



## 35<sup>th</sup> session of the Human Rights Council

### INDEPENDENCE OF THE JUDICIARY - WHY PARLIAMENTS SHOULD CARE

**Auditorium Pictet, The Graduate Institute, Maison de la Paix, Geneva  
Monday, June 12, 2017  
18:30-20:00**

#### **Introduction**

An independent judiciary is critical to promoting peaceful and inclusive societies as envisaged in Goal 16 of the 2030 Agenda for Sustainable Development.

Organized during the 35th session of the United Nations Human Rights Council, this high-level public event will mark the presentation to the Council of the annual report by the Special Rapporteur on the Independence of Judges and Lawyers, Mr. Diego García-Sayán.

The event is organized by the International Development Law Organization (IDLO) in partnership with the Inter-Parliamentary Union (IPU) and the Albert Hirschman Centre on Democracy at the Graduate Institute, with the support of the Permanent Missions of Italy, Japan and the United Kingdom in Geneva.

#### **Background**

One of the pillars of rule of law in the modern State is the division of powers, with the vesting of legislative, executive and judiciary authority in different branches or bodies of government responsible for different functions.

The relationship and interaction between parliaments and the judiciary is central to good governance and key to ensuring a culture of rule of law and justice: parliaments promulgating laws on the one hand, and judges interpreting, validating and applying them on the other.

Parliaments develop rules for the selection or removal of judges, and often have budgetary authority to allocate financial and other resources to the judiciary and justice sector.

In today's troubled international order in which human rights and the rule of law are under increasing pressure, well-established principles of international law are being threatened. Where the courts are controlled by the executive branch, democratically elected parliaments may be dismissed and their powers usurped by the executive. In countries with dysfunctional legislatures, judicial appointments and confirmation processes may be unduly politicized.

An independent judiciary is essential to safeguarding the mandates of other branches of government and, where necessary, holding them to account and preventing executive or legislative initiatives that are outside the bounds of national constitutional frameworks or inconsistent with international standards.

Independent judges ensure fair and equal treatment for all: fair trials; equality before the courts; guarantees of due process of law; access to justice and legal aid; independence, integrity and impartiality of judges and prosecutors; and preventing impunity for human rights violations and restrictions on lawyers and their work. Independent judiciaries can counter pressure, threats, attacks and intimidation on prosecutors and judges.

At the same time, "independent" judiciaries that do not respect the boundaries of their own mandate and functions may find themselves encroaching on the roles of parliaments and executives and accused of inappropriate "judicial activism".

The Human Rights Council has supported the independence of judges and lawyers in a myriad of ways, including resolutions on the following subjects: human rights, democracy and the rule of law; the role of good governance in the protection of human rights; integrity of the judicial system; the independence and impartiality of the judiciary, jurors and assessors, and the independence of lawyers; human rights in the administration of justice, including juvenile justice; and transitional justice.

In an important development, in 1994 the Mandate of the Special Rapporteur on Independence of Judges and Lawyers (SRIJL) was created by the predecessor to the Human Rights Council (then Human Rights Commission).

### **Objectives of the dialogue**

The main objective of this public event is to explore the linkages between the work of parliaments and the independence of the judiciary, focusing on how the independent work of each branch can protect the proper mandate of the other and, in turn, foster good governance.

The dialogue will aim to identify good practices of how parliaments have contributed to the independence of the judiciary, but also how an independent judiciary can contribute to the democratic and legal performance of parliaments consistent with human rights principles and standards of good governance.

Specific objectives include:

- Identify and share best practices of parliamentary action and engagement in ensuring an independent judiciary, including parliaments as guardians against undue influence from other branches of government and from non-State actors (e.g., private sector corporations, organized crime);
- Highlight examples of legislation protecting the independence of the judiciary consistent with international standards, such as principles and guidelines adopted or referenced by United Nations entities (e.g., Basic Principles on the Independence of the Judiciary; Basic Principles on the Role of Lawyers; Guidelines on the Role of Prosecutors; and the Draft Universal Declaration on the Independence of Justice.)
- Discuss the ways in which parliaments can be affected by, and can address situations of a non-independent judiciary; and
- Analyze ways in which parliaments may themselves insufficiently support, or undermine, the independence of the judiciary;
- Present best practices by independent judiciaries in the protection of parliamentarians and in parliamentary accountability;
- Share experiences of parliaments working in concert with independent judiciaries to promote economic growth and sustainable development.

## Format

The format of the public event will be a panel discussion and interactive debate.

The session will be moderated by Ms. Irene Khan, Director-General, IDLO. Welcome remarks will be provided by Mr. Rogier Huizenga, IPU.

Panellists will include:

- Mr. Diego García-Sayán, Special Rapporteur on the independence of judges and lawyers
- Hon. Lady Justice Prof. Lillian Tibatemwa-Ekirikubinza, Justice of the Supreme Court of Uganda
- Hon. Najet Ben Salah, Head, International Cooperation, Ministry of Justice, and formerly Judge, Supreme Court of Tunisia
- Prof. Nico Krisch, Professor of International Law, The Graduate Institute
- Mr. Murray Hunt, Legal Adviser to the Joint Committee on Human Rights of the UK Parliament
- Dr. David Sadoff, Executive Director, Center for Ethics and the Rule of Law, University of Pennsylvania

The panellists will engage in interactive discussion with time for audience participation. A cocktail reception will follow.

To register, please visit [www.idlo.int](http://www.idlo.int).