

Sri Lanka - Expert Panel Nominated to Monitor Transitional Justice Mechanisms from Victims' Perspective : TGTE

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The Transnational Government of Tamil Eelam ("TGTE") has nominated a panel of five legal experts to monitor the design and implementation of the transitional justice mechanisms in Sri Lanka, including the judicial measures to investigate and prosecute war crimes, crimes against humanity and genocide ("Monitoring Accountability Panel" or "MAP").

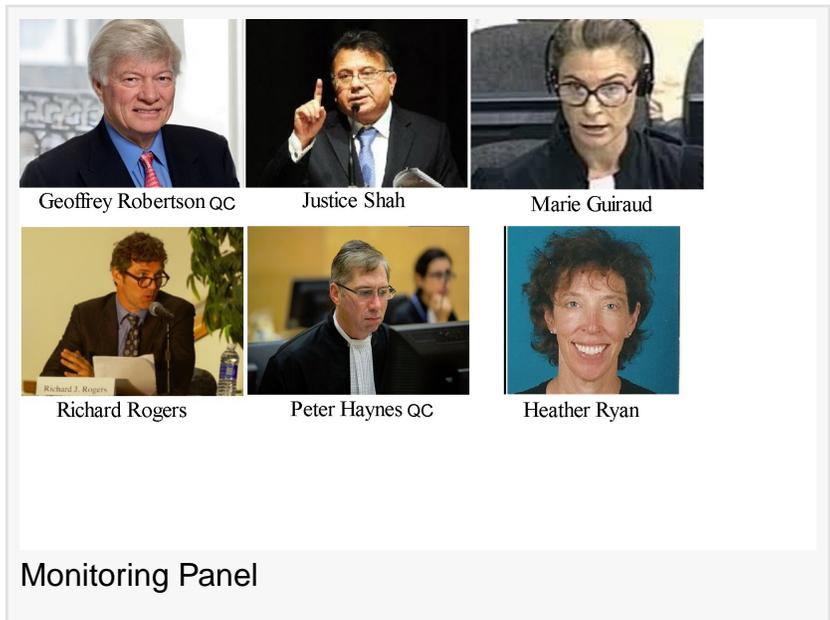
Following the Report of the OHCHR Investigation on Sri Lanka, dated 16 September 2015, and the UN Human

Rights Council Resolution on 'Promoting reconciliation, accountability and human rights in Sri Lanka,' dated 1 October 2015, the Sri Lankan Government undertook to establish accountability mechanisms to address the crimes committed during the Sri Lankan armed conflict. These will include a special criminal court with foreign judges and prosecutors.

The MAP will provide independent monitoring, advice, and recommendations, focusing on the effectiveness of accountability measures from a victims' perspective. It will also consider issues of fair trial and due process for suspects and accused persons. The views and recommendations of the Panel will enable victims and other stakeholders to participate more effectively in the process and thus enhance the legitimacy of the measures.

The MAP shall formulate its opinions independently - irrespective of party political considerations or the agenda of any specific group (including the TGTE) – according to the interests of fair justice, applying international standards and best practices. The initial mandate of the Panel shall run from November 2015 to December 2016. Further detail of the Panel's mandate can be found in the attached Terms of Reference.

The Members of the Monitoring Accountability Panel have been selected for their legal expertise in international criminal law and human rights, national



Geoffrey Robertson QC



Justice Shah



Marie Guiraud



Richard Rogers



Peter Haynes QC



Heather Ryan

war crimes courts, and regional criminal cases. The Panel Members (in alphabetical order) are:

Marie Guiraud (France)

Peter Haynes QC (UK)

Richard J Rogers (UK)

Heather Ryan (USA)

Justice Ajit Prakash Shah (India)

Geoffrey Robertson QC will act as a consultant to the Panel, providing additional independent advice.

Monitoring Accountability Panel, Members' Bios:

Marie Guiraud (France) – Panel Member:

Marie Guiraud, a French lawyer, has worked on human rights and international criminal law for fifteen years. She is currently the Civil Party Lead Co-Lawyer for the victims at the UN-assisted Extraordinary Chambers in the Courts of Cambodia (ECCC). Representing the interests of nearly 4,000 victims who participate in Case 002/02, Marie serves as the co-lead court advocate. She has been heavily involved in the design and implementation of judicial reparations for victims of crimes under the Khmer Rouge regime. Prior to her current role, Marie worked at a major international human rights organization and then as a private lawyer in criminal litigation, both before French and foreign Courts: In France, she represented both defendants and victims in complex and serious criminal cases. Abroad, Marie represented victims of international crimes before Ivorian and Congolese Courts and was a Civil Party Lawyer in case 002/01 before the ECCC.

Peter Haynes QC (UK) Panel Member:

Peter Haynes QC is a British barrister with more than 30 years' experience in domestic and international criminal courts. He currently acts as the Lead Counsel for Jean Pierre Bemba at the International Criminal Court (ICC) and is the Lead Legal Representative of Victims at the Special Tribunal for Lebanon (STL). He is one of the very few practitioners who have led cases before the International Criminal Tribunal for the Former Yugoslavia (where he appeared for the defence of General Vinko Pandurevic in relation to the Srebrenica massacre), the ICC and the STL. He has appeared in cases involving genocide, war crimes, crimes against humanity and international terrorism. He has been responsible for development of the jurisprudence, practice and procedure of the representation of victims in international / hybrid courts. Peter regularly lectures on the functioning of international criminal courts and, in particular, victim representation.

Richard J Rogers (UK) – Panel Member and Secretary:

Richard Rogers, a USA (California) and UK qualified lawyer, has 20 years experience in international criminal law and human rights. He has held senior positions in the UN and OSCE: He was the OSCE's Chief legal system monitor in post-conflict Kosovo, the Principal Defender at the UN's Extraordinary Chambers in the Courts of Cambodia, and the head of legal

support for the Appeals Chamber at the UN's International Criminal Tribunal for Yugoslavia.

Richard is currently assisting several victim groups before the International Criminal Court and has worked with national war crimes courts in Bangladesh, Bosnia and Herzegovina, Croatia, Kosovo, and Uganda. Richard has recently provided expert testimony before the US Congress House Committee on Foreign Affairs, and spoken to human rights issues before the European Parliament's human rights committee and the Bosnian Parliament. He is a founding partner of Global Diligence LLP.

Heather Ryan (USA) – Panel Member:

Heather Ryan, a US lawyer, has been working in the field of international law for over 15 years. She is currently a special consultant for the Open Society Justice Initiative monitoring the Extraordinary Chambers of the Courts in Cambodia (ECCC), a hybrid tribunal set up to prosecute senior leaders of the Khmer Rouge Regime responsible for mass atrocities from 1975-1979. She has been involved since 2005 in evaluating and reporting on the development and implementation of the ECCC in terms of compliance with international fair trial standards, as well as the court's effectiveness in meeting its goals with respect to the victims and public. Her experience also includes work at the Carr Center for Human Rights Policy at Harvard's Kennedy School, Global Greengrants Fund, The Coalition for International Justice, teaching international criminal law, as well as private law practice.

Justice Ajit Prakash Shah (India) - Panel Member:

Justice Shah, a renowned Indian jurist, has been practicing law as an advocate and judge for around 40 years. Following his practice as a lawyer in Bombay, Justice Shah was elevated to the bench in 1992, becoming a permanent Judge of Bombay High Court in 1994. He was promoted to Chief Justice of the Madras High Court in 2005 and Chief Justice of Delhi High Court in 2008. He retired from the bench in 2010. Until August 2015, Justice Shah was the Chairman of the 20th Law Commission of India, a body established by the Indian Government to promote legal reform throughout the justice system. He was also the Chairperson of the Broadcasting Content Complaints Council, a self-regulatory body for non-news TV channels set up by the Indian Broadcasting Foundation in consultation with the Ministry of Information & Broadcasting.

Monitoring Accountability Panel, Consultant's Bio:

Geoffrey Robertson QC - Consultant:

Geoffrey Robertson QC is founder and joint head of Doughty Street Chambers. He has had a distinguished career as a trial and appellate counsel, an international judge, and author of leading textbooks. He has argued many landmark cases in media, constitutional and criminal law, in the European Court of Justice; the European Court of Human Rights; the Supreme Court (House of Lords and Privy Council); the UN War Crimes courts; the World Bank's International Centre for Settlement of Investment Disputes (ICSID)

and in the highest courts of many commonwealth countries.

Geoffrey has, as a jury advocate, appeared in many criminal trials at the Old Bailey and libel trials in the High Court. He has appeared in several hundred reported cases in the Court of Appeal (both civil and criminal divisions) and in judicial reviews in the High Court, and in subsequent appeals. He has a large advisory practice, for clients including governments, media corporations, NGO's and local councils.

For media inquiries please contact:

- Mr. Visuvanathan Rudrakumaran, Prime Minister of the Trannational Government of Tamil Eelam – pmo@tgte.org
- Richard J Rogers, Panel Secretary - richardrogers@globaldiligence.com

MONITORING THE IMPLEMENTATION OF TRANSITIONAL JUSTICE MECHANISMS FOR SRI LANKA

PANEL OF EXPERTS: TERMS OF REFERENCE

Background and Overview:

1. The Panel of Experts to Monitor Accountability in Sri Lanka (“Monitoring Accountability Panel” or “MAP”) has been established at the request of the Transnational Government of Tamil Eelam (“TGTE”) to provide independent monitoring, advice, and recommendations on the transitional justice mechanisms in Sri Lanka, following the end of the civil war in 2009.
2. The overall mandate of the MAP is to monitor, advise and report on the design and implementation of the judicial and non-judicial measures for transitional justice established by the Sri Lankan Government pursuant to the Report of the OHCHR Investigation on Sri Lanka (“OISL Report”), dated 16 September 2015, and the UN Human Rights Council Resolution (A_HRC_30_L.29) on ‘Promoting reconciliation, accountability and human rights in Sri Lanka,’ dated 1 October 2015. Whilst the MAP will focus on the effectiveness of accountability

measures from a victims' perspective, it will also consider issues of fair trial and due process for suspects and accused persons.

3. The UN Human Rights Council¹ and the UN Special Rapporteur on Transitional Justice² have called for broad participation and consultation in the design and

4. The MAP shall garner the views of victims inside and outside Sri Lanka. It shall formulate its opinions independently - irrespective of party political considerations or the agenda of any specific group (including the TGTE) – according to the interests of fair justice, applying international fair trial standards and best practices.

5. The MAP's Legal Experts shall agree all reports prior to publication or distribution. The initial mandate of the MAP shall run from November 2015 to December 2016.

Specific Terms of Reference:

Re: The judicial mechanism with a special counsel:

6. To monitor, evaluate, and make recommendations on the establishment of the “judicial mechanism with a special counsel to investigate allegations of violations and abuses of human rights and violations of international humanitarian law.”³ The monitoring shall focus on the need for full and fair accountability, victim reparations, as well as fair trial and due process.

7. Subject to available information, particular attention should be given to:

- a. The concerns and expectations of victims;
- b. The treatment of victims within the system, particularly victims
- c. The mechanisms for victim participation in the process and for

- d. The participation of foreign judges and the set-up of judicial
 - e. The participation of foreign prosecutors and investigators and
 - f. The selection process and qualifications of national judges;
 - g. The procedures for selecting suspects for prosecution;
- standpoint, for transitional justice measures depend, to a large extent, on the willingness of victims and others to participate, for example, by sharing pertinent information with the relevant institutions. It is also necessary from the standpoint of effectiveness, for the measures, after all, should respond to the needs and expectations of their potential beneficiaries. And it is called for in terms of their sustainability for these are inevitably long-term projects that will likely depend on the willingness of stakeholders to defend them over time from the contingencies of politics. This is more likely to happen if the stakeholders can claim ownership over them.”
- h. The application of international standards of fair trial and due
 - i. The mechanisms for witness protection.

RE: Other areas of transitional justice:

- 8. To monitor, evaluate, and make recommendations on the other judicial and non-judicial transitional justice mechanisms implemented by the Government of Sri Lanka.
- 9. Subject to available information, particular attention should be given to:
 - a. Non judicial processes for truth-seeking;
 - b. Institutional reform, including vetting of public employees;
 - c. Treatment of prisoners of war;
 - d. Demilitarisation and demobilization;
 - e. Security sector reforms;
 - f. The legality of measures designed to fight terrorism;
 - g. Measures to prevent torture and sexual violence by the security

- h. The response to allegations of enforced disappearances;
- i. The treatment of Tamils and Muslims within the Sri Lankan legal

10. The MAP will submit an interim report by March 2016 and a final report by January 2017 on those matters outlined in this Terms of Reference. It may issue press releases and position papers as the need arises.

END

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