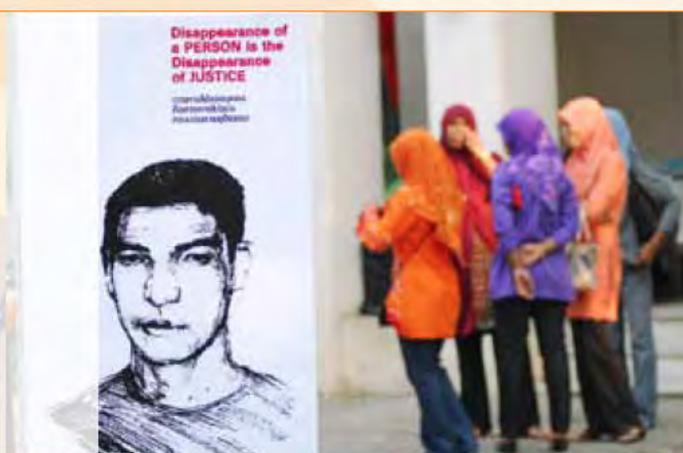


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Annual Report 2011

Protecting Human Rights and Advancing the Rule of Law



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International Commission of Jurists

Vision

A world in which a just, democratic and peaceful society is achieved through the rule of law; the arbitrary exercise of power is prevented; rights and freedoms are expanded; and social justice is embraced.

A world in which everyone is able, without discrimination, to realise and exercise his or her civil, cultural, economic, political and social rights, and in which the rights of the most marginalised are addressed.

A world in which everyone is equal before the law and protected from human rights violations by the law in practice; where those in power are held accountable for human rights violations; where justice is administered in accordance with due process of law; where victims have access to effective remedies and justice; and where those who come before the courts receive a fair trial and never face the death penalty.

Mission

To ensure that international law, especially that concerning human rights and humanitarian issues, is utilised effectively for the protection of all people, particularly the most vulnerable, and is implemented through effective national and international procedures.

To promote and extend the rule of law as a dynamic concept through which civil, cultural, economic, political and social rights are safeguarded and advanced.

To advance the understanding that the rule of law requires that States observe the principle of separation of powers by establishing effective executive, judicial and legislative institutions and measures that serve as checks and balances to protect the human rights of all people.

To assist judges, lawyers and prosecutors, acting under the highest ethical standards and professional integrity, to be independent, impartial, and free to carry out their duties.

ICJ Annual Report 2011

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Foreword by ICJ President Pedro Nikken

In 2011, the political and economic landscape of the Middle East was altered as ordinary people, motivated by a desire to realise their human rights, challenged their rulers in a way that had never been done before. As protests against repressive regimes swept across the Middle East in 2011, the ICJ's work in the region became increasingly relevant. Projects previously seen as unfeasible, such as those related to constitutional and legal reform, are today being pursued with an unprecedented level of engagement.

In April 2011 the ICJ conducted a mission to Tunisia with the aim of assessing the rule of law and human rights situation in the country. Wilder Tayler (ICJ Secretary-General), Saïd Benarbia (ICJ Senior Legal Adviser for MENA) and I led this mission, during which we had the opportunity to meet with key actors in the transitional process. These included the Tunisian Prime Minister; the Secretary of State for Foreign Affairs; members of the judiciary, the legal profession and civil society; and a number of victims of human rights violations committed during the Ben Ali regime. We are pleased that a National Commission was established to investigate the executions and killings committed during the protests, and see it as a step towards ensuring accountability in Tunisia. However, we also believe it is necessary for the Tunisian authorities to conduct prompt and thorough investigations into all serious human rights violations committed under the Ben Ali regime.

Immediately after the mission to Tunisia, the ICJ undertook a similar mission to Egypt accompanied by Justice Kalthoum Kennou (ICJ Commissioner, Tunisia). While in Egypt we met with the Minister of Justice, officials of the Ministry of Foreign Affairs and different actors of civil society. It was clear that the revolutionary process in Egypt was suffering serious setbacks, mainly due to the military rulers' reluctance to uphold the rule of law. It is clear that the toppling of President Mubarak cannot be enough to satisfy the aspiration of the Egyptian people to have a genuine transition to democracy. Subsequent events, including the uncertainty related to the constitution-making process, have validated our concerns; rule of law and human rights principles have been eroded under military rule in Egypt. The ICJ's MENA Programme continues to closely follow the rule of law situation in Egypt, in particular the constitutional making process. The ICJ conducted a second mission to the country in January 2012 to assess the effectiveness of this process. The ICJ will continue to be engaged in the process of change in the MENA region and will be vigilant to ensure that the rule of law and human rights are protected there.

I am grateful that so many Commissioners have been engaged in the ICJ's activities in 2011, participating in missions and attending workshops, seminars, and conferences on behalf of the organisation. Through these activities, Commissioners have been able to share their knowledge and provide expert guidance to human rights advocates working around the world. However, a number of prominent legal practitioners, including ICJ Commissioners, have endured harassment and threats of violence because of their work. There have been a number of these situations in the last year and I would like to highlight a few here. Venezuelan judge **Maria Lourdes Afiuni's** pre-trial detention was extended for a second two-year period for simply performing her duties as a judge. In Spain, Judge **Baltasar Garzón** was tried for investigating human rights violations committed during the Franco dictatorship and, in a separate trial, convicted of malfeasance and given an 11-year ban from judicial office. I led an ICJ mission to observe these trials, and described Garzón's conviction in a press statement as "the deplorable conclusion of a criminal proceeding that should have never been initiated in the first place". Justice **Thomas Masuku**, a judge of the High Court

of Swaziland, was suspended by the Chief Justice of Swaziland for “insulting the king” and “actively associating with those who want to bring about unlawful change to the regime”. These three cases are especially sensitive. The criminal prosecution or punishment of a judge for seeking to exercise judicial independence is unacceptable. All three cases to which I refer here have undermined the independence of the judiciary and the freedom that permits judges to decide according to their own conscience, which is a cornerstone of the Rule of Law.

The ICJ will remain vigilant in supporting the rights of jurists worldwide who are persecuted for supporting judicial independence, ensuring the right to a fair trial or seeking to protect human rights.

The ICJ has also agreed a new strategy for 2012-2015 that will see our organisation continue to provide legal guidance to increase access to justice; to advocate for reform; to pursue justice where impunity prevails; and to build the content and applicability of international human rights law for the benefit of all people.



Introduction by ICJ Secretary-General Wilder Tayler

The last year has seen both challenges and advances in the field of human rights. In some regions the ICJ has been defending existing human rights institutions against attack, while in others it has been supporting the establishment of new mechanisms. In Southern Africa the ICJ sought to protect the SADC Tribunal during its suspension and review, seeking to ensure that the body retain its powers. In Europe, the ICJ continued to advocate for a strong and effective European Court of Human Rights, resisting proposals that would have weakened the Court, restricted the access of applicants, or diminished its autonomy. In other regions the ICJ has used new mechanisms to protect human rights. In Central America, the ICJ filed a claim before the Environmental Council of the CAFTA-DR. It is the first time transnational regulations have been used in the region to protect individuals and communities whose human rights have been adversely affected by extractive industry projects. In Asia, the ICJ has advocated that the nascent ASEAN human rights system be implemented with all that it needs to ensure the protection of human rights in the region.

The ICJ has also continued to contribute to furthering international human rights standards in 2011. In June, the United Nations Human Rights Council adopted Resolution 17/19, entitled “human rights, sexual orientation and gender identity”. This was the first resolution adopted by the Human Rights Council that explicitly mentions ‘sexual orientation’ and ‘gender identity’. The ‘Maastricht Principles on Extraterritorial Obligations of States in the area of Economic, Social and Cultural Rights’ were adopted by a number of distinguished experts in international law and human rights. The adoption of these principles follows years of standard setting work by the ICJ and other organisations in the field of Economic, Social and Cultural Rights and are an important step in clarifying the human rights obligations of States beyond their own borders. They make clear that States should be held responsible for the adverse effects that their conduct brings to the enjoyment of human rights in other territories. The Committee on the Elimination of Discrimination against Women also made important decisions in respect to complaints regarding maternal mortality in Brazil and therapeutic abortions in Peru. The ICJ submitted legal opinions relating to both cases.

As it has been for the past sixty years, the ICJ is continuing to promote and protect human rights through the rule of law. In 2011, this was particularly evident in the Middle East and North Africa (MENA) region, where the ‘Arab Spring’ has brought significant opportunities for progress and development in the area of human rights. In recent years the ICJ has worked with a network of legal practitioners and human rights defenders in MENA to promote the independence of the judiciary and advocate against emergency laws. While this work became very relevant in 2011, its foundations had been laid over many years.

In an effort to increase the visibility of its work and mission, the ICJ invested significant resources in 2011 to improve its communication and media capability. These changes will help us to reach out to a much wider audience, both in the legal community and beyond.

Following consultations with the ICJ Network and staff, a new Strategy Plan has been developed for the period 2012-2015. This plan will guide the ICJ’s work over the next four years. The five main strategic directions for the organisation will be: *Access to Justice for All*, *Accountability for Human Rights Violations*, *the Independence of Judges and Lawyers*, *Business and Human Rights*, and *the Rule of Law and International Human Rights Instruments*. These themes apply equally to both the ICJ’s thematic and regional programmes, and will enable the organisation to maintain the momentum in its work and achieve better protection for human rights.

I would like to extend my gratitude to all those that have been involved with the work of the ICJ over the last year, in particular the ICJ Commissioners and Staff who have worked hard in the pursuit of our objectives. They have joined and reinforced the work of thousands of legal practitioners and human rights defenders around the world who have defended the Rule of Law, and demanded greater protection for human rights in their own regions.

Acknowledgements 2011

The ICJ would like to thank the following donors for their support in 2011:

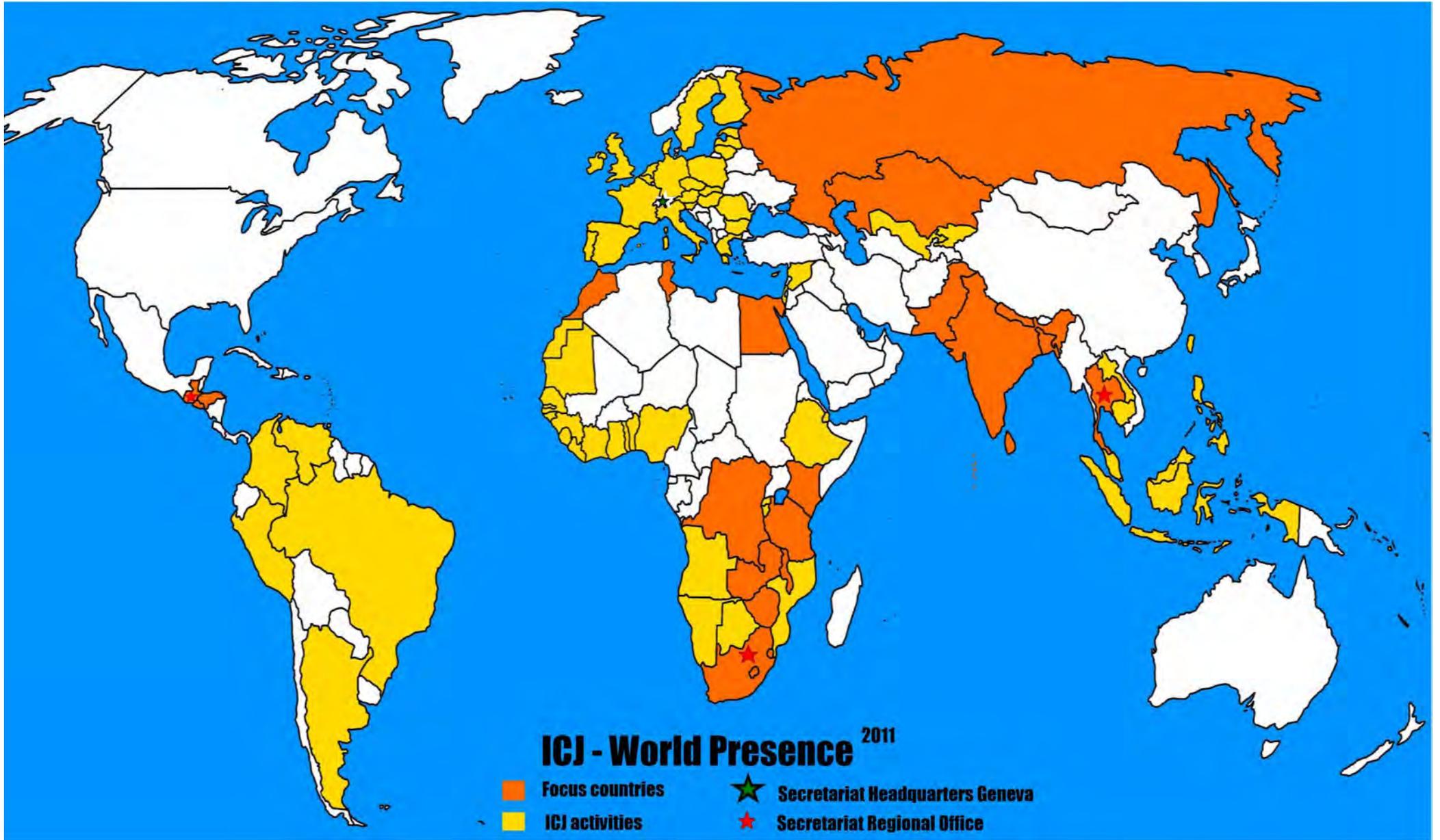
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- Switzerland, Ministry of Foreign Affairs - SDC
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The ICJ would also like to extend additional thanks to the following sections, affiliates, organisations and institutions for support and partnership provided during 2011:

- Aditus
- Advocacy Forum in Nepal
- Amnesty International
- ARC International
- Asian Forum for Human Rights and Development (FORUM-ASIA)
- Ashurst Solicitors
- Association for the Prevention of Torture
- Awuru Community Development Association
- Black Pink Triangle Izmir
- Centre for Civil and Political Rights
- Citizens for Justice
- CLEEN Foundation
- Colombian Commission of Jurists
- Community Action for Popular Participation
- ESCR-Net
- ETO Consortium
- Federal Radio Corporation (FRCN) Nigeria
- Friedrich Ebert Foundation
- Gender and Development Action Nigeria
- Geneva Academy on Human Rights and International Humanitarian Law
- Geneva Zimbabwe Advocacy Office
- Global Action for Trans* Equality
- Hisham Mubarak Law Center
- Human Rights Watch
- ICJ-Kenya
- ILGA-Europe
- Institute for Human Rights and Development in Africa
- Inter-American Commission for Human Rights
- International Federation for Human Rights
- International NGOs' Coalition for the Adoption of an Optional Protocol to ICESCR
- The Judiciary of Malawi
- Justice for Peace Foundation (JPF)
- Maastricht University
- Magistrates Association of Nigeria
- Mission of the United Nations in Congo
- National Human Rights Commission of Nigeria
- National Union of Civil Engineering, Construction, Furniture and Wood Workers of Nigeria
- National Judicial Academy of Nepal
- Nizhny Novgorod Centre Against Torture
- Permanent Mission of Denmark to the UN
- Plataforma Holandesa contra la Impunidad
- Public Complaints Commission
- Reichters von Reichters
- RFSL (Swedish Federation for Lesbian, Gay, Bisexual and Transgender Rights)
- RFSU (Swedish Association for Sexuality Education)
- Rights and Accountability in Development
- Rights International Spain
- Southern Africa Development Community Lawyers Association
- Southern Africa Litigation Centre
- Supreme Court Bar Association of Nepal
- Supreme Court of Nepal
- Tunisian Association of Magistrates
- Ugandan Civil Society Coalition on Human Rights and Constitutional Law
- UNIBAM
- United Nations Office of the High Commissioner for Human Rights
- Zimbabwe Lawyers for Human Rights



International Law and Protection Programmes (ILP)

The ICJ International Law and Protection Programmes (ILP) aims to advance the development and implementation of international human rights law for the protection and promotion of human rights, including civil, cultural, economic, political and social rights. These programmes focus on the international obligations of States to respect, protect, and fulfil human rights through the rule of law, including by providing remedy and reparation for victims of human rights abuses, and to hold States and non-State actors accountable for these abuses.

During the last year, the ILP Programmes worked in the following thematic areas: Independence of Judges and Lawyers; Sexual Orientation and Gender Identity; Women's Human Rights; Business and Human Rights; Economic, Social and Cultural Rights; UN Human Rights Mechanisms; and Global Security and the Rule of Law.

Centre for the Independence of Judges and Lawyers



Justice systems are frequently placed under pressure in countries facing political and/or constitutional crises, armed conflict or post-conflict instability, or where democratic institutions are weak and resources, legal skills and capacity are scarce. Despite the rhetoric of democracy and separation of powers, there have been many setbacks in recent years, with governments acting to undermine the judiciary in practice. Attacks on the independence of judges and lawyers have occurred in many countries in the past year,

including Ecuador, Egypt, Fiji, Gibraltar, Pakistan, the Russian Federation, Sri Lanka, Uganda and Zimbabwe, and also in more established rule of law democracies like the USA, Spain and Italy. Judges and lawyers are frequently subject to physical attacks, persecution and harassment that undermine their work.

CIJL Objectives

An effective legal system, with an independent, competent, impartial and accountable judiciary and a strong legal profession are core requirements for the protection of human rights and the effective administration of justice. Through the Centre for the Independence of Judges and Lawyers (CIJL), the ICJ aims to provide support and protection to judges, lawyers and prosecutors, in particular during times of crisis, when they come under attack for pursuing their professional functions. The CIJL also aims to advance and promote the independence of the judiciary and the legal profession, while providing a platform for legal reform and encouraging judges and lawyers to reflect on their role as guarantors of human rights.

CIJL Advocacy

Throughout the year, the CIJL engaged in advocacy concerning cases of judges and lawyers at risk. This included undertaking advocacy efforts supporting the cases of Venezuelan judge Maria Lourdes Afiuni; Nasrin Sotoudeh, an Iranian defence lawyer; Brazilian lawyer José Batista Gonçalves Afonso; and Justice Thomas Masuku of the High Court of Swaziland. Urgent appeals were also submitted to the Special Rapporteurs on the Independence of Judges and Lawyers and Human Rights Defenders in the case of Adilur Rahman Khan, a lawyer and advocate before the Supreme Court of Bangladesh and Secretary of the human rights organisation Odhikar. Over the course of the year, the ICJ continued to follow the prosecution of Spanish Judge Baltasar Garzón, who was being tried for, among other offences, investigating crimes committed during the Spanish civil war and the Franco regime. Judge Garzón was eventually acquitted in this case, although he was sentenced to an 11-year ban from judicial office in another trial.

- ⇒ In July, the ICJ undertook a mission to El Salvador, headed by Pedro Nikken, the ICJ President, and Ramon Cadena, ICJ Regional Director for Central America, to address a decree which threatened the independence of magistrates from the “Sala Constitucional” of the Supreme Court.
- ⇒ In September, an ICJ mission, headed by Judge Stefan Trechsel and CIJL Director Graham Leung, examined the state of judicial independence in Pakistan. The mission welcomed the number of human rights cases that had been taken up in Pakistan, but found that while *suo motu* (‘by its own initiative’) proceedings by the Supreme Court have been effective in supporting the advancement of human rights, there was an element of arbitrariness in their use which could interfere with the ordinary course of justice and endanger the rule of law. Therefore, the mission called on the Supreme Court of Pakistan to be more selective in their use of these proceedings. The mission also assessed the procedures for judicial appointments in the country. National media widely reported on their assessment and the Supreme Court eventually responded by arguing that there were indeed constitutional provisions and case law developed on this issue.
- ⇒ In December, the CIJL convened the second annual Geneva Forum of Judges and Lawyers, which focused on the role of lawyers and bar associations in establishing and strengthening democratic institutions in countries in situations of political transition to democracy. The discussions addressed the challenges facing the legal profession in these countries, with the purpose of identifying priority needs and sharing lessons learnt from the past. Following the ‘Arab Spring’, the Forum primarily considered issues in the MENA region, with speakers from Egypt, Libya and Tunisia sharing their knowledge and expertise with participants.

Business & Human Rights Programme



Human rights abuses by corporations and other business enterprises continue to occur in all continents. Weak legislation, limited enforcement of existing laws and the lack of international accountability and redress mechanisms exacerbate the problems. Despite progress achieved during the last decade in affirming the human rights responsibilities of businesses and the obligation of States to protect against abuses by businesses, significant uncertainty remains as to the scope of those responsibilities or as to appropriate measures that should be implemented to ensure that companies comply with those responsibilities.

The United Nations Human Rights Council and the Organisation for Economic Co-operation and Development (OECD) have taken significant initial steps, including the elaboration of the Guiding Principles by the former UN Special Representative on Human Rights and Transnational Corporations and the updated OECD Guidelines for Multinational Enterprises. However, large protection gaps remain. Important sections of civil society are critical of the slow progress, in particular in relation to questions of access to justice, remedies for victims of corporate abuse and the development of legal standards at the national and international level.

Business and Human Rights Programme's Objectives

The ICJ's Business and Human Rights Programme aims to enhance the knowledge and capacity of judges, lawyers, prosecutors and human rights defenders so that they are better equipped to carry out their work in cases involving transnational companies. The ICJ's expertise also feeds in to assist members of the UN Human Rights Council and treaty bodies.

The ICJ aims to increase the access to justice for victims of corporate abuses of human rights and, working closely with UN bodies, to support the development, implementation and enforcement of human rights standards applicable to business enterprises.

BHR in action

Throughout the year, the ICJ pursued its advocacy work within the United Nations to promote the creation of legal standards and accountability mechanisms for transnational corporations. The ICJ has also sought to advance an agenda more favourable to the rights of disempowered people and communities, for example, children. The ICJ has also advocated in favour of providing effective legal remedies for people who claim to have suffered abuse by companies, as existing mechanisms are often weak or unavailable. Furthermore, the ICJ continued to explore feasible ways to develop an international legal instrument on business and human rights.

Following work initially carried out in 2010, the ICJ was instrumental in updating the OECD Guidelines for Multinational Enterprises in 2011, which were officially adopted in May with a new chapter on human rights.

- ⇒ ICJ submitted several third party interventions in national court proceedings. For example, the ICJ submitted an *amicus curiae* brief in support of a petition by the Colombian Commission of Jurists to the Colombian Constitutional Court, asking the Court to review the constitutionality of a new mining law. The Court subsequently granted the petition. The ICJ also submitted *amicus* briefs in support of plaintiffs in *Kiobel vs Royal Dutch Petroleum Inc*, a case now before the Supreme Court of the United States, which granted the petition to review a ruling by a lower appeals court. The case will consider whether corporations are bound by international law in respect of war crimes, crimes against humanity and other crimes under international law.
- ⇒ The UN Committee on the Rights of the Child is elaborating a new General Comment on “Children’s Rights and the Business Sector”. The final observations and recommendations approved by this committee reflected several key proposals made by the ICJ, ensuring greater protection for the human rights of children.
- ⇒ The ICJ has now completed the first phase of its project on access to justice for victims of corporate human rights abuse. The project has produced a series of country studies on Brazil, Colombia, the People’s Republic of China, the Democratic Republic of the Congo, India, the Netherlands, Nigeria, the Philippines, Poland and South Africa. The ICJ uses these studies in advocacy with human rights mechanisms, including the Human Rights Council’s Universal Periodic Review.

Economic, Social & Cultural Rights Programme



While the international community embraces the idea that all human rights are indivisible and interdependent, economic, social and cultural rights (ESC rights) are, in practice, neglected by many States. A major factor contributing to this neglect is the perception that ESC rights cannot be adjudicated and enforced by courts. Gaining access to economic and social justice is difficult or impossible for many individuals and groups at local and national levels. Discrimination often plays an important role in this regard. Women and people living in extreme poverty, both in rural and urban areas, often have little means or sufficient trust in the process to engage in court procedures to obtain justice. This is especially true when powerful private business interests are involved in a case.

The ICJ and ESC rights

The ICJ seeks to bridge the protection gap between civil and political rights and economic, social and cultural rights. The ICJ's strategy in this area is based on three intrinsically linked approaches: standard setting; advocacy; and the implementation of existing national, regional and international standards. The ultimate objective of the ESC rights Programme is to improve access to justice for victims of ESC rights violations.

Throughout the year, the ESC rights Programme worked with a variety of partners to support litigation, both through formal legal submissions and informal legal advice, in emblematic national cases in Argentina, Canada, Guatemala and South Africa. Most of these cases involved marginalised groups, including migrants, indigenous communities and dwellers, who were seeking to vindicate their ESC rights.

ESC rights in action

The ICJ also held workshops in Central America and Southern Africa. In Guatemala, 60 participants attended the workshop, including community leaders, their delegates and lawyers representing the communities. The participants discussed and determined collective strategies for advocacy and litigation on specific cases. In Malawi, 46 magistrates, judges, law academics and other experts contributed to raise awareness of the role of courts in enforcing ESC rights, through discussions on enforcement, obstacles to effective justiciability and access to justice for victims of violations of ESC rights. The participants formulated practical recommendations for remedial action.

- ⇒ In September, the ICJ sponsored and hosted – jointly with the Maastricht University – an international conference which adopted the landmark document called *Maastricht Principles on Extraterritorial Obligations (ETOs) of States in the area of Economic, Social and Cultural Rights*. The Principles were elaborated by a group of 40 experts in international law and human rights from all regions of the world. The ICJ led the drafting group that had spent two years researching and preparing the foundations for the Principles. The Maastricht Principles affirm that States may be responsible for the adverse effects that their conduct brings to the enjoyment of rights beyond their own borders. They also stress that all States must cooperate internationally in order to realise the human rights of persons outside of their own national territories.
- ⇒ During the second half of 2011, the ICJ worked closely with a number of local, national, and international partners to call on Argentina to respect and protect the human rights of indigenous groups adversely impacted by lithium exploration and exploitation in the region of the Salinas Grandes. These activities helped draw the attention of UN human rights mechanisms to the case. The UN Special Rapporteur on the Rights of Indigenous Peoples issued a robust statement, while the Committee on Economic, Social and Cultural rights delivered a strong set of concluding observations. This resulted in the suspension of the exploration licences to companies. The Supreme Court will now hear from the plaintiff communities in the case.
- ⇒ The entering into force of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) has been a long-standing goal of the ICJ's work in the area of ESC rights. In 2011, Costa Rica, Cape Verde, the Maldives, and Venezuela signed the Protocol, bringing the total signatories to 39, while El Salvador and Argentina became the latest countries to ratify the instrument. The ICJ has worked for many years with various actors worldwide to support the ratification of the Protocol. In December, several ICJ Commissioners endorsed the Declaration of Eminent Jurists in support of the Call of the NGO Coalition to ratify this key human rights treaty. Bosnia and Herzegovina, Bolivia and Slovakia also ratified the Protocol in early 2012. Eight countries have now ratified the Optional Protocol, which means that only two additional ratifications are required for it to enter into force.

Women's Human Rights Programme



Despite considerable effort and some progress in the area of Women's Human Rights, a number of countries continue to systemically sustain discrimination and inequality faced by women, perpetuating human rights abuses. Women are frequently denied effective legal protection, remedy and reparation. For example, in some countries national laws deny women equal status and impose legal guardianship regimes on

them. In others, laws restrict women's ability to access the sexual and reproductive healthcare they need and fail to effectively prohibit acts of gender-based violence. Even where appropriate law exists, ignorance, societal stereotypes, and a lack of tolerance persist in relation to human rights abuses against women, resulting in significant failures in the administration of justice and law enforcement. Practical and social issues, such as lack of access to information and financial resources, fear of stigma and repression, further disable and disempower women from looking to the law as a viable route to accountability, protection and justice.

Women's Human Rights Programme's Objectives

The Women's Human Rights Programme aims to address the issues of inadequate and inappropriate regulatory, protective and remedial legal frameworks, through engagement with human rights defenders, lawyers and other actors in countries around the world. The ICJ works with these partners at a country level to identify the obstacles that women face in accessing justice and implement actions designed to foster remediation, including support for litigation and law-reform efforts.

- ⇒ In its work to advance accountability for violations of women's human rights, the ICJ submitted expert legal opinions relating to two individual complaints brought to the Committee on the Elimination of Discrimination against Women (CEDAW). These complaints, dealing with women's reproductive rights and maternal health, led to two groundbreaking decisions. The first was a complaint brought against Brazil regarding maternal mortality in which CEDAW found that States are obliged to provide women with access to good quality maternal healthcare. The second concerned a case brought against Peru (*LC vs. Peru*) regarding its failure to enable women to access legal abortions in practice: in this case CEDAW found violations of the rights to an effective remedy and to health. The ICJ is now working with the applicants to ensure the implementation of these decisions.

- ⇒ The ICJ has started to implement a new project: “In-Country Exploration of Women's Access to Justice”. The work involves extensive exploration with local organisations, lawyers and human rights defenders of the obstacles women face in a number of countries when seeking to access justice. The ICJ and its partners will also produce reports detailing the problems and the shared elaboration of an action agenda for change. The project, run jointly with local partners, began its work in Thailand, Botswana and Kazakhstan. In all three countries the ICJ and local partner’s staff and researchers conducted field research through interviews and focus group discussions with stakeholders representing different groups of women. A series of multi-stakeholder workshops on women's access to justice were held in Almaty, Bangkok, Gaborone and Songkhla.
- ⇒ The ICJ worked with other NGOs and legal experts to contribute to the ongoing process of elaboration of a General Comment on Sexual and Reproductive Health by the Committee on Economic, Social and Cultural Rights (CESCR). Initiatives included facilitating, jointly with other NGOs, expert meetings on relevant international law and standards with members of the Committee.
- ⇒ In 2011 the ICJ continued to provide legal and strategic advice to lawyers and human rights defenders seeking to advance women’s rights protection through the law. For example, the ICJ provided substantial international legal analysis to Advocacy Forum in Nepal in its preparation of a toolkit for lawyers prosecuting cases of conflict-related sexual violence.

Sexual Orientation & Gender Identity Programme

L.9/Rev.1: Human rights, sexual orientation_gender identity		
ANGOLA	No	
ARGENTINA	Yes	
BAHRAIN	No	
BANGLADESH	No	
BELGIUM	Yes	
BRAZIL	Yes	
BURKINA FASO	Abst	
CAMEROON	No	
CHILE	Yes	
CHINA	Abst	
CUBA	Yes	
DJIBOUTI	No	
ECUADOR	Yes	
FRANCE	Yes	
GABON	No	
GHANA	No	
GUATEMALA	Yes	
HUNGARY	Yes	
JAPAN	Yes	
JORDAN	No	
KYRGYZSTAN		
LIBYA (SUSPENDED)		
MALAYSIA	No	
MALDIVES	No	
MAURITANIA	No	
MAURITIUS	Yes	
MEXICO	Yes	
NIGERIA	No	
NORWAY	Yes	
PAKISTAN	No	
POLAND	Yes	
	No	
REP. OF MOLDOVA	No	
REPUBLIC OF KOREA	Yes	
RUSSIAN FEDERATION	No	
SAUDI ARABIA	No	
SENEGAL	No	
SLOVAKIA	Yes	
SPAIN	Yes	
SWITZERLAND	Yes	
THAILAND	Yes	
UGANDA	No	
UKRAINE	Yes	
UNITED KINGDOM	Yes	
UNITED STATES OF AMERICA	Yes	
URUGUAY	Yes	
ZAMBIA	Abst	

Around the world, people are subjected to discrimination and human rights abuses, including acts of violence, because of their sexual orientation or gender identity. Seventy-six countries have laws that criminalise same-sex sexual conduct, in five countries (and partially in two others) the penalty for offences related to homosexuality is death. Even in countries without such criminal laws, LGBT individuals and communities are often the target of hate crimes, stigma, and exclusion. They suffer from restrictions on the rights to peaceful assembly, freedom of expression and association as well as discrimination in many aspects of life, including health care, employment and education.

Focus of the SOGI Programme

The main focus of the Sexual Orientation and Gender Identity Programme (SOGI) is legal reform. Through litigation, training and publications, the Programme increases awareness of international human rights and comparative constitutional law, stressing the principle that all human rights are universal, regardless of sexual orientation or gender identity. The SOGI Programme seeks to change discriminatory laws, obtain justice for victims of human rights abuses, and encourage lawyers and activists to use human rights law in defence of rights.

SOGI in 2011

Throughout the year, the SOGI Programme participated in training sessions and seminars, including in Turkey, Namibia, Sweden, and The Hague. The training aimed to increase awareness of international human rights law as it applies to issues of sexual orientation and gender identity and to encourage participants to use the international human rights system. In terms of litigation, the ICJ was involved in cases in Belize as well as before the Inter-

American Court (see below) and the European Court of Human Rights. The ICJ drafted a third-party intervention to the Court in the case of *Ladele and McFarlane v. United Kingdom*.

- ⇒ In June, the UN Human Rights Council adopted the first resolution on “Human Rights, Sexual Orientation and Gender Identity”. The ICJ worked closely with the South African drafters of the Resolution, which called on the OHCHR to produce a study on violence and discrimination on the basis of sexual orientation and gender identity. The ICJ also contributed to the development of this study and to a fact sheet entitled: “LGBT Rights are Human Rights”.
- ⇒ In August 2011, the Inter-American Court of Human Rights heard its first case relating to sexual orientation discrimination. *Atala v. Chile* concerned a decision by the Supreme Court of Chile to remove custody of a child from a mother because she was living with another woman. The Inter-American Commission of Human Rights, which filed the petition before the Court, asked the ICJ’s Senior Legal Advisor on SOGI to provide expert testimony on the topic of sexual orientation in parental custody decisions. She gave both written and oral testimony before the Court. In March 2012, the Inter-American Court found that Chile had violated Karen Atala’s rights to privacy and non-discrimination. The Court held that sexual orientation was a prohibited ground of discrimination under the American Convention and that parental sexual orientation could not be used as a pretext for discrimination in child custody cases.
- ⇒ In September the ICJ published *Sexual Orientation, Gender Identity, and Justice: A Comparative Law Casebook*. The *Casebook*, available online, is the first book of its kind; a collection and analysis of judicial decisions from more than 100 courts around the world. The *Casebook* highlights the role of international and comparative law in litigation for the defence of the human rights of LGBT individuals. Highlighting both historic and more recent cases, the book traces the progression of the twin norms of equality and universality. Activists, scholars and practitioners have widely commended the publication, while the *Casebook* is already being used in a number of law schools.

Global Security & Rule of Law Programme



Legal and other measures to combat terrorism and preserve security, particularly in the past decade, have had a corrosive effect on the rule of law worldwide. Such measures have created conditions that have led to torture and ill-treatment, enforced disappearances, extrajudicial killings and other abuses. Counter-terrorism measures conducted outside of the rule of law not only violate human rights, they are likely to be used as a justification by terrorists for their acts, further undermining the international legal system and the universal enjoyment of human rights. The ICJ advocates for counter-terrorism laws, policies and practices that respect the rule of law and adhere to international human rights, humanitarian law and refugee law.

Objectives of the programme

The objectives of the Global Security and Rule of Law Programme are: to ensure respect for the rule of law and human rights protection in the context of counter-terrorism and other national security measures; and to prevent further negative impacts of counter-terrorism laws and policies on human rights.

ICJ's work on Global Security and the Rule of Law Programme

The ICJ has contributed to submissions before the Human Rights Council and Treaty Bodies concerning the impact of security laws and policies on human rights, as well as continuing to engage in high-level discussions on the subject.

- ⇒ Throughout 2011, the ICJ continued to publish its monthly E-Bulletin on Terrorism, Counterterrorism & Human Rights, and established a Facebook page for the bulletin (available at: <http://www.facebook.com/ICJebulletin?ref=ts&sk=wall>). The E-bulletin is very well-received and has been significant in assisting partners and practitioners that work towards increased human rights compliance while countering terrorism.

- ⇒ Engaging with practitioners and policy-makers has continued to play a pivotal role. In February, the ICJ met with the UN Security Council Counter-Terrorism Executive Directorate (CTED), and discussed how to better integrate human rights into CTED's counter-terrorism mandate. In the same month, the ICJ participated in a regional symposium of the UN Counter-Terrorism Implementation Task Force (CTITF) Working Group on Protecting Human Rights while Countering Terrorism, held in Bangkok, Thailand, and presented a paper concerning the symposium theme of "Securing the Fundamental Principles of a Fair Trial for Persons Accused of Terrorism Offences". The ICJ also participated in seminars on counter-terrorism and human rights in Strasbourg (hosted by the CTED), Copenhagen (hosted by the ICJ Danish national section) and Warsaw (as part of the Organisation for Security and Cooperation in Europe Human Rights Dimension Implementation Meeting).

- ⇒ At the March session of the Human Rights Council, the ICJ and the Permanent Mission of Denmark to the UN co-organised a parallel event on the operational dimension of human rights compliance in the context of preventing terrorism. The ICJ was also engaged in events concerning accountability for human rights violations perpetrated in the name of countering terrorism. The ICJ delivered written and oral statements during the March session concerning the use of arbitrary detention in Thailand and the problem of enforced disappearances in the country.

Two of the ICJ's submissions to the Treaty Bodies focussed on the impact of counter-terrorism on human rights. This was the case in the alternative report submitted to the Committee Against Torture concerning Morocco's implementation of the Convention against Torture; and in the alternative report to the Committee on Economic, Social and Cultural rights concerning Israel's implementation of the International Convention on Economic, Social and Cultural rights.

United Nations Programme



In spite of advances in human rights protection over recent decades, current human rights mechanisms at the United Nations remain weak in delivering meaningful results. The key concerns of the ICJ relate to: the failure of mechanisms to tackle impunity in many cases; the failure of mechanisms to give

effect to the rights of victims, including through the right to remedy and reparation where human rights violations have occurred. The ICJ is also concerned by the failure to affect changes in practice for the prevention of future violations; the lack of enforcement of many of recommendations made by treaty bodies and the Human Rights Council's mechanisms; and safeguarding and strengthening the Special Procedures of the Human Rights Council. Of importance to the accountability of the UN's human rights mechanisms is the development of flexible means of systematically dealing with all urgent and chronic human rights situations, including increasing early-warning and preventive roles.

Focus of the UN Programme

The UN Programme functions primarily as the ICJ's advocacy programme at the United Nations, targeting the human rights mechanisms in Geneva. Activities focus mainly on engagement with the UN treaty bodies and the Human Rights Council and its subsidiary bodies, including the Special Procedure mandates and the Universal Periodic Review. The Programme also works on issues of "institutional standard-setting", aimed at improving the procedures and actions of the UN human rights mechanisms to promote and protect human rights, including by checking that they are not selective in their work.

The ICJ at the United Nations

Throughout the year, the UN Programme participated in the regular sessions of Human Rights Council in March, June and September 2011, as well as special sessions concerning the situation of human rights in Libya (February 2011) and Syria (April, August and December 2011).

- ⇒ The ICJ made a number of submissions to the Human Rights Council's Working Group on the Universal Periodic Review (UPR), along with associated lobbying and follow-up. These included submissions, events and information on the human rights situation in Belgium, Brazil, Greece, India, Indonesia, Morocco, Philippines, South Africa, Swaziland, Syria, Thailand, Uganda and Zimbabwe. Written and oral statements were made during the regular and special sessions of the Human Rights Council, related to themes including: arbitrary detention and enforced disappearances in Thailand; the

right to food; the role of the Council on business and human rights; extreme poverty; and the human rights situation in Nepal, Libya, Syria and Thailand. The ICJ sponsored numerous parallel events during sessions of the Council and its Working Group on the UPR, including a parallel event on the question of a World Court of Human Rights.

- ⇒ In 2011, the ICJ made submissions to the Human Rights Committee concerning the Committee's draft general comment on the freedom of expression, the Committee's procedural rules concerning the examination of non-reporting States, and on the implementation of the International Covenant on Civil and Political Rights (ICCPR) by Malawi. Submissions were made to the Committee Against Torture concerning the Committee's draft general comment on the right to redress, and the implementation of the Convention against Torture by Greece, Morocco and Sri Lanka. It also made a submission to the Committee on Economic, Social and Cultural Rights concerning the implementation of the Convention on Economic, Social and Cultural Rights by Argentina and Israel.

- ⇒ The ICJ continued to engage in the negotiation of resolutions by the Human Rights Council in key areas relevant to the ICJ's strategic plan and thematic / regional priorities. This included engagement on resolutions concerning: sexual orientation and gender identity; maternal mortality and morbidity; the situation of migrants; access to clean water and sanitation; the right to health; and the establishment of a new Special Procedure on truth, justice, reparations and guarantees of non-recurrence.

- ⇒ The ICJ was also a leading advocate concerning the reservations of Pakistan to Article 40 of the ICCPR, leading to a number of objections lodged by States parties to the ICCPR, and ultimately resulting in the withdrawal of the reservation by Pakistan.

Regional Programmes

The ICJ Regional Programmes (Africa, Asia-Pacific, Central America, Europe & Middle East and North Africa) focus on promoting the rule of law and advancing human rights objectives specific to their regional contexts and on supporting the independence and accountability of the judiciary in their respective regions. The ICJ has regional offices in Thailand, South Africa, and Guatemala, and a country office in Nepal; it has also a Europe Regional Programme and a Middle East and North Africa Regional Programme, both currently operating from the ICJ Secretariat in Geneva. More than half of the ICJ's staff members are currently based outside Geneva, where the organisation has its headquarters.

The establishment of an ICJ regional presence – a process that started in 2006 – has enabled the organisation to gain a better understanding of the issues at the country and regional levels. It has also allowed the ICJ to develop stronger ties to its network and other civil society organisations in these regions, as well as facilitating a deeper debate with Governments and regional intergovernmental organisations. This has resulted in a greater impact of the ICJ's legal and policy work, both in the regions and at the international level.



Africa Regional Programme



In many African countries, the rule of law is compromised by factors such as political instability and internal conflict. This is compounded by a general lack of awareness of international human rights law, and a deficiency of competent and/or effective judiciary. Human rights defenders (HRDs) in parts of the region often suffer harassment, persecution and, in some instances,

extra-judicial executions, torture or ill-treatment. HRDs' regional networks remain weak and the voices of African HRDs through international and regional advocacy are under-represented or marginalised. Regional institutions such as the African Commission on Human and Peoples' Rights, the African Court of Justice and Human Rights, the Southern Africa Development Community (SADC) Tribunal, the East African Court of Justice (EACJ) and the Economic Community of West African States (ECOWAS) Court of Justice have potential for anchoring Africa's governance on human rights and rule of law precepts, but their engagement and capacity must be strengthened.

Objectives of the Africa Regional Programme

The general objective of the Africa Regional Programme is to enhance the realisation of human rights in Africa through adherence to the rule of law. Specifically, the ICJ aims to strengthen the role of judges, prosecutors, lawyers and other human rights defenders, as well as judicial, quasi-judicial and policy institutions in Africa, and to increase their impact in promoting human rights and democratic reform throughout the African continent, with particular emphasis on empowering the under-represented or marginalised groups.

African Regional Programme in 2011

In 2011, the Africa Regional Programme organised, and participated in, a wide range of conferences, seminars, strategy meetings and training workshops in the region. These included a workshop organised with the SADC lawyers association; the Annual Mofokeng Rule of Law Lecture in Lesotho; the 49th session of the African Commission on Human and Peoples Rights, where the ICJ made submissions on "Police, Human Rights and the Rule of Law in Africa" and on "Coerced Sterilisation of Women in Namibia"; and participation in the Law Society of Zimbabwe 2011 Summer School held in Nyanga, Zimbabwe. The ICJ hosted the 2nd Regional Legal Consultative Conference on recent developments pertaining to the SADC Tribunal, and co-hosted the Annual General Meeting of the Southern Africa Chief Justices Forum in Livingstone, Zambia. These meetings resulted in the proposal of a set of resolutions to strengthen the judiciaries and ensure the SADC Tribunal's effectiveness and independence. Together with Citizens for Justice (CFJ) and the Judiciary of Malawi, the ICJ hosted a Judicial Symposium on the 'Role of the Judiciary in the Enforcement of Economic, Social and Cultural Rights' in Malawi. The ICJ partnered with Zimbabwe Lawyers for Human

Rights to train SADC lawyers and human rights defenders on fair trial standards and trial observation in Johannesburg, South Africa, laying the foundations for the establishment of a SADC Trial Observation Forum.

The ICJ in East Africa

In East Africa, the ICJ Africa Regional Programme and the ICJ-Kenya National Section participated in the AGM/Conference of the East African Magistrates & Judges' Association (EAMJA), held in Entebbe, Uganda under the theme: "The Role of the East African Judiciaries in the Electoral Process". The ICJ participated in the meeting of the Coalition for an Effective African Court hosted by the CEAC and ICJ-Kenya in Mombasa, Kenya. The ICJ also made submissions to the Human Rights Council Universal Periodic Review on Niger, Mozambique and Rwanda, and continued to monitor the case of *The Prosecutor v. Aloys Ntabakuze Case* No: ICTR-98-11-A. For this case, the ICJ submitted an *amicus curiae* brief, where allegations of intimidation of the appellant's counsel by the Rwandan Government were reported.

The ICJ in West Africa

In West Africa, the ICJ participated in a strategic planning meeting hosted by the Coalition for an Effective African Court held in Dakar, Senegal. Also in Senegal, the ICJ co-hosted a Regional Symposium on the Enforcement of Judicial Decisions of the ECOWAS Community Court of Justice, resulting in the adoption of a set of resolutions and recommendations to ensure that the ECOWAS Community Court remains a strong, credible and effective judicial institution. The ICJ also participated in the 50th Session of the African Commission on Human and Peoples' Rights, held in Banjul, The Gambia, which marked the 30th anniversary of the African Charter on Human and Peoples' Rights.

Activities in SADC

The ICJ played a central role in assisting SADC LA to develop its strategic plan for the period 2011 – 2013. This plan will inform and direct programming and future activities, particularly in the field of human rights and the rule of law. Also, in collaboration with Zimbabwe Lawyers for Human Rights, the ICJ submitted a concept note to the African Commission on the Development of Principles and Guidelines on the Implementation of the United Nations Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms.

The ICJ conducted substantial advocacy on the case of Judge Thomas Masuku in Swaziland, who was arbitrarily dismissed in connection with carrying out his legitimate judicial functions, including in relation to human rights. The ICJ also assisted 37 of the 96 Congolese judges and prosecutors who were unlawfully dismissed in July 2009 to draft and lodge a communication against the DR Congo before the African Commission on Human and Peoples' Rights.



In connection with a growing rift between African institutions, regional mechanisms and even legal professionals and international mechanisms based in Europe, the ICJ organised a visit by leading judges and lawyers from the Southern African region to the International Criminal Court and the International Court of Justice in The Netherlands. The ICJ also sponsored the participation of lawyers from Swaziland in the ordinary session of the Human Rights Council. On this occasion the ICJ co-organised, in conjunction with the Geneva Zimbabwe Advocacy Office (ZAO), a side-event on elections and the protection of human rights.

- ⇒ During the 50th session of the African Commission on Human and Peoples' Rights in October 2011, the ICJ made a submission on the protection of human rights defenders in Africa that contributed to triggering the adoption of Resolution ACHPR/Res.196 (L) 2011: on the Situation of Human Rights Defenders in Africa.
- ⇒ The ICJ and the Southern Africa Development Community Lawyers Association organised a workshop on the SADC Tribunal Review Process in January. The recommendations formulated during the event were incorporated in the Report of the Consultants that were appointed to review the SADC Tribunal, and subsequently endorsed by the Committee of SADC Ministers of Justice and echoed in the draft amendment of the Protocol on the SADC Tribunal.
- ⇒ A Judicial Symposium on the Enforcement of ESC Rights organised by the ICJ in Malawi resulted in Malawi judges and their Chief Justice reaffirming their commitment to enforcing ESC rights in Malawi courts and expressing their readiness to address the procedural and systemic obstacles to victims' access to justice.
- ⇒ The ICJ organised the Southern African Chief Justices' Forum's 2nd Judges Summer Colloquium, in Livingstone, Zambia in May, which focused on the Independence of the Judiciary as a Challenge to Democracy, Human Rights and Rule of Law. The Colloquium resulted in a resolution reaffirming the adherence by Chief Justices to a set of shared values around the notion of judicial independence. The resolution also expressed the commitment of the Chief Justices to realising judicial independence in their respective jurisdictions, and to working together to address the real and potential threats to such independence in East and Southern Africa.

Asia-Pacific Regional Programme



In many countries in the Asia-Pacific region, the observance of human rights and respect for the rule of law and democratic governance are yet to be entrenched. Inadequate legal provisions and structures, lack of domestic implementation of human rights obligations, political instability and corruption have engendered obstacles to the rule of law in the region. In recent years,

there has also been an overemphasised reliance by certain governments on security laws to counter real or perceived domestic threats related to terrorism and extremism, which further restrict rights and fundamental freedoms. Access to land, natural resources, including those essential for the enjoyment of economic and social rights, are often marked by discriminatory practices. Specific groups are often prevented from accessing and controlling those resources on the basis of their gender, birth, ethnicity or social status.

Asia-Pacific Regional Programme Approach

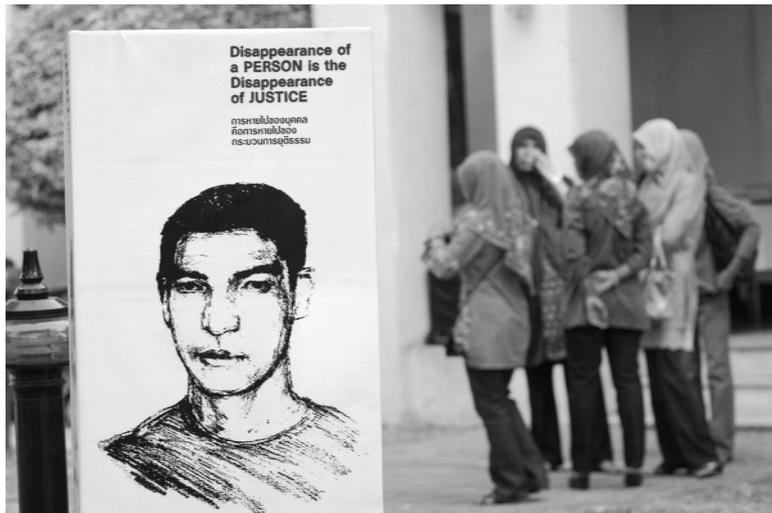
To effectively challenge human rights abuses, the Asia-Pacific Regional Programme joins forces with national and regional actors, who share a commitment to global standards of human rights and the rule of law. Although the primary focus of activities has been on Thailand and Nepal, through the course of 2011 the ICJ expanded its work in the Asia and Pacific region. The ICJ formed a regional advisory network of jurists, to work on key rule of law issues, such as statutory immunities that result in impunity in India, Nepal and Sri Lanka, and judicial independence and accountability in Bangladesh, Pakistan and the Maldives. The network is committed to improving regional dialogue and developing a regional strategy for human rights advocacy.

As part of this work, the ICJ undertook a mission to the Maldives on judicial independence and the report, launched in February, forewarned of the need to better protect the independence of the judiciary and rule of law if the transition to democracy was to be successful.

The ICJ also started its collaboration with relevant stakeholders in the South East Asia, to work with the Association of South East Asian Nations (ASEAN) institutions and civil society in the creation and strengthening of regional mechanisms for the protection of human rights in the region.

The ICJ in Thailand

With regard to Thailand, the ICJ continued its capacity building initiatives. In September it organised a seminar for judges on the topic of “rule of law and strengthening justice administration in the context of emergency laws applied in the southern border provinces”. The ICJ also conducted a seminar for the Thai Ministry of Justice focused on “Rule of Law and



Human Rights in a Cross-Cultural Setting”. This seminar was attended by 24 senior officials from the Ministry of Justice, the Department of Special Investigation (DSI), the Rights and Liberties Protection Department (RLDP), the Ministry of Foreign Affairs (MFA), the Office of the Attorney General, the Southern Border Provinces Administrative Centre (SBPAC), the Internal Security Operations Command (ISOC), and the Royal Thai Police, as well as academics and civil society. In December the ICJ jointly organised a workshop with the Association of Prevention of Torture. This workshop focused on treaty-monitoring requirements of the Convention against Torture, designed to help civil society groups prepare NGO submissions to the Committee Against Torture.

Also in Thailand, the ICJ published two reports that are now being used as advocacy tools with Thai Government agencies and the military: “*Training Camps in the Deep South Of Thailand: A Rights-Based Analysis*” and “*The Administration of Justice through Military Tribunals in Thailand*”. Another report was launched in October 2011 in Bangkok and Southern Thailand on resident’s perception of the rule of law in Thailand’s southern border provinces: “*Justice System in the Deep South of Thailand*”. These reports expose human rights abuses in southern Thailand, but also serve as the baseline for the ICJ’s work in the country.

Through its trial observation work, the ICJ brought national scrutiny to the proceedings in a number of important cases. For example, the case involving *habeas corpus* challenges to mass emergency decree detentions in Bangkok and emblematic human rights cases such as the disappearance of Somchai Neelapaijit.

- ⇒ Throughout the year, the ICJ, in partnership with the Justice for Peace Foundation (JPF), carried out joint advocacy initiatives in national and international forums for Thailand to ratify the Convention for the Protection of All Persons from Enforced Disappearance. Efforts have been successful as the Convention was signed by Thailand in January 2012, although it has yet to ratify the Convention.
- ⇒ In coordination with the International Federation for Human Rights (FIDH) and the Asian Forum for Human Rights and Development (FORUM-ASIA), the ICJ held a joint briefing on the Thailand UPR in September for the diplomatic community, the UN OHCHR, and Thai and international media. This was the first time that Thai NGOs collaborated on a joint advocacy event and this collaboration formed the basis of advocacy efforts at the

Human Rights Council in October where the ICJ, FIDH and FORUM-ASIA organised a side event.

The ICJ in Nepal

In Nepal, the ICJ undertook an assessment for a new justice sector reform project – “*Linking Demand with Response in Justice Sector Reform in Nepal*”. The project will be implemented in partnership with the Supreme Court of Nepal (along with a judicial outreach programme), the Nepal National Judicial Academy, together with community-based organisations. The actions of the project focus on access to justice for disadvantaged and marginalised people. As part of this project, in December the ICJ and the NJA convened a gathering of judges from the Supreme Court, Appellate Courts, and District Courts. During the meeting, participants stressed the need for bold and innovative approaches that look beyond the needs of formal institutions, and focus more on the needs of the most vulnerable and needy in society. In his closing remarks, Supreme Court Justice Kalyan Shrestha welcomed the challenging insights and invited ongoing interaction with the ICJ in the future, as the Supreme Court reviews the implementation of its Strategic Plan during the first quarter of 2012.

- In January, in collaboration with the Supreme Court Bar Association (SCBA), the ICJ organised a workshop for senior members of the Nepal Bar, Supreme Court judges, political leaders and the Chair of the Constituent Assembly to discuss draft constitutional provisions affecting the appointment process for judges, and the possibility of establishing a Constitutional Court. The programme was timed to influence ongoing deliberations within the Constituent Assembly (CA) committees, and was followed-up through a joint open letter to the CA by the ICJ and the SCBA. The ICJ also conducted a series of training sessions in partnership with OHCHR-N and Advocacy Forum on the potential uses of the Appellate and District Courts’ new writ jurisdiction. Through this training the ICJ has expanded its network of local lawyers from 30 to more than 100.
- ⇒ As part of its advocacy work on accountability, with respect to a proposed blanket amnesty for crimes perpetrated by both State and Maoist forces during the conflict, the ICJ engaged with members of the legislative committee, senior members of key political parties and members of the informal working group considering the transitional justice bills. The ICJ also responded to requests from key figures participating in the legislation drafting process with technical assistance and advice on international law obligations. Following the Government’s pardon recommendation to the President relating to Constituent Assembly member Bal Krishna Dhungel, who was convicted in 2004 on murder charges and sentenced to life imprisonment, the ICJ provided technical assistance to applicants in public interest litigation challenging the Government’s action, and advocated with the President’s office, questioning the constitutionality of exercising such a power.
- ⇒ The ICJ in Nepal also played a central role in organising civil society advocacy and technical assistance in the creation of a functioning witness protection system. The Nepal Office provided legal analysis and advice to the Nepal Law Commission on a draft bill providing for witness protection, and has also produced a publication “Witness Protection in Nepal: Recommendations from Best Practices”, which has been widely distributed.

The ICJ Asia-Pacific Regional Programme at the UN

As part of its international advocacy at the UN, the ICJ played a leading role in organising and providing technical assistance to civil society groups during the UPR process for Nepal, making a joint submission to the Human Rights Council. In Sri Lanka, the ICJ submitted an alternative report on the state of torture and ill-treatment to the Committee against Torture in anticipation of the review of Sri Lanka's 3rd and 4th periodic report to the Committee. The ICJ also prepared a joint submission to the UPR Committee with regards to India's failure to properly implement the CAT, specifically the shortcomings of the implementing legislation on the Prevention of Torture Bill in November. In October, the ICJ contributed a submission on Indonesia to the UPR Committee on issues concerning the recently enacted State Intelligence Act. In November, the ICJ made a submission to the UN Human Rights Committee for inclusion of issues for the examination of the fourth periodic report of the Philippines.

Europe Regional Programme



There are increasing concerns at the lack of human rights protection for migrants arriving in Europe, and at the unreliability of national procedures in protecting migrants' human rights. The situation was particularly alarming during 2011 in the southern European states, where national systems struggled to accommodate the high numbers of arrivals both through migration routes from Asia, and from

North Africa, following the events of the 'Arab Spring'. European Union laws and policies were significant in shaping the response to these developments, and the revision of aspects of EU policy on migration and asylum became urgent.

During the year, the European Court of Human Rights faced particularly strong political attacks from some European governments. At the same time, several measures proposed for reform of the structures and procedures of the Court threatened to restrict the rights of applicants to petition the Court, and to weaken its independence and integrity.

In the Russian Federation, and other countries in the Commonwealth of Independent States (CIS), lawyers and other human rights defenders faced attacks and threats. The weakness of the legal profession and of the judiciary continued to undermine the rule of law, and contributed to unfair trials and impunity for violations of human rights.

In Europe and the CIS region, the ICJ fills a need for an authoritative and reflective voice on the rule of law and justice systems; few other international NGOs focus on the rule of law. Thanks to its Commissioners and Network, the ICJ has high-level access to judges, lawyers and other legal experts. The efforts of these groups lend particular influence to the ICJ's missions, interventions and trial observations.

ICJ's Europe Programme objectives

The ICJ Europe Programme aims to strengthen the legal protection of human rights and the rule of law at the national and regional level, and to protect and strengthen European regional human rights systems and standards. The programme uses legal analysis, advocacy and training to support the effective functioning of justice systems, and to influence law and policy on issues including migration and criminal justice.

ICJ's work in Russia and CIS countries

Throughout 2011, the ICJ expanded its work on rule of law and fair trial in Russia and the CIS countries, including its programme of training on trial observation. Among several trial observations undertaken during the year, the ICJ sent an observer to the appeal hearing of a controversial murder trial in Russia, as well as to several hearings in the case of a prominent human rights defender in Dagestan, Russia. In another case where the ICJ had an observer – an appeal hearing in a criminal case in St Petersburg – the Court overturned the convictions in the case, which is very rare for criminal cases in the country.

In December, the ICJ also investigated allegations of human rights violations – including torture in detention and numerous irregularities at his trial – in the case of Azimjon Askarov, a prominent human rights defender in Kyrgyzstan. Azimjon Askarov was arrested in the aftermath of the ethnic disturbances in June 2010, and subsequently convicted of participation in murder and incitement to ethnic hatred. The ICJ mission observed the appeal in Mr Askarov's case before the Supreme Court, which confirmed his conviction and those of his co-accused. The mission met with Azimjon Askarov in detention, with the Prosecutor General, with lawyers for the defence and representatives of the victims, as well as with Kyrgyz NGOs. A report will be published in 2012.

ICJ's work in the European Union

In the European Union, the ICJ worked to inform and influence legislative and policy development on a number of issues of migration and criminal justice. In September, responding to concerns about protection of human rights of migrants and asylum seekers in Malta, an ICJ mission visited open reception centres and closed detention centres on the island. The ICJ also held training seminars on human rights and migration for Maltese NGOs, organised jointly with the Maltese NGO Aditus and the UNHCR.



- ⇒ The ICJ's and other organisations' long-standing advocacy to maintain a strong and effective European Court of Human Rights was successful in 2011 in resisting proposals that would have weakened the Court or restricted applicants' access to it. The ICJ, working in co-operation with a coalition of NGOs, contributed to the outcome of the declaration of the Izmir Diplomatic Conference in April, helping to ensure that it did not undermine the right of individual petition to the Court. In addition, changes were secured in proposals by the Steering Committee for Human Rights to establish a statute for the Court, ensuring these proposals would protect the autonomy of the Court through its rules and procedures.
- ⇒ The ICJ's *Practitioners Guide on Migration and International Human Rights Law*, published in April and widely distributed, was much welcomed by lawyers and NGOs in a year when concerns about the treatment and expulsion of migrants became particularly pressing. The publication analyses the protection afforded to migrants by international law and the means to implement it at national and international levels.

⇒ The ICJ organised a training programme for 25 lawyers from nine different countries of the CIS, aimed at building the capacity of the participants to use international law and procedures in their work. In the months following the event, it became clear that the training had informed participants' work in applications to the UN Human Rights Committee, to the UN Special Procedure mechanism, and was used by applicants to conduct in-country training seminars in two countries.

Central America Regional Programme



The functioning of democratic institutions in many areas remains weak despite the process of democratisation in Central America. Although some positive developments emerged in the establishment of new state institutions, and the ratification of several important international treaties, serious difficulties persisted in generating an effective rule of law and human rights culture in most countries in the region. Deficiencies in the functioning of justice systems have resulted in high levels of impunity and seriously limited access to the courts for a vast majority of the population. The independence of the Central American judiciaries has suffered from chronic and unwarranted interference by the executive branch and powerful interest groups. In recent years, acts of intimidation, persecution and violence against judges, prosecutors, lawyers and witnesses have increased. In parallel, despite some macro-economic growth, the socio-economic situation in Central

America remains precarious. Widespread poverty persists and, in certain cases, has worsened. Economic, social and cultural rights have remained largely unfulfilled and are generally considered as non-justiciable by courts and policy-makers.

Objectives of the Central America Regional Programme

The main objectives of the Central America Regional Programme are to strengthen the rule of law and administration of justice, combat impunity for gross violations of human rights, and increase recognition of the justiciability of economic, social and cultural rights and their promotion and protection throughout the region.

ICJ in Central America

Throughout 2011, the ICJ organised, co-organised and participated in a number of conferences, seminars, workshops, and other capacity-building and network-building events in Central America and South America. This included organising a seminar on judicial independence in Honduras with ICJ Commissioner José Antonio Martín Pallín, and participating in a workshop on economic, social and cultural rights in El Salvador that had been organised by GMIES (Independent Monitoring Group of El Salvador; Grupo de Monitoreo Independiente de El Salvador).

Honduras

In Honduras, the ICJ undertook a mission with ICJ Commissioners Belisario dos Santos Junior from Brazil and Philippe Texier from France in order to seek further strengthening of judicial independence and to investigate a number of cases of lawyers disbarred after the coup. The mission advocated for investigations into human rights violations committed during and after the coup, and followed up on other human rights issues including the alleged assassination of journalists and campesinos in the lower Aguán region of Honduras. It also provided technical

support to the “Comisión de Verdad” (Commission of Truth) in Honduras to strengthen the human rights investigation and analysis.

El Salvador

In El Salvador, the ICJ increased its work in seeking to strengthen judicial independence, the fight against impunity, and the justiciability of economic, social and cultural rights. The ICJ conducted a high-level mission in July, headed by ICJ President Pedro Nikken, in order to address a challenge to the independence of the magistrates from the “Sala Constitucional” of the Supreme Court.



Guatemala

In Guatemala, the programme has worked on a number of interrelated rule of law and human rights challenges. The ICJ continued public advocacy against the application of the death penalty. This campaign included the publication of a report on *Estándares internacionales relativos a la aplicación de la pena de muerte*. For the launch of this report a public forum was organised with ICJ Commissioner José Antonio Martín Pallín. The ICJ also organised training seminars for members of the judiciary on the relevant human rights standards related to the death penalty. The ICJ maintained a high level of visibility for this issue by issuing press statements, undertaking a poster-campaign, and doing interviews with the press to counterbalance a rising public sentiment favouring the death penalty.

Throughout 2011, the ICJ undertook a number of actions to strengthen judicial independence in Guatemala. With the Supreme Court, it proposed constitutional reforms that would strengthen and reinforce the independence of the judiciary, assisted by ICJ Commissioner José Antonio Martín Pallín and Honduran Judge Guillermo López Lone. The ICJ, with assistance from Argentinean jurist Professor Roberto Saba, former Colombian Supreme Court magistrate Jaime Araujo, and Chilean lawyer and law professor Alejandro Salinas, advocated with the Constitutional Court to secure greater judicial independence for that Court, in particular relating to the election procedures.

The ICJ organised and participated in a number of activities targeting improved administration of justice in Guatemala, with support from the Plataforma Holandesa contra la Impunidad.

Finally, during 2011 the ICJ intensified its work on economic, social, and cultural rights in the region. The ICJ organised a strategic litigation workshop in Guatemala on the justiciability of economic, social and cultural rights with participants from Colombia, Ecuador, México and El Salvador, which resulted in a declaration urging the Guatemalan government to lift the state of emergency in the Department of El Petén. The ICJ also conducted an investigation in Nebaj, Guatemala, where peasant communities have suffered from unlawful land evictions.

⇒ Together with other organisations, the ICJ advocacy against lifting the moratorium on the death penalty in Guatemala, helped to maintain a high level of visibility for this issue through press statements, a poster-campaign, and interviews to counterbalance public sentiment and the statements of campaigning politicians favouring the death penalty. Although the Congress passed the law which would have led to resumption of use of the death penalty, in December, the out-going president Álvaro Colom vetoed the law, and

Guatemala voted for the resolution of the UN General Assembly in calling for a moratorium on the use of capital punishment.

- ⇒ As part of its work on economic, social, and cultural rights in the region, the ICJ monitored the human rights situation of communities in the Department of El Petén, in northern Guatemala, undertaking three missions and denouncing the illegal eviction of 300 indigenous peasants from Guatemala into Mexico by the army. The ICJ work led to organisations in Mexico calling the attention of Guatemalan society to the case, resulting in a government-led mission to Mexico to negotiate their return.

- ⇒ In 2011, on the basis of a claim filed in 2010 by the ICJ with the Secretary of Environmental Affairs of the regional free trade agreement (CAFTA-DR), the US Government voted to instruct the Secretary of Environmental Affairs to prepare a factual record on the case for consideration by the Environmental Council of the CAFTA-DR. The claim asserted that the government of Guatemala failed to comply with environmental legislation in relation to protected areas in the country, specifically the Laguna del Tigre National Park, before allowing the exploitation of oil operations by the Ministry of Energy and Mines and the company Perenco Guatemala Limited. Although the case is still pending, it constitutes an important step in the struggle to ensure that national and transnational environmental regulations are enforced, in order to protect individuals and communities whose human rights are or can be adversely affected by extractive industry's projects.

Middle East & North Africa Regional Programme



Sweeping popular protests have pushed for an end to authoritarian regimes across the MENA region. Under various autocratic regimes in the region, impunity for serious human rights violations has prevailed, including cases of torture and ill-treatment, extra-judicial execution, enforced disappearance and arbitrary detention. Victims have been denied their right to remedy and reparation.

Although it is too early to assess the long-term outcomes of the Arab Spring, the evolution of legal systems and the establishment of democratically elected governments that uphold the rule of law and protect human rights will represent a clear break with the past and indications of durable change.

Objectives of the Middle East and North Africa Regional Programme

The objectives of the Middle East and North Africa Regional Programme are to establish and strengthen the rule of law and the protection of human rights in the region; to promote constitutions that guarantee, in accordance with international standards, the rule of law and human rights; to reinforce the independence of MENA judiciaries; and combat impunity in cases of human rights violations.

ICJ work in Syria

In Syria, the widespread and systematic human rights violations, including enforced disappearances, arbitrary and extrajudicial executions and torture have been widely reported. The ICJ's work in 2011 raised international awareness of the case of the Syrian lawyer and human rights defender Muhannad Al-Hassani who was wrongly imprisoned after an unfair trial. The ICJ advocacy work on his behalf at the national, regional and international levels helped make his case central and emblematic of the plight of human rights defenders in Syria. Al-Hassani was finally released when the popular protests against the Syrian regime started in March, as the Syrian regime came under increasingly sustained pressure from the international community to release human rights lawyers and political prisoners.

In December, the ICJ made an intervention at the UN Human Rights Council's special session on the situation of human rights in Syria. The ICJ called on the Council to adopt the draft resolution establishing a Special Rapporteur and recommending that the General Assembly and Security Council take appropriate measures to prevent the continuing deterioration of human rights and the humanitarian situation in Syria.

ICJ work in the MENA region

- ⇒ The ICJ undertook several missions to Tunisia and Egypt in 2011 to assess the constitutional reform processes in the countries and ensure that the processes leading to the adoption of the new Constitutions, as well as the content of these constitutions, comply with international standards of human rights and rule of law. In Tunisia, meetings were held with the Prime Minister, the Minister of Justice, officials at the Ministry of Foreign Affairs, members of the Tunisian Association of Magistrates, and the head of the Tunisian Bar Association. The ICJ undertook three missions to Egypt in 2011, during which meetings were held with the Minister of Justice, Senior Officials of the Ministry of Foreign Affairs, members of the judiciary, the legal profession and civil society.
- ⇒ The ICJ organised several international conferences on the role of constitutions in stabilising the transfer of political power and guaranteeing the transition to democracy. International, regional and national experts, as well as representatives of the transitional authorities, representatives of the local legal community, and members of civil society debated the constitution-making process, the role of the Constitution in establishing and consolidating the rule of law, the role of the Constitution in recognising and guaranteeing human rights, and the consolidation of democracy through institution building. Conferences were held in Egypt (June) and Tunisia (December).
- ⇒ The ICJ continued its work on Morocco throughout 2011. The ICJ's advocacy in Morocco on the independence of the judiciary contributed, in the recent constitution drafting process, to an affirmation of the independence of the higher judicial council and the end of control of the ministry of justice over the council, which increased its ability to work with greater independence.

ICJ 2011 Legal Outputs

Most of the ICJ outputs are available on the ICJ website (www.icj.org).

CENTRE FOR THE INDEPENDENCE OF JUDGES AND LAWYERS

Reports & Publications

- Pakistan Mission Report.

Press Statements & Presentations

- Joint Statement on Judge Lourdes Maria Afiuni (in Spanish);
 - Joint Statement on Judge Baltasar Garzón (in English);
 - Joint Statement on Judge Baltasar Garzón (in Spanish).
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BUSINESS & HUMAN RIGHTS PROGRAMME

Legal & Advocacy Submissions

- US Supreme Court: Joint *amicus curiae* brief, in *Jeppesen Inc et al.*, January;
- US Supreme Court: *Amicus curiae* briefs, together with the Center for Constitutional Rights (US), FIDH and others, in *Kiobel v Shell Inc.*, requesting the US Supreme Court to grant certiorari review of an earlier adverse decision on this case from the Second Circuit Appeals Court in New York, December;
- US Court of Appeals for the Fourth Circuit: Joint *amicus curiae* brief, in *Shimari, et al vs CACI International Inc. et al.*, December.

Press Statements

- Statement of the ICJ during the first session of the Human Rights Council's Open-ended Intergovernmental Working Group (OEWG) to consider the possibility of elaborating an international regulatory framework on the regulation, monitoring and oversight of the activities of private military and security companies, May;
- Joint written intervention (ICJ, Human Rights Watch and others) to the Human Rights Council, 17th session, on the report of the SRSG on Business and Human Rights, June;
- Joint Civil Society Statement (ICJ, Human Rights Watch, ESCR-Net et al) on Business and Human Rights to the 17th Session of the UN Human Rights Council, June;
- Joint statement to the Human Rights Council 17th Session on draft resolution on business and human rights: ICJ Expresses Dismay at New Draft Resolution on Transnationals and Human Rights, June;
- Joint NGO statement (ICJ, Amnesty International et al) with criteria for selection and appointment of members of the new Human Rights Council's working group on business and human rights, September.

ECONOMIC, SOCIAL & CULTURAL RIGHTS PROGRAMME

Papers and documents

- NCCs and Human Rights: Private Sector and Policy Coherence across Government Sectors, January;
- Written contribution to the Research project of the and on the basis of the presentation made during the Symposium at the Collège de France “Droits Sociaux: droits des pauvres/pauvres droits”;
- ICJ contribution to the Consultation on Extreme Poverty and Human Rights, July;
- ICJ submission to the Committee on Economic, Social and Cultural Rights on the Examination of the Third Periodic Report of Israel, November;
- Oral statement on the situation of Israel – UN CESCR
- Written Submission to the UN CESCR with regard to the periodic review of Argentina;
- Oral statement on the situation of indigenous communities in the Salinas Grandes in Argentina – UN CESCR;
- Oral statement on the adoption of the Maastricht Principles on ETO – UN CESCR.

Reports & Publications

- Toolkit for Action to support the ratification of the Optional Protocol to the ICESCR, collective publication of the International NGO Coalition for the Optional Protocol to the International Covenant on Economic, Social and Cultural, January;
- Commentary on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Joint Publication ICJ-IIDH, printed versions now available in English, French and Spanish), January;
- Human Rights and the Rule of Law Series No.2 (2008): “Courts and the Legal Enforcement of Economic, Social and Cultural Rights” (the French and Spanish versions now available in printed versions in the three languages), January;
- Final Maastricht principles on Extraterritorial Obligations in the Area of Economic, Social and Cultural Rights (available in English, French, Spanish and Arabic).

Press Statements

- Guatemala: End the forced evictions of campesinos, September;
- International: On Human Rights Day, eminent experts from over the world urge States to allow victims of violations of social rights to have their case heard by the UN, December;
- Argentina: The ICJ calls for measures to respect and protect the rights of the indigenous communities in the Salinas Grandes, December.

WOMEN’S HUMAN RIGHTS PROGRAMME

Legal and Advocacy Submissions

- Legal Opinion to the Committee on the Elimination of Discrimination Against Women (CEDAW), Case of L.C. V Peru;
- Letter of Congratulations to UN Women on the release of its flagship report: *Progress of the Worlds Women 2011 – 2012: In Pursuit of Justice*, which has a special focus on women’s access to justice.

SEXUAL ORIENTATION & GENDER IDENTITY PROGRAMME

Legal & Advocacy Submissions

- Ladele and McFarlane v United Kingdom; Application Nos. 51671/10 and 36516/10; Written Submission on Behalf of the International Commission of Jurists, Professor Robert Wintemute, FIDH, and ILGA-Europe, July & August;
- Karen Atala v Chile, Inter-American Court of Human Rights, Case 12.502; Expert Testimony/Oral and Written Declarations, August and September.

Press Statements

- Nigeria's Same-Sex Marriage Bill Threatens the Rights of Everyone, December;
 - Uganda: The International Commission of Jurists Urges Parliament Not to Pass Anti-Homosexuality Bill, May;
 - Sex Between Women Now a Crime in Malawi: New Law Violates Human Rights Obligations of Malawi, February.
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UNITED NATIONS PROGRAMME

Reports & Submissions: UN Treaty Bodies

- ICJ Oral Intervention on the Draft Optional Protocol to the Convention on the Rights of the Child on a Communications Procedure, June;
- ICJ written submission to the Human Rights Committee on its draft General Comment concerning the freedom of expression under article 19 of the International Covenant on Civil and Political Rights, January;
- ICJ written submission to the Committee against Torture on its draft General Comment concerning the obligation of States parties to implement article 14 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, September;
- ICJ oral submission to the Human Rights Committee concerning the examination of non-reporting States, October;
- ICJ oral submission to the Human Rights Committee concerning the examination of the initial report of Malawi under the International Covenant on Civil and Political Rights, October;
- ICJ submission to the UN Human Rights Committee for the preparation of the list of issues or the examination of the fourth periodic report of the Philippines;
- ICJ written submission to the Committee against Torture on the examination of the combined fifth and sixth periodic reports of Greece, October;
- ICJ written submission to the Committee against Torture on the examination of the fourth periodic report of Morocco, October;
- ICJ written submission to the Committee against Torture on the examination of the combined third and fourth periodic reports of Sri Lanka, October;
- ICJ written submission to the Committee on Economic, Social and Cultural Rights on the examination of the third periodic report of Israel, November.

Reports & Submissions: UN Human Rights Council

- Informal advice to European Parliamentary draftsman: Human Rights Council Review – Key Concerns of the International Commission of Jurists, January;
- ICJ Position Paper on the Review of the HRC in anticipation of the commencement of the Open-Ended Intergovernmental Working Group on the review of the work and functioning of the Human Rights Council, February;
- ICJ written intervention for HRC Regular Session 16: Thailand: An urgent need to end the practice of arbitrary detention and take action on enforced disappearances, March;
- ICJ written intervention for HRC Regular Session 16: Nutrition and models of production: advancing the right to adequate food, March;
- UN Human Rights Council: Legal framework for operations of intelligence services in countering terrorism to include accountability mechanisms, July;
- ICJ Oral Intervention on the situation of human rights in the Syrian Arab Republic, September
- Thailand: ICJ submission for the 12th session of the Working Group on the Universal Periodic Review, July;
- Advocacy Note: ICJ suggested recommendations and questions: Universal Periodic Review of Thailand, August;
- Advocacy Note: ICJ suggested recommendations and questions: Universal Periodic Review of Syria, August;
- ICJ Oral intervention on the adoption of the outcome document of the Universal Periodic Review of Belgium, September;
- ICJ Oral intervention on the adoption of the outcome document of the Universal Periodic Review of Greece, September;
- ICJ written stakeholder submission to the Universal Periodic Review of Morocco, November;
- ICJ written stakeholder submission to the Universal Periodic Review of Brazil, November;
- ICJ written stakeholder submission to the Universal Periodic Review of India, November;
- ICJ written stakeholder submission to the Universal Periodic Review of Indonesia, November;
- ICJ written stakeholder submission to the Universal Periodic Review of South Africa, November.

Press Statements & Oral Interventions

- Joint Urgent Appeal from International Civil Society: International Community Must Ensure Rights of Egyptians are Upheld, February;
- Joint NGO statement: Call to the Human Right Council to urgently convene a special session on the human rights situation in the Arab Republic of Egypt, February;
- Joint oral statement at the Human Rights Council: Promotion and Protection of all human rights, civil, political, economic, social and cultural rights, including the rights to development, March;
- Press Statement, Syria: Human Rights Council requests establishment of UN-led fact finding mission, international community must continue to act, April;
- Press Statement, Pakistan’s Reservations: A Challenge to the Integrity of the UN Human Rights Treaty System, June;
- Press Statement: The ICJ welcomes the first-ever UN Human Rights Council resolution on sexual orientation and gender identity, June;

- Press Statement UN Human Rights Council: ICJ expresses dismay at new draft resolution on transnationals and human rights, June;
- Press Statement: United Nations: ICJ statement at the 2011 Annual Meeting of the Special Procedures, June;
- Press Statement: ICJ Oral Intervention on the adoption of the outcome document of the Universal Periodic Review of Nepal, June;
- Press Statement: ICJ-OMCT joint oral intervention on the situation of human rights in the Syrian Arab Republic, August;
- Press Statement: Syria: Accountability for human rights violations and international crimes paramount, Security Council must act, August;
- Press Statement: Open Letter to President of the Human Rights Council concerning the Panel of Experts Report on Accountability in Sri Lanka, September;
- Joint Press Release: The United Nations Should Create a Complaints Mechanism for Children, December;
- Child Rights NGOS Welcome the Decision of the United Nations to Provide an International Remedy for Children, December.

Other

- Written intervention to EU human rights experts: Human rights crisis in Nepal, January;
- Joint NGO position paper: Checklist for selection of candidates for the mandate of UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, March;
- A Decade Since UN Security Council resolution 1373: Ten lessons learnt on counter-terrorism and human rights, September.

AFRICA REGIONAL PROGRAMME

Reports and Publications

- Recommendations of SADC Lawyers and Judges at the Workshop on the Review of the SADC Tribunal, January;
- Critique on the WTIA Draft Report on the Review of the Role, Responsibilities and Terms of Reference of the SADC Tribunal, Johannesburg, South Africa, March;
- Resolutions adopted at Annual General Meeting of the Southern Chief Justices Forum (SACJF) co-hosted by ICJ, SACJF and OSISA and in Livingstone, Zambia, May;
- Resolutions of West African Lawyers adopted at the Symposium on the Enforcement of Judicial Decisions from the ECOWAS Community Court, Dakar, Senegal, June;
- Resolutions of SADC Lawyers, Judges and Rule of Law Advocates, adopted at the 2nd Regional Legal Consultative Conference on the Review of the SADC Tribunal, Johannesburg, South Africa, July;

Legal Submissions

- Letter to the African State Members of the United Nations Security Council against the Deferral of Investigations and Prosecutions of the International Criminal Court in Kenya under Article 16 of the Rome Statute. Jointly issued with ISS and other concerned African civil society organisations, March;
- Police Violence and Human Rights in Africa. A submission made at the 49th Session of the African Commission on Human and Peoples' Rights, Banjul, Gambia, May;

- Coerced sterilization of women in Namibia. A joint SALC-ICJ submission made at the 49th Session of the African Commission on Human and Peoples' Rights, Banjul, Gambia, May;
- Petition to African Government concerning the African Union's Stance on the International Criminal Court. Co-signed with 115 organisations from more than 25 African countries, June;
- An Overview of the Legal System, Jurisprudence of, and Recent Developments concerning, the SADC Tribunal (Aperçu du Système et de l'Actualité du Tribunal de la Communauté de Développement d'Afrique Australe, SADC): presentation made during les Journées du Barreau, Lubumbashi, DR Congo, July;
- Comparative Overview of the Common Law and Civil Legal Systems, (Aperçu Comparatif des Systèmes Juridiques Anglo-saxon et Romano-germanique) paper presented during les Journées du Barreau, Lubumbashi, DR Congo, July;
- Request to the Special Rapporteur on the Independence of Judges, Lawyers and Prosecutors for 'urgent appeals' to the Kingdom of Swaziland over concern for Judicial Independence in the case of Mr. Justice Thomas Masuku, July;
- Trial Observation: Foundational Legal Principles and Practical Steps, training paper for lawyers and human rights defenders selected from 13 East and Horn of Africa countries in a training organised by the East and Horn of Africa Human Rights Defenders Project, July;
- Submission on the Impact of the Suspension of the SADC Tribunal on Judicial Independence, Human Rights and the Work of Human Rights Defenders in Southern Africa, October;
- Submission on Human Rights Violations Against Human Rights Defenders: the statement described the hostile situation in which human rights defenders work in Africa, October;
- Business and Human Rights in Africa: Issues, Problems and Prospects: a paper presented at an international conference organised by AFLA in Pretoria, July;
- Joint Oral Statement to the African Commission on Human and Peoples' Rights on the final draft Optional Protocol to the Convention on the Rights of the Child, establishing a communications procedure for children's rights violations and similar mechanisms under the African human rights mechanisms, April-May.

Press Releases

- The Government of Uganda Must Respect The Rights Of Ugandans To Peaceful Protest, April
- The Government of Swaziland Must Respect the Rights to Peaceful Assembly and to Freedom of Expression, April;
- ICJ in conjunction with Amnesty International, Human Rights First, Global Equity, IGLHRC and SALC: Letter to President Bingu wa Mutharika, President of Malawi expressing concern over the excessive use of force against demonstrators in Malawi cities, July;
- RD Congo: Une coalition d'organisations de défense des droits humains condamne fermement les menaces de mort contre Mr Kizito Mushizi Nfundiko, défenseur des droits humains et porte-parole de l'UNC aux Kivus (Bukavu, Sud Kivu), co-signed with other DRC and international human rights organisations, August;
- Libya: ICJ calls for immediate action by the National Transition Council to end xenophobic attacks and to protect Sub-Saharan Africans in Libya, September
- Statement on the Observation of the Zambian 2011 Presidential, Parliamentary and Local Elections, jointly issued with the Law Association of Zambia, September;
- ICJ welcomes the appointment of Mr. Mumba Malila as Attorney General of Zambia, November.

ASIA-PACIFIC PROGRAMME

Legal & Advocacy Submissions

- Nepal NGO Coalition Submission to the United Nations Universal Periodic Review Tenth Session of the UPR Working Group of the Human Rights Council, January;
- Maldives: International Commission of Jurists condemns the attack on JSC member Aishath Velezinee, January;
- Press Statement: “Nepal: Seventh Anniversary of the Killing of Maina Sunuwar; End Obstruction of Justice and Respect Victim’s Rights”, February;
- Respect Basic Freedoms during the Tibetan Holiday Season", March;
- Open Letter to Pushpa Kamal Dahal, Coordinator of the Sub-Committee of the Constitutional Committee, March;
- Open Letter to the Prime Minister on Persistent Impunity in Nepal, May;
- Open letter to the Chair of Constitutional Committee on Fundamental Rights, June;
- Joint Press Release and Open Letter to the Prime Minister regarding proposed withdrawals and amnesties, September;
- Press Release from Pakistan Mission, highlighting the preliminary observations of the Mission, September;
- Joint Press Release: “Nepal: Extend Mandate of UN Human Rights Office”, December.

Selected Presentations

- Presentation on CEDAW in the Nepalese context at a training seminar for women lawyers jointly organised by the ICJ and Nepal Bar Association, July;
- Presentation on Non-Implementation of Judicial Rulings and Impunity, at the 'Interaction Programme on Impunity and Non-Implementation of Judicial Rulings', organised jointly by the ICJ, Informal Sector Service Center (INSEC), Judicial Officers' Society (JOS) and Human Rights and Democratic Forum (FOHRID) on the occasion of 13th Annual International Justice Day, July;
- Presentation on Dalits Fundamental Rights in the New Constitution at a workshop organised jointly by the ICJ and Dalit Welfare Association, July;
- Presentations on Right to Effective Remedy and Importance of Documentation of Human Rights Violation Cases at a workshop on 'Documentation of the Human Rights Violation Cases' organised jointly by the ICJ and Conflict Victims' Society for Justice (CVSJ), September.

EUROPE REGIONAL PROGRAMME

Legal & Advocacy Submissions

- Committee of experts on a simplified procedure for amendment of certain provisions of the European Convention on Human Rights (DH-PS); Comments of the International Commission of Jurists, Amnesty International, Liberty, JUSTICE, the AIRE Centre and Interights, March;
- Comments of Amnesty International, the International Commission of Jurists, the AIRE Centre and Interights on the Draft Declaration for the Izmir High Level Conference, March;
- Strengthening mutual trust in the European judicial area – A green paper on the application of EU criminal justice legislation in the field of detention response by the International Commission of Jurists and JUSTICE, May;

- ICJ Observations on the Recast Proposal of the Reception Conditions Directive, July;
- ICJ Submission on the 2011 Recast of the EU Reception Directive, September;
- ICJ Submission on the 2011 recast of the EU Asylum Procedure Directive, September;
- ICJ Briefing Paper on the EU Directive on the right of access to a lawyer, October;
- The Kyrgyz Republic: ICJ Concludes Mission on the case of human rights defender Azimjan Askarov (Кыргызстан: МКЮ завершает Миссию по делу правозащитника Азимжана Аскарова).

Press Statements

- Belarus: ICJ Calls for End to Harassment of Lawyers (Беларусь: МКЮ призывает к прекращению преследования адвокатов), January;
- Russian Federation: ICJ observes an appeal hearing at the St. Petersburg City Court (Российская Федерация: МКЮ проводит наблюдение за кассационным слушанием в городском суде Санкт-Петербурга), April;
- Russian Federation: ICJ urges the Russian Authorities to Investigate an Attack against Lawyer (Российская Федерация: МКЮ призывает российские власти расследовать нападение на адвоката), May;
- European Court of Human Rights affirms the right to conscientious objection to military service: Joint statement of Amnesty International, Conscience & Peace Tax International, International Commission of Jurists, Quaker United Nations Office, Geneva, and War Resisters' International, July;
- Italy: Migrants rights are undermined by rushed EU law implementation (Proposta di legge sul "processo lungo" non deve essere approvata), July;
- Italy: Bill increasing length of criminal trial should be rejected, September;
- Joint Statement on the United Kingdom's Priorities and Objectives for its Chairmanship of the Committee of Ministers of the Council of Europe, November.

CENTRAL AMERICA REGIONAL PROGRAMME

Legal & Advocacy Submissions

- Reformas constitucionales para establecer un régimen de plena Independencia Judicial en Guatemala, November.

Press Statements

- Comunicado de Prensa: Pronunciamiento de la Comisión Internacional de Juristas en ocasión de finalizar su visita a Honduras, March;
- Comunicado de Prensa: Pronunciamiento de la Comisión Internacional de Juristas ante el desalojo llevado a cabo en el Departamento de Petén Comunidad Nueva Esperanza, August;
- Comunicado de Prensa: Las organizaciones abajo firmantes a la opinión pública nacional e internacional en ocasión de la Conmemoración del 9no. Día Mundial Contra la Pena de Muerte, October.

MIDDLE EAST & NORTH AFRICA REGIONAL PROGRAMME

Reports & Publications

- Trial Observation Report: The case of Haytham Al-Maleh.

Legal & Advocacy Submissions

- Morocco: Submission to the Committee against Torture for the periodic review of Morocco, September;
- Syria: ICJ Oral Intervention on the Situation of Human Rights in the Syrian Arab Republic, December.

Press Statements

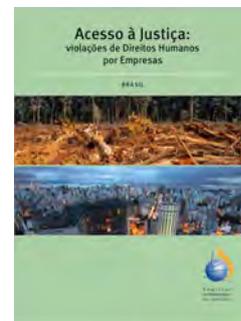
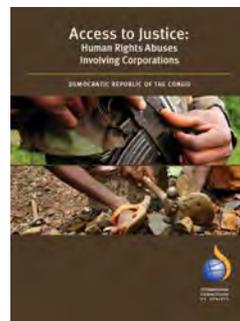
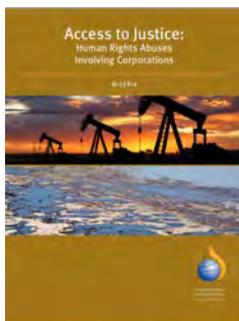
- Egypt: ICJ high-level mission calls for the establishment of effective democratic institutions and accountability for human rights violations;
- Egypt: Call to the Human Rights Council to urgently convene a Special Session on the human rights situation in the Arab Republic of Egypt;
- Libya: Human Rights Council takes important first steps, international community must continue to act;
- Syria: ICJ Oral Intervention on the situation of Human Rights in the Syrian Arab Republic
- Syria: Accountability for human rights violations and international crimes paramount, Security Council must act;
- Syria: Population must be protected from violent attacks by security forces
- Syria: Human Rights Council requests establishment of UN-led fact finding mission, international community must continue to act;
- Syria: UN Security Council should act to protect the Syrian population against widespread unlawful killings;
- Syria: Stop attacks on human rights defenders and their families; release those arbitrarily detained and imprisoned;
- Tunisia: ICJ high-level mission calls for establishing Rule of Law and Human Rights accountability;
- Tunisia: ICJ high-level mission calls for the adoption of a new Constitution that safeguards the Rule of Law and Human Rights, December.

ICJ 2011 Publications

Access to Justice: Human Rights Abuses Involving Corporations *Country Studies*

Access to justice and availability of effective legal remedies is fundamental to the general protection of human rights and also in addressing violations by businesses. Nevertheless, access to justice is hindered by a number of obstacles unique to corporate human rights abuses.

During 2011 four country studies, Nigeria, the Democratic Republic of Congo, India and Brazil, were concluded. They analysed justice and remedy mechanisms in the context of human rights abuses by corporations. Each study provides an insight into the national legislation and provides recommendations aimed to facilitate access to justice.



Practitioners Guide N° 6 – Migration and International Human Rights Law



The Practitioners Guide on Migration and International Human Rights Law analyses the protection afforded to migrants by international law and the means to implement it at national and international levels.

The Guide synthesises and clarifies international standards on key issues, in particular: the rights and procedures connected to the way migrants enter a country, their status in the country of destination, human rights and refugee law constraints on expulsion.

International Fair Trial Standards and Criminal Procedure in Uzbekistan

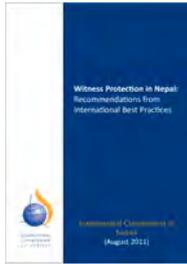
(Международные стандарты, касающиеся справедливого судебного разбирательства, и уголовный процесс в Республике Узбекистан)

Russian Edition



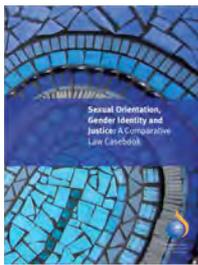
International Fair Trial Standards and Criminal Procedure in Uzbekistan, an ICJ publication on fair trial standards with a specific country focus, provides a systematic overview of the international law and standards and Uzbekistan law relating to fair trial and due process in the criminal domain. It is the first attempt to provide a comprehensive analysis of criminal procedure and trial with regard to Uzbekistan and in the region, and it is the first such comparative study of domestic proceedings and international standards pertaining to fair trial.

Witness Protection in Nepal: Recommendations from International Best Practices



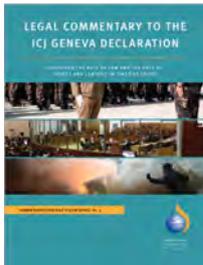
Recommendations from International Best Practices summarises the current state of witness protection and assistance in Nepal, highlights relevant principles of international law, and offers some preliminary recommendations to policy makers and advocates in Nepal currently seeking to establish witness protection and assistance mechanisms.

Sexual Orientation, Gender Identity, and Justice: A Comparative Law Casebook



This collection of domestic court cases, the first of its kind, addresses legal issues relating to sexual orientation and gender identity. It presents more than one hundred judicial decisions from every region of the world and analyses the role of international and comparative law in cases involving such topics as the criminalisation of sexual conduct, gender expression and cross-dressing, employment discrimination, freedom of religion and non-discrimination, and partnership benefits and recognition.

Legal Commentary to the ICJ Geneva Declaration: Upholding the Rule of Law and the role of the judges & lawyers in time of crisis



The rule of law and the protection of human rights are vulnerable to erosion when countries pass through periods of crisis. Armed conflict, terrorist campaigns, insurgencies, states of emergency, food crises, severe political instability, natural disasters, all may place enormous strain on the democratic institutions necessary for ensuring the enjoyment of human rights and the fair administration of justice.

The ICJ Geneva Declaration on Upholding the Rule of Law and the Role of Judges and Lawyers in Times of Crisis is an instrument for addressing these threats to human rights protection. This Commentary to the ICJ Geneva Declaration aims to assist judges, legal professionals and human rights advocates in making effective use of the principles by spelling out the basis in law for each of the Declaration's 13 principles.

Maldives: Securing an Independent Judiciary in a Time of Transition



A delegation of the International Commission of Jurists (ICJ), comprised of Dr. Leandro Despouy, former UN Special Rapporteur on the independence of judges and lawyers, Roger Normand, ICJ Asia-Pacific Director, and John Tyynela, ICJ Senior Legal Adviser, visited the Maldives from 12 to 17 September 2010 in order to assess advances in establishing an independent judiciary. This report summarises the key findings of the mission.

Towards a World Court of Human Rights: Questions and Answers



The founding of the United Nations in 1945, with the promotion of universal observance of human rights as a principle objective under its Charter, launched an era of international human rights institution-building and standard-setting. The human rights architecture developed over the following seven decades includes the UN Human Rights Council and its wide-ranging mechanisms. States have elaborated and adopted nine major universal human rights treaties, and numerous declaratory standards. An independent Office of the High Commissioner for Human Rights (OHCHR) exists to carry out human rights work on a global scale. An International Criminal Court (ICC) has been established to try persons suspected of war crimes and crimes against humanity.

There remains, however, a gap in this impressive human rights architecture: a World Court of Human Rights, that would enable a judicial mechanism to provide enforceable and effective justice to individual victims of human rights violations.

International standards concerning the application of the death penalty

Estándares internacionales relativos a la aplicación de la pena de muerte

Spanish Version



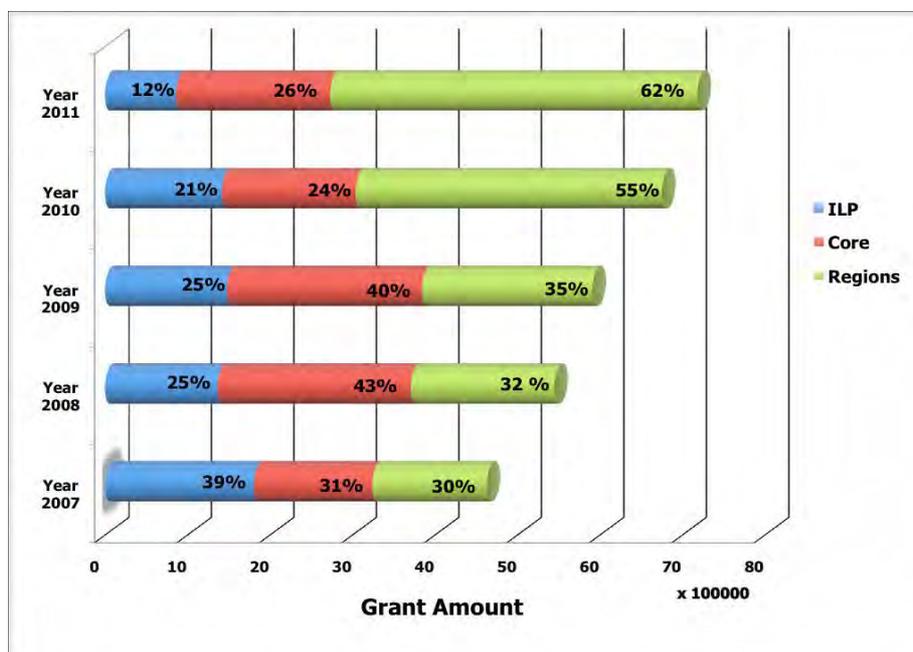
The International Commission of Jurists works and supports the efforts towards the abolition of the death penalty throughout the world. Currently 58 countries still retain the capital punishment, including Guatemala. The objective of the document is to systematise international standards concerning the application of the death penalty.

ICJ revenues in figures

In the year 2011, the ICJ total commitments were at **6,983,308 CHF**. Regarding amounts and sources of funding, government sources provided most of the financial support in 2011 while foundations represented 26% of all income. During the year 2011 the ICJ had 35 donors, where 11 of these supported more than one project.

Distribution of funding

Core contributions, which are commitments to support general operating expenses of the ICJ as a whole, represented 26% of total funding, while grants for work through the Regional Programmes represented 62% of funding. Grants for ILP Thematic Programmes made up 12% of the total (a third of what it was in 2007, 39%).



Financial Report

The figures below are extracted from the ICJ's audited financial statements for 2011.
The ICJ was audited in 2011 by Deloitte SA.

Balance sheet at 31 December 2011 (with 2010 comparative figures) (expressed in CHF)

ASSETS	2011	2010
CURRENT ASSETS		
Cash & cash equivalents	603,090	961,071
Grants receivable	662,258	843,974
Prepayments and other receivables	170,563	18,196
<u>Total current assets</u>	1,435,911	1,823,242
NON-CURRENT ASSETS		
Fixed assets	237,112	94,283
Financial assets	63,550	63,337
<u>Total non-current assets</u>	300,662	157,620
TOTAL ASSETS	1,736,573	1,980,863
LIABILITIES	2011	2010
CURRENT LIABILITIES		
Accounts payable	385,880	206,713
Contributions received during the year carried forward	197,437	565,160
Contributions received in advance fro subsequent years	706,189	630,741
Accrued liabilities	18,501	20,748
Provisions	121,228	163,332
<u>Total current liabilities</u>	1,429,235	1,586,697
LONG-TERM LIABILITIES		
Lease liabilities	60,320	51,613
Provisions for depreciation	93,738	0
<u>Total long-term liabilities</u>	154,058	51,613
RESERVE	153,280	342,552
TOTAL LIABILITIES & RESERVES	1,736,573	1,980,863

Statement of financial performance for the year ended 31 December 2011
(with 2010 comparative figures) (expressed in CHF)

INCOME	2011	2010
CONTRIBUTIONS		
Donor contributions received in the year or carried forward from previous year	7,572,717	7,198,429
Contributions to be carried forward	(197,437)	(565,160)
Contributions received in advance	(706,189)	(630,741)
Donor contributions utilised in the year	<u>6,669,091</u>	<u>6,002,527</u>
OTHER REVENUE		
Miscellaneous income	39,015	47,504
Financial income	1,356	2,175
Realised exchange gain	59	4,311
Other income	4,076	7,674
TOTAL INCOME	<u>6,713,597</u>	<u>6,064,193</u>
EXPENDITURE		
DIRECT PROJECT COSTS		
Consultancy fees	757,949	447,356
Meeting & travel costs	1,398,991	1,104,872
Printing & distribution	105,270	163,360
STAFF COSTS	3,869,152	3,711,811
DEPRECIATION	51,060	61,323
OTHER EXPENDITURES		
Office premises	546,022	513,679
Postage & telecommunication	105,838	99,884
Website, documentation & communication	16,515	63,989
Financial expenses	30,124	23,832
Exchange loss	2,784	225,933
Other expenses	19,164	145,287
TOTAL EXPENSES	<u>6,902,869</u>	<u>6,561,332</u>
SURPLUS FOR THE YEAR	(189,272)	(497,138)
GENERAL RESERVE AS OF JANUARY 1	<u>342,552</u>	<u>839,690</u>
GENERAL RESERVE AS OF DECEMBER 31	<u>153,280</u>	<u>342,552</u>



INTERNATIONAL
COMMISSION
OF JURISTS

P.O. Box 91
33 rue des Bains
1211 Geneva 8
Switzerland

Tel.: +41 22 979 38 00
Fax: +41 22 979 38 01

www.icj.org