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INTERNATIONAL BAR ASSOCIATION'S HUMAN RIGHTS INSTITUTE RESOLUTION ON THE VALUES PERTAINING TO JUDICIAL APPOINTMENTS TO INTERNATIONAL COURTS AND TRIBUNALS

Adopted on 31 October 2011

The Council of the International Bar Association's Human Rights Institute,

Recognising the growing number of international courts and tribunals established for the resolution of matters within their respective jurisdictions,

Mindful of the Statute of the International Court of Justice, the Rome Statute of the International Criminal Court, and other instruments prescribing eligibility criteria and appointment procedures necessary to the discharge of international judicial office,

Considering that the values implicit in the eligibility criteria and appointment procedures to international judicial office need to be made explicit,

Recalling the Charter of the United Nations and the conditions which it proclaims under which justice may be maintained,

Recalling the international human rights instruments, in particular Article 10 of the Universal Declaration of Human Rights and Article 14(1) of the International Covenant on Civil and Political Rights, which enshrine equality before the law, and the right to a fair and public hearing before a competent, independent and impartial tribunal, as principles applicable to international as well as domestic courts,

Noting the principles expressed in the United Nations Basic Principles on the Independence of the Judiciary (1985),

Recalling also the values and principles expressed in the Bangalore Principles of Judicial Conduct (2002), the Burgh House Principles on the International Judiciary of the International Law Association (2004) and the Resolution of the Institut de Droit International on the Position of the International Judge adopted at Rhodes (2011),

Now resolves:

I. Eligibility for appointment to international judicial office

All candidates for appointment to international judicial office should:

1. Possess the **legal qualifications** necessary for appointment to high judicial office in their respective countries;
2. Demonstrate an **established competence** in the area or areas of law relevant to the court or tribunal to which appointment is relevant;
3. Have **extensive experience** in a professional legal capacity that is relevant to the duties of the proposed judicial office, such as having been a judge, prosecutor, advocate, or similar;
4. Be **fluent in at least one of the working languages** of the court to which appointment is relevant;
5. Satisfy any other **mandatory eligibility criteria** required by the respective court's statute; and
6. Be of an age and state of health appropriate to an effective service during the entirety of the proposed term of appointment.

In addition, where several candidates are equally eligible for appointment and it is considered appropriate and reasonable to do so, preference in appointment may be given to a candidate who:

7. Possesses the characteristics that will **promote diversity** amongst those who will hold office in the court or tribunal in question.

II. Personal qualities necessary for holding international judicial office

All holders of judicial office in international courts and tribunals ('Judges') should display the following personal qualities:

1. **Independence:** Judges should uphold and exemplify independence in both its individual and institutional aspects. This includes being independent of the parties to the case, as well as from the outcome of their disputes; and deciding the facts of a case free of extraneous influences or inducements, including on the part of national governments, international agencies and office holders. Such Judges should be disinterested in the outcome of the disputes.
2. **Impartiality:** Judges should be impartial in the process by which their decisions are made, as well as in the substance of their decisions. Judicial duties should be performed without bias, favour or prejudice; and without the appearance of bias, favour or prejudice.
3. **Integrity:** Judges should be honest and of good character and reputation. Their conduct should be above reproach in the view of a reasonable observer.
4. **Propriety:** Judges should adhere to, and display, good behaviour in both their professional and personal life, in order to preserve the dignity of the judicial office and to promote the fact, as well as the appearance, of judicial independence. Professional or personal relationships should never improperly influence, or appear to influence, a Judge's judicial conduct. The judicial office should never be used, or appear to be used, to advance the private interests of the Judge. A Judge should not accept any gift, advantage or favour in relation to the performance of judicial duties, or which might be perceived to influence that performance. A Judge should not practise law while holding judicial office, except in accordance with rules that apply specifically to Judges who do not serve full-time and the undertaking of such practice should not abrogate, or appear to abrogate, the requirements otherwise stated in this Resolution.

5. **Ability to dispense equal treatment:** Judges should treat all who appear before them in court, whether as parties, advocates, witnesses or officials, on the basis of equality, so as to ensure the actuality and appearance of a fair outcome in matters before them. Bias or prejudice, or the appearance of bias or prejudice, towards any person or group should never be manifested in the conduct or performance of the duties of judicial office.
6. **Competence:** Judges should have appropriate and adequate skill, knowledge and experience for the performance of the relevant judicial office.
7. **Diligence:** Judges should be attentive to, and painstaking in, the conduct and performance of activities of the judicial office. Judicial duties should be performed efficiently and with reasonable promptness.
8. **Empathy:** Judges should inform themselves of all relevant features of matters and parties that come before them in order to understand fully the submissions and perspectives of those involved.

III. The procedure for appointment to international judicial office

A. Identifying appointable candidates

1. **Demonstrated eligibility:** all candidates for international judicial office should be able to demonstrate the eligibility requirements stated in Part I (paragraphs 1–6).
2. **Demonstrated personal qualities:** all candidates for international judicial office should be able, as far as reasonably possible, to demonstrate the personal qualities stated in Part II (paragraphs 1–8).

B. Selecting candidates for international judicial office

1. The selection process for candidates for appointment to international judicial office should be based on the essential criteria and values expressed in this Resolution. The body or persons charged with recommending the appointment ('the Selection Body') should assess the extent to which each candidate: (1) complies with these criteria; and (2) is likely to conform to them whilst the holder of judicial office. These criteria should take precedence over other considerations.
2. The Selection Body should be independent of the persons or body that decides the appointment or election of the candidate to international judicial office. The Selection Body should contain amongst its members, judges and lawyers of high standing in international or national courts or tribunals and who have high experience and undoubted integrity.
3. The selection process of candidates for international judicial appointments may take into account the need for diversity on the bench, whether based on sex, race or similar characteristics. Selection between two or more suitable candidates may be determined on the basis of this need, provided the criteria for eligibility and personal qualities are satisfied by the candidate so selected.
4. No candidate for selection, appointment or election to international judicial office should be recommended for appointment or election solely on the basis of the candidate's race, sex or other similar grounds.
5. The Selection Body should report to the body charged with the appointment or election of those candidates who, in the opinion of the Selection Body, are qualified for appointment or election. The body charged with that responsibility should not appoint or elect a person to international judicial office other than a candidate whom the Selection Body has declared to be so qualified.

C. Security of tenure

Subject to any requirements in the statute or constituting instrument of an international court or tribunal relating to termination of appointment to the office of a Judge, no person who holds such office should be removed save upon the expiry of that person's term of office, loss of qualification to hold office, or proved incapacity, incompetence or misconduct. In all other cases, holders of the office of a Judge of an international court or tribunal should enjoy security of tenure and immunities essential to the discharge of office during appointment.

D. Appointing or electing judges to international judicial office

1. The persons or body that appoint or elect international judicial office candidates declared competent for appointment or election should select amongst these candidates the persons considered most meritorious for appointment, based on their relevant skills and other qualities and the needs of the court or tribunal concerned for the lawful, just and efficient discharge of its functions.
2. The body or persons having the authority to appoint or elect a candidate to international judicial office may take into account in making such appointment considerations such as the expertise, skills and experience of the candidate; and his or her ethnic background, where this is relevant to constituting the court or tribunal with Judges of a background appropriate to the constitution of an international court or tribunal.

E. Removal of international judges

No Judge appointed to international judicial office should be removed or suspended from office except: (1) upon express grounds established by the statute or constituting instrument of the international court or tribunal in question; and (2) on the ground of proved incapacity, incompetence or misconduct, established to the satisfaction of the body or person authorised to appoint or elect a Judge to such office.

IV. Definitions

In this Resolution:

'appointment' includes selection of candidates for judicial office and election of Judges to office;

'court' includes tribunal or other international decision-making body of a judicial character, however described or designated; and

'Judge' includes all members of an international court.

A Background Paper to this Resolution is available at: www.ibanet.org/Human_Rights_Institute/About_the_HRI/HRI_Activities.aspx.

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