

 **CHAPTER III**

OUTREACH

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Unless otherwise specified:

“Article”: refers to the Rome Statute

“Rule”: refers to the Rules of Procedure and Evidence

“Regulation”: refers to the Regulations of the Court

“Regulation (RR)”: refers to the Regulations of the Registry

“Regulation (VTF)”: refers to the Regulations of the Trust Fund for Victims

I. THE IMPORTANCE OF OUTREACH: AN INTERACTIVE PROCESS FOR THE BENEFIT OF AFFECTED COMMUNITIES, VICTIMS AND THE COURT

The International Criminal Court was established to “put an end to impunity for the perpetrators” of “the most serious crimes of concern to the international community as a whole”, and “thus to contribute to the prevention of such crimes” and “to guarantee lasting respect for international justice”. The achievement of these core objectives will depend on raising awareness and understanding of the role of the Court and its activities amongst affected communities. In the absence of adequate outreach, the activities of the Court, at its seat in The Hague, risk appearing far removed from and irrelevant to the communities they are intended to benefit.

Effective outreach is vital for the Court to fulfil its deterrent role but also to guarantee victims’ access to the ICC. Organisations representing victims’ interests and other NGOs, including FIDH, have drawn attention to the need for the ICC to significantly increase and strengthen its outreach activities².



DEFINITION OF OUTREACH

*“Outreach is a process of establishing sustainable two-way communication between the Court and communities affected by situations that are the subject of investigations or proceedings. It aims to **provide accurate and comprehensive information** to affected communities regarding the Court’s role and activities, to **promote understanding of and support for the Court’s work**, and to **provide concerned communities with access to judicial proceedings**”³.*

“Outreach” is to be distinguished from “**public information**”, which is defined as “a process of delivering accurate and timely information about the principles, objectives and activities of the Court to the **public at large and target audiences**, through different channels of communication including media, presentations and the website⁴”. “Public information” is general information to be provided to the public at large, whilst outreach specifically concerns affected communities. Of course the information requirements overlap and the methods of communication will sometimes be the same, but outreach is more than disseminating information: it requires the ICC to engage with those who have been affected by the crimes within the Court’s jurisdiction in a constructive dialogue.

The ICC should ensure that affected communities receive basic general information on the **mandate, structure, operational principles and activities** of the ICC, and are able to express their views and concerns to the Court.

1. Rome Statute, Preamble.

2. See for example FIDH position paper n°10, *Recommendations to the fourth session of the Assembly of States Parties to the International Criminal Court*, 28 November – 3 December 2005 at www.fidh.org/IMG/pdf/icc2005a.pdf; No Peace Without Justice, *International Criminal Justice Policy Series No. 2, Outreach and the International Criminal Court*, September 2004, available at www.vrwg.org/Publications/03/NPWJOutreachPolicyICCSep04.pdf; Human Rights First, *Effective Public Outreach for the International Criminal Court*, January 2004, (available at www.humanrightsfirst.org/international_justice/icc/outreach_brief_paper011404.pdf).

3. Definition taken from *ICC Draft Strategy on External Communications Public Information and Outreach*. See also *Sixth Diplomatic Briefing of the ICC*, 23 March 2006, available at www.icc-cpi.int/library/asp/DB6-St_English.pdf.

4. *Ibid.*



GOALS OF OUTREACH

- To provide information to affected communities on the Court's mandate and activities;
- To receive and respond to views and concerns expressed by the affected communities and groups about Court's activities;
- To facilitate a greater involvement of affected communities in the activities of the Court;
- To promote access to, and understanding of, the Court's activities, including for victims.

Establishing methods of engaging in dialogue with victims and local communities will facilitate understanding of the Court's investigations and could encourage victims to provide information about alleged crimes and to participate in the Court's proceedings. Feedback from members of local communities on the procedures in place will assist the Court to make improvements to its strategies. The information received by the Court through outreach, "will be as important, if not more so, as the information it disseminates"⁵.

Failing to communicate information on the limits of the Court's role and to answer peoples' concerns and questions will rapidly lead to disillusionment.

The content of the information must be tailored to the particular needs of the situations and groups concerned by the activities of the Court. The Court must clearly distinguish between the targeted groups in defining the key messages, methods and objectives. **The strategy must be adapted to meet the different perceptions of the Court and concerns of communities in each situation, and according to the different stages of proceedings.**

A **victim-orientated outreach strategy** is fundamental to guaranteeing victims' access to the ICC. The role and procedures of the Court are likely to be unknown to individual victims and civil society groups. Many victims, particularly those from rural or other less accessible areas, may have little or no knowledge of their national justice systems. Most are likely to find the system of 'international justice' and its relationship with national systems difficult to comprehend⁶.

Outreach should ensure that victims are informed of their **rights** before the Court at each stage of the proceedings, including the range of possibilities for **participation**⁷, seeking and obtaining **reparations**⁸ and the existence, mandate and activities of the **Trust Fund for Victims**⁹. Victims should also be fully informed of the procedures by which they can implement their rights, including the assistance that can be provided by the relevant units of the ICC, in particular the **Victims Participation and Reparation Section**, and the Court's **field offices**.

5. *Victims' Participation at the International Criminal Court – Summary of issues and recommendations*, Victims Rights Working Group, November 2003, available at www.vrwg.org/Publications/01/VRWG_nov2003.pdf.

6. *Victims' Participation at the International Criminal Court – Summary of issues and recommendations*, Victims Rights Working Group, November 2003, available at www.vrwg.org/Publications/01/VRWG_nov2003.pdf.

7. See Chapter IV, *Participation*.

8. See Chapter VII, *Reparations and the Trust Fund for Victims*.

9. See Chapter VII, *Reparations and the Trust Fund for Victims*.

Victims considering participating in proceedings before the Court should be informed of the risks and the **limitations** of the ICC in order to be able to make an informed decision. Victims should be made aware of the provisions in place for protecting those who participate, but also of the limits of **protection measures**.

Finally, victims and communities should have regular opportunities to address their views and concerns about the activities of the ICC to the Court's actors.

II. WHO IS RESPONSIBLE FOR OUTREACH?

All the organs of the Court share responsibility for public communication and outreach, providing clear and regular information on the Court's activities and taking into account the views and concerns expressed by interested communities in their work. To this end, an **inter-organ working group** has been established to define the Court's policy on public information, external relations, and outreach. However, since the Court's outreach activities need to be conducted in an independent and neutral manner, the Registry is responsible for their implementation.

The **Public Information and Documentation Section** within the Registry has a mandate to provide general information to the public. It works in collaboration with the other organs, in particular the **Victims Participation and Reparation Section (VPRS)**, to design and implement outreach to victims, in order to facilitate the effective exercise of their rights to participation and reparation before the Court. The Office of the Prosecutor may design and implement its own strategy to explain its policies and listen to victims' concerns and interests.

States parties have an essential role to play, in supporting the ICC in the adoption and implementation of a communications and outreach strategy, including by ensuring sustained core financial support to the Court. At its fifth session on 1 December 2005, the Assembly of States Parties (ASP) recognised "the importance for the Court to engage communities in situations under investigation in a process of constructive interaction with the Court, designed to promote understanding and support for its mandate, to manage expectations and to enable those communities to follow and understand the international criminal justice process" and, encouraged the Court "to intensify such outreach activities including through the implementation of the Strategic Plan for outreach of the Court"¹⁰.

Obviously the Court will require assistance in order to reach communities, including victims, and make its activities widely known. This assistance will come from a range of different actors, including **NGOs, community leaders, victims' organisations, universities and lawyers**. However, the ICC cannot rely on other actors to carry out outreach on its behalf.

¹⁰. Resolution of the Assembly of States Parties, ICC-ASP/5/32.



“FIDH strongly believes that NGOs cannot replace an effective and independent ICC communication. Clearly some messages can only be given by the Court. Relying too much on local intermediaries could place them in a difficult position and, if they were to be assimilated to the Court in the field, could threaten their independence. Furthermore, many national and local NGOs face a serious lack of resources and the Court has not requested specific funding in its budget to support such activities. NGOs already work in very dangerous conditions and are on the front line; such cooperation might put them more at risk”.

FIDH position paper n°10, “Recommendations to the fourth session of the Assembly of States Parties to the International Criminal Court,” 28 November – 3 December 2005¹².

III. PROBLEMS ASSOCIATED WITH A LACK OF OUTREACH

The experience of FIDH has shown that a lack of communication since the announcement of the opening of investigations has created a great deal of confusion and disillusionment. For example, in the absence of a clear message from the Court, referrals to the ICC by states have created the impression that the ICC is not acting independently from governments.

FIDH found that during ongoing investigations in Ituri (DRC) very few people knew about the ICC. In Darfur (Sudan), although the Security Council referral was originally very positively received in camps of internally displaced persons, the lack of outreach since then has resulted in disillusionment and for some in a belief that the investigation has been dropped. In Uganda, lack of outreach has contributed to huge misunderstandings of the ICC's mandate and widespread opposition to the court activities.



Fiona McKay, Head of the VPRS, has highlighted the importance of outreach in enabling victims to participate and the difficulties faced by the Court in all three of the ongoing investigations:

“One of the most difficult issues we face is providing victims who are already living in very difficult situations with the tools to make an informed decision about whether to apply for participation. In each of the situations before the Court, many victims live in locations that are not easy to access and in insecure conditions. Moreover, there is as yet little awareness about the ICC, and in particular, the potential role of victims”¹³.

The ICC must not repeat the mistakes of previous international tribunals and must ensure that effective outreach is at the core of its activities from an early stage.

¹². Available at www.fidh.org/IMG/pdf/icc2005a.pdf; and see *Steadfast in Protest: Annual Report 2005 of the Observatory for the Protection of Human Rights Defenders*, FIDH / OMCT, available at www.fidh.org/rubrique.php3?id_rubrique=414.

¹³. Victims' Rights Working Group, “Interview with Fiona Mackay, Head of the Victim Participation and Reparation Section of the International Criminal Court”, *VRWG Bulletin*, Issue no. 5, February 2006, p.4.



LESSONS LEARNED FROM THE ICTY

“For the [ICTY] to fulfil its broader mandate of contributing to peace and reconciliation, it must be able to build a positive, direct relationship with those affected by the crimes it was created to prosecute. It is this, rather than the per se convictions of and issuance of judgments against those responsible for violations ... in the former Yugoslavia that will have a decisive impact on the Tribunal’s success”¹⁴.

The International Criminal Tribunal for the former Yugoslavia (ICTY) was established in 1994, but did not begin its outreach work until the end of 1999 when Judge MacDonald took up the position of President of the Tribunal¹⁵. During this period, communication of the Tribunal’s activities was left to local authorities and the local media. In many cases, these were the same local authorities that had controlled the media during the conflict and whose agenda was to attempt to block all cooperation with the Tribunal. Negative propaganda about the ICTY pervaded the former Yugoslavia. In 1999, in the Annual Report of the ICTY to the United Nations General Assembly and Security Council, the President of the ICTY reported that:

“The Tribunal is viewed negatively by large segments of the population of the former Yugoslavia. Its work is frequently politicized and used for propaganda purposes by its opponents, who portray the Tribunal as persecuting one or other ethnic group and mistreating persons detained under its authority”¹⁶.

At the outset of proceedings, the ICTY had not established a system for transmitting decisions and judgments to the communities they concerned, nor for summarising the rulings in accessible language. For the first several years of the work of the ICTY, the decisions of the court were not even translated into local languages and information on the Tribunal’s website was only available in English and French.

As a result of the failure to communicate with local populations, the Tribunal’s potential to impact positively at the local level was severely constrained: “Throughout the region, the Tribunal is often viewed as remote and disconnected from the population and there is little information available about it. Such views are exploited by authorities that do not recognize or cooperate with the Tribunal, thereby damaging efforts to foster reconciliation and impeding the work of the Office of the Prosecutor. This is particularly detrimental to the success of the Tribunal”¹⁷.

A group of experts mandated by the UN Secretary General in 1999 to review the activities of the ICTY and ICTR, concluded that, “It is likely that, except for a very small fraction of the populations of the former Yugoslavia and elsewhere, there is large-scale, if not total lack of knowledge regarding the international humanitarian laws enforced by the ICTY and ICTR”¹⁸.

¹⁴. Vohrah, L.C. and Cina, J., “The Outreach Programme”, in May, R. (ed), *Essays on ICTY Procedure and Evidence in Honour of Gabrielle Kirk McDonald*, pp. 547-557, at p. 548. See also, Victims’ Rights Working Group, “Interview with Olga Kavran, Deputy Outreach Coordinator, International Criminal Tribunal for the Former Yugoslavia”, *VRWG Bulletin*, Issue no. 4, October 2005, p. 3.

¹⁵. See generally, *Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991 (6th Annual Report)*, A/54/187; S/1999/846 (1999), at paras. 146 -153.

¹⁶. *Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991 (6th Annual Report)*, A/54/187 ; S/1999/846 (1999), at para. 148.

¹⁷. See generally, *6th Annual Report of the ICTY, Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991*, A/54/187; S/1999/846 (1999), at para. 148.

¹⁸. *Report of the Expert Group for a Review of the Effective Operation and Functioning of the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda*, A/54/634, 22 November 1999.

At the end of 1999, in response to these criticisms, the problems created by the failures to communicate effectively with victims began to be addressed. However, after five years of failing to provide reliable and comprehensive information, misunderstandings and misperceptions about the Tribunal had already taken hold, and the task of engaging those affected by the Tribunal's work was rendered all the more difficult.



“ . . . It is much more difficult to dismantle already established misperceptions and propaganda than it would have been to start from the outset with updated and accurate information about the Tribunal . . . We can only hope that other international justice institutions, like the ICC, will learn from our mistakes and conduct extensive public information and outreach activities from the outset”¹⁹.

Olga Kavran, Deputy Outreach Coordinator, International Criminal Tribunal for the Former Yugoslavia.

IV. MEANS OF OUTREACH

Finding innovative means of conducting outreach with affected communities is one of the major challenges the Court will have to meet if it is to fulfil its mandate of providing justice to victims.



THE OUTREACH PROGRAMME OF THE ICTY

The ICTY's Outreach Programme consists of a series of measures aimed at ensuring that the population of the former Yugoslavia as well as the international community are continuously and promptly informed of the developments at the Tribunal.

- **Field offices:** The Outreach Programme has established local offices in Zagreb, Banja Luka, Sarajevo, Pristina and Belgrade²⁰.
- **Translation and distribution of materials:** Information on the role of the Tribunal and its activities is conveyed in all local languages through press statements and fact sheets containing details of cases currently before the ICTY as well as more general information on its activities. Translations of the Tribunal's judgments and other basic legal texts are made available on the ICTY's website.

¹⁹. “Interview with Olga Kavran, Deputy Outreach Coordinator, International Criminal Tribunal for the Former Yugoslavia,” *Victims' Rights Working Group Bulletin*, Issue no. 4, October 2005, p.3.

²⁰. 10th Annual Report of the ICTY, *Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991*, A/58/297; S/2003/829, (2003), at para. 279.

- **Broadcasting court proceedings:** The programme has established live audio and video broadcast on the Internet of all public ICTY court sessions. Audiences are able to follow trials in Bosnian/ Croatian/ Serbian, English, French and, in cases relevant to Kosovo, Albanian²¹.
- **Seminars and training:** The programme organises symposiums, conferences, and round-table events for lawyers and journalists. The programme has also organised a range of activities to explain the work of the Tribunal to local communities, in particular to communities of victims, concerning the crimes committed in their regions.
- Following the conclusion of trial proceedings, the programme has implemented a series of events intended to **“bridge the gap”** between the representatives of the OTP, the Registry and the Chambers of the ICTY on the one side and communities in Bosnia and Herzegovina most affected by war crimes on the other side: “The events highlighted what facts were proved beyond a reasonable doubt in order to promote better local visibility of justice served, to prevent historical revisionism and to foster reconciliation”²².

The ICC’s outreach activities should include the following:

1. Field offices

One of the major difficulties faced by the Court in providing information to affected communities is the absence of an established network of offices in the field. Although the Court is gradually establishing external offices in countries in which situations are under investigation, this presence is mainly restricted to capital cities. Victims’ organisations and other NGOs continue to campaign for the Court to increase its field presence in affected areas, including the most remote areas, which is vital to facilitating the access of those who have suffered from crimes under investigation.

Offices have been established in the DRC, Uganda and Chad (for the investigation in Sudan). Outreach coordinators based in situation countries have been recruited to supervise outreach programmes in the DRC and Uganda. In relation to their day-to-day activities and decision-making powers, outreach teams should be sufficiently independent from the Court’s seat in The Hague to be able to conduct effective outreach programmes.



LOCAL OUTREACH OFFICES OF THE ICTY AND ICTR

Based on the experiences of the ICTY and ICTR, local outreach offices and information centres can provide invaluable focal points which people can approach directly to obtain accurate information: “From these locations, contacts have been forged with representatives of local media, NGOs and the legal profession. Distribution networks have been established through which, in the case of the former Yugoslavia, Serbo-Croatian translations of ICTY documents have been processed, the recipients being libraries, governmental, judicial and academic libraries. The regional outreach offices also allowed the Tribunal’s press and publicity unit the opportunity to distribute ongoing information concerning the activities at The Hague”²³.

²¹ 12th Annual Report of the ICTY, Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, A/60/267; S/2005/532, (2005), at para. 209.

²² 12th Annual Report of the ICTY, Report of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, A/60/267; S/2005/532, (2005), at para. 207.

²³ No Peace Without Justice, “Outreach and the International Criminal Court,” *International Criminal Justice Policy Series No. 2*, September 2004, available at www.vrwg.org/Publications/03/NPWJOutreachPolicyICCSep04.pdf.

2. ICC missions to the field

Representatives of the various sections of the ICC should conduct missions to the field to meet and directly interact with affected communities and other members of civil society.



ICTR NEWS

Internews (www.internews.org), accompanied by Tribunal personnel, travel around Rwanda showing regular updates of the Tribunal's proceedings in villages that would otherwise not have access to this information. The films are followed by open discussions providing the audience with the opportunity to ask questions of the Tribunal personnel²⁴.

3. Workshops

Members of staff of the ICC have organised and participated in a number of workshops in countries in which investigations are ongoing, to convey general information on the Court and the rights of victims to participate in proceedings. Workshops have been held in Eastern Congo, Northern Uganda and Chad. Such workshops should provide opportunities for participants to express their concerns, receive responses, and make proposals for the future conduct of the Court's activities.

4. Distribution of materials and broadcasting court proceedings

Relevant materials of the ICC, including basic legal documents and outreach material produced by the Court should, as far as possible, be made available in local languages.

In the course of several workshops with ICC representatives, some materials containing information on the Court's mandate and proceedings and the rights of victims to affected populations were distributed²⁵, but so far, insufficient work has been done to enable understanding and appropriation.

At the time of writing, the ICC had begun broadcasting court proceedings. It is vital that it ensures that victims and affected communities can follow trials.



THE SPECIAL COURT FOR SIERRA LEONE

Among the outreach methods devised by the Special Court Working Group (a coalition of non-governmental organizations) were a series of informational leaflets, posters and a weekly radio program, "Special Court Hour", broadcast on the UN radio station from 2001 until today²⁶.

²⁴. No Peace Without Justice, "Outreach and the International Criminal Court," *International Criminal Justice Policy Series No. 2*, September 2004, available at www.vrwg.org/Publications/03/NPWJOutreachPolicyICCSep04.pdf.

²⁵. *Report to the Assembly of States Parties on the Activities of the Court*, 16 September 2005, ICC-ASP/4/16, para. 70.

²⁶. No Peace Without Justice, "Outreach and the International Criminal Court," *International Criminal Justice Policy Series No. 2*, September 2004, available at www.vrwg.org/Publications/03/NPWJOutreachPolicyICCSep04.pdf.

The **official website of the Court**²⁷ is a helpful tool for obtaining general information about the activities of the ICC. However, many communities, particularly those based in rural areas, will have no access to electronic sources: "In Bosnia, for example, only approximately 50% of local non governmental organizations had internet access"²⁸.

5. Specific outreach activities

Based on the experiences of other tribunals, in particular the Special Court for Sierra Leone and the ICTY and some initiatives already undertaken by non-governmental organisations, the ICC must engage urgently in other outreach activities adapted to different national traditions and cultures and make **full use of oral and visual tools**.

Such activities should include street theatre, discussions on the basis of cartoons and other illustrations, initiatives in schools and universities, organising debates in local public meeting spaces, and making use of traditional places of public exchange, including markets, as in Sierra Leone, and projection of films followed by discussions.

²⁷. See www.icc-cpi.int.

²⁸. Lawyers' Committee for Human Rights, *Effective Public Outreach for the International Criminal Court*, January 2004, (available at www.humanrightsfirst.org/international_justice/icc/outreach_brief_paper011404.pdf), p. 2.

