
Resumed eighth session

New York
22-25 March 2010

Report of the Bureau on stocktaking: Peace and Justice

1. Pursuant to paragraph 6 of resolution ICC-ASP/8/Res.6, the Bureau of the Assembly of States Parties appointed Argentina, the Democratic Republic of the Congo and Switzerland as focal points for the topic “Peace and Justice” in the context of the stocktaking exercise on international criminal justice during the Review Conference in Kampala in June 2010.

2. For the sake of transparency and inclusiveness, the co-focal points have convened regular and open meetings in order to prepare the present paper. Informal consultations took place on 9 and 23 February and on 8 and 19 March 2010. The three co-focal points have consulted with experts, as appropriate, to assist them in preparing the event.

I. Definition of the topic

3. 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.”

4. 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.

5. 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.

6. 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.

7. 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.

II. Event on peace and justice at the Review Conference

8. The event will take the form of a three hour panel discussion with questions and answers and will be organized as indicated in the annex.

9. There will be no formal outcome of the event. A summary of the discussion will be prepared by the moderator.

10. Most of the participants have confirmed their availability. If a participant would be unavailable, the co-focal points would identify another person.

III. Follow up

11. A publication of the background papers, the presentations of the keynote speaker and the panellists as well as the summary of the moderator is foreseen.

12. 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.

IV. Background papers

13. Between the resumed eighth session of the Assembly of States Parties and the Review Conference, the preparatory work should concentrate on deepening the understanding of the substance of the topic.

14. In order to assist the keynote speaker, the panellists, States and all other participants in the preparation of the discussion, the co-focal points will ask experts to prepare a specific background paper on each of the subtopics:

- a) The importance of justice in securing peace (Mr. Juan Mendez - Former President of the International Center for Transitional Justice; visiting professor at the American University Washington College of Law)
- b) Managing the challenges of integrating justice efforts and peace processes (Mr. Martti Ahtisaari – Former President of Finland and Nobel Peace Prize laureate)
- c) 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)
- d) Safeguarding the interests of victims (Ms. Katya Salazar Luzula – Executive Director of the Due Process of Law Foundation)

15. The availability of the above mentioned experts is being checked. If any of the experts would not be available, the co-focal points would need to identify other persons.

V. Other contributions

15. States and other entities are welcome to share their specific experiences and lessons learned on peace and justice. It is already foreseen that M. Carlos Castresana, Head of The International Commission Against Impunity in Guatemala, will be making such a contribution.

16. Contributions should be transmitted to the focal points no later than 30 April 2010 in order to allow enough time for their circulation and consideration by the panelists, States and other participants of the Review Conference.

Annex

Panel discussion on peace and justice

- a) Moderator
Mr. Kenneth Roth (Executive Director of Human Rights Watch)
- b) Keynote speaker (15 minutes)
Mr. Kofi Annan (former Secretary-General of the United Nations)
- c) Sub-topics and panellists (1 hour)
 - (i) **The importance of justice in securing peace: the role that international justice mechanisms can play in facilitating peace processes and transitions.**
Mr. David Tolbert (President of the International Center for Transitional Justice)
 - (ii) **Managing the challenges of integrating justice efforts and peace processes: ways in which accountability and peace efforts can be integrated, and challenges involved.**
Mr. James LeMoynes (former Special Advisor for Colombia to the United Nations Secretary-General; has been involved in the processes in Nicaragua, El Salvador, Haiti, the former Yugoslavia, Northern Ireland, Guatemala and Colombia)
 - (iii) **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.**
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)
 - (iv) **Safeguarding the interests of victims: challenges involved in safeguarding the interests of victims in any post-conflict situation.**
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)
- d) Questions and answers between the room and the panellists (1 hour and 30 minutes)
- e) Conclusion by the moderator (15 minutes)