

The american model of judicial selection vs. the civil law model of judicial sele...

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Introduction

The American model of judicial selection entails the appointment of judges through an election process. This method is preferred because it enhances independence in the practice of justice. On the contrary, in the civil model, a person is appointed a judge based on his legal knowledge and experience (Whittington, Kelemen & Caldeira, 2008). Similar to the American model, there are consultations prior to the appointment of the judge in the civil law model. As such, a lawyers' performance is evaluated before he/she is appointed to serve the public. This piece discusses the legal issues on appointment of judges either by the American model of judicial selection or the civil law model of judicial selection.

Ethical issues on the American model of judicial selection

The selection process in the American model is open and highly unlikely to face interference from the politicians. Usually, authorities consult before appointing the judges (Whittington, Kelemen & Caldeira, 2008). The nominee ought to have practiced as lawyers before their appointment as judges. The American model has several weaknesses; for instance, the public can foretell who is likely to be appointed as a judge. Moreover, it is a democratic process of selecting judges because it does not interfere with the constitutional court structure. In the process, the supposed judge should be a person of high integrity.

According to Tarr (2009), prior to selection, the candidates list their servings

to the public for scrutiny. This provides an opportunity for the public to elect competent judges from a panel of lawyers. Furthermore, in the American model, a candidate has to seek endorsement from non-governmental authorities before their appointment to serve as a judge. For example, in Oregon, an endorsement of the judge by the public signifies credibility in services as a lawyer.

Ethical issues on the civil law model of judicial selection

The appointing body that uses the civil system has a wide selection to choose from as opposed to the American model (Tarr, 2009). Authorities can incorporate their traditional values to the civil system when appointing judges. The Civil law model focuses on the overall development of the justice system and the society. Countries prefer the model of appointment because it allows for flexibility in the choice of individuals to serve as judges.

Moreover, there is anonymity on who will be the judge. However, the public can play a role in the process by influencing the appointments. This can result to unfairness in the delivery of justice to the public. As such, an extremist can become a judge. Indeed, a civil law model promotes democracy in countries that lack judicial independence. Neubauer & Meinhold (2012) asserts that the system is preferable for countries with few practicing lawyers.

Ethical issues on both systems

The focus is on the competence of a judge in both systems, thus, it is upon the judge to uphold dignity in the delivery of justice. The judges' integrity and legal capability is imperative in both the processes of appointment.

Indeed, the public is assured that their expectations are being met

(Neubauer & Meinhold, 2012). The American system is unique since the populace is capable of removing the judge from office by a vote of no confidence. The experience of a judge is analyzed based on his /her judgments of the past in both models of judicial appointment.

Conclusion

A country should use a model that institutionalizes the judiciary, thus, ensuring justice to all. Moreover, a model for the appointment of judges should simplify the judicial appointment procedures. An integration of American model to the civil law model will enhance integrity in judicial system of the United States. Lastly, it is significant to address ethical issues regardless of the model used in appointing judges to promote fairness in the society.

References

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