

Civil Society and the International Criminal Court

Pathways to Collaborative and Genuine Engagement



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Cover photos:

Front line, left to right: - NGOs demonstrate in favour of creation of an ICC

Activists holding signs in support of the ICC outside the Rome headquarters of the UN's Food and Agriculture Organization, where delegates deliberated on the text of the Rome Statute in 1998 – © CICC

- 1998: CICC applauds Rome Statute adoption – © CICC

Second line, left to right: - © Matias Bercovich/CICC

- CI-CPI Colloquium on Victims' Rights Before the ICC, on 17 and 18 July 2012, the Ivorian Coalition held a special Colloquium on Victims' Rights Before the ICC in Abidjan. - On 17 July 2016, the Kurdish Organizations Network Coalition for the International Criminal Court (KONCICC) and Kurdistan Without Genocide organized significant events across Iraq. These activities were among the largest globally, receiving coverage from over 100 media outlets. In the capital of the Kurdistan Regional Government (KRG), Erbil, four events took place. Additional activities were held in Kifri (two events), as well as in Kirkuk, Halabja, Slemani, and Chamchamal.

The widespread participation highlighted the importance of the day and the commitment to justice in the region. By Coalition for the ICC

Third line, left to right: - IJD 2017 - KONCICC (Kurdish organisations network CICC)

- Lira NGO Forum - Victims Community Dialogue

by Coalition for the ICC

From September-October 2011, the Lira NGO Forum increased community awareness on the establishment and functioning of the International Criminal Division of the High Court in Uganda, which conducted its first trial against former Lord's Resistance Army (LRA) commander Thomas Kwoyelo.

Page 8, third photo: CICC Regional Meeting Bogota. 2006. Members of the Coalition and CICC staff at the regional meeting in Bogota, Colombia. 2006

Page 20, second photo: Protest Against Omar Al-Bashir. Protesters at the Dag Hammarskjold Plaza in New York call for Omar Al-Bashir's arrest on 24 September 2013. Third photo: #RatifyRomeStatuteUA. Civil society calls on Ukraine to join the ICC now | © Ukrainian Legal Advisory Group.

Page 35, first photo: Civil society representatives at the 22nd session of the ICC Assembly of States Parties. Third photo: Ahmed Abofoul, representing Al-Haq, Al-Mezan Center for Human Rights, Palestinian Centre for Human Rights, Defence for Children International Palestine and the International Federation for Human Rights, addresses the 22nd Session of the ICC Assembly of States Parties during the General Debate, taking place at the United Nations Headquarters, in New York, from 4 to 14 December 2023. © CICC / Keila McFarland Dias

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Abbreviations

ASP	Assembly of States Parties
CICC	Coalition for the International Criminal Court
CSO	Civil society organisation
FIDH	International Federation for Human Rights
HRD	Human rights defender
ICC	International Criminal Court
IER	Independent Expert Review
IIIM	International Independent Investigative Mechanism for Syria
NGO	Non-governmental organisation
OTP	Office of the Prosecutor
PE	Preliminary examination
PIOS	Public Information and Outreach Section
TFV	Trust Fund for Victims
UN	United Nations
VPRS	Victims Participation and Reparations Section
VRWG	Victims' Rights Working Group

Introduction

This report delves into the complex, evolving relationship between civil society and the International Criminal Court (ICC or the Court), by reflecting on candid insights from both civil society and ICC stakeholders. It showcases the indispensable contributions of civil society in supporting the Court's mandate to bring accountability for Rome Statute crimes and deliver justice to victims. The report also addresses pressing challenges hindering civil society's effective and genuine participation as a vital actor within the Rome Statute system. To address some of these challenges, the report offers practical solutions and actionable recommendations aimed at fostering ongoing, systematic, and trust-based engagement between civil society and the ICC.

The ICC's unique relationship with civil society can be traced back to the instrumental role that civil society played in the negotiations that led to the creation of the Court and the adoption of its founding treaty, the Rome Statute. In fact, the establishment of the first permanent international criminal court is widely acknowledged as a "global civil society achievement", with the emergence of the Coalition for the International Criminal Court (CICC) being described as "the most advanced and sophisticated organisation thus far created collectively by civil society to influence and shape multilateral treaty making" and "an irresistibly compelling feature of the story of the Rome Statute."¹ The CICC facilitated sustained and organised civil society involvement in the establishment of the Court, which eventually led, in 2003, the Assembly of States Parties (ASP) to officially recognise the CICC's convening and observer role with the ASP and the ICC.² Civil society's unprecedented involvement in this initial phase "conferred on NGOs legitimacy and name recognition as well as facilitated relationships with stakeholders that eased formal and informal participatory access at the Court and the ASP."³ This groundwork provided a solid foundation for the crucial collaboration and engagement between civil society and the Court, including its States Parties, that continues to this day.

The synergy between civil society and the ICC is widely recognised as essential for bolstering the Court's functioning and overall mandate.⁴ According to the final report of the Independent Expert Review (IER) of the ICC and the Rome Statute System,⁵ "[c]ivil society organisations (CSOs), notably NGOs [non-governmental organisations] in the development, human rights, humanitarian, legal and other fields, are a force multiplier for the Court in promoting and carrying out its work."⁶ Despite their vital contributions, the experts recognised that the "Court's ability to develop and maintain positive relations

1. Marlies Glasius, *The International Criminal Court: A Global Civil Society Achievement*, 2006, Routledge; Fanny Benedetti, Karine Bonneau and John L. Washburn, *Negotiating the International Criminal Court: New York to Rome, 1994-1998*, 2014, Martinus Nijhoff Publishers, p. 68; Kjersti Lohne, *Advocates of Humanity: Human Rights NGOs in International Criminal Justice*, 2017, FICHL Policy Brief Series No. 77, p. 1.

2. ASP, [Resolution ICC-ASP/2/Res.8](#), 11 September 2003.

3. Heidi Nichols Haddad, *The Hidden Hands of Justice: NGOs, Human Rights, and International Court*, 2018, Cambridge University Press, pp. 116-120, 125.

4. The Court has recognised the crucial role of civil society on multiple occasions. See, for example, ICC, [Overall response of the International Criminal Court to the "independent expert review of the International Criminal Court and the Rome Statute system – final report"](#), 14 April 2021, para. 311 ("[e]ngagement with civil society and further strengthening this relationship is a priority for the Court"); ASP, [Resolution ICC-ASP/20/Res.5](#), 9 December 2021, p. 2 (the ASP expressed its appreciation for "the invaluable assistance that has been provided by civil society to the Court"); OTP, [Policy on Complementarity and Cooperation](#), 25 April 2024 ("OTP Complementarity and Cooperation Policy"), paras. 82-83 (the OTP recognised civil society as "crucial complementarity and cooperation partners", and as "a crucial bridge between the Office and those who wish to contribute to the justice process").

5. In 2019, the ASP established the IER, charged with the mandate to "identify ways to strengthen the International Criminal Court and the Rome Statute system in order to promote universal recognition of their central role in the global fight against impunity and enhance their overall functioning." One of the issues under review was the Court's relations with civil society. ASP, [Resolution ICC-ASP/18/Res.7](#), 6 December 2019, Annex I, para. 1.

6. ICC, [Independent Expert Review of the International Criminal Court and the Rome Statute System: Final Report](#), 30 September 2020 ("IER Final Report"), para. 380.

with CSOs [...] is in need of improvement, especially in situation countries.⁷ As examples, the experts listed several concerns regarding the ICC Office of the Prosecutor's (OTP) external relations, including unclear communication channels, insufficient information provision to local stakeholders, lack of direct engagement with community-based CSOs, and unclear communication channels.⁸

Although some initiatives have been announced in recent years to strengthen civil society engagement, particularly by the OTP, ongoing concerns have yet to be fully resolved.⁹ This report emphasises the crucial importance of building genuine collaboration and engagement at this time, given existing sanctions, renewed threats and potentially new sanctions, and other forms of intimidation and attempts at political interferences targeting the Court, its staff, and those cooperating with it. Strengthening these partnerships with urgency is more critical than ever to fulfil the shared goal and commitment to delivering justice to victims of serious international crimes, and upholding the integrity of the Rome Statute system.

Methodology and definitions

The research for this report draws on two online cross-regional workshops held this year where CSO representatives and human rights defenders (HRDs), members of CICC and the International Federation for Human Rights (FIDH), explored diverse contributions of civil society actors to the ICC's activities, shared best practices, and discussed current challenges in engaging with the Court and the ASP. The participants also discussed concrete, action-based solutions to enhance collaboration with the Court. Representatives of the OTP participated in one of the sessions. The workshops built on numerous consultations organised in recent years with CICC members, including on new ICC policies and strategies, the 'ICC-NGO Roundtables' co-organised annually by the ICC and the CICC, as well as the direct experiences from the FIDH and CICC secretariats. In addition, two surveys collected responses from CSOs on their views and experiences concerning civil society and ICC engagement. Semi-structured interviews and consultations were also conducted with several civil society representatives and ICC officials to further complement the primary and desk-based research.

To provide clarity, it is essential to define and delineate the term 'civil society' as used in this report. Here, civil society refers to groups or individuals who, independently of state authorities, "voluntarily engage in forms of public participation and action around shared interests, purposes or values."¹⁰ This broad definition encompasses a wide range of actors with distinct characteristics in terms of mandate, priorities, memberships, expertise, and funding sources. This report focuses specifically on three types of civil society actors that are concerned with advancing justice and accountability for Rome Statute crimes: CSOs, HRDs, and those who act as 'intermediaries'. Notably, the roles and typologies of these actors may sometimes overlap. While this report does not centre on the direct engagement between the ICC and victims and affected communities, these interactions are addressed through the associated efforts of civil society actors who work with victims and communities.

CSOs can include, but are not limited to, NGOs, community-based organisations, victims' rights groups, associations, and coalitions. CSOs are often labelled as 'local' when they operate within or around ICC situation countries, focusing on country- and/or region-specific issues.¹¹ They are frequently the first responders where crimes take place, and the first and often only actors to directly interact with victims and

7. *Ibid.*, para. 381.

8. *Ibid.*

9. See ICC, [ICC Prosecutor Karim A.A. Khan QC announces new initiative to strengthen engagement with civil society](#), 13 May 2022.

10. OHCHR, *Working with the UN Human Rights Programme: A Handbook for Civil Society*, 2008, p. vii.

11. For this report, the term 'situation countries' includes countries or regions where the ICC is conducting investigations or preliminary examinations (PEs) into alleged Rome Statute crimes, as well as situations which were closed, or closed PEs where the Court is active, such as Colombia or Guinea.

communities affected, often themselves victims and survivors. In contrast, CSOs have been referred to as ‘international’ or ‘global’ when they operate across borders and engage with the ICC in broader efforts to combat impunity or with decision-makers in their support for the Court.¹² However, this distinction raises questions about underlying power dynamics, which affect both CSOs’ perceptions and ability to engage.¹³ In terms of NGOs, beyond those traditionally focused on advocacy, there are NGOs whose primary mandate is to document international crimes and human rights violations with the purpose of providing this information to the ICC or other accountability mechanisms, whether domestically or elsewhere. Still, NGOs with broader mandates may also engage in preserving information critical for accountability and justice purposes.¹⁴

HRD is defined as “any person who, individually or in association with others, or any group or organ of society that, acts or seeks to act to promote, protect or strive for the protection and realization of human rights and fundamental freedoms, at the local, national, regional, and international levels.”¹⁵

Intermediaries have a more formal role in their interactions with the ICC.¹⁶ An intermediary is “someone who comes between one person and another; who facilitates contact or provides a link between one of the organs or units of the Court or Counsel on the one hand, and victims, witnesses, beneficiaries of reparations and/or affected communities more broadly on the other.”¹⁷ Thus, according to this definition, CSOs, and HRDs can themselves function as intermediaries *vis-à-vis* the Court.

12. Sarah Williams, Hannah Woolaver, and Emma Palmer, *The Amicus Curiae in International Criminal Justice*, 2020, Hart Publishing, p. 181; Kjersti Lohne, “Autocracies and the International Criminal Court: Civil Society Engagement, Dissident NGOs, and the Pursuit of Justice”, 24 *International Criminal Law Review* (2024), p. 3.

13. Danya Chaikel, Priya Pillai, and Pubudu Sachithanandan, “Civil Society and International Accountability: Mapping the Terrain”, 22 *Journal of International Criminal Justice* 2 (2024), pp. 287-309, p. 2.

14. Eurojust, Genocide Network, and OTP, [Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organisations](#), 21 September 2022 (“Documentation Guidelines”), p. 3; Kjersti Lohne, *supra* note 12, at pp. 1-31, pp. 20, 22, 26.

15. International Service for Human Rights, FIDH, Amnesty International, et al., [Declaration on Human Rights Defenders +25](#), 19 June 2024, p. 8.

16. [Civil Society and the ICC](#), ICC website.

17. ICC, [Guidelines governing the relations between the Court and intermediaries for the organs and units of the Court and counsel working with intermediaries](#), March 2014 (“Intermediaries Guidelines”), p. 5.

1. Civil Society Contributions and Engagement with the ICC



“I think the Court would be very alone if it had to face the world without the support of civil society. Even though civil society is also critical of the Court, that’s also one of its roles to sometimes ask the difficult questions and to scrutinise the Court.”¹⁸ – *Matias Hellman, Acting Head of Outreach, ICC Registry*

Civil society provides invaluable support to ICC proceedings and the global fight against impunity in countless ways. As the Court’s work broadens to all regions of the world, and at a time when it faces serious political opposition and threats to its independence and operations, the ICC stands to gain significantly from fostering strong partnerships with civil society actors, whose early contributions were instrumental in the Court’s very establishment. Civil society’s engagement and roles have since expanded to encompass almost every aspect of both the Court’s and the ASP’s work. Given the diversity of civil society actors and the multiple roles they play within the Rome Statute system, their contributions cannot be confined to any single area and instead span across various activities. This report highlights only some of the many essential roles of civil society, specifically those significantly affected by their engagement with the Court.

The crucial contributions of civil society to the ICC mandate and Rome Statute system are multifaceted, encompassing – but not limited to – connecting Court organs and actors with key individuals and communities, facilitating access to essential evidence and contextual information of alleged Rome Statute crimes, offering technical and legal expertise, and monitoring fair trial rights and the development of ICC jurisprudence. Moreover, HRDs are first on the front lines defending against attempts to undermine the Rome Statute or the independence of the Court, at domestic, regional, and international levels. Civil society also plays a vital role in strengthening the ICC as an institution, while further supporting its work through complementarity efforts, fostering cooperation, and bolstering political and public support at the domestic level.¹⁹

1.1 Serving as a link with victims, affected communities, and witnesses

“[T]he Court should be interested in the work of NGOs, associations, and journalists supporting and accompanying victims in the implementation of its investigations, but also in its global communication strategy on the Court’s actions, given the important role that these entities play in terms of mobilising, supporting, informing, and assisting victims.”²⁰ – *Alseny Sall, chargé de communication de l’Organisation Guinéenne de Défense des Droits de l’Homme et du Citoyen (OGDH)*

Civil society representatives, including HRDs, are an essential liaison between the ICC and victims, communities affected by Rome Statute crimes, and potential witnesses. In particular, the proximity and ongoing contact of civil society actors with affected communities allow them to help bridge the gap between the ICC and stakeholders in the numerous countries where the Court operates, often in areas where the Court lacks access.²¹ The Court’s ability to operate on the ground in certain contexts

18. Interview with Matias Hellman, Acting Head of Outreach, ICC Registry, 20 September 2024.

19. Haddad, *supra* note 3, pp. 112, 125; Chaikel, Pillai, and Sachithanandan, *supra* note 13, pp. 2, 4; Elizabeth Evenson, “The International Criminal Court at 20: The Role of Civil Society”, in Carsten Stahn and Rafael Braga da Silva (eds.), *The International Criminal Court in Its Third Decade: Reflecting on Law and Practice*, 2024, Brill Nijhoff, pp. 71-72; Lohne, *supra* note 12, p. 12.

20. FIDH and CICC, Survey 1 on CSO-ICC Engagement, February 2024 (“Survey 1”). Alseny Sall, chargé de communication de l’Organisation Guinéenne de Défense des Droits de l’Homme et du Citoyen (OGDH).

21. Syria Justice and Accountability Centre, [“International Criminal Tribunals and Civil Society: Impediments and Opportunities for](#)

would be severely hindered, or even rendered impossible, without the knowledge and cooperation of civil society.²² According to the ICC OTP, consulted for this report, “CSOs play an important role in enhancing the reach and effectiveness of the Office’s efforts to ensure justice for Rome Statute crimes. Their proximity to affected communities and requisite understanding of the social and political contexts on the ground provide essential insights that contribute in a concrete manner to the Office’s work,” including by “facilitat[ing] engagement with local communities.”²³ Therefore, CSOs can function for the Court as “a critical interface with victim communities.”²⁴ In this role, civil society actors—such as community-based CSO representatives or community leaders—may act as intermediaries in countries where the Court is active, as further discussed below.

Civil society actors in situation countries, including where Rome Statute crimes are taking place, perform a diverse range of essential functions. They assist in identifying eligible victims to participate in ICC proceedings, apply for reparations, or access the Trust Fund for Victims’ (TFV) assistance programmes. For example, a CSO in the Democratic Republic of the Congo (DRC), consulted for this report, reported assisting the ICC Registry in identifying the first victims in the Thomas Lubanga Dyilo case (Lubanga).²⁵ Moreover, general assistance programmes of the TFV, which may involve physical and psychological rehabilitation and material support, are typically implemented by civil society partners.²⁶

Civil society also actively supports and accompanies victims’ participation in all stages of ICC proceedings, including by advocating for adequate legal aid to ensure their right to legal representation,²⁷ while also providing services that can make their participation possible.²⁸ For example, a Venezuelan CSO supported victims during the Victims Participation and Reparations Section’s (VPRS) consultation process aimed at collecting victims’ views and concerns on the ICC Prosecutor’s request to resume the investigation into the Situation of Venezuela, following the invocation of Article 18 of the Rome Statute by the government.²⁹ In Colombia, the José Alvear Restrepo Lawyers Collective–CAJAR and FIDH requested, in representation of Colombian victims, that the ICC Pre-Trial Chamber revoke the OTP’s decision to close the 17-year preliminary examination and alternatively, at a minimum, order the OTP to adequately communicate to the victims the reasons for the closure.³⁰

[Engagement](#)”, June 2018, pp. 7-8.

22. Taegin Reisman, “[Remembering Rome: The Case for Civil Society Engagement in ICC Review](#)”, *International Justice Monitor*, 16 July 2019.
23. ICC OTP, email correspondence, 29 October 2024.
24. [IER Final Report](#), *supra* note 6, para. 380.
25. FIDH and CICC, Survey 2 on CSO-ICC Engagement, July 2024 (“Survey 2”). Jessie Anita Nissi, Deputy Executive Secretary at Ligue pour la Paix, les Droits de l’Homme et la Justice (LIPADHOJ).
26. [Assistance programmes](#), *The Trust Fund for Victims website*; [Our implementing partners](#), *The Trust Fund for Victims website*.
27. FIDH, “[Whose Court is it? Judicial handbook on victims’ rights at the International Criminal Court](#)”, April 2021, p. 28; FIDH, “[Victims’ meaningful participation at the International Criminal Court: Legal aid reform](#)”, 17 October 2023.
28. Human Rights Watch, “[The International Criminal Court: How National Nongovernmental Organizations Can Work with the Court](#)”, September 2004; [Syria Justice and Accountability Centre](#), *supra* note 21, p. 8.
29. FIDH and CICC, Online Cross-Regional Workshop on CSO Engagement with the ICC OTP and Registry, 16 July 2024, (“Workshop 2”); see also ICC, [ICC Prosecutor, Karim A.A. Khan QC, notifies Pre-Trial Chamber I of a request from the Bolivarian Republic of Venezuela to defer his investigation under article 18\(2\) of Rome Statute and confirms intention to apply for authority to resume investigations | International Criminal Court](#), 21 April 2022; ICC, [Annex I to Public Redacted Version of “Final Consolidated Registry Report on Article 18\(2\) Victims’ Views and Concerns Pursuant to Pre-Trial Chamber’s Order ICC-02/18-21”](#), ICC-02/18-40-AnxI, 20 April 2024.
30. ICC, [Request for review of the Prosecutor’s decision of 28 October 2021 to close the preliminary examination of the situation in Colombia](#), 6 May 2022; “[Colombia: one year without informing victims of the reasons for the closure of the preliminary examination of the International Criminal Court \(ICC\)](#)”, *Cajar*, 21 July 2023.

1.2 Documenting Rome Statute crimes and submitting Article 15 communications to the OTP

Community-based and international CSOs make vital contributions to the OTP's investigations and prosecutions by documenting Rome Statute crimes and submitting information to the OTP, as well as to other judicial and fact-finding mechanisms at domestic and international levels. Their documentation efforts have expanded "to an unprecedented scale and level of professionalism."³¹ CSOs gather crucial information on the ground, often right as a crime occurs while no other actor is present on the scene. They frequently operate under highly challenging circumstances, facing real risks to the personal safety of their staff.³² Their efforts frequently constitute the first response to atrocities, particularly when state authorities are unwilling or unable to exercise criminal jurisdiction or obstruct ICC investigations. This is also critical where the ICC and other international actors are not (yet) present.³³ In fact, civil society are usually the first actors to alert the Court and the international community of crimes being committed.³⁴ In recent meetings with OTP staff, including in consultations for this report, the consistent message is that CSO documentation is indispensable and serves as the starting point for many OTP preliminary examinations, with related engagement at the heart of their investigative activities.

Such realities are evident in ICC situations like Palestine, Afghanistan, and Darfur- Sudan, among others.³⁵ For example, Al Haq, a Palestinian CSO, consulted for this report, elaborated that "in the Situation in the State of Palestine, Israel systematically denies international access to the Occupied Palestinian Territory. This includes UN [United Nations] special rapporteurs, commissions of inquiry, and many other investigative bodies. As a result, this has rendered the only access of the international community to the requisite documentation of the international crimes committed in Palestine, including genocide, possible through CSOs and HRDs working there. This, of course, is not without risk."³⁶ Civil society's timely documentation and preservation efforts can, therefore, ensure that information is not lost and enhance the OTP's overall capacity to conduct investigations by ensuring access to essential evidence, insights, and investigative leads.³⁷ The OTP has recognised the "privileged position" of CSOs in supporting investigative authorities, noting on multiple occasions that their documenting activities have been "invaluable to accountability efforts."³⁸

Pursuant to Article 15(2) of the Rome Statute, the OTP may seek and receive information on alleged Rome Statute crimes from "reliable sources", including civil society. The information submitted by civil society can help trigger the opening of a PE or formal investigation and occasionally serves as evidence in ongoing cases, subject to the independent decision of the ICC Prosecutor.

31. Federica D'Alessandra, Ambassador Stephen J. Rapp, Kirsty Sutherland, et al., [Anchoring Accountability for Mass Atrocities: The Permanent Support Needed to Fulfil UN Investigative Mechanisms](#), Oxford ELAC Report, May 2022, ("Accountability for Mass Atrocities"), p. 1.

32. FIDH and CICC, Online Cross-Regional Workshop on CSO Cooperation with the ICC OTP, 11 July 2024, ("Workshop 1"); Workshop 2, *supra* note 29; PILPG, The Engine Room and HURIDOCs, [Human Rights Documentation by Civil Society - Technological Needs, Challenges, and Workflows](#), November 2020, pp. 10-11.

33. Workshop 2, *supra* note 29; Andrea Lampros, Alexa Koenig, Julia Rayner, et al., [First Responders: An International Workshop on Collecting and Analyzing Evidence of International Crimes](#), Human Rights Center at the University of California, Berkeley, School of Law, 2014, p. 4.

34. [Syria Justice and Accountability Centre](#), *supra* note 21, p 9.

35. See International Commission of Jurists and Amnesty International, ["The Taliban's war on women: The crime against humanity of gender persecution in Afghanistan"](#), March 2023, p. 50; ["Civil Society Organizations Call for Action on Atrocities in Sudan"](#), *Refugees International*, 15 November 2023; Human Rights Watch, ["The Massalit Will Not Come Home" – Ethnic Cleansing and Crimes Against Humanity in El Geneina, West Darfur, Sudan](#), 9 May 2024, pp. 192-193.

36. Workshop 2, *supra* note 29. Ahmed Abofoul, Legal Adviser, Al-Haq.

37. [Syria Justice and Accountability Centre](#), *supra* note 21, pp. 9-10; FIDH, [Q&A: Unpacking the ICC Office of the Prosecutor's New Approach to Complementarity and Cooperation](#), 26 April 2024.

38. [Documentation Guidelines](#), *supra* note 14, p. 3.

International and community-based CSOs have submitted Article 15 communications relating to alleged Rome Statute crimes in Venezuela, Myanmar, Palestine, Libya, Central African Republic and many others.³⁹ The types of information provided are varied. They can range from documentary and open-source materials on alleged Rome Statute crimes and analysis of their historical or political context to potential leads, witnesses, and contextual information on national proceedings and legal frameworks, to name a few. Potential crime-based and linkage evidence is particularly valuable for the OTP, due to the Office's often limited access to crime scenes. CSO representatives consulted for this report expressed a strong interest in bilateral engagement with the OTP following the submission of Article 15 communications, aiming to ensure that their documentation efforts most effectively contribute to the OTP's work.⁴⁰

1.3 Strengthening ICC institutional development, policies, and practice

"Following sustained advocacy from various civil society organisations including the Women's Initiatives for Gender Justice, a Gender Focal Point position was established and a Strategy for Gender Equality and Workplace Culture was developed."⁴¹ – Valeria Babără, Legal and Advocacy Officer, Women's Initiatives for Gender Justice

Civil society closely monitors and helps shape the ICC's functioning and development by engaging with the Court on institutional, thematic, and situation-specific issues. Since the entry into force of the ICC Rome Statute, these efforts include focusing on the Court's policies and practices, as well as the working and decision-making processes of its States Parties. Based on its observations and expertise, civil society advocates for reforms and improvements before the Court and the ASP. Through these independent monitoring and advocacy efforts, civil society plays an essential role in enhancing the effectiveness and overall efficiency of the Court and the Rome Statute system, while also contributing to the checks and balances within the Court's structure.

The CICC Secretariat takes a formal role in facilitating CSO participation in ASP sessions and workings, as well as in the annual ICC-NGO Roundtables and often in more *ad hoc* and informal private settings. This formalised relationship follows from a resolution adopted by the ASP in September 2003, recognising the CICC's coordinating and facilitating role between CSOs and the ASP and the ICC, respectively.⁴² The CICC's varied role has been recognised by its extensive global network of CSOs as crucial for leveraging engagement opportunities and enhancing collaboration among CSOs.

The annual ICC-NGO Roundtable meetings, co-convened by the Court and the CICC, provide an important opportunity for civil society to engage on such issues through an interactive dialogue with the Court and the TFV, exchanging information on thematic issues and specific situation countries. For many CSOs, this is a rare and key moment to directly interact with the Court's principals (President, Registrar, and Prosecutor), and various organs and officials and the TFV. Such dialogue is essential to ensure meaningful civil society contributions to the Court's mandate.⁴³ Moreover, these closed consultations can help identify shared concerns and, where appropriate, strategies to pursue common objectives.⁴⁴

39. ECCHR, "[Made in Europe, bombed in Yemen – ICC must investigate European responsibility in alleged war crimes in Yemen](#)"; Lawyers for Justice in Libya, ECCHR, and FIDH, [Communication to the Office of the Prosecutor of the International Criminal Court: Crimes against Migrants and Refugees in Libya](#), 6 June 2022; Chaikel, Pillai, and Sachithanandan, *supra* note 13, p. 15.

40. Workshop 1, *supra* note 32; Workshop 2, *supra* note 29.

41. Survey 2, *supra* note 25. Valeria Babără, Legal and Advocacy Officer, WIGJ. See ICC, [International Women's Day: ICC appoints Focal Point for Gender Equality](#), 8 March 2021; ICC, [The ICC launches its first Strategy on Gender Equality and Workplace Culture | International Criminal Court](#), 9 December 2022.

42. ASP, [Resolution ICC-ASP/2/Res.8](#), 11 September 2003.

43. Chaikel, Pillai, and Sachithanandan, *supra* note 13, p. 6.

44. [Civil Society and the ICC](#), *supra* note 16.

In May 2022, the OTP further committed to host two thematic roundtables with community-based and international CSOs each year, in addition to the existing annual ICC-NGO Roundtable meetings, as part of an initiative to strengthen its engagement with civil society.⁴⁵ The first of such thematic roundtables was held in November 2022 on the topic of crimes against and affecting children, and a second one, in May 2023, on the crime of gender persecution.⁴⁶ Moreover, the OTP committed to an ‘enhanced structural dialogue’ with civil society in its new Policy on Complementarity and Cooperation.⁴⁷ The OTP held its first ‘OTP – CSO Structured Dialogue’ session in November 2024, as part of the pre-ASP session ICC-NGO Roundtable meetings. During the session, OTP International Cooperation Advisers working in different unified teams, briefed around 50 civil society representatives on their work, and explored ways CSOs can enhance their cooperation with the OTP. While the parameters of this dialogue remain to be clarified for it to be meaningful and respond to the needs expressed by CSOs, it shows promise for enhanced engagement.

Moreover, *ad hoc* bilateral interactions of Court officials with CSOs and HRDs frequently take place at the ICC’s headquarters in The Hague, as well in situation countries or neighbouring countries, for example during high-level visits. These types of engagements are some of the most important ways to build trust-based and collaborative relationships. In countries where access is limited or the security situation may not allow for meetings with CSOs, exchanges have sometimes taken place in different ways to allow CSOs to share their views and concerns with the Court, and for Court officials to provide updates and feedback.

The annual sessions of the ASP – the Court’s legislative and management oversight body – along with its related working groups in The Hague and New York, provide another important avenue for civil society to engage with both State Party and ICC delegates and conduct advocacy.⁴⁸ The CICC holds observer status at ASP meetings, enabling CSOs to directly participate in the annual sessions’ general debate and during plenary sessions.⁴⁹ In their statements, they raise concerns and provide recommendations directly to the ASP and to the Court. CSOs also organise numerous side-events during the annual sessions, creating an additional platform for direct dialogue with Court and State Party representatives.⁵⁰

Both year-round and at the ASP’s annual sessions, civil society advocates on a wide range of issues with ICC States Parties. For instance, CSOs actively highlight the discrepancy between state support to the Court and the Court’s practical needs, such as in negotiations on the annual budget of the Court, and make key recommendations to States Parties aimed at strengthening the Court’s financial capacity.⁵¹ Every year, civil society draws attention to the impact of the lack of resources on the Court’s ability to effectively uphold the Rome Statute rights of victims and carry out outreach activities in situation countries. Additionally, the vocal advocacy of several civil society organisations was pivotal in securing the establishment by the ASP of a permanent vetting mechanism for candidates in ICC elections – the first of its kind at any international justice institution – which contributes to ensuring that States Parties elect the best and most qualified ICC leaders.⁵² According to Danya Chaikel, FIDH Representative to the ICC:

45. [ICC Prosecutor Karim A.A. Khan QC announces new initiative to strengthen engagement with civil society](#), *supra* note 9.

46. ICC, [Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on NGO roundtable on crimes against children](#), 15 November 2022; ICC, [Statement by ICC Prosecutor Karim A.A. Khan KC on CSO thematic roundtable meeting on the crime of gender persecution](#), 24 May 2023.

47. [Complementarity and Cooperation Policy](#), *supra* note 4, para. 84.

48. [Assembly of States Parties](#), *ICC website*.

49. See, for example, CICC, [22nd session of the ICC Assembly of States Parties 2023 \(ASP22\)](#).

50. [Assembly of States Parties](#), *CICC website*.

51. See, for example, [21st session of the Assembly of States Parties - 2022](#), *CICC website*; [22nd session of the ICC Assembly of States Parties 2023 \(ASP22\)](#), *supra* note 50.

52. CICC, [All you need to know about the 22nd session of the Assembly of States Parties of the ICC](#), 7 May 2024; see also [Victims’ meaningful participation at the International Criminal Court: Legal aid reform](#), *supra* note 27, highlighting the impact of civil society’s advocacy on the adoption of the long-awaited reformed Legal Aid Policy.

“Our tenacious and coordinated civil society advocacy led to the adoption of a permanent vetting process for all ICC elections, including judges, Prosecutor, and Registrar. States Parties adopted key recommendations from our campaign, such as expanding it to judicial elections, and ensuring complainant safety through confidential reporting. This demonstrates the critical role of civil society in upholding and improving the integrity of ICC and ASP operations.”

CSOs consistently advocate for improved victim-centred and fair policies, strategies, and practices to be meaningfully integrated in practice across all ICC organs and with States Parties.⁵³ For instance, the recently revived Victims’ Rights Working Group (VRWG) hosted by the CICC, and co-led by FIDH and Redress, is currently comprised of 155 CSO members, exemplifying a global network dedicated to ensuring that victims’ rights are protected and respected at the ICC.⁵⁴ For example, on 30 May 2024, several VRWG members organised a high level event at the ICC with the International Criminal Court Bar Association (ICCBA) on “Victims’ Rights in the Early Stages of ICC Proceedings: Stopping the Backslide” to address the alarming regression in victims’ rights during the initial stages of ICC proceedings.⁵⁵ VRWG members have also contributed to the ongoing consultations led by the ICC Registry on the review of the Court’s victims’ strategy. The VRWG encouraged the Court to ensure that the new strategy takes into account views of victims and affected communities, including by organising consultations in situations countries, with proper time and language requirements to ensure inclusivity and access.

Civil society has also been very engaged in the Review of the International Criminal Court and the Rome Statute system process and the implementation of the Independent Expert Review (IER) recommendations to improve the Court and the Rome Statute system.⁵⁶ For instance, civil society was invited by the Review Mechanism to intervene at several meetings, including to provide an opening intervention during an April 2022 meeting on the topic of outreach and the Court’s relationship with civil society. This was followed by an April 2023 roundtable meeting during which CICC member representatives actively participated alongside Court representatives and IER experts to discuss the implementation of the IER recommendations on ‘relations with civil society’. During the 22nd ASP session in December 2023, a representative of the Guinea national Coalition for the ICC participated on the panel of the Review plenary to highlight the crucial role played by civil society in the Review process since its inception, focusing specifically on the issues of communication and outreach.⁵⁷ This active participation was acknowledged by the Review Mechanism in their overall progress report.⁵⁸

CSOs often participate in Court-organised policy consultations, providing expert advice and valuable input on various thematic areas, which help shape and improve the Court’s practices and approaches. Concrete examples, among many others, are the consultations on the crime of gender persecution, which informed the OTP’s policy and methodologies for investigating and prosecuting this crime, and the OTP’s consultation on the new Policy on Complementarity and Cooperation.⁵⁹

53. See [Whose Court is it? Judicial handbook on victims’ rights at the International Criminal Court](#), *supra* note 27 for FIDH’s recommendations to Chambers on how to ensure the meaningful exercise of victims’ rights; see also [ICC & ICL Programme Reports](#), *International Bar Association* for reports on the International Bar Association’s work on fair trial rights.

54. See FIDH, ‘[17 July: Ensuring justice for victims at the ICC on International Criminal Justice Day](#)’, 17 July 2024 regarding a recent civil society-organised event focused on victims’ rights during the early stages of ICC proceedings; see also Victims Rights Working Group, *Comments on the Role and Relationship of ‘Intermediaries’ with the International Criminal Court*, February 2009 regarding civil society’s advocacy for more responsible use of intermediaries by the Court; International Refugee Rights Initiative and Open Society Justice Initiative, [Commentary on the ICC Draft Guidelines on Intermediaries](#), 2011.

55. ‘[17 July: Ensuring justice for victims at the ICC...](#)’, *supra* note 54.

56. See [Review of the ICC and the Rome Statute system](#), *CICC website*.

57. CICC, [All you need to know about the 22nd session of the Assembly of States Parties of the ICC](#), 7 May 2024.

58. ICC, [Report of the Review Mechanism on the overall progress of its work](#), 30 June 2023, para. 12.

59. ICC, [Policy on the Crime of Gender Persecution](#), 7 December 2022, p. 5; ICC, [Statement by ICC Prosecutor Karim A.A. Khan KC on CSO thematic roundtable meeting on the crime of gender persecution](#), 24 May 2023; ICC, [ICC Office of the Prosecutor launches public consultation on Policy on Complementarity and Cooperation](#), 6 October 2023.

Civil Society's Diverse and Essential Contributions to the ICC's Mandate



Serving as a Link with Victims, Affected Communities, and Witnesses

- Identifying eligible victims to participate in ICC proceedings, applying for reparations, and Trust Fund for Victims (TFV) assistance.
- Supporting victims through all stages of ICC proceedings.
- Implementing critical TFV assistance programmes, including psychological rehabilitation and material support.
- Advocating for adequate legal aid to ensure victims' rights to representation.



Documenting Rome Statute Crimes and Submitting Article 15 Communications to the Office of the Prosecutor

- Documenting atrocity crimes on the ground as first responders.
- Submitting Article 15 communications, providing potential evidence of Rome Statute crimes, as well as names of leads and witnesses.
- Offering invaluable information on historical, cultural, political, and national legal contexts.



Strengthening ICC Institutional Development, Policies, and Practices

- Providing expertise and recommendations to States Parties and ICC officials at key events, including ICC-NGO Roundtables and the ASP.
- Advocating for institutional reforms, increased state support, and financial strengthening of the ICC.
- Advocating for victim-centred and intersectional approaches, including gender equality, across all ICC organs.
- Promoting practices to strengthen the integrity of the Court through mechanisms like the new election vetting process.
- Consulting on specific issues such as complementarity, gender persecution, and outreach strategies.



Filing Amicus Curiae Briefs During Proceedings

- Submitting expert legal analysis and policy arguments on complex issues, influencing ICC jurisprudence.
- Amplifying victims' interests before the Court, and contributing legal expertise and analysis, informed by in-depth knowledge of local contexts.



Advocating for a Universal ICC and State Support

- Promoting universal ratification of the Rome Statute and its amendments and advocating for States Parties to align their national legal frameworks with its provisions.
- Monitoring and advocating for comprehensive state cooperation with the Court, including arresting and surrendering all ICC suspects on their territory.
- Mobilising political and public support to defend the ICC's independence, and to stand against threats and political interference.



Making the Court's Work Visible

- Conducting outreach and education campaigns with victims and affected communities to raise awareness about the Court's mandate and counter misinformation.
- Supporting the ICC's Public Information and Outreach Section in engaging with local communities.
- Conducting trial monitoring and reporting on ICC investigations, proceedings, and case law.

1.4 Advocating for a universal ICC and state support

Since its adoption over two decades ago, civil society has continuously played a central role in advocating for the universal ratification of the Rome Statute of the ICC. Civil society also advocates for the ratification of Rome Statute amendments and the Agreement on Privileges and Immunities of the ICC.⁶⁰ For example, CSOs were instrumental in securing Armenia's recent ratification, making it a new State Party to the Court's founding treaty.⁶¹ For over a decade, CSOs have also been advocating for Ukraine to ratify the Rome Statute, working with decision makers, Members of Parliament, communities, and the media to build support for full membership and address misinformation.⁶² On 25 October 2024, Ukraine completed its ratification of the Rome Statute, which will enter into force on 1 January 2025 thus making the country the 125th ICC State Party.⁶³

Civil society's efforts extend beyond ratification, aiming to ensure the full and effective implementation of the Rome Statute at the domestic level.⁶⁴ This involves adopting legal frameworks to comprehensively investigate and prosecute Rome Statute crimes domestically and securing state cooperation with the Court. These efforts are essential for effective complementarity, ensuring that the ICC as a court of last resort steps in only when states are unwilling or unable to genuinely investigate or prosecute alleged Rome Statute crimes.

In the OTP's 'Policy on Complementarity and Cooperation', launched in April 2024, the OTP recognised civil society, particularly community-based CSOs, as "crucial complementarity and cooperation partners."⁶⁵ Civil society actors play a vital role in monitoring and mobilising these processes by, for example, advocating for the Court to intervene when state authorities fail to act.⁶⁶ They also dedicate significant effort in building political and public support for state cooperation with the Court and raising awareness of its activities at the national, regional, and international levels.⁶⁷

Civil society actors, with diverse mandates and roles, often possess a deep understanding of the situations they work on and the domestic legal proceedings and frameworks in effect. Such valuable information, alongside and often in opposition with domestic authorities, is important for the OTP's admissibility assessment of a State's genuine ability and willingness to investigate and prosecute serious crimes.⁶⁸ As explained by a Guinean CSO, "it's important to meet with civil society to get socio-political context and information on the judicial proceedings before meeting with political and judicial authorities, who more often than not hide the truth from officials of the OTP."⁶⁹ Moreover, according to the IER experts, community-based CSOs are not only "a source of advice and counsel in the Court's interactions with local authorities", but also "a useful ally in blunting local press and propaganda campaigns, often conducted by authoritarian leaders that misrepresent the purpose and activities of the Court."⁷⁰ Civil society can further bolster the OTP's efforts to advance progress in domestic proceedings. According to FIDH and Human Rights Watch, "[t]his is critical as the OTP cannot be expected to single-

60. See Parliamentarians for Global Action, [Campaign for the Universality and Effectiveness of the System of the Rome Statute of the International Criminal Court \(ICC\)](#), for information on the work of the Parliamentarians for Global Action in this area.

61. CICC, '[Armenia becomes the 124th State Party to the ICC Rome Statute](#)', 1 February 2024.

62. CICC '[Ukraine moves towards ratification of the ICC Rome Statute](#)', 24 August 2024; FIDH, '[Ukraine set to ratify the Rome Statute and become the International Criminal Court's 125th member state](#)', 28 August 2024.

63. See [UN Depository Notification](#), 25 October 2024.

64. PGA, '[Implementation](#)'.

65. [OTP Complementarity and Cooperation Policy](#), *supra* note 4, para. 82.

66. FIDH, '[The ICC Office of the Prosecutor's new Policy on Complementarity and Cooperation must still meet high expectations](#)', 26 April 2024.

67. [IER Final Report](#), *supra* note 6, para. 380.

68. Maria Elena Vignoli and Danya Chaikel, '[Two Tracks, One Destination? The Importance of Getting the Balance Right on Complementarity](#)', *Just Security*, 20 June 2024.

69. Survey 1, *supra* note 20. Oumou Salama Bah, Coalition Guinéenne pour la Cour Pénale Internationale.

70. [IER Final Report](#), *supra* note 6, para. 380.

handedly transform the national accountability landscape and play its vigilance role alone. Particularly when powerful political interests are working against justice, the Office needs the backing of other partners, such as civil society, to catalyze political will.”⁷¹

States Parties’ legal obligations to cooperate with the ICC are central to the effective functioning of the Court, which has no police force and relies on its States Parties to execute its decisions, including arrest warrants. In September 2024, for example, CSOs called on Mongolia to execute the ICC arrest warrant issued for Russian President Vladimir Putin by arresting him during his visit to the country.⁷² This was the first time that Putin had been welcomed to a country that is a member of the ICC since the arrest warrant against him had been issued in 2023. In August 2023 Putin was expected to attend the BRICS annual leaders’ summit – a group of states that includes both South Africa and Russia – in Johannesburg, but his visit was ultimately cancelled, following pressure by civil society and a South African court decision reaffirming South Africa’s obligation to execute the ICC arrest warrant against him⁷³. Among others, the International Bar Association (IBA) also campaigns for robust state cooperation, and recently convened a high-level roundtable in October 2024 with States Parties to discuss practical measures to improve the enforcement of arrest and surrender requests.⁷⁴

In several situations, civil society has been entrusted with monitoring and alerting on travel by ICC suspects, calling for their arrest and taking action domestically to ensure the respect of ICC decisions.⁷⁵ This has been the case for other ICC suspects in the past, as showcased by the impactful efforts of CSOs in countries such as South Africa, Uganda, and India, where they urged their governments to arrest and surrender former Sudanese President Omar al-Bashir, who faces ICC arrest warrants.⁷⁶ The example of the Southern Africa Litigation Centre (SALC) in South Africa is particularly impressive. SALC secured a 2015 High Court order for former Sudan President al-Bashir’s arrest based on South Africa’s Rome Statute obligations.⁷⁷ Though the government defied the order, the Supreme Court of Appeal later ruled its actions unlawful, and confirmed that the South African government had a duty to arrest then President Bashir thus reinforcing the duty to cooperate with the ICC in accordance with the Rome Statute.⁷⁸

Civil society has also been at the forefront of calling states to respect the independence of the Court and integrity of the Rome Statute, oftentimes at significant personal risk. For instance, civil society has rallied to support the Court in response to increased threats directed at the Court and its officials, including threats to impose sanctions that would significantly impact the work of the Court. The CICC called on ICC member states to unite in defence of the Court and condemn threats, and take all relevant concrete measures to ensure the Court can work, independently and impartially in all situations before it.⁷⁹

71. Vignoli and Chaikel, *supra* note 68.

72. Amnesty International, [‘Mongolia: Putin must be arrested and surrendered to the International Criminal Court’](#), 2 September 2024; FIDH, [‘Open Letter to the President of Mongolia: Ensure the Arrest of Vladimir Putin’](#), 2 September 2024; HRW, [‘Mongolia: Arrest Putin’](#), 2 September 2024.

73. Southern Africa Litigation Centre, [‘Human rights organisations intervene in court case to have Russian President, Vladimir Putin, arrested’](#), 21 July 2023.

74. International Bar Association, [‘IBA gathers key legal figures to discuss state cooperation for the arrest and surrender of international crime suspects’](#), 21 October 2024.

75. ASP, [Report of the Bureau on non-cooperation](#), 28 November 2018, p. 14.

76. [Al Bashir Case](#), ICC website.

77. Southern Africa Litigation Centre, [‘SALC v the Minister of Justice and Constitutional Development and Others: The Bashir Case, Q and A’](#).

78. Southern Africa Litigation Centre, [News Release: Supreme Court of Appeal Rules on Bashir Case](#), 15 March 2016.

79. HRW, [Joint NGO Letter to President Biden on Threats to the International Criminal Court](#), 22 May 2024; CICC, [‘In the face of threats, States must defend the independence of the ICC and safeguard victims’ access to justice’](#), 31 May 2024.

1.5 Filing *amicus curiae* briefs during proceedings

Civil society actors can, and have formally contributed to the ICC's criminal and reparations proceedings by submitting written observations in *amicus curiae* briefs ('Friend of the Court'), which may include expert legal analysis, policy arguments, or factual context.⁸⁰ Their role as *amici curiae* is highly valued not only for their ability to amplify victims' interests, but also for their sophisticated legal expertise and analysis, informed by in-depth knowledge of local contexts. They may also work closely with victims' communities and on human rights issues at the centre of ICC cases. Through their varied knowledge and expertise, civil society can provide valuable insights to ICC judges and leave an important mark on the development of international criminal jurisprudence more broadly.⁸¹

Numerous civil society actors have been granted permission by the Court to submit *amicus curiae* briefs.⁸² On occasion, they have collaborated to submit joint observations. The Dominic Ongwen case (Uganda) provides an example of the impact of civil society submitting such briefs. In November 2021, the Appeals Chambers authorised *amici curiae* to provide written contributions.⁸³ This led to the development of a groundbreaking collective of more than 40 feminist lawyers and scholars, many active in CSOs. Their briefs, which addressed issues such as forced marriage and sexual slavery, were cited in the final Appeal Judgment of 2022.⁸⁴ In the reparations phase of the same case, a coalition of 10 Ugandan and international CSOs requested the ICC, in 2022, to put Ugandan victims at the centre of these proceedings.⁸⁵ This culminated in a landmark reparations order in February 2024, awarding €52.4 million, the largest in ICC history. The decision built on previous orders to advance concepts of victimhood and harm, recognising community and transgenerational harm, and prioritised a victim-centred approach through individual and collective reparations.⁸⁶

1.6 Making the Court's work visible

Civil society actors play an essential role, as independent and expert observers, in monitoring and reporting on the progress of ICC investigations, courtroom proceedings, and case law. They focus on key issues, such as fair trial rights and victims' rights. By connecting their monitoring activities with advocacy efforts, CSOs seek to actively strengthen the Court's ability to deliver fair and effective justice. In addition, they work to raise public awareness of ICC proceedings among affected communities and broader audiences, making justice more visible.⁸⁷ In this way, civil society helps to ensure that the Court's activities are better understood and more accessible.⁸⁸

In relation to affected communities and victims, CSOs perform a wide variety of communication and outreach activities to ensure that they are informed about the ICC's role and limitations. They address questions and seek to provide responses to requests for information. CSOs undertake such efforts at times in coordination with the Court and its local offices.⁸⁹ For example, as shared by a CSO working on

80. [ICC Rules of Procedure and Evidence](#), rule 103; [Civil Society and the ICC](#), *supra* note 16.

81. Williams, Woolaver, and Palmer, *supra* note 12, pp. 183, 194-195, 197, 202.

82. *Ibid.*, pp. 180, 184.

83. *The Prosecutor v. Dominic Ongwen*, [Decision on the requests for leave to file observations pursuant to rule 103 of the Rules of Procedure and Evidence](#), 24 November 2021, ICC-02/04-01/15 A A2, para. 18.

84. Chaikel, Pillai, and Sachithanandan, *supra* note 13, pp. 16-17. See *The Prosecutor v. Dominic Ongwen*, [Judgment on the appeal of Mr Ongwen against the decision of Trial Chamber IX of 4 February 2021 entitled "Trial Judgment"](#), ICC-02/04-01/15 A, 15 December 2022.

85. FIDH, '[Dominic Ongwen: Ugandan Victims Must Be at the Centre of Reparations Proceedings](#)', 8 February 2022.

86. See REDRESS, [Building A Survivor-Centred Reparations Framework for Victims of Dominic Ongwen](#), 13 August 2024.

87. Evenson, *supra* note 19, p. 71.

88. Chaikel, Pillai, and Sachithanandan, *supra* note 13, p. 18; [Civil society and the ICC](#), *supra* note 16.

89. Haddad, *supra* note 3, p. 112; Evenson, *supra* note 19, p. 71; [Civil society and the ICC](#), *supra* note 16.

the Situation in the Philippines, CSOs provide information to victims, including to correct the spread of misinformation in the country, a role appreciated by the ICC Registry, since “CSOs have been proactive and well-equipped in providing factual information to communities, especially in high-stakes situations, which has been incredibly beneficial to the Court.”⁹⁰ The Public Information and Outreach Section (PIOS) considers civil society as “a fundamental partner with whom it can act jointly to have a multiplayer effect” in a country or situation, especially when resources and reach are limited.⁹¹ As further explained by Greta Barbone, Outreach Policy Officer, ICC Registry:

“The engagement with civil society is crucial for PIOS, and it may be different from other sections of the Court because of our close engagement in every moment and the strong partnership in all countries where we work.”⁹²

Another important role of civil society in making the work of the ICC visible is to monitor the Court’s case law and courtroom activities. These are the arenas where the action takes place, international criminal law develops in real time, and victims’ voices are heard. The trial monitoring project of the Open Society Justice Initiative (OSJI) serves as an example of this effort, which involved extensive monitoring and reporting on various ICC trials and proceedings.⁹³ Through this project, which ended in 2021, OSJI was able to identify critical issues that might otherwise have gone unnoticed, such as witness interference and protection, and conduct subsequent research and advocacy on these matters.⁹⁴ While other CSOs, such as the International Bar Association and the Women’s Initiative for Gender Justice, previously closely monitored trials focused on fair trial and gender issues, they no longer have the capacity to do so systematically.⁹⁵ Without ongoing CSO trial monitoring, important aspects of the proceedings, such as on the application of victims’ Rome Statute rights and fair trial rights, may not be adequately observed or analysed, which might put these rights at risk. This lack of oversight could leave critical issues unnoticed, undermining the integrity of the ICC’s proceedings and the rights of victims and the accused.

90. Workshop 2, *supra* note 29; Interview with Maria Mabinty Kamara, Public Information and Outreach Officer for Uganda, ICC Registry, 20 September 2024.

91. Interview with Greta Barbone, Outreach Policy Officer, ICC Registry, 20 September 2024.

92. *Ibid.*

93. ‘War crimes. Crimes against humanity. Genocide. The International Justice Monitor is an archive of reporting and analysis of some of the most significant trials of our time’, *International Justice Monitor*.

94. Mariana Pena, ‘Witness Interference at the ICC: A Widespread Practice Across Virtually All Cases’, *International Justice Monitor*, 16 November 2016; Taegin Reisman, ‘A Look Back as the Justice Initiative’s Trial Monitoring Ends’, *International Justice Monitor*, 8 April 2021.

95. Interview with Mariana Pena, Director of Litigation Outreach, OSJI, 6 September 2024; see also [ICC & ICL Programme Reports](#), *supra* note 53; Women’s Initiatives for Gender Justice, [Statement on Concerns Over Judicial Deliberations in Al Hassan Trial Judgment](#), 23 July 2024.

2. Challenges and Good Practices for Civil Society Engagement with the ICC



Despite the recognition of the role of CSOs and HRDs in the Rome Statute system and existing avenues for interactions and cooperation, civil society faces various challenges in its engagement with the Court. In 2020, the IER final report identified specific shortcomings which still need to be addressed by the Court, such as inadequate resources for managing relations with civil society, unclear communication channels, and insufficient field engagement.⁹⁶ Additionally, CSOs and HRDs face increasing challenges like restricted civic space, threats, and attacks. They also encounter internal constraints and barriers that complicate their interactions with the Court. At the same time, civil society has observed a range of good practices when engaging with different Court organs and actors. By learning from these practices and replicating them where appropriate, the Court can establish a more consistent and enhanced approach to its engagement with civil society. These issues are addressed below across various Court organs, units, and actors including the TFV the ASP, and with particular focus on the OTP, as most civil society actors primarily engage with that organ.

2.1 The need for commitment, trust, and leadership

“Leadership is essential to implement a commitment and make it happen. We need leaders at the Court who can tell everyone that this needs to be a priority, and not just in words, in press releases, but really make it happen and trust civil society.”⁹⁷ – Virginia Amato, Advocacy Director, CICC

Civil society has consistently emphasised how genuine and meaningful engagement between the ICC and civil society is essential to the Court’s effective delivery of justice. The cornerstone of fostering and sustaining collaborative, trust-based relationships with civil society lies in the leadership’s sincere commitment to such two-way engagement, ensuring this transpires across all organs and teams at every level. As emphasised by Catherine Marchi-Uhel, former Head of the International Independent Investigative Mechanism for Syria (IIIM), meaningful engagement “takes leadership and there needs to be an institutional commitment.”⁹⁸ Insights from the IIIM’s approach to civil society engagement are particularly relevant, having been recognised as a model of best practice in the international justice field.⁹⁹ Moreover, as concluded by the IER experts, understanding and acknowledging the essential roles of civil society actors in the Rome Statute system requires the ICC to “be nurturing its relations with civil society at all levels”, including by consulting and briefing them on an ongoing basis, listening to their suggestions and advice, and treating them with mutual respect.¹⁰⁰

Several CSOs consulted for this report highlighted the impact of the ICC leadership on their interactions with Court organs and actors. For example, Alejandra Vicente, Head of Law at Redress, shared experiencing closer and more constructive cooperation with the TFV since the appointment of the new TFV Executive Director in April 2023, with more discussions, mutual feedback and regular meetings, benefitting both Redress and the TFV in their respective work. Although the relationship of Redress with the management of the TFV had always been good, Vicente attributed this change to a shift in the new leadership’s approach involving increased transparency, improved information sharing, and a greater willingness to collaborate and build mutual trust.¹⁰¹ While this is a positive example, the differing

96. See [IER Final Report](#), *supra* note 6, section VII. D.

97. Consultation with Virginia Amato, CICC, 12 August 2024.

98. Cited in Chaikel, Pillai, and Sachithanandan, *supra* note 13, p. 5.

99. See [Anchoring Accountability for Mass Atrocities](#), *supra* note 31, p. 100, recommendation c.

100. [IER Final Report](#), *supra* note 6, para. 385; see also [Anchoring Accountability for Mass Atrocities](#), *supra* note 31, p. 100, recommendation b.

101. Interview with Alejandra Vicente, REDRESS, 6 September 2024.

experiences among CSOs, discussed in the next section, underscore the need to foster and consistently apply good practices across all civil society interactions.

The majority of consulted CSOs reported increasing difficulty in engaging with the OTP, including indicating a decline in direct interactions with the OTP's leadership compared to his predecessor.¹⁰² The absence of the ICC Prosecutor at key moments of engagement has left some members of civil society feeling undervalued and disrespected. As sharply put by CSO representatives: "I don't think he sees that civil society is a key constituent of the Court" and he "seems to show disdain for us and is patronising toward civil society."¹⁰³ Although the Prosecutor had frequently praised the OTP's close cooperation with, and his appreciation for, civil society publicly,¹⁰⁴ many CSOs do not see these words reflected in practice. Namely, they point to reduced direct interaction and a perceived reluctance to engage in constructive dialogue, with the tone becoming heated and confrontational at times during the limited interactions that do occur. This current state of play has strained the relationship, creating mistrust, friction, and frustration within civil society.¹⁰⁵ For example, this recent comment made by the Prosecutor: "I don't have the luxury to speak lightly, I'm not an NGO", said during an interview, was met with disappointment.

While the OTP's recent establishment of a 'structural dialogue' with civil society appears promising, it risks being perceived as mere box-ticking if not genuinely reflected in practice.¹⁰⁶ Rebuilding trust is urgently needed to move forward. Genuine and trust-based engagement requires, for instance, consulting with civil society or at least providing sufficient advance explanations and notice about important decisions or major steps, often after years of close cooperation, such as the closing of an investigation, leaving time for civil society to prepare to manage victims' reactions and expectations.

Genuine leadership across ICC organs and actors, and the institutional willingness to strengthen the Court's engagement with civil society, are essential. To achieve this, it is crucial that ICC officials and managers personally exemplify these values, replicate best practices throughout the Court, and integrate them into a consistent approach to meaningful, collaborative engagement based on mutual trust that endures through leadership over time.

2.2 Opaque and fragmented engagement

Gaps in transparency, reporting, and information-sharing

Nearly all CSOs consulted for this report identified the increasing lack of transparency and information on progress and priorities in the various situations as a major challenge that seriously hampers their ability to effectively cooperate with the ICC and the OTP in particular, and to contribute to their work.¹⁰⁷ For example, despite the OTP's frequent reliance on their work, CSOs often encounter a lack of responsiveness and feedback after submitting Article 15 communications. While acknowledging the need for confidentiality, CSOs need to receive concrete updates from the OTP on the progress of investigations, the lines of inquiry, and the usefulness of their documentation to contribute meaningfully to the Office's activities in the course of investigations, in full respect of their independent mandates.¹⁰⁸

¹⁰² Workshop 1, *supra* note 32.

¹⁰³ Interview with an anonymous CSO 1, 6 September 2024; Survey 1, *supra* note 20. Member, Washington Working Group for the ICC.

¹⁰⁴ See [ICC Prosecutor Karim A.A. Khan QC announces new initiative to strengthen engagement with civil society](#), *supra* note 9; OTP, [Statement of the Prosecutor of the International Criminal Court, Karim A.A. Khan KC, on NGO roundtable on crimes against children](#), 15 November 2022.

¹⁰⁵ Survey 1, *supra* note 20; Survey 2, *supra* note 25; Workshop 1, *supra* note 32.

¹⁰⁶ [OTP Complementarity and Cooperation Policy](#), *supra* note 4, para. 84.

¹⁰⁷ Survey 1, *supra* note 20; Survey 2, *supra* note 25; Workshop 1, *supra* note 32; Workshop 2, *supra* note 29.

¹⁰⁸ [Anchoring Accountability for Mass Atrocities](#), *supra* note 31, p. 100, recommendation f.

In practice, CSOs regularly request feedback on the material and information submitted and express interest and availability to further support the Office's activities with additional expertise and information. The sensitive nature of the information documented and transmitted by civil society requires frank cooperation from the OTP.¹⁰⁹ The lack of genuine two-way engagement can otherwise feel extractive and create the impression that civil society is not taken seriously as a partner, but that "the OTP uses CSOs only when that is deemed convenient."¹¹⁰

"The Court wants the information that civil society has but does not want genuine engagement about the substance or early stages of the investigation. The OTP usually hides behind confidentiality, which we totally agree with, but you can be confidential about the content of the investigation and transparent about the ways in which that investigation is being conducted."¹¹¹ – Ahmed Abofoul, Legal Adviser, Al Haq

The lack of transparency and information on the state of play, especially with national coalitions and CSOs working on situation countries, can be harmful for the relationship with civil society and trust from victims. This situation may create false expectations or cause them to feel blindsided and frustrated when learning about developments through the media or other channels. As lamented by one CSO: "we are not children, you know."¹¹² Several CSOs called on the OTP to clarify its relationship with civil society, including what the Office expects from CSOs and what they themselves can expect when submitting documentation to the Office.¹¹³ Often CSOs engage extensive resources and personnel dedicated to cooperating and engaging with the ICC, all while attempting to pursue other advocacy and judicial avenues. Given these significant efforts, CSOs deserve further information whenever possible, ensuring transparency and fostering a more effective partnership.

That said, transparency and information-sharing on sensitive matters is happening in some confidential discussions, which is often essential for CSOs to share information and analysis of domestic contexts. There has been good practice carried out in certain Court sections, including by OTP teams who meet with CSOs and national coalitions regularly, and address certain concerns and misunderstandings. This is, however, happening on an *ad hoc* basis, and seems to really depend on the wishes of the particular ICC staff member, and is not standard practice across the Court, in particular in situations where the Court's presence is not welcome by domestic authorities.

In terms of transparency through public reporting, the recent OTP annual reports have been deemed insufficient for civil society to adequately engage, foster complementarity or cooperation at the domestic level, or use such reports in their own domestic advocacy. Therefore, civil society has urged the OTP to commit to regular, detailed situation-specific reporting on its PEs, investigations, and other contexts in which it is engaged, particularly after discontinuing the Office's practice of substantively reporting on PEs. Regular reporting would be an important official source of information for victims, especially when memoranda of understanding between the Court and national authorities are confidential.¹¹⁴ Moreover, FIDH and other CSOs have further recommended the OTP to include civil society in the new Complementarity and Cooperation Forum to increase engagement in those areas.¹¹⁵

109. Survey 1, *supra* note 20.

110. [IER Final Report](#), *supra* note 6, para. 384.

111. Workshop 2, *supra* note 29. Ahmed Abofoul, Legal Adviser, Al-Haq.

112. Interview with an anonymous CSO 1, 6 September 2024.

113. Workshop 1, *supra* note 32.

114. [Joint NGO Comments on the 'Draft Policy on Complementarity and Cooperation \(September 2023\)](#), *Human Rights Watch*, 13 November 2023.

115. [Q&A: Unpacking the ICC Office of the Prosecutor's New Approach to Complementarity and Cooperation](#), *supra* note 37; see also [OTP Complementarity and Cooperation Policy](#), *supra* note 4, paras. 38-45.

Inconsistent interactions between ICC officials and CSOs

Many consulted CSOs expressed frustration that the ICC Prosecutor or Deputy Prosecutors did not meet with civil society during various official visits to situation countries or countries where the Court is engaged in complementarity efforts, resulting in disappointment and a sense of exclusion.¹¹⁶ This is particularly the case when the OTP leadership focuses on meeting with senior state officials, while seemingly excluding civil society, which “creates an image of the focus being on the politicians, and not the people working on and affected by the alleged criminal conduct.”¹¹⁷ This was, for example, the case when the ICC Prosecutor publicly met the President of Venezuela, raising concerns among victims and communities about the proximity to officials and the apparent disregard for victims.¹¹⁸

On other occasions, CSOs were simply not notified of the Prosecutor’s visits or received last-minute notice, leaving them with little time to adequately prepare for political reactions, queries from victims or the media, or a possible meeting with CSOs. This was the case, for example, during the Prosecutor’s visit to Kyiv, Ukraine in September 2024. Civil society also faces challenges in maintaining consistent and ongoing dialogue with the OTP before, during, and after visits, including pre-visit consultations and post-visit debriefs.

The Prosecutor, Deputy Prosecutors, and other OTP officials should prioritise meeting civil society actors during visits to situation countries as part of a genuine effort to understand and take account of their concerns, as well as benefit from their deep knowledge of contexts, history, and legal or judicial developments. These visits are valuable opportunities for the OTP leadership to engage with civil society, share relevant information on national accountability efforts, and provide key updates.

Civil society actors face challenges in communicating directly and quickly with the Court, which contributes to confusion and misunderstanding, and adds another layer to the reported lack of transparency. Despite the support and presence of networks such as the CICC and FIDH, our consultations for this report confirmed that communication lines and channels remain unclear and confusing especially when changes of personnel take place, as previously concluded in the IER final report.¹¹⁹ CSOs expressed the need for more clarity on staff portfolios and contacts of relevant staff, both at headquarters and in country offices.¹²⁰ Community-based CSOs appear to experience greater barriers to communicating with the OTP, especially in contrast to international CSOs with a presence in The Hague/Europe, which may contribute to perceptions of double standards and bias in the work of the Court. For example, a consulted CSO reported a lack of information sharing and transparency, coupled “with a dismissive approach towards NGOs, especially those working in situation countries.”¹²¹

Some CSOs observed that the Registry staff is often more accessible compared to the OTP. However, several CSOs pointed out that both organs tend to be more responsive than proactive in their respective approaches.¹²² The lack of proactive, consistent engagement across organs and teams is challenging as the CICC Secretariat or CSOs are left to dedicate much time and effort in pushing for interactions with no guarantee of follow-up from the Court. A lot can be built on the positive experience and practice of organs and teams reaching out to the CICC Secretariat to ensure the involvement of the network’s members in activities and meetings, thus relying on the network of partners built over the years in situation countries.

116. Survey 1, *supra* note 20; Workshop 1, *supra* note 32.

117. [IER Final Report](#), *supra* note 6, para. 384.

118. ICC, [ICC Prosecutor Karim A.A. Khan KC concludes visit to Venezuela, opens in-country office in Caracas](#), 24 April 2024.

119. [IER Final Report](#), *supra* note 6, para. 381.

120. Survey 1, *supra* note 20; Survey 2, *supra* note 25; Workshop 1, *supra* note 32.

121. Survey 1, *supra* note 20.

122. Workshop 2, *supra* note 29; Interview with an anonymous CSO 2, 6 September 2024.

“NGOs are pushing for initiatives and ways to engage when they themselves have limited capacity.”¹²³ – Arie Mora, Communications and Advocacy Manager, Legal analyst, ULAG

While some OTP staff are unresponsive, tend to communicate unclearly, or do not react in a timely manner, there are also very good examples of very communicative, respectful and proactive staff. CSOs noted this lack of consistency in their engagement with the Court, often depending on the persons in charge or long-term relationships built between the staff members and the CSOs or coalitions.¹²⁴ There is no guarantee that the same level of cooperation, policies, and practices will continue once those persons move to new positions. Many of these issues are the result of the lack of consistency and regular and proactive engagement across ICC organs and specific OTP teams.

Following the IER recommendations, in 2024 the OTP appointed the first-ever OTP Focal Point on Complementarity and Civil Society, within its External Affairs Unit. According to the OTP, the Focal Point offers the opportunity to enhance its strategic engagement with civil society, ensure continued engagement at the policy and strategic level, provide a point of contact for CSOs, and harmonise coordination and cooperation efforts across the board.¹²⁵

To achieve this, a sincere effort is needed to understand the varied roles and functions that civil society performs and to make good and consistent use of the existing civil society networks. In addition, some CSOs voiced concerns about the new Focal Point. According to a CSO representative, “there’s a risk of it becoming a gatekeeper”, making it even more difficult to engage with the OTP and filtering interactions, whereas the real role of the Focal Point should be to “improve the theory that the Office has of engagement from a monitoring and evaluation perspective.”¹²⁶

Many CSOs expressed the need for more regular engagement opportunities, agreeing on the importance of ongoing dialogue with the Court. The CICC Secretariat can help facilitate bilateral engagement between CSOs and the OTP heads of unified teams to discuss specific situations or issues. Additionally, CSOs identified the annual ICC-NGO Roundtables co-organised by the ICC and the CICC as an example of good practice because they offer an annual opportunity for information exchange and two-way dialogue with the Court, particularly for civil society working in situation countries.¹²⁷

As civil society views inclusivity and equity as essential to its relationship with the Court, translation and interpretation services at Court events and meetings are seen as fundamental for ensuring meaningful participation from a diverse range of civil society actors.¹²⁸ For example, this year’s Roundtables included sessions in Spanish and Arabic for the first time, with some Court staff participating in these languages. Remote participation was also offered as an option. This inclusive approach helped ensure that as many CSOs as possible from all regions of the world could participate and should thus be maintained as a permanent feature.

ICC policy consultations: lessons from the OTP/Eurojust Documentation Guidelines process

As indicated in previous sections, the ICC regularly invites civil society organisations to participate in consultations on policies and strategies, during which they share their expertise and insight on thematic and Situation-specific matters to assist in the development and improvement of these documents. For

¹²³. Workshop 2, *supra* note 29. Arie Mora, Communications and Advocacy Manager, Legal analyst, ULAG.

¹²⁴. Workshop 1, *supra* note 32; Survey 2, *supra* note 25.

¹²⁵. ICC OTP, email correspondence, 29 October 2024.

¹²⁶. Interview with an anonymous CSO 2, 6 September 2024.

¹²⁷. Bureau of the ASP, [Agenda and decisions, Fourth Meeting](#), ICC Website, 12 April 2023, p. 2.

¹²⁸. *Ibid.*

example, the OTP has recently increased public consultations on its new policies ahead of their launch, including those on slavery crimes,¹²⁹ environmental crimes,¹³⁰ complementarity and cooperation,¹³¹ and gender persecution.¹³²

However, consultations generally lack a systematic approach and remain very dependent on the staff or team in charge of organising them. This *ad hoc* approach has been evident in, for instance, the OTP's thematic roundtables, which have been organised by different special advisers and OTP teams. Some consultations lacked transparency on, for example, their occurrence, who was invited, and criteria on the basis of which invitations were circulated. This lack of clarity makes it difficult for CSOs to know how they can contribute when they have a thematic or regional expertise, and to understand the process behind specific consultations, placing an additional burden on them to find out. For example, one CSO reported a "lack of transparency in how NGOs can engage in specific consultations and inadequate notice period."¹³³ CSOs that are not closely engaged with the Court may lack feedback or response as to whether the input they provided was taken into account. A CSO, consulted for this report, suggested the ICC should be "more responsive to civil society input", while proposing the production of joint documents, such as a policy on intersectionality, as a way to enhance collaboration.¹³⁴

Despite efforts from CSO network to share information broadly, consultations that lack transparency may "feel secretive",¹³⁵ leaving those who are not invited feeling undervalued compared to others. Meanwhile, those who are invited might benefit from established relationships with the organisers. This might result in a preference for CSOs with a presence in The Hague or Europe over those working in situation countries. That being said, there have also been positive developments, such as the OTP's increased efforts to invite civil society actors to policy consultations in recent years, which demonstrates a growing recognition of the importance of civil society input in shaping effective and inclusive policies.

In general, good practice for policy consultations is to actively and consistently invite civil society actors to share their advice and expert inputs on policies, strategies, and guidelines. Importantly, civil society should be consulted from the early stages of drafting and well before these documents are finalised. Consultations can take place in person or virtually, which may facilitate more inclusive participation, or through written submissions, and require adequate notice periods as well as material available in several languages. Court organs should make use of opportunities to organise broader consultation processes, such as the annual ASP sessions or the ICC-NGO Roundtables, when many CSOs are already physically present.

While CSOs consulted for this report noted positive experiences in certain policy consultations, others felt that some of these rather constituted box-ticking exercises that were not very meaningful. For instance, CSOs raised concerns about the development of the practical guidelines for CSOs documenting international crimes and human rights violations for accountability purposes (Documentation Guidelines), launched by the OTP and Eurojust in 2022.¹³⁶ Despite CSOs being the primary users of these guidelines, the consultation process was seen as rushed and insufficiently inclusive of civil society, particularly of CSOs in ICC situation countries or countries where documentation is being done. According to the OTP, "[g]iven the surge of activity in certain areas, including in relation to the Situation in

129. ICC, [ICC Office of the Prosecutor launches public consultation on Policy on Slavery Crimes](#), 19 March 2024.

130. ICC, [The Office of the Prosecutor launches public consultation on a new policy initiative to advance accountability for environmental crimes under the Rome Statute](#), 16 February 2024.

131. ICC Office of the Prosecutor Launches public consultation on Policy on Complementarity and Cooperation, *supra* note 59.

132. ICC, [The Office of the Prosecutor launches public consultation on a policy initiative to advance accountability for gender persecution under the Rome Statute](#), 9 November 2022.

133. Survey 1, *supra* note 20. Anonymous CSO.

134. Survey 2, *supra* note 25. Valeria Babără, Legal and Advocacy Officer, WIGJ.

135. Interview with an anonymous CSO 2, 6 September 2024.

136. ICC, [ICC Prosecutor and Eurojust launch practical guidelines for documenting and preserving information on international crimes](#), 21 September 2022.

Ukraine, it was necessary to respond to ensure more effective coordination.”¹³⁷ However, this “top-down process caused more damage and hurt the relationship rather than the potential it had to strengthen CSO engagement with the OTP” and created an impression of paternalism, where CSOs are not valued for their expertise and are simply told how to do their work.¹³⁸

Although the Documentation Guidelines provide some insight into what the OTP and Eurojust consider important in documentation efforts, they fall short of providing a comprehensive resource for civil society. While they may be useful as an initial guide for CSOs new to this field, a CSO close to the process stressed that there is a risk that inexperienced CSOs might rely on these guidelines as comprehensive and definitive. This could lead to inadequate atrocity documentation, as these CSOs may mistakenly believe that they must strictly follow these incomplete guidelines, unaware of their limitations, resulting in a “licence to document poorly.”¹³⁹ On the other hand, the guidelines may offer little value to more experienced organisations.

The Documentation Guidelines were criticised for not clearly stating their purpose and clarifying what measures CSOs need to implement for their documentation to be considered and potentially admitted in ICC cases.¹⁴⁰ Additionally, a CSO consulted for this report noted that the guidelines suggest that the OTP encourages more documentation from CSOs, but lack clarity on what the working relationship between the OTP and CSOs entails after submitting information, creating false expectations.¹⁴¹

According to the OTP, the “guidelines were designed as a flexible, working document”, and while the guidelines have been helpful to some CSOs, it is committed to “discussing both the positive outcomes and any areas for improvement through the upcoming OTP-CSO Structured Dialogue, ensuring that any adjustments will continue to reflect guidelines for all involved.”¹⁴² To address the concerns expressed by CSOs, the guidelines should be revised based on feedback from CSOs regarding their practical usage and usability. The best practice of translating the guidelines into multiple languages, including Arabic and Ukrainian, should be maintained as it is essential for ensuring their wide dissemination but also for consultations of actors for the revision and feedback processes.

2.3 Inadequate ICC outreach, communication, and field engagement

“The ICC and the ASP have to complement and support the efforts of CSOs in the Philippines to fight the misinformation by the government itself and broaden the support for the ICC by the general public, the Filipinos, towards greater support for the work of the ICC.”¹⁴³ – Aurora Corazon A. Parong, Philippine Coalition for the International Criminal Court

ICC outreach has been defined as “a constructive and sustainable two-way interaction and information-sharing” between the ICC and the communities affected by Rome Statute crimes.¹⁴⁴ Such activities are essential from the very beginning of ICC involvement in situations, as soon as a PE has been opened. Despite widespread recognition that outreach is fundamental to the Court’s work and an integral part of its mandate, this area is chronically underfunded.

137. ICC OTP, email correspondence, 29 October 2024.

138. Interview with an anonymous CSO, 19 September 2024.

139. Interview with an anonymous CSO, 19 September 2024.

140. Interview with an anonymous CSO, 19 September 2024.

141. Workshop 1, *supra* note 32.

142. ICC OTP, email correspondence, 29 October 2024.

143. Workshop 2, *supra* note 29. Aurora Corazon A. Parong, Philippine Coalition for the International Criminal Court.

144. FIDH and No Peace Without Justice, ‘Outreach to Victims, Affected Communities and Civil Society: An Analysis of Prosecutor Bensouda’s Legacy at the ICC’, December 2021, p. 5; see also: [Mission: Outreach - Engaging with people most affected by crimes, ICC Website](#).

While the Registry is responsible for outreach and delivering neutral information about and on behalf of the Court as a whole, other Court organs and actors, such as the OTP and the TFV, are also involved in outreach efforts. Civil society actors also play an important role in enhancing the Court's outreach and disseminating accurate information about the Court's mandate, cases, and judicial proceedings to affected communities and in managing expectations.¹⁴⁵ For example, according to Maria Mabinty Kamara, Public Information and Outreach Officer for Uganda, ICC Registry: "The work of CSOs is very crucial- including the meaningful, critical gains we made in Uganda, which were highly based on strong partnerships we had with CSOs at the grassroots level."¹⁴⁶

However, the involvement of numerous Court actors has created confusion about their respective roles and the specific meaning of 'outreach' as opposed to the broader notion of public information that does not require reciprocal interaction.¹⁴⁷ Moreover, some CSOs noted that coordination between the Registry and the OTP appears unclear and called for stronger cooperation, including to ensure consistent messaging.¹⁴⁸ As reported by FIDH and No Peace Without Justice, these issues have in the past contributed to the spread of misinformation and a lack of understanding about the Court's activities. They also impede civil society's ability to provide accurate and timely information to affected communities and victims.¹⁴⁹

Civil society has long advocated for the Court to increase and improve its outreach and communication strategies and has urged States Parties to allocate adequate resources to Court-wide outreach as early as possible in the Court's activities in a given situation. This includes ensuring not only an adequate budget but also sufficient staffing to manage all situations and to communicate effectively in local languages. Similar concerns were echoed in the IER experts' report.¹⁵⁰ The experts noted that the "absence or insufficiency of active outreach and communication places the burden on civil society" to fill this information gap.¹⁵¹ As a result, CSOs are left to keep affected communities informed about Court developments, combat incorrect or false information about the Court, and manage expectations without support or guidance.¹⁵²

For example, Redress, consulted for this report, identified the need for situation-specific, easy-to-read guides in different languages tailored to specific victims' groups in situation countries. The organisation piloted two such guides in relation to Sudan and more recently Ukraine, with a view to working on more. This initiative addressed a gap in the Court's outreach efforts that left many victims unclear about how to engage with the Court and what to expect. The guides aim to raise awareness of the Court's proceedings and victims' rights, while also seeking to prevent misinformation and manage expectations about what the Court can and cannot do. The VPRS was supportive of the CSO's initiative and offered to provide input.¹⁵³ That said, while collaboration with CSOs is essential to ensure that information and formats are appropriate for particular communities and contexts, the Court itself must prioritise and take responsibility for core outreach activities and informing victims about their rights.

145. Workshop 2, *supra* note 29.

146. Interview with Maria Mabinty Kamara, Public Information and Outreach Officer for Uganda, ICC Registry, 20 September 2024.

147. FIDH and No Peace Without Justice, *supra* note 144, p. 5.

148. Workshop 2, *supra* note 29. See also [IER Final Report](#), *supra* note 6, paras. 386, R163 in which IER experts recommend a cross-organ, coordinated communications strategy.

149. FIDH and No Peace Without Justice, *supra* note 144, p. 12.

150. See [IER Final Report](#), *supra* note 6, para. 398 in which the experts note the "minuscule" resources allocated to outreach strategies in situation countries.

151. *Ibid.*, paras. 392, 395.

152. *Ibid.*, para. 395; Workshop 2, *supra* note 29.

153. Workshop 2, *supra* note 29. Julie Bardèche, Senior Legal Advisor, REDRESS.

Other challenges arise for civil society due to delays in the Court's implementation of outreach activities even when requested by the judges as seen in the Situation in the State of Palestine.¹⁵⁴ The importance of early outreach, as soon as a preliminary examination is announced, is based on the lessons learnt from the *ad hoc* international criminal tribunals and has long been recognised by the ASP.¹⁵⁵

Additionally, adequate Court-wide field presence is important to ensure that communication to affected communities is meaningful and to strengthen engagement with civil society operating on the ground.¹⁵⁶ During a Review Mechanism meeting in April 2023, some CSO representatives highlighted the absence of genuine field presence as a challenge in their relationship with the Court.¹⁵⁷ Moreover, a Ukrainian CSO, consulted for this report, experienced a lack of openness from the OTP about its field office operation with civil society, whose members are in direct contact with victims and can provide an important perspective on conflict-related justice in the country.¹⁵⁸

While civil society actors can complement the Court's outreach efforts through their relationships with local communities, "they cannot replace the Court, which holds a unique authority and mandate."¹⁵⁹ Effective communication through the Court's official channels is therefore crucial for supporting civil society's efforts in countering the spread of misinformation and propaganda campaigns, particularly in hostile countries that seek to exploit such information gaps or where the ICC involvement is not welcome.

Reliance on CSOs to fill such critical gaps risks overburdening civil society, diverting their resources from other essential activities, and undermining the Court's capacity to effectively engage directly with affected communities in a sustainable and consistent manner.

CSOs consulted for this report consistently emphasised the need for increased outreach support and official information from the ICC. For example, the Court should provide information about its mandate and activities in the local languages of the situation country, while also tailoring it to the specific needs of affected communities, including those that are part of the diaspora. This may involve translating documents into Arabic, Spanish, or other relevant languages and dialects, depending on the specific country context.¹⁶⁰

For example, the Court shared a decision on the Situation in the Philippines in English and in Filipino language, which significantly helped to disseminate this information in the country.¹⁶¹ Moreover, the ability of Registry and OTP staff members to speak diverse languages or dialects is a valuable asset for effectively disseminating information and communicating with affected communities.¹⁶² For example, until recently, there was no Arabic-speaking staff in the Court's PIOS. It has been noted as particularly problematic in the situation in Libya, along with the lack of systematic translation of documents pertaining to the Situation. The absence of information in Arabic had a huge impact on the Libyan population, affected communities, and victims in terms of their perception of the Court, its role, and the role of the OTP specifically, leading to a lot of frustration about what the Court can and cannot do.¹⁶³

154. [IER Final Report](#), *supra* note 6, paras. 387, 393-395, R164.

155. See ASP, [Resolution ICC-ASP/12/Res.8 - Strengthening the International Criminal Court and the Assembly of States Parties, 27 November 2013](#), para. 44 demonstrating the ASP's recognition - over a decade ago - of the need for early outreach from the beginning of the Court's involvement, including during PEs.

156. [IER Final Report](#), *supra* note 6, paras. 198, R82, 562-563, R205, 780-781; R293; see also Mariana Pena, [IER Blog Series: The ICC's Engagement with Local Communities](#), *International Justice Monitor*, 25 February 2021.

157. ASP, [Agenda and decisions, Fourth Meeting](#), 12 April 2023, p. 2.

158. Survey 1, *supra* note 20.

159. Interview with Matias Hellman, Acting Head of Outreach, ICC Registry, 20 September 2024; see also [Syria Justice and Accountability Centre](#), *supra* note 21, p. 8.

160. Workshop 2, *supra* note 29.

161. Workshop 2, *supra* note 29.

162. FIDH and No Peace Without Justice, *supra* note 144, p. 8.

163. Workshop 2, *supra* note 29.

2.4 Unclear use and regulation of intermediaries

“The Intermediaries Guidelines seem to have been left to gather dust on the shelf, despite all the resources invested by both civil society and the Court into their development.”¹⁶⁴
– Mariana Pena, Director of Litigation Outreach, OSJI

The ICC collaborates with certain civil society actors as so-called ‘intermediaries’ to facilitate its field activities in the various countries in which it operates. Leveraging their proximity to affected communities and victims, intermediaries bring local knowledge and expertise to investigations, support outreach and public information activities, facilitate communication with victims and witnesses, and serve as a liaison for victim participation and reparations.¹⁶⁵ Their diverse and valuable roles mean that various Court organs and actors may rely on intermediaries’ contributions, such as the OTP, the Registry’s PIOS and VPRS, the TFV, and victims’ legal representatives.¹⁶⁶ Nonetheless, their use has not been without controversy.

Serious concerns about alleged misconduct and witness interference by intermediaries emerged in the Court’s first case against Thomas Lubanga Dyilo in 2008.¹⁶⁷ Civil society strongly advocated to regulate and clarify the relationship between the Court and intermediaries. In particular, various CSOs called for the adoption of a consistent, Court-wide policy on intermediaries and to afford them the necessary support and assistance to effectively perform their duties.¹⁶⁸ In March 2014, the Court eventually adopted the Guidelines Governing the Relations between the Court and Intermediaries for the Organs and Units of the Court and Counsel working with intermediaries (Intermediaries Guidelines), along with a Model Contract and Code of Conduct for intermediaries.¹⁶⁹ The guidelines seek to provide transparency and clarity for those collaborating with the Court, including by providing guidance to the Court on selecting intermediaries, formalising relationships, supporting intermediary duties, and providing security and protection.¹⁷⁰

While the adoption of this regulatory framework was welcomed as a milestone, initial consultations with civil society for this report revealed a notable lack of awareness and understanding among CSOs regarding the use of intermediaries, the existence of the guidelines, and their practical application, including who is even recognised as an intermediary.¹⁷¹ Similarly, in prior consultations carried out by FIDH and No Peace Without Justice, most CSOs were unaware of the existence of the guidelines. Even the few CSOs familiar with the guidelines lacked clarity on how intermediaries are selected and their respective rights and obligations.¹⁷² In addition, as the guidelines are not binding on the Court, there is confusion about whether and to what extent the different Court organs or units and Counsel apply the guidelines in practice.¹⁷³ While under the guidelines the Court may appoint focal points for

¹⁶⁴ Interview with Mariana Pena, Director of Litigation Outreach, OSJI, 6 September 2024.

¹⁶⁵ [Intermediaries Guidelines](#), *supra* note 17, Annex 1, p. 1; See also ICC, [‘Questions and Answers - The Court’s engagement with intermediaries’](#).

¹⁶⁶ [Intermediaries Guidelines](#), *supra* note 17, Annex 1.

¹⁶⁷ OSJI, [‘Intermediaries and the International Criminal Court: A Role for the Assembly of States Parties’](#), December 2011, pp. 1, 3.

¹⁶⁸ FIDH, [‘ICC Review Conference: Renewing Commitment to Accountability’](#), May 2010, p. 11.

¹⁶⁹ [Intermediaries Guidelines](#), *supra* note 17; ICC, [Model contract for intermediaries](#), March 2014.

¹⁷⁰ [Intermediaries Guidelines](#), *supra* note 17, p. 3.

¹⁷¹ Workshop 2, *supra* note 29; see also [IER Final Report](#), *supra* note 6, para. 382 appearing to suggest that CSOs collaborating with the OTP “fall outside the category of intermediaries.”

¹⁷² FIDH and No Peace Without Justice, *supra* note 145, p. 9.

¹⁷³ See [Intermediaries Guidelines](#), *supra* note 17, pp. 6, 10: The guidelines seem to apply automatically only to intermediaries acting within a contractual relationship with the Court. However, intermediaries may also cooperate with the Court outside the framework of a contract.

communication with intermediaries, no clarity exists whether this has in fact happened.¹⁷⁴ These issues raise a variety of ethical, safety, and security concerns.

Interviews with ICC officials from the OTP and Registry confirmed that the Court regularly relies on civil society as intermediaries in their activities. For example, regarding the engagement with intermediaries, including CSOs, Maria Mabinty Kamara, Public Information and Outreach Officer for Uganda, ICC Registry, shared that:

“We see them as partners of joint projects. We have close to 60 of them, in different villages, and they help us implement outreach activities, for example by bringing the communities together in meetings, and for the listening club screenings about the cases. They are sometimes intermediaries for the common legal representatives, and for the VPRS. We follow the intermediary guidelines, and we give them remuneration. In terms of numbers specific to this project, we’re talking about 60, but overall we have a database of close to 150.”¹⁷⁵

The implementation of the guidelines was supposed to be monitored and reviewed. The guidelines state that they were to be updated based on the outcome of this review, but a decade after adoption, no review appears to have occurred. Moreover, it remains unclear whether any oversight mechanism regarding the use of intermediaries exists.¹⁷⁶ The allegations that recently arose regarding false testimonies provided by an intermediary in the Alfred Yekatom trial raise pressing questions about the guidelines’ effectiveness.¹⁷⁷ OTP and Registry staff consulted for this report agreed that, as the guidelines reach their 10-year anniversary in 2024, it is timely to revisit their terms and evaluate their implementation in the light of the practices and experiences with intermediaries accumulated by Court organs and actors over the years.

2.5 Internal constraints and obstacles faced by civil society

Civil society actors are confronted with numerous constraints, obstacles, and other challenges to effectively engage with the Court, in the Rome Statute system, and in accountability efforts more generally. A major challenge confronting civil society is the issue of limited financial resources and donor availability to finance justice-related projects. According to a CSO representative consulted for this report, there is a significant decline in donor interest and available funding for civil society working on international justice, compared to the early days of the Court.¹⁷⁸ For example, community-based CSOs may face budget constraints to sustain long-term efforts to document and preserve information on international crimes and engage with the Court, including to travel and attend important moments for engagement with Court staff and States Parties, such as the ICC-NGO Roundtables or ASP sessions.¹⁷⁹

Donors provide less core funding, which offers flexibility and allows CSOs to develop their own strategies, to choose areas of engagement, and, most importantly, to react to unforeseen developments. The shift towards project-based funding has made civil society work very output driven, significantly affecting how they engage with the Court and posing new challenges to their activities.¹⁸⁰ Project-based funding can also be restricted in time, depending on donors’ interest or developments in the world, while the justice process and progress is a medium- to long-term endeavour that requires sustained and consistent

174. [Intermediaries Guidelines](#), *supra* note 17, p. 10.

175. Interview with Maria Mabinty Kamara, Public Information and Outreach Officer for Uganda, ICC Registry, 20 September 2024.

176. [Intermediaries Guidelines](#), *supra* note 17, p. 18.

177. Janet H. Anderson and Margherita Capacci, [The Controversy on ‘Intermediaries’ Hits Back in the ICC Yekatom Trial](#), *Justiceinfo.net*, 11 January 2024.

178. Interview with an anonymous CSO, 6 September 2024.

179. Workshop 1, *supra* note 32; Survey 2, *supra* note 25.

180. Interview with an anonymous CSO, 6 September 2024.

support. The limited availability of funding for justice work can also lead to unnecessary competition and tension among the CSO community that are seeking funding from the few same donors.¹⁸¹ Additionally, civil society's lack of capacity to respond to large grants due to bureaucratic requirements could limit its access to such opportunities. Private donors and states should consider the realities of justice work and allow for opportunities for flexible funding for CSOs and HRDs, particularly those in situation countries.

CSOs may also lack the capacity and resources to consistently engage in all ongoing meetings, processes, consultations, and cases at the Court as well as in ASP meetings. This has required certain CSOs to make deliberate choices about which areas to prioritise in their work, consequently limiting their engagement. This may result in important areas of civil society work being inadvertently overlooked. As described above, for example, according to Mariana Pena, OSJI Director of Litigation Outreach, a concerning gap has emerged in civil society's consistent and overall monitoring of the Court's proceedings, owing to resource and capacity constraints as well as the expansion of the Court's work to 17 situations. This gap in a critical area of work risks limiting CSOs' ability to pick up and advocate for the Court's evolving jurisprudence and emerging issues of concern.¹⁸²

CSOs and HRDs may also experience practical challenges in interacting with the Court and accessing justice fora, for example due to poor internet connection and blackouts, making it difficult to communicate with the Court and access online materials and information.¹⁸³ As the Court's working languages are English and French, civil society may struggle to communicate with ICC teams lacking internal capacity in local languages, as well as to disseminate the Court's official information in situation countries or follow Court proceedings.¹⁸⁴ Moreover, civil society actors may be limited by travel restrictions and complex visa processes or requirements, including expensive and demanding visa application processes to travel to the ICC's headquarters in The Hague, despite the Netherlands being legally bound under Article 40 of the 'Headquarters Agreement' to facilitate these formalities.¹⁸⁵ These challenges are even more pronounced for meetings and events at UN headquarters in New York City, where the ASP session takes place every three years.¹⁸⁶ Facilitating remote participation or online bilateral meetings is essential to ensure inclusive and equitable civil society participation. While they do not replace in person interactions and networking, such measures can help overcome barriers of geographical distance and bureaucratic hurdles.

To strengthen their engagement with the Court, civil society actors can benefit from training and capacity-strengthening initiatives, for example, on best practices on documenting Rome Statute crimes.¹⁸⁷ Insufficient knowledge and training negatively affects the quality of their documentation and the likelihood of the information being used in ICC (or other) proceedings and processes. Another challenge is poor coordination of documentation efforts between CSO documenters and with the accountability mechanisms they are documenting for, which risks leading to over- or under-documentation and potentially the use of harmful documentation methods.¹⁸⁸ Collaboration between CSOs can be challenging due to their differing objectives in documenting international crimes, which range from advancing truth-telling and accountability, building a collective memory, advocating for policy

181. Chaikel, Pillai, and Sachithanandan, *supra* note 13, pp. 20.

182. Interview with Mariana Pena, Director of Litigation Outreach, OSJI, 6 September 2024.

183. Survey 1, *supra* note 20.

184. Workshop 2, *supra* note 29.

185. ICC, [Headquarters Agreement between the International Criminal Court and the Host State](#), 1 March 2008, art. 40.

186. Survey 1, *supra* note 20; Workshop 1, *supra* note 32.

187. Survey 2, *supra* note 25; [IER Final Report](#), *supra* note 6, paras. 383, R158.

188. Maaïke Matelski, Rachel Dijkstra, and Brianne McGonigle Leyh, "Multi-Layered Civil Society Documentation of Human Rights Violations in Myanmar: The Potential for Accountability and Truth-Telling", 14 *Journal of Human Rights Practice*, Issue 3, November 2022, pp. 794–818, at pp. 805-806; Federica D'Alessandra, "The Ten-Year Revolution: Civil Society Documentation in International Criminal Justice", 22 *Journal of International Criminal Justice* 2, May 2024, pp. 311–327, pp. 324-325; Chaikel, Pillai, and Sachithanandan, *supra* note 13, pp. 20-21.

change, to providing services to victims.¹⁸⁹ These objectives may also not align with the mandates of international justice mechanisms.

International justice CSOs also need to address and overcome harmful internal power structures and insufficient inclusion. This means recognising and tackling the deep-rooted issues of colonial attitudes and a “harmful dominant culture” that prioritises “punitive approaches” over more holistic, community-driven forms of justice. Azarova, Ghahremani, Jordana, *et al.*, describe how organisations often default to retributive, punitive approaches that focus on holding individuals criminally accountable through legal systems. This approach often overlooks the transformative, healing-based methods needed to address the root causes of violence and oppression. These dominant practices limit genuine engagement with the communities most affected by mass atrocities, sidelining their voices, needs, and knowledge. As a result, international justice efforts risk becoming disconnected from the people they aim to support and fail to push for the systemic change necessary to dismantle oppressive structures and prevent future harms.¹⁹⁰

2.6 Security risks and protection of CSOs and HRDs

“The threats to civil society and the Court are higher than in the early years of the Court’s operations so that civil society is more exposed to threats and the Court cannot access certain areas.”¹⁹¹ – Greta Barbone, Outreach Policy Officer, ICC Registry

In many countries, HRDs and CSOs face serious security risks and threats because of their engagement with the Court and their broader advocacy for victims’ access to justice. They increasingly suffer from threats, harassment, sanctions, and intimidation campaigns from actors seeking to derail their crucial efforts in the struggle for justice and accountability in countries around the world. HRDs are often at the forefront of justice efforts, documenting Rome Statute crimes, engaging with affected communities and victims, and advocating the ICC to step in to end impunity or in defence of the Court’s own independence. Their work frequently puts their personal freedom, security, and even their lives at risk, especially for those HRDs active in ICC situation countries, as well as their families and colleagues. In the current climate of shrinking civic space, intense political pressure, and threats, civil society has consistently stood firm in support of the Court.¹⁹² Attacks against civil society actors and HRDs not only threaten to undermine their own efforts and well-being but also aim at affecting their contribution to the Court’s work and progress, including its investigations, outreach, and communication with victims and witnesses.

For several years, Rome Statute system actors including states have recognised the critical role of HRDs and civil society, and the need to support them when threatened or at risk of reprisals for their work on the Court or for engaging with the ASP. CSOs consulted for this report voiced a strong need for the Court and States Parties to acknowledge the targeting of HRDs, implement protective measures, speak up in defence of HRDs, and ensure safe spaces for their participation in the Rome Statute system.¹⁹³

189. Brianne M. Leyh, “Using Strategic Litigation and Universal Jurisdiction to Advance Accountability for Serious International Crimes”, 16 *International Journal of Transitional Justice* 3, November 2022, pp. 363-379, p. 369; Chaikel, Pillai, and Sachithanandan, *supra* note 13, p. 13.

190. Valentina Azarova, Amanda Ghahremani, Ashley Jordana, Alexandra Lily Kather and Lisa-Marie Rudi, “Towards a Counterculture of International Justice”, 22 *Journal of International Criminal Justice* 2, May 2024, pp. 403–427, pp. 405, 411, 417.

191. Interview with Greta Barbone, Outreach Policy Officer, ICC Registry, 20 September 2024.

192. See ICC, [Measures taken following the unprecedented cyber-attack on the ICC](#), 20 October 2023; HRW, [‘Biden Should Oppose US Sanctions on ICC’](#), 30 April 2024.

193. Workshop 2, *supra* note 29.

CSO representatives noted that even the simple measure of referring to the role of civil society and HRDs in Court and ASP statements can help keep civic space open and assist in protection strategies.¹⁹⁴ Specific Court organs, such as the OTP, should also consider the security of CSO representatives and HRDs in all their interactions and raise their profile in public statements and other relevant opportunities, including during ICC leaders' visits to countries. These demands for the protection and defence of HRDs and civil society are regrettably not new but will likely expand with the Court's reach and activities moving to new situations and regions of the world in an increasingly shrinking civic space globally.

"We tried to push the Court to issue a general statement about human rights defenders in the world and how they face attacks and threats, but it was rejected by the Court. There is so much to be done."¹⁹⁵ – Ahmed Abofoul, Legal Adviser, Al Haq

Following civil society advocacy on this issue in the past years and in particular at the 21st session of the ASP in December 2022, then ASP President, Silvia Fernández de Gurmendi, reiterated that the ASP and the ICC "have a shared responsibility to promote and protect the goals and work of the Court, including from any threats or attacks against the Court itself, its officials, or those cooperating with it."¹⁹⁶ In addition, following discussions and consultations held throughout 2023, ICC States Parties endorsed the "Guidelines for enhancing the security of participants in the work of the Assembly" (adopted by the Bureau on 4 October 2023).¹⁹⁷ These guidelines should ensure that HRDs can engage with the ASP safely.¹⁹⁸ In December 2023, the ASP also adopted the following new language in the Omnibus resolution: "Call[ing] upon all States to refrain from any acts constituting attacks, threats, intimidation or reprisals against participants in the work of the Assembly", and tasked its Bureau "to continue developing measures to this effect in consultation with States Parties, the Court and civil society, and to report to the Assembly at its twenty-third session" (in December 2024).¹⁹⁹

The key challenge now is to ensure that the Court and the ASP effectively implement these measures, in consultation with CSOs and HRDs most at risk. In addition to implementing protection measures, States Parties should actively take steps to promote and safeguard civic space and effective participation of civil society in ASP meetings and events. This is essential, especially in light of attempts by certain States Parties to limit civil society's participation and influence in ICC activities.²⁰⁰

194. Workshop 2, *supra* note 29; Bureau of the ASP, '[Agenda and decisions, Fourth Meeting](#)', 12 April 2023, pp. 1-2.

195. Workshop 2, *supra* note 29, Ahmed Abofoul, Legal Adviser, Al-Haq.

196. [ASP21: Ninth plenary meeting - Closure of the session, 9 December 2022](#), *YouTube*; see also ASP, [Tenth Meeting](#), 2 December 2022; Coalition for the International Criminal Court, [Statement for Cooperation Plenary ASP22, 8 December 2023](#).

197. ASP, '[Agenda and decisions, Ninth Meeting](#)', 4 October 2023, Appendix.

198. [Statement for Cooperation Plenary ASP22, 8 December 2023](#), *supra* note 196.

199. [All you need to know about the 22nd session of the Assembly of States Parties of the ICC](#), *supra* note 52.

200. FIDH, '[The Rome Statute at 25: Making Victim-Centred Justice work at the ICC](#)', December 2023, pp. 12-13.

3. Recommendations: The Way Forward



The following recommendations outline essential practices that ICC organs, units, and actors should implement to foster strong, two-way relationships with civil society as a trusted partner in the fight against impunity for Rome Statute crimes. Many represent minimum standards, grounded in best practices and informed by civil society's positive experiences with certain Court staff and teams. Consistently applying these practices is crucial to enhancing the Court's collaboration with CSOs and HRDs worldwide.

3.1 Ensure ongoing, systematic, and trust-based engagement between the ICC and civil society

To the ICC and TFV:

- **Consistently recognise and promote civil society as a critical and trusted partner, not just an information source or link to victims and witnesses, fostering genuine two-way engagement in the global fight against impunity.** This includes referring to the role of civil society and human rights defenders in ICC/OTP statements and social media to help maintain civic space and, in some cases, assist in protection strategies for those CSO representatives and human rights defenders or activists under threat.
- **Proactively engage with civil society in regular, meaningful two-way engagement through responsive communication and meetings, inclusion in key activities and consultations, field visits of ICC leadership and staff, particularly with organisations in situation countries.** Make use of existing extensive networks such as the CICC Secretariat that can serve as a key facilitator in connecting Court organs with civil society and supporting engagement efforts, including organising meetings during ICC visits.
- **Provide regular and timely updates and information on significant Court developments,** including the completion of activities or investigations, to foster transparency, build trust, incorporate the perspectives of victims and affected communities, and empower civil society to respond and react effectively.
- **Consistently consult civil society on policies, strategies, and guidelines during their development and before finalisation.** Depending on the scope and topic, these consultations can be in-person, such as one-day roundtables, or virtual, supplemented by written submissions. Direct consultations, whether in-person or virtual, are key to fostering inclusivity and sharing of information with CSOs. Minimum standards for diversity, equity, and inclusiveness, as outlined below, should guide these processes.
- **Establish feedback and monitoring mechanisms to regularly evaluate the effectiveness of the Court's engagement with civil society,** and to address longstanding challenges and identify opportunities for stronger collaboration. Mechanisms can be established within existing frameworks including the ICC-NGO Roundtable meetings to discuss progress and concerns.
- **Consult with other international mechanisms,** such as the IIIM, which is broadly recognised as having a best practice model for civil society engagement in the international justice field, offering valuable insights for meaningfully collaborating with CSOs.

Specific modalities to ensure diverse, equitable, and inclusive participation of civil society:

- > **Engage equally with different CSOs** by ensuring that national and grassroots organisations, regardless of size or location, can participate alongside larger, international actors, in particular those in or focused on situation countries.
- > **Facilitate multilingual access** by providing funding for interpretation services and translating communications and documents into all relevant languages well in advance of meetings and events, ensuring materials are clear, accessible, and free from overly technical language.
- > **Provide sufficient advance notice and reasonable timelines** for meetings and consultations, to ensure CSOs have enough time to secure funding, visas, and prepare written input, while addressing financial barriers through partnerships with international organisations, governments, or philanthropic entities.
- > **Allow for flexible written contributions** by providing civil society actors the opportunity to submit inputs in simple, accessible formats, such as basic text documents, particularly those supporting victims, documenting Rome Statute crimes, and carrying out other related activities in situation countries.
- > **Develop accessible platforms** including user-friendly online tools and databases to ensure access to information, documents, court proceedings, and updates in multiple languages, while also meeting the needs of persons with disabilities.

To the Office of the Prosecutor:

- **Ensure the Prosecutor, Deputy Prosecutors, and OTP officials engage with civil society during official visits to situation countries, regional capitals, and international hubs.** Provide advance notice and arrange pre-visit briefings to inform plans and expectations. When in-country meetings are not feasible, schedule virtual briefings or debriefings to maintain communication.
- **Proactively organise regular meetings between civil society and the OTP unified teams to discuss specific situations or issues.** Make use of existing networks and platforms, such as the CICC Secretariat to assist in organising and maintaining ongoing bilateral engagements and meetings.
- **Improve access to OTP staff to civil society by increasing transparency about staff portfolios and ensuring each unified team designates a known focal point who is accessible to CSOs, with the ability to communicate in relevant languages.** This includes providing the CICC Secretariat with a contact list of International Cooperation Advisers from all unified teams.
- **Ensure clarity in the OTP's engagement with civil society on Article 15 communications and investigations,** outlining what CSOs can expect in the process (e.g., OTP responses, timeframes, and guidance on the content itself, including what to include or exclude) and what is generally expected from CSOs when sharing information potentially relevant to preliminary examinations, investigations, and prosecutions. To achieve this, enhance the OTPLink portal on the ICC website with detailed explanations of Article 15 processes to help CSOs better understand their role, reduce misunderstandings, manage expectations, and ultimately provide more focused, relevant contributions.
- **Provide timely feedback to trusted CSO partners before they document alleged Rome Statute crimes and after they submit Article 15 communications,** offering clear guidance on what the OTP

considers most relevant (e.g., areas to document, types of crimes, categories of witnesses) and regular updates on activities and progress within the bounds of confidentiality. Such efforts foster deeper trust, enable CSOs to tailor their contributions more effectively, and strengthen collaboration to support the OTP's work.

- **Commit to regular and detailed public reporting on preliminary examinations, investigations, and support for national proceedings** (complementarity efforts), including for previously designated 'phase 1 situations,' to enhance transparency and accountability, and to enhance justice efforts and progress in situations.
- **Update the Documentation Guidelines through meaningful consultations with community-based and international CSOs**, who are the intended users, incorporating their experiences, expertise, and needs. Ensure the updated Guidelines are practical and effective for both CSOs and the OTP.
- **Include civil society in key ICC and accountability fora**, such as the global Complementarity and Cooperation Forum to strengthen collaboration and maximise impact.

3.2 Increase and strengthen outreach, communication, and field engagement

To ICC States Parties:

- **Ensure adequate resourcing for Court-wide outreach activities, in particular the Registry, to deliver effective and neutral outreach activities, including sufficient staff to cover all situation countries and the ability to communicate in relevant languages.** Promote and support outreach activities in line with the core mandate of the Court, to prevent the Court losing credibility and trust, as victims and civil society may lack understanding of its work and activities, leading to misinformation, and unmet expectations.

To the ICC:

- **Begin outreach activities at the earliest stages of the Court's engagement in all situations** (including preliminary examinations), by developing a clear strategy and conduct tailored activities, in consultation with civil society. Early outreach helps manage expectations, builds support for the Court's work, and ensures victims and civil society are engaged from the outset.
- **Produce accessible, country-specific materials tailored to each situation**, disseminated through multiple mediums, and translated into relevant languages and dialects, to ensure the dissemination of accurate information about victims' rights and the Court's processes, and empower communities to engage meaningfully with the ICC.
- **Enhance cooperation in outreach and public information activities by coordinating consistent messaging** and clarifying the respective roles of the ICC organs in organising outreach activities and disseminating messages. Coordinated outreach ensures victims and civil society receive clear and unified messages, reducing confusion and misinformation.
- **Increase field presence and engagement, either through field staff and offices or virtually**, and establish standing meetings with civil society in situation countries throughout all stages of ICC proceedings. Regular engagement fosters collaboration, supports evidence collection, and builds trust with local communities.

- **Clarify the OTP's role and mandate in outreach activities** to ensure that victims and civil society understand how to engage with the OTP, and to contribute to investigations, and align expectations about the Court's processes and limitations.
- **Communicate effectively and timely around important developments and during official visits** by ensuring information is provided in relevant languages to counter misinformation and reduce the burden on civil society, which often steps in to fill the communication gap left by the Court.

3.3 Evaluate and clarify the role of ICC Intermediaries

To the ICC and TFV:

- **Ensure clarity and transparency on the use of the Intermediaries Guidelines by making them known to civil society and clearly explaining how they are applied by different organs, units, and external counsel.** This should include whether oversight or monitoring mechanisms are in place to ensure consistent and effective use of intermediaries.
- **Update the Intermediaries Guidelines after meaningful consultations with civil society and other stakeholders to reflect current challenges and practices.** A comprehensive evaluation of their implementation and effectiveness, a decade after their adoption, should identify gaps in both policy and practice to ensure the guidelines are fit for purpose and enhance collaboration with intermediaries.

3.4 Ensure security and protection for civil society and human rights defenders

To the ICC and ICC States Parties:

- **Promote and defend the role of CSOs and HRDs in the Rome Statute system** by highlighting their contributions in statements, relevant fora, and with the media, and condemn threats, reprisals, and sanctions by any actor. Publicly acknowledging the critical role of CSOs and HRDs helps maintain open civic space and, in some cases, strengthens protection strategies for those facing threats.
- **Provide safe and accessible spaces for CSOs and HRDs to engage with the ICC and the ASP** by developing protection strategies and measures to address reprisals against CSO representatives, human rights defenders, and activists, in consultation with them. Protect civic space at the ICC and ASP, ensuring accessibility for CSOs and HRDs actively supporting the Court and promoting the Rome Statute's integrity and independence. This includes facilitating physical access to the Court, ASP sessions, and meetings.
- **Clarify the role of the OTP and the Court as a whole in protection efforts** by specifying the circumstances under which they can assist. While recognising its limited capacity for direct protection, the OTP should contribute to the development of tailored protection strategies led by other actors, ensuring these measures address the specific needs of CSOs and HRDs operating in contexts where the OTP is active.

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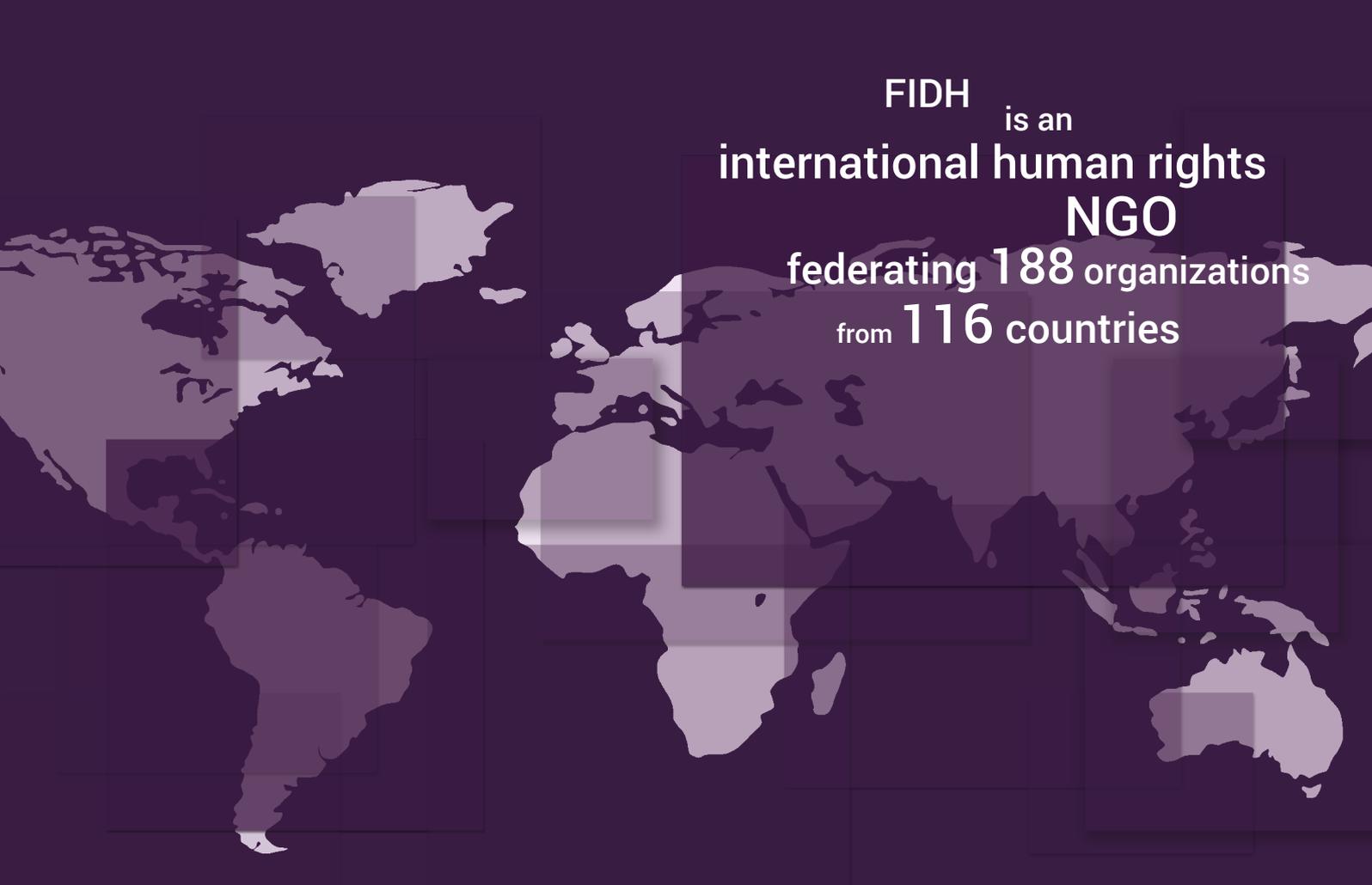
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