

Social and economic rights are often referred to as "the rights of the poor" but one may simultaneously wonder whether they remain « poor rights »?

Although social and civil rights have been affirmed to be indivisible and interdependent, jurists often continue to distinguish between the two. References are common to the so-called 'specific nature' of social rights and they generally support the idea according to which judicial interferences with parliamentary social and economic policies would constitute a violation of the separation of powers.

However, the academic debate about judicial enforcement of social rights is undergoing changes. Distinctions between fundamental rights tend to be challenged by social movements who do not hesitate anymore to take legal actions and claim for those social rights (the right to housing, to food, to health care...) to be enforced. Academic research as well as tries to rethink the universality and indivisibility of human rights and is increasingly followed by judges, be they international or national, who currently multiply rulings that strengthen the justiciability, effectiveness and opposability of social rights.

From januar 2009 to october 2010, the CREDOF has led a research focused on the judicial accountability of social and economic rights. (www.droits-sociaux.u-paris10.fr). This international conference will offer the opportunity to discuss the results of the research project and, taking stock of recent attempts at overcoming dogmatic obstacles, to scrutinize the academic debate as well as the jurisdictional answers concerning the nature and regime of social rights through the use of comparative and international law.

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Observatoire National
de la Pauvreté et de
l'Exclusion Sociale



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Collège de France

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Collège de France,
Paris
May 25 - 26, 2011

International Conference

**Justiciability of
Social Rights: Finally
moving forward?**



CREDOF
Centre de recherches et d'études sur les droits fondamentaux



Chaire Droit de la
Santé et Éthique, EHESP

May 25, morning
A New Framework for the Justiciability of Social Rights

Opening: **Mireille Delmas Marty**, Professor, Collège de France, Chair of Comparative Legal Studies and Internationalization of Law (9 am)

Chair : **Emmanuel Decaux**, Professor, University Paris II Panthéon-Assas

-1. Introducing reports (09.20-10.30)

- Social rights : preliminary definitions (**Véronique Champeil-Desplats**, Professor at University Paris Ouest Nanterre La Défense, director of the CREDOF)
- The classical obstacles to the justiciability of social rights (**Diane Roman**, Professor, EHESP)

Case studies:

- The right to basic living conditions (Dr. **Céline Fercot**, PhD University Paris 1 Panthéon Sorbonne- Köln University)
- The Mininuma's Case, Mexico, **Aline Rivera**, PhD student, University Paris Ouest Nanterre La defense

2. Discussion (10h50-12h30)

Views from the NGOs : **Sandra Ratjen**, International Commission of Jurists

Views from academic experts: **Lucie Lamarche**, Professor, University of Ottawa, chair Gordon F. Henderson, **Carlos-Miguel Herrera**, Professor, University of Cergy Pontoise

May 25, afternoon
A International Law as a Vector for the Justiciability of Social Rights

Chair: **Daniele Lochak**, emeritus Professor University Paris Ouest Nanterre La Défense

Introduction: **The recent evolutions**, Dr. **Sophie Grosbon**, assistant professor, University François Rabelais, Tours (2.pm)

1. Social Rights Committees (2.30-3.30)

- **European Committee of Social Rights (ECSR)** : **Luis Jimena Quesada**, Professor, University of Valencia, president of the ECSR
- **Committee on Economic, Social and Cultural Rights** : **Philippe Texier**, former judge at the french Cour de Cassation, member of the UNO CESCR

Discussion: 3.30-4.00

Break : 4.00-4.20

2. Regional Courts and Social Rights (4.20-6.00)

- *Case study:* the justiciability of social rights in Africa: **Emmanuel Guémarcha**, PhD student, University Paris Ouest Nanterre La Défense,
- South-american experience: **Víctor E. Abramovich**, Professor, University of Buenos Aires, Member of the Inter American Commission on Human Rights of the Organisation of American States
- European experience: **Stefano Rodotà**, emeritus professor, University la Sapienza, President of the Scientific Commission of the Fundamental Rights Agency of the European Union
- The case of European Community: **Myriam Benlolo-Carabot**, professor, University of Valenciennes
- The European court of human rights: Dr **Carole Nivard**, assistant-professor, University of Rouen

Discussion: (6.00-6.30)

Chair: **Ibrahim Kaboglu**, Professor, University of Marmara

1. Typologies of legal systems (9.15-11.00)

Case studies:

Landmark examples : India, South Africa, **David Robitaille**, professor, University of Ottawa

Blindspots of justiciability: « Right to education and right to health in Maghreb and Middle-East : are this rights justiciable ? », Dr **Imad Khillo**, Assistant Professor, Institut d'études politiques, Grenoble

Speaker: **Christian Courtis**, Professor, University of Buenos Aires

Break: 11.00-11h30

2. Typologies of litigations: (11h30-12h15)

Case studies: Spain, Pr. **Gerardo Pisarello**, University of Barcelona

Speakers: **Malcolm Langford**, Research Fellow, University of Oslo;

Carlos Molina, Professor, University of Medellin,

Discussion (12h15-12h30)

May 26 , afternoon :
French Law and Social Rights

Chair : **Michel Borgetto**, Professor, University Paris II Panthéon Assas

Introduction : case studies, Dr **Laure Camaji**, Assistant professor, University Paris Sud, **Serge Slama**, Assistant professor, Université d'Evry (2.15-2.30)

1. Administrative judges and social rights (2.30-3.15) : Yves Struillou, judge at the Conseil d'Etat and the Cour de Cassation ; Virginie Donier, professor, University of Franche Comté

2. Private-law judges and social rights (3.30-5.00) : **Marc Pichard**, Professor, University Lille 2, **Xavier Prétot**, judge, Cour de Cassation, **Alain Supiot**, director of the Institut d'études avancées, Nantes

Closing conclusion : **Justiciability as a condition for rights' effectiveness** (5.30-6.30)

Paul Bouchet, former member of the Conseil d'État, former president of ATD Quart Monde ; **Robert Lafore**, Professor, University Bordeaux IV Montesquieu

I n f o r m a t i o n s

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