



PRELIMINARY EXAMINATIONS AT THE ICC: AN ANALYSIS OF PROSECUTOR BENSOUDA'S LEGACY

fidh

TABLE OF CONTENTS

| | |
|---|----|
| PREFACE..... | 4 |
| I. INTRODUCTION..... | 5 |
| METHODOLOGY..... | 6 |
| II. PROSECUTOR BENSOUDA'S APPROACH TO PRELIMINARY EXAMINATIONS..... | 7 |
| THE 2013 POLICY PAPER ON PRELIMINARY EXAMINATIONS..... | 7 |
| PRELIMINARY EXAMINATIONS IN PRACTICE FROM 2012-2021..... | 8 |
| III. ACHIEVEMENTS AND OPPORTUNITIES FOR IMPROVING PRELIMINARY EXAMINATIONS..... | 12 |
| THE WORKING METHODS OF THE OFFICE OF THE PROSECUTOR..... | 12 |
| <i>Achievements</i> | 12 |
| <i>Opportunities for improvement</i> | 13 |
| TRANSPARENCY..... | 15 |
| <i>Achievements</i> | 15 |
| <i>Opportunities for improvement</i> | 16 |
| COMMUNICATION WITH CIVIL SOCIETY..... | 17 |
| <i>Achievements</i> | 17 |
| <i>Opportunities for improvement</i> | 17 |
| IV. RECOMMENDATIONS..... | 19 |
| THE WORKING METHODS OF THE OFFICE OF THE PROSECUTOR..... | 19 |
| TRANSPARENCY..... | 19 |
| COMMUNICATION WITH CIVIL SOCIETY..... | 19 |

PREFACE

After a nine-year mandate as the Prosecutor of the International Criminal Court, Fatou Bensouda stepped down on 16 June 2021. This paper is part of a stocktaking exercise, conducted by FIDH, on progress and setbacks during Prosecutor Bensouda's term (2012-2021). The research will be published as a series of three papers, each of them focusing on an area key to the work of the Office of the Prosecutor: accountability for sexual and gender-based crimes, preliminary examinations, and outreach to victims and affected communities. The goal of this review is to provide Prosecutor Bensouda's successor, Karim Khan, with a detailed analysis of the work conducted by the Office of the Prosecutor in these three areas, identifying best practices and opportunities for improvement. The first paper was published on FIDH's website in June 2021 and formally presented during an online event with Prosecutors Bensouda and Khan marking the International Day for the Elimination of Sexual Violence in Conflict.¹ The full report will be launched at the 20th Assembly of States Parties in December 2021.

This paper on preliminary examinations is the second of the series. FIDH has been contributing to preliminary examination activities since the Court's inception. Among other activities, and in close collaboration with its national member and partner organisations, FIDH conducts fact-finding work; supports victims in seeking justice and reparations at national, regional and international levels; carries out advocacy to raise awareness among civil society organisations; contributes through research to the development of policy and investigative frameworks; and strengthens the capacity of member and partner organisations so they can meaningfully engage with accountability mechanisms. With permanent representation in The Hague since 2004, FIDH also closely monitors proceedings at the International Criminal Court as early as the preliminary examination stage. Together with member organisations that are based in situation countries and work directly with victims and affected communities, FIDH documents allegations of crimes and provides evidence to the Office of the Prosecutor.

1. FIDH-WIGJ, *Accountability for sexual and gender-based crimes at the ICC: an analysis of Prosecutor Bensouda's legacy*, June 2021.

I. INTRODUCTION

Preliminary examinations are an essential activity at the Office of the Prosecutor (hereinafter “the Prosecution” or “the OTP”), representing the first step of any potential justice process at the International Criminal Court (hereinafter “the ICC” or “the Court”). It is during this stage that the Prosecution decides whether the necessary criteria are met to open an investigation into a given situation. Despite this fundamental role within the Court’s mandate, preliminary examinations are not regulated in great detail by the Rome Statute (hereinafter “the Statute”).

The Statute merely sets parameters around the Prosecution’s investigative powers, the scope of its analysis, and the legal standard of proof during this initial stage.² Preliminary examinations must be carried out at the seat of the Court and the OTP is restricted to information and evidence that is submitted to it, because its investigative powers are not triggered until an investigation is formally opened.³ The objective is simply to determine whether there is “a reasonable basis to believe” that the statutory criteria are met to open a formal investigation.⁴ When the Prosecutor has initiated a preliminary examination on its own initiative, using *proprio motu* powers, the decision to launch an investigation must be authorised by the Pre-Trial Chamber.⁵ Conversely, if the OTP chooses not to proceed with an investigation because it is deemed “not in the interests of justice,” the Pre-Trial Chamber may also review this decision.⁶

Beyond these sparse guidelines, the Prosecution has a great deal of discretion in determining the policies, processes, and timelines for carrying out preliminary examinations. While this flexibility is necessary to maintain the independence of the OTP and accommodate the breadth of situations that may come under the jurisdiction of the Court, the OTP’s activities have delivered mixed results. This report identifies the OTP’s practices, as well as achievements and opportunities for the Office to improve its working methods, transparency, and communication with civil society at the preliminary examination stage. The report is circumscribed by Prosecutor Bensouda’s time in office (15 June 2012 to 15 June 2021) and includes recommendations to Prosecutor Khan that build upon Prosecutor Bensouda’s work.

Since 2004, FIDH has engaged with the OTP, providing regular feedback on the Prosecution’s policies, strategies, and practices through its permanent representation in The Hague. FIDH engaged in a similar activity in 2011, at the end of Luis Moreno Ocampo’s tenure as first Prosecutor of the ICC.⁷ At that time, FIDH acknowledged that while Prosecutor Bensouda would inherit an established office, with set policies and procedures, she would be tasked with reviewing the impact of these policies and procedures, and making important decisions on how to optimise the work of the OTP moving forward.⁸ With respect to preliminary examinations in particular, FIDH’s main concerns in 2011 were (1) the transparency of the Prosecution’s activities; (2) the consistency of the Prosecution’s policies across all preliminary examinations; and (3) the length of preliminary examinations.

In 2021, FIDH acknowledges that the Prosecution has made important strides. Nevertheless, numerous concerns persist regarding the effectiveness of the OTP’s preliminary examination activities, as relayed to FIDH by its member and partner organisations.

2. Articles 15, 51 and 53(1) Rome Statute.

3. Article 15(2) Rome Statute.

4. Article 53(1) Rome Statute.

5. Article 15(3) and (4) Rome Statute.

6. Article 53(3)(b) Rome Statute.

7. FIDH, *The Office of the Prosecutor of the ICC – 9 Years On* (hereafter “Ocampo Report”), December 2011.

8. *Ibid*, p. 9.

METHODOLOGY

The research in this report builds upon FIDH's first-hand experience conducting documentation, outreach, and legal analysis at the preliminary examination stage, as well as FIDH's monitoring activities of the OTP's work over the past nine years. More recently in 2020, FIDH and its member organisations from situation countries worked on a joint submission to the Independent Experts, highlighting progress and concerns in relation to preliminary examinations.⁹ Additionally, FIDH carried out consultations in June and July 2021 to help identify the key achievements of Prosecutor Bensouda's tenure and the enduring challenges the Prosecution faces with respect to preliminary examinations. These consultations involved 28 national organisations from 13 countries where the Prosecution has been carrying out preliminary examination activities, or that are closely connected to the preliminary examination for jurisdictional reasons (Afghanistan, Bangladesh, Burundi, Colombia, Georgia, Guinea, Israel, Mali, Mexico, Myanmar, Palestine, Ukraine and Venezuela). FIDH also consulted other legal professionals who either have submitted information to the Court under Article 15 of the Statute (hereinafter "Article 15 communications"), have been directly involved in matters related to preliminary examinations during the relevant period (15 June 2012 to 15 June 2021), or are former staff members of the OTP.

The consultations followed a semi-structured format, with a pre-defined set of questions for all interviews, along with questions tailored to the particularities of each situation. These discussions informed the recommendations put forward in this report, which have been categorised into three thematic groupings: (1) the OTP's working methods; (2) transparency; and (3) communication with civil society. All participants—and a selected number of FIDH's partners and organisations who did not attend the interviews but expressed interest in sharing their views—received in writing the initial list of recommendations that FIDH identified through the consultations and had the opportunity to rephrase them and provide additional comments.

9. While the full text is confidential, an excerpt is available here: <https://www.fidh.org/en/issues/international-justice/international-criminal-court-icc/independent-expert-review-a-chance-to-strengthen-icc-s-impact-on>, 22 June 2020.

II. PROSECUTOR BENSoudA'S APPROACH TO PRELIMINARY EXAMINATIONS

THE 2013 POLICY PAPER ON PRELIMINARY EXAMINATIONS

The Prosecution has a great deal of discretion and flexibility in determining the policies, processes, and timelines for carrying out preliminary examinations. In the ICC's early years, the OTP maintained a "low profile" and often refrained from communicating publicly about preliminary examinations.¹⁰ After much public advocacy for greater transparency, including by FIDH, the OTP shifted its policy in 2007 and increased public communications on situations under analysis.¹¹ Despite this improvement, civil society expressed persistent concerns that the increase in general communication on situations under analysis had not necessarily revealed much about the way preliminary examinations are handled by the OTP.

In 2010, then Prosecutor Moreno Ocampo published a draft policy on preliminary examinations, describing the relevant factors and procedures applied by the OTP in the conduct of its preliminary examination activities.¹² In response to the Prosecution's call for feedback, FIDH reiterated the need for clarity, consistency, and timeliness in the OTP's approach to preliminary examinations.¹³

Since then, and especially since Prosecutor Fatou Bensouda assumed the leadership in 2012, the OTP has increasingly engaged in the practice of publishing regular reports on the status of preliminary examinations, including occasional situation specific reports.¹⁴ In her first year in office, Prosecutor Bensouda finalised the policy paper on preliminary examinations (hereinafter "the 2013 PE Policy"). Although the 2013 PE Policy largely resembles the original 2010 draft, particularly in its guiding principles of independence, impartiality, and objectivity,¹⁵ there are some notable modifications in the final paper.

For instance, Prosecutor Bensouda expanded upon the "interests of justice" criteria, highlighting the importance of considering the interests of victims,¹⁶ and clarified that feasibility is not – and should not be – a self-standing factor in determining whether or not to open an investigation.¹⁷ She also elucidated the types of activities the OTP can engage in without investigative powers, such as sending information requests to sources and carrying out trips to the territories concerned.¹⁸ Markedly, Prosecutor Bensouda underscored the importance of assessing the existence of national and international institutions that can offer information and support to victims, particularly of sexual and gender-based crimes.¹⁹ She also added that the OTP will seek to perform an "early warning" function by "systematically and proactively" collecting open-source information.²⁰

The 2013 PE Policy specifies that if all the legal criteria are met that establish a reasonable basis to open an investigation, the OTP has an obligation to proceed.²¹ In addition, the policy highlights the role of preliminary examinations in contributing to two overarching objectives of the Rome Statute: (1) the ending of impunity, "by encouraging genuine national proceedings" through positive complementarity,²² and (2) the prevention of crimes, "by performing an early warning function."²³

10. *Ocampo Report*, p. 15.

11. *Ocampo Report*, p. 16.

12. OTP, *Draft Policy Paper on Preliminary Examinations 2010*, 4 October 2010.

13. *Ocampo report*, pp. 19-23.

14. See OTP, Annual Reports on *Preliminary Examinations 2012-2020*; OTP, *Situation in Colombia Benchmarking Consultation*, June 2021; OTP, *Situation in Colombia Interim Report*, November 2012.

15. OTP, *Policy Paper on Preliminary Examinations 2013* (hereafter "Policy Paper 2013"), November 2013, para. 25.

16. *Ibid*, para. 68.

17. *Ibid*, para. 70.

18. *Ibid*, para. 85.

19. *Ibid*, para. 86.

20. *Ibid*, paras. 104-106.

21. *Ibid*, para. 2.

22. *Ibid*, para. 93.

23. *Ibid*, para. 104.

Importantly, the 2013 PE Policy also sets out a sequential procedure for analysing situations under preliminary examination. There are four phases for filtering preliminary examinations, derived from the legal criteria established under Article 53(1)(a)-(c) of the Statute, as detailed below.

Phase 1 consists of an initial assessment of all communications received under Article 15 of the Rome Statute. During this stage, the OTP analyses the seriousness of information received and filters out situations that are considered “manifestly outside the jurisdiction of the Court.”²⁴

Phase 2 seeks to establish whether the Court has subject matter jurisdiction over the situation and includes a factual legal assessment on the crimes alleged to have been committed, with a view to identifying potential cases.²⁵ According to the OTP, this stage represents the formal and public commencement of a preliminary examination.

Phase 3 addresses the admissibility of potential cases in terms of complementarity and gravity. In this phase, the OTP will also continue to collect information on subject-matter jurisdiction, especially when new or ongoing crimes are alleged to have been committed within the situation.²⁶

Phase 4 examines the interests of justice. This phase closes out the preliminary examination, culminating in a final recommendation to the OTP on whether there is a reasonable basis to initiate an investigation.²⁷

PRELIMINARY EXAMINATIONS IN PRACTICE FROM 2012-2021

Since 2011, the OTP has published annual reports describing preliminary examinations from Phase 2 onward. Additionally, it has published several situation specific reports, for example on Colombia, Comoros, Greece and Cambodia (hereinafter “Comoros”), and UK/Iraq, among others.²⁸ Phase 1 was historically confidential but in 2019 and 2020, the OTP published information about select Phase 1 analyses in its annual reports, indicating a potential shift in policy.²⁹ Various stakeholders, including civil society organisations, welcomed this additional transparency.

Since Prosecutor Bensouda assumed her role in 2012, the OTP has engaged in 20 public preliminary examinations. Of these preliminary examinations, seven were inherited by Bensouda, of which she concluded five (Afghanistan, Georgia, Honduras, Nigeria, and Republic of Korea). The other 13 preliminary examinations were initiated under her leadership, of which 10 were completed during her tenure (Bangladesh/Myanmar, Burundi, Central African Republic II, Comoros, Gabonese Republic, Mali, Palestine, Philippines, UK/Iraq, and Ukraine). At the time of writing, there are five preliminary examinations underway, of which two were inherited from Moreno Ocampo (Colombia and Guinea), another two are state referrals (Bolivia and Venezuela II), and one was initiated *proprio motu* (Venezuela I).³⁰

In addition to these preliminary examinations, since mid-2012 the OTP has evaluated at least 50 situations that warranted further analysis (hereinafter “WFA”) but did not ultimately make it past

24. *Ibid*, para. 78.

25. *Ibid*, para. 81.

26. *Ibid*, para. 82.

27. *Ibid*, para. 83.

28. See OTP, *Situation in Colombia Benchmarking Consultation*, 15 June 2021; OTP, *Situation in Colombia Interim Report*, November 2012; OTP, *Situation on Registered Vessels of Comoros, Greece and Cambodia*, 6 November 2014; OTP, *Situation in Iraq Final Report*, 9 December 2020.

29. See OTP, *Report on Preliminary Examination Activities 2020*, 14 December 2020; OTP, *Report on Preliminary Examination Activities 2019*, 5 December 2019.

30. Although Venezuela I was originally triggered by Prosecutor Bensouda's *proprio motu* authority, it was later referred by a coalition of states under Article 14 Rome Statute.

Phase 1.³¹ The OTP began publishing these analyses in 2019, hence the public has only been privy to nine WFAs during Prosecutor Bensouda's mandate (Australia, Canada/Lebanon, Madagascar, North Korea I and II, Philippines II, Tajikistan/China/Cambodia, Uganda, and Yemen).³² The Prosecution has indicated that in 2021 it will finalise its response to at least five additional WFAs (Mexico, Cyprus, Yemen II, Cambodia, and Syria/Jordan).³³

In sum, of the 20 preliminary examinations publicly announced by Prosecutor Bensouda, her office opened eight investigations (Afghanistan, Bangladesh/Myanmar, Burundi, Central African Republic, Georgia, Mali, Palestine and Philippines), and recommended the opening of two investigations (Nigeria, and Ukraine). Five preliminary examinations are ongoing (Bolivia, Colombia, Guinea, and Venezuela I and II) and five were concluded with the decision not to investigate (Gabonese Republic, Honduras, Republic of Korea, Comoros, and UK/Iraq). In three situations, the OTP decided that the Court did not have subject matter jurisdiction (Gabonese Republic, Honduras, and Republic of Korea), while two other examinations ended in Phase 3 after an evaluation of complementarity and gravity (Comoros, and UK/Iraq).³⁴

Although Prosecutor Bensouda has made considerable progress in completing several protracted preliminary examinations, the two longest examinations, spanning 17 years (Colombia) and almost 12 years (Guinea), are still ongoing. Of the 15 completed preliminary examinations, two required more than 10 years to complete (Nigeria, and Afghanistan) and six were under assessment for more than five years (Comoros, Honduras, UK/Iraq, Ukraine, Georgia, and Palestine). It is important to note that five of the longest preliminary examinations focused most of their analysis on admissibility under Phase 3 (all but Comoros).³⁵ Nigeria, Georgia, and Iraq/UK spent several years in Phase 3 before their conclusion, while Colombia and Guinea have been stuck in Phase 3 for the better part of a decade.

Interestingly, several Phase 1 WFAs that were publicised in 2019 and 2020 had been under analysis for as long as four years (Australia, Canada/Lebanon, and Uganda). Others lasted between two to three years (Madagascar, North Korea I and II, and Yemen). These situations were not considered to fall "manifestly" outside the jurisdiction of the Court; hence the Prosecution analysed and corroborated the information received on these situations against open-source information such as reports from the United Nations, NGOs, and other reliable sources.³⁶ Ultimately, the OTP concluded that the Court did not have jurisdiction to further examine these situations and did not formally open corresponding preliminary examinations.

The chart below contains all public preliminary examinations from 2012-2021. The number of reports in the table includes any report produced by the Prosecution that elaborates on the status or legal analysis of the preliminary examinations. The number of Article 15 communications has been retrieved from the OTP's annual reports. In some cases, the Prosecution has not updated these figures in subsequent reports, so they should be used as approximations only. Notably absent from the chart is Mexico. While a preliminary examination has not officially been announced, FIDH, in partnership with Mexican organisations, has been submitting information to the OTP regarding crimes allegedly committed by public authorities and criminal networks since 2014.

31. OTP, [Report on Preliminary Examination Activities 2020](#), 14 December 2020, para. 32.

32. See OTP, [Report on Preliminary Examination Activities 2020](#), 14 December 2020; OTP, [Report on Preliminary Examination Activities 2019](#), 5 December 2019.

33. OTP, [Report on Preliminary Examination Activities 2020](#), 14 December 2020, para. 35.

34. See [Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination of the situation in Iraq/United Kingdom](#), 9 December 2020; [Statement of the Prosecutor, Fatou Bensouda, on concluding the preliminary examination of the situation in Comoros](#), 6 November 2014.

35. The decision not to proceed for the situation in Comoros was made in Phase 3. However, this decision was made quickly. The reason why it has taken so long to conclude Comoros is because the State appealed, and the Pre-Trial Chamber ordered the OTP to review its decision.

36. [Policy Paper 2013](#), para. 79.

| ONGOING PRELIMINARY EXAMINATIONS | | | | | |
|----------------------------------|---|--------------------|------------|----------------|----------------------------------|
| Country | Initiated by | Dates | Length | No. of reports | No. of Article 15 communications |
| Bolivia | Bensouda State referral | 2020- (Phase 2) | < 1 year | 1 | Information not available |
| Colombia | Moreno Ocampo <i>proprio motu</i> | 2004- (Phase 3) | 17 years | 1 | 229+ |
| Guinea | Moreno Ocampo <i>proprio motu</i> | 2009- (Phase 3) | > 11 years | 9 | 35 |
| Venezuela I | Bensouda <i>proprio motu</i> & State referral | 2018- (Phase 3) | > 3 years | 3 | 110 |
| Venezuela II | Bensouda State referral | 2020- (Phase 2) | > 1 year | 1 | Information not available |

| PRELIMINARY EXAMINATIONS CONCLUDED WITHOUT AN INVESTIGATION | | | | | |
|---|---------------------------------|-----------|----------|----------------|----------------------------------|
| Country | Initiated by | Dates | Length | No. of reports | No. of Article 15 communications |
| Submissions marked as WFA but concluded with no investigation after Phase 1 | | | | | |
| Australia | Bensouda <i>proprio motu</i> | 2016-2020 | 4 years | 1 | 1+ |
| Canada/Lebanon | Bensouda <i>proprio motu</i> | 2016-2020 | 4 years | 1 | 1 |
| Madagascar | Bensouda <i>proprio motu</i> | 2018-2020 | 2 years | 1 | 1 |
| North Korea I | Bensouda <i>proprio motu</i> | 2016-2019 | 3 years | 1 | 1 |
| North Korea II | Bensouda <i>proprio motu</i> | 2017-2019 | 2 years | 1 | 1 |
| Philippines II | Bensouda <i>proprio motu</i> | 2019 | < 1 year | 1 | 1 |
| Tajikistan/China/ Cambodia | Bensouda <i>proprio motu</i> | 2020 | < 1 year | 1 | 1 |
| Uganda | Bensouda <i>proprio motu</i> | 2016-2020 | 4 years | 1 | 1 |
| Yemen | Bensouda <i>proprio motu</i> | 2017-2019 | 2 years | 1 | 1 |
| Preliminary examinations concluded with no investigation after Phase 2 | | | | | |
| Gabonese Republic | Bensouda State referral | 2016-2018 | 2 years | 4 | 18 |

| | | | | | |
|---|---|-----------|---------|---|----|
| Honduras | Moreno Ocampo <i>proprio motu</i> | 2010-2015 | 5 years | 6 | 32 |
| Republic of Korea | Moreno Ocampo <i>proprio motu</i> | 2010-2014 | 4 years | 4 | 8 |
| Preliminary examinations concluded with no investigation after Phase 3 | | | | | |
| Comoros | Bensouda <i>proprio motu</i> re-examination | 2013-2020 | 7 years | 9 | 5 |
| UK/Iraq | Bensouda <i>proprio motu</i> re-examination | 2014-2020 | 7 years | 8 | 33 |
| Preliminary examinations concluded with no investigation after Phase 4 | | | | | |
| none | | | | | |

| PRELIMINARY EXAMINATIONS CONCLUDED WITH THE OPENING OF AN INVESTIGATION | | | | | |
|--|--|-----------|----------|----------------|----------------------------------|
| Country | Initiated by | Dates | Length | No. of reports | No. of Article 15 communications |
| Investigation recommended | | | | | |
| Nigeria | Moreno Ocampo <i>proprio motu</i> | 2010-2020 | 11 years | 11 | 59 |
| Ukraine | Bensouda Article 12(3) Rome Statute declaration | 2014-2020 | 7 years | 7 | 86 |
| Investigation opened | | | | | |
| Afghanistan | Moreno Ocampo <i>proprio motu</i> | 2006-2017 | 11 years | 6 | 125 |
| Bangladesh/ Myanmar | Bensouda <i>proprio motu</i> | 2018-2019 | < 1 year | 2 | 34 |
| Burundi | Bensouda <i>proprio motu</i> | 2016-2017 | 1 year | 2 | 34 |
| Central African Republic II | Bensouda State referral | 2014 | < 1 year | 1 | 7 |
| Georgia | Moreno Ocampo <i>proprio motu</i> | 2008-2015 | 7 years | 4 | 3,854 |
| Mali | Bensouda State referral | 2012-2013 | < 1 year | 3 | Information not available |
| Palestine II | Bensouda Article 12(3) declaration and State referral | 2015-2019 | 5 years | 6 | 125 |
| Philippines | Bensouda <i>proprio motu</i> | 2018-2021 | 3 years | 3 | 52+ |

III. ACHIEVEMENTS AND OPPORTUNITIES FOR IMPROVING PRELIMINARY EXAMINATIONS

Bensouda's transition into the role of Prosecutor ushered in a new age at the OTP, marked by greater standardisation, transparency, and openness with civil society groups. Despite the Prosecution's great strides in specific areas, such as the investigation of sexual and gender-based crimes – which are explored in depth in the first paper of this series³⁷ – there continue to be ongoing challenges with respect to preliminary examinations, both extrinsic (e.g. budget, cooperation) and intrinsic to the OTP.³⁸

The OTP has itself acknowledged challenges that hinder its efficacy, including during preliminary examinations activities. Along with the ICC's President and Registrar, the Prosecutor requested that the Assembly of States Parties (hereinafter "the ASP") establish an Independent Expert Review (hereinafter "the IER") to study and identify the causes of the Court's performance shortcomings.³⁹ In December 2019, the ASP established the IER with the objective of making "concrete, achievable and actionable recommendations" to enhance the "performance, efficiency and effectiveness of the Court."⁴⁰ The experts dedicated a significant portion of their assessment to the OTP, including how the office handles preliminary examinations.⁴¹ As part of the IER's consultations with stakeholders, FIDH and its member organisation, the Kenya Human Rights Commission (hereinafter "KHRC") submitted a confidential joint report in April 2020.⁴²

The IER published its final report in September 2020 and focused on five key areas related to preliminary examinations: (1) the selection process for opening a preliminary examination; (2) the working methods of the Preliminary Examination Section (PES); (3) the length of the preliminary examinations; (4) the Prosecution's approach to complementarity; and (5) transparency.⁴³ At the time of writing, the OTP had already begun implementing some of the reforms suggested by the IER.

Building from this progress, FIDH carried out consultations with national civil society organisations operating in countries where the OTP has conducted preliminary examinations during Prosecutor Bensouda's mandate. The intention of these consultations was to take stock of both past achievements and enduring challenges under her leadership. FIDH has consolidated this feedback into three thematic groupings: (1) the OTP's working methods; (2) transparency; and (3) communication. To the extent possible, FIDH has avoided duplicating the recommendations of the IER.

THE WORKING METHODS OF THE OFFICE OF THE PROSECUTOR

Achievements

Prosecutor Bensouda's greatest achievement with respect to preliminary examinations has been the establishment and implementation of a clear procedural framework for conducting analyses during this stage. Prior to Bensouda's tenure, preliminary examination activities occurred in a very *ad hoc* manner. During her leadership, the OTP standardised methods and practices, introducing internal policies, guidelines, and templates. As such, Prosecutor Bensouda's legacy comprises the establishment of a defined procedure for preliminary examinations.

37. FIDH-WIGJ, [Accountability for sexual and gender-based crimes at the ICC: an analysis of Prosecutor Bensouda's legacy](#), June 2021.

38. OTP, [Strategic Plan 2019-2021](#), para. 18.

39. Richard Dicker, [Time to Step Up at the ICC: No Time to Trim the Sails](#), Promise Institute for Human Rights at UCLA (2020), p. 4.

40. ICC, Review of the International Criminal Court and the Rome Statute System, [ICC-ASP/18/Res.7](#), 6 December 2019, Annex 1, A, para. 1.

41. IER, [Independent Expert Review of the International Criminal Court and the Rome Statute System Final Report](#), 30 September 2020, paras. 633-655, 695-740.

42. FIDH/KHRC, [The victims' mandate of the International Criminal Court: disappointments, concerns and options for the way forward](#), June 2020.

43. FIDH has not taken yet a position on all these recommendations. See IER, [Independent Expert Review of the International Criminal Court and the Rome Statute System Final Report](#), 30 September 2020, pp.163-168, 226-229, 251-253, 254-261, 262-265, 266-267.

In addition to the 2013 PE Policy, the OTP also published three-year strategic plans and placed greater emphasis on internal peer review.⁴⁴ These strategic plans include specific objectives to improve preliminary examinations. For example, in the OTP's last strategic plan for 2019-2021, it acknowledged the continued need to "increase the speed, efficiency and effectiveness of preliminary examinations."⁴⁵ One facet of this optimisation has been the development of performance indicators. Not to be confused with the performance indicators for ICC proceedings, which appear to have been abandoned,⁴⁶ the OTP has developed internal performance indicators for Article 15 communications and Phase 1 preliminary examinations.⁴⁷ Although we have yet to see the impact of these more recent internal directives, FIDH welcomes data-informed performance standards.

Opportunities for improvement

There is a consensus among civil society groups that the various organs of the ICC should coordinate better among themselves to ensure that activities during the preliminary examinations stage are being clearly and appropriately distributed among the relevant organs of the Court, as mandated by the Statute. This is especially true in contexts where the Victims Participation and Reparations Section (hereinafter "the VPRS") and the Registry may play a more proactive role as early as the preliminary examination stage. Virtually all groups FIDH consulted seemed to lack clarity on the specific activities that correspond to each organ.

FIDH recognises that the divergent mandates of each organ require different activities and forms of engagement with external parties. However, certain approaches can appear contradictory to affected communities. For instance, on one hand, the Registry may be interested in reaching the widest number of people who may be granted victim status should a case be brought to trial. On the other hand, in the early stages, the Prosecution may be inclined to minimise their interactions with victims and manage communities' expectations, in case the statutory criteria for opening an investigation are not met.

The reality is that local communities and many civil society groups may not have the in-depth ICC knowledge required to differentiate between the mandates and working methods of each organ and section. Victims and communities often see representatives of the Court as a monolith, regardless of how ICC staff present themselves. When they receive conflicting information from representatives of different organs, this can lead to confusion, the raising of expectations, and the heightened risk of disappointment should an investigation not be opened. The onus of better coordination in public-facing activities is not solely on the OTP; it requires structural and systemic changes across all ICC organs. Nevertheless, to the extent possible within the Prosecution's authority, there should be a clearer delineation of roles and responsibilities between the OTP and other ICC organs.

It is also evident to civil society organisations that the OTP's Preliminary Examination Section (hereinafter "the PES") does not include enough experts on the relevant countries. For example, in Georgia, OTP staff who were not linguistically or culturally proficient were sent to the country. This absence deprives the PES from valuable expertise on the domestic context, preventing it from creating tailored strategies for each preliminary examination. For example, activities that would benefit from local contextual knowledge include external communications, engagement with local civil society organisations, security risk assessments, factual and pattern analyses, and the planning of trips. Given the changing nature of relevant countries during this stage, FIDH understands the drawbacks to hiring permanent country specialists when needs continue to evolve. However, fixed-term, local consultants, internal or third-party secondments, and paid visiting professionals can temporarily bring specialised capacity, as FIDH has previously argued.⁴⁸ To enable the swift and efficient recruitment of suitable candidates, the Prosecution

44. Richard Dicker, *Time to Step Up at the ICC: No Time to Trim the Sails*, Promise Institute for Human Rights at UCLA (2020), p. 6.

45. OTP, *Strategic Plan 2019-2021*, p. 5.

46. See ICC, *Third Court's report on the development of performance indicators for the International Criminal Court*, 15 November 2017.

47. Interview with former ICC staff member.

48. FIDH/KHRC, *The victims' mandate of the International Criminal Court: disappointments, concerns and options for the way forward*, June 2020, paras. 63-77. See FIDH, *The justice survivors deserve: Open letter to the new ICC Prosecutor Karim Khan*, 23 June 2021.

should indicate adequate human resource needs in its budget proposal, including a flexible pool of funds designated specifically for geographic and linguistic experts.

Another pressing issue relates to the confidentiality of communications with the Prosecution. There is little to no information available on the ICC website describing the Prosecution's confidentiality policy, leaving many civil society groups with the fear that their information may be shared with governments, including those targeted by preliminary examinations. Many civil society groups currently work in an environment that is hostile to the ICC, for example in Myanmar, Palestine/Israel, or Venezuela, where even the most basic information is sensitive, such as the name of the organisation or individual submitting the information, let alone information related to victims or witnesses. FIDH has been informed that in some of these situations, organisations who may have valuable information have decided against transmitting it to the OTP.

The Prosecution may very well be operating with the strictest and narrowest confidentiality limits, as reflected in the Rome Statute, but without more accessible materials about how the information submitted is stored and shared, doubts will persist. While some groups have more direct access to the OTP and obtain *ad hoc* assurances about confidentiality, a public document would benefit a much wider demographic. As such, the Prosecution should publish its confidentiality policy in a clear and accessible location on the website, and emphasise it in their interactions with civil society. This confidentiality policy should clearly explain who has access to the information shared with the OTP, how the information is used, with which external stakeholders it is shared (if any), and any other relevant details.

In this vein, civil society groups are equally concerned about the security of communications and correspondence with the OTP. In the context of increasing surveillance and cyber-intelligence capabilities by governments and other actors,⁴⁹ especially in Venezuela, Mexico, and Palestine/Israel, civil society groups have expressed a growing fear of engaging with the ICC, particularly when submitting information that may be probative of a crime. Indeed, the Court has disclosed an increase in the "frequency, diversity, stealth, and complexity of cyber-threats targeting the Court's computers and communication systems."⁵⁰ While the Court invested 160,000 euros in 2016 to strengthen its cyber-security capacity, there is very little information available about how these funds were used, which information technologies were adopted, and how much support was directed to the Prosecution in particular.⁵¹

FIDH notes with concern that none of the organisations consulted for this report seemed to feel confident about the security of the communications with the OTP. The OTP has a Cyber Unit, however, no one consulted was aware if the Prosecution has dedicated staff with the requisite expertise and authority to manage the office's information security, particularly to monitor and neutralise potential breaches. If such a role or team does not yet exist within the existing Cyber Unit, the OTP should recruit a cyber-security expert to (1) develop an information security protocol, (2) adopt appropriate technologies to enable a safer exchange of information with civil society groups, and (3) train staff in the basics of digital communications security. If these measures have not yet been taken, the Prosecution must be clear and transparent with civil society groups about the limitations of its information security systems, so that decisions to transmit information to the OTP are made with full and informed consent.

Finally, it is important to address the length of preliminary examinations, particularly as they relate to the Prosecution's working methods. As revealed in the overview of preliminary examinations above, the average length of time for the OTP to ascertain whether the statutory criteria are met to open a formal investigation is approximately 5.3 years. Despite the 2013 PE Policy and the Prosecution's strategic plan to use preliminary examinations to "obviate ICC intervention through prevention and complementarity" and to "perform an early warning function,"⁵² FIDH

49. See Amnesty International, Citizen Lab, and Forensic Architecture, *Digital Violence: How the NSO Group Enables State Terror*, interactive platform launched July 2021.

50. ICC, *Second Court's report on the development of performance indicators for the International Criminal Court*, 11 November 2016, para. 69.

51. *Ibid*, para. 75.

52. OTP, *Full Statement of the Prosecutor, Fatou Bensouda, on external expert review and lessons drawn from the Kenya situation*, 26 November 2016, p. 13.

has observed that this function is inoperative in practice. States are not responding to the “early warning” in a timely fashion and the preliminary examinations are becoming protracted due to states’ failure to carry out timely and independent investigations.⁵³

Although the OTP has established “soft” deadlines for receiving information from states to complete its complementarity analysis, these deadlines do not appear to be standardised across all situations.⁵⁴ FIDH understands that each preliminary examination faces unique challenges and must be assessed on a case-by-case basis, however the imposition of standardised “soft” time-limits does not prevent the Prosecution from reviewing each situation when circumstances change. Additionally, FIDH has previously asserted that where crimes continue being committed while the Prosecution is considering the opening of an investigation, this should, at a minimum, serve as a strong indication that domestic efforts towards accountability are not genuine and do not bear any prospect of success in the near future.⁵⁵ The OTP should incorporate this input into its forthcoming Benchmarking Consultations, as it develops clear indicators for completing Phase 3 analyses.

TRANSPARENCY

Achievements

A great deal of progress has been made since 2012 on the issue of transparency. Notably, the 2013 PE Policy shed light on how the Prosecution sees its role during preliminary examinations. This policy was a consolidation of the OTP’s practices, but also introduced important modifications, as noted earlier. In addition to the foundational 2013 PE Policy, the OTP also introduced a series of thematic policy papers that impact and interact with preliminary examinations. While the policy paper on “interests of justice” was published in 2007 under Ocampo, Prosecutor Bensouda added a trailblazing policy paper on sexual and gender-based crimes in 2014,⁵⁶ a policy paper on children in 2016,⁵⁷ and a policy paper on case selection and prioritisation in 2016,⁵⁸ among others.⁵⁹ These policy papers reveal how the OTP is guided to analyse the relevant facts against the legal criteria during preliminary examinations. For example, these policies outline how the OTP should assess the genuineness of national proceedings while determining admissibility, or the gravity threshold considering the seriousness of sexual and gender-based crimes, as well as crimes against children.⁶⁰

In tandem with these policy papers, civil society groups acknowledge that the OTP’s annual reports, along with situation-specific reports, have fostered a better understanding of the status of ongoing preliminary examinations. For example, in 2012, the OTP published a detailed interim report on Colombia, covering both subject matter and admissibility issues.⁶¹ Since 2013, it has also published its internal Article 5 reports when moving between phases or when concluding a preliminary examination without opening an investigation (e.g. Nigeria, Republic of Korea, and Honduras).⁶² Moreover, the OTP also began publishing reports regarding decisions to open investigations which were previously only circulated internally (e.g. Mali, and Central African Republic II).⁶³

53. FIDH/KHRC, *The victims’ mandate of the International Criminal Court: disappointments, concerns and options for the way forward*, June 2020, para. 22.

54. Interview with former OTP staff member.

55. FIDH/KHRC, *The victims’ mandate of the International Criminal Court: disappointments, concerns and options for the way forward*, June 2020, para. 30.

56. OTP, *Policy Paper on Sexual and Gender-Based Crimes*, June 2014.

57. OTP, *Policy Paper on Children*, November 2016.

58. OTP, *Policy Paper on Case Selection and Prioritisation*, September 2016.

59. During this period, the OTP also published another policy paper that had less impact on the preliminary stage of the proceedings. See OTP, *Draft Policy on Situation Completion*, 15 June 2021.

60. OTP, *Policy Paper on Sexual and Gender-Based Crimes*, June 2014, paras. 41, 45. OTP, *Policy Paper on Children*, November 2016, paras. 57, 59. Sara Wharton and Rosemary Gray, *The Full Picture: Preliminary Examinations at the International Criminal Court*, 56 Can YIL (2019), p. 8.

61. OTP, *Situation in Colombia Interim Report*, November 2012.

62. See OTP, *Article 5 Report on Nigeria, 5 August 2013*; OTP, *Article 5 Report on Republic of Korea, June 2014*; OTP *Article 5 Report on Honduras, October 2015*.

63. See OTP Article 53(1) *Report on Mali, 16 January 2013*; OTP, Article 53(1) *Report on Central African Republic II*, 24 September 2014.

Finally, the Prosecution has recently acknowledged the need for clear, objective, and timely criteria in the assessment of complementarity, particularly for protracted preliminary examinations. In June 2021, Prosecutor Bensouda published a Benchmarking Consultation report, in which the OTP concedes that it must “reflect on the goals and duration of the Office’s preliminary examination activities when faced with long-term, multi-layered domestic accountability processes” given that the issue of national accountability could otherwise “take years to answer.”⁶⁴ While the report invites civil society and other stakeholders to participate in the creation of a benchmarking framework to be applied in Colombia specifically, the suggested framework could be applied to Guinea, and future preliminary examinations as well.

Opportunities for improvement

Although Prosecutor Bensouda’s leadership has shepherded significant progress with respect to transparency, there is still room for improvement, particularly vis-à-vis civil society groups involved in the documentation of crimes and preservation of information. FIDH recognises that the OTP, as an investigative body tasked with building criminal cases, is bound by legal and ethical restrictions that prevent it from revealing too much information, particularly at the preliminary examination stage. Nevertheless, as the prosecutorial body of a publicly accountable, international court, the OTP inevitably operates in an environment fraught with competing, and sometimes conflicting, demands.

Among many civil society groups that have submitted Article 15 communications, there is a sentiment that the lack of feedback on specific submissions during the preliminary examination phase is unduly prolonging and convoluting their work while also depleting their resources. For example, in Georgia, civil society groups submitted over 3,854 Article 15 communications. Civil society groups believe that there may be a duplication of effort; hence knowing whether information submitted was useful or not, as well as the type of information still required to fill gaps in the Prosecution’s analysis, would allow them to focus their limited resources on the most valuable activities.

FIDH appreciates that it is not standard practice for investigative bodies or prosecutorial agencies to share detailed, and often sensitive, information on working prosecutorial theories. However, there are several ways in which the OTP can address these concerns, short of sending confidential and sensitive information to external stakeholders. The options range from making more efforts to explain how the OTP conducts its factual and legal analysis, to providing standardised guidance on the format and structure of Article 15 communications, or shortening the timeframes for preliminary examinations—thereby triggering more substantial and detailed feedback upon the closure of a preliminary examination.

For instance, a common concern by civil society groups—particularly in Mexico and Venezuela—is the absence of clear instructions by the OTP on how to best present and submit information. Although some international NGOs have created manuals, guides and even apps that explain the process of drafting Article 15 communications,⁶⁵ these are unofficial documents. Based on FIDH’s consultations, there seem to be two ways forward to assist external parties, particularly local civil society, in submitting evidence of crimes. In the first model, the OTP can create its own template on how to submit Article 15 communications, including accompanying text that clarifies the purpose of the information with corresponding statutory provisions. Alternatively, the OTP can curate and collate existing guides, instructions, and templates created by credible civil society groups and make them available in a single location on the ICC website.

Another concern of civil society echoes FIDH’s continued critiques of the length of preliminary examinations and the perceived discrepancies between the activities carried out during the complementarity assessment. In general, there appear to be continued inconsistencies in how different situations are handled in terms of the number and regularity of trips taken to the country, as well as the prioritisation and analysis of complementarity matters. Greater transparency of the Prosecution’s analysis of complementarity could help accelerate Phase 3 assessments. If

64. OTP, *Situation in Colombia Benchmarking Consultation*, 15 June 2021, para. 21.

65. For instance, see Global Rights Compliance, *A Guide to Conducting Article 15 Communications Is Now Available on GRC’s BIS App*, 28 September 2019; Global Rights Compliance, *International Criminal Court Article 15 Communication Guide*, 29 September 2019.

it is undesirable for diplomatic purposes to publish state submissions on complementarity, the Prosecutor could instead publish a periodic update on its findings during Phase 3, so that civil society groups that have deep, practical knowledge of the national legal system and domestic proceedings are given an opportunity to provide comments.

COMMUNICATION WITH CIVIL SOCIETY

During the consultations, FIDH received significant feedback on the Prosecution's outreach and communication activities. Since the third paper in this series will address outreach and engagement with affected communities in detail, this grouping focuses on the OTP's broader communications. This section does not examine the OTP's trips to relevant countries, nor its direct engagement with affected communities, including victims, survivors, or witnesses.

Achievements

While the Prosecution's communication strategy has varied depending on the preliminary examination and situation country, most FIDH member and partner organisations, as well as FIDH staff, acknowledge that Prosecutor Bensouda fostered a much more open and collaborative relationship with civil society groups. Although much of the OTP's work during preliminary examinations is geographically limited to The Hague, civil society organisations have had numerous opportunities to meet with the Prosecution during ICC-NGO roundtables, the annual ASP and related side events, and during visits carried out to situation countries. In these meetings, Prosecutor Bensouda and her team have engaged sincerely with civil society, within the limits of confidentiality, and have made local groups feel much more seen and heard than in prior years.

Opportunities for improvement

Despite Prosecutor Bensouda's well-meaning attitude towards communicating with civil society, the frustrations expressed in the consultations reveal serious structural gaps in the current approach. While the office has, at times, been reactive to media requests and in-country developments (e.g. statements in response to national developments in Guinea, Burundi or Palestine),⁶⁶ there is no clear, proactive communication strategy built into the Prosecution's handling of preliminary examinations. For example, it is unclear why the OTP did not include any mention of Mexico in their annual preliminary examinations report until 2020, despite having received submissions since at least 2014.

Far from a cohesive message, civil society groups that interact with members of the OTP receive varied information about preliminary examinations, and often feel as though they need to decode the words and body language of staff members in order to decipher the information being communicated. The ambiguity conveyed in these interactions gives the impression that the OTP lacks internal clarity about what staff can communicate to civil society, particularly to groups that have submitted information to the OTP.

Moreover, as mentioned earlier, the lack of coordination among ICC organs, including the Registry and VPRS, further complicates the role of the Prosecution when it comes to communications related specifically to preliminary examinations. Without a clear delineation of responsibilities across ICC organs, civil society groups will inevitably expect the Prosecution to lead all communication and outreach efforts, as the OTP is the first organ of the Court with whom many of them interact.

The failure to effectively communicate the OTP's activities is ultimately a systemic problem and must be addressed holistically. First, the Prosecution should adequately staff its media team, both in terms of the quantity and quality of communication specialists. Lawyers, analysts, and other technical members of the OTP should not be given *ad hoc* responsibilities for communication.

66. See OTP, Statement of ICC Prosecutor, Fatou Bensouda, regarding the situation in Guinea, 23 January 2020; OTP, Statement of ICC Prosecutor, Fatou Bensouda, on pre-election violence and growing ethnic tensions, 9 October 2020; OTP, Statement of ICC Prosecutor, Fatou Bensouda, regarding the worsening situation in Gaza, 8 April 2018; OTP, Statement of ICC Prosecutor, Fatou Bensouda, regarding the situation in Palestine, 17 October 2018; OTP, Statement of ICC Prosecutor, Fatou Bensouda, regarding the recent pre-election violence in Burundi, 8 May 2015.

Instead, the dedicated media team should be responsible for both proactive communication strategies, including media talking points, and reactive strategies when there are important developments in relevant countries. These strategies should be developed with the guidance and expertise of technical staff members, including the leadership, but must remain the responsibility of trained and experienced communication specialists (e.g. a spokesperson).

Second, once these communication strategies have been developed, and the boundaries around the information that can be shared publicly have been established, all staff members must be informed of the strategy and talking points. In this way, more junior staff members that engage with the public, including civil society groups and other stakeholders, are empowered to speak clearly and freely within the appropriate parameters set by the OTP. This internal clarity removes the unnecessary ambiguity when communicating with civil society groups, and encourages more consistent, accurate, and detailed messaging about the status of preliminary examinations.

IV. Recommendations

THE WORKING METHODS OF THE OFFICE OF THE PROSECUTOR

1. The OTP should clearly delineate its role and responsibilities, particularly with victims and affected communities, in relation to other ICC organs (e.g. VPRS, and the Registry at large) during preliminary examinations.
2. The Preliminary Examinations Section should include experts on the relevant countries, who can be selected through swift and efficient hiring procedures, as either local consultants or paid visiting professionals.
3. The OTP should codify and publish its confidentiality policy on the ICC website and in all responses to Article 15 communications.
4. The OTP should appoint a dedicated cyber-security expert or team to (1) develop a more robust information security protocol; (2) adopt appropriate technology; and (3) train staff to implement the protocol and use the technology effectively. In the meantime, the OTP must be clear and transparent with CSOs about the limitations of its information security systems.
5. The OTP should standardise its “soft” deadlines for receiving information from States to complete its complementarity analyses and reduce the length of preliminary examinations.

TRANSPARENCY

6. The Prosecution should publish and promote guidelines for CSOs when submitting Article 15 communications.
7. The OTP should publish periodic updates on its complementarity assessment and invite the input of civil society with knowledge of national proceedings.

COMMUNICATION WITH CIVIL SOCIETY

8. The OTP should adequately and appropriately staff its media team, both in terms of the quantity and quality of staff members, including a spokesperson position. The dedicated media team should be responsible for both proactive and reactive communication strategies.
9. All OTP staff members should be informed of communication strategies and receive talking points for engagement with external stakeholders.
10. The OTP should coordinate their communication activities with other relevant ICC organs, such as the Registry, to ensure that each organ is conducting complementary activities, with cohesive messaging, within the structures of their mandate.



Ministry of Foreign Affairs of the
Netherlands



This publication has been produced with the generous support from the Ministry of Foreign Affairs of the Netherlands and the Agence Française de Développement (AFD). The contents of this publication are the sole responsibility of FIDH and can in no way be taken to reflect the views of the Ministry of Foreign Affairs of the Netherlands and the Agence Française de Développement (AFD).

Keep your eyes open

fidh

Director of publication:

Alice Mogwe

Editor in chief:

Éléonore Morel

Project Director:

Raquel Vazquez

Llorente

Author:

Amanda Ghahremani

Research support:

Anthony Ghaly

(FIDH), and Layla

Déri, Sarah Jolicoeur,

Noémie Martire and

Juliette Samson

(International Criminal

and Humanitarian

Law Clinic,

Université Laval)

Design:

FIDH/CB

Establishing the facts - Investigative and trial observation missions

Supporting civil society - Training and exchange

Mobilizing the international community - Advocacy before intergovernmental bodies

Informing and reporting - Mobilizing public opinion

For FIDH, transforming societies relies on the work of local actors.

The Worldwide Movement for Human Rights acts at national, regional and international levels in support of its member and partner organisations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

Its primary beneficiaries are national human rights organisations who are members of the Movement, and through them, the victims of human rights violations. FIDH also cooperates with other local partner organisations and actors of change.

fidh

CONTACT

FIDH

17, passage de la Main d'Or

75011 Paris - France

Tel: (33-1) 43 55 25 18

www.fidh.org

Twitter: @fidh_en / fidh_fr / fidh_es

Facebook:

<https://www.facebook.com/FIDH.HumanRights/>



FIDH is an
**international human rights
NGO**
federating **192** organisations
from **117** countries

fidh

ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

A broad mandate

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

A universal movement

FIDH was established in 1922, and today unites 192 member organizations in 117 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

An independent organisation

Like its member organizations, FIDH is not linked to any party or religion and is independent of all governments.