

**Security Council**

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Letter dated 4 February 2020 from the Permanent Representative of Belgium to the United Nations addressed to the Secretary-General

As President of the Security Council, Belgium is organizing an open debate on “Peacebuilding and sustaining peace: transitional justice in conflict and post-conflict situations”, which will be held on 13 February 2020.

Please find attached a concept note for the information of Member States wishing to participate in the debate (see annex).

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(Signed) Marc **Pecsteen de Buytswerve**
Permanent Representative

* Reissued for technical reasons on 11 February 2020.



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Concept note for the Security Council open debate on the theme “Peacebuilding and sustaining peace: transitional justice in conflict and post-conflict situations”, to be held on 13 February 2020

I. Background

1. Countries in transition, whether in post-authoritarian settings or post-conflict contexts, commonly face the daunting challenge of addressing violence, large-scale violations and abuses of human rights and violations of international humanitarian law and of reconciling societies and communities that have been strongly marked by experiences of violence, trauma and societal and political divisions. Addressing these thorny and often intransigent issues is critical to attain sustainable peace and, thus, transitional justice has an important role to play.

2. While the concept of “transitional justice” emerged after a wave of political transitions in the 1980s and 1990s in Latin America, Central and Eastern Europe and, later, South Africa, its processes have now been adopted, implemented or followed through in countries around the world. With growing experience and changing conflict dynamics, the objectives and scope of transitional justice processes have evolved over the last couple of decades.

3. In 2004, the Secretary-General broadly described transitional justice as the full range of processes and mechanisms associated with a society’s attempts to come to terms with a legacy of large-scale past abuses, in order to ensure accountability, serve justice and achieve reconciliation (S/2004/616). The Secretary-General further clarified transitional justice in his guidance note on the United Nations approach to transitional justice of March 2010 as including a set of judicial and non-judicial instruments and mechanisms, such as trials, truth commissions, vetting and lustration procedures, memorials, reparations, restitution and compensation, and even amnesty and rehabilitation laws that redress the legacies of massive human rights abuses during war, occupation, dictatorships or other violent and suppressive conflicts and situations. These measures include criminal and political procedures and actions, as well as various kinds of institutional reforms such as security sector reforms or constitution-building.

4. The Security Council has referred to transitional justice on several occasions, including in its resolution 2282 (2016), in which it stressed that a comprehensive approach to transitional justice was a key component of efforts to sustain peace. Over the past two decades, the United Nations approach in supporting transitional justice processes has become more clearly articulated. The Security Council has made more frequent use of the instruments at its disposal in support of transitional justice, be it through the creation of commissions of inquiry to support the pursuit of truth and justice, or through giving peacekeeping missions, such as the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic, the United Nations Multidimensional Integrated Stabilization Mission in Mali and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo, or special political missions, such as the United Nations Assistance Mission for Iraq, a mandate to support the design and implementation of nationally owned transitional justice initiatives. Envoys and special representatives of the Secretary-General are also increasingly promoting transitional justice initiatives in peace

agreements. In several of its resolutions, the Council has further affirmed the importance of taking into account transitional justice processes in discussions on key thematic issues such as the women and peace and security agenda, children and armed conflict, protection of civilians, and sexual violence in conflict.

5. Indeed, mounting evidence demonstrates that transitional justice contributes to sustainable peace and security by helping to break cycles of violence and atrocities, delivering a sense of justice to victims and addressing deficiencies in State institutions that may have enabled, if not promoted, those cycles. However, its potential in contributing to atrocity prevention, peacekeeping, peacebuilding and reconciliation is still not always recognized properly.

6. At the same time, many challenges hamper an effective pursuit of transitional justice. A particular challenge is that knowledge of the four different components of transitional justice – truth, justice, reparation, and guarantees of non-recurrence – is scattered across fields and disciplines and is therefore rarely deployed in a broad, systematic and interdisciplinary manner. Moreover, different actors, including different United Nations entities, frequently deal with separate components of transitional justice. Although the Secretary-General, in his 2010 guidance note, provided a series of suggestions to encourage coherence and a comprehensive approach, different components of transitional justice are still often developed separately, without regard for joint analysis and an overarching strategy.

7. A transitional justice process must also not develop in a vacuum and should create synergies with other transition processes, such as security sector reform and disarmament, demobilization and reintegration processes. Ensuring complementarity between these processes can sometimes be a challenge.

8. The success of a transitional justice process depends largely on its scope, how it is designed and implemented, how appropriate it is to the specific context and to what extent it is supported by the whole of society. There is no “one-size-fits-all” approach to transitional justice: any approach must be based on the needs and objectives of the context and country concerned and must enable society to move from a divided past to a shared future. National participation and ownership are key. If transitional justice efforts focus too narrowly on criminal justice alone and neglect complementary dimensions, such as reconciliation and reparations, if they fail to take into account the situation of certain groups, or if they are overly legalistic, technical and apolitical, then they risk leaving unaddressed or even reinforcing the structures and grievances that led to conflict in the first place. It is therefore crucial that transitional justice practitioners continue to learn from past experiences and adapt to new circumstances.

9. This open debate will provide a forum for Member States to take stock of the progress made in implementing the Secretary-General’s guidance note on transitional justice and to draw on practical experiences to consider best practices and factors that can contribute to a successful transitional justice process. It will also provide an opportunity to further reflect on the role of the Security Council and how United Nations missions, regional organizations and partners can effectively support nationally owned transitional justice processes and advance sustainable peace and security.

II. Guiding questions

10. Participants are expected to focus on the following suggested questions:

(a) How can transitional justice mechanisms that help root out systems of inequality, discrimination, societal divisions and other structural root causes of violence and conflict be developed?

(b) What can be done to ensure a more coherent and comprehensive United Nations approach to transitional justice that better links up the different components of transitional justice and ensures more synergies between the work of different actors, including United Nations peace operations and the United Nations country teams?

(c) How can the Security Council and the United Nations more broadly most effectively support transitional justice processes, and within or alongside which broader frameworks and objectives?

(d) Which approaches and principles should guide United Nations peace operations supporting nationally owned transitional justice processes?

(e) How can transitional justice be better integrated into the children and armed conflict agenda of the Security Council? What role should children and youth play in such a process and how can it be ensured that children's rights are protected?

(f) How can transitional justice be better integrated into the women and peace and security agenda of the Security Council? What can be done to ensure a gender-sensitive approach to transitional justice and how can a transitional justice process address gender hierarchies and gender discrimination?

(g) How does a transitional justice process relate to security sector reform, disarmament, demobilization and reintegration and rule of law processes? Are there ways to strengthen complementarity between those processes?

(h) Is there a role for regional transitional justice initiatives? How can the United Nations partner with those organizations to support transitional justice processes?

III. Format of the meeting

11. The open debate will be held in the Security Council Chamber on Thursday, 13 February 2020, at 10 a.m. It will be chaired by Philippe Goffin, Minister for Foreign Affairs and Defence of Belgium. The following speakers will brief the Security Council:

(a) Michelle Bachelet, United Nations High Commissioner for Human Rights (by videoconference);

(b) Francisco de Roux, President of the Commission for the Clarification of Truth, Coexistence, and Non-Repetition of Colombia;

(c) Yasmin Sooka, Executive Director of the Foundation for Human Rights in South Africa, Trustee of the Desmond Tutu Peace Centre and Chair of the Commission on Human Rights in South Sudan.
