



CREATING THE INTERNATIONAL LEGAL ASSISTANCE CONSORTIUM

The international community has played a prominent role in assisting nations with post-conflict justice needs. Many international organizations, donor governments, and nongovernmental organizations (NGOs) have launched efforts to rehabilitate collapsed judicial systems and to help create and sustain various accountability mechanisms. While some of these efforts have been successful, all too often organizations offering assistance descend on countries, each acting independently of one another, often duplicating efforts or working at cross purposes.

In light of the international community's recent experiences in Rwanda, Kosovo, Haiti, Cambodia, and other nations, it is generally recognized that—through better planning, coordination, and cooperation—international assistance in support of judicial rehabilitation and accountability can be more productive and effective in meeting host countries' justice needs.

Over the last three years the idea for the International Legal Assistance Consortium (ILAC) grew out of the recognition that a gap exists: there is currently no international mechanism to facilitate global efforts for judicial rehabilitation and post-conflict accountability in countries emerging from domestic or international conflict.

ILAC will be structured to fill that gap.

- ILAC will build situation-specific teams from its databank of international experts, both indigenous and international.
- ILAC will be prepared to react rapidly and effectively.
- ILAC teams will provide an immediate and accurate assessment of the judicial system as well as suggest practical and detailed guidelines for the development of sound judicial institutions.
- ILAC teams will provide an immediate and accurate assessment of accountability mechanisms. ILAC will encourage the existence or creation of domestic accountability mechanisms and foster a government's compliance with its international accountability obligations.
- ILAC will serve as a global source of information about organizations, experts, documents, and analyses.
- ILAC will be firmly committed to the principles of impartiality and respect for local legal systems and cultural traditions.
- ILAC's assistance will, whenever possible, be undertaken with the cooperation of the national government.
- ILAC will be committed to absolute independence from political influence.

Justice systems are among those institutions that suffer most during violent conflicts. The collapse of state institutions, like the judiciary, is a fundamental cause for the subsequent failure of the legal system and the general breakdown of the rule of law. Rehabilitating the judicial system and ensuring accountability for those who have violated international human rights law is fundamental to the development of a stable environment and the enhancement of investor confidence. To maintain peace, citizens need to feel that they are equal under the law and that perpetrators of committed atrocities are held accountable; otherwise, they will take actions to ensure their own security and the process of conflict begins again.

ILAC is an idea whose time has come. Recent experience demonstrates that there is a vast void in post-conflict situations, where the breakdown of the rule of law is systemic and the need for rapid judicial rehabilitation and post-conflict accountability is essential. There must be comprehensive efforts to support structures that will ensure a lasting peace. Rehabilitating the judicial system and ensuring accountability are fundamental to this effort.

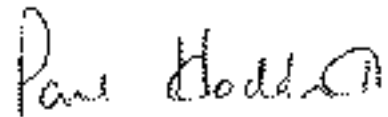
The international community—including the United Nations, international agencies, NGOs, and individual governments providing post-conflict assistance in the justice sector—needs to ensure these efforts are complementary and to meet collectively the needs of the host country. ILAC can become this crucial component to the international community’s response to the devastation within or between states.

We are working to gain international support from the numerous and diverse sectors that are willing, and able, to assist in the post-conflict rehabilitation process. We envision an international post-conflict response that is effective, efficient, and lasting.

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Facilitation of National and International Accountability Mechanisms and Rehabilitation of National Judicial Systems: International Legal Assistance Consortium (ILAC)

Justice systems are among those institutions that suffer most during violent conflicts. The collapse of state institutions like the judiciary is a fundamental cause for the subsequent failure of the legal system and the general breakdown of the rule of law. The international community must focus its efforts to support structures that will ensure a lasting peace. Rehabilitating the judicial system and ensuring accountability mechanisms is fundamental to this effort.

There is currently no international mechanism to bring together nongovernmental organizations (NGOs), national governments, international agencies, and UN agencies for judicial rehabilitation and post-conflict accountability. There is a need to better coordinate these activities and ensure these programs are complementary and to collectively meet the needs of the host country, including the victim population. To be fully effective in a post-conflict situation, there is a need to react rapidly. The International Legal Assistance Consortium (ILAC) can fulfill such needs.¹

This memo sets forth a framework for the creation of ILAC. In essence, ILAC, during and in the aftermath of conflict or transition, will be able to facilitate NGO, government, UN, and other efforts in two crucial areas: (1) rehabilitating the national judicial and legal system and (2) developing appropriate accountability mechanisms. To support these efforts ILAC will create and maintain a global databank serving as a permanent and ongoing

research effort and informational clearing-house for its members.

ILAC will work closely with international peacekeepers who assume de facto, if not de jure, involvement in law enforcement functions during a post-conflict situation. To date, peacekeepers, civilian police, and international police monitors have had to operate in environments where the local criminal justice system has been decimated or is altogether nonexistent.

ILAC will enter the post-conflict environment simultaneously with, or as a close follow-on to, peacekeeping operations. Based on its research and assessment, ILAC will serve as a locus of international legal assistance and domestic NGO involvement and facilitate the efforts of specialized agencies, NGOs, donor governments, and other experts. Bringing together ideas and people, ILAC will mobilize forces to recognize a common set of principles and goals and operate in an organized and efficient manner.

By serving as a central resource for global expertise and providing a single judicial assessment as the basis for judicial reform efforts, ILAC can help save the donor community millions of dollars. As an example, at the end of the civil war in Guatemala more than fifty different judicial assessment reports, financed by twenty-two donors, had been written.² The cost of these reports was over \$17 million. Resources are limited, and they

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¹At four recent international conferences, individuals representing NGOs, national governments, international organizations, and academia met to recommend ways to improve the international community's approach to post-conflict justice and to judicial rehabilitation during a post-conflict period. The idea for ILAC was developed as a result of these conferences. The March 1997, the October 1997, and the February 2000 conferences were organized by the Stanley Foundation. The September 1997 conference was organized by the International Institute of Higher Studies in Criminal Sciences in Siracusa, Italy.

²Douglas Webb, *Legal and Institutional Reform Strategy and Implementation: A World Bank Perspective*, 30 *Law & Pol'y Int'l Bus.* 161, 164-5 (1999).

ILAC
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must be used efficiently. The money saved by creating one central assessment can then be used to implement the necessary judicial reform and accountability programs.

Countries emerging from domestic or international conflict are generally fragile. It is crucial to develop a stable environment as soon as possible. One of the keys to a stable environment is a transparent and reliable judicial system. A stable environment also encourages financial investment by the international community. ILAC will provide an immediate and accurate assessment by competent experts of the judicial system. ILAC will make reasoned recommendations and help facilitate domestic and international experts to rapidly implement the recommendations.

Countries emerging from domestic or international conflict are almost certainly grappling with the traumatic effects of recently committed war crimes and human rights abuses. ILAC will encourage the existence or creation of domestic accountability mechanisms. ILAC will foster a government's compliance with its international accountability obligations. In addition, ILAC will facilitate the provision of the types of domestic and international assistance that are crucial to such endeavors.

Mission Statement

The purpose of the International Legal Assistance Consortium is to facilitate and assist domestic and international efforts to improve the efficacy and credibility of legal institutions and the ability to implement accountability mechanisms, focusing on situations of conflict or transition by providing objective assessments and recommendations; by serving as a source of information about organizations, experts, documents, and analyses; and by undertaking other activities related to this mission.

Commentary

ILAC will be an association of international and domestic NGOs, working in cooperation with domestic and international organizations, intergovernmental organizations, other experts, and interested nation-states to promote the rule of law throughout the world. Realizing that an independent and effectively run judicial system is the sine qua non of the rule of law, ILAC will provide technical legal assistance focused on judicial restructuring and situations of post-conflict accountability in countries emerging from domestic or international conflict or transition.

ILAC's rapid response team will draw upon its international membership and the membership's resources to provide an unbiased and comprehensive assessment of legal institutions and accountability mechanisms during and immediately post transition (including conflict to post-conflict transitions, political transitions, and democratic transitions).

The purpose of the assessment is to facilitate and assist domestic and international efforts to improve the efficacy and credibility of legal institutions and the ability to identify and implement national and international accountability mechanisms.

ILAC's assessment will include an evaluation of the relationship between international institutions and local entities. ILAC will suggest to the appropriate national and international authorities practical and detailed guidelines for the development of sound judicial institutions and accountability mechanisms and assist the national authorities in cooperating with competent domestic and international organs.

ILAC, through its permanent and ongoing actions, will further assist in information exchange (including the identification of personnel and resources), assessment, planning, training, and implementation. During the implementation phase, ILAC will be prepared

to facilitate the participation of its members. ILAC will also be prepared to assist the host governments and international organs in ensuring effective implementation.

Guiding Principles

Because ILAC's membership is comprised of international and domestic NGOs and other experts experienced in analyzing the state of legal systems and providing assistance to countries developing their national judicial systems, it will be able to respond quickly and effectively in providing needed post-conflict legal assistance.

ILAC will work closely with local NGOs and other experts in affected environments to ensure their immediate involvement in the assistance projects.

ILAC will be firmly committed to the principles of impartiality and respect for local legal systems and cultural traditions. ILAC will not seek to impose a particular legal approach, realizing that a broad-minded spirit toward other cultures and awareness of the strengths of different legal systems is necessary to achieve the goal of establishing effective judicial systems throughout the world.

ILAC will be premised on the belief that assistance in developing judicial systems must, whenever possible, be undertaken with the cooperation of national governments in order to be beneficial.

ILAC will be politically unbiased and will conduct its work in a manner that is transparent to the domestic and international communities.

ILAC teams will include, wherever feasible, indigenous expertise, regional expertise, subject matter expertise, international law expertise, and practical and technical expertise.

ILAC will be international in its membership.

ILAC will be nondiscriminatory and will endeavor to ensure appropriate geographic, gender, cultural, and legal system diversity in its structure.

ILAC will be committed to a system of continuing self-evaluation and will modify its practices in order to best meet its purpose.

ILAC will be committed to absolute independence from political influence.

Structure

ILAC will be structured as a separate nonprofit entity comprised of international and domestic NGOs and other experts, working in cooperation with interested nation-states and international organizations, toward the development of national judicial systems.

Commentary

ILAC will be a separate nonprofit entity comprised of international and domestic NGOs and other experts, working in cooperation with interested nation-states and international organizations, which are actively engaged in the development of national judicial systems. It will be particularly important for ILAC to be comprised of a full range of international and domestic experts that have demonstrated their competence and ability to take on the complex and time-consuming responsibilities of post-conflict judicial reconstruction.

Pursuant to ILAC's bylaws, ILAC's members will elect an executive board. The board will be comprised of five permanent members (to select geographical and program diversity) and six rotating members.

ILAC will have permanent headquarters and worldwide branch offices. ILAC will have a full-time staff, consisting of a director (who will oversee all ILAC operations); an administrative assistant (who will assist the executive

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ILAC will be capable of sending two different types of teams of legal experts....

director); a fund-raiser/development director (responsible for securing administrative and programmatic funding); an outreach coordinator (responsible for maintaining contact with members and securing personnel support for program implementation); a program director (responsible for all logistical support for implementing the two Rapid Response Programs, including training mission participants); a research director (responsible for databank research and preparing briefing papers for the ILAC missions); a databank director (responsible for computer programming and the ILAC Web site); a chief financial officer (responsible for overall financial management of the project); and an area director in each branch office.

ILAC members may decide to second personnel to the permanent headquarters or branch offices.

Response Time and Coordinating Mechanisms

The main programmatic objective of ILAC is to provide rapid and effective assistance to post-conflict national judicial systems. In fulfilling its mission, ILAC will be able to provide two teams of legal experts to assist the host country in the post-conflict environment. These two teams will be a Judicial Development Response Unit (JDRU) and a Judicial Accountability Response Unit (JARU). To support this effort, ILAC will create and facilitate a global resource and research databank.

Commentary

ILAC will be capable of sending two different types of teams of legal experts to assist the host country in the post-conflict environment. Depending on the needs of the affected state, one or both types of teams may be utilized.

ILAC will create a global databank to support both the JDRU and the JARU. The global databank will serve as a permanent and

ongoing research effort and information clearinghouse for its members.

The global databank will:

- Conduct a long-term study of all contemporary conflicts (post-World War II)
- Assess the response and intervention of the domestic and international communities
- Assess the various models used in such interventions
- Maintain a current list of experts
- Help identify resources (both funding and in-kind)
- Maintain of list of accountability laws, truth commissions, etc. and analyses of such laws and models
- Maintain models and create manuals for assessing judicial systems
- Create technical manuals for assessing accountability issues

Judicial Development Response Unit. The JDRU will be comprised of legal experts selected by ILAC.

The JDRU will be responsible for assessing the current state of the judicial system in the host country. Based on ILAC's research, the JDRU will use a predetermined and specifically targeted judicial assessment model to identify which areas of the judicial system are intact and functional and which areas need to be re-deployed, re-created or redesigned. Based on this assessment, ILAC will coordinate an outreach campaign among ILAC members and donors so that they may undertake a more long-term program of assistance and development.

The JDRU will primarily serve as a bridge between initial peacekeeping activities and long-term assistance. Once long-term ILAC members arrive in the host country, the JDRU will continue to provide on-ground coordination during the initial phase of operation. Once ILAC members establish their own coordinating mechanism to accomplish long-term

judicial restructuring, the JDRU will relinquish primary involvement with the judicial restructuring program. However, ILAC will be prepared to assist host governments and international organs in ensuring effective implementation.

Long-term judicial restructuring will:

- Identify revisions to legislative and constitutional mandates necessary for a truly independent and effective judiciary
- Determine whether comprehensive jurisdiction is set within the judiciary on all matters relating to the application of laws, including violations of international humanitarian law
- Determine whether there is sufficient financial support for the judicial system
- Determine whether there exist a sufficient number of trained attorneys, judges, and court personnel to participate in a revitalized judicial system
- Determine whether there are sufficient court facilities to allow the judicial system to function

Judicial Accountability Response Unit. The JARU will support national and international efforts to devise and implement appropriate mechanisms for accountability that are tailored to the needs of the specific context. The JARU will be comprised of legal experts selected by ILAC.

The JARU will:

- Assist the government in designing a systematic approach for accountability, taking into account the need to conform with international humanitarian and human rights law
- Assist the government in implementing the accountability mechanisms selected
- Support existing, and create new, local human rights NGOs which can sustain advocacy work
- Assist in mobilizing support from the international community for implementing the accountability mechanisms selected, including financial assistance and cooperation in

gaining evidence and extradition of indicted persons outside the country's territory

- Monitor the government's performance in implementing the system of accountability (including trial monitoring)
- Serve as an objective source of information and deter the dissemination of misinformation and disinformation
- Assist in creating mechanisms to provide protection to potential witnesses fearful of physical violence
- Work with the JDRU (see JDRU section above) in developing a judicial system that will initiate an effective system of accountability, including providing assistance in building judicial infrastructure, training legal personnel, and reforming laws
- Facilitate a "Rules of the Road" project, based on ILAC's global databank, to ensure that the process of detaining individuals by the government for serious violations of international humanitarian law is consistent with international legal standards
- Provide liaison and coordination services where appropriate to facilitate the interaction of the national justice system and the International Criminal Court or any ad hoc international tribunal. n

The JDRU and JARU will be comprised of legal experts selected by ILAC.

The Stanley Foundation Role

In 1997 the Stanley Foundation convened two conferences focusing on post-conflict justice issues. Both of these conferences brought together a unique blend of policymakers and practitioners with extensive experience in fostering justice and the rule of law internationally. The March 1997 conference, “Post-Conflict Justice: The Role of the International Community,” focused on the role that the international community could play in fostering genuine national reconciliation and in providing means with which war-torn nations could solve future conflicts peacefully, democratically, and within the bounds of law. After considering various roles the United Nations, nongovernmental organizations (NGOs), and other existing international institutions could play, an idea emerged to create a “rapid-response” mechanism that could facilitate and coordinate international activities in post-conflict environments.

During the second conference, “Accountability and Judicial Response: Building Mechanisms for Post-Conflict Justice,” a mix of returning and new participants evaluated a more detailed proposal for a “rapid-response” legal assistance mechanism, which came to be referred to as the “International Legal Assistance Consortium” (ILAC). Issues of purpose, viability, functions, and relationships to other international organizations were further discussed. There was a strong sense that a mechanism such as ILAC could be the right vehicle to provide better coordination for international organizations and agencies, NGOs, and governments to ensure that a country’s post-conflict justice needs are met for peace, accountability, justice, and the rule of law.

During the following two years individuals committed to the idea of ILAC fleshed out its role and possible structure and shared the idea with others in the broader international legal community through professional papers, presentations, and personal conversations. They solicited input from a range of national and international NGOs involved in international rule of law programs. The response was overwhelmingly positive.

Since the idea of ILAC germinated and flourished at Stanley Foundation conferences, it seemed appropriate that the foundation convene a group of committed individuals in February 2000 to provide an opportunity for helping to take ILAC from concept to implementation and reality. Twenty individuals from the international legal community met at Airlie Center in Warrenton, Virginia, on February 17-19, 2000, for a working, organizational retreat titled “Building a Mechanism for Post-Conflict Justice: Creating the International Legal Assistance Consortium (ILAC).” Discussions of ILAC’s overall mission, structure, guiding principles, roles within the international community, and the area of conflict, relationships with other international and domestic institutions, and strategies for further design and implementation were discussed.

A full report of these proceedings and the earlier conference reports can be found on the Stanley Foundation’s Web site at: reports.stanleyfdn.org. A list of all conference participants can be found in this current document.

The foundation has been pleased to be a catalyst and facilitator in the creation of ILAC. We are gratified to see the commitment and dedication of those who are working toward making ILAC a reality. With the Stanley Foundation’s vision dedicated “to seeking peace with freedom and justice, built on world citizenship and effective global governance,” we join with others in the hope that ILAC may assist post-conflict states in their transition from a state of conflict to a state of just and lasting peace. n


Joan D. Winship
Senior Program Officer
The Stanley Foundation

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Participant Lists

Building a Mechanism for Post-Conflict Justice: Creating the International Legal Assistance Consortium

February 17-19, 2000

Cochairs

Mark S. Ellis, Executive Director, Central and East European Law Initiative, American Bar Association

Joan D. Winship, Senior Program Officer, The Stanley Foundation

Rapporteur

Kathleen M. Kelly, National Office Director, Irish American Unity Conference

Participants

Jason Abrams, Legal Officer, Office of Legal Affairs, United Nations

Christian Ahlund, Chairman, Human Rights Committee, Swedish Bar Association

M. Cherif Bassiouni, Professor of Law, De Paul University; President, International Human Rights Law Institute

Bruce Broomhall, Senior Coordinator, International Justice Program, Lawyers Committee for Human Rights

Scott Carlson, Program Director for Albania, Kosovo War Crimes, and the RIGHTS Consortium, Central and East European Law Initiative, American Bar Association

Paul Hoddinott, Executive Director, International Bar Association

Mel James, International Policy Executive, Human Rights, The Law Society

Joseph M. Jones, Chief, International Training and Development Programs, Criminal Division, US Department of Justice

Fredrick M. Lorenz, Lecturer in National Security, Jackson School of International Studies, University of Washington

William D. Meyer, Executive Director, The Central and East European Law Initiative Institute, Czech Republic

Madeline Morris, Professor of Law, Duke University School of Law

William L. Nash (US Army, Ret.), Director, Civil Military Programs, National Democratic Institute for International Affairs

Joseph N. Onek, Senior Coordinator for the Rule of Law, US Department of State

Shelby R. Quast, Principal, Robertson Quast & Associates, International, LLC

Charles S. Rudnick, Assistant Dean for International Law and Policy, Chicago-Kent College of Law

Michael Scharf, Director, Center for International Law and Policy, New England School of Law

William H. Spencer, Special Advisor, Bureau of Democracy, Human Rights and Labor, US Department of State

Paul Williams, Professor of Law, American University, Washington College of Law

Stanley Foundation Staff

Keith Porter, Executive Producer, *Common Ground*
Elaine Schilling, International Programs Assistant

Affiliations are listed for identification purposes only. Participants attended as individuals rather than as representatives of their governments or organizations.

Accountability and Judicial Response: Building Mechanisms for Post-Conflict Justice

October 23-25, 1997

Cochairs

Mark S. Ellis, Executive Director, Central and East European Law Initiative, American Bar Association

Paul Williams, Assistant Professor of International Law and Relations, American University; Senior Associate, Carnegie Endowment for International Peace

Rapporteur

Mary C. Theisen, Program Officer, The Stanley Foundation

Participants

Sheila Berry, Special Adviser, Office of War Crimes Issues, Office of the Secretary, US Department of State

Bavo Cool, Former Chairman, Board of Directors, Attorneys Without Borders

Craig Etcheson, Acting Director, Cambodian Genocide Program, Yale University

Johanna Mendelson Forman, Senior Adviser, Office of Transition Initiatives, Bureau for Humanitarian Response, United States Agency for International Development

Stefanie Grant, Director of Program and Policy, Lawyers Committee for Human Rights

John W. Heffernan, Executive Director, Coalition for International Justice

James R. Hooper, Director, The Balkan Institute

Nina Lahoud, Special Assistant to the Assistant Secretary-General for Planning and Support, Department of Peace-keeping Operations, United Nations

F. M. Lorenz, Marine Corps Chair, Industrial College of the Armed Forces, National Defense University

Gay J. McDougall, Executive Director, International Human Rights Law Group

Madeline H. Morris, Professor of Law, Duke Law School; Adviser on Justice to the President of Rwanda

Karin Ryan, Assistant Director, Human Rights Program, The Carter Center

William Spencer, Adviser on War Crime Issues in the Former Yugoslavia, Bureau of Democracy, Human Rights, and Labor, US Department of State

Pamela Swain, Chief, Resources and Plans, International Criminal Investigative Training Assistance Program, US Department of Justice

Ruth Wedgwood, Senior Fellow and Director, Project on International Organizations and Law, Council on Foreign Relations

Amy Young, Senior Adviser for Rule of Law, Center for Democracy and Governance, United States Agency for International Development

Stanley Foundation Staff

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David J. Doerge, Vice President

Carol Matthews, Conference Management Director

Susan R. Moore, Conference Management Associate

Keith Porter, Producer, *Common Ground*

Richard H. Stanley, President

Corbin L. Stone, Program Officer

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Post-Conflict Justice: The Role of the International Community

April 4-6 1997

Chair

Robert B. Oakley, Distinguished Visiting Fellow, Institute for National Strategic Studies, National Defense University

Rapporteurs

Eliot Goldberg, Research Assistant, Institute for National Strategic Studies, National Defense University

Mary C. Theisen, Program Officer, The Stanley Foundation

Participants

Michael R. Arietti, Director, Office of Peacekeeping and Humanitarian Operations, US Department of State

Michelle Ash, Legislative Assistant, Congressman Benjamin L. Cardin

M. Cherif Bassiouni, President, International Human Rights Law Institute, and Professor of Law, DePaul University College of Law

Stephen Bowen, Program Director, International Human Rights Law Group

David J. Doerge, Vice President, The Stanley Foundation

Mark S. Ellis, Executive Director, Central and East European Law Initiative, American Bar Association

Ken Eyre, Director of Research and Development, Lester B. Pearson Canadian International Peacekeeping Training Center

F. M. Lorenz, Instructor, Industrial College of the Armed Forces, National Defense University

Madeline H. Morris, Professor of Law, Duke Law School; Adviser on Justice to the President of Rwanda

William G. O'Neill, Consultant, National Coalition for Haitian Rights

Diane F. Orentlicher, Professor of Law and Director, War Crimes Research Office, Washington College of Law, American University

Edwin M. Smith, Leon Benwell Professor of Law and International Relations, The Law School, University of Southern California

Richard H. Stanley, President, The Stanley Foundation

Matthew Vaccaro, Political-Military Planner, Peacekeeping and Humanitarian Assistance, US Department of Defense

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ILAC Resources

The organizers of the International Legal Assistance Consortium (ILAC) have made background material available on the Web. In the future, a new ILAC database and additional resources will also be located at www.ILACinternational.org.

The following reports from Stanley Foundation conferences dealing with ILAC issues are available on the Web:

“Building a Mechanism for Post-Conflict Justice: Creating the International Legal Assistance Consortium” (February 2000) reports.stanleyfdn.org/ILAC00.pdf

“Accountability and Judicial Response: Building Mechanisms for Post-Conflict Justice” (October 1997) reports.stanleyfdn.org/SPC97B.pdf

“Post-Conflict Justice: The Role of the International Community” (April 1997) reports.stanleyfdn.org/Vantage97.pdf

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The Stanley Foundation

The Stanley Foundation, a private operating foundation, seeks a secure peace with freedom and justice, built on world citizenship and effective global governance. The foundation advances this vision by creating opportunities to improve international understanding through media and educational programs and through forums encouraging open dialogue among policy professionals, educators, students, and citizens interested in world affairs.

More information about the foundation is available on our Web site: www.stanleyfdn.org.

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