



NO PEACE WITHOUT JUSTICE  
NON C'È PACE SENZA GIUSTIZIA

German Federal Foreign Office

European Inter-University Centre for  
Human Rights and Democratisation

# *Justice*

# *Rapid Response*



JRR Conference Report  
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## **Background**

The development and reinforcement of international justice principles and transitional justice methods since the early 1990s has not been accompanied in equal measure by practical assistance to States or international organisations to meet their responsibilities. In post-conflict situations, there may be political and security windows of opportunity conducive to the commencement of an accountability process that is not matched by available expertise or resources. Moreover, the sooner that information regarding war crimes, crimes against humanity or genocide during that conflict is identified, collected and preserved, the more likely it is that such information will be accurate and adequate for the appropriate accountability mechanisms. The international community is not now equipped to move quickly when such windows of opportunity appear. Thus crucial evidence may be lost and opportunities missed to have justice play a positive role in securing lasting peace in the post-conflict society. The JRR mechanism aims to remedy this deficiency in the context of a wide range of investigative assistance to States and international institutions.

JRR is intended to be an international cooperative mechanism for the supply of voluntary assistance at the request of a State or international institution, where the identification, collection and preservation of information would assist at any stage a wide range of international and transitional justice options. The specific functions most likely to be carried out by the JRR mechanism in this respect are, *inter alia*: pattern of violence investigation; forensic mapping; documentary evidence investigation; visual image collection; identification of potential witnesses; and identification of massacre sites. JRR was identified as providing an improvement on the status quo by being a cooperative mechanism that does not need to be created anew each time there is a request for assistance. In this way, it can significantly reduce response times in providing assistance that is both impartial and which meets international standards; it shares the burden of assistance through coordination of the resources of States, international organisations and civil society; and, as a global effort, provides capacity-building by involving all States in the mechanism, irrespective of resources.

Four meetings had taken place prior to June 2006 to help define and launch the JRR concept: New York (April 2004); The Hague (June 2004); and New York (December 2004 and December 2005) involving representatives of governments, civil society and international justice institutions. An independent JRR Feasibility Study was developed, with the support of the Governments of Finland, Germany, Liechtenstein, Sweden, Switzerland and the United Kingdom and preparations were begun to fine-tune various aspects of the process, including logistical and practical issues and preparation of the political decision-making process with regard to the first request(s).

Recognising the potential relevance of JRR to the enhancement of transitional justice, No Peace Without Justice (NPWJ) offered to host the fifth meeting, the “Justice Rapid Response Conference”, on 15-17 June 2006 in Venice at the European Inter-University Centre for Human Rights and Democratisation (EIUC), with the financial support of the European Union and the Governments of Belgium, Canada, Finland, Germany, Ireland and the United Kingdom. The JRR Conference was attended by more than 50 participants from 20 countries, representing States, international organisations, international justice institutions and civil society.

The Conference was intended to serve several purposes. As envisaged during the 15 December 2005 meeting in New York, it was foreseen as the next stage of the international consultative process to develop a functioning JRR capability. In addition, the Venice Conference was intended to provide an opportunity to widen the scope of international actors (states, international courts, international organisations and non-governmental organisations) that may wish to participate in JRR, especially those with direct experience with conflict, post conflict situations and accountability processes. Therefore, the Conference engaged more State and non-State actors from African, Latin American and Asian countries, particularly those who had not yet had the opportunity to participate fully in the development of the JRR concept.

## **Opening session**

During the opening session, welcome remarks were made by representatives of the organisers; the European Inter-University Centre for Human Rights and Democratisation; and the Republic of Italy. It was agreed that the meeting be convened as a Conference rather than as a Seminar and that the representative of Sierra Leone would be the Chair for the entire Conference. The purposes of the Conference were recalled, noting that this Conference is intended to give practical significance to the concept of the JRR and that the voices and views of those with experience in conflict and post-conflict accountability efforts are essential to framing and shaping any eventual deployment within a JRR framework.

## **Background to JRR concept, updates and current state of play**

In presenting the history of the JRR concept, it was noted that there have been many developments in international justice over recent years: there is now a strong international legal regime that reinforces the primary responsibility of States in relation to the investigation and prosecution of serious crimes under international law. What has not been done is to put practical means in people's hands to assist them in enforcing international legal developments. The JRR tries to fill one of those gaps in supplying tools to see that justice is done and to ensure that a country does not slip backwards but instead moves forward to peace. The JRR can help capture available information before it disappears: while some of the information does not need to be gathered immediately, if some is not gathered and stored it will be lost. There is a need to develop guidelines on how to deal with all of this to ensure that justice helps the peace process, as it is realised that current efforts are not sufficient.

The meeting on the JRR on 15 December 2005 was very encouraging, as the consensus at that meeting was that the JRR would be a useful tool, a consensus reflected during this conference. There have been several developments since then that now need to be translated into the first practical steps: (1) There is an update of the feasibility study to reflect key developments since the feasibility study was drafted; (2) There are members of the international community working on these issues that would be interested in using the JRR and there needs to be someone able to serve as a coordinating body; and (3) There is a request from the SRSG of MONUC (the UN Mission in Congo) for JRR assistance in a particular situation.

The JRR is not supposed to be a new organisation; rather, it is a coordination mechanism to facilitate the provision of assistance in a timely and coordinated way, particularly for the collection of information that may otherwise be lost. It is designed to respond to requests from States or international organisations that need help or lack resources but that are willing to address accountability for crimes under international law. It is not only relevant for post-conflict countries, but also for countries in conflict, especially those nearing resolution, as there is a gap in the establishment of accountability mechanisms that could be filled by the JRR process.

The discussion during the opening session focused on several general issues relating to the JRR mechanism, including its scope and potential, with participants raising the following issues:

- The need for a communications strategy to ensure that people beyond those familiar with the JRR process could learn about the mechanism and to dispel the perception that many felt was likely to arise of the JRR being closely linked with or even being part of the International Criminal Court.
- The need to define the JRR vis a vis other bodies, what distinguishes it from them and how they will cooperate, for example with the International Criminal Court.
- The need for a coordination mechanism and the legal, organisational and other requirements, noting that the experiences of peace-keeping operations may be useful, particularly since they are used to dealing with relations between member States.
- The need to define how information will be collected under a JRR deployment, bearing in mind issues of capacity building and under what rules; the purposes for which it will be used, such as for lead information or as evidence; and who retains ownership of the information, bearing in mind issues such as who requests the assistance, confidentiality and witness protection.
- Who can make a request, for example whether a non-State actor could do so, and how this may have an impact on the deployment itself; whether different mechanisms would be needed, for example a new Status of Mission Agreement if the requesting body is a State; and whether this has an impact on what happens to the information.
- The composition of teams, whether on an individual basis, for example to have teams of mixed nationalities, or on the basis of State-selection, for example to have a team of a single nationality, or some combination of the two, for example through a number of sub-teams.
- The need to identify clearly different kinds of interventions and a clear scope for each type of intervention.

## **Perspectives from the field on the JRR**

While the experiences of those with experience in conflict and post-conflict accountability efforts were integrated throughout the Conference on the specific issues under discussion, this session was designed to provide an opportunity to hear those voices on the overall concept of the Justice Rapid Response and on specific issues identified by them as being important in the field, particularly in the context of the experiences in their countries.

Participants noted the real need for a JRR mechanism, as evidenced by the recent request from MONUC. A recurrent theme throughout this session, which was explored more fully later in the proceedings, was the need for there to be good cooperation between State and non-State actors in the design and deployment of missions under a JRR mechanism, both for purposes of advocacy and as “service providers”. It was also underscored by many participants that countries that have been or could be potential recipient countries may also have experience and expertise that would be useful in future deployments, not just in contributing to the design and conceptualisation of such deployments.

Participants noted that while there is a major demand for justice in situations of conflict and its aftermath, justice can be manipulated and that while the JRR will be independent, there is a need for those deployed under such a framework to be aware of the social, political and cultural situations in the countries to which they will be deployed. In this context, pre-deployment training on those aspects plus good knowledge of the situation in the country concerned was emphasised as a pre-condition to the success of any mission deployed within a JRR framework. This is particularly important in light of the recurrent recommendation that the JRR will need to work with local actors and others involved in the situation both in the design of any mission as well as in its implementation and coordination among different actors working on the ground will be essential. “Mixed teams” of local and foreign personnel has proved to be a positive experience in various countries to manage expectations; work most effectively; overcome language, cultural and other barriers; and for capacity building purposes.

The experiences in a variety of countries indicate that there is a need to involve local populations in any transitional justice initiatives, even for those such as the JRR that are not designed to sustain a long-term presence. For example, the experience of those countries where outreach with various sectors of society had been done prior to the establishment of accountability mechanisms was very positive in terms of engaging local populations, ensuring their understanding of what was happening in their country and building support and, hence, building cooperation, particularly in providing information. Civil society can contribute to this, for example by ensuring that there is a pool of people who are knowledgeable about the Rome Statute and who will collaborate with those who come to collect information. It was emphasised that all transitional justice mechanisms, particularly those from the “outside”, have learnt that it is necessary to explain to people their purpose, scope and function, also as a means of managing expectations. This will be particularly important for the JRR, as there may or may not be any accountability process foreseen at the time of deployment within the framework of a JRR mechanism.

In addition to the management of expectations, participants highlighted that the major concern of experts deployed within a JRR framework needs to be the safety, security and

well-being of people with whom they come in contact. The protection of victims and witnesses was emphasised as being particularly important and it was noted that this is also linked with the question of to whom the information belongs and where it goes. This will be necessary irrespective of the scope of any deployment: whether or not experts deployed within a JRR framework take witness statements or not, people will believe that they did so; provision needs to be made for that. In addition, a referral system should be developed in advance to enable those experts to refer people who are in need of shelter, food or other similar assistance as well as those who are in need of psycho-social support; since the JRR is intended to be rapid, it is likely that those people deployed within a JRR framework will be the first to come into contact with victims and witnesses and should therefore be prepared to assist in meeting their needs, even if they are unable to provide such services themselves. In this context, it was also noted that psycho-social support, including pre- and post-deployment debriefings, need to be available for the experts themselves, whether they believe they need it or not.

There was some discussion on the scope of the JRR, specifically on whether it should be limited to taking physical evidence, such as photographs, the identification of crime scenes, such as mass graves, and gathering information relating to military structures and chain of command issues, or whether it should be broader and extend to, for example, taking witness statements. While different opinions were expressed on this issue, which was also discussed later in the conference, it was noted that even if it is not the primary focus of the mission, the JRR should be prepared to take statements because there is a likelihood that any experts deployed within a JRR framework will be approached by people wanting to tell their stories, so the JRR mission should be prepared for that, as the witnesses may not be available later. In any case, the JRR will need to ask consent for where the information is going to go before taking any statement, whether formal or informal. This saves going back to the witness later and reduces the risk of witness fatigue and of the witness giving contradictory statements. While the precise scope of the mission will likely be determined according to circumstances, each mission in any case needs a clear mandate because an unclear mandate will inevitably lead to bad field operations.

In addition, the following issues were raised during the discussion period:

- The question of whether information gathered as part of a JRR process would also be made available to the defence, which it would have to be if information collected is given to a justice institution.
- The importance of including gender issues and gender crimes within the mandate of experts deployed within a JRR framework.
- Considerations related to the short duration of a mission deployed within the JRR framework including:
  - the purpose of the JRR is not capacity building, but that should remain an important side effect;
  - although time is short for training of local actors, the involvement of all relevant actors working on these issues is necessary to ensure the success of the initiative; and

- guidelines will need to be developed for transferring work that cannot be completed, for example due to the extreme size of a country.
- One possibility is for the JRR to take a “backseat” role, for example to help give technical and scientific assistance and to train people in working on DNA identification, which is of great importance for victims.
- Security in-country may be an issue and would have to be taken into account not only in any deployment but also in the decision of whether to deploy or not.
- The utility of developing a resource or toolkit for activists on how to gather information would be useful to ensure information collected by local actors in advance of any deployment could be received within the JRR framework.
- There is a need to have reliable interpreters, which is important not only for the collection of reliable information but also for the safety and security of victims and witnesses.

## **Implementation of the JRR Feasibility Study and its supplement**

The JRR Feasibility Study and its supplement raise a number of practical issues that need to be discussed and decided in preparation for any deployment within a JRR framework. These issues were discussed throughout the remainder of the conference, with the following issues broadly identified at the commencement of this session:

- The levels of commitment for States to enter the process will not necessarily be equal: some will commit less and some will participate only by supplying information and not the funding or personnel.
- In any case, there is a crucial need for a model text toolbox for negotiation between future JRR participants and between the JRR mechanism and requesting entities and a road map for the near future steps to be taken, including:
  - Parties need to be identified to take the lead on certain components;
  - The level of contribution of different States need to be determined;
  - Logistical problems need to be addressed;
  - An assessment report for the feasibility of the mission is required to address more concrete issues like the financial side, logistical and political aspects of the missions and accountability issues;
  - Determination of: surveys; external focal points; required prior experience; the time period in which this has to be done; criteria for selection of experts; and the criteria and practical aspects for training of experts.
- Identification of basic frameworks for:
  - the permanent structure of JRR, to guide how decision-making mechanisms will work and how work done will be assessed;
  - rules and agreements determining the responsibilities of participating states, legal issues and status of mission agreements; and
  - secondary agreements such as criteria for rosters, training standards and financial regulations.

Discussion during this session focused around two main issues: the actors involved with deployment; and the decision-making mechanism and launching of the mission. It was generally agreed that the JRR mechanism should take advantage of the expertise of both State and non-State actors, while recognising the basic nature of the JRR mechanism as a vehicle for inter-State cooperation. As such, the concept already foresees the possibility of organisations other than States being involved through “associate membership”. It was also noted that a JRR participant may itself be a requesting State; a participant might have resources to offer in some fields but lack resources in other fields. While non-government JRR participants will have a non-voting status, they will be responsible and accountable by their actions and tasks. They would also be involved in the mechanism as much as possible, albeit not in decision-making on whether and how to deploy within the JRR framework (see below). Nevertheless, it was recognised that within this context, non-State actors have their own mandates and operating procedures so they, like States, will retain overall independence to decide whether or not to participate either in the mechanism in general or on specific missions deployed within the JRR framework.

Given the nature of the JRR as a cooperation mechanism primarily among States, it was generally agreed that the final say on deployment remains on the requesting State and that decision-making is the responsibility of States participating in the JRR mechanism. It was noted that the simpler the mechanism is, the easier it will be to operate and to protect. This was accompanied by discussion of whether the JRR needs a Secretariat, with some noting the importance of having such a body to ensure proper coordination and information-sharing and others noting that it is too early to establish such a body, there needs to be a modest and flexible approach and, since the JRR is not an organisation as such, it should not in any case have a formal “Secretariat”. Thus decision-making on whether to deploy would depend first on a request, which would be circulated among those participating in the JRR mechanism, and second on a collective consideration amongst States participating in the JRR mechanism, with individual participation in specific missions remaining within the discretion of each participant. Nevertheless, it was eventually agreed that one State should take the lead (although this State has yet to be identified) and that in the interim, a willing body should be identified to maintain momentum and ensure discussion and information continue to circulate (see Chair’s Conclusions).

## **Standards of expert rosters and basic training of experts**

There are a number of factors that need to be considered in the standards of expert rosters and basic training of experts. The first set of factors to focus on is resources, functionality and results. There is then the need to analyse the capacity and capability of participating States and establish the domestic prospects. In the end, individuals that might take part in the missions should be selected on an individual basis and, to ensure that the response can be rapid, they should be pre-selected before inclusion on any roster. This will include a number of tasks: identifying the necessary categories of people (investigators, legal specialists/experts, logistics and security, country and thematic experts, psychology experts in mass trauma); setting an evaluation process for how

candidates have performed in previous tasks; addressing language issues; and categorisation of crucial, highly desirable and specific qualities of the experts.

There are a number of challenges involved, including the identification of common standards for human resources, including geographic and gender representation; an evaluation by States of their own rosters and processes; identification of organisations that already have rosters and resources; and technical solutions for operating the rosters in practice. Many of these aspects can be addressed during compilation of the rosters and can also be addressed during selection for deployment. The importance of maintaining up-to-date rosters was emphasised, including the need for whoever coordinates the JRR rosters to maintain regular and individual contact with each person on the roster.

Additional factors to consider include codes of conduct, how to link the countries' partnership and contributions with financial aspects, including how to mobilise funds quickly; what type of equipment is needed (noting this can often be expensive); and parity in salaries. Another question is whether there is a need for any screening or selection for entry into rosters beyond that done by participating States or organisations. There needs to be concrete but flexible methodology developed for all of these things, particularly since the composition of any team may not be known until a request comes in, which again raises the question of whether there needs to be a Secretariat that also handles the rosters.

While it can be assumed that people on the roster will have a certain level of expertise already, general training can be useful to ensure that levels of knowledge – particularly on recent developments – are more or less equal. Nonetheless, it was noted that since there is a need to respond quickly to requests, there may not be time for training and this should be taken into account when selecting a team for deployment. There are other issues of training that may be mission specific, including those related to the political, social and cultural framework of the country to which experts are being deployed. In particular, it was emphasised that knowledge of the geography, history, gender issues and culture of the country concerned is crucial for primary analyses.

## **Role and practical aspects of IGOs/NGOs participation in the JRR implementation process**

There are many roles that can be played by IGOs/NGOs within the framework of the JRR, some of which are obvious and some of which may be less obvious. International NGOs can, for example, help provide a structure for the systematisation of information collected by experts deployed within a JRR Framework and for local NGOs working on documentation, with local NGOs acting as resource providers and international NGOs acting as structure providers. There are a number of ways in which inter-governmental organisations can provide support to the JRR mechanism, including through providing practical support to NGOs working on JRR-related issues, information exchanges, training, developing methodology, technical assistance, networking and as a direct service provider. There may be special requirements for inter-governmental organisations to

participate in a JRR mechanism; for example, UNDP would need authorisation from the General Assembly to incorporate the JRR within its mandate.

Participants discussed potential problems that could arise in relation to the selection of NGOs, in particular the independence of some NGOs and the extent to which they may have links with local governments. It was noted that this would be an issue that would have to be considered on a case-by-case basis, which also underscored the importance of pre-deployment briefing on the current situation in the country concerned. It was agreed that both local and international NGOs could play a useful role, with international NGOs bringing specific expertise on specific issues and local NGOs bringing familiarity with the situation and knowledge of local conditions. It was again emphasised that it was likely that NGOs would support work undertaken within a JRR framework so long as they can protect their mandate and independence. Finally, it was noted that for many funding bodies, it would be easier to provide funds to an NGO than to a State for activities carried out within a JRR framework and it may therefore be useful to identify an NGO that can do the organisational work required to facilitate this process.

## **Chair's conclusions and next steps**

The main question on which discussions centred during this session was how the JRR mechanism can benefit States, the added-value it offers compared to other initiatives and preliminary discussions on the possible next steps. Participants generally agreed that the main outcome of the Conference should be a summary of a simple basic description of the JRR mechanism and a list of tasks for the next possible steps, with the minimum goal being creating e-groups to keep the discussion going and identifying opportunities at which the JRR mechanism could be discussed, such as at the September meeting of the Council of Europe on international criminal justice issues or at the Security Council.

The main issue discussed was the scope of the JRR mechanism, building on earlier discussions as to whether that scope should be limited or broader. After much discussion on the potential scope and role of the JRR mechanism, it was generally agreed that the following paragraph adequately reflected the consensus reached during this Conference on this issue:

“JRR is intended to be an international cooperative mechanism for the supply of voluntary assistance at the request of a State or international institution, where the identification, collection and preservation of information would assist at any stage a wide range of international and transitional justice options. The specific functions most likely to be carried out by the JRR mechanism in this respect are, inter alia: pattern of violence investigation; forensic mapping; documentary evidence investigation; visual image collection; identification of potential witnesses; identification of massacre sites. JRR was identified as providing an improvement on the status quo by being a cooperative mechanism that does not need to be created anew each time there is a request for assistance. In this way, it can significantly reduce response times in providing assistance that is both impartial and which meets international standards; it shares the burden of assistance through coordination of the resources of States, international

organizations and civil society; and, as a global effort, provides capacity-building by involving all States in the mechanism, irrespective of resources.”

Participants agreed on the need to identify focal points to continue to follow the issues and determine how the JRR mechanism might deal with a number of issues, including funding, identification of organisations with whom the JRR mechanism might work, the legal framework, interaction with local organisations, criteria for rosters, standards for training and a code of conduct. In this respect, it was noted that the formation of rosters and standards for training is of critical importance, since without these, it will be difficult if not impossible to respond to requests for assistance. Participants agreed that they would each identify focal points to follow the ongoing discussions on the JRR mechanism, with some focal points already identified during the Conference, and designated certain participants to take the lead as coordinators for the development of specific issues identified during the Conference.

Participants also agreed on the need for an informal coordination mechanism to take the process forward, with many possible options being discussed. It was agreed that hosting secretarial functions within the European Union, for example, would encourage the incorrect perception that the JRR mechanism is a European mechanism, a misperception often faced by others working in the field, including the International Criminal Court. Further, it was noted that while a UN agency may be able to perform secretarial functions, it would take some time to do a proper assessment and gain the relevant authorisation.

Participants generally agreed an international non-government organisation could perform these functions and requested that No Peace Without Justice, the co-organiser of the Conference, do so on an interim basis. NPWJ agreed to undertake this role, on the understanding it included the tasks of compiling information on a website/database; technical assistance; and following the instructions of coordinators. While this would initially be done through circulating documents from the Conference (including this report), it was noted that there is still a need for a State to volunteer to take overall leadership of the JRR mechanism, which remains an important step in the follow-up process.

The Conference concluded with the participants agreeing by consensus that the Chair’s Conclusions (see annex I) reflected the discussion and agreements reached during the Conference. At the conference, draft guidelines for the future cooperation in the JRR Mechanism and draft basic elements of the procedure for the deployment of experts in the framework of a JRR mission were distributed but not discussed. (Annex 3).