

CANADA



CONCEPT NOTE

The Global Response to Grave International Crime: Accountability and an End to Impunity

Tuesday, October 23, 2018; 1:15pm-2:30pm; CR-12

Background:

It has been 20 years since the adoption of the Rome Statute of the International Criminal Court. On the occasion of this anniversary, it is important to note what was created at Rome was not a stand-alone Court. Rather, the Rome Statute system was established, premised firmly on the principle that the ICC would serve as a last resort court in instances where no State was willing or able to investigate and prosecute. It was a system designed to motivate and challenge States to take up their responsibility to investigate and prosecute the most serious crimes known to our world in order to have accountability and bring an end to impunity globally, and justice to victims. The Court itself was to operate only as a complement to national jurisdiction, in hopefully limited circumstances. It was always the expectation that States would take up their primary responsibility to address these grave crimes, eliminating the necessity for the Court to intervene in specific situations.

20 years later, where are we? Has the complementarity promise of the Rome Statute been met?

The expectation we have collectively that the most grave crimes will be investigated and prosecuted is not limited in application to States Parties to the Rome Statute. A State may be an ardent critic or opponent of the ICC, but States generally express support for accountability and justice – the aim of the Rome Statute system. Non-States Parties to the Rome Statute can and should be equally, if not, even more motivated to enhance national and regional ability to address these core crimes.

There is general agreement that it is always preferable that these horrific crimes are prosecuted in the territory of the State where they occurred. But, sadly for a myriad of

reasons - ongoing conflict, capacity - that is sometimes not possible or not possible at least for a period of time. For that reason, the Rome Statute system always contemplated not only territorial State prosecutions, but rather the use of all forms of jurisdiction recognized at international law. There was an expectation that all States would have the legal capacity to prosecute these crimes with at least some extended jurisdiction, and that they would be prepared to use it. Further, while not expressed, obviously the idea of a regional court dealing with these cases - which means simply States in a region combining their jurisdiction - would be an equally welcome development.

This important aspect of the Rome Statute system - complementarity - continues to fail to garner the attention and focus it merits. The result is that insufficient consideration has been given to the need for capacity building and international support in order to enhance national and regional ability to fulfil this State responsibility.

Meeting Format:

Along with the delivery of opening remarks, a moderator and set of panellists will explore and illustrate recent innovative examples of complementarity at work, helping us assess the progress achieved over the last two decades.

Interpretation:

Simultaneous FR<>EN interpretation will be available.

Moderator and Opening Remarks:

Alan Kessel, Assistant Deputy Minister Legal Affairs and Legal Adviser to Global Affairs Canada

Opening Remarks:

Prof. dr. Rene Lefeber, Legal Adviser for the Minister of Foreign Affairs of the Netherlands and Head of the International Legal Division

Panellists:

Kimberly Prost, International Criminal Court (ICC) Judge on Complementarity as a Corner Stone of the Rome Statute

Toussaint Muntazini Mukimapa, Special Prosecutor of the Special Criminal Court of the Central African Republic

Catherine Marchi-Uhel, Head, International, Impartial and Independent Mechanism (IIIM) for Syria

James Goldston, Executive Director, Open Society Justice Initiative