

OSLO RECOMMENDATIONS FOR ENHANCING THE LEGITIMACY OF INTERNATIONAL COURTS

Drafted collectively on 2 June 2018 and finalized on 26 July 2018
by the participants of the
BRANDEIS INSTITUTE FOR INTERNATIONAL JUDGES

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International Center for Ethics, Justice and Public Life (Brandeis University) and the
**PluriCourts Centre for the Study of the Legitimate Roles of the Judiciary in the
Global Order** (Faculty of Law, University of Oslo)

Aware of the current climate of waning support for many institutions of international justice and increasing challenges to their legitimacy;

Mindful that each international court has its own specific mandate, jurisdiction and institutional organization, and that any recommendations below must reflect these specificities;

Emphasizing that the primary work of international judges is to produce well-reasoned and timely judgments, which are seen to be so;

Recognizing that ensuring the legitimacy of international courts may still require more from both judges and their institutions;

The participants of the 2018 session of the Brandeis Institute for International Judges declare that international courts should seek to conform to the recommendations below in order to enhance their institutional legitimacy.

A. Nomination and selection of international judges

- The process of nomination and selection of judges for international courts should respect the relevant rules of the institution and be open and transparent.
- As a matter of principle, it is desirable that for every regular judicial vacancy there be a plurality of candidates.
- Nominators should bring forward candidates who demonstrate the necessary competence and expertise and are clearly fit to perform their judicial duties. Institutions may consider establishing a maximum age limit for candidates to ensure the fitness of selected judges into the future.
- Nominators and selectors should give consideration to the diverse composition of international benches, including diversity by gender.

- The nomination and selection authorities should ensure that judges may work independently and in security.

B. Ethics and judicial integrity

- Each international court should have a code of judicial ethics whose provisions are well known to judges.
- Judges should behave in a manner that does not cast doubt upon their independence, integrity, and impartiality.
- In situations where serious ethics violations by a judge are alleged and require an investigation, consideration should be given to the appointment of an external committee, provided the institution allows such a procedure, composed of individuals with relevant knowledge and experience, to conduct the investigation and make recommendations.
- Judges should remain aware that producing well-reasoned judgments, based on the applicable law, remains their central role and the lynchpin of their institution's legitimacy.
- Dissenting or separate opinions, if allowed by the institution, should be delivered with restraint and formulated in respectful language so as not to undermine the authority of the court.

C. Efficiency of proceedings

- Judges should deal with a case in an efficient and timely manner, avoiding any unnecessary delay.
- Judges should give priority to the work of their court, ensure their availability, and avoid distractions from other professional activities.
- The efficient and cost-effective use of technology should be encouraged.

D. Transparency of proceedings and access to judicial output

- Hearings should, in principle, be open and accessible to the public and live-streamed for remote viewing.
- Subject to the specific character of the institution, there may be need for some part or all of proceedings to remain confidential. Judicial deliberations should remain confidential.
- Video footage should be archived and made available online to the extent possible.
- Judgments and other judicial decisions, normative institutional documents such as rules of procedure, submissions by parties, and evidentiary materials (depending on the specificity of the institution) should be easily accessible to the public via the court's website or archived elsewhere.
- Courts should create searchable databases of their jurisprudence for reference by other courts and the public.

E. Role of judges in outreach and interactions with the public

- In view of the complex and shifting global context, courts must increasingly pay attention to communicating their decisions, tasks and responsibilities.
- Court Presidents should assume primary responsibility, their caseload and other duties permitting, for interacting with states parties and relevant organizations.
- Judges should endeavor to promote the tasks and functioning of their court by explaining its work to the public – including visitors, students, and practitioners – as appropriate.
- International courts, assisted by departments responsible for communication and outreach, should coordinate the outreach activities of their members and offices to ensure correct and consistent messaging to their various constituencies.

These recommendations were drafted and endorsed by the following international judges, acting in their personal capacities:

- Olivier Beauvallet (France), Extraordinary Chamber in the Courts of Cambodia
- Ujal Bhatia (India), World Trade Organization Appellate Body
- Micheline Braidy (Lebanon), Special Tribunal for Lebanon
- Tujilane Rose Chizumila (Malawi), African Court of Human and Peoples' Rights
- James Crawford (Australia), International Court of Justice
- Emmanuelle Ducos (France), Special Criminal Court for the Central African Republic
- Liesbeth Lijnzaad (Netherlands), International Tribunal for the Law of the Sea
- Erik Møse (Norway), European Court of Human Rights
- Alphons Orié (Netherlands), Residual Mechanism for International Criminal Tribunals
- Marc Perrin de Brichambaut (France), International Criminal Court
- Maureen Rajnauth-Lee (Trinidad and Tobago), Caribbean Court of Justice
- Shree Baboo Chekitan Servansing (Mauritius), World Trade Organization Appellate Body
- Peter Tomka (Slovakia), International Court of Justice
- Ekaterina Trendafilova (Bulgaria), Kosovo Specialist Chambers
- Emmanuel Ugirashebuja (Rwanda), East African Court of Justice