

Annex II

Stocktaking of International Criminal Justice

Peace and justice

Template

1. Format

Panel discussion

2. Participants (subject to change depending on availability)

Moderator: Mr. Kenneth Roth (Executive Director of Human Rights Watch)

Keynote speaker: Mr. Kofi Annan (former Secretary-General of the United Nations and Nobel Peace Prize laureate)

Panelists

- Mr. David Tolbert (President of the International Center for Transitional Justice)
- Mr. James LeMoyne (former Special Advisor for Colombia to the United Nations Secretary-General; has been involved in the processes in Colombia, El Salvador, Guatemala, Haiti, Nicaragua, Northern Ireland and the former Yugoslavia)
- Ms. Yasmin Sooka (member of the Truth and Reconciliation Commissions of South Africa and Sierra Leone; lawyer, adviser for different peace processes such as in Liberia and in Afghanistan)
- Mr. Chhang Youk (Director of the Documentation Center of Cambodia, an NGO which has been at the forefront of documenting the crimes of the Khmer Rouge)

3. Tentative programme of work

Keynote speech (15 minutes)

Intervention of panelists (1 hour)

Questions, answers and comments between the room and the panelists (1 hour and 30 minutes). It is expected that this part of the segment will be devoted to interaction between the panelists and participants, including the possibility of making brief comments. The first 45 minutes will be reserved for interaction with States Parties.

Summary of the moderator (15 minutes)

4. Expected outcome

Moderator's summary

5. Background material

Background papers to be produced by 30 April 2010 (authors subject to change depending on availability)

- The importance of justice in securing peace (Mr. Juan Méndez - Former President of the International Center for Transitional Justice; visiting professor at the American University Washington College of Law)
- Managing the challenges of integrating justice efforts and peace processes (Mr. Martti Ahtisaari – Former President of Finland and Nobel Peace Prize laureate)
- Truth and reconciliation processes as a complement to criminal justice (Mr. Barney Afako – Legal Adviser to the Chief Mediator on the Ugandan peace process negotiations)
- Safeguarding the interests of victims (Ms. Katya Salazar Luzula – Executive Director of the Due Process of Law Foundation)

Other contributions by States and other entities are welcome to share specific experiences and lessons learned on peace and justice by 30 April 2010. It is already foreseen that Mr. Carlos Castresana, Head of The International Commission Against Impunity in Guatemala, will be making such a contribution.

6. Additional information

Definition of the topic

- The preamble to the Rome Statute recognizes the link between peace and justice, stating that “grave crimes threaten the peace, security, and well-being of the world” and affirming that States Parties are “determined to put an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes.”
- Since the Statute’s adoption, there has been increasing recognition of this important link between peace and justice. In September 2009, United Nations Secretary-General Ban Ki-moon acknowledged that “the debate is no longer between peace and justice, but between peace and what kind of justice.” Also, the Secretary-General has often said that “peace and justice go hand in hand.” Indeed, amnesties, once viewed as a necessary price for peace, are no longer considered acceptable for the most serious international crimes.
- But the pursuit of peace and justice, together, has also presented challenges. Even as they complement each other in the long term, in the short term tensions have arisen between efforts to secure peace and efforts to ensure accountability for international crimes. These require careful management, drawing on past experience.
- Individuals suspected of involvement in international crimes may at times play an unavoidable role in peace negotiations and in peace-building contexts. In some cases, obtaining their consent to end a conflict may be difficult if they are facing criminal charges, while in other cases, an end to a conflict may actually be facilitated by their facing criminal charges. Questions may arise about when – and what other kinds of – accountability is appropriate in different situations. It may also prove complicated to coordinate the efforts of independent political and judicial actors with the interests of victims and the strategies of international peacemakers and peacekeepers.

- There is no simple or formulaic answer for meeting these challenges. At the “Peace and Justice” stocktaking session, we hope to draw lessons from past experience about what can be done to manage tensions that may arise between these two important and complementary objectives.

Sub-topics

- The importance of justice in securing peace: the role that international justice mechanisms can play in facilitating peace processes and transitions.
- Managing the challenges of integrating justice efforts and peace processes: ways in which accountability and peace efforts can be integrated, and challenges involved.
- Truth and reconciliation processes as a complement to criminal justice: role that truth-telling and reconciliation processes can play in complementing formal criminal justice mechanisms and helping to secure peace.
- Safeguarding the interests of victims: challenges involved in safeguarding the interests of victims in any post-conflict situation.

Follow up

- A publication of the background papers, the presentations of the keynote speaker and the panelists as well as the summary of the moderator is foreseen.
- In order to leave open the possibility for further discussion on the topic in the framework of appropriate fora, a factual reference should be made to the event in the report adopted by the Review Conference.