

UN Security Council Open Debate

Peacebuilding and Sustaining Peace

“Transitional Justice in conflict and post-conflict situations”

INDIA STATEMENT

by

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13 February 2020

Madam President,

We thank Belgium for convening this open debate on the importance of ‘transitional justice’ in achieving reconciliation and durable peace. We appreciate the insightful remarks of UN Human Rights Commissioner; President of the Commission for the Clarification of Truth, Coexistence and Non-repetition; and Executive Director of the Foundation for Human rights in South Africa.

2. Since the end of the Cold War, activities by the international community in peace-making, peacekeeping, and peacebuilding have grown rapidly in number, complexity, and sophistication. The creation of the United Nations Peacebuilding Commission and Peacebuilding Fund are but two examples of recent institutional innovations.

3. Transitional justice approaches emerged and developed following military dictatorships, apartheid, and post-Cold War theaters, when there was an increasing international consensus that transitional justice measures were needed to deal with past human rights abuses. This however also coincided with goals of some donors, banks and aid agencies, all of whom prioritized stronger rule of law to enable economic development.

4. However, the involvement of external actors in the internal or quasi-internal conflicts of states have not only become more frequent, but has also entailed increased levels of coercion, and state-building activities that are at odds with the traditional concepts of sovereignty.

5. Effective transitional justice is not solely a question of whether there should be a domestic or international trial, or a truth commission versus an international trial, or a cultural alternative as opposed to a traditional trial. The question is: What is beneficial to the people whose lives have been disrupted or even destroyed by the perpetrators of violence?

6. Too often, the international community adopts a technocratic, one-size-fits-all approach that can be damaging. Transitional justice has become steeped in western liberalism, often appearing as distant and remote to those who actually need it most. Rebuilding social capital and livelihood systems is harder than restoring infrastructures and institutions. It involves redefining relationships, promoting public deliberation,

creating a healthy civil society, facilitating the healing process, as well as making institutions both trustworthy and effectively trusted.

7. There is also a perception that transitional justice mechanisms have been providing 'a form of ideological obfuscation' that is intended to 'divert attention away from those who benefited (and still benefit) from and in the system'. Specifically, we note that the historical injustices inherent to colonialism are rarely the focus of transitional justice.

Madam President,

8. If transitional justice is conceived merely as a band-aid that can be applied to past harms during some unspecified and limited period of 'transition', without any suggestion that it is attached to some deeper change in the society, it is unlikely that these measures will have any transformational capacity.

9. Reconciliation is a long and arduous process; artificially imposed standards or time lines are unlikely to achieve any success. Reconciliation within any nation must be not only home-grown but also home-nurtured. It is important to identify and clarify goals of any transitional justice mechanism before proceeding with designing processes and projects to fulfill those goals. Gender justice has to be fully integrated into all institutional mechanisms and wider structural reforms of the country concerned.

Madam President,

10. Transitional justice mechanisms can play a crucial role in societies torn apart by the violence of conflict, but they must contribute effectively to the will of the local actors to take their destiny into their own hands by devising political and institutional safeguards to prevent a repeat of mass crimes.

I thank you.

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