

CONCEPT NOTE
Side-event to the 17th session of the Assembly of States Parties, 2018
Friday December 7, 16:30 h., Oceania 2

“Hard Law Obligations, Atrocity Crimes and the Veto”

Background

This panel will consider the use of the veto by permanent members of the UN Security Council in the face of ongoing genocide, crimes against humanity and/or war crimes. Currently, the veto power is treated as above all sources of law – that it can be invoked for any reason or no reason whatsoever. Important initiatives exist to restrain the use of the veto voluntarily, such as the ACT States’ Code of Conduct, and the “French/Mexican” initiative. To date, however, these have not succeeded in changing how the veto is being utilized. This panel will consider a complementary approach by asking what international law says about veto use in the face of such crimes. Concepts discussed will include how the veto power interacts with (1) the protection of *jus cogens* norms, (2) the “purposes and principles” of the UN, and (3) certain foundational treaties, such as the 1948 Genocide Convention and 1949 Geneva Conventions.

Aims of the side-event include

- Encourage discussion about a potential new approach to having the veto used in the face of genocide, crimes against humanity, and/or war crimes in a way that is more consistent with international law.
- Discuss the legal arguments as to how one might examine critically the issue of unrestrained veto use in the face of genocide, crimes against humanity, and/or war crimes.
- Consider, as a possible way forward, for the UN General Assembly to seek an advisory opinion from the International Court of Justice on a question such as: are all vetoes in the face of genocide, crimes against humanity, and/or war crimes consistent with international law?
- Examine how this approach and initiatives for voluntary veto restraint can be mutually supportive, and discuss how these approaches can be strengthened; and
- Invite participants to share their ideas on all of these issues.

Format: Interactive panel, led by moderator

Introductory Remarks: [states co-sponsoring the panel – Ambassador of Costa Rica]

Speakers:

- Richard Goldstone, former Prosecutor, International Criminal Tribunal for the former Yugoslavia and International Criminal Tribunal for Rwanda
- Jennifer Trahan, Clinical Professor, NYU Center for Global Affairs
- James Goldston, Executive Director, Open Society Justice Initiative
- David Donat Cattin, Secretary-General, Parliamentarians for Global Action

Moderator: Anne Myriam Roccatello, International Center for Transitional Justice

Venue: World Forum Conference Centre, Oceania 2

Time and Date: 16.30-18.00, Friday December 7.

Language: The event will be held in English.