



## Strategic Litigation Initiative for the OP-ICESCR October 12-13, 2010 - Draft Agenda

### Day 1: Strategic Litigation Initiative for the OP-ICESCR: Key issues in the use of the Mechanism

(9:00 - 9:30) Registration and Coffee

(9:30) **Welcome – Monette Zard**, Ford Foundation

(9:35 – 10:30) **Introductions and Overview of Initiative**

**Suad Elias**, ESCR-Net

**Malcolm Langford**, Norwegian Centre for Human Rights (NCHR)

**Bruce Porter**, Social Rights Advocacy Centre (SRAC) and Steering Committee of the NGO Coalition for an OP-ICESCR

**Lilian Chenwi**, Community Law Centre

#### **Using and Enforcing the Protocol**

(10:30 – 12:00) **First Roundtable – Key Issues related to Procedure**

**Christian Courtis**, Office of the High Commissioner for Human Rights (OHCHR) and **Donna Sullivan**, Independent Expert (via conference call)

Moderator: **Bret Thiele**, Centre on Housing Rights and Evictions

(12:00 – 1:30) **Lunch**

(1:30 – 3:00) **Second Roundtable – Key Issues related to Merits**

**Bruce Porter**, SRAC and NGO Coalition for an OP-ICESCR and **Malcolm Langford**, NCHR

Moderator: **Tara Melish**, Human Rights Center, University of Buffalo Law School

(3:00 – 3:30) Coffee Break

(3:30 – 5:00) **Third Roundtable – Key Issues related to Remedies and Enforcement**

**Viviana Krsticevic**, Center for Justice and International Law (CEJIL) and **Basak Cali**, University College London

Moderator: **Luisa Cabal**, Center for Reproductive Rights (CRR)

(5:00 – 5:30) **Closing - Malcolm Langford**, NCHR and **Bruce Porter**, SRAC

## Day 2: Discussion on Design of Framework for Strategic Litigation Initiative

(8:30-9:00) Arrive, Coffee Available

(9:00) **Welcome – Suad Elias, ESCR-Net**

(9:00 – 9:30) **Introduction to Day 2**

**Bruce Porter, SRAC and Malcolm Langford, NCHR**

(9:30-10:15) **Plenary Discussion**

Comments on Background Note – National/Regional Level Perspectives

**Diego Morales, Centro de Estudios Legales y Sociales (CELS), Argentina**

**Andrew Songa, Centre for Minority Rights Development (CEMERIDE), Kenya**

**Gayoon Baek, Asian Forum for Human Rights and Development (Forum Asia), Thailand**

(10:15-10:45) Coffee Break

### **Key Issues in Designing a Strategic Litigation Initiative – Breakout sessions**

*Methodology:* This session has been designed to facilitate an interactive dialogue between participants which builds upon the initial consultation undertaken prior to the workshop. The background note has been used to identify key issues for consideration and discussion questions have been developed to guide the sub-groups. Sub-groups may discuss the following issues:

(10:45 – 11:45) **First set of Breakout Sessions – choose one**

#### **1) *Strategies for selection of the case and nature of involvement in the context of the OP-ICESCR***

Moderators: **Sandra Ratjen, International Commission of Jurists (ICJ)** and **Brenda Campbell, International Women’s Rights Actions Watch (IWRAW) Asia Pacific**

Possible issues to consider: When to bring a case under the OP-ICESCR (early v. late intervention); possible criteria for case selection (novelty of legal issues; strategic importance for jurisprudence; connection to social movements and affected communities; intersection with claims of women, disability, indigenous groups, etc; whether the case raises systemic and serious ESCR violations; numbers affected; quality of the advocacy and representation; likelihood to proceed to consideration on its merits; likelihood of effective enforcement of the decision; likelihood of success; and whether the author or groups involved are interested in collaborative work or in need of assistance, among others);

#### **2) *Strategies for addressing substantive legal issues in litigating cases in the context of the OP-ICESCR***

Moderators: **Jackie Dugard, Socio-Economic Rights Institute of South Africa (SERI), and Viviana Krsticevic, Center for Justice and International Law (CEJIL)**

Possible issues to consider (reasonableness, minimum core, ensuring systemic remedies in individually based claims, extra-territorial obligations; engaging sub-national levels of government; application to private law; highlighting equality dimensions, and international co-operation) and type of arguments to advance (interdependence v. distinctness; progressive jurisprudence v. promoting broader ratification; individual entitlements vs. progressive realization, etc.).

(11:45-12:00) Coffee Available – short break

(12:00 – 1:00) **Second set of Breakout sessions – choose one**

**1) *Strategies for addressing procedural issues in litigating cases in the context of the OP-ICESCR***

Moderators: **Christian Courtis**, OHCHR and **Bret Thiele**, COHRE

Possible issues to consider: Exhaustion of domestic remedies (and promoting effective domestic remedies); standing; interim measures; friendly settlement; burden of proof and availability of evidence; amicus curiae; follow-up and implementation of decisions; transparency and accountability of the procedure, among others.

**2) *Scope and functions of the Strategic Litigation Initiative***

Moderators: **Luisa Cabal**, Center for Reproductive Rights (CRR) and **Gaby Oré Aguilar**, Center for Economic and Social Rights (CESR)

Possible issues to consider: Supporting litigation of cases (through legal counsel, funding, litigation); raising awareness of OP; encouraging quality academic commentary linked to cases; promoting domestic application of CESCR's jurisprudence; addressing limited institutional capacity of Committee and other intervening institutions, among others.

(1:00-2:00) **Lunch**

(2:00-2:30) **Report Back** – summaries of breakout discussions provided by group moderators.

Moderator: **Lilian Chenwi**, Community Law Centre, Steering committee of the NGO Coalition for an OP-ICESCR

(2:30-3:00) Coffee Break

(3:00 – 3:45) **Session on Design of a Strategic Litigation Initiative**

**Malcolm Langford**, NCHR and **Bruce Porter**, SRAC

(3:45 – 4:15) Coffee Break

(4:15- 5:00) **Table a possible framework and discussion of next steps**

**Malcolm Langford**, NCHR and **Rebecca Brown**, ESCR-Net

(5:00 – 6:00) **Opportunities and Obstacles in the Ratification Campaign for the OP-ICESCR**

Panel: **Suad Elias**, ESCR-Net; **Sandra Ratjen**, ICJ and **Brenda Campbell**, IWRAW Asia Pacific

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