

## **Call for input of the Special Rapporteur on the independence of judges and lawyers for the next thematic report on the undue influence of economic actors on judicial systems**

**Purpose:** To inform the Special Rapporteur's forthcoming report on the undue influence of economic actors on judicial systems, to be presented at the 79<sup>th</sup> session of the General Assembly in October 2024.

### **Background**

The United Nations Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, invites Member States, national human rights institutions, and other relevant State institutions, international and regional organizations, civil society, scholars, activists, and other interested individuals and organizations to provide written inputs for her next thematic report on the undue influence of economic actors on judicial systems. The report will be presented at the 79<sup>th</sup> session of the UN General Assembly in October 2024.

### **Objectives**

Interlocutors from countries around the world including judges, lawyers, and civil society organizations, have expressed concern that wealthy private actors and companies are attempting to exert undue influence over judges and justice systems. In response, the Special Rapporteur's forthcoming report will examine actions taken by corporations, economic interest groups or wealthy individuals that risk undermining the independence of judges or the functioning of the justice system in the public interest. The report will also examine measures and recommendations to safeguard judges and justice systems from such undue influence.

Examples of the impact of economic actors on judicial independence may range from direct, explicit attempts to financially sway judges, to arrangements that provide outsized access or input to economically powerful groups or individuals at key moments in the judicial career. Even where economic actors do not actually shape judicial decision making, it is necessary to consider the perception that they may do so, in order to insulate judges from accusations of bias, and to maintain confidence in the legitimacy of the judiciary.

Examples of economic actors distorting the functioning of the justice system may include the use by corporations of non-meritorious Strategic Lawsuits Against Public Participation (SLAPPs) to repress human rights activism, the funding of advertisements that attack the character of proposed judges, or the diversion of high-value disputes concerning public services or public goods into private systems of arbitration, denying people and States the right to a hearing before an independent tribunal in the determination of their rights and obligations.

Submissions will help inform the Special Rapporteur's views and understanding of the issues. The report will include relevant and achievable recommendations for Member States and other stakeholders and be made available on her website and other channels.

### **Key Questions**

All submissions are welcome and the topics below are not exhaustive. However, the Special Rapporteur would be grateful for comments that address one or more of the following topics. She is particularly eager to receive submissions that take an intersectional, gender-sensitive, and decolonial approach.

In your State, or in the State(s) or regions in which you work:

1. Do you consider there is a risk that corporations, economic interest groups or wealthy individuals will undermine the independence of judges, or the extent to which the justice system can function in the public interest? What forms does this risk take?
2. Have you seen research or evidence demonstrating that judges are being offered benefits in exchange for desired outcomes by economic (rather than political) actors? Is there a perception that judges are engaged in such acts?
3. Is there research or evidence demonstrating that corporations, economic interest groups or wealthy individuals play an inappropriate role in judicial selection and promotion?
4. Is there research or evidence demonstrating that judges are improperly motivated in a way that undermines their independence, or are perceived to be improperly motivated, by incentives related to their career prospects after their retirement or exit from the judiciary?
5. Do judges frequently engage with corporations, economic interest groups or wealthy individuals in ways which risk undermining judicial independence, for example, at private donor retreats or members' clubs where wealthy private actors are given a special opportunity to mingle with judges?
6. Are people from disadvantaged or marginalized communities represented at all levels of the judiciary? If not, do these communities face obstacles to their appointment or promotion, for example lack of access to certain universities, social networks or professional opportunities? Is there evidence or research that judges' socio-economic status, professional or educational background has an impact on the public perception of the judiciary as an inclusive, independent, impartial, and fair institution?
7. What steps do you recommend to safeguard judges from economic capture, or the perception of economic capture? Are financial, asset, and business disclosures adequate to the task? What is the role of ethical codes and rules concerning recusal and conflict of interest in preventing this form of capture?
8. Are you aware of SLAPPs being used by private actors to stifle advocacy on issues of public interest? What steps can be taken to deter SLAPPs, or limit their detrimental impact? Are economic interests distorting justice systems in other ways, such as through litigation financing?
9. Are you aware of examples of transnational corporate actors and their legal advisors driving the creation of new dispute resolution processes or remedy frameworks that

undermine human rights protections? For example, the creation of grievance mechanisms for mega-projects that divert claims from domestic courts to privatized remedy processes.

10. Is there research or evidence demonstrating that economic actors promote and control systems of arbitration, denying people and States access to independent tribunals to determine their rights and obligations?

11. Are there any additional issues you wish to raise with the Special Rapporteur in this context?

Please send your submission via email to [hrc-sr-independencejl@un.org](mailto:hrc-sr-independencejl@un.org) by **14 June 2024 at the latest, with the subject: Submission to report for UNGA 79.**

Respondents are requested to limit their contributions, in English, French, or Spanish, to a **maximum of 2,500 words**. Additional supporting materials, such as reports, academic studies, and other background materials may be linked in the body of the submission or annexed to the submission.

Unless otherwise specified by those making a submission, submissions will be made public on the Special Rapporteur's website at the time that the report is published.

The Special Rapporteur greatly appreciates the effort that goes into making such contributions and looks forward to reading all submissions.

Please feel free to circulate this call for inputs widely in your networks.