Forum Summary:
WASHINGTON, DC - The May Conflict Prevention and Resolution Forum (CPRF) was held at the John Hopkins School of Advanced International Studies (SAIS) on May 11th, 2010. The event was attended by individuals from government agencies, think-tanks, non-profits and local universities. The CPRF is organized by the non-profit organization Search for Common Ground, and is co-sponsored by the Alliance for Peacebuilding, American University, 3D Security, Council on Foreign Relations, George Mason University, Johns Hopkins University, Partners for Democratic Change, United States Institute of Peace and Woodrow Wilson International Center for Scholars.

Janet McElligott

"Justice has a place and has a time, but justice cannot come at the cost of peace, at the cost of millions of people"

Janet McElligott began her presentation with a personal story about the beginning of her involvement with Sudan. McElligott described her involved in a hostage situation which opened her eyes to the real misery in the country. She emphasized the importance of the human cost that justice can sometimes have and how that cost is often too high. McElligott explained that while justice is important, peace and conflict resolution must come first. Timing, she said, plays an important role in justice and the time for justice is when violence has stabilized.
McElligott discussed situations where the International Criminal Court (ICC) has potentially prolonged or worsened crises by indicting acting leaders. These indictments, she explained, preclude negotiations and, because they decrease or eliminate the bargaining power of defendants, prevent combatants and leaders from laying down their weapons and joining negotiations. McElligot also expressed doubts about the ICC's case selection. As an example she cited the ICC's indictment of Sudanese President Omar al-Bashir for genocide in Darfur which she felt did not properly address the complexities of the situation. She feels that President Omar al-Bashir will be found innocent undermining the ICC and encouraging future perpetrators.

McElligott also addressed the crisis of confidence in the ICC's case selection, noting that the Prosecutor has only made indictments in African countries. She cited African concerns that the ICC could mark a new wave of colonization. McElligott expressed the mistrust she has heard from African leaders that the ICC is purposefully targeting Africa while ignoring transgressions of western countries.

**Juan Méndez**

"There are crimes so egregious that the international community cannot abide to have them go unpunished"

Juan Méndez argued that we must work to make peace and justice go together and that a healthy balance between them does not allow for holding justice hostage to peace. Justice must be reliable and cannot ignore the legitimate demands of the victims. He argued that reliable justice can be supportive of peace by deterring leaders from initiating or engaging in conflicts. In order to make this happen the ICC needs support from its members in making arrests and establishing credibility. Méndez cited a near crisis in Cote d'Ivoire that was averted in part due to leaders' fear of prosecution as an example of successful prevention.

He explained that putting justice aside for the purposes of negotiation is both unproductive and wrong, saying that this is blackmail and "if we give in we only encourage criminals and will have neither peace nor justice." Méndez expressed that while this can make peace more difficult to achieve it will lead to more comprehensive peace settlements which will be less likely to unravel. He believes that while amnesty can be a useful tool in certain situations, such as encouraging foot soldiers to lay down their arms, there can be no legal amnesty for those who have committed genocide or war crimes, particularly at high levels of leadership, and that any amnesties that are granted for these crimes can be overturned. On the issue of truth and reconciliation as practiced by South Africa, Méndez noted that the amnesties granted there were conditional and that this process has been difficult to successfully replicate elsewhere.

On the issue of the apparent crisis of confidence in the ICC in Africa he responded that, while it is a legitimate problem, it is in large part an illusion created by leaders who wish to discredit the ICC for their own reasons. The ICC retains the support of the African Union and of Nigeria and South Africa. Méndez explained that the ICC has focused on Africa because Africa has the highest percentage of victims and the highest proportion of signatory countries of any continent. He also emphasized that the ICC intervened in the case of Kenya at the request of the government and that ICC Prosecutor Luis Moreno-Ocampo has been generally seeking to take
cases primarily on the request of regional governments or the UN rather than taking a more aggressive and less practical approach.

**Ruth Wedgwood**

"We cannot historically claim with any empiricism that Peace and Justice naturally go together"

Ruth Wedgewood focused on issues of the legality of prosecuting aggression and the practical challenges that the ICC faces. Because of the composition of the Security Council threatened states can have a great deal of difficulty securing legal permission for military operations that might have peace as their objective. Wedgwood went on to explain that if the ICC changes the definition of "aggression" it could find itself obliged to prosecute military operations that are based on the idea of protective intervention. She also argued that the ICC is already close to capacity and prosecuting crimes of aggression could over stretch the Court's resources.

Wedgwood expressed her belief that Prosecutor Luis Moreno-Ocampo's careful approach, taking cases regional governments give him, is very beneficial to the Court. This approach, she said, is practical and gradually strengthens the Court's capability and reputation. These cases are best suited to the ICC as forcing compliance on unwilling nations can be almost impossible. She agreed with Juan Méndez that the ICC has a role as a deterrent but also admitted that de facto amnesties can be a practical necessity.

**John Marks**

John Marks closed the forum with the observation that while the issue of the ICC's role in the balance of peace and justice is contentious and multi-polar there were some points of agreement. Common ground was easier to find on specific cases or issues rather than abstracts and there was general consensus on the importance of improving enforcement.