

**17<sup>th</sup> February, 2012**

**To:** Imran Ahmed Shah

**Cc:** MAG Nominating Committee & IGC

**From:** Salanieta Tamanikaiwaimaro aka Sala (Co-coordinator )

**Re:** **Decision Concerning Complaint Against MAG NomCom List of Nominees**

**Dear Imran,**

### **Brief Summary**

A complaint was sent to the Coordinators urging us to review the list of Nominees selected by the MAG Nominating Committee. I acknowledged receipt of the complaint.

For the sake of transparency and accountability, the Coordinators advise that as far as addressing this issue is concerned, Izumi Aizu as co-Coordinator has recused himself as a nominee and so the determinations made in this instance is mine exclusively.

To help explain the processes that went in this decision making, I am enclosing the facts pertaining to the complaint, analysis and decision. The complainant in this instance is Imran Ahmed Shah of Pakistan.

Whilst the complaint reached me on the 2<sup>nd</sup> February, 2012, I deliberately chose not to act on the complaint until I was in receipt of the MAG Nominating Committee Report. It would have been improper for me to review the complaint without first seeing the MAG Nominating Committee Report. The decisions of the MAG NomCom were without any interference from the Coordinators.

On 16<sup>th</sup> February, 2012 at 2:41am UTC +12 I received the MAG Nominating Committee's Report. I sent the MAG Nominating Committee Report to the IGC on the same day at 4:26am UTC +12.

The role of the Nominating Committee is a critical role and their independence is not to be taken lightly. Any complaint against their decision in terms of selection of nominees to the MAG must be addressed properly. Whilst the Nominating Committee is independent, it is accountable to the IGC and is bound by the Charter.

### **Analysis**

#### **The Complainant**

Imran Ahmed Shah is a voting member by virtue of having voted in the last IGC elections and has been a member for one year and four months. He is a well respected member of the list and is part of the Urdu Internet Society and Council and President of the Pakistan Internet Governance Forum. He is an active member of the list and is always volunteering to help out. Imran has locus standi in this matter.

## The Complaint

- 1) That one of the Nominees that was selected is ineligible for selection because of membership of the Internet Governance Caucus Civil Society Appeal Team (IGC CS Appeal Team) and called for a review of the Charter, the Appeal Team and the Selection;
- 2) That there is a delay in justice and that this is injustice;

## Application of the Charter

There are two relevant portions of the Charter that need to be considered in assessing the nature of the complaint.

The first part of the Charter that requires observation is the composition of the Appeals Team.

### **Appeals team**

*An appeals team of five (5) IGC members will be formed. The appeals board will be selected yearly by a randomly selected nominating committee as defined [here](#). Coordinators are not qualified to be members of the appeals team.*

### **NomCom Process Details**

*4. All nomcom participants, voting and non voting, will be disqualified from selection as candidates for the list or team being chosen. Members of the **current appeals team** will also be disqualified from being chosen. [underlining and emphasis is mine]*

## Tenure of Appeals Team

The question before me is who is in the current appeals team. The website currently describes the following<sup>1</sup>:-

*“The current Appeals Team selected in 2010 comprises Avri Doria (North America/Europe), Charity Gamboa-Embley (North America/Southeast Asia), Fouad Bajwa (South Asia), Ginger Paque (LAC) and Lee McKnight (North America)”.*

The Charter clearly describes the tenure of each Appeals Board which demands that the Appeals Board is renewed yearly. The Appeals Board that was selected in 2010 if the Charter were strictly applied, would mean that it would expire in 2011. The use of the word “renew” implies that terms can be renewed. My review of members of previous years Appeals Team, imply that certain Appeal members were re-selected in the past.

Since there has been no selection process, there is no Appeals Team currently sitting. I find that the 2010 listing would have expired in 2011.

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<sup>1</sup> <http://igcaucus.org/appeals-team>

I find that the website content needs to be revised and edited and that Coordinators have to initiate the process where the Nominating Committee select the Appeals Team. If the Nominating Committee in their deliberations elect to re-select the Appeals Team members, then it is their discretion.

#### **Examples of things that need revision on the website**

*"The current Appeals Team selected in 2010 comprises Avri Doria (North America/Europe), Charity Gamboa-Embley (North America/Southeast Asia), Fouad Bajwa (South Asia), Ginger Paque (LAC) and Lee McKnight (North America)".*

The Charter expressly states that the Appeals Board will be selected yearly. The Appeals Team selected in 2010 would have had their term expired.

*The IGC Statement Workspace which states "Please direct any questions to IGC co-coordinator Jeremy Malcolm."*

Elections have since been held since Jeremy Malcolm's term expired.

I find that with regards to Imran Ahmed Shah's first complaint, since there is no Appeal Board, it follows that the complaint cannot stand.

As to the second complaint in terms of delayed justice, I find that there were things beyond the realm of our control as coordinators. I had undertaken to make a decision once the MAG Nominating Committee's Report would arrive. This Report was sent to me on the 16<sup>th</sup> February, 2012 and sent to the list. This decision is made on the 17<sup>th</sup> February, 2012.

As such I find that after applying the Charter rules, the complaints do not have any merit and as such dismiss the complaints. The role and integrity of the MAG Nominating Committee (NomCom) is a critical one and their independence must be protected at all times without interference. The NomCom

The Nominating Committee or an independent NomCom can be commissioned to select the Appeal Team, should the complainant in this case elect to appeal this decision.

Given the extension that the United Nations Internet Governance Secretariat has given the IGC till 24<sup>th</sup> February, 2012 to submit nominations. It is up to the NomCom to exercise its discretion to select further candidates and/or to add or remove nominations.

**ENDS**

## SCHEDULE

### Facts

#### **Chronology of Emails**

#### **Caveat to list of Chronology**

*Given the numerous emails surrounding the issue, I have included emails that are related to the complaint. For those who want to see the dialogue and emails that ensued, kindly access your inboxes or archived mail.*

#### **February 2, 2012**

- Upon being informed by the MAG Nominating Committee, Ms Jacqueline Morris, alerted the IGC that the pool of nominees had been selected.
- Imran Ahmed Shah of Pakistan sent an email was sent to the IGC Coordinators, NomCom and Appeal Team by stating the following:

*“The Member of the IGC CS Appeal Team can not be the selected as Member for MAG. Please review the Charter and the Appeal Team List and the Selection List”.*

- Avri Doria<sup>2</sup> also responded to this email stating the following,

*“Yeah the information is in the Nomcom instructions:*

*> All nomcom participants, voting and non-voting, will be disqualified from selection as candidates for the list or team being chosen. Members of the current appeals team will also be disqualified from being chosen.”*

- Imran responded via email and stated,

*“With reference to following remarks, the letter needs immediate revision please:*

*Quote Start:*

*It is in the nomcom document.*

*All nomcom participants, voting and non-voting, will be disqualified from selection as candidates for the list or team being chosen. Members of the current appeals team will also be disqualified from being chosen.”*

- Imran responded to Avri’s comment in another email and stated,

*“Thanks for supporting remarks as a Memeber of Appeal Team, Avri.*

*Regards*

*Imran “*

- On February 2, 2012, Imran stated in an email,

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<sup>2</sup> avri@acm.org

*“Dear(s) Coordinators, NomCom and Appeal Team*

*With reference to folloing discussion, and appeal for the revision, may I expect any feedback, justice, hope for the revision of list from NomCom? And the revised version of Letter to Under Second Gen.*

*Thanks*

*Imran”*

## **February 4, 2012**

- I sent an email to the list to respond to threads criticising the NomCom and stated,

“Now that the Selection Process has been concluded, it is only proper that we wait for the Report by the NomCom Chair. As much as possible whilst the issues are related, that is of current selection and improvements to the process, I would like to keep these discussions "separate".

- Imran sent an email stating the following,

“Dear All,

I agree with Avri that "Nomcom had lots of time for the discussion of criteria.."

[IAS] .. and to understand the IGC Charter and Criteria about the selection through NomCom.

And I also agree with the Avri that "But when people do not seem to be following them. one wonders whether we might not start following the rules first so that we know what we need to change and why."

Sala has acknowledged that the Objection on the NomCom decision has arrived.

If the Objection is about the "not" following the IGC "Criteria".

It is up to coordinators they just make the objection as Statistical Record in NomCom process Report or involve Appeal Team to review the NomCom decision and issue the amendment / reversion of selection results for immediate use.

Appeal Team also have read the Acknowledgment of Complaint and may start working with close interaction with the IGC Coordinators to provide Justice.

'To delay justice, is injustice.' --WILLIAM PENN”

- **I sent Imran and the IGC an email and stated**

“Dear Imran,

Please refer to my earlier emails in relation to how we will proceed. To allege that there has been a delay in administration of justice is over exaggeration. We, like everyone else, will patiently wait for the NomCom Chair to deliver their report. You have already sent us your email about your complaint and we are in receipt.

Kind Regards,  
Sala”

## **February 14<sup>th</sup>, 2012**

- Imran sent an email stating,

“Dear(s) Coordinators, NomCom and Appeal Team

With reference to following discussion, there is an update from IGF Secretaries that deadline has been extended until 24 February 2012 for the nominations.

Would you please revise the Nomination's List according the IGC Charter?”

Thanks

Imran Ahmed Shah”

- Imran sent an email stating,

“Dear(s) Coordinators, NomCom and Appeal Team

With reference to following discussion, there is an update from IGF Secretaries that deadline has been extended until 24 February 2012 for the nominations.

Would you please revise the Nomination's List according the IGC Charter?

Thanks

Imran Ahmed Shah”

- I replied to Imran and the IGC and stated,

“Dear Imran,

Yes we saw it the first time when Avri sent the notification.

As per my last advice, kindly wait for NomCom to produce its report. They are in the process of finalising their report. We will address your complaint once the NomCom releases its Report.

Kind Regards,  
Sala”

- Imran sent and email and stated,

“Okay, Thanks Sala for your promot reply.

I hope that the described process will be arranged upto extended deadline of the Nominations.

Regards

Imran Ahmed Shah”