



**THE RELATIONSHIP BETWEEN
TRUTH-SEEKING AND PROSECUTION**

27TH AND 28TH MAY 2016

DRAFT AGENDA

ICES AUDITORIUM

DAY 1 (27th May)

9.30 – 10.00 **Session 1 – Introduction to the Dialogue and Overview of the State of Transitional Justice in Sri Lanka**

- 2.1 The Government's plan for Transitional Justice, the four proposed TJ mechanisms, and the Human Rights Council resolution.
- 2.2 The political environment and the political sustainability of the process.

10.00 – 11.00 **Session 2 – The Inter-Relationship between Truth-Seeking and Prosecutions**
Introductory Comments: Judge Erik Møse, Catalina Diaz, Eduardo González, Andra Mobberley.

- 3.1 Achieving reconciliation through truth-seeking and prosecution.
- 3.2 Balancing truth and punishment.
- 3.3 Building confidence in the process and ensuring participation from stakeholders.

11.00 – 11.15 *Morning tea*



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- 11.15 – 13.30** **Session 3 – Prosecutions and the proposed Special Court**
Introductory Comments: Judge Erik Møse, Andra Mobberley, Catalina Diaz, Kelli Muddell.
- 4.1 Design, composition, mandate, and powers of the Special Court.
 - 4.2 Setting prosecutorial strategy: Which crimes to prosecute? Which perpetrators to target?
 - 4.3 Investigating large scale crimes.
 - 4.4 Incentives to elicit the ‘truth’ from suspected perpetrators and implicated institutions, including amnesties, pleas bargains, guarantees against prosecution, confidentiality, and anonymity.
 - 4.5 Prosecuting sexual and gender-based crimes.
 - 4.6 Prosecuting LTTE crimes and crimes of non-state actors.
 - 4.7 Victim and witness protection.
 - 4.8 Evidential issues relating to witnesses.
 - 4.9 Relationship between the Special Court, Truth Commission, and the Office of Missing Persons (OMP).
 - 4.10 Prioritising overlapping and competing investigations.
- 13.30 – 15.00** *Lunch*
- 15.00 – 16.15** **Session 3 – continued**
- 16.15 – 16.30** *Afternoon tea*



16.30 – 18.30

Session 4 – Disappearances

Introductory Comments: Catalina Diaz, Kelli Muddell, Camilo Sánchez, Eduardo González, Andra Mobberley.

- 5.1 History and background to disappearances in Sri Lanka.
- 5.2 Design, composition, mandate, and powers of the proposed OMP.
- 5.3 Incentives to elicit the 'truth' from suspected perpetrators and implicated institutions, including amnesties, pleas bargains, guarantees against prosecution, anonymity, confidentiality, and privilege.
- 5.4 Relationship between the OMP, the Special Court, and the Truth Commission.
- 5.5 Role of the ICRC and other organisations of technical expertise, and their impact.
- 5.6 Prosecuting enforced disappearances as an ordinary crime and as an international crime.
- 5.7 Enforced Disappearance Convention, and issues of the definition of the crime, crimes against humanity, amnesty, jurisdiction, retrospectivity, and penalties.
- 5.8 Tracing, forensic investigations, and the role of the courts
- 5.9 Gendered consequences of enforced disappearance and the impact on society.

19.00 – 21.00

Dinner and Discussion



DAY 2 (28th May)

9.30 – 11.00

Session 5 – Truth-seeking and the Truth Commission

Introductory Comments: Eduardo González, Catalina Diaz, Camilo Sánchez, Judge Erik Møse, Kelli Muddell

- 7.1 Design, composition, mandate, and powers of the Truth Commission.
- 7.2 Relationship between the Truth Commission, the Special Court, and the OMP.
- 7.3 Incentives to elicit the 'truth' from suspected perpetrators and implicated institutions, including amnesties, pleas bargains, guarantees against prosecution, confidentiality, and anonymity.
- 7.4 Sexual and gender-based crimes.

11.00 – 11.15

Morning tea

10.45 – 13.00

Session 5 – continued

13.00 – 14.30

Lunch

14.30 – 16.00

Session 6 – General themes

Introductory Comments: Judge Erik Møse, Eduardo González, Catalina Diaz, Andra Mobberley, Camilo Sánchez, Kelli Muddell.

- 8.1 The inter-relationship amongst the several TJ mechanisms.



- 8.2 Relationship between the TJ mechanisms and the ordinary criminal justice system and institutions, such as the Police, Human Rights Commission, and the Attorney-General's Department.
- 8.3 Forensics.
- 8.4 Sourcing personnel for the TJ mechanisms.
- 8.5 Role of foreign experts.
- 8.6 Legislation and law reforms required to give effect to TJ proposals, including video testimony.
- 8.7 Policy suggestions for Government on prosecutions, truth-seeking, and the OMP.
- 8.8 Reparations.
- 8.9 International Criminal Court and the role of international justice.
- 8.10 Links between transitional justice, constitutional reform, and corruption trials.

16.00 – 16.15 *Afternoon tea*

16.15 – 17.30 **Session 6 – continued**

17.30 – 18.00 **Session 7 – Close of dialogue**

19.00 – 21.00 **Dinner and Discussion**