

Public Perception of Statutory Independence and the Role of International Organizations in Promoting Judicial Independence in Madagascar

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Abstract

This study investigates how the general public views statutory independence in Madagascar and looks at how foreign organizations support judicial independence. It evaluates the impact of these views on the legitimacy and operation of the legal system and emphasizes the roles played by non-governmental organizations, the United Nations, and other international organizations. The article aims to determine the critical elements influencing trust among the public in the court and the efficacy of outside interventions in promoting independent judiciary through an inquiry of literature already in existence, surveys, and case studies. In the Indian Ocean, off the southeast coast of Africa, is the island country of Madagascar. Renowned for its diverse habitats, which include coral reefs, rainforests, and arid landscapes this island, which is the fourth biggest in the globe, is renowned for its abundant ecological integrity. Because more than 90% of its fauna is unique to this planet, it is a hub for efforts to preserve biodiversity. The official languages of the nation are French and Malagasy, with the former being the majority ethnic group. The populace of the nation is varied. The study uses a mixed-methods approach, gathering data using both quantitative and qualitative techniques. Take polls to find out how the general population in Madagascar feels about judicial independence. When it comes to qualitative information from case studies and interviews, use thematic assessment and statistical testing, respectively. SWOT analysis was done to examine the form several angles.

Keywords

Legal Framework, Madagascar, SWOT, Judiciary, International

1. Introduction

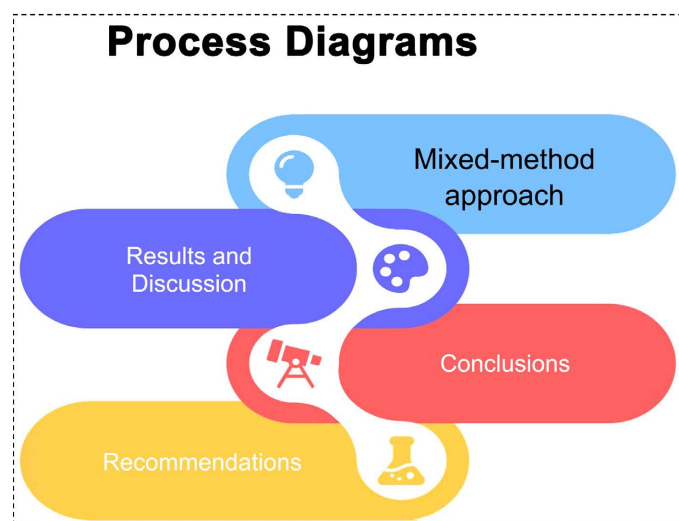
A complicated history influenced by political unrest, continuous amendments, and the legacy of colonialism has seen the evolution of judicial independence in Madagascar (Sellström, 2015). The court was strongly influenced by colonial authorities throughout the French colonial era (1896-1960), having little autonomy and acting mainly to further the objectives of the colonial rulers. Madagascar tried to create a more independent court after winning independence in 1960, but its autonomy was frequently damaged by the political unrest that came next, which included many uprisings and centralized administrations (Blazek, 2011). Establishing the High Council of the Judiciary (Conseil Supérieur de la Magistrature, CSM) to supervise the selection of judges and regulation, as well as explicitly distinguishing the legal system from the legislative and executive branches of government, the 1992 Constitution represented a major step towards bolstering the autonomy of the judiciary. Nevertheless, in spite of these fundamental protections, the court has faced obstacles that have made it more difficult for it to operate freely and without prejudice, including political meddling, nepotism, and a lack of funding. International organizations have backed reform attempts in the court, but their influence on creating a fully independent judiciary has been limited since those measures have frequently encountered opposition from well-established political affiliations (Lwabukuna, 2022). Since it provides a foundation for impartiality and justice in the legal system, independence of the judiciary is crucial to the functioning of democracy and the rule of law (Lwabukuna, 2022). The autonomy of the court in Madagascar is guaranteed by the constitution; yet, it confronts substantial obstacles that compromise its independence. This study looks into how the majority of the population views statutory independence and the role that international organizations play in promoting judicial independence in Madagascar. Gaining an improved comprehension of these mechanisms is essential to bolstering the judiciary's authority and public trust. The foundation of democratic administration and the rule of law is judicial independence, which guarantees the judiciary's ability to make judgments free from outside pressures and influences, especially from the legislative and executive arms of government (Kelly, 2020). The notion of judicial independence is critical to preserving public confidence in the legal system in Madagascar, a nation that has seen severe political upheaval. International groups have also made a significant contribution to Madagascar's judicial independence movement (Heyl, 2018). This study of the literature investigates how the general public views statutory independence in Madagascar and how foreign organizations support judicial autonomy.

Judicial legitimacy and effectiveness are significantly influenced by public opinion of judicial independence. According to research, there is a widespread lack of

public trust in Madagascar's legal system as a result of beliefs about political meddling, nepotism, and impartiality (Rakotoarisoa et al., 2020). This view has been influenced by periods of political unrest throughout history and situations in which the court has been viewed as a tool of political influence instead of an impartial judge (Marcus, 2017). According to studies, the way judges are appointed and tenured—which frequently allows them to be influenced by politics—contributes to the perception of their deficient level of independence. Judges may be perceived as being more obedient to political authority than the rule of law, for instance, if they are appointed by the President or the executive branch (Marcus, 2017). These impressions are further exacerbated by the lack of an open and merit-based judge selection procedure. The legal system's timeliness and accessibility also have an impact on public opinion. Many people believe that the judiciary is inaccessible and insensitive, which undermines their faith in the independence of the court, according to research by Andriamihaja et al. (2021). The socio-economic obstacles—such as exorbitant legal costs and a dearth of legal aid services—that prevent many Malagasy residents from accessing the court system exacerbate this view. The promotion of judicial independence in Madagascar has been actively pursued by a number of international organizations, such as the World Bank, the United Nations, and other NGOs (IMF, 2017). From offering financial support and expert aid to pushing for structural and legislative changes, these groups have used a variety of tactics. With an emphasis on strategies for building capacity meant to improve the judiciary's competence to operate autonomously, the United Nations Development Programme (UNDP) has been especially engaged in Madagascar (UNDP, 2022). These programs sometimes involve funding for better court systems alongside training for magistrates and tribunal employees. Along with campaigning for changes to the legislation regulating judicial nominations and disciplinary actions, the UNDP has also worked to promote legislative reforms that aim to shield the court system against political biases. Through its support of more comprehensive governance and anti-corruption activities, the World Bank has helped to establish judicial independence in Madagascar. The goal of the World Bank's judicial reform initiative is to address systemic problems including nepotism and an absence of transparency in the court that threaten judicial independence (World Bank, 2021). In addition, non-governmental groups have been instrumental in promoting judicial independence. For example, Transparency International and other civil society organizations have been active in keeping an eye on court procedures and offering forums for the general people to voice their opinions about the effectiveness of the legal system. By raising public awareness of the value of independent judiciary, their initiatives have also put pressure on the administration to undertake amendments. Non-governmental organizations continue to face obstacles in Madagascar's quest for a true independent judiciary. The ingrained political power influencing the court is a significant obstacle that is hard to overcome with just exterior initiatives. International organizations can support reforms and offer professional support,

nevertheless they frequently neglect the power to compel alteration particularly when faced with opposition from local legislators (Ratsimbaharison, 2016).

Furthermore, concerns about local leadership and continuity may restrict the effectiveness of foreign aid. International organization-funded initiatives frequently rely on outside money, which might cause a loss of sustainability when financing ends. Furthermore, there might occasionally be a gap between the local setting and the amendments pushed by international organizations, which makes it difficult for local entities to embrace and execute the changes. Moreover, international organizations have prioritized structural changes above immediate popular perception modification. Public participation programs like civic literacy and public forums are essential for changing the way the public views the court. The goals of enhancing judicial independence could not be completely realized if the opinions and concerns of the general people are not taken into consideration. A fundamental component of a democratic system and the rule of law is judicial independence. In Madagascar, lack of funding, political meddling, and corruption frequently pose threats to statutory independence (Rahman, 2019). Determining how the public views these matters is essential to assessing the efficacy of the court. How does the general public in Madagascar see statutory independence, and what role do foreign organizations play in advancing judicial independence? The goal of the research is to provide light on how the general public views the judiciary's function in Madagascar and how well foreign assistance works to promote a more autonomous legal structure. There are explicit measures for judicial independence in Madagascar's legislative structure. But because of things like institutional corruption and political meddling, the actual situation frequently departs from these legal guarantees. Because the credibility of the court depends on the confidence and trust of the public in its procedures, the public's opinion has a significant impact on how efficient the legal system is. Although their influence varies according on the situation and kind of engagement, international organizations have played a significant role in supporting legislative changes and offering professional aid.



2. Methodology

In the Indian Ocean, off the southeast coast of Africa, is the island country of Madagascar. Boasting distinctive habitats like as rainforests, deserts, and coral reefs, this island, which is the fourth biggest in the world, is renowned for its abundant biodiversity. It is a hotspot for conservation efforts since more than 90% of its fauna is unique to this planet (Silander Jr., Bond, & Ratsirarson, 2024). With Malagasy as the majority ethnic group and French and Malagasy as the official languages, the nation has a diversified population. Madagascar's past, which still shapes its social, economic, and political environment today, is a patchwork of ancient kingdoms, French colonial control, and shortly after independence political unrest. Madagascar has several difficulties that affect its growth and international ties, regardless of its abundance in resourcefulness (Neugarten et al., 2024). These difficulties include impoverishment, unstable politics, and degrading the environment. The study uses a mixed-methods approach, gathering data using both quantitative and qualitative techniques. Take polls to find out how the general population in Madagascar feels about judicial independence. For survey data, use statistical analysis; for qualitative data from case studies and interviews, use thematic analysis. SWOT analysis was done to examine the form several angles (Figure 1).

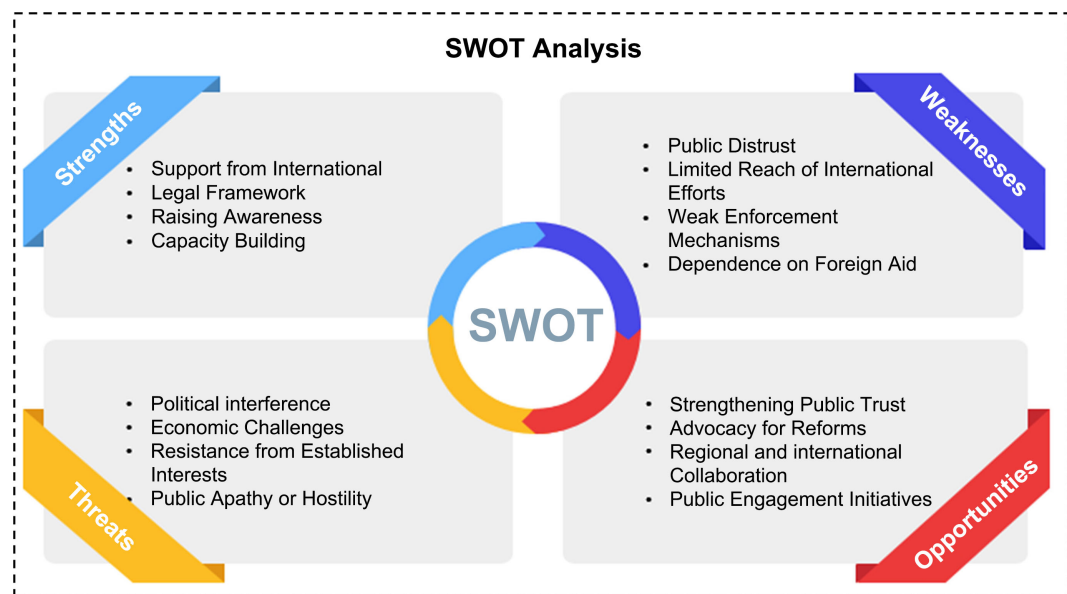


Figure 1. SWOT Analysis on present study.

3. Results and Discussion

Although it confronts many obstacles, Madagascar's system of balanced oversight between the legislative authority and the court is meant to guarantee autonomy for the courts (Lwabukuna, 2022). As one of the three divisions of the state, the court system is required under the rules of law to function separately from the judiciary and the legislature. The goal of the division of authorities is to have an

equitable mechanism that governs by preventing each department from having excess authority. By saying that tribunals are solely liable for statutes and that the Supreme Court is autonomous, Madagascar's legislation establishes the statutory basis for autonomy for the judiciary and potentially limits influence from the parliamentary and legislative authorities (Lwabukuna, 2022). The goal of the division of jurisdiction is to have an equitable structure of governance by preventing each department from having excess authority. By saying that judges are solely subject to the law and that the judiciary is independent, Madagascar's constitution establishes the legal foundation for judicial independence and potentially limits influence from the legislative and executive branches (Heyl, 2018). In order to maintain judicial independence, the High Council of the Judiciary, or Conseil Supérieur de la Magistrature, or CSM, is vital in supervising the selection, advancement, and punishment of judges. However, because of possible executive branch interference, the CSM's independence has come under scrutiny. Regardless of the constraints of the Constitution, political meddling is still a major issue because the supreme court and the executive department have significant authority over the court system (Girardeau, 2012). This authority extends to the selection of important judges like the Chief Justice and members of the CSM, which can jeopardize the judiciary's autonomy and impartiality. Furthermore, the absence of suitable facilities, poor budget, and insufficient training for court personnel are among the resource restrictions that the Madagascar the court system frequently suffers. These limitations weaken the court's efficacy and autonomy and leave it more vulnerable to outside influences. There are situations in which court decisions are not acknowledged or upheld by other parts of government, indicating a serious flaw in the mechanism of accountability and balance. This undermines the judiciary's independence in enforcing its rules (Kotzé, 2019). In addition, the efficacy of the court's autonomy is compromised by public perceptions of corruption and an overall absence of openness in the courts. This weakens public trust in the legal system, which is necessary for the judiciary to serve as a reliable counterbalance on the authority of the state.

Strong backing for judicial independence is provided by international organizations such as the African Union and the United Nations, which offer advocacy, specialized, and financial aid. This is one of the strengths. A solid legal basis is created by legislation in Madagascar's constitutional framework that is designed to guarantee autonomy for the judiciary (Andrianirina-Ratsialonana & Burnod, 2012). In addition to providing initiatives aimed at strengthening judicial officers' capacities, international organizations are crucial in increasing public awareness of the value of judicial independence and improving the general calibre and objectivity of the court. Nonetheless, there are still issues that need to be addressed, such as the general mistrust that the general public has for the court because of alleged corruption, the absence of accountability, and influence from politicians. Local identity opposition, financial limitations, and disparities in culture can all reduce the efficacy of multinational initiatives, and inadequate legal procedures and a reliance on outside assistance can jeopardize long-term changes. There are

possibilities to improve the public's impression of the legal system by enacting clear amendments and taking unbiased decisions. International organizations have the ability to promote changes and bring Madagascar's judiciary into compliance with global best practices (Mkhize, 2014). Moreover, public engagement programs may empower individuals and provide a demand-driven strategy for judicial changes, while regional and international collaboration offers a forum for exchanging best practices and building support within the area. Significant barriers, meanwhile, are presented by dangers including enduring political meddling, difficult economic conditions, and opposition from well-established interests in the legal and political systems. Furthermore, if people don't see any real progress or injustice persists, they can become indifferent or hostile, which would undermine the initiatives of international organizations and the legal system to support independent nations (Figure 2).



Figure 2. Madagascar Map (Source: stock.adobe 2024).

The main judicial authorities in Madagascar, their relationships with other departments of administration, and the impact of foreign organizations on fortifying these structures are the main subjects of an institutional study of judicial independence in Madagascar. Conseil Supérieur de la Magistrature, or CSM, is the

principal organization in charge of maintaining independent judiciary in Madagascar (Engstrom, 2022). This body's purpose is to protect judges from excessive electoral interference by supervising their nomination, promotions, and punishment. Nevertheless, in spite of its intended function, the CSM's independence is sometimes jeopardized by executive interference as the President of Madagascar has considerable authority over the nomination of its officials, including influential judges like the Chief Justice. Due to its constitutional separation from the administrative and legislative departments, the judicial branch is frequently subject to political meddling, particularly in instances that carry significant political ramifications. The Ministry of Justice is also responsible for overseeing the administration and resources of the judiciary; nevertheless, this link can make it difficult to distinguish between independent and dependent activities since political forces occasionally have the ability to influence the distribution of resources and operational assistance. As a result of this dynamic, the court is subject to budget constraints and political influences even if it seems autonomous on record.

The improvement of Madagascar's legal system has been greatly aided by international organizations such as the African Union, the United Nations, and other development partners (Sarkin, 2009). To strengthen the judiciary's capabilities, these organizations offer training, financing, and technical support. To encourage openness, responsibility, and just legal procedures, they frequently collaborate with organizations like the CSM and the courts. Nevertheless, inherent issues with Madagascar's organizations, such as transparency issues, nepotism, and lax legal decision-enforcement procedures, limit the efficacy of these initiatives. In an effort to strengthen the judiciary's capabilities, international initiatives have also focused on professional training and educational opportunities in law. In order to guarantee unbiased and equitable decision-making, partnerships between foreign players and local judicial institutions work to improve the abilities of judges and other legal experts. Despite these initiatives, institutional autonomy is still being threatened by political meddling, and public trust in the judiciary is still low. As a result, judicial independence in Madagascar is still insecure. The success of current legislation, governance frameworks, and changes meant to guarantee an independent court are the main topics of a policy study of judicial independence in Madagascar (Goncalves, 2013). The examination also looks at the difficulties in putting into practice judicial independence rules and the ways in which international organizations have shaped them.

Existing Legal Framework: The legal foundation for judicial independence in Madagascar is found in the constitution, which establishes the judiciary as an independent body apart from the legislative and executive bodies. Appointing, promoting, and disciplining judges are the main responsibilities of the High Council of the Judiciary, also known as the Conseil Supérieur de la Magistrature, or CSM. Policy states that the CSM is meant to protect the judiciary from political interference, making sure that judges make decisions that adhere to the law instead of outside pressure. But because the President may designate important judges, the

legislative branch has considerable influence on the CSM, which frequently compromises the efficacy of this legal structure. Due to the possibility of political influence on court rulings, this actually erodes the judiciary's independence.

Judicial Reforms: In order to address concerns about the credibility and autonomy within Madagascar's court, a number of judicial reforms have been started. The Malagasy government has collaborated with international organizations such as the United Nations (UN) and the African Union (AU) to execute changes that are intended to enhance openness, diminish corruption, and fortify the judiciary's capabilities. Along with steps to expedite court procedures, these improvements include training initiatives for magistrates, attorneys, and judicial employees. Notwithstanding these endeavors, insufficient local control, budgetary limitations, and political opposition impede the viability of these improvements. Judicial misconduct laws have been particularly difficult to implement because political groups with deep roots in the system frequently oppose reforms that would jeopardize their ability to influence the courts.

Challenges in Policy Implementation: In Madagascar's legal system, the discrepancy between the creation and application of policies is a serious problem. Even while there are laws in existence to protect judicial independence, they are frequently not successfully implemented. A significant obstacle is the absence of enforcement protocols. There is no punishment for judicial independence infractions, and political elites occasionally ignore court decisions. The efficacy of policy execution is further diminished by the judiciary's financial limitations, which include inadequate financing for court facilities, staffing, and legal assistance. The public's trust in the system is weakened by these restrictions, which make it more difficult for the judicial branch to administer unbiased and equitable adjudication.

International Influence on Policy: The policy of judicial independence in Madagascar is significantly shaped by international organizations. These groups advocate judicial reform via financial contributions, lobbying, and technical aid. The goal of initiatives supported by the World Bank, the European Union, and other development partners has been to fortify the legal system in order to advance good governance and the rule of law. However, local opposition and an absence of political determination for complete reforms frequently limit the lasting effect of these initiatives. International players usually endorse programs that concentrate on judicial openness, anti-corruption measures, and capacity building; nevertheless, because of Madagascar's complicated political dynamics, these initiatives have not always been successful in bringing about long-lasting reform.

Public Engagement and Policy Gaps: The effectiveness of laws supporting judicial independence depends on public opinion and participation. Public views of political meddling and corruption in Madagascar lead to poor public trust in the judiciary. More public involvement in the reform process is necessary, but this has not been sufficiently addressed by policies meant to support judicial independence. A demand-driven strategy for carrying out policies might be established by including civil society in judicial changes and contributing to the development of

public confidence. Further bolstering the impartiality of the court would be educational training for the public and legal literacy initiatives that enable individuals to demand court legitimacy and integrity.

4. Conclusion

A complex interaction of historical, institutional, and socio-political elements is apparent in the public's understanding of statutory independence and the role of international organizations in fostering judicial independence in Madagascar. The promotion of judicial independence has benefited greatly from the efforts of international organizations, yet obstacles still stand in the way of achieving this objective. Accessibility, political meddling, and persistent corruption concerns continue to shape public opinion, which is still a significant barrier. Moving ahead, improving public image and actual judicial independence in Madagascar may require a more coordinated strategy that mixes legal reforms with public engagement and education initiatives. A number of complicated issues, such as the functioning limitations of the court and the political context, influence people's impression of statutory independence in Madagascar. The promotion of judicial independence has been greatly aided by international organizations, but in order to have a lasting effect, these organizations' initiatives must be tailored to the local environment. The results of this study highlight the necessity of ongoing efforts and specialized tactics to support judicial independence and public confidence in Madagascar's judiciary. Despite the existence of legislative regulations and strategies in Madagascar to support independent judiciary, a significant barrier still exists between the creation of policies and their actual execution. Resource limitations, lax enforcement procedures, and political meddling all work against these programs' efficacy. International organizations have aided in the advancement of judicial reforms; nevertheless, more local ownership, political will, and public participation are necessary for successful implementation. Policies aimed at improving public confidence and transparency must be prioritized alongside legislative changes in order to establish sustained judicial independence. This can be achieved by lowering the executive's control over judge selections and promotions, increasing private sector participation, and putting legislation against corruption into practice effectively. Promoting general awareness of the value of judicial independence requires a multifaceted approach that targets different segments of society. Educational programs should be implemented in schools and universities to teach the importance of an impartial judiciary in maintaining democracy and the rule of law. Public campaigns through media outlets, including social media, television, and print, can help reach a broader audience and emphasize how judicial independence safeguards citizens' rights. Legal institutions and organizations could host seminars, public forums, and workshops that highlight real-world examples where an independent judiciary has played a crucial role in protecting individual freedoms. Additionally, fostering open dialogue between the judiciary and the public can demystify legal processes and build trust in judicial institutions. Governmental

support for civic education initiatives that underline the separation of powers is also essential. Collaboration with international bodies can bring global perspectives on best practices for maintaining judicial independence. Lastly, recognizing and addressing threats to judicial independence in public discourse reinforces its necessity for a fair and just society.

5. Policy Recommendations

- Reform the appropriate legislation and the constitution to restrict the power of the executive branch, especially the President, over the Conciliation Supérieur de la Magistrature (CSM), the High Council of the Judiciary. In order to guarantee that important judicial officials like the Chief Justice and members of the CSM are selected through a more open, merit-based procedure—possibly with the assistance of independent panels or civil society—this would need changing the recruitment procedure.
- Design more robust legal structures and regulatory systems to guarantee that all arms of state uphold and carry out court rulings. This might entail establishing a separate oversight organization to keep an eye on and document the application of court decisions, especially when they concern prominent or influential politicians.
- Establish thorough initiatives to combat corruption in the judiciary, such as the establishment of a separate anti-corruption unit dedicated to looking into and prosecuting cases involving corruption in the realm of law. To guarantee openness and legitimacy, this unit should work together with regional civil society groups as well as global anti-corruption agencies.
- To increase the general awareness of the value of judicial independence, start organizing outreach initiatives, social responsibility training projects, and open discussions. In order to inform the people about the legal system, their privileges as citizens, and how international organizations promote changes, it is imperative that the media, educational institutions, and civil society groups work together.
- Implement steps to improve the openness of the judge appointment process, such as making the selection procedures and appointment criteria public. In a similar vein, media coverage and frequent public reporting on court cases—especially those with national importance—should increase transparency.
- Keep working to improve the judiciary's capabilities by collaborating with international organizations including the African Union, the United Nations, and other development partners. In order to increase productivity and decrease backlogs, this entails continuing education initiatives for judges, prosecutors, and court employees in addition to technological assistance for the digitization of court data and procedures.
- Create lasting, locally driven judicial reform initiatives. International organizations ought to concentrate on giving regional entities and stakeholders—such as academics, civic society, and constitutional experts—the authority to spearhead reform plans. This involves shifting from relying on outside funding sources to

regionally controlled and supported projects.

- Establish an impartial judicial appellate committee to evaluate instances involving claims of misconduct by the judiciary or intervention in politics. To guarantee unbiased inquiries, this agency should function independently of authorities and the legal system.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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