

## 5TH ICJ GENEVA FORUM OF JUDGES AND LAWYERS

HOSTED BY THE ICJ CENTRE FOR THE INDEPENDENCE OF JUDGES AND LAWYERS (CIJL) IN  
PARTNERSHIP WITH THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS PROGRAMME

4-5 DECEMBER 2014

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### JUDICIAL ENFORCEMENT OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS

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German Permanent Mission  
to the United Nations in Geneva



Taipei Bar Association (Taiwan)

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## Programme

### **2014 Geneva Forum of Judges and Lawyers Judicial Enforcement of Economic, Social and Cultural Rights**

4-5 December 2014

Room 18, International Conference Centre Geneva

#### **Day 1**

8:30 – 9:00

**Registration**

9:00 – 9:20

**Welcome addresses:**

Sandra Ratjen, ICJ Senior Legal Adviser, Economic Social and Cultural Rights programme

Justice Philippe Texier (France), ICJ Commissioner, former judge of the French Cour de Cassation, former Member of the UN CESCR

9:20 – 10:00

**Keynote address – Judicial independence and the right to an effective remedy for violations of Economic, Social and Cultural Rights (ESCR)**

Mr Alejandro Salinas (Chile), Lawyer, former Ambassador of Chile to the UN in Geneva (Chairperson-Rapporteur during negotiations for the Basic principles and guidelines on the right to a remedy and reparation for victims of violations of international human rights and humanitarian law), CIJL Advisory Committee member

10:00 – 10:30

Coffee Break

10:30 – 11:15

**Legal and judicial enforcement of ESCR, progress to date at the international level**

**Moderator:** Sandra Ratjen, ICJ Senior Legal Adviser, Economic Social and Cultural Rights programme

*The way towards the Optional Protocol to the ICESCR and Exploring remaining challenges in the defense of ESCR*

Professor Zdzislaw Kedzia (Poland), Chairperson of the UN Committee on Economic, Social and Cultural Rights, Poland

Discussion

11:15 – 13:15

**The current state of legal (including judicial) protection of ESCR at the national level – A comparative overview of conventional and constitutional guarantees and protection**

**Moderator:** Professor Rodrigo Uprimny (Colombia), former auxiliary Magistrate of the Constitutional Court of Colombia, ICJ Commissioner

*Global Stocktaking with focus on Latin America*

Professor Rodrigo Uprimny (Colombia), former auxiliary Magistrate of the Constitutional Court of Colombia, ICJ Commissioner

*Experiences of legal protection in civil law countries*

Dr Gilles Badet (Benin), Special Adviser to the President of the Constitutional Court of Benin

*Experience of legal protection in common law countries, with a focus on the United Kingdom*

Mr Jamie Burton (United Kingdom), Lawyer

*Experience with recently-adopted constitutions*

Justice George Odunga (Kenya), High Court

Discussion

13:15 – 14:30

Lunch Break

14:30 – 16:00

**Judicial enforcement of ESCR - Mainstreaming enforcement of ESCR into the widest variety of courts and tribunals**

**Moderator:** Justice Kassoum Kambou (Burkina Faso), Cour de Cassation

*Experiences from administrative and social law tribunals – Germany*

Justice Thomas Voelzke (Germany), Judge of the Federal Social Court

*Experiences from juvenile and other specialized courts – Guatemala*

Justice Elvin René Gutiérrez Romero (Guatemala), Zacapa Children's Court

*Experiences from commercial courts – Philippines*

Justice Rhona Modesto-San Pedro (Philippines), Presiding Judge, Regional Trial Court, Pasig City

*Experiences from industrial courts – Botswana*

Justice Dingake (Botswana), High Court, Gaborone

Discussion

16:00 – 16:30 Coffee Break

16:30 – 18:00

**Respecting separation of powers while ensuring effective judicial protection of ESCR: Domestic courts**

**Moderator:** Matt Pollard, ICJ Senior Legal Adviser, CIJL and UN programmes

*Food from the Courts: the Indian Experience*

Mr Harsh Mander (India), Special Commissioner to the Indian Supreme Court for Right to Food

*Shaping the boundaries of "public interest" and "general welfare": The example of forced evictions*

Ms Alejandra Ancheita (Mexico), Lawyer, Executive Director of ProDESC, Martin Ennals Award Laureate 2014

*Judges and lawyers who face threats and pressure for acting on ESCR cases involving businesses*

Ms Francesca Lois Sarenas (Philippines), Lawyer, Sentro NG Alternatibong Lingap Panligal (SALIGAN)

Discussion

18:00 – 19:30

**Reception** ('Espace médias' outside room 18)

Remarks by:

Matt Pollard, ICJ Senior Legal Adviser, CIJL and UN programmes

Mr. Ibrahim Salama, Director Human Rights Treaties Division, Office of the High Commissioner for Human Rights

Mr. Olivier Coutau, Délégué à la Genève Internationale, République et Canton de Genève

Mr. Remington (Jui-Ming) Huang, Senior International Partner (Baker & McKenzie), Past President, Taipei Bar Association (Taiwan)

## **Day 2**

8:30 – 9:15

**Welcome coffee**

9:15 – 10:45

**Respecting separation of powers while ensuring effective judicial protection of ESCR: International bodies**

**Moderator:** Mr Ian Seiderman, ICJ Legal and Policy Director

*Protection in the context of austerity: the experience of the European system*

Justice Maria José Reis Rangel de Mesquita (Portugal), Constitutional Court Judge and Professor at the Faculty of Law - University of Lisbon

*Issues of independence and ability to protect, and the resurgence of "national sovereignty": The experience of the Inter-American system (after Bello Monte, where are we?)*

Professor Carlos Ayala (Venezuela), ICJ Commissioner and former member of the Inter-American Commission on Human Rights

*Imbalance of powers and contempt of courts as challenges to enforcement: The experience of the African system*

Mr Chafi Bakari (The Gambia), expert member of the Working Group on Economic, Social and Cultural Rights of the African Commission on Human and Peoples' Rights

*The resurgence of "cultural relativism" in emerging systems – The case of ASEAN*

Professor Vitit Muntarbhorn (Thailand), Professor of international law, Chulalongkorn University, Bangkok; Co-Chair of the Civil Society Working Group for an ASEAN Human Rights Mechanism

Discussion

10:45 – 11:15

Coffee Break

11:15 – 12:30

Further discussion of the main tensions and issues identified in the two sessions on separation of powers and effective judicial protection

**Moderator:** Mr Ian Seiderman, ICJ Legal and Policy Director

12:30 – 14:00

Lunch Break

14:00 – 15:00

### **Overcoming ongoing challenges and obstacles**

**Moderator:** Daniela Ikawa (USA), Programme Officer, ESCR-Net

*Protection of lawyers (and judges) as human rights defenders working on ESCR*

Ms Hina Jilani (Pakistan), ICJ Commissioner and lawyer and former UN Special Rapporteur on Human Rights Defenders

*Problems of enforcement of decisions, monitoring of implementation of orders*

Ms Jackie Dugard (South Africa), Associate Professor in the Wits School of Law and Senior researcher at SERI

*Territorial and Extraterritorial jurisdiction in times of globalization and growing interdependences (ETO)*

Professor Mark Gibney (USA), Belk Distinguished Professor at UNC-Asheville, and the Raoul Wallenberg Visiting Chair of Human Rights and Humanitarian Law

15:00 – 16:30

Discussion with all participants of steps and good practices to be taken and promoted

**Moderator:** Daniela Ikawa (USA), Programme Officer at ESCR-Net

16:30 – 17:00

Coffee Break

17:00 – 18:00

### **Conclusions and summing up of recommendations**

**Moderators:** Sandra Ratjen, ICJ Senior Legal Adviser, Economic Social and Cultural Rights programme and Matt Pollard, ICJ Senior Legal Adviser, CIJL and UN programmes

## List of Participants

### **2014 Geneva Forum of Judges and Lawyers Judicial Enforcement of Economic, Social and Cultural Rights**

*4-5 December 2014*

*International Conference Centre Geneva*

Alejandra Ancheita (Mexico)  
Alejandro Salinas (Chile)  
Bruce Porter (Canada)  
Carla Edelenbos (the Netherlands)  
Carlos Ayala (Venezuela)  
Chafi Bakari (the Gambia)  
Daniela Ikawa (USA)  
Dzidek Kedzia (Poland)  
Elvin Gutiérrez Romero (Guatemala)  
Faith Mushure (Zimbabwe)  
Francesca Lois Sarenas (Philippines)  
George Odunga (Kenya)  
Gerhard Reissner (Austria)  
Gilles Badet (Benin)  
Harsh Mander (India)  
Hina Jilani (Pakistan)  
Jacqueline Dugard (South Africa)  
Jamie Burton (UK)  
Justice Mavedzenge (Zimbabwe)  
Kassoum Kambou (Burkina Faso)  
Loubna Ouazzani (Morocco)  
Malek Adly, Lawyer at ECESR (Egypt)  
Marco Sassoli (Switzerland)  
Maria de Mesquita (Portugal)  
Mark Gibney (USA)  
Martin Rogel Zepeda (El Salvador)  
Mohammed Bouzlafa (Morocco)  
Nizar Saghie (Lebanon)  
Oagile Dingake (Botswana)  
Philippe Texier (France)  
Radmila Dacic (Serbia)  
Reem Khalaf (Bahrain)  
Remington Huang (Taiwan)  
Rhona Modesto San Pedro (Philippines)  
Rodrigo Uprimny (Colombia)  
Rubenia Galeano (Honduras)  
Thomas Voelzke (Germany)  
Vani Sathisan (Switzerland)  
Vitit Muntarbhorn (Thailand)  
Walid Melki (Tunisia)