



University of Essex



The Law Society  
of England and Wales

# Symposium on Business and Human Rights

**17th –18th September 2010**

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## Purpose of the symposium

This symposium aims to bring together people from a wide range of activities and disciplines to explore the concrete ways in which human rights norms have an impact on diverse areas of law dealing with business activity. It aims to move away from the generalities that often characterise meetings on this topic, and to allow specialists to compare their existing approaches as well as an understanding of what future developments promise. Lawyers in private practice are more and more frequently being asked to advise on the impact of human rights principles on the conduct of business activities. The themes which will be examined throughout the symposium are relevant to all commercial lawyers, and other lawyers who act for, or against, commercial undertakings.

### ■ Intended audience:

Practicing lawyers, policy makers, NGOs, and academics.

### ■ What will people learn:

Panels and plenary discussions will focus on nine distinct areas of law dealing with business, ranging from company and employment law to the financial regulation and investment law. The contributions of panellists will show the impact human rights norms can have on detailed issues of practice and theory.

### ■ Why this is an important subject area:

The regulation of business activity by national and international human rights standards is of increasing importance to practitioners, while at the same time it constitutes a frontier area of law making. It has become a focus that practitioners afford to ignore less and less in their daily work, while also being a centrepiece in policymaking concerned with regulation of economic activity throughout the world.

This is the second symposium on a human rights theme arranged jointly between the Law Society and the Human Rights Centre at the University of Essex. It is an illustration of the growing commitment of the Law Society, which represents over 138,000 solicitors in England and Wales, to human rights issues.



# Programme

**Venue:** Ivor Crewe Lecture Hall, University of Essex, Wivenhoe Park, Colchester, Essex

## Friday, 17th September 2010

**10.00 – 13.45** Arrivals and Registration (Ivor Crewe Lecture Hall)

### Opening Session

**14:00 – 14:30** Opening Remarks (Auditorium A, Ivor Crewe Lecture Hall)

**Lucy Scott-Moncrieff**

Deputy Vice-President, Law Society of England and Wales

**Tony Fisher**

Senior Partner, Fisher Jones Greenwood LLP, Colchester, Essex

Chair: International Human Rights Committee, Law Society of England and Wales

**Professor John Packer**

Director, Human Rights Centre, University of Essex

### Afternoon Session

**14.30 – 15.30** Keynote Speaker

**Martyn Day**

Senior Partner, Leigh, Day & Co

**15:30 – 16:00** Tea/Coffee Break (Auditorium B)

**16:00 – 17:30**

**What concrete difference does it make to link business activity and human rights? This session provides an overview of the emerging connections between human rights law and the areas of public and private law that affect business. The aim is to set out the relevant range of issues, some of which will concern the later panels in more detail.**

**Professor Sheldon Leader**

School of Law; Director, Business and Human Rights Project, University of Essex

**Daniel Denman**

Head of Information and Human Rights Team, UK Ministry of Justice

**Professor Alyson Warhurst**

Founder and CEO, Maplecroft



17.30 – 19.00

**Drinks reception and Art Gallery exhibition**

(Square 5 and the University Gallery)

*Sponsored by Fisher Jones Greenwood LLP and Doughty Street Chambers*

19.00 – 20.30

**Barbecue Dinner** (Food on 3, Square 3)

20.30 – 22.00

**“The Illegals”**

**Play performed by Actors for Human Rights**

(Lecture Theatre Building 6, off Square 3)

*Sponsored by East Anglian Chambers*

doughty street chambers



22.00 – 01.00

**Bar and live music by October**

(Mondo Bar, off Square 3)



## Saturday 18th September 2009

07:45 – 08:45

**Breakfast** (Food on 3)

### Morning Sessions

The morning sessions will consist of five working groups examining different ways in which lawyers can use their professional skills in a human rights context. Delegates will each be able to attend two workshops which will need to be chosen on the day.

09:00 – 09:30

**Access to information about issues that can have an impact on advice/negotiation/litigation**

**Chris Avery**

Director, Business and Human Rights Resource Centre

### Working Sessions I

09:45 – 11:15

**I-A: Employee interests, Enterprise Interests, and Human Rights.**

The objective of this session is to see, via examples, exactly what difference is made by human rights law to individual and collective employment relations.

**John Hendy, QC**

Old Square Chambers

**Professor Keith Ewing**

School of Law, King's College, London

**Hannah Reed**

Employment Rights Policy Officer, Trades Union Congress

**I-B Commercial Litigation and Human Rights**

This session will investigate the impact of human rights norms on selected areas of commercial law. The commercial concerns range from problems of access to commercially confidential information through to the validity of certain contractual undertakings due to their impacts on the public interest. The panel will be invited to focus on areas of particular interest to them.

**Michael Smyth, CBE**

Partner, Head of Public Policy, Clifford Chance LLP

**Dr Youseph Farah**

School of Law, University of Essex

**Professor Peter Muchlinski**

School of Oriental and African Studies, University of London



### **I-C: Investment Decisions and Human Rights**

Investors are increasingly affected by human rights norms. These can affect the terms on which public and private lenders are willing to invest, as illustrated by the Equator Principles adopted by many banks; and they can also affect the planning by enterprises building and operating projects.

#### **Professor Sheldon Leader**

School of Law; Director, Business and Human Rights Project  
University of Essex

#### **Patricia Feeney**

Member of the Steering Board of the National Contact Point, OECD Guidelines

#### **Larissa Luy**

Senior Environmental and Social Development Specialist, International Finance Corporation

### **I-D: Health, Human Rights, and Commercial Interests**

The area of most intense debate concerning the balance between commercial interests and human rights norms has concerned the health industry. The questions range from asking what concrete problems and prospects for their solution emerge from the conflict between commercial constraints and adequate rights of access to medicines, through to assessing the impact of human rights demands on hospital management.

#### **Professor Paul Hunt**

School of Law, University of Essex; former UN Special Rapporteur on the Right to the Highest Attainable Standard of Health

#### **Dr Julian Burger**

Former Head, Indigenous Peoples and Minorities Unit, Office of the UN High Commissioner for Human Rights

#### **Wim Leereveld**

Founder, Access to Medicine Index

#### **Sune Skadegaard Thorsen**

Partner and Director, Global CSR

**11:15 – 11:30**

**Tea/Coffee Break** (Auditorium B)

**11:30 – 13:00**

### **II-A: Business and Human Rights: Alternatives to Litigation**

Is it possible to find alternatives to litigation in order to deal with clashes between businesses and human rights? This session will look at the current project for a UK Business and Human Rights Commission.

#### **Peter Frankental**

Programme Director for Economic Relations, Amnesty International

#### **Hannah Ellis**

Coordinator of the Corporate Responsibility Coalition (CORE)

#### **Patricia Feeney**

Member of the Steering Board of the NCP, OECD Guidelines

## **II-B: Human Rights and Corporate Governance**

This session will explore two issues. First, what scope is there within UK law for a requirement that UK companies attend to their impacts on non-shareholder interests alongside those of shareholders? What, for example, is the likely impact of s172 of the Companies Act, 2006? Second, the session will consider the impact on corporate governance of criminal law directly applicable to companies.

### **Professor Jim Gobert**

School of Law, University of Essex

### **Professor Peter Muchlinski**

School of Oriental and African Studies, University of London

## **II-C: Human Rights and the Public/Private Sector Divide**

Domestic and international law are concerned to fix the boundaries of responsibility of commercial actors for human rights abuses. What role is played by the label 'private' in tracing such a boundary? What exactly does it mean for a private actor to carry out a public function? How do legitimate commercial concerns enter into the balance when a public function is being served?

### **Rachael Chambers**

Cloisters Chambers

### **John Kissane**

Deputy Head of the Human Rights Division, UK Ministry of Justice

### **Luke Wilde**

Director, TwentyFifty Ltd

## **II-D: Human Rights, Finance, and the Crisis**

What domestic or international human rights issues are engaged by the behaviour of financial institutions leading to the present crisis? To what extent should Human Rights standards be considered where the regulatory response is framed?

### **Professor Prem Sikka**

University of Essex Business School

### **Dr Cephas Lumina**

UN Independent Expert on Foreign Debt and human rights

### **Dr Mary Dowell-Jones**

Research Fellow, University of Nottingham Human Rights Law Centre

**13:00 – 14.15**

**Buffet lunch** (Auditorium B)



## Afternoon Sessions

**14:30 – 16:30**

### **Corporate Complicity in Human Rights Abuses** (Auditorium A)

What are the standards that govern liability of companies for complicity with governments in human rights abuses abroad? What is the potential impact of this liability on lenders, as well as providers of goods and services in the country where human rights abuses occur? This final afternoon of the conference will concentrate on analysis and debate arising from the issues raised by several leading cases with which the panellists have been concerned which have important potential effects on a wide range of business activity.

#### **Richard Meeran**

Partner, Leigh, Day & Co

#### **Dr Sabine Michalowski**

School of Law, University of Essex

#### **Ingrid Gubbay**

Hausfeld LLP

**16:30 – 17:00**

### **Tea/Coffee** (Auditorium B)

**17:00 – 17:15**

### **Summary**

#### **Tony Fisher**

Chair, International Human Rights Committee, Law Society of England and Wales

#### **Closing remarks**

#### **Lord Phillips of Sudbury**

Chancellor, University of Essex

### **Join the Law Society's International Division**

The International Division provides a unique service to member seeking to develop their international business and build relationships and networks. Membership is open to lawyers and law firms from all jurisdictions.

For more information on membership options and to join the Law Society's International Division visit:  
<http://international.lawsociety.org.uk/join>

### **Human Rights Centre, University of Essex**

The Human Rights Centre of the University of Essex is honoured to host with the International Human Rights Committee of the Law Society of England and Wales this second symposium aiming to enhance professional knowledge, competences and engagements in the international protection of human rights. For the programme and report of the inaugural symposium, held on 11-12 September 2009, see: [www.essex.ac.uk/human\\_rights\\_centre/practice/conferences/SymposiumReport09.pdf](http://www.essex.ac.uk/human_rights_centre/practice/conferences/SymposiumReport09.pdf)

The Human Rights Centre is committed to the highest standards of professional development and performance, and to this end has been engaged in educating human rights advocates and scholars for over a quarter century. As the oldest and largest such Centre in the UK with over 1,600 alumni working all over the world, the Centre has maintained a focus on practice. In 2009 the University of Essex was recognised by H.M. the Queen for 'Advancing the legal and broader practice of international human rights' – the first such award in the history of the Queen's Anniversary Prizes for Higher and Further Education.

At Essex, we aim to make a difference!

Professor John Packer  
Director, Human Rights Centre

## Conference organisers:

### Fisher Jones Greenwood LLP

- Tony Fisher

### Law Society of England and Wales

- Sarb Bajwa
- Courtenay Barklem

### Human Rights Centre, University of Essex

- Alessandro Biagetti
- Sheldon Leader (and School of Law)
- John Packer (and School of Law)
- Anne Slowgrove

The organisers would like to thank the following for their financial support of this Symposium:

Doughty Street Chambers  
East Anglian Chambers  
Fisher Jones Greenwood LLP  
Human Rights Centre, University of Essex  
The Law Society Charity

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