



International Conference

Convention on the Rights of the Child: From Moral Imperatives to Legal Obligations

In Search of Effective Remedies for Child Rights Violations

Geneva, International Conference Centre of Geneva (CICG)

12-13 November 2009



Centre International de Conférences Genève

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Welcome by the organizers

Geneva, 12 November 2009

Dear Participant,

On behalf of the organizers of the conference, a warm welcome to Geneva!

We are very proud to have 121 participants from over 50 countries of the world, and are equally excited about your incredibly diverse professional backgrounds, experience and expertise. We look forward to learning more about you and your organisation, whether it be a National Child Rights Coalition, international or national Human Rights or Child Rights NGO, UN agency, university, bar association, government, or supporting donor.

And we all have at least one common denominator: a strong will and commitment to make use of the Convention on the Rights of the Child as a legal instrument that imposes legal obligations on states, obligations which must be directly enforceable in the courts by children and their representatives.

You will recall that our goals for the conference are both to fully appreciate the importance and added value of using the CRC as a legal instrument, and to inspire and be inspired by each other to incorporate children's rights litigation within your future activities to realise children's rights and ultimately bring positive, lasting changes to children's lives.

We therefore welcome and encourage your very active participation, not only during the plenary sessions, panels and workshops, but also during breaks and after sessions have been adjourned when you will hopefully find time to mingle and make contact with each other. We also recognise that our programme is very ambitious, and we hope that you will help us to stay on schedule by arriving promptly to panels and workshops so that we can maximize our time together.

We are confident that during these two days, you will learn many interesting and even groundbreaking things. This underscores the importance of following through with this knowledge, whether through sharing it with your colleagues and partners back home, using it to devise a national or international child rights litigation strategy, or working with it to create new partnerships with lawyers and human rights organizations who can bring children's rights violations into the courtroom.

We are ready to provide you with as much assistance as possible to that end. As a first step, we hope that you will sign up for and contribute to the new CRINMAIL dedicated to child rights litigation to be launched shortly after this conference. We also draw your attention to a new resource on the CRIN Website, "CRC in Court", which offers searchable summaries of and links to CRC jurisprudence in international and national courts from around the world. You will find more details on how to join in the conference pack.

Thank you for taking the time to participate in this conference, and we hope that you find it to be both a meaningful experience and a pleasant time.

Warmest regards,

The Organisers

Save the Children, UNICEF, OHCHR, UNICEF Innocenti Research Centre, NGO Group for the Convention on the Rights of the Child, Child Rights Information Network

Welcome by the Chairperson of the CRC

Geneva, Seoul, 12 November 2009

Dear colleagues and friends,

As the Chairperson of the Committee on the Rights of the Child, let me congratulate you for your participation in the conference on “Convention on the Rights of the Child: from moral imperatives to legal obligations - In search of effective remedies for child rights violations”.

An entire generation of children has now lived under the protection of the Convention and we have all strived to make it a reality for children, where they live. Nevertheless, despite much progress, child rights continue to be violated, are not respected or promoted, and there are few opportunities for children and their representatives to be able to access justice systems and receive redress.

As the Committee writes in its General Comment No. 5, for rights to have meaning there must be effective remedies. It is now high time for all of us to start promoting and using the CRC as it was fundamentally intended - as a legally binding instrument containing rights that must be applicable and enforceable in the jurisdiction of any State Party.

The Committee on the Rights of the Child would strongly welcome and support deeper engagement of and commitment by the child rights community in litigation for children’s rights, in advocating for children to be able to take legal action, in giving children and their representatives legal support to bring cases before courts, in allying with lawyers, bar associations and human rights organizations to build each other’s capacity, and in many more impactful and effective activities.

I therefore welcome this conference and the opportunity it creates to gather experience from all the regions of the world, and I hear that there is already a tremendous practice out there, and to be inspired and convinced that litigation is a powerful tool for positive changes in children’s lives.

As you will have seen from the programme, I will unfortunately not be able to be with you and participate in the conference. But Jean Zermatten and Susana Villaran as well as some former members of the Committee will be present to secure our input to the debate and bring back the outcome to the entire Committee.

And finally, most importantly, I really hope that the conference will be the first step of a joint endeavour. It will be up to you, NGOs, and human rights institutions and individual lawyers, children’s organisations and other advocates to be creative in forcing recognition of the legal force of the Convention.

I wish you all the best for the conference!

Yanghee Lee

Chairperson of the Committee on the Rights of the Child

Conference Programme

Day 1 (Thursday 12/11)

8.00-8.45 **Registration**

9.00-9.30 **Conference opening and introduction to the themes and objectives of the conference (Plenary Session)**

Chair: *Roberta Cecchetti, International Save the Children Alliance*

Presentations: **“Welcome and introductory speeches by representatives of the Conference Organizers”**

- *Manuel Tornare, Councilor of the Administrative Council of the City of Geneva*

- *Charlotte Petri Gornitzka, CEO of the International Save the Children Alliance*

- *Pascal Villeneuve, Deputy Director, Programme Division, UNICEF*

- *Bacre Waly Ndiaye, Director, Human Rights Council and Treaties Division, OHCHR*

9.30-10.50 **Panel 1: Introduction - The legal status of the CRC (Plenary Session)**

Chair: *Allegra Franchetti, OHCHR*

Presentations: **“The CRC as an enforceable treaty”- Prof. Ariel Dulitzky, Professor of Law and Director of the Human Rights Clinic, University of Texas**

“An introduction to use of the CRC as a legal instrument”- Elizabeth Dahlin, CEO of Save the Children Sweden

“The CRC as national law - Self Execution or Incorporation into domestic legislation” - Marius Emberland, Attorney at the Office of the Norwegian Attorney-General (Civil Affairs) and co-agent for cases for the European Court of Human Rights

“General measures of implementation of the CRC and the need for system reform”- Jean Zermatten, Vice-Chair of the Committee on the Rights of the Child

This panel will not have an associated Working Group.

10.50-11.20 **Coffee**

11.20-12.20 **Panel 2: Using National Systems to address violations of Child Rights (Plenary Session)**

Chair: *Ellen Stie Kongsted, Save the Children Norway*

Presentations: ***“Children seeking to obtain an effective remedy for violations of Child Rights in national courts”- Edo Korljan, Council of Europe***

“Seeking remedies for violations of Child Rights in different legal traditions (common law, civil law, religion based, community based and transitional) and systems (administrative, penal and civil courts)”- Savitri Goonesekere, University of Colombo, Sri Lanka

“Enforcing Child Rights in weak national legal systems”- Nevena Vučković Šahović, Human rights lawyer/scholar and former member of the CRC

12.20-13.30 **Lunch**

13.30-15.00 **Working Groups on National Systems**

Working Groups: The Working Groups will discuss the national legal systems in their respective regions, how (and if) they work and how they can be used to enforce Child Rights.

15.00-15.30 **Coffee**

15.30-17.00 **Panel 3: Using International and Regional Systems to address violations of Child Rights (Plenary Session)**

Chair: *Nicolette Moodie, UNICEF*

Presentations: ***“An overview of Regional and International systems suitable for addressing violations of Child Rights and the Remedies available in these” - Susanna Villarán, Committee on the Rights of the Child***

“Bringing a case to a Regional Court - Case study of the Roma Children in Special Education Classes case (DH and Others v. Czech Republic) in front of the European Court of Human Rights - Lilla Farkas, CFCF Hungary

“Bringing a case to a Regional Court - Case study of the Serrano Cruz sisters (Las Hermanas Serrano Cruz v. El Salvador) in front of the Interamerican Court of Human Rights - Gisela de Leon, litigating lawyer CEJIL Mesoamerica

“The need for a Complaints Procedure under the CRC”- Peter Newell, Coordinator of the Global Initiative to end all Corporal Punishment of Children

17.00-18.30 Working Groups on International and Regional Systems

4 Working Groups: *The Working Groups will discuss the regional Human Rights Mechanisms in their respective regions, how (and if) they work and how they can be used to enforce Child Rights.*

18.30-20.00 Reception

Day 2 (Friday 13/11)

9.00-10.30 Panel 4: An introduction to Strategic Litigation (Plenary Session)

Chair: *Erik Nyman, International Save the Children Alliance*

Presentations: *“When and how should you consider Strategic Litigation and alternative practices (litigation, threat of litigation, friend of the court - amicus curiae)” - Ann Skelton, director for the Centre for Child law, South Africa*

“A case study of Successful Strategic Litigation achieving substantial impact on the realization of Children’s Rights- The India Right to Food case (People’s Union for Civil Liberties v. Union of India & Others)” - Sheela Ramanathan, litigating lawyer, Human Rights Law Network India

“A case study of Successful Strategic Litigation - The Ogoni Case (The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria)” - Felix Morka, director of SERAC Nigeria

10.30-11.00 Coffee

11.00-13.00 Panel 5: The added value of using the CRC as a legal instrument as a complement to existing strategies (Plenary Session)

Chair: *Lena Karlsson, UNICEF Innocenti Research Centre*

Presentations: *“Why child focused NGOs should consider adding litigation to their range of tools” - Edmund Foley, Institute for Human Rights and Development, Gambia*

“Involving Children in litigation - the do’s and don’ts”- Vipin Bhatt, Programme Coordinator - Child Protection Unit, Haq: Centre for Child Rights India

“Case study: The creation of child friendly courts in Ethiopia”- Solomon Arede Waktolla, vice president of the Federal First Instance Court of Ethiopia

“Case study: Integrating litigation practices in the work of a child focused civil society organization”- Renato Roseno, ANCED, Brazil

13.00-14.30 **Lunch**

14.30-16.30 **Working Groups on the morning panels**

4 Working Groups: *“Designing a Strategic Litigation strategy” - These Working Groups will, based on a fictive case, attempt to identify the general outline of a Strategic Litigation strategy to address the practice in the national and regional systems available to them, starting with the integration of a litigation process into existing national coalitions and networks and leading all the way to a plan for using regional and international mechanisms. The working group will also touch upon identifying suitable clients for strategic litigation practices and the steps needed to take in order to minimize the risk that they are harmed in the process. The experts of the group will provide a structure and technical information, but the process will be driven by the participants.*

16.30-17.00 **Coffee**

17.00-17.45 **Working Groups report back to plenary (Plenary Session)**

17.45-18.30 **Concluding speeches and plans for follow-up (Plenary Session)**

Presentations: *“Concluding speeches and plans for follow-up by representatives of the Conference Organizers”- Veronica Yates, CRIN and Alan Kikuchi-White, NGO Group for the CRC*

Conference Methodology

Preparation

As was stated in the application form, all participants should arrive to the conference prepared. The conference will address some themes that may be difficult to take in without a good solid base in the different conference themes. The most obvious example is of course the Convention on the Rights of the Child. We assume that all participants have a working knowledge of the convention, the mandate of the Committee on the rights of the child and the role of the state as the primary duty bearer. Likewise, certain terms, such as “effective remedy”, “litigation”, “exhaustion of domestic remedies”, “state parties”, “justiciability” etc. will most likely be used frequently by the speakers and in the working groups without explanation. It might be a good idea to look up some basic legal and development vocabulary before the conference.

For the participants representing national coalitions, we also ask you to liaise with the coalition on issues that are important in your particular country. As the working group will focus on regional issues and how to tackle these by use of the CRC as a legal instrument, it is important that the participants come prepared with a mental list of issues and examples that could form the basis of the working group discussions.

Programme

As you can see, the conference programme (available on page 5) is fairly heavy in terms of workload and content. We took the decision to use the two days at our disposal to the maximum extent possible in order to be able to cover this very large topic. We hope that you’ll agree with this ambition and come prepared to make the most out of the time we have available. As the programme is so heavy, it is very important that we do not suffer any delays. From our part, as organizers, we will attempt to make sure that the speakers stick to the time limits given to them, and that the working group sessions are well moderated and structured. For the participants, we urge you to respect the times on the programme, especially the registration as we will have to start the conference on time to be able to cover all the topics. During each day there will be two 30 min coffee breaks and a longer lunch break.

If you are planning meetings outside the conference, please schedule these outside the programme.

Plenary Sessions

Each panel opens with a plenary session in which experts on the topic will give a series of presentations relevant to the theme of the panel. Each presentation is around 20 minutes long and there will be opportunities for questions from the floor after all presentations. The time for questions will vary, but there will generally be around 10 minutes in each panel. Try to keep the questions short and to the point. As most of the speakers will participate in the working group, there will be plenty of time to ask more specific questions to the experts during this time. Please note that there will be no opportunity to give general statements or presentations of your organization or its work during the plenaries or working groups. If you feel that a presentation would be valuable for the other participants, please ask the

moderator of your working group if there is an opportunity to give it during the working group session. Questions in the plenary should be spontaneous and we do not expect you to prepare questions in advance.

Working Groups

There are four working groups, based on the region of origin of the participants. We have chosen this division as we think that participants from the same region might have more common considerations and normally share languages. Naturally, the regions also have separate regional mechanisms. We are aware that this will somewhat limit interregional experience sharing, but we have decided that this is an acceptable tradeoff.

The working groups will remain the same for the duration of the conference and will consist of the participants from the region, a selection of expert speakers from the panels and a moderator. Each working group session is 90 minutes to 2 hours. The exact working methodology in the working groups will be decided by the moderator, but we envision an open and quite freeform discussion. The organizers will provide the group with a series of general guiding questions for each panel to help steer and focus the discussion. The role of the moderator will be to assure that the discussion stays focused and that everyone gets a chance to speak. The expert speakers will provide background, cases and suggestions for furthering the discussion.

The discussion in the working group should be focused on practical use of the Convention of the Rights of the Child to provide effective remedies in cases of violations and methods for overcoming difficulties and maximizing impact of the use of resources. With the amount of experience and knowledge available among our participants, we expect that the working groups will provide a good selection of recommendations, best practices and guidelines for legal use of the Convention of the Rights of the Child by civil society actors in all regions. Each working group will also be allocated a rapporteur from CRIN to bring the conclusions of the working group into the outcome document and present them to the plenary.

The working group session on day two deserves a specific mentioning. In this session, each working group will be tasked with applying the knowledge gained throughout the conference and use this to design a litigation strategy around a fictive case set in your region. Here, the collective experience of the working group will truly shine in solving not only the legal issues that might present themselves, but also issues of networking to make best use of available resources, the use of media and advocacy and the methods for selecting a suitable case to bring about the strategic impact sought.

Outcome Document

The conference rapporteurs will compile the outcomes of the conference into a publication that will be used in follow-up to the conference. It is our ambition that this document will provide a valuable resource for civil society organizations that are interested in exploring the potential of using the Convention of the Rights of the Child as a legal instrument. This document will be complemented by a collection of relevant materials, reports and case studies that will be provided by the organizers and the participants. Please submit any materials you think would fit in this collection to us as soon as possible. This repository will be hosted by CRIN.

Summary of cases

DH and others v. Czech Republic

This case was brought to the European Court of Human Rights (ECtHR) in 2000 on behalf of 18 Roma children from the town of Ostrava in the Czech Republic. The European Roma Rights Centre represented the children, and on appeal before the ECtHR several NGOs, including Step by Step International, submitted amicus curiae briefs in support of the applicants.

The children alleged that their assignment to “special schools” for children with learning disabilities contravened their right to education without discrimination. Tests used to assess their mental ability were culturally biased against Czech Roma, and placement procedures allowed for the influence of racial prejudice on the part of educational authorities.

Statistical evidence compiled by the ERRC from Czech officials and authorities was presented to the ECtHR to demonstrate that school selection processes frequently discriminated on the basis of race. For example, a Romani child in Ostrava was 27 times more likely to be placed in schools for the learning disabled than a similarly situated non-Romani child. In fact, in the Ostrava region, more than half the population of Roma children were confined to “special schools” and the channeling of Roma children to special schools for the mentally disabled was almost automatic. As a result, the Czech school system was de facto segregated, with most Roma children attending separate schools from those of neighboring non-minority children.

On 13 November 2007, the European Court of Human Rights Grand Chamber ruled that this practice and the Czech law on which it was founded amounted to racial discrimination against Roma children with regards to the right to education (amounting to a violation of ECHR art. 14 read in conjunction with art. 2 of Protocol 1). The court awarded symbolic damages of €4,000 per child. While the proceedings were still going on, the Czech Republic amended its law on public education and officially abolished the special schools three years ago. However, Roma activists argue that the situation on the ground is fundamentally unchanged and that Roma children still lack equal access to quality education in mainstream schools.

Summary based in part on information and language provided by the Guardian via CRIN: <http://www.crin.org/Law/instrument.asp?InstID=1176>.

The full judgment is available on the UNHCR’s Refworld page:

<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?docid=473aca052&page=search>

Serrano Cruz sisters v. El Salvador

This case was brought before the Interamerican Court of Human Rights (IACHR) against El Salvador on behalf of Ernestina and Erlinda Serrano Cruz, who were just seven and three years old when they were abducted by soldiers of the Salvadorian armed forces. The two sisters were taken away by soldiers on June 2, 1982, during a major military operation in the department of Chalatenango during El Salvador’s long civil war. The case of the Serrano sisters was not unique in the context of this war as forcefully disappeared children were commonly

given a new identity and adopted away, often along with a transfer of money. After the war ended in 1992, the truth and reconciliation commission was tasked with reuniting these children with their parents, but other matters were being prioritized and no remedy was made available.

In 1999, the case was presented to the Interamerican Commission on Human Rights, with the Centre for Justice and International Law (CEJIL) and Pro-Búsqueda representing the victims. The Committee accepted the victims' argument and recommended that El Salvador make efforts to reunite the sisters with their family, but El Salvador never reported on any steps taken to follow these recommendations.

As an effective remedy was not achieved, the case was brought to the IACHR by the Committee. Unfortunately, because El Salvador had not accepted the jurisdiction of the court regarding events that took place prior to June 1995; the court could not consider the facts of the disappearances even though they amounted to a clear violation of human rights. . Despite the fact that the court could not consider the allegations of forced disappearances and other violations arising from the abduction of the children, however, the IACHR found that El Salvador had violated not only the right to recourse to a court of law and the right to be heard (American Convention arts. 8(1) and 25) with regards to the family of the sisters, but also the right to humane treatment of the mother and siblings of the sisters (art. 5) by continually refusing to investigate the claims of forced disappearances.

Notably, the reparations phase of this judgment is of particular interest and demonstrates well the wide scope of reparations available within the Interamerican System.

Summary based in part on information and language provided by Equipo Nizkor <http://www.derechos.org/nizkor/salvador/doc/serrano.html>.

The full judgment is available on CRIN:

http://www.crin.org/docs/FileManager/IAC_El_SalvadorForced%20disappearance.doc

The Social and Economic Rights Action Center and the Center for Economic and Social Rights v. Nigeria

In 1996, the Social and Economic Rights Action Centre (SERAC) brought a case against Nigeria to the African Commission on Human and Peoples' Rights alleging that the military government had, through its business relationship with Shell Petroleum Development Corporation (SPDC), exploited oil reserves in Ogoniland with no regard for the health or environment of the Ogoni People.

This exploitation had resulted in extensive pollution of the local habitat, seriously affecting the food production of the area. It has also resulted in serious short and long-term health consequences for the Ogoni, yet no safeguards or additional provisions for healthcare have been made. Furthermore, a second claim alleged that the Nigerian state used its armed forces to effect violent reprisals against Ogoni protestors challenging the oil company's practices.

The Commission found, in a 2001 decision on the merits, that Nigeria had violated many of the rights enshrined in the African Charter on Human and Peoples' Rights (Arts. 2, 4, 14, 16, 18(1), 21 and 24) and appealed to the state of Nigeria to cease its attacks on the Ogoni people, undertake effective investigations into the human rights violations detailed in the case, assure reparations for the victims, and put safeguards in place safeguards to prevent future violations.

Summary based on information and language provided by ESCR-Net, where full judgment text is available: http://www.escr-net.org/caselaw/caselaw_show.htm?doc_id=404115

People's Union for Civil Liberties v. Union of India & Others

Starvation deaths had occurred in the state of Rajasthan, despite excess grain being kept for official times of famine, and various schemes throughout India for food distribution were also not functioning. In 2001, the People's Union for Civil Liberties (PUCL) petitioned the court for enforcement of both the food schemes and the Famine Code, a code permitting the release of grain stocks in times of famine. They grounded their arguments on the right to food, deriving it from the right to life. Over two years, various interim orders were made by the court were made over two years, but with meager implementation by the national and state governments.

In 2003, the court issued a strong judgment, which found the right to life was imperiled due to the failure of the schemes. The Court noted that paradox of food being available in granaries but that the poor were starving and it refused to hear arguments concerning the non-availability of resources given the severity of the situation. The court ordered that: the Famine Code be implemented for three months; grain allocation for the food for work scheme be doubled and financial support for schemes be increased; ration shop licensees must stay open and provide the grain to families below the poverty line at the set price; publicity be given to the rights of families below the poverty line to grain; and State governments should progressively implement the mid-day meal scheme in schools.

The mid-day meals programme had a very profound effect on the ability of children to enjoy the right to food, the right to life and also to make the right to education an actual possibility for many impoverished children who were reliant on free school mid-day meals in order to be able to attend school. The programme had essentially closed down in most of the states of India but, as a result of the litigation, it was reinstated in many states.

This was a public interest litigation campaign and the Petitioners represented millions of Indians though none of them appeared in court - indeed many were not even aware that there was a case in Supreme Court on their behalf. In the Indian system, public impact litigation cases are not actually closed when sentenced, but remain pending with the Supreme Court essentially keeping a continuous watch over the situation.

Summary based on information and language provided by ESCR-Net, where further documents case documents are available:

http://www.escr-net.org/caselaw/caselaw_show.htm?doc_id=401033

Working Groups

Each participant has been assigned to a regional working group based on origin, language and experience. To know which working group you have been assigned to you will have to check the participants' list on pages 22-27. You will remain in the same group for the all of the working group segments. The working groups will have the support of the following experts and moderators:

- Americas - Spanish and English (Room 15)
Moderator: *Angels Simon, Save the Children Sweden*
Experts: *Ariel Dulitzky, Susanna Villaran, Renato Roseno, Gisela de Leon*
- Council of Europe - English (Room 16)
Moderator: *Anna Volz, Defence for Children International*
Experts: *Marius Emberland, Edo Korljan, Peter Newell, Lilla Farkas*
- Asia - English (Room 17)
Moderator: *Anita Goh, the NGO Group for the CRC*
Experts: *Sheela Ramanathan, Savitri Goonesekere, Nevena Vučković Šahović, Vipin Bhatt*
- Africa - French and English (Room 18)
Moderator: *Lisa Myers, the NGO Group for the CRC*
Experts: *Edmund Foley, Felix Morka, Ann Skelton, Jean Zermatten, Salomon Areda Waktolla*

Thursday 13:30-15:00 - Working Group on National Systems

This working group will explore how NGOs can use or promote the use of national legal systems to achieve effective remedies for child rights violations.

Discussion will include:

- What do we mean by “effective remedy”? What do you think could reasonably be achieved in national legal systems in your region?
- What do you expect would be the most common difficulties in using national legal systems to pursue children’s rights violations within your region (for example: long delays, children being unable to bring cases, corruption, high court costs or legal fees)? How would you suggest avoiding or addressing these?
- What are the roles that NGOs can and should play using national justice systems to remedy child rights violations? In what ways can they work together or cooperate with other networks or organizations?

Thursday 13:30-15:00 - Working Group on International and Regional Systems

This working group will explore the use of international and regional human rights mechanisms to achieve an effective remedy for child rights violations. The discussion will vary according to the nature of the mechanisms available across the different regions, but will focus on the potential of these mechanisms to provide a remedy when none is offered by the national system.

Discussion will include:

- Which of the regional and international human rights mechanisms are most suitable for addressing child rights violations? Why?
- What human and financial resources are required for an NGO to make an application to an international or regional mechanism? Is bringing these complaints a good use of NGO resources?
- What are the remedies available in the different regional and international human rights mechanisms? Would you consider them to be “effective remedies”?

Friday 14:30-16:30 - Working Group on Designing a Strategic Litigation strategy

This working group will design a litigation strategy for bringing a case to challenge a violation of children's rights. Among other things, this will involve (1) selecting of a suitable case or group of cases, (2) identifying an appropriate victim(s), (3) navigating the appellate process (e.g. judicial review and exhaustion of domestic remedies), (4) applying to regional or international mechanisms, and (5) linking the case with other forms of advocacy.

Discussion will include:

- Which child rights issues can best be addressed by strategic litigation? What do you think strategic litigation can realistically achieve?
- What criteria would you use in selecting a suitable case to address a significant child rights issue?
- What if any measures should be taken to safeguard the child litigant? How would you address concerns about using children to advance your cause at their expense?
- What kinds of partnerships can be built to strengthen strategic litigation? What other advocacy strategies should accompany strategic litigation outside the courtroom?
- What can you do to make sure that the court decision is actually implemented to make sure that the court victory will have an actual impact on children's lives?

Speakers Biographies

Manuel Tornare hails from Fribourg (on his mother's side) and Geneva (on his father's side). Went to school in Geneva and obtained his high school degree from Collège Calvin in Geneva. His university degree is in literature. He has taught classes in Philosophy and French Literature at the Collège Sismondi from 1978 to 1993. He later on became the Director of the Collège de Candolle from 1993 to 1999. Mr. Tornare held a seat in the Municipal Council of Geneva from 1979 to 1999, before being elected to the Administrative Council on May 2, 1999. He is very engaged in local civil society and cultural activities, most notably in the Université populaire de Genève, in the LICRA (the League against Racism and Anti-Semitism), in the theatre "La Comédie" and the theatre "du Poche" and in the foundation "Grand Théâtre de Genève".

Charlotte Petri Gornitzka began her human rights career in the Swedish Red Cross as Head of Communications and subsequently Undersecretary General. She joined Save the Children Sweden in November 2003 as Secretary General and was appointed to her current role as Secretary General of the International Save the Children Alliance in March 2008. In this role, she leads the implementation of the Alliance's global strategy and the coordination of the work of national Alliance Members around the world.

Dr. Pascal Villeneuve is Associate Director, Programme Division, UNICEF. In this capacity he oversees UNICEF engagement in global programmes. Prior to his current position, he served as Chief of Health at UNICEF headquarters between 2003 and 2006. Dr. Villeneuve joined UNICEF in 1987 as Assistant Programme Officer in Brazzaville, Congo. In 1993, he transferred to UNICEF headquarters in New York where he served until his appointment as UNICEF Representative in Yaounde, Cameroon, in 1998. Dr Villeneuve also served as UNICEF representative in Mali between 2000 and 2003. Prior to joining UNICEF, Dr. Villeneuve served as a nutrition adviser for the League of the Red Cross Societies in Mali in 1985 and in Niger in 1986.

Dr Villeneuve, a national of France, was awarded a degree in Medicine from Rennes School of Medicine, France, in 1985, and a Master of Science (M.Sc.) degree in Human Nutrition from London School of Hygiene and Tropical Medicine in 1984.

Ariel Dulitzky is a Clinical Professor of Law and Director of the Human Rights Clinic at the University of Texas School of Law. He is a leading expert in the inter-American human rights system. Prior to joining the University of Texas, he was Assistant Executive Secretary of the Inter-American Commission on Human Rights (ICHR). Professor Dulitzky is an honors graduate of the University of Buenos Aires, School of Law and he received his LL.M. from Harvard Law School in 1999. In 2007 he received the Gary Bellow Public Service Award from Harvard Law School for his career in human rights. Working with different NGOs, Professor Dulitzky has participated in the litigation of more than a 100 cases in front of the Inter-American Commission and Court on Human Rights.

Elizabeth Dahlin is the Secretary General of Save the Children Sweden (SCS), the largest child rights organization in Sweden with approx 90 000 individual members. Prior to joining SCS she served as Director and Ambassador for the Swedish Ministry for Foreign Affairs, for the last 3 years in charge of the Partnership for Global Responsibility, focusing on Business and Human Rights. In the early 2000's she served as deputy director general of the National Board of Trade and, among other things published reports on the effects of the WTO agreements for developing countries as well as setting up a structure to solve technical obstacles to trade for developing countries. She has served in the Swedish Mission to the UN, the Swedish Embassies in Zambia, Brazil and Vietnam. As a youth leader she served for four years as Secretary General of the National Council of Swedish Youth and was at the same time responsible for Human Rights Training of young Europeans at the Council of Europe.

Marius Emberland is attorney at the Office of the Attorney General (Civil Affairs) and acting agent for the Norwegian Government at the European Court of Human Rights. Former associate professor at the University of Oslo, Faculty of Law and senior legal adviser at the Norwegian Ministry of Foreign Affairs. Emberland is master of laws from the University of Oslo and Harvard Law School, and holds a doctorate from the University of Oxford on a thesis on the European Convention on Human Rights.

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Challenging breaches of children's rights

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- **The law** – search database of international, regional and national 'instruments'
- **Making and enforcing the law** – international, regional and national 'mechanisms' e.g UN, African, American, European systems etc
- **Campaign for a Complaints Mechanism under the CRC**
- **Strategic Litigation: Guide for NGOs and further resources**

▪ **NEW: CRC in Court:** This database contains judgments from high-level national and international courts around the world. Each decision is presented in summary form with plain English explanations of the background, significance, and lessons to be learned for children's rights.

- **CRC status in your country**

Introduction

When governments fail to recognise and respect children's rights, international and regional human rights mechanisms are needed to hold States to their legal obligations.

In all regions, the massive extent of breaches of children's civil and political and economic, social and cultural rights is increasingly well-documented in reports from UN agencies, human rights institutions and NGOs. Yet few of these breaches are brought to the notice of the mechanisms that can be used to challenge them.

The mechanisms are not difficult to use.

This section aims to make existing human rights mechanisms – international and regional - well known to all those who can use them to promote and safeguard children's rights. It will be divided into three sections: compliance, jurisprudence and avenues for redress.

Complaints

While there are mechanisms allowing for individual complaints under most other international human rights instruments, as yet there is no mechanism linked to the Convention on the Rights of the Child. However, CRIN is part of coalition of organisations that

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Complaints

Child Rights Map

Strategic Litigation

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Strategic Litigation

CRIN has launched a strategic litigation page to bring together the resources from this conference and promote strategic litigation as a tool for change in children's rights. We plan to add new information of interest to the site regularly and hope that you will share publications, events, and other news about strategic litigation and children's rights with us at info@crin.org.

See: <http://www.crin.org/Law/Strategic-Litigation/>

CRC in Court:

CRIN continues to assemble case law judgments where the CRC has been used to advance children's rights in national, regional, and global courts for our new legal database, "CRC in Court." The database is searchable by country, region and CRC article, and each entry is presented in summary form with plain English explanations of the background, significance, and potential lessons to be learned from child rights.

See: http://www.crin.org/law/crc_in_court/

Complaints Mechanism for Children:

As part of an NGO Working Group, CRIN is heavily lobbying the UN to introduce a complaints mechanism for children under the CRC, the only human rights treaty of its kind without such a procedure. As we envision it, this CRC complaints mechanism would provide an accessible and child-friendly means for children to seek legal remedies for violations of their rights at the international level. Please join our campaign!

See: http://www.crin.org/law/CRC_complaints/

Guide to legal mechanisms:

CRIN's guide to legal mechanisms provides information on international, regional and national human rights bodies, and their significance for children's rights. It includes, among other things, information on UN mechanisms such as the Security Council and General Assembly, on African mechanisms such as the Committee on the Rights and Welfare of the Child, and on American mechanisms such as the Inter-American Commission. This information is presented in a way that is easy to digest, and links to further resources are provided where available.

See: http://www.crin.org/law/mechanisms_index.asp

Glossary of legal terms

Note: This is taken, with slight modifications, from the CRIN Guide to strategic litigation which is available online at www.crin.org or in hardcopies in the conference.

Amicus curiae means “friend of the court,” and many jurisdictions permit interested organizations to prepare and file legal papers in support of one of the parties in the case.

Appeals are cases where a lower trial court has already made a determination and the losing party has asked a higher court to review that decision. Appeals can be key to strategic litigation, both in terms of ensuring that your case will be fairly heard and in terms of getting access to higher, more prominent courts to raise the profile of the case and offer a deeper impact.

Civil cases are generally brought by individuals or organizations seeking remedies from the court to cease or compensate for damage caused by the defendants.

Criminal cases are usually filed by government or tribunal lawyers (often called prosecutors) to punish or otherwise sanction a defendant for breaking the jurisdiction’s criminal laws or codes of conduct, although some jurisdictions may allow for privately-filed criminal cases in certain circumstances.

Defendant: Once a case is filed, the party being sued is usually known as a defendant, who may also be called *respondent*.

Exhausted your remedies: This means that you must first go through other judicial channels available before the new court will hear your claim. For instance, before appealing to an international court, you are usually expected to exhaust national remedies first.

In a group action lawsuit, also known as a **class action, collective action or group litigation**, a small group of people or a representative organization sues on behalf of a much larger group.

Jurisdiction: If you file your case in a local, state or national court, the place where you file will be known as your jurisdiction.

Legal systems: the three major legal systems in the world are common law, civil law and religious law:

- In **Common law systems**, most prominent in the United Kingdom and former British colonies, the law is determined not only by written laws, but by court decisions. This means that when a judge looks at your case, he or she will not only look to the statutes, regulations, guidance, code, or other written laws you reference, but will also look for any past court decisions that might relate to your case. In common law systems, precedent - the body of past court decisions - plays a much larger role than in other legal systems.

- **Civil law** is the most widespread system of law, and is in place across most of the continent of Europe and many former European colonies. Civil law relies more heavily on written codes than common law. As a result, precedent plays less of a role and judges are less likely to give weight to past decisions in civil law jurisdictions.
- In **Religious legal systems**, religious doctrines or texts take a primary role in the crafting, interpretation and application of the jurisdiction's laws. The importance of court decisions and precedent varies depending on the predominant religion and the precise legal system in place, but judges in many jurisdictions do give at least some weight to both previous court decisions or orders and the opinions of respected religious legal scholars.

Monist and Dualist systems: In general, there are two ways jurisdictions approach treaties and other international agreements. In what are called monist systems, international laws and agreements can be enforced directly by national authorities and in national courts once a treaty or agreement has been signed, ratified, and entered into force. In dualist systems, however, treaties or agreements cannot be enforced by the authorities or in the courts until there are national laws passed to incorporate the principles behind those treaties or agreements.

Plaintiffs, also called **complainants**, **claimants** and **petitioners**, are people who can bring the case to court that supports your goal or cause. Before you begin looking for plaintiffs in any manner, be sure to look at local laws and practices to determine whether and how it is permissible to recruit or solicit clients.

Pro bono legal services are provided free of charge.

Provisional measures, also called **provisional remedies**, **interim measures**, **interim injunctions**, and **preliminary injunctions**, are designed to prevent any further harm to the parties while the case is being decided, so the court or tribunal may order the defendants to cease certain actions at the outset of the case or prevent a potentially harmful law or policy from going into effect.

The **Rules of Evidence** determine what kind of proof you will be allowed to present to the court.

Standing is just another way to figure out who should bring a lawsuit. For example, in some countries, in order to have standing to bring a lawsuit, you must have been directly damaged or victimized by the person, organization, or government you are suing.

Strategic litigation: sometimes also called impact litigation, involves selecting and bringing a case to the courtroom with the goal of creating broader changes in society. People who bring strategic litigation want to use the law to leave a lasting mark beyond just winning the matter at hand.

Third parties might be people or organizations who were not directly damaged by actions or behavior of the person, organization, or government you are suing, but retain a strong interest in the outcome of the litigation.

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