

Traditional and Customary Justice Systems

8th annual Geneva Forum of Judges & Lawyers
22-23 November 2017

Villa Moynier, Rue de Lausanne 120B, Geneva, Switzerland

Programme



Photo: "Traditional leaders preside over a case in B-Court, Nyang Payam, Torit County, South Sudan". Photo Credit: UNDP South Sudan\2016\Angelique Reid ©2016 United Nations

The 2017 Geneva Forum of Judges & Lawyers is made possible by the support of the Republic and Canton of Geneva, Switzerland.

Wednesday, 22 November

9:00 – 9:30 **Registration**

9:30 - 9:45 **Opening Session**

Welcoming Remarks

Saman Zia-Zarifi, Secretary General, International Commission of Jurists (ICJ)

Olivier Coutau, Delegate to International Geneva, Republic and Canton of Geneva

History of the Villa, Practical Matters

Kamelia Kemileva, Executive Manager, Geneva Academy of International Humanitarian Law and Human Rights

Introduction of the Forum

Matt Pollard, Director of the Centre for Independence of Judges & Lawyers, Senior Legal Adviser, UN Representative, ICJ Geneva

9:45 - 11:00 **Introduction of Participants**

- General roundtable, participants briefly present their relevant experiences and perspectives, by way of introduction.

11:00 -12:30 **Equal and Effective Access to Justice**

Moderated by Matt Pollard, Director of the Centre for Independence of Judges & Lawyers, Senior Legal Adviser, UN Representative, ICJ Geneva

Introduction: Raquel Yrigoyen Fajardo; Lawyer & Professor, Law Faculty at the Pontifical Catholic University of Peru; Founding member of the International Institute on Law and Society (IIDS)

Introduction: Chuma Himonga, Law Professor, University of Cape Town, South Africa

- What is the potential for traditional and customary justice systems to contribute to the realisation of equal and effective access to justice, particularly for rural, poor and other marginalised populations, including in connection with Sustainable Development Goal 16?¹
- How do international human rights of ethnic, religious or linguistic minorities, the particular rights of indigenous peoples, and cultural rights more generally relate to traditional and customary justice systems?
- What challenges and risks need to be overcome, and how to address them?

12:30 - 13:30 **Lunch** at the venue

¹ Please note that the inclusion of a specific session on the rights of women later in the schedule is not intended to restrict discussion of the situation and rights of women to that session. To the contrary, participants are encouraged to consider and discuss gender perspectives and other intersecting aspects of discrimination on multiple grounds, whether in relation to ordinary courts or traditional or customary systems, throughout all parts of the programme.

13:30 - 15:30

Role and status in the national legal order

Moderated by Alex Conte, Senior Law and Policy Adviser, ICJ Geneva

Introduction: Rasmus Wandall, General Counsel, International Association of Prosecutors

- What kinds of matters can traditional and customary justice systems decide?
- Is there any scope for traditional and customary justice systems to be exempt from constitutional or other legal protections for human rights applicable to ordinary courts?
- What is the role of ordinary courts in reviewing decisions by traditional and customary justice systems? What grounds of review and remedial powers should ordinary courts exercise?
- What kinds of remedies and penalties can traditional and customary justice systems impose?
- How best to address any potential inconsistencies with international human rights law and standards?

15:30 - 15:45

Coffee-break

15:45 - 18:00

The right to fair hearing by an independent and impartial tribunal

Moderated by Ian Seiderman, Legal and Policy Director, ICJ Geneva

Introduction: Matt Pollard, Director of the Centre for Independence of Judges & Lawyers, Senior Legal Adviser, UN Representative, ICJ Geneva

- To what extent are the criteria and processes for becoming a decision-maker in traditional and customary justice systems consistent with international human rights and rule of law standards, for instance as regards:
 - non-discrimination in access to public office;
 - merit-based selection; and
 - independence and impartiality of the judiciary?
- To what extent are the procedures used by traditional and customary justice systems consistent with international fair trial standards, including the rights of defence?
- How best to address any potential inconsistencies with international human rights law and standards?

18:00 – 18:45

Reception at the venue

19:00

Dinner for participants

at Restaurant Les 5 Portes (Rue de Zurich 8, Geneva)

Thursday, 23 November

9:30 – 12:30 The rights of women

Moderated by Livio Zilli, Senior Legal Adviser, UN Representative, ICJ Geneva

Introduction: Justice Teresa Doherty; Judge, Residual Special Court for Sierra Leone; Member, International Association of Women Judges

- What impacts – negative or positive, actual or potential – do the mechanisms and processes of traditional and customary justice systems have on the human rights of women? For instance as regards:
 - the effective participation by women (as decision-makers, parties, or witnesses);
 - the right of women to non-discrimination, including arising from substantive decisions; and
 - practices relevant to the right to remedy and reparation, with particular impact on women.
- How best to address any potential inconsistencies with international human rights law and standards?

12:30 – 13:30 Lunch

13:30 – 15:30 The rights of children

Moderated by Reema Omer, International Legal Adviser for Pakistan, ICJ South Asia Office

Introduction: Karabo Ozah, Deputy Director, Centre for Child Law, University of Pretoria, South Africa

Introduction: Yann Colliou, Programme Manager, Juvenile Justice, Terre des Hommes Lausanne, Switzerland

- What impacts – negative or positive, actual or potential – do the mechanisms and processes of traditional and customary justice systems have on the human rights of children? For instance, as regards:
 - effective participation by children (as complainants, defendants, or witnesses); and
 - the rights of children, including the principle of primary consideration of the best interests of the child, and standards for the administration of juvenile justice, including arising from substantive decisions.
- How best to address any potential inconsistencies with international human rights law and standards?

15:30 – 15:45 Coffee Break

15:45 – 17:30 Further discussion, conclusions and next steps