



INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

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

Conference on Legal Remedies for Human Rights abuse involving corporations

*A Role for Judges and Lawyers in Protecting Human Rights in the context of Corporate
Activity
Geneva, 27/28 September 2010*

DRAFT PROGRAMME

08:30 Arrival and registration

09:00 - 09:30 Opening

Wilder Tayler- ICJ Secretary General
Prof. Hansungule/ Justice Mkandawire (tbc)

09:30 - 10:10 Keynote speech

Current challenges to the right to an effective remedy in the context of corporate activity
Justice Ian Binnie

10:10 - 11:30 **Session I**

Identifying the problems and possible solutions in the context of civil legal liability

The session will address the practice in relation to the attribution of subsidiaries' acts to the parent companies and the practice of piercing the corporate veil across jurisdictions. Procedural issues such as limited practice of collective/group complaints, evidence gathering and the allocation of the burden of proof in human rights –related cases will also be discussed. The role of judges and lawyers in guaranteeing procedural equality of arms would be an aspect of the debate.

Chair/Moderator:

The perspective from the Philippines- Joselito Calivoso
The experience in the Netherlands- Prof Cedric Ryngaert
Litigating transnational cases in the United States- Katherine Gallagher
Prof Cees Van Dam

General debate

11:30 – 13:00 **Session II**

Constitutional and human rights remedies

This session will take stock of current legislation and practice about special remedies available against the violation of rights guaranteed under national constitutions, the problems identified in this area and best practices in a number of countries that recognise the application of constitutional provisions to legal entities such as corporations.

Chair/Moderator:

The experience of South Africa- Prof David Biltchiz

The experience of Colombia- Miguel La Rota

Perspectives from the African Commission on People's and Human Rights- Commissioner Mumba Malila

Perspectives from the Inter-American Human Rights System-

General debate

13:00 - 14:30 Lunch break

14:30 - 16:00 **Session III**

Identifying the problems and possible solutions in the context of administrative remedies

This session's discussion should identify the use of administrative boards and a panel to address complains in the environmental, labour and consumer's field that have human rights aspects or implications. The rapid development of administrative boards and national human rights commissions/ombudsmen addressing the activities of industry sectors such as extractive industries has created new opportunities for victims to have their complains and grievances heard. At the same time, these bodies experience limitations in terms of enforceability of their decisions and opaque or complex methods and procedures.

Chair/moderator:

National Human Rights Commission/Ombudsmen- Mr Maina Kiai

The administrative mechanisms in Brazil: Ministerio Publico, Mr Oscar Vilhena

Can OECD National Contact Points provide a remedy?- Victor Ricco

General debate

16:00 - 16:20 Coffee break

16:20 - 18:00 **Session IV**

Identifying the problems and the possible solutions in the context of criminal legal liability for corporations.

This session will address substantive questions such as the limited scope and modalities of criminal liability for corporations and its links with liability of corporate managers or directors as well as the procedural issues surrounding the respective role of prosecutors and victims in initiating criminal proceedings, possibilities of victims' participation and the possibilities for granting civil damages in the process. Questions relating to the practice about attributing company

managers' and subsidiaries' and employees' acts to the parent company will also be examined in this context.

Chair/Moderator: Justice

Prosecuting - The Kilwa trial- Ms Patricia Feeny
Corporate Criminal Liability in India: Learning Lessons from *Bhopal*- Prof Surya Deva
Prosecuting company officials: the experience in Peru- Mr David Velazco (tbc)

General debate

RECEPTION/DINNER

Tuesday, 28 September

08:30 - 10:00 **Session V**

Common issues in relation to legal remedies

Chair/Moderator:

Rachel Davies- Legal Advisor to the SRSG on Business and Human Rights
Marie-Caroline Caillet (ECCJ/Sherpa)
Richard Meeran- Leigh and Day

General debate

This session will focus on crosscutting or recurrent thematic issues across countries and branches of law. Some of them may have emerged from the discussion in previous panels and would include issues relating to national courts' jurisdiction on transnational cases, the case for piercing the corporate veil in cases of gross human rights violations as well as procedural issues relating to legal representation and victims standing, costs and length of proceedings. The discussion should try to elucidate to what extent human rights law principles can be used by judges and lawyers to ensure an improved access to justice in cases of corporate abuse.

10:00 – 11:20 **Session VI**

Institutional Opportunities

This session will provide the opportunity to take stock of existing obstacles for judges, lawyers and prosecutors to work effectively with independence and explore current opportunities within national institutions and international frameworks. The discussion should build on session V and previous sessions and try to elucidate the elements for a programme of action.

Introductory presentation: Mr Carlos Lopez (ICJ)

Discussion in Plenary

11:20 - 12:00 Closing keynote speech

*International remedy mechanisms: United Nations Human Rights Complaints procedures,
regional courts and beyond*
Justice Philippe Texier

12:00 - 12:15

Closing remarks (ICJ)