



# INTERNATIONAL COMMISSION OF JURISTS

Commission internationale de juristes - Comisión Internacional de Juristas

*" dedicated since 1952 to the primacy, coherence and implementation of international law and principles that advance human rights "*

## **Expert Legal Panel on Corporate Complicity in International Crimes**

**Update June 2006**

### **Introduction to the Panel**

The International Commission of Jurists (ICJ) has convened an Expert Legal Panel of eight eminent lawyers to develop the legal and public policy meaning of corporate complicity in the worst violations of international human rights and humanitarian law that amount to international crimes.

This legal Panel is the first of its kind on corporate complicity. It will help to clarify the practical content and limits of complicity - an area of uncertainty and confusion. The Panel will develop legal principles to explain when companies should be held liable in law for complicity in international crimes and, where the acts are not sufficient to attract legal liability, whether companies should nevertheless be considered responsible as a matter of international public policy.

The Panel will establish clear legal guidelines for businesses, NGOs, governments and the United Nations, thereby enabling them to identify when

businesses have crossed the line and have become participants in international crimes.

### **The Panelists**

The Panel brings together renowned lawyers from a variety of legal traditions and disciplines, including: public international law, corporate law, criminal law, environmental law, international humanitarian law, human rights law and labour law.

The eight panelists are:

- Professor Andrew Clapham (United Kingdom)
- Mr. Claes Cronstedt (Sweden)
- Professor Louise Doswald-Beck (Switzerland)
- Professor John Dugard (South Africa)
- Mr. Alberto León Gómez-Zuluaga (Colombia)
- Dr. Howard Mann (Canada)
- Dr. Usha Ramanathan (India)
- Professor Ralph Steinhardt (United States)

## **Steering Group & Advisors**

A Steering Group and a group of special advisors has been established to guide the project and provide strategic input throughout the process.

The Steering Group and Special Advisors includes: Ms. Widney Brown (Amnesty International), Mr. Arvind Ganesan (Human Rights Watch), Ms. Patricia Feeney (Rights and Accountability in Development), Mr. John Morrison (Programme Director, Business Leaders Initiative on Human Rights; Director, TwentyFifty Ltd.), Mr. Sune Skadegaard Thorsen (Lawhouse DK; Chair, ICJ Denmark), and Professor Anita Ramasastry (Director, Shidler Center for Law, Commerce, and Technology, University of Washington).

### **How will the Panel Work?**

During the next 10 months the Panel will meet a number of times in plenary; hold consultations with key groups; commission expert legal research; and issue a call for submissions.

The outcome of the project will be launched in the first half of 2007. A draft version of the principles will be made available to the Special Representative to the UN Secretary General on Human Rights and Transnational Corporations and other Business Enterprises in time for completion of his final report.

The Panel met for the first time in Plenary on 8 & 9 May in Geneva. At the meeting the Panel discussed the scope of the project: areas of expert research; and planning for consultations

## **Scope**

The Panel's task is to delineate the ways in which business can be held liable in law for helping others to commit those very serious human rights violations that are also international crimes. From this analysis the Panel will draw conclusions and findings and adopt principles.

### **Expert Legal Research**

Expert researchers will be commissioned to provide the Panel with information on a large pool of both international and domestic legal disciplines, including: international criminal law, international humanitarian law, comparative criminal law, comparative administrative law, comparative tort law, comparative civil law, environmental law, and EU law.

These expert researchers will be asked to address issues such as: whether liability can be imposed on both legal persons and natural persons; what is the necessary degree of proximity between a business and a situation for liability to exist; and what are the legal procedural obstacles to liability.

### **A Corporate Perspective**

Other expert researchers will write from a business perspective on commercial law, business structures and mechanisms that shield business from liability. This will ensure that the Panel findings and principles reflect and address the complex realities involved in attaching liability to businesses or business representatives.

### **Online Consultation**

A web page for online consultations will be created in July 2006. This will be an open forum to which anyone who is interested may submit views and information to the Panel.

### **Call for Submissions**

A letter asking questions and requesting information will be sent in July 2006 to key groups, such as: corporate lawyers, trade union lawyers, governments and NGO litigators.

Discussions will be initiated with representatives of these groups to gather insight on the legal and policy issues that relate to the project.

At a later stage these groups will be asked to submit comments on the preliminary findings of the Panel.

### **Consultation Meetings**

Two legal and public policy consultation meetings will be held in Europe in the latter part of 2006. Participants from all regions will attend these meetings.

### **More Information**

A webpage for the project on the Business and Human Rights Resource Centre (BHRRC) Website: [www.business-humanrights.org/Updates/Archive/ICJPaneloncomplicity](http://www.business-humanrights.org/Updates/Archive/ICJPaneloncomplicity)

Information placed on that site will also be placed on the ICJ website: [www.icj.org](http://www.icj.org) and will be sent to various mailing lists.

Regular updates on the project will be circulated in this way.

An update will be circulated to announce the establishment of the online consultation forum.

**If you would like your name to be added to the mailing list for updates, or if you have any questions in relation to the project, or would like any further information, please contact Leah Hootor: [hootor@icj.org](mailto:hootor@icj.org)**