SELF-ASSESSMENT CHECKLIST

United Nations Development Programme

JUDICIAL INTEGRITY CHAMPIONS IN APEC

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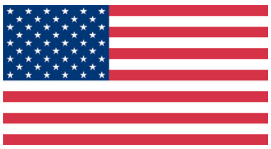

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Judicial Integrity Self-Assessment Checklist

Introduction

The 2030 Agenda for Sustainable Development highlights the central role of transparent, effective and accountable institutions in promoting peaceful, just, and inclusive societies and the importance of delivering justice for all.

This Judicial Integrity Checklist (Integrity Checklist) has been developed by UNDP as part of the Project "Judicial Integrity Champions in APEC". The UNDP Project provides support to judiciaries in the region that are taking active steps to promote transparency, integrity and accountability with a view to delivering justice for all. The Integrity Checklist is intended for use by Courts to promote judicial integrity while recognising that judicial integrity measures are most effective when they are embedded into broader quality management systems that promote court excellence.

International Framework for Court Excellence[1]

Many courts worldwide have used the International Framework on Court Excellence (IFCE) as a quality management system to improve court performance. The IFCE has proved to be a helpful methodology for conducting a review of a court's general performance and identifying areas for improvement.

The Framework is a widely recognised and used continuous improvement process that incorporates integrity considerations through its use of court values and the seven areas of court excellence. However, there are courts that want to be particularly proactive on integrity and corruption prevention issues and to meet this need the Integrity Checklist has been developed.

Integrity Checklist[2]

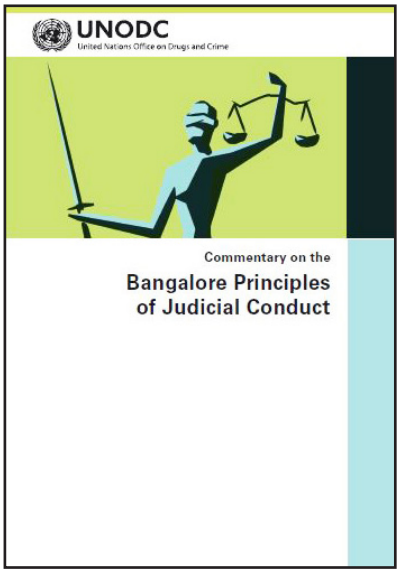
Corruption and a lack of integrity strike at the very foundation of court systems and the absence of fairness, due process of law, impartiality and due accountability fosters a lack of public trust and confidence in those courts.

The Integrity Checklist provides a more in-depth and focused approach that will enable a court to readily identify measures for improving court integrity. Implementing these improvement measures will lead to increased public trust and confidence in the court.

1 *Thinking of Implementing the International Framework for Court Excellence,* 2nd Edition, 2012, Available at: http://www.courtexcellence.com/~/media/Microsites/Files/ICCE/Thinking%20of%20Implementing%202E%202014%20V3.ashx

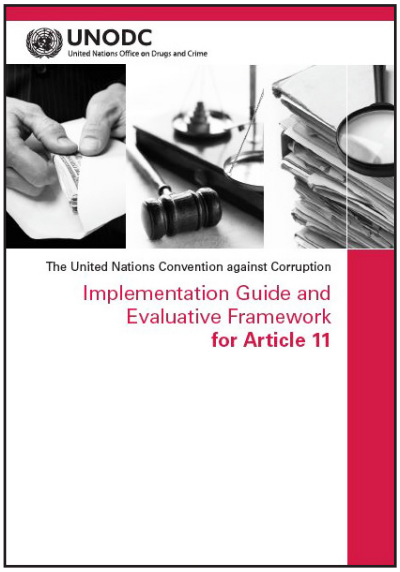
2 The development of the Integrity Checklist has drawn upon the IFCE. It is not an official version of IFCE for which the National Center for State Courts, USA- holds copyright for the use and protection of the members of the International Consortium of Court Excellence (ICCE). Modification of the IFCE by courts and organizations has been encouraged by the ICCE to facilitate innovation.

There are many internationally accepted and implemented principles and standards supporting judicial integrity and corruption prevention. The *Bangalore Principles of Judicial Conduct*[3] is a pre-eminent authority and its principles and standards have been incorporated into the Integrity Checklist. Article 11 of the UN Convention against Corruption requires State parties to take measures to strengthen integrity and to prevent opportunities for corruption among members of the Judiciary. An extensive suite of principles and measures, included in the *Implementation Guide and Evaluative Framework for Article 11*,[4] have formed the foundation of many of the checklist items.



The right of citizens to a fair trial is reflected in Article 10 of the Universal Declaration of Human Rights and in more detail in Article 14 of the International Covenant on Civil and Political Rights. The absence of judicial integrity undermines both this right and the community's respect, trust and confidence in the courts and government more generally.

This Integrity Checklist will provide judges of a court with a process for identifying areas of the court's procedures and functions that could be reviewed to strengthen the court's integrity and eliminate corrupt or undue influences on the court. The Integrity Checklist has been designed to complement the Checklist version of the International Framework for Court Excellence (the Framework), including through a consistent scoring methodology.



Undertaking a self-assessment based on the Integrated Framework and the Integrity Checklist

As with any organisation, a court can face both internal and external pressures that may distort values, direction, culture and performance. The Framework is a continuous improvement methodology that enables a court to identify, through a process of guided self-assessment, those areas, processes and procedures in need of improvement.

There are two versions of the Framework: the original version (Edition 2) and a simplified Checklist version. The Integrity Checklist has been developed to allow a court to follow the same methodology as the Checklist version of the Framework and to undertake the Framework and the Integrity Checklist as a single self-assessment process.

3 *Strengthening basic principles of judicial conduct*. ECOSOC 2006/23 Annex Bangalore Principles of Judicial Conduct.
4 *The United Nations Convention Against Corruption Implementation Guide and Evaluative Framework for Article 11*, UNODC, 2015.

By adopting an integrated approach to the Framework and the Integrity Checklist, a court can delve deeply into issues of integrity and at the same time achieve a self-assessment outcome as a 'whole of court' score. The benefit of this is it enables a benchmark to be set for both a court's general performance against the Framework and the state of its Judicial integrity. When the process is undertaken at a later time, the benchmark will allow a court to compare the result against the previous base scores and to identify progress that has been made.

Courts and their judicial and court officers face significant challenges to their integrity and impartiality and need to be constantly vigilant to ensure the level of public trust and confidence is not eroded by actual or perceived lack of integrity in all aspects of a court's performance. The Checklist identifies a range of issues for consideration by a court including both external and internal challenges. Many of the Checklist items may be matters a court can address internally by new practices or procedures. Some of the items may require a court to raise its concerns externally with other public officers or institutions outlining the court's expectations or needs that are essential to maintaining respect and confidence in the rule of law and the court's judicial administration.

Integrity Checklist self-assessment methodology

The Integrity Checklist should be completed by using the Scoring Guide in a similar manner to the self-assessment process outlined in the Framework[5]. An individual or a committee should be appointed to oversee the process of distribution, collection, analysis and development of an improvement plan. The process will require active support from the court's leadership to ensure all judicial officers and court officers understand the purpose of the process and have an opportunity to undertake the Integrity Checklist self-assessment. A court may decide to engage an independent consultant or adviser to assist in the process and the analysis of the results. The Integrity Checklist involves scoring on a 0 to 5 scale where '0' represents no evidence of compliance through to '5' representing compliance at a level of excellence that requires no improvements. The Scoring Guide below sets out descriptions for each score level to assist courts to apply the scoring method in a consistent manner.

Checklist items and references

While the Integrity Checklist identifies 20 key areas vital to ensuring a high level of judicial integrity, there are many other areas of a court's practices and procedures that also have an impact on a court's integrity and the public's confidence in a court. There are many helpful internationally recognised and published statements and documents that will be of assistance and some of these are included in Annexes 1 and 2 of this Integrity Checklist document.

5 *Thinking of Implementing the International Framework for Court Excellence*, 2nd Edition, 2012, pp. 2-5.

To guide judicial and court officers in completing the Integrity Checklist a number of sources and references have been included to provide detail on particular items. Each item has a footnote that contains further references to key sources of information relating to that item. For example, item 8 identifies the need for a Judicial Code of Conduct and, although the court may have a Code, by referring to the reference material the judges of the court may decide their Code of Conduct needs to be updated and strengthened. In assessing that item the judges would note the existence of their Code but see the need for improvement and the score they assess may be a 3 or 4 but not 5 (see Scoring guide).

Implementing improvements

The outcome of the self-assessment will be the identification of areas for improvement. A court's judges and court officers should then work collaboratively to develop an *Improvement Plan* that sets out in detail the actions to be taken and the outcomes to be achieved. In developing an Improvement Plan each area that has been identified for improvement should be carefully considered and options identified that can be taken to address the issue. Responsibility for each action should be allocated to an individual or group and appropriate timeframes set and outcomes specified. It is customary for courts to undertake a self-assessment on an annual basis to measure progress and identify other opportunities for improvements but ultimately the timing of self-assessments is a matter for each court to settle.

Integrity Checklist

EXTERNAL ASPECTS		SCORE					
		0 None	1 Limited	2 Developing	3 Good	4 Very good	5 Excellent
Our System of Government Provides...							
1	Constitutional guarantees of judicial independence.[1]						
2	Transparent process for merit appointment to judicial office and promotion of judges.[2]						
3	Constitutional guarantees of security of tenure of office, remuneration and immunity from suit for judges.[3]						
4	Fair process for removal from office or discipline of judges.[4]						
5	Adequate resources for the court having regard to the financial resources available to government.[5]						
INTERNAL ASPECTS		**SCORE**					
		0 None	1 Limited	2 Developing	3 Good	4 Very good	5 Excellent
Values							
6	Our judges adhere to a set of values that include the 'Bangalore' values of independence, impartiality, integrity, propriety, equality, competence and diligence.[6]						
7	We observe our Judicial Code of Conduct and enforce it.[7]						

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1 The United Nations Convention against Corruption, *Implementation Guide and Evaluative Framework for Article 11*, UNODC, 2015 (IGEF Art 11) Ch 1: pp 4-5; *UN Basic Principles on the Independence of the Judiciary 1985* (UNBP) No.1

2 IGEF Art 11 Ch 2: pp 25-28; UNBP No.10 & 13

3 IGEF Art 11 Ch 2: pp 29-31 30, 32 & 36; UNBP No. 11, 12 & 16; *Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct.* Judicial Integrity Group. 2010 (MEIBP) p.11 Items 9.1-9.5

4 Fairness is generally strengthened by the existence of an independent or external body that investigates serious misconduct and recommends sanctions. IGEF Art 11 Ch 2: pp 34-36; UNBP No. 17-20

5 IGEF Art 11 Ch 2: pp 38-39: UNBP No. 5

6 *Strengthening basic principles of judicial conduct*. ECOSOC 2006/23 Annex Bangalore Principles of Judicial Conduct (BPJC)

7 This Checklist has distinguished between an enforceable Code of Conduct and a set of Principles of Ethical Conduct and Propriety, which provide guidance on matters of propriety and ethics (see item 10). IGEF Art 11 Ch 1: pp 14-18; BPJC: Value Integrity: 3.1 and 3.2; Value Propriety: 4.1-4.3; MEIBP p.6 Items 1.1-1.3 & 2.1-2.2

INTERNAL ASPECTS		SCORE					
		0 None	1 Limited	2 Developing	3 Good	4 Very good	5 Excellent
Judicial Independence							
8	Judges exercise their judicial function impartially, transparently and free from influence from other judges, the executive and legislative branches of government, the business sector, parties, media or citizens.[8]						
9	Judicial proceedings are open to the public and are conducted impartially, fairly and respectful of the rights of the parties.[9]						
Standards of Judicial Behaviour							
10	We have and comply with a set of Principles of Ethical Conduct and Propriety.[10]						
11	Our court maintains a register of each judge's financial interests and affiliations and judges declare conflicts of interest and do not sit on matters relating to family, friends or financial interests.[11]						
12	Judges exercise their freedom of expression and assembly in a manner that preserves the dignity of their office and the impartiality and independence of the judiciary.[12]						
13	Our court has a complaints policy and a fair and expeditious system for investigation of complaints against judges and court officers and discipline where necessary.[13]						

8 Judges should have free fromdom direct and indirect interference and be free to enter judgments against governments, businesses and individuals. IGEF Art 11 Ch 2:pp 40-41; BPJC: Value Independence: 1.1,1.2; Impartiality: 2.2; UNBP No. 2 & 4

9 IGEF Art 11 Ch 2: pp 53-56; BPJC: Value Independence: 1.3; Impartiality: 2.1, 2.2 and 2.5; and UNBP: No.6

10 Principles of Ethics and Propriety provide clear guidance to judges. They could be incorporated into a Code of Conduct, but it should be made clear what is enforceable and what is merely guidance. IGEF Art 11 Ch 1: 21-22; UNBP No. 2; UNBP No. 4.1-4.16; MEIBP p.6 Item 1.3

11 Financial interests and affiliation registers should be kept up to date and reviewed annually. IGEF Art 11 Ch 1: pp 20-22 and BPJC: Value Impartiality: 2.3 and 2.5; Value Propriety: 4.4, 4.7, 4.8 and 4.14; UNBP No. 4.7-4.9

12 IGEF Art 11 Ch 2: pp 37-38; BPJC: Value Propriety: 4.6

13 IGEF Art 11 Ch 2: pp 31-33; MEIBP p.8 Items 4.4-4.5

INTERNAL ASPECTS		SCORE					
		0 None	1 Limited	2 Developing	3 Good	4 Very good	5 Excellent
Corruption Prevention							
14	Our court has a pre-determined open and fair process for allocation of work which is either random rotation or according to specialty skills or experience.[14]						
15	Our court administration and registry systems and records are designed to minimise the opportunity for corruption.[15]						
16	By promptly publishing our reasons for decisions and our court lists, policies and annual report we ensure community confidence in the integrity of our practices and decision-making processes.[16]						
Ethics Training and Support							
17	Judges engage in judicial training that includes ethics and conduct and have access to mentoring or independent guidance on ethical issues.[17]						
Community Confidence							
18	Judges actively ensure the court's officers, facilities, procedures and fees support the right of all citizens to open access to justice, a fair hearing and reasonable support for disabilities or language difficulties.[18]						
19	Our Court encourages media access to and reporting of our proceedings and recognises this reinforces confidence in the impartiality of the court, judges and staff.[19]						
20	Our court regularly surveys court users and the public on perceptions of and experiences with the court and we address any issues.[20]						
						TOTAL	

14 IGEF Art 11 Ch 2: pp 45-46; UNBP No. 14; MEIBP p.7 Items 3.1-3.3
15 IGEF Art 11 Ch 2: pp 44-49; MEIBP p.7 Items 4.1-4.2
16 IGEF Art 11 Ch 2: pp 56-58
17 IGEF Art 11 Ch 1: pp 16—20; UNBP No. 6.3-6.4; MEIBP p.10 Items 7.1-7.7
18 IGEF Art 11 Ch 2: pp 49-53; UNBP No. 5; UNBP No. 5.1-5.5; MEIBP pp.8-9 Items 5.1, 6.1, 6.3-6.4
19 IGEF Art 11 Ch 2: pp 57-58; MEIBP p.9 Items 6.2 & 6.6
20 IGEF Art 11 Ch 2: pp 56-57

Scoring guide

LEVEL	EVIDENCE OF COMPLIANCE	SCORE
None	No evidence of compliance	0
Limited	Awareness of issue but no action to comply	1
Developing	Evidence of action being taken to comply	2
Good	Some compliance but work to be done	3
Very Good	Strong compliance but some refinements needed	4
Excellent	Compliance at the highest level – no improvement needed	5

Weighted scoring table

	WEIGHTED AREAS	MAXIMUM SCORE	SCORE ACHIEVED	MULTIPLIER	RESULTING SCORE	SCORE
1	Court Leadership and Management	70		1.6		112
2	Court Planning and Policies	40		2.4		96
3	Resources (Human, Material and Financial)	80		1.6		128
4	Court Proceedings and Processes	50		1.6		80
5	Client Needs and Satisfaction	50		2.4		120
6	Affordable and Accessible Court Services	60		2.4		144
7	Public Trust and Confidence	50		2.4		120
	SUBTOTAL					
	INTEGRITY CHECKLIST SCORE	100		2.0		200
				TOTAL		**1000**

Sample of a completed weighted scoring table

WEIGHTED AREAS		MAXIMUM SCORE	SCORE ACHIEVED	MULTIPLIER	RESULTING SCORE	SCORE
1	Court Leadership and Management	70	70	1.6	112	112
2	Court Planning and Policies	40	30	2.4	72	96
3	Resources (Human, Material and Financial)	80	50	1.6	80	128
4	Court Proceedings and Processes	50	30	1.6	48	80
5	Client Needs and Satisfaction	50	25	2.4	60	120
6	Affordable and Accessible Court Services	60	30	2.4	72	144
7	Public Trust and Confidence	50	30	2.4	72	120
SUBTOTAL		400	265	2.0	516	800
INTEGRITY CHECKLIST SCORE		100	25	2.0	50	200
				TOTAL	**566**	**1000**

Annexes

Annex 1: List of the main international standards and guidelines on judicial integrity

Basic Principles on the Independence of the Judiciary. Adopted at the Seventh UN Congress, Milan, 1985

Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region. Beijing, 19 August 1995

Commonwealth (Latimer House) Principles on the Three Branches of Government

Draft Principles on the Independence of Judiciary - "Siracusa Principles"

ECOSOC, Strengthening Basic Principles of Judicial Conduct, 2006/23

Global Programme Against Corruption, Strengthening Judicial Integrity Against Corruption, 2001

Ibero-American Summit of Presidents of Supreme Justice Tribunals and Courts

International Commission of Jurists, International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors. Practitioners Guide No. 1, 2007

International Commission of Jurists, Judicial Accountability - A Practitioners' Guide, 2016

Measures for the Effective Implementation of the Bangalore Principles of Judicial Conduct

Opinion No. 3 of the Consultative Council of European Judges (CCJE). Strasbourg, 19 November 2002

Plan of Action for Africa on the Commonwealth Principles on the Accountability of and the Relationship Between the Three Branches of Government

Recommendation No. R (94) 12 of the Committee of Ministers to Member States of the Independence, Efficiency and Role of Judges. Adopted by the Committee of Ministers on 13 October 1994 at the 518th meeting of the Ministers' Deputies

The Cairo Declaration on Judicial Independence

The Commentary on the Bangalore Principles of Judicial Conduct

The Istanbul Declaration on Transparency in the Judicial Process

The Universal Charter of the Judge

Transparency International, Global Corruption Report 2007: Corruption in Judicial System, 2007

Transparency International Romania, Enhancing Judiciary's Ability to Curb Corruption – A Practical Guide, 2015

U4 and UNDP, A Transparent and Accountable Judiciary to Deliver Justice for All, 2016

UNODC, UN Convention against Corruption - Implementation Guide and Evaluative Framework for Article 11, 2015

UNODC, Resource Guide on Strengthening Judicial Integrity and Capacity, 2011

Annex 2: Additional references by topic

Independence:

- Council of Europe's Recommendation on the Independence of Judges, Principle 2 (b)
- Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region (the Beijing Principles), no. 3.a
- The Universal Charter of the Judge, article 1

Judicial Service Conditions:

- The European Charter on the Statute for Judges, no. 1.6, 2.1 – 2.2
- Beijing Statement of Principles of the Independence of the Judiciary in the LAWASIA Region (the Beijing Principles), no. 13, 17 – 21, 41 - 42
- The Latimer House Guidelines, no. II.1, II.2
- Universal Charter of the Judge, no. 8 - 9
- Council of Europe, Recommendation No. (94) 12, principle I.2; I.3
- European Charter on the Statute for Judges, no. 1-3, 4.1

Code of Conduct:

- UNCAC - Technical guide; I pg.19
- The Bangalore Principles for Judicial Conduct; Value 3.1
- Procedures for Basic Principles; Procedure 1 and 3
- GRECO Evaluation; R2: Part 2: 6.1 R4: 14.1; R2: Part 2: GPC10; 5; R4: 12.2
- The Cairo Declaration; Pg. 2
- Plan of Action for Africa on the Commonwealth Principles on the Accountability of and the Relationship Between the Three Branches of Government; P. 3 ,2.2.2; P. 4 ,2.3.2

Conflict of Interests:

- UNCAC - Technical guide; II.7.pg. 18, 201; IV pg.25
- GRECO Evaluation; R1: Part2:GPC3 R2:Part2: 4.4; R4:13.2
- Montreal Declaration; 2.02; 2.31
- Opinion no. 3 of CCJE; P. 4, p. 17; P. 6, p. 37; P. 7, p. 39
- Siracusa Principles; A.23, A.28
- The Universal Charter of the Judge; P. 1, a.4

Judicial Misconduct:

- UN Basic Principles on the Independence of the Judiciary 17 – 20
- Bangalore Principles 3.1 – 4.17
- Council of Europe, Recommendation No. (94) 12; and VI.3
- The European Charter on the Statute for Judges
- Beijing Principles, no. 22 – 26

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