

Input to a joint study on the contribution of transitional justice to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity, and their recurrence

Background

Human Rights Council resolution 33/19 of 5 October 2016 requested the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Adviser of the Secretary-General on the Prevention of Genocide to prepare a joint study on the contribution of transitional justice to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity and their recurrence, to be presented to the Human Rights Council at its thirty-seventh session.

The Special Rapporteur and the Special Adviser were requested, in preparing the above-mentioned study, to seek the views of relevant actors. To this end, they are convening two expert group meetings on the theme of the joint study, the first of which will take place in New York on 19 and 20 September 2017 and the second in Geneva on 13 and 14 November 2017.

In order to obtain a broad representation of views to inform the joint study, they are also seeking written contributions to the joint study by Member States and civil society through responses to the attached questionnaire. In particular, the Special Advisor and the Special Rapporteur seek to identify specific examples of ways in which the different elements of transitional justice have contributed to preventing the reoccurrence of gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity.

Questions

For the United Nations, transitional justice is the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large scale past violations and abuses in order to ensure accountability, serve justice and achieve reconciliation. These processes and mechanisms can include tribunals, truth commissions, reparations programmes and various types of institutional and legislative reforms.

Taking stock of previous research, the joint study by the Special Rapporteur and the Special Adviser seeks to examine four specific thematic elements of transitional justice and the contribution they can make to preventing gross violations and abuses of human rights and serious violations of international humanitarian law. In particular, it seeks to assess the contributions of institutional and legislative reform, security sector reform, the role of history education, and the role of civil society.

The following questions aim to guide the preparation of written contributions on these specific areas.

1. Can you provide examples of how legislative reform, such as the adoption of a bill of rights, constitutional amendments or other specific legislation has contributed

to preventing the reoccurrence of gross violations and abuses of human rights and serious violations of international humanitarian law?

2. Can you provide examples of how the establishment or reform of certain institutions, such as a constitutional court or a national human rights institution, has contributed to preventing gross violations and abuses of human rights and serious violations of international humanitarian law?
3. Can you provide examples of ways in which educational reform in the aftermath of an armed conflict or authoritarian regime, particularly in the area of history education, has contributed to reconciliation and inclusion?
4. Can you provide examples of ways in which the reform of the security sector, particularly the establishment of civilian oversight mechanisms, has contributed to preventing gross violations and abuses of human rights and serious violations of international humanitarian law?
5. Can you provide examples of ways in which civil society organizations and other influential local actors, including religious leaders, labor and professional organizations have contributed to preventing gross violations and abuses of human rights and serious violations of international humanitarian law? Also, in what ways can the capacity of these actors to contribute to prevention be strengthened?
6. In addition to responding to these specific questions, we would welcome your views on other ways in which transitional justice has contributed to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law.

We wish to thank you in advance for your cooperation, and for your responses to all or some of the aforementioned questions. Given the short timeline for the preparation of the joint study, we kindly request that written contributions be sent in a Word document to srtruth@ohchr.org, no later than 3 November 2017. Please limit your contributions to a maximum of 500 words per response and attach annexes, where necessary. Your responses may be published on the website of the Office of the High Commissioner for Human Rights.