



Seventy-second session of the United Nations General Assembly

Side event¹

*CTED offices, Tuesday, 19 September 2017, 12.30-3.30 p.m.
(A light luncheon will be served from 12.30 p.m.)*

**“Bringing Terrorists to Justice in a (Post-)Conflict Landscape:
Narrowing the Impunity Gap”**

1. Introduction

As the Islamic State in Iraq and the Levant (ISIL, also known as Da’esh) continues to lose territory in Iraq and the Syrian Arab Republic, the international community and the Governments of the two States face numerous post-conflict challenges, including the challenges of restoring peace and stability, reestablishing Government institutions, resettling displaced communities, and developing mechanisms for reconciliation and rehabilitation. One major challenge to be confronted in this context is to determine how to bring terrorists to justice.

Ideally, the States concerned will take the lead in the aftermath of a conflict. However, weakened judicial institutions may be overwhelmed by the sheer number of suspects, the complexity of the cases to be prosecuted, and the absence of legislation criminalizing international crimes.

Mindful of the unprecedented flow of foreign terrorist fighters (FTFs) to the conflict zones of the Middle East, prosecutors in many States are closely watching the situation as it unfolds. In several States, national courts have already initiated the investigation of alleged international crimes on the basis of universal jurisdiction and/or initiated the prosecution of (returning) FTFs.

In such cases, prosecutors may face a number of difficulties in their efforts to collect evidence. For example: it may not be possible to physically travel to war-torn States to collect evidence, a State may not have entered into a judicial cooperation agreement with the State in which the crime has been committed, and/or a legitimate Government may not exercise effective control over the area in which the evidence is located.

The current situations in Iraq and the Syrian Arab Republic are notable for their complexity and scale. However, the challenges involved in efforts to enhance justice and long-term stability in post-conflict situations are far from new. The (post-)conflict landscape raises particular challenges with regard to the collection of evidence. NGOs can sometimes play an important role

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in documenting and collecting evidence of atrocities during a conflict. However, the challenge is to ensure that their findings are admissible in court. The International, Impartial and Independent Mechanism (IIIM) may play an important role in the investigation and prosecution of those responsible for the most serious crimes in the Syrian Arab Republic.

In many settings (e.g., in Afghanistan, Mali and Sri Lanka), international coalition forces, United Nations peacekeeping forces, foreign troops and national military forces have been confronted with significant legal, practical and ethical challenges relating to the role to be played by the military in collecting evidence and arresting suspects. Most multidimensional missions have a human rights team that is responsible for monitoring human rights violations. Military forces may also fulfil several functions. Even though the circumstances in which they operate may differ, they can generally assist in collecting evidence in terrorism-related cases to be heard by ordinary criminal courts. Questions relating to mandates, (competing) jurisdictions, the circumstances in which the rights of the suspects may be upheld, and the fine line between war crimes and crimes of terrorism all play a role. The experience of the International Criminal Tribunal for the former Yugoslavia (ICTY) in using evidence gathered by military forces may provide some useful insights into these issues.

Through discussion of challenges, opportunities, and lessons learned in various (post-)conflict settings with respect to the role of the military and other relevant practitioners in collecting and sharing intelligence and evidence, speakers will explore ways to move from impunity to accountability.

2. Panellists

- Mr. David Tolbert, President, International Center for Transitional Justice
- Ms. Bibi van Ginkel and Ms. Tanya Mehra, International Centre for Counter Terrorism – The Hague
- Mr. Gilles de Kerchove, EU Counter-Terrorism Coordinator
- Mr. Simon Minks, Senior National Prosecutor, the Netherlands
- Mr. Alexandre Zuev, Assistant Secretary-General for Rule of Law and Security Institutions, Department of Peacekeeping Operations

3. Moderator

Mr. Anton du Plessis, Senior Legal Officer, Legal and Criminal Justice Coordinator, CTED



UN CTED
Counter-Terrorism Committee
Executive Directorate

 **ICCT** International Centre for
Counter-Terrorism - The Hague

“Bringing Terrorists to Justice in a (Post-)Conflict Landscape: Narrowing the Impunity Gap”

*CTED offices (220 E 42nd Street, 23rd floor in New York)
Tuesday, 19 September 2017*

Agenda

12.30-13.00 **Light luncheon**

13.00-13.05 **Opening remarks**

- Mr. David Scharia, Chief of Branch, CTED

- Discussion -

- Moderator: Mr. Anton du Plessis, Legal and Criminal Justice Coordinator, CTED

13.05-13.25 **Presentation**

- Mr. David Tolbert, President, International Centre for Transitional Justice

13.25-13.45 **Presentation**

- Ms. Bibi van Ginkel and Ms. Tanya Mehra, ICCT

13.45-14.05 **Presentation**

- Mr. Gilles de Kerchove, EU Counter-Terrorism Coordinator

14.05-14.25 **Presentation**

- Mr. Simon Minks, Senior National Prosecutor, the Netherlands

14.25-14.45 **Presentation**

- Mr. Alexandre Zuev, Assistant Secretary-General for Rule of Law and Security Institutions, Department of Peacekeeping Operations

14.45-15.25 **Question-and-answer session**

- Moderator: Mr. Anton du Plessis, Legal and Criminal Justice Coordinator, CTED

15.25-15.30 **Closing remarks**

- Government of Switzerland