

The Role of Indigenous and other Traditional or Customary Justice Systems in Access to Justice, the Rule of Law and Human Rights

11th annual Geneva Forum of Judges & Lawyers
2-3 December 2020

An online global conference

The Geneva Forum process on indigenous and other traditional or customary justice systems

The Geneva Forum of Judges and Lawyers is an annual global meeting of senior judges, lawyers, prosecutors and other legal and United Nations experts, convened by [the International Commission of Jurists](#) (ICJ) through its Geneva-based Centre for the Independence of Judges and Lawyers, with the support of the Canton and Republic of Geneva (Switzerland) and other partners.

Each year, participants and the ICJ discuss an issue relevant to the independence and role of judges, lawyers and prosecutors, with a view to developing and disseminating practical guidance for practitioners.

The [8th Geneva Forum](#), in 2017, focused on traditional and customary justice systems. Many participants affirmed that traditional and customary justice systems can make an important contribution to improving access to justice for rural or other marginalized populations, as a result of such factors as geographic proximity, lower cost, lesser cultural or linguistic barriers, and greater trust by local communities, relative to the official justice system. Indeed, for these and other reasons, for some marginalized and disadvantaged rural populations, traditional and customary courts may in practical terms be the only form of access they have to any kind of justice. At the same time, a variety of challenges to be addressed from the perspectives of human rights and international rule of law standards were also identified. Based on the 2017 Forum discussions, the ICJ decided that the Forum would maintain its focus on traditional and customary justice systems for the following three years, and would more directly incorporate discussion of indigenous justice systems, and that to better engage with situations on the ground, the following two Geneva Fora would take place in the Asia and Africa regions.

As a reference for the Forum discussions and to assist the broader range of stakeholders, the ICJ published, and has subsequently updated, a [Compilation of International Sources on Indigenous and other Traditional or Customary Justice Systems](#), including relevant provisions of global and regional treaties, UN and other inter-governmental declarations, and the jurisprudence and recommendations of expert Committees and Special Procedures established by treaties and the UN Human Rights Council.

The 2018 [9th Annual Geneva Forum](#) in Bangkok focused on the role of indigenous and other traditional or customary justice systems in the **Asia-Pacific region**, and the Forum [report](#) confirmed and expanded upon the outcomes of the 8th Forum.

Following her participation in the Bangkok Forum, the [September 2019 report of the UN Special Rapporteur on the rights of indigenous peoples](#) focused on indigenous justice systems. The ICJ and Rapporteur further promoted the report and recommendations by jointly organizing a [panel discussion](#) at the Human Rights Council session, with participation of the International Law Development Organization (IDLO), which has also [published](#) policy and practitioners' briefs on related issues.

The [10th Geneva Forum](#) took place in Nairobi, Kenya, in early 2020, in the form of a high-level regional Forum on alternative dispute resolution and indigenous and other traditional or customary justice systems in **East, Southern and the Horn of Africa**, organized in partnership with IDLO and the ICJ's Kenya national section, under the auspices of the Kenyan judiciary. IDLO and ICJ jointly published a [report](#) of the Forum.

In October 2020, the ICJ Women's Human Rights Programme, together with Cordaid which has also published relevant [policy papers](#) on "diverse pathways to justice", hosted several [webinars on enhancing women's access to justice in the context of religious and customary laws](#). The webinars brought together women human rights defenders and religious and customary law actors and generated further insights and sharing of experience and expertise, including with the [UN Special Rapporteur on freedom of religion or belief](#).

The 11th Geneva Forum: an online global gathering

The culmination of the Geneva Forum process on indigenous and other traditional or customary justice systems will be the 11th Geneva Forum on 2 and 3 December 2020, followed by publication by ICJ of a final set of global recommendations.

Due to the COVID-19 pandemic, the 11th Geneva Forum will be convened online, with participants from around the world. Participation in the Forum is by invitation only and the Forum discussions will not be broadcast.

Because the Forum will cross time zones, to facilitate participation from the Americas, an optional evening session with a focus on the Americas region will be convened on 2 December.

Format for Forum Discussions

The format of the Forum is designed to make the maximum space available for interactive discussion between participants. For this reason the ICJ does not encourage participants to prepare formal presentations, although one or two participants will open each session with a brief verbal introduction, intended to provoke discussion.

To facilitate open discussion, the Forum is conducted on the basis of that no statement or other information shared at the Forum may be publicly attributed to an individual, whether by name or affiliation, without their prior consent. The list of participants is, however, public, and the ICJ may

publish a report of the proceedings that highlights key elements without attributing particular statements to particular speakers.

The working language of the meetings will be English, with interpretation into French and, for afternoon and evening sessions, into Spanish.

Publication of Global Guidance by the International Commission of Jurists

The ICJ's global experience and expertise, together with research and global consultations with judges, lawyers and other relevant experts, including the 2017 Geneva Forum, the 2018 session in Bangkok, the 2020 session in Nairobi and the December 2020 online global session, will provide a foundation for the publication by ICJ in the first months of 2021 of legal, policy and practical guidance on the role of traditional and customary justice systems in relation to access to justice, human rights and the rule of law. The ICJ guidance will focus on the mechanisms and procedures of traditional and customary justice systems, as opposed to tackling all aspects of the substantive law.

While the ICJ will seek for the guidance to reflect the broadest possible level of concurrence among those consulted, the guidance will remain the sole responsibility of the ICJ and will not necessarily reflect the views of every individual participant in the consultations. The ICJ guidance will take into account the many variations and differences between different traditional and customary justice systems that exist in different countries, while seeking to articulate conclusions and recommendations sufficiently universal to be applicable across the widest possible range of contexts. At the same time, the ICJ does not intend for its guidance directly to address official religious courts or the application of customary law by official courts that do not incorporate mechanisms or processes of a traditional or customary character, as these may potentially raise somewhat distinct issues.

The guidance will seek to assist all actors involved in implementation and assessment of relevant targets of Sustainable Development Goal 16 on access to justice for all and effective, accountable and inclusive institutions, as well as Goal 5 on gender equality, including: decision-makers and other participants in traditional and customary justice systems; judges, lawyers and prosecutors operating in official justice systems; other government officials; development agencies; United Nations and other intergovernmental organisations; and civil society. The guidance will be published and disseminated through activities with ICJ's regional programmes, and its national sections and affiliates, through a series of regional launch events and workshops, as well as at the global level at the United Nations and in other settings. The guidance will provide the basis for ICJ strategic advocacy at the national level in the years following the conclusion of this initial phase of this work.

The 2020 Geneva Forum of Judges & Lawyers is made possible by the support of the Republic and Canton of Geneva, Switzerland.

