

According to Justice Macdonald, this sentiment is echoed by the enthusiasm of some of her colleagues in the Canadian judiciary to become systematically involved in peace operations and projects abroad. The judges present at the roundtable were also supportive. However, before this can happen, several philosophical and practical challenges have to be addressed. They include, for example, the fear that the involvement of judges in peace operations could affect perceptions of their impartiality. Travel and other expenses related to working abroad need to be addressed. Time is also a question: there are limited opportunities for judges to leave their sitting duties. What are the criteria for selecting judges to peace operations and who selects them? Who is responsible for their training, safety on the ground and reintegration?

Answers to some of these questions depend on how one interprets the term “peace operations.” A distinction should be made between countries recovering from conflict, on the one hand, and developing countries, on the other. Each situation demands a different set of responses.

The participants agreed that a coherent mechanism for involving judges abroad was necessary to overcome these challenges. Requirements include:

- identifying opportunities for involvement of judges in the context of their judicial duties
- identifying legitimate and useful projects
- creating a transparent application, screening and selection process
- building a roster
- developing training capacity
- eliminating systemic barriers to judges’ involvement (including, the UN restriction not to deploy candidates over 63 years of age)
- grappling with concerns related to perception of impartiality.

In addition, government backing, supportive public opinion, and an overall recognition that the contribution of the Canadian judiciary to needs abroad is valuable, will be key in moving the initiative further.

2. Creating a Framework

Justice Macdonald identified 6 opportunities for judges to work abroad :

1. ***Judicial study leave (JSL)***. Provided by the Judicial Act, JSL allows judges to take time away from their judicial duties for a maximum of 7 months. It matches the academic year and requires judges to associate themselves with an academic institution. Removing or relaxing this requirement and allowing judges to work abroad during their study leave could be one way of creating opportunities. With the permission of the Chief Justice, associated universities could also allow judges to take 1 month of their JSL to work abroad. However, Judge Ross Godwin pointed out that study leave may not be as feasible as suggested because it is granted only to senior judges after a long waiting period.