

**FORUM:** Special Conference on Securing and Advancing Democracy

**QUESTION OF:** The role of an independent judiciary in maintaining checks and balances

**SUBMITTED BY:** Germany

**CO-SUBMITTERS:** Bosnia and Herzegovina, Brazil, ECE, Italy, Ukraine, USA, Japan, Estonia, Norway, Ukraine, Greece, Peru, Oman, Eswatini, Uruguay, France, Cuba, Australia

**SPECIAL CONFERENCE ON SECURING AND ADVANCING DEMOCRACY,**

*Defines* an independent judiciary as any court in which the court of law is independent of any branches of government or improper influences that may sway or affect the court and its procedures,

*Recognizes* that there are currently thousands of independent judiciaries that operate with the defined intentions of maintaining human rights and ensuring that the public is represented without invasion of rights from any branches of government or their subsequent influences,

*Bearing in mind* the Universal Declaration of Human Rights' main purpose of establishing a baseline in which all rights for people are respected and acknowledged in legal form,

*Commending* the World Justice Project for its work on advancing the rule of law around the world through its research and scholarship and engagement of law practices programs, along with its Rule of Law Index,

*Noting with approval* the International Association of Judges for its professional, non-political, international work which promotes the ideas of peace and human rights for the global population,

*Acknowledging* the Bangalore Principles Of Judicial Conduct, based on six main principles which are Independence, Impartiality, Integrity, Propriety, Equality, and Competence,

1. Encourages the creation of the (Judicial Evaluation Plan) JEP as a new centralized rating and evaluation plan with the main movement towards effectively enabling governments and inspectors to efficiently overview and manage the independence aspect of their Independent Judiciaries and the decision making that they establish with intentions of but not limited to:
  - a) ensuring that Independent Judiciaries are responsible and respectful to the full scope of the law and mandated rules of the member states
  - b) establishing a reliable and effective measurement system which enables member states to monitor and confirm that the independent judiciary is responsible and law-abiding;
2. Calls for the creation of the Universal Judicial Independence Evaluation Committee (UJIEC) to maintain the primary initiative of evaluating and measuring the independence of judiciaries based on the previously mentioned (JEP) in order to effectively move towards more independent judiciaries void of influence, along with the support of the World Justice Project to ensure that a reputable and reliable program supports the new UJIEC with the main intentions of, but not limited to:
  - a) Evaluating the integrity of the Independent Judiciary utilizing the JEP as a primary source towards the criteria an Independent Judiciary must reach with intentions of regulating issues such as but not limited to:
    - i. determining if an Independent Judiciary qualifies to be passed as a reputable and reliable Independent Judiciary
    - ii. whether the Government has little to no influence over the judicial process and the procedures of the court or the judges involved in the member states' judiciary
  - b) Supplying additional aid to member states that are in need of either additional evaluators to measure the legitimacy of their judiciary or more qualified judges to possibly replace current ones
  - c) Ensuring that the human rights following the Universal Declaration of Human Rights are

- maintained and protected by the Independent Judiciary in support of the people
- d) Positively determining that the independent judiciary is, in fact, independent from any outside influence from the member states government and safeguards have been established to maintain legitimacy and transparency of the Independent Judiciary;
3. Requests that all member states look into the background of a proposed judge and maintain or confirm that their legitimacy as individuals within their respective judiciary is upheld and respected, such that the judges are in accordance with the Universal Declaration of Human Rights and the subsequent responsibilities, and that judges be evaluated in cooperation with the Universal Judicial Independence Evaluation Committee (UJIEC);
  4. Further calls for the creation of a World Collaboration of Judicial Courts (WCJC) as a universal independent judiciary which, accompanied by the International Association of Judges, will be a nonpartisan global independent judiciary with the intention of maintaining world peace and promoting the Universal Declaration of Human Rights;
  5. Encourages the role of independent judiciaries (which may or may not already be created) within member states with the goals of removing bias or partiality from judicial processes within a nation through ways such as but not limited to:
    - a) making the salary of judges, justices, state attorneys or other judiciary members a fixed amount that cannot be adjusted by the executive or legislative wings of a government or any other private organization through ways such as but not limited to
      - i. further amending constitutions or laws to make it illegal for the executive or legislative branch of a government to determine the salary of judicial employees
      - ii. Increasing impartiality through non-monetary incentives such as extra leave, extended vacation and national recognition as judges rise through the ranks
      - iii. creating an impartiality council or board that would periodically evaluate the justness of decisions made by members of the judicial branch;
  6. Calls for all member states to work with the International Association of Judges (IAJ) to contribute to judicial modernization and combat the cost, inaccessibility and the formality of the misaligned development of the judicial system compared to the world by:
    - a) developing an e-justice system wherein human judges can decide cases without being in the physical courtroom via oral argument
    - b) promoting the widespread use of ICT platforms by the use of classifying and categorization of legal information;
  7. Further requests the replacement of judicial elections by a more accountable appointment system that would appoint judges through a publicly accountable process by an independent nominating commission and, until such time as judicial elections are eliminated, strengthen recusal rules for judges to:
    - a) make judges be required to step aside from cases with beneficiaries of substantial spending in support of their election
    - b) adopt procedural safeguards for the recusal determinations to be made by an independent judge;
  8. Further urges the UN to promote and move forward to judicial public financing with the main intention of combating corrupt practices in legal education and the judiciary, and additionally, provide insight and knowledge as to a new strategy to fight the corruption of judges and independent judiciaries from outside influences, though means such as but not limited to:
    - a) making space for potential judicial candidates
    - b) mitigating the conflicts posed by special interest spending
    - c) reforming proposals on bar associations, legislatures, and scholars;

9. Proposes the development of a specialized agency, the International Judges Protection Program (IJPP) which will attempt to combat corruption and promote the concepts of independence in judiciaries through means such as but not limited to:
  - a) investigating background information on defendants on trial to ensure that all relevant information to the case as been reviewed and monitored
  - b) Putting defendants and witnesses on a 24-hour watch, at the discretion of the individual, that will protect them from:
    - i. possible attacks
    - ii. death threats
    - iii. getting fired due to false accusations;
10. Encourages member states to introduce and/or reinforce existing case assignment frameworks for both criminal and civil cases that eliminate opportunities for individual preferences and pressure from external parties, e.g. those based on alphabetical order or date of registration;
11. Urges all member states to implement new training programs for judges on the basis of the Bangalore Principles Of Judicial Conduct such that they may improve the protection of human rights for our society, with the main intentions of:
  - a) promoting democracy and implementation of independent committees if member states have not already done so
  - b) resolving issues with corruption and influence upon independent judiciaries.