



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "

International Commission of Jurists Plan of Action 2009-2011

Protecting rule of law and human rights in a changing world

The ICJ Vision and Mission

The ICJ has a vision of the world in which, through the rule of law, a just, democratic and peaceful society can be achieved. A vision based on the rule of law, not as a static set of rules, but as a dynamic concept that protects against arbitrary power, expands freedoms and embraces justice. A rule of law under which everyone is entitled to, without discrimination, their civil, cultural, economic, political and social rights.

Our vision is one in which everyone in society is equal before the law and protected from human rights violations by the law and in practice; in which those in power are held accountable and brought to justice if they violate human rights; where victims have access to remedies and justice and those who come before the courts receive a fair trial and never face the death penalty.

The ICJ's vision requires judges, lawyers and prosecutors to be truly independent, enlightened and courageous, and free to carry out their professional duties. It demands that international law, especially human rights and humanitarian law, should be a powerful tool for protection and advocacy and should be implemented through effective national and international procedures.

The ICJ Network of judges and lawyers is united by a belief that international law and the rule of law are powerful instruments to further the enjoyment of human rights by everyone. The "rule of law" broadly reflects the idea that law must be just (i.e. in accordance with human rights norms) and able to protect people from the arbitrary exercise of power. The "rule of law" also implies that the State must develop effective executive, judicial and legislative institutions as checks and balances, to respect, protect and fulfil the human rights of all people and to hold the State accountable when it violates rights.

Introduction

The ICJ is formed by a group of up to 60 Commissioners, all prominent jurists, coming from all parts of the world. The ICJ is also a network: in addition to its Commissioners, this network consists of Honorary Members, National Sections and Affiliated Organisations. The ICJ forms strategic alliances with like-minded organisations to carry out specific actions. The ICJ Network is a very powerful advocacy platform, capable of mobilising action at the highest level. It also offers a vast diversity of legal expertise from all continents.

The principles that unite this global network of judges, lawyers and human rights defenders – international law and rule of law principles that advance human rights – are essential to address the fundamental challenges described in this Plan of Action 2009-2011: “Protecting the rule of law and human rights in a changing world”.

Over the last four years a new strategic plan has succeeded in helping the ICJ to expand its infrastructure and organisational foundations for achievement of greater impact and implementation of a growing body of work. This has been made possible through the steadfast support of the ICJ’s generous and engaged donors, and with guidance from the Board of Commissioners. The next three years will see a consolidation of this growth. The process of establishing regional and country offices, started in the period 2005-2007, has continued in 2008 with the establishment of an office in Africa and the start of a European programme of work. The ICJ believes that for the organisation to be operating on successfully on an international scale, it must have a presence in the different regions. This enables a better understanding of issues at the country and regional levels, the development of stronger ties to its network in these countries and consequently having greater impact of its legal work.

The ICJ regional programmes focus primarily on promoting and supporting the independence and accountability of the judiciary and on rule of law and human rights issues particular to their regional contexts.

The ICJ international programme focuses on international law and protection as well as initiatives supporting the independence of judges and lawyers. Within its work on international law and protection, the ICJ strategy over the next period will conduct work through different thematic project areas: Global Security and Rule of Law, International Economic Relations, Economic Social and Cultural Rights, Sexual Orientation and Gender Identity, UN System and Gender and Women’s Rights.

The project on Global Security and the Rule of Law (GSRL) addresses the relationship between terrorism, counter-terrorism and the rule of law as a centrepiece of its activities. In October 2005, the ICJ launched an independent, high-level panel of eight eminent jurists, the Eminent Jurists Panel on Terrorism, Counter-Terrorism and Human Rights (EJP). Through a series of hearings in all regions of the world, the EJP Panel has explored whether counter-terrorism measures that depart from international human rights and humanitarian law can be justified in light of the terrorist threats. The global report containing the findings and recommendations of the EJP was presented at the ICJ Congress in December 2008, and will be officially launched in February 2009. Its launch and dissemination will be used to advocate for changes that promote respect of human rights in the fight against terrorism at the highest levels in specific government and inter-governmental agencies. Apart from the advocacy related to the report, and as a follow up to this programme, the ICJ will work on the

development of new standards and initiatives in the areas of military justice and emergency laws. It will also explore areas of accountability with regard to intelligence services, and it will continue to make strategic legal interventions related to terrorism and counter-terrorism cases.

Since establishing the project on International Economic Relations (IER) in 2006, the ICJ has become a recognised actor in this area, especially in the struggle against impunity for human rights violations, in support of the legal accountability of businesses and provision of remedies and reparation for victims.¹ The ICJ has also been deeply involved in standard-setting initiatives and debates in the United Nations. The programme's objective is the development and consolidation of relevant international law standards and principles to enable corporate accountability and the promotion and enhancement of access to justice by victims of corporate abuse. To clarify and develop standards and principles in this area of emerging importance the ICJ works with international legal experts, carries out research, supports litigation, and offers consultation to enhance access to justice by victims of corporate abuse.

Through its project on Economic, Social and Cultural Rights (ESCR), the ICJ has stepped up its work to demonstrate and reaffirm the “justiciability” of these rights. The main aim of the ICJ in this field is for victims whose economic, social and cultural rights have been violated to have access to complaint mechanisms and to obtain remedies. An important milestone was achieved in December 2008 with the adoption of the Optional Protocol to the ICESCR (International Covenant on Economic, Social and Cultural rights) by the UN General Assembly. The ICJ played an important role throughout the process; it co-founded in 2002 the coalition that pioneered for the creation of a new complaint mechanism and provided legal expertise throughout. The ICJ contribution has been singled out by many of the relevant actors as being substantial and fruitful.² The ICJ project on ESCR will continue this line of work by preparing a legal commentary to the text of the Optional protocol (to be released early 2009).

The ICJ project on Sexual Orientation and Gender Identity (SOGI) also achieved significant success in showing how international human rights law does and should protect against abuses based on sexual orientation or gender identity, by writing a Practitioners' Guide on Sexual Orientation and Gender Identity (to be released in early 2009). In collaboration with rights groups active in this area, the ICJ is also working for UN human rights political and expert bodies to be more active and effective in protecting people against such violations.

Building on decades of experience in helping to create, use and reform the UN human rights system, the ICJ will continue to work for the new Human Rights Council (HRC) to retain the strengths of the former Commission on Human Rights and to move beyond its weaknesses. The ICJ will advocate for action by the HRC on specific, chronic or urgent country situations and thematic issues on which it has expertise. The ICJ will also explore further proposals for short and long-term reform and strengthening of the UN human rights treaty-monitoring system. Finally, the ICJ intends to begin exploring the feasibility of establishing a World

¹ Publications of the IER programme have been commented on, addressed, and informed important reports on this area, including those of the UN Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises (Special Representative on Business and Human Rights), and have been reviewed in mainstream news sources such as *The Economist*. Specific references available upon request.

² This includes explicit acknowledgments from the Chair of the Working Group of the Human Rights Council negotiating the Optional Protocol as well as other intergovernmental and non-governmental organisations working in this area. Specific references available upon request.

Human Rights Court. In respect to other organisations, the ICJ brings a detailed legal and rule of law perspective into this debate. For example, under the present Universal Periodic Reviews (UPR) debates, while other organisations document human rights abuses, the ICJ input is based on a juridical analysis of conformity with specific laws.

In the next year the ICJ will develop a project on Gender and Human Rights, which will focus on strengthening standard setting in the area of health and reproductive rights and engage in strategic litigation to fight against discrimination in labour, civil, and criminal law cases.

In addition to its work on international law and protection, the second axis of the ICJ work throughout its over 55 years of history has been the defence of the independence and accountability of judges and lawyers throughout the world.

The ICJ works for justice systems in countries around the world to be independent in law and practice, impartial and active in protecting human rights and freedoms and ensuring the rule of law. The ICJ intervenes at country level to seek changes in domestic laws and policies that will guarantee and sustain the independence of judges and lawyers. The ICJ also works to combat corruption in the judiciary and the legal profession.

In recent years, work on judges and lawyers has been mostly implemented by the ICJ regional programmes, for example through capacity building, defence and protection. These activities also inform the international work of the ICJ, for example through press releases and international advocacy in specific cases. In the coming three years, the ICJ plans an expansion of this area of work, through re-establishing its Centre for the Independence of Judges and Lawyers (CIJL) at the International Secretariat in Geneva in order to improve the efficiency and impact of this work. This Centre will help build the capacity of justice systems to implement international law and principles, and strengthen the ICJ's leadership role on issues related to the administration of justice.

In line with its work on the Independence of Judges and Lawyers, the ICJ Congress that took place December 2008 in Geneva was dedicated to the theme the role of judges and lawyers in times of crisis and adopted its "Declaration and Plan of Action on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis."

Objectives and strategy 2009-2011

The main goal of this Plan of Action is to explain current and new activities that will promote and protect human rights and the rule of law worldwide. The main objectives are protecting and developing international law and supporting the independence of judges and lawyers.

The ICJ uses a comprehensive advocacy strategy to change laws, policies and practices of governments and State institutions so they abide by the rule of law and human rights. The primary targets of ICJ's advocacy are the three branches of the State – executive, legislature and judiciary - with a special focus on the judiciary as both a partner and target of ICJ's work. The ICJ also informs and mobilises those who are able to influence the institutions of the State, such as inter-governmental organisations, NGOs, the legal profession and academics.

The Plan is divided into three sections, International Law and Protection, Judges and Lawyers and Regional Programmes, which, taken together, outline the main priorities for the ICJ global work in 2009 and over the coming three years.

The International Law and Protection Programme

A core role for the ICJ is to work for the continuous development of international law so that it remains a vital and increasingly effective tool to achieve the universal realisation of all human rights and to protect victims and hold states and non-state actors accountable for human rights abuses. The International Law and Protection Programme (ILP) currently has five principal project areas with dedicated staff working on global security and the rule of law; international economic relations; economic, social and cultural rights; sexual orientation and gender identity; and advocacy at the United Nations and reform of the its system of human rights protection. A new area of expertise within the ICJ will be developed from 2009 onwards on gender and discrimination. What follows is a general overview of the main objectives, outcomes and activities in each of these project areas.

Global Security and Rule of Law (GSRL)

The ICJ has long worked in addressing human concerns arising from terrorism and counter-terrorism, and this work was greatly stepped up in the aftermath of the attacks of September 11, 2001. Terrorism and counter-terrorism continue to present one of the most significant challenges to the human rights movement. Over the past three years, the ICJ held sixteen hearings in respect of this in countries under the aegis of its Eminent Jurists Panel on Terrorism, Counter-terrorism and Human Rights (EJP), constituting perhaps the most comprehensive initiative aimed to gather first hand information and provoke debate and reflection on the laws, policies, and practices in this critical area of national and international law and policy. The EJP have confirmed the responses to September 11 have contributed to an erosion of fundamental human rights principles throughout world. The departure from, or questioning of, fundamental human rights standards by leading democracies has given new legitimacy to laws and practices that have long been considered typical only for repressive regimes, and has made the human rights protection framework vulnerable to arguments of relativism and exceptionalism on the basis of national security.

As the threat of terrorism will continue to pose real challenges, there is an increasing risk that these erosions will become entrenched and irreversible. At present, human rights have not been adequately integrated into longer-term responses to terrorism. Particular threats posed to human rights include the militarization of the justice system by some States through military or special State Security Courts. Another has been the shift from a law enforcement and criminal justice model to an intelligence-based approach. The lack of explicit standards or guidelines on human rights and intelligence has contributed to human rights violations and impunity. Post 9/11, countries resort to states of emergencies or justify long-standing emergencies using the threat of terrorism. Others are considering incorporation of emergency powers into permanent legislation while established democracies tend to adopt special laws without declaring a formal state of emergency. The results are forms of permanent exceptionality in which special measures and laws risk becoming permanent features.

Overall Objective

The goal of the project on Global Security and Rule of Law is to ensure full respect for human rights in the context of counter-terrorism and other national security measures, to prevent, minimize, and reverse negative effects of such measures on human rights law and humanitarian law. The ICJ expects to achieve measurable progress toward the above goal by 2012. Among these measurable achievements will be the following:

Outcomes and activities

1. Outcome one of the project on Global Security and Rule of Law is expected to be broader official and public understanding of the need for ensuring rule of law and human rights protection in existing and new counter-terrorism measures; better integration of human rights concerns at all levels of the counter-terrorism response; and reversal of some laws and policies.

Activities toward this outcome are expected to include:

- Launch of the EJP Report in Geneva followed by launch and dissemination events in London, Washington, and Brussels;
- Promotion and advocacy to the UN in both New York and Geneva;
- A media strategy targeting key journalists covering this field in important media outlets, using op-ed commentary launching the EJP Report into policy debates;
- Translations of the EJP Report into Arabic, French, Spanish and Russian;
- Publication of the summaries of the 16 EJP hearings themselves;
- Presentation of the Report's findings to the Parliamentary Assembly of the Council of Europe, the Commissioner for Human Rights, and the Venice Commission, actively seeking integration of the recommendations into their work;
- Promotion of Report's findings with the Organisation for Security and Cooperation in Europe (OSCE), the Organization of American States (OAS), as well as other European agencies;
- Events with leading think tanks (Wilton Park in London), and promotion at the Club de Madrid, the Global Elders, gatherings of leaders, philanthropists, and individuals;
- Dissemination and promotion strategy in the Middle East and North Africa region;
- Visits to countries where the question is both of high local relevance for briefings and presentations to members of parliaments, ministries, think tanks, the legal and human rights community, etc. (US, key Member States of the European Union, including the UK, Poland, Sweden (EU Presidency in 2009), and other countries);
- Two advocacy missions to the United States with high-level briefings to key law and policy makers, influential think tanks and the legal community;
- Focus on two to three countries where impact is seen as having the greatest potential (to be determined), employing similar methods in stocktaking and review.

2. The second outcome is expected to be high impact legal actions on counter-terrorism measures that have potential and real effects beyond their specific jurisdictions (and engagement in at least six).

Activities toward this outcome are expected to include:

- Monitoring and responding to legislation in cooperation with ICJ Regional Programmes using various entry points (draft legislation, domestic reviews of counter-terrorism laws, submissions to the UN Human Rights Committee, etc.);

- Legal interventions in individual cases (*amicus curiae*) and other advocacy initiatives (letters, press releases, briefings and legal memoranda) at the domestic level or at regional courts in countries covered in the EJP hearings, especially in Member States of the EU, the US, the Russian Federation, the Maghreb, South Asia and South East Asia;
- Continued publication of the monthly ICJ E-bulletin on Counter-terrorism and Human Rights, as well as a European version of the E-bulletin in the European Human Rights Reports and to increase both publications' dissemination;
- Two comparative legal studies of counter-terrorism legislation on one sub-region (e.g. the Maghreb or South East Asia), cooperating with regional programmes.

3. The third outcome is expected to be increased consideration and support for new, clarified standards in pursuit of intelligence accountability, the role of military tribunals and jurisdiction; and guidance on the scope of states of emergency in order to prevent permanent states of exception.

Activities toward this outcome are expected to include:

- A study, on the basis of the EJP Panel's work and an exploratory seminar conducted with the Geneva Center for Democratic Control of the Armed Forces (DCAF) in 2007, on accountability of intelligence agencies and international intelligence cooperation;
- One expert workshop with human rights lawyers, academics, international organisations, and intelligence oversight personnel in Strasbourg;
- Advocacy for, and submissions on, legal interventions on intelligence accountability;
- One side-event on terrorism and intelligence at the UN Human Rights Council;
- A report (with DCAF) on intelligence accountability;
- A second expert seminar on intelligence accountability mechanisms in Brussels;
- Research, compilation and publication of a second, detailed study on states of emergency and other effective emergency legislation in the post-9/11 era (first publication in 1983);
- Launch event for the states of emergency study (promote, disseminate, and conduct targeted advocacy at the universal, regional, and country levels);
- Finalize research on legal standards and the practice regarding trial of civilians before military courts and the investigation of crimes by the military;
- One expert seminar to further develop consensus (including among military lawyers), and build support for adoption of standards by the Human Rights Council;
- Legal advocacy and interventions in specific countries on military jurisdictions (a minimum of 2-3 interventions);
- A second expert seminar on the legal competencies of military tribunals regarding military personnel involved in human rights violations;
- One side event focusing on this issue during the Human Rights Council;
- Lobbying for adoption of human rights standards for military tribunals by the Human Rights Council.

4. The fourth outcome is to provide practical interventions for the protection of rule of law norms and human rights in countries experiencing acute crises caused by terrorism and/or activities justified in terms of counter-terrorism.

Activities toward this outcome are expected to include:

- Preparation for deployment of a crisis-response capacity;
- Identification of countries for monitoring and early warning;
- Use research indicators for early warning, deployment of one crisis-response mission to an emergency situation, where the rule of law is under threat;
- Fact-finding, documentation, analysis of legal and constitutional issues, and prepare briefing papers and recommendations for stakeholders to prevent the collapse of the rule of law;
- Expanded staff to enable at least two to four strong crisis-response missions per year;
- Report on rapid-reaction missions in rule of law crises;
- Follow-up advocacy in the focus countries as well as at the international level.

International Economic Relations (IER)

Since establishing the project International Economic Relations in 2006, the ICJ has been actively involved in this area, working in particular against impunity for human rights abuses by businesses and other economic actors and for their legal accountability, for remedies and reparation for victims, and for standard-setting at the United Nations. In 2008, the ICJ published the report of the ICJ Expert Legal Panel on Corporate Complicity in International Crimes. The Panel consisted of renowned lawyers from a variety of legal traditions and the report clarified the legal and public policy meaning of corporate complicity in gross human rights abuses and identified how criminal and civil law can hold them accountable. The ICJ's advocacy will now integrate the report's recommendations on the liability of corporations into the human rights policies of businesses, the strategies of litigators acting on behalf of victims, the approaches of courts in their decision-making, and the policies of governments and inter-governmental organisations.

Objectives

The overall objective of this project is to make significant contributions in international legal and policy areas related to corporate accountability and human rights. The specific objectives, in this area, are: 1) to promote the widest possible acceptance among relevant governments and stakeholders of the need for internationally agreed principles and standards and to achieve progress towards their formal elaboration; 2) to provide greater access to, and use of judicial and non-judicial bodies at the national, regional, and international levels by victims of abuse; and 3) to contribute to identify, clarify and develop the law in relation to responsibilities of business responsibility and accountability.

Outcomes and activities

1. Outcome one of the project on International Economic Relations is expected to be a greater level of awareness, acceptance of the need for internationally agreed principles and standards addressing business activities and their impact on human rights. This includes a greater awareness among policymakers, including legal advisers in specific governments and intergovernmental organisations, the business community, legal counsellors and executives in major multinational corporations, human rights defenders and public prosecutors worldwide.

Activities and outputs for outcome one are expected to include: written briefings; two discussion papers; one published paper on principles and standards; a summary report on capacity building efforts with governments and businesses; a compilation of advocacy submissions to the UN Human Rights Council and subsidiary bodies, including briefings to the Council concerning victims; summary briefings of regional seminars in Asia, Africa, and Latin America; written submissions to regional bodies.

2. The second outcome of the project is expected to be enhanced consideration at the international level on the question of access to justice for victims of human rights abuses that involve corporations, and the obstacles to such access. The project will work to ensure that important strategic cases will be addressed by relevant judicial bodies and/or international organisations (OECD, ILO, UN Human Rights bodies, etc.).

Activities and outputs for outcome two are expected to include: four complaints submitted to judicial or quasi-judicial bodies; between two and five *amicus curiae* briefs; a summary report on mobilization of the ICJ Network (Affiliates and Sections worldwide) in legal and quasi-legal interventions; five “mapping papers” (two on Asian countries, two on African countries, and one on a Latin American country).

3. A greater consensus is expected to emerge among a diverse set of stakeholders, including local and international civil society organisations as well as inter-governmental agencies, on the nature and scope of the responsibilities of businesses under international human rights and international humanitarian law. Among the important positive consequences of such an outcome is that there will be increased attention paid to ways to prevent or avoid complicity in serious violations.

Activities and outputs toward this outcome are expected to include: a summary of expert opinions offered to the Human Rights Council’s Special Procedures; a summary report on each of three major regional seminars; a summary of relevant communications with and initiatives by ICJ Network members related to recommendations of the report on corporate complicity; a summary of two gatherings of broader networks of NGOs working on business and human rights.

Economic, Social and Cultural Rights (ESCR)

A long-standing and core feature of the ICJ’s perspective on international law is that economic, social and cultural rights are an integral part of international human rights law, interdependent with and indivisible from civil and political rights.

Objectives

The specific objectives of the ICJ’s project on Economic, Social and Cultural Rights are to:

- Increasingly enable victims to seek and achieve remedies at the international level for violations of economic, social and cultural rights;
- Ensure the implementation of economic, social and cultural rights standards in domestic law;
- Expand through test cases and impact litigation the availability of remedies for violations of economic, social and cultural rights;

- Increase acceptance among judges, lawyers and governmental policy-makers of the justiciability of economic, social and cultural rights.

Outcomes

1. Outcome one of the Economic Social and Cultural Rights project will be the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Optional Protocol) by as many countries as possible, with the goal of ten by the end of 2009. The Protocol will come into force three months after the tenth signature.

Activities for outcome one are expected to include: coordinated actions with the NGO Coalition partners to step up advocacy work to ensure ratification and use of a comprehensive Optional Protocol. The ICJ will produce written material in respect of advocacy for ratification.

2. The second outcome is expected to be that domestic legislation incorporating economic, social and cultural rights standards is developed and adopted by specific countries.

Activities for this outcome include a Legal Commentary to the Optional Protocol, which will soon be ready for publication. The ICJ Commentary will provide a timely legal tool that will help in the advocacy and campaign for ratification of the Protocol by the States. Dissemination of the Optional Protocol and promotion of its use among NGOs, civil society groups and national human rights institutions will also help to raise awareness about the justiciability of ESC rights in their countries.

3. The third outcome is expected to be increased strategic legal interventions at the national, regional and international level in relation to economic, social and cultural rights.

With regard to activities for outcome three, in 2009-2011 the ICJ will work with its network members and other international and national NGOs to identify cases to bring before national, regional and international human rights systems, such as the Inter-American Commission on Human Rights, the European Court of Human Rights, the European Committee of Social Rights and relevant UN Treaty Bodies. Collaboration with ICJ regional programmes will allow for a selection of relevant cases and local partners. The ICJ will intervene in legal proceedings through:

- Third party interventions, including *amicus curiae* briefs, affidavits, expert testimony;
- Legal advice and support in cases taken by partner groups;
- The litigation will be accompanied by media work to add advocacy force to individual cases.

The ICJ will strategically select appropriate countries, in collaboration with its network and regional programmes, in which to intervene in lawmaking, policy and monitoring processes, to ensure the implementation of human rights standards regarding economic, social and cultural rights in domestic systems. These interventions will target key actors, including policy makers, judges, public servants, local organisations and national human rights institutions. The ICJ will engage in a broad range of activities: providing briefings and legal advice, assessing compatibility of draft legislation with international human rights standards, conducting advocacy, collaborating with local organisations, and training judges and public servants in the application of the law.

4. The fourth outcome is expected to be an increased acceptance of justiciability on economic, social and cultural rights.

Activities for outcome four are expected include the following:

- The ICJ will disseminate and promote its publication Courts and the Legal Enforcement of Economic, Social and Cultural Rights (ESCR Report), which systematically addresses the political and legal arguments used to reject the justiciability of economic, social and cultural rights. The report responds to arguments of the non-justiciability of these rights raised at the national, regional and international level. It challenges these objections and demonstrates through national, regional and international cases how judges and human rights experts are already rightly adjudicating on economic, social and cultural rights. The English version of the report was published in April 2008, and is ready now for its wide dissemination in 2009;
- The report will also be translated into French and Spanish, and will be made available in 2009;
- The ICJ will undertake targeted dissemination of the ICJ ESCR Report including ministers and civil servants; practising judges and lawyers through associations of judges and bar associations; and training institutes for judges and lawyers, including university law schools and organisations (inter-governmental and non-governmental) engaged in professional legal training.

Sexual Orientation & Gender Identity (SOGI)

Discriminatory national legislation, policy and practices continue to allow for, and leave unredressed, human rights violations on the grounds of sexual orientation and gender identity. Steps to address such violations are hampered by the lack of clarity on the nature and the scope of States' obligations under international law regarding the prohibition of discrimination, including discrimination based on sexual orientation and gender identity.

In 2009-2011, the ICJ's project on Sexual Orientation and Gender Identity, which began in 2006, will build on its recent achievements, such as its contribution to the adoption of the Yogyakarta Principles³, the updated compilations of related jurisprudence, and its successes in strategic litigations.

Objective

The overall objective of the ICJ's project on Sexual Orientation and Gender Identity is to further develop and consolidate rule of law and human rights protections against discrimination based on sexual orientation and gender identity rights.

Outcomes

1. Outcome one of the Sexual Orientation and Gender Identity project will be that principles on the application of international human rights law, including those reflected in the Yogyakarta Principles, are further strengthened so as to bring about greater compliance with principles agreed upon at the national, regional, and international level.

³ *Yogyakarta Principles: Principles on the application of international human rights law in relation to sexual orientation and gender identity*, adopted March, 2007 (<http://www.yogyakartaprinciples.org/>).

Activities in this area are expected to include:

- Publication, launch and dissemination of the ICJ Practitioners Guide on Sexual Orientation and Gender Identity (English and other languages);
- Introduction of the Yogyakarta Principles to the Inter-American Commission on Human Rights and launch of the Spanish-language Practitioners Guide;
- Briefings with UN human rights treaty bodies, European institutions, and African Commission on Human and Peoples' Rights on SOGI human rights law;
- Conduct regional seminars and trainings with human rights law practitioners worldwide (seven – ten countries).

2. The second outcome is expected to be that there is greater protection of rights related to violations based on sexual orientation or gender identity through an increasing number of legal cases.

Activities toward this outcome are expected to involve a broad range of strategic legal actions, including:

- Strategic litigation efforts, to extend human rights protections and roll back discriminatory laws (Caribbean litigation project, convening a regional planning meeting, providing expert legal advice, and coordinating associated legal advocacy activities);
- Support one to three other cases annually with legal interventions and/or *amicus curiae* briefs;
- Strategic legal interventions or briefings, to provide legal support to efforts to repeal discriminatory laws, and extend SOGI rights protection through the legislative processes and through inclusion of SOGI rights in the jurisprudence and general comments of UN treaty bodies (target: two to three legal interventions per year).

3. The third outcome is expected to be greater acceptance, integration, promotion, and protection of SOGI rights at the international level and the international human rights system, inter-governmental organisations, committees, and agencies.

Activities toward outcome three are expected to include:

- Capacity-building and monitoring efforts in the United Nations treaty bodies, special procedures, and OHCHR pursuant to developments in SOGI rights law, encouraging incorporation of the Yogyakarta Principles' into their work;
- Identifying and addressing gaps in UN human rights protection systems;
- Advocacy efforts tailored to SOGI rights in specific regions, in coordination with ICJ Network, regional human rights organisations, and the ICJ's regional programme staff;
- Conducting special advocacy efforts targeted at policymakers and governments in the Americas.

4. The fourth outcome is expected to be a sustained and heightened awareness, at the level of broader public opinion, of the issues related to sexual orientation and gender identity rights.

Activities toward outcome four are expected to include:

- Participate in three to four academic or expert meetings conferences per year to increase awareness of academics, lawyers, judges, journalists, and policymakers;
- Continue activities with researchers, law schools, bar associations, public officials, providing expert legal information;

- Support ICJ Network in advocacy and local public understanding, increasing knowledge of SOGI rights by Network worldwide;
- Make ICJ legal materials more readily accessible on the Internet as part of the comprehensive transformation of the ICJ's website.

Reforming & Mobilizing the United Nations

The ICJ has long played a leading role within the non-governmental community in the work of the UN human rights system, including the Human Rights Council and its predecessor body, the Human Rights Commission. Having been able to employ a Representative to the United Nations in 2007, the ICJ has increased, and will continue to increase, its engagement with the Human Rights Council, the Council's mechanisms, and the broader UN system. The ICJ seeks to shape the continuing reform process at the Human Rights Council to preserve and enhance its primary role in protecting and promoting human rights at the universal level, in respect of both thematic and country-specific concerns. The ICJ will also play a leading role among NGOs in reform of the human rights treaty bodies in its specific area of expertise. Over the next three years the ICJ will expand its work to target the Security Council, possibly the Peace Building Commission, and other New York-based UN institutions and bodies, including through a possible New York presence.

Objectives

There are two objectives of the ICJ work in the project on Reforming and Mobilizing the UN. The first objective, aimed at the new UN Human Rights Council, is to contribute to the creation and implementation of effective new mechanisms, procedures, and methods of work.

The second objective of this project, aimed at the U.N Human Rights Treaty-monitoring bodies, is to support and strengthen these bodies, particularly towards advancing implementation by states of their international human rights legal obligations.

Human Rights Council

1. Outcome one of the project on the Human Rights Council is expected to be the development and timely introduction into the negotiations of appropriate proposals from the ICJ, relating to the use of new mechanisms and procedures of the Human Rights Council.

Activities toward outcome one are expected to include:

- Submissions on countries to the Universal Periodic Review (UPR) process, seeking to establish effective precedents in the way it operates;
- Active participation in formal and informal working groups.

2. Outcome two is expected to be an increased number of Member States will adopt ICJ proposals relating to new mechanisms and procedures (for example the UPR).

Activity is expected to include: actively participate in and make oral interventions at every session of the Council, including Special Sessions.

3. Outcome three is expected to be larger and more coordinated alliances and coalitions of NGOs articulating common positions in relation to mechanisms and procedures.

Activities toward this outcome are expected to include:

- Advocacy with delegations prior to and during the Council sessions and the meetings of the working groups;
- Advocacy with targeted countries;
- Parallel events during sessions of the Council to advocate action by the Council on particular countries and themes;
- Public position papers and informal briefing notes for delegations to influence discussions;
- Regular NGO strategy meetings, encouraging the development of coalitions and alliances to advocate for action by the Council on countries or themes in which there are chronic serious human rights concerns or crisis situations.

4. Outcome four is expected to be individual Member States of the Council agreeing to raise particular concerns regarding crisis countries at the Council and to take a lead on seeking the support of other members of the Council.

Activities are expected to include:

- Proposals for situations on which Special Sessions should be convened;
- Enhanced advocacy in relation to country-specific situations.

5. Outcome five is expected to be an increased political support for an active role of the High Commissioner for Human Rights in the Council sessions.

Activities are expected to include:

- Develop further a close working relationship with the OHCHR;
- ICJ to make proposals on countries and themes on which the High Commissioner should call for action by the Council;
- Submissions, including research and legal analysis, on themes and countries to thematic and country experts.

UN Treaty Bodies

1. Outcome one of the project on Treaty Bodies is expected to be: provision of timely, effective and meaningful responses to human rights concerns, including violations, at the national level.

Activities are expected to include:

- Analysis of functions performed by the Treaty Bodies, its strengths and weaknesses, and providing recommendations to address problems;
- Lobbying and written interventions in response to proposals of the High Commissioner for HR and Member States;
- Production of papers on the future of the Treaty Bodies;
- Participation in Expert Meetings to address specific aspects of the Treaty Bodies reform process;
- Mobilization of the ICJ Network to lobby governments in support of positive reform initiatives concerning the Treaty Bodies.

2. Outcome two is expected to be: through well-conceived jurisprudence and interpretation of international human rights law, the Treaty Bodies enhance the effectiveness of human rights treaties as practical tools for governments to meet their international obligations and help victims achieve justice.

Activities are expected to include:

- Requests for new General Comments of the relevant Treaty Bodies;
- Legal submissions to Treaty Bodies for consideration in their elaboration of new General Comments and/or recommendations in country reports;
- Dissemination of General Comments and recommendations in country reports;
- Intervention in selected individual complaints (e.g., *amicus curiae*, follow-up on the decision of the Treaty Bodies, dissemination of decisions).

3. In outcome three, the ICJ expects the process of accountability during the exchange between Treaty Bodies and governments to be strengthened, as well as the likelihood of national compliance with international human rights obligations.

Activities are expected to include:

- Advocacy with the Treaty Bodies concerned for the incorporation of ICJ legal concerns in the consideration of a country situation;
- Production of briefing papers analysing specific national legislation for conformity with international human rights standards and the respective Treaty;
- Presentation of ICJ analysis before Treaty Bodies during hearings of States;
- Dissemination of Treaty Bodies' Concluding Observations.

Gender and Human Rights

The ICJ intends to develop a gender project, which will focus on strategic litigation and on the development of standard setting in the area of sexual and reproductive rights.

The following is a brief outline of the ICJ intended work in this area. Specific outcomes and activities will be developed in the coming months.

Although much has been achieved over the past few decades in terms of standards and international policy guidelines, in particular through the ratification by many countries to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), discrimination against women within the law persists.

With regard to labour law, women face frequently systematic discrimination in relation to employment, remuneration and treatment. In civil law, many countries discriminate against women's rights in terms of inheritance, property, divorce, *patria potestas*, independence and autonomy. In criminal law, many governments refuse to protect women against domestic violence and rape, in many courts around the world women's testimonies are not considered equal to men's.

In addition to strategic litigation with regard to discrimination in the law, the ICJ will promote the development of jurisprudence in the area of sexual and reproductive rights, with a particular focus on protecting women's life and dignity.

Cross-cutting themes

In addition to the six project areas above on which the ICJ will maintain dedicated staff, the ICJ will continue to carry out work in other thematic areas. These are cross-cutting themes that fundamental to principles of the rule of law and are reflected in the proactive work of the regional programmes. Work on these themes by the Secretariat in Geneva will be conducted on request for support by the regional programmes and the ICJ Network: activities in these areas consist mainly in assistance or drafting of legal documents, including *amicus curiae* briefs, legal memoranda and draft bills.

Some examples of such crosscutting themes are:

Impunity

Combating impunity will remain a core and crosscutting theme for the ICJ and is reflected in the work of all international and regional programmes. The ICJ will continue to seize opportunities to make strategic legal interventions, usually in the form of *amicus curiae* briefs or other third party interventions, and often at the request of local partners, to shape the outcome of legal proceedings challenging impunity. The ICJ plans to translate its Practitioners Guide on Impunity, *Impunidad y Graves Violaciones de Derechos Humanos* written and published in 2008, from Spanish into English, French, and other relevant languages.

Right to a Remedy and Reparation

The ICJ will widely disseminate its Practitioners Guide on the Right to a Remedy and Reparation, which has been published in English, French, and Spanish, and will seek funding to have it translated into other relevant languages.

Enforced Disappearances

As part of a new global coalition, the ICJ will work for the International Convention for the Protection of All Persons from Enforced Disappearance to be ratified by States, enter into force and implemented.

Torture

The ICJ will continue to monitor the ratification and implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol as well as to comment on State Parties reports submitted to the Committee against Torture.

The Judges & Lawyers Programme

A core feature of the ICJ's work is its Judges and Lawyers Programme, which aims at an administration of justice that protects human rights, especially by strengthening the independence and accountability of judges and lawyers. The judiciary often comes under substantial pressure in countries facing political or constitutional crises, armed conflict, declared or undeclared public emergencies, or post-conflict instability; where democracy is

weak, especially where the executive or legislative branches interferes with or seeks to usurp the functions of the judiciary in contravention of the principle of separation of powers; where resources, skills and knowledge are scarce; and where the judiciary is being excluded or hampered by excessive counter-terrorism measures. Judges and lawyers may be subjected to harassment or persecution and other threats related to the exercise of their professional functions.

In 2005-2007 and throughout 2008 ICJ integrated judges and lawyers work into its regional programmes. The independence and effectiveness of judges, lawyers and prosecutors appears in the work of every region, but has the dominant focus in Africa, Middle East and North Africa and Central America. In the next three years the ICJ intends to strengthen thematic leadership, by reviving the ICJ's Centre for the Independence of Judges and Lawyers (CIJL), integrating its work into the ICJ structure and increase coordination of the regional work in this area. Through the CIJL, the ICJ will further develop the following areas of work.

Capacity-building and assistance

The ICJ will develop resources and skills to help build the capacity of judiciaries and prosecutorial authorities in a variety of countries to implement relevant international law, including providing training and other technical assistance. Such assistance complements ICJ's existing advocacy methods and gives access where advocacy alone creates barriers. Through this work, the CIJL will develop indicators that will enable the ICJ (and others) to assess the independence and effectiveness of justice systems.

Leadership on trial observation

The ICJ intends to reinforce its work in trial observation as a tool of human rights work, including stepping up the ICJ's own use of trial observation by building a capacity to train trial observers, providing training materials for the ICJ Network and other organisations, and developing a pool of experienced observers to be drawn on by ICJ and other organisations. Trial observation is a critical tool for monitoring and promoting the independent and impartial administration of justice by the judiciary. In 2008 the ICJ wrote the draft "Criminal Trials and Human Rights: A Manual on Trial Observation" which was used in a human rights defenders training course organised with the NGO Frontline in September. The ICJ will publish the edited version of this manual in 2009 for use in training and advocacy work.

Global discourse and standard setting

The ICJ will participate in and shape the global discourse on the administration of justice, including where it intersects with debates on "good governance", "democracy building" and "anti-corruption". It will also take up a leading role on relevant international/regional initiatives to deepen existing standards relating to judges and lawyers.

Global judicial resource group

The ICJ will identify and develop relations with a wide range of judges and prosecutors in all regions and forge these contacts into an interconnected, international group (including but not limited to ICJ Commissioners and Honorary Members) as a resource for ICJ missions, advocacy, training, advice and speeches.

In addition, the revived CIJL will enable the ICJ to further develop existing work in the following areas:

- Fact-finding missions to assess the state of law and practices regarding the independence of the judiciary in countries where there are systemic and chronic problems;
- Increasing interventions to protect judges and lawyers at risk; for example by sending high-level missions when needed, extending support of the ICJ and its Network, and mediating solutions in cases of conflict with the executive in specific situations;
- Developing additional publications in the ICJ Practitioners Guide series that are relevant to judges, lawyers and prosecutors, and translating into additional languages the ICJ Practitioners Guide on “International Principles on the Independence and Accountability of Judges, Lawyers and Prosecutors”, second edition published in 2007.

The administration of justice is an intrinsic part of most of ICJ’s programmes, both internationally and regionally; therefore, the CIJL will work in conjunction with and in support of the ICJ’s international and regional programmes.

For the implementation of the CIJL, dedicated staff will be recruited to work at the Secretariat in Geneva. Existing and future staff of regional programmes will also continue to implement judges and lawyers work, under the thematic guidance of the CIJL.

Regional Programmes

The main objectives of the ICJ’s regional programmes are, supporting the independence of judges and lawyers and promoting the rule of law and human rights within and around their specific regions of the world.

The ICJ now has established offices in Asia and Central America. It is currently establishing a new office in Africa. It is implementing a programme of work in Europe and in the Middle East and North Africa (MENA) region. In the coming period the ICJ will work to consolidate its regional programmes, providing administrative set up, adequate staffing, and developing and deepening the coverage and quality of work. Within the regions, the ICJ will create a capacity to respond to constitutional, institutional or rule of law crises that often precede escalations of human rights abuses and create obstacles to the enjoyment of human rights. Whenever possible, the ICJ will use the ICJ Network to convene experts to analyse, explore, and advocate for solutions to rule of law crises.

Regional human rights systems

In the Americas, Africa, and Europe, the ICJ will develop an increasingly coherent body of work aimed at using regional human rights systems, to pursue country and thematic objectives. The organisation will closely monitor developments related to the creation of a human rights mechanism in South East Asia.

Africa Regional Programme

The Africa Regional Programme of the ICJ builds on the organisation's long history of working with African judges, practicing lawyers, academics, civil society and government representatives and agencies, to improve rule of law and respect for human rights throughout the region. As a premier actor in standard-setting, ICJ pursued a range of interventions in the early 1960s that contributed to the establishment of the African Human Rights System. The adoption of the African Charter on Human and Peoples' Rights (the Banjul Charter), and the establishment of the African Commission and the African Court also benefited from ICJ's engagement. In 2008, the ICJ appointed a team to implement its Africa Regional Programme. After an initial period in Geneva, the team is now establishing an office in South Africa.

In many countries in Africa, the independence and accountability of judges and lawyers is still not guaranteed. It is weakened by many factors including blatant interference by the executive, a shortage of competent judges and lawyers, political instability and internal conflicts, and a general lack of legal and human rights awareness. Overcoming these obstacles is essential to achieve advancements in respect for the rule of law and human rights anchored in credible justice systems. Through this programme, the ICJ is making a contribution towards filling this gap.

Objective

The aim of the Africa Regional Programme is to enhance the realisation of human rights on the African continent through adherence to the rule of law. The specific objective is promoting and strengthening the independence and accountability of judges and lawyers in Africa. The four interrelated outcomes and the activities, detailed below, are expected to contribute to this objective.

Outcomes

1. Outcome one of the Africa Regional Programme's plan is expected to be a reduced number of threats to the independence of judges and lawyers, which will be achieved through increased monitoring and advocacy.

Activities toward this outcome are expected to include:

- Conducting fact-finding and/or crisis response missions in States where the rule of law is under serious attack and publishing findings and recommendations;
- Identifying perpetrators and monitoring specific cases of impunity in Southern and Eastern Africa, including tracking, documenting, and disseminating information about serious human rights violations in Zimbabwe and Ethiopia;
- Identifying victims of these violations; assisting them in seeking effective remedies;
- Supporting the networking forums for judges, magistrates, and prosecutors in Eastern and Southern Africa, including organising one major regional conference.

2. The second outcome of this plan is expected to be improved domestic administrative, policy and legal frameworks that provide for independent, impartial and effective judicial systems.

Activities are expected to include:

- Conducting judicial needs analyses in Southern and Eastern Africa (Zimbabwe, Swaziland, Ethiopia), identifying performance gaps and causes, and recommending interventions in conjunction with a comprehensive judicial reform project;
- Conducting assessments of the legislative framework governing the judiciary in Southern and Eastern Africa (Ethiopia, Uganda, Zimbabwe and Swaziland);
- Supporting Justice services through an “Africa Portal” on the ICJ web-site providing comprehensive information online regarding international human rights law;
- Supporting judges exchange initiatives for Swazi, Zimbabwe and Ethiopian judiciaries with a focus on the independence and accountability of judges and lawyers.

3. The third outcome of this plan is expected to be achievement of increasingly empowered human rights defenders to effectively monitor the independence and accountability of judges, lawyers, and defenders at risk.

Activities toward outcome three are expected to include:

- Adapting the ICJ Manual on Trial Observations for use in Africa, organising one training session on the right to fair trial and trial observation in each of the three countries of work;
- Building capacity of bar associations to self-regulate the legal profession in Southern and Eastern Africa;
- Providing platforms for domestic rights defenders to be heard at an international level;
- Networking with regional bar associations in forums in Southern and East Africa;
- Carrying out national, regional and international human rights advocacy on threatened rights defenders using various mechanisms (Africa Peer Review Mechanism, Universal Periodic Reviews, African Commission, UN Human Rights Council, etc).
- Conducting trial observations for judges, magistrates, prosecutors, lawyers, and/or NGO activists being prosecuted for legitimate human rights activity;
- Facilitating the establishment of “safe houses” to enhance the security of judges, magistrates, prosecutors, and lawyers at risk.

4. The fourth outcome is expected to be a strengthened African human rights system with independent, impartial and effective judicial/quasi-judicial institutions.

Activities are expected to include:

- Monitoring and publication of developments at the East African Court of Justice (EACJ), SADC Tribunal, COMESA, other institutions with bearing on rule of law;
- Carrying out advocacy with the political bodies of the African Union and bilaterally on critical human rights and rule of law issues in the region;
- Making strategic legal submissions to the African Commission and the African Court to advance the application of international standards;
- Conducting advocacy with UN human rights mechanisms including charter-based and treaty-specific mechanisms;
- Supporting States and non-state actors to monitor compliance or non-compliance with African and other relevant international human rights standards and norms.

Asia-Pacific Regional Programme

In 2008 the ICJ appointed a Director of the Asia-Pacific Regional Programme, to head up the Asia-Pacific regional office in Bangkok. In addition, the ICJ has a team of six staff in Bangkok working on Thailand and regional issues, a team of three staff in Nepal and a country consultant based in Colombo, Sri Lanka. A comprehensive strategy is currently being compiled. This outline provides an overview of the issues and countries.

The Asia-Pacific Regional programme will focus on three major themes, each with several sub-themes: advancing rule of law and safeguarding judicial independence, especially from executive and military encroachment; protecting rights of minorities and under-represented groups, especially during conflict; and promoting economic, social and cultural rights, through law reform to advance justiciability. Failure to respect these rights and principles lies at the root of numerous conflicts and crises throughout the region. To address these themes effectively, ICJ will pursue a five-step strategy: compile regional resources of best precedents on key human rights issues; facilitate active networks of jurists and advocates to promote progressive law reform on these issues; prepare findings and reports of best practices; advocate for specific legal reforms across the region and in individual countries; and respond to rule of law crises through emergency field missions, reporting, and advocacy.

The ICJ envisions four main target constituencies: judges and judicial training academies, lawyers and bar associations, human rights defenders and civil society groups, and academics and law schools. These groups will be invited to a series of workshops, colloquia, and trainings, with each series organised to advance a particular theme or topic of law. The results will be shared in larger meetings, eventually including participants from outside Asia. In addition to exchanging information and enhancing links, these meetings are meant to have a direct influence on legal reform and policy development through knowledge transfer. Emphasis will therefore be placed on advance preparation of resource materials, clear work agendas, qualified participants, published findings and reports, and follow-up advocacy plans.

The ICJ will continue its work on three existing priority countries in the region:

Nepal

In the next period the ICJ will contribute to strengthening the judiciary and legal community as protectors of human rights, helping to shape the constitutional reform process, in particular with regard to human rights in this post-conflict phase to prevent recurrence of gross violations, and working for the prosecution of perpetrators to tackle impunity.

Sri Lanka

As the armed conflict and human rights violations continue to escalate and State institutions are further weakened, the ICJ will seek to achieve a high level of public advocacy focusing on the prosecution of perpetrators to counter impunity, the independence and effectiveness of the judiciary and constitutional institutions, and a greater strengthening of the legal and human rights defender communities throughout the country.

Thailand

The ICJ team in Thailand is implementing a multi-faceted project on justice and rule of law in the armed conflict in the south of Thailand, as the failures of the justice system are fuelling the conflict. The ICJ is building the capacity of local lawyers to effectively take up human

rights cases, seeking to maintain space for lawyers and human rights defenders in the conflict zone, encourage the independence of the judiciary, focusing on impunity for past violations, and analyse security legislation and its practical impact in the south.

In addition to these three existing high priority countries, the Asia-Pacific Regional programme will focus incrementally on three different regions:

- South-Asia: in addition to its work on Nepal and Sri Lanka, the ICJ will develop activities in Pakistan and India;
- South East Asia: beyond Thailand, the ICJ will explore possibilities of working in Burma, Malaysia and Indonesia;
- East Asia: the ICJ aims, by the end of the plan period, to start activities in relation to China.

Europe Regional Programme

Objective

The objective of the Europe Regional programme is to use international law research and analysis to further the protection of human rights and the rule of law at regional and national levels in Europe, in particular where they are under pressure or threat, and to strengthen and support effective and independent judicial systems and other structures and mechanisms for human rights protection.

Outcomes

1. Outcome one of the ICJ's Europe Regional programme is expected to be enhanced legal and practical protection of human rights in laws, policies and practices on counter-terrorism, migration and related areas at national level, and in EU justice and home affairs.

Activities are expected to include:

- Third party interventions in national courts, in the European Court of Human Rights, and other regional tribunals;
- Advocacy and interventions with national governments and parliaments, including providing human rights analysis of draft laws, in cooperation with the ICJ European network;
- Advocacy and interventions with institutions of the European Union, including providing human rights analysis of draft EU laws and policies;
- Advocacy and interventions on national laws and practices at the Council of Europe, EU and UN treaty bodies, special procedures and the Human Rights Council;
- Workshops, seminars, research and network building on emerging human rights issues;
- Trial observations;
- High-level missions to monitor and assess specific problems of human rights protection in these subject areas;
- Dissemination of ICJ publications on relevant international law standards.

2. The second outcome is expected to be stronger and more independent national judiciaries in European countries where judicial independence is weak or under threat, and a strong, fair and long-term sustainable European Court of Human Rights.

Activities toward outcome two are expected to include:

- Advocacy and interventions with national governments and parliaments in response to threats to judicial independence, or to harassment of or interference with the role of lawyers, in cooperation with the ICJ European network;
- Advocacy and interventions with institutions of the European Union, Council of Europe and United Nations to highlight concerns on these issues;
- Trial observations where judges or lawyers may be at risk, or where judicial independence is under threat;
- High-level missions to monitor and assess national judicial systems and the position of judges and lawyers where they may be threatened;
- Workshops and seminars with judges and lawyers from one or more European countries, to raise awareness of international legal standards on fair trial, judicial independence and the role of lawyers;
- Dissemination of ICJ publications on relevant international law standards.

Latin America Regional Programme

The ICJ will continue its work on the independence of the judiciary, its effectiveness in the administration of justice and impunity in Central and South America, consolidating its Central America presence and focusing on two priority countries in South America.

The Central America regional programme was initiated in 2005 in response to pressing rule of law situation in the sub-region. This programme is important because the ICJ is one of the few international human rights NGO that has established an office in Central America (based in Guatemala) with the aim of promoting the respect of international law with a strong advocacy, analytical and capacity-building focus.

The relative stability enjoyed since the end of a number of armed conflicts in the sub-region in the 1990s masks the underlying reality that the rule of law remains fragile and undeveloped. Some of the causes and conditions that led to internal conflict or unrest have not significantly changed and may in fact produce renewed or new social and political conflicts. In this context, judicial, legal, and human rights communities in Central America need to become considerably stronger and better resourced if democratic changes and respect for human rights are to be achieved and sustained. This requires not only financial and human resources for local and regional actors, but sustained international interaction, cooperation, and exchange.

Objective

The ICJ Latin America Regional programme's overall objective is to contribute to strengthening the administration of justice and judicial accountability of persons accused of serious human rights violations, and incorporation and application of international human rights law and standards in domestic legal systems throughout the region.

Outcomes

1. Outcome one of the ICJ plan for this region is expected to be increased protection measures for judges, lawyers, prosecutors and public defenders, and improved administration of justice in areas related to human rights.

Activities are expected to include:

- Periodic interventions and public statements in cases where judges, lawyers, prosecutors or public defenders are attacked or threatened in all countries of the sub-region;
- Strategic legal interventions in respect of the administration of justice;
- Monitoring judicial and prosecutorial appointments in all the countries of the region;
- Participation in protection programmes for judges and lawyers, including the Working Group on Protection of Judges, Lawyers and Prosecutors in Guatemala and evaluation of the implementation of protection measures in key countries throughout the region;
- Reports on administration of justice in four to five countries in the region;
- Monitoring and implementation of recommendations formulated by the ICJ.

2. The second set of related outcomes expected includes greater and more effective prosecutions of persons accused of serious human rights violations and greater compatibility of domestic military justice systems with international standards in the area of serious violations.

Activities toward these outcomes are expected to include:

- Advocating against the approval of any draft laws on military justice that could establish the jurisdiction of military courts to try human rights violations;
- Strategic legal interventions in cases where international standards on impunity need to be enforced and/or expounded;
- Publication of interventions available to the legal community and the general public (especially in cases related to the preceding point);
- Reports on the main legal and practical obstacles facing the prosecution and bringing to justice of persons suspected of gross human rights violations in three countries in the region (two in Central and one in South America).

3. The third set of expected outcomes includes increased ratification of or accession to international human rights instruments and achieving compatibility of national legislation with international human rights norms, increased awareness of conventional and customary international human rights obligations and standards, and greater enforcement of economic, social and cultural rights.

Activities are expected to include:

- A workshop on international standards for administration of justice;
- Advocacy for States to become party to the International Convention for the Protection of All Persons from Enforced Disappearance and, when approved, for the signature and ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;
- Monitoring implementation of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Workshops in key countries to present the ICJ's report on the justiciability of economic, social and cultural rights;
- Promotion of legislation to allow the application of the Law on Judicial Career in Nicaragua;
- Reports on countries throughout the region presented to the UN Human Rights Council in the framework of the Universal Periodic Review;

- National workshops to present and discuss the ICJ's Practitioners Guides (the Guide on Right to a Remedy and Reparation, on the Independence of Judges and Lawyers and on Impunity);
- One international seminar per year on specific topics of international human rights law;
- One annual national workshop for judges per country;
- Wide dissemination of the ICJ report, Courts and the Legal Enforcement of Economic, Social and Cultural Rights; Comparative Experiences of Justiciability among Universities in Central America and other relevant actors;
- One workshop in key countries regarding the justiciability of ESC rights;
- Production of General Guidelines regarding the right to a consultation process of Indigenous Peoples and their implementation.

Middle East and North Africa Regional Programme

Objectives

The ICJ's work in the Middle East and North Africa (MENA) region focuses on the following objectives:

- Supporting the development of an independent and impartial judiciary in regional countries, including as a means to protect and consolidate the rule of law and human rights;
- Contributing to the end of the abusive application by governments of states of emergency and other states of exception, extraordinary laws, and military and special courts to try civilians;
- Contributing to the national implementation of human rights standards, including their incorporation in domestic legislation;
- Developing a constituency among Arabic-speaking judges and lawyers in order to achieve the objectives mentioned above by reinforcing and expanding the capacity of the ICJ Network and partners in the region.

Activities

The ICJ plans activities in Morocco, Tunisia, Egypt, Syria, Bahrain, Lebanon, Israel and the Occupied Palestinian Territory (OPT).

Activities by region/country are expected to include:

Morocco

In close collaboration with the Canadian Section of the ICJ, the ICJ work in Morocco will focus primarily on:

- the independence and impartiality of the judiciary, including the elaboration of a code of ethics and judicial conduct; protection of civil and political rights; and practical application of international human rights standards including challenges related to legislating their incorporation into domestic law;
- the right to remedy and reparation for victims of human rights violations.

Israel and the OPT

The ICJ will organise a high-level legal team to carry out a total of six missions to Israel and the OPT, over the following programme period. The team will investigate and discuss with Palestinian and Israeli authorities the following issues:

- promotion and consolidation of rule of law;
- independence of the judiciary;
- protection of human rights in the OPT;
- applicability of international humanitarian law and international human rights law to the Israeli-Palestinian conflict, especially with regard to the issues of settlements and occupation, the protection of civilians and the rights of Palestinian refugees.

States of emergency

The ICJ will carry out two fact-finding missions to study the extent to which the continuing use of the emergency laws in Egypt and Syria undermine the rule of law in these countries and places human rights at risk. A report with the missions' conclusions and recommendations will be published at the end of each mission, translated into Arabic and disseminated among the local legal community.

Protection and solidarity missions

The ICJ will organise several protection and solidarity missions and monitor trials of MENA human rights defenders before special and military courts. These missions will evaluate to which extent these courts meet the international standards of independence and impartiality as well as the international standards of fair trial. The ICJ will publish a report at the end of each mission and disseminate it within local and regional legal communities.

Seminars

The ICJ will also organise a series of seminars on judicial independence and the right of victims of human rights violations to a remedy and reparations. Judges, lawyers, human rights defenders, academics, representatives of governments, and regional and international experts will participate in the seminars and discuss the reforms needed to end impunity for perpetrators of human rights violations and to promote the independence and accountability of the judiciary in the MENA region.

Added value of the ICJ

Many other non-governmental organisations (NGOs), including NGOs involved primarily in the area of human rights, work on themes similar to the ICJ and many work in the same regions. Although some of these NGOs include a legal dimension, none use the rule of law and legal protection as its primary method to fulfil human rights guarantees. The ICJ's guiding principles are that the rule of law is indispensable to safeguard and advance all human rights and that an independent judiciary and legal profession assume a primary role toward that end. Composed of distinguished lawyers and judges from all legal traditions and regions, the ICJ is uniquely positioned to support and advance the protection of human rights and the rule of law through legal and judicial systems at national, regional, and international levels. Thus, what makes the ICJ unique and accounts for its added value is the legal perspective and expertise central to all its work. Furthermore, its work extends not only to human rights law and the related fields of international humanitarian law and international criminal law, but also to the broader rule of law issues that relate for example to the issue of

separation of powers, the independence of the judiciary, administration of justice, and general principles of international law.

The ICJ's greatest asset is its network of Commissioners, National Sections and Affiliated Organisations. Having as its Members judges, lawyers and human rights defenders of the highest standing, the ICJ is able to mobilise authoritative conceptual and practical expertise on most rule of law and human rights issues. Such authority garners the attention, respect and often acceptance at the highest levels of a range of official actors, such as legislators, executive policy makers and administrators, and international organisations.

The ICJ considers that in addressing today's rule of law challenges, lawyers and judges have a responsibility to play a critical leadership role. As an organisation with our fifty years of experience, with a diverse board of Commissioners, and with a Secretariat in Geneva coordinating a global network of ICJ teams, the ICJ is in a unique position to inform and mobilise legal communities around the world, to work from within these communities, and to act as a catalyst for change.

The ICJ has the understanding, expertise, practical experience and access that enables it to seek action and participate in processes addressing human rights problems through the political and expert bodies in the United Nations and in regional inter-governmental systems, including those in Africa, the Americas, and Europe, and the Middle East and to propose and advocate reform. The ICJ has built up a legal expertise and knowledge of international law, especially human rights and international humanitarian law, and has been instrumental in creating many of the international human rights standards. The ICJ has played a leading role in the formulation and adoption of numerous international instruments, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol; the International Convention for the Protection of All Persons from Enforced Disappearance; the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights; the UN Basic Principles on the Independence of the Judiciary; the UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; and the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

The ICJ harnesses the advocacy force of international law in support of local actors, to help tackle practical human rights issues, such as right to a fair trial, right to remedy and reparation for victims of human rights and humanitarian law violations, impunity or the independence of judges and lawyers. The ICJ has developed expertise on the laws, policies and systems, and mechanisms necessary to ensure that States – and increasingly non-state actors – are held accountable at the national and international levels when human rights violations occur.

Implementation

Network

The Secretariat and its Commissioners, National Sections, and Affiliated Organisations work in a continuous dialogue: exchanging analysis and recommendations, taking actions and

developing and implementing programmes jointly. The Secretariat is increasingly shaping its information and recommendations to support action by the Network, and promote exchange and dialogue. A number of Commissioners and Honorary Members are involved in advising the ICJ, participating in expert panels, carrying out trial observations and missions and participating in ICJ conferences. In 2007, their combined contribution, mostly done on a pro-bono basis, was valued at over 300,000 CHF.

In December 2008, the ICJ convened its Congress, the institution's major convention which takes place once every four years, where the main topic for discussion was "The Role of Judges in Lawyers in Times of Crisis". The ICJ Congress brought together the Network to debate and develop a common position on this theme and to provide strategic directions for the future. The ICJ committed itself to take steps to monitor, intervene, and support judges and lawyers when their independence comes under pressure or attack in times of crisis.

Building strategic alliances

The ICJ will place greater emphasis on actively developing innovative networks, alliances and coalitions with other organisations at the national, regional and international levels. Experience has shown that focused global agenda-setting and advocacy by broad coalitions is an extremely effective way of creating change and building influence. In a globalised world the ICJ retains expertise on rule of law and international human rights law issues and seeks complimentary expertise and outreach from partner organisations. The ICJ develops partnerships not only with other traditional human rights and legal organisations, but also with organisations working internationally in related but different areas, such as development and humanitarian assistance, as well as those working at the community level.

Multi-lingualism

The ICJ will invest in its publication capacity, to be able to publish more systematically in Arabic, English, Spanish, French, and Russian as well as continuing to publish in the languages of countries in which in-country teams are present (such as Nepal and Thailand).

Staffing

At present the total staff consists of forty persons of which approximately one third are located in the ICJ regional and country offices. The ICJ has in recent years expanded and reinforced its staff, and will in the coming years consolidate its existing offices. The ICJ has recently recruited a Director for its International Law and Protection programme, who began work in February 2009. Regional offices will increase staff and operations depending on funding possibilities. Expected future staff includes a Director for the Centre for Independence of Judges and Lawyers.

Internship programme

Interns will remain an essential part of all programmes at the ICJ. The ICJ will continue to seek interns from all regions of the world, to increase their capacity to support our work, and as a contribution to building the capacity of the legal human rights community in countries and regions around the world. The ICJ will continue to expand the number of internship positions that are funded by donors and academic entities, giving more opportunities to applicants who are not able to fund their own internships.

Monitoring and evaluation

The ICJ intervenes in situations of complex cause and effect. The organisation often contributes to legal and policy change in human rights that happen at a higher policy level, where it is rarely possible to clearly document a direct causal link between project activities and observed results and beneficiaries. Review and assessment therefore need level-headed understanding of the political and legal context in which the organisation intervenes.

Notwithstanding these considerations, in the coming three years, the ICJ will develop further its internal monitoring and evaluation techniques. The ICJ produces an annual report that documents activities, progress and achievements of all programmes. In addition, for each programme, specific reporting is done on a regular basis (at least annually), depending on programme and donor requirements.

An overall ICJ evaluation is expected to take place mid 2009, financed by the Swedish International Development Cooperation Agency (SIDA).

Budget

The ICJ is completing a process in which we have established programmes and projects that cover five regions in the world and a significant area of legal developments in human rights in an environment that is evolving very fast. Over the past five years the ICJ has increased its budget from 2.3 million (2004 budget) to 5.6 million (2008 budget). The total income in 2007 was 4.5 million and 4.2 million in 2006. The 2009 budget increase will be moderate; overall, the organisational budget of the ICJ will increase slightly over the next three years, from 5.8 million in 2009, to 6.4 million in 2010 and 7.2 million in 2011. The enclosed mid-term budget reflects our foreseen evolution. New programmes (on gender) or increases in budget activities for regional and thematic programmes will be pursued provided additional earmarked funding is available.

In the current year's projected budget, personnel expenses account for an estimated 60% and non-personnel expenses for 40% of total expenditure.

Financial control

The ICJ Financial control department maintains a full analytical accounting system, which allows for extraction of data by any parameter (such as by donor, by project, by donor and project, by geographical zone, for any given period). The accounts are audited once a year by Deloitte, which operate spot-checks on the coherence between the accounting data and the donor contracts and guidelines. The ICJ has also set up an obligatory internal control system, which is checked yearly by the same auditors. In the case of a multi-donor project, costs are allocated according to individual donor budgets (when available) and reporting/acquittals are done on a group as well as an individual basis.

Benefits

The International Commission of Jurists is a non-profit legal organisation, employing predominately lawyers with extensive competencies and capacities, coming from a variety of jurisdictions. The service and 'goods' being created and provided by the ICJ aim at strengthening and progressively developing international protection systems, law and standards, and implementing international law in national systems. The benefits of this contribution are typically difficult to measure and quantify in the same way as the outputs of

other charitable non-profit organisations. In addition, the returns on investments in, and donations to, the human rights sector are difficult to measure: the actual returns consist often in improvement of protection in the law and changes in law, policy and practice at the international and domestic levels.

All outputs related to the themes in international law and protection (Global Security, International Economic Relations, SOGI, ESCR, UN and Gender) is intended to develop and improve existing international law and their implementation at the national level. Therefore improvements in those areas represent real and sustainable achievements, which in the end benefit all, in particular those that are underprivileged and marginalized. Some of this work will have clearly measurable results, for example the successful elaboration and adoption of a new international instrument; the achievement of a systemic reform objective; the adoption of new protective legislation; or the successful integration of an ICJ intervention into the jurisprudence of a domestic or international court. In some instances, the results may manifest themselves in the longer term, but progress and momentum may still be evident.

With regard to its natural constituencies of judges and lawyers, the ICJ aims to develop their capacities, protect and promote their independence at the individual and institutional level, and work towards effective operation under international standards of the administration of justice in the domestic legal systems in which they function. Their independence and impartiality and understanding of international principles of human rights and the rule of law, are important guarantees for a democratic society where all are accountable before the law. The benefits to society as a whole are very important. The immediate returns of the ICJ training, networking and advocacy, while not always producing immediate results, may be seen in a change of judicial culture, with judges more frequently applying international law and standards, and the political branches of government respecting judicial authority and implementing judicial decisions.

In the case of a legal intervention in Nepal on a SOGI case, the publicity that surrounded the positive outcome of the case had a very important impact on LGBT rights in that country. The ICJ interventions in Thailand, aimed at trying to restore the rule of law and the independence of the judiciary in the South, has important impacts on diminishing impunity. The ICJ will continue to organise activities to target verifiable and realistic outcomes over the following period.

Attachment

- ❖ Mid-term Budget