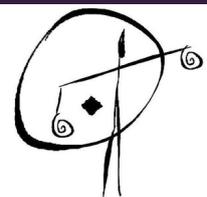




OUTREACH TO VICTIMS, AFFECTED COMMUNITIES AND CIVIL SOCIETY: AN ANALYSIS OF PROSECUTOR BENSOUDA'S LEGACY AT THE ICC

fidh



No Peace Without Justice

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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 is being 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, affected communities, and civil society organisations. 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 second paper was published in September 2021.² The full report will be launched at the 20th Assembly of States Parties in December 2021.

This paper on outreach is the third and last of the series. FIDH has been contributing to the Court's outreach since its inception. Among other activities, and in close collaboration with its national member and partner organisations, FIDH conducts fact-finding missions; 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 a permanent representation in The Hague since 2004, FIDH 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.

No Peace Without Justice was founded in the early 1990s to support the work of the International Criminal Tribunal for the former Yugoslavia and to advocate for the establishment of a permanent International Criminal Court. Since the establishment of the International Criminal Court, No Peace Without Justice has been at the forefront of advocating with the Court and with its States Parties for efficient, effective, and genuine outreach. No Peace Without Justice monitors the work of the International Criminal Court and undertakes strategic advocacy with all organs, including the Office of the Prosecutor, on how to improve and strengthen its outreach work from the earliest possible opportunity. No Peace Without Justice has issued several policy papers and statements on outreach and individual staff members have contributed to academic journals and books on the topic.

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

2. FIDH, [Preliminary Examinations at the ICC: an analysis of Prosecutor Bensouda's legacy](#), September 2021.

I. INTRODUCTION

The overarching goals of the International Criminal Court (hereinafter “ICC” or “Court”) are to ensure that the “most serious crimes of concern to the international community as a whole” do not go unpunished, and to prevent more “unimaginable atrocities that deeply shock the conscience of humanity” being committed.³ While the Rome Statute is a progressive text in terms of the rights of the victims and their participation in Court proceedings, the ICC’s location in The Hague (Netherlands) creates a distance between the Court’s activities and the people impacted by them. Bridging the gap with the survivors, victims, and communities affected by Rome Statute crimes is essential for the Court to remain relevant and credible.

We understand outreach as a constructive and sustainable two-way interaction and information-sharing between the ICC, and communities affected by Rome Statute crimes, as well as civil society from countries under preliminary examination, investigation, or prosecution. The purpose of such interaction is to promote understanding of the ICC and its work, to clarify misperceptions and misunderstandings, and to enable survivors, victims, and affected communities to access, follow, and understand judicial proceedings.⁴ This implies an active engagement of the Court with communities and civil society in situation countries, and requires mutual and constructive dialogue. It is also one of the most effective ways for the Court to understand the reality in the countries under its jurisdiction, and the diverging perceptions of justice that different groups within and across communities may have.

Outreach is multi-faceted, and includes public information, which is a “process of delivering accurate and timely information about the principles, objectives and activities of the Court to the public at large and target audiences, through different channels of communication, including media, presentations, and the web site.”⁵ However, delivering information without meaningful communication with the recipient of the information is not outreach. “Two-way interaction” requires information to address the concerns of the specific audience in a clear and accessible way. These interactions must be reciprocal, e.g. on one hand, survivors, victims, and affected communities can communicate with the Court, and on the other hand, the ICC is in a position to receive and consider any views and concerns from the communities.

Engagement with survivors, victims, and affected communities has a chequered history at the ICC—in part due to the numerous actors involved in these efforts, which produces confusion about their respective roles. A variety of organs and units of the Court have a mandate to conduct outreach, including the Office of the Prosecutor (hereinafter “the Prosecution” or “the OTP”), the Trust Fund for Victims, and the Registry’s Outreach Unit and Victims’ Participation and Reparations Section, among others. Despite the wider involvement of the Court in outreach matters, some activities can only be conducted by the OTP, such as providing information on the progress of preliminary examinations and investigations, or case selection and prioritisation, as well as giving details on what the OTP does with the information it receives, how the OTP intends to organise its work in any given country, or how it intends to overcome challenges in investigations or prosecutions.

Over the past nine years, there have been notable efforts to improve the OTP’s outreach strategy and outreach at the Court as a whole. When Prosecutor Bensouda took office in 2012, she dedicated particular attention to expand the in-country presence and local engagement of the OTP, and to deepen its knowledge about the situation countries. Nevertheless, many challenges persist, particularly regarding the implementation of a Court-wide strategy, as relayed to FIDH and No Peace Without Justice (hereinafter “NPWJ”) by the organisations consulted.

3. Preamble, Rome Statute of the International Criminal Court.

4. ICC, [ICC Integrated Strategy for External Relations, Public Information and Outreach, Context and Conceptual Framework](#), July 2005, para IV. See also NPWJ, [Outreach and the International Criminal Court](#), September 2004.

5. *Ibid.*

METHODOLOGY

The research in this report builds upon FIDH's and NPWJ's monitoring activities of the OTP's work over the past nine years, as well as FIDH's and NPWJ's first-hand experience conducting outreach to communities in situation countries, often times in partnership with local civil society organisations or legal professionals.⁶ This research also follows previous consultations conducted by FIDH and the Kenya Human Rights Commission (KHRC) in the context of the Independent Expert Review Process.⁷ For this report, FIDH and NPWJ consulted 38 civil society groups from 16 countries under preliminary examination or investigation at the ICC (Afghanistan, Bangladesh/Myanmar, Central African Republic, Colombia, Democratic Republic of Congo, Georgia, Ivory Coast, Kenya, Mali, Nigeria, Palestine/Israel, Philippines, Sudan, Uganda, Ukraine, and Venezuela). NPWJ also consulted international NGOs and other relevant stakeholders for background information.

The consultations followed a semi-structured format, with a pre-defined set of questions for all interviews and other 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 areas: (1) policies, strategies and guidelines, (2) communications and materials, and (3) in-country presence and contextual understanding. All participants from situation countries received in writing the initial list of recommendations that FIDH and NPWJ identified through the consultations, and had the opportunity to rephrase them and provide additional comments.

6. See NPWJ, [Outreach](#), for some of NPWJ's activities and publications on outreach, both at the ICC and in general.

7. See FIDH-KHRC, [The victims' mandate of the International Criminal Court: disappointments, concerns, and options for the way forward](#), 22 June 2020.

II. PROSECUTOR BENSOU DA'S APPROACH TO OUTREACH

STRATEGIC PLANS AND THEIR OVERALL IMPLEMENTATION

The first ICC Prosecutor, Luis Moreno Ocampo, adopted a “low profile” approach—purportedly for security reasons—and devoted minimal resources to outreach and engagement with affected communities. This practice generated rumours and misunderstandings about the work of the ICC.⁸ During Prosecutor Bensouda's mandate, the OTP worked on improving its policies and strategic thinking on outreach and engagement with survivors, victims, affected communities, and civil society. The 2012-2015 Strategic Plan⁹ recognised the value of the OTP's in-country presence, and acknowledged that engaging with civil society and affected groups is key given their knowledge of the situation and access to evidence.¹⁰ The subsequent Strategic Plans for 2016-2018,¹¹ and for 2019-2021,¹² confirmed again the OTP's objective of improving engagement with survivors, victims, and affected communities, its commitment to provide regular updates on OTP's activities, and its intention to increase its in-country presence.

While the overall policies, strategies, and conceptual approaches on outreach developed significantly under the tenure of Prosecutor Bensouda, there is little reference to outreach in the OTP's dedicated strategies on Preliminary Examinations, Case Selection and Prioritisation, and Situation Completion.¹³ For instance, while the OTP (and the wider ICC) engage to a certain extent with communities at the preliminary examination stage, outreach activities do not start until an investigation has been opened.¹⁴ In this regard, despite strategic improvements made on the different policies, those consulted for the purpose of this report expressed numerous frustrations with the OTP's transfer of information, especially during the preliminary examination stage, which reveal the lack of a clear, effective, and proactive communications strategy. Participants also indicated that for the most part, they were not aware of the OTP's outreach or communications policies and strategies, nor had they been consulted on their development.

With some exceptions, the consultations carried out for this report showed that the OTP's overall strategies on outreach and engagement are not implemented efficiently by the Office's practices in situation countries. Participants described shortcomings in relation to the scope and content of outreach, OTP's in-country presence, regularity of engagement and outreach with all stakeholders, relationships with civil society, and OTP knowledge of local conditions.

8. FIDH, [The Office of the Prosecutor of the ICC 9 Years On](#), December 2011, p. 14.

9. OTP, [Strategic Plan 2012-2015](#), 11 October 2013.

10. *Ibid*, para. 48.

11. OTP, [Strategic Plan 2016-2018](#), 6 July 2015. In particular, the Office affirmed that it would continue to “take a victim-responsive approach throughout all aspects of its work, by (1) taking into accounts their views; (2) communicating, where possible together with the Registry, with the affected communities about the role of the Court and the Office's decisions, and (3) ensuring that their well-being is duly taken care of when they interact with the Office”.

12. OTP, [Strategic Plan 2019-2021](#), 17 July 2019. In particular, the OTP reaffirms the need to connect with the country, to prepare operations in terms of languages, staffing, logistics, security, etc., in order to improve the speed, efficiency and effectiveness of preliminary examinations, investigations, and prosecutions. The OTP additionally pledges to continue to develop its communication strategy and the ability “to effectively communicate with its stakeholders, with the victims and affected communities, and the general public” to maximise transparency.

13. See OTP, [Policy Paper on Preliminary Examinations](#), November 2013; OTP, [Policy Paper on Case Selection and Prioritisation](#), 15 September 2016; OTP, [Policy on Situation Completion](#), 15 June 2021.

14. IER, [Independent Expert Review of the International Criminal Court and the Rome Statute System Final Report](#), 30 September 2020, para. 393. See also ICC, Situation in the State of Palestine, [Decision on Information and Outreach for the Victims of the Situation](#), 13 July 2018.

MODALITIES OF ENGAGEMENT WITH THE OTP

Most of the organisations consulted acknowledge that Prosecutor Bensouda fostered a more open and collaborative relationship with civil society groups. While during preliminary examinations much of the Prosecution's work is geographically limited to The Hague, virtually all organisations consulted confirmed that contact with the OTP did tend to increase as the proceedings moved from preliminary examination to investigation. Those consulted also acknowledged that the Office usually responds positively when requested to meet with civil society organisations.

For instance, civil society organisations consulted for this report noted that they have had numerous opportunities to meet with the Prosecution during the annual ICC-NGO roundtables, and the Assembly of States Parties to the Rome Statute (also known as the ASP) in The Hague and New York City. Participants also noted that during the visits carried out to situation countries, Prosecutor Bensouda and her team have engaged with civil society, within the limits of confidentiality, and made local groups feel much more seen and heard than in prior years.

However, the perception of those consulted was that there are still not enough or adequate opportunities for direct engagement by affected communities with the OTP. The meetings organised usually seem to be initiated by civil society and not by the OTP, and while valuable, the organisations consulted expressed concern and frustration over a lack of clarity and responsiveness on the part of the OTP during those meetings. Access to the OTP by the communities is further complicated by a lack of knowledge about who specifically to contact within the OTP, via which medium, and the security of these communications. While the OTP already has a Cyber Unit, it is worrying that none of the participants seemed to know about the steps the OTP takes to develop secure communication channels. If communication guidelines are already in place internally, the OTP should consider sharing them, to the extent possible.

In person meetings are an important medium for safely obtaining information from the OTP beyond what is on the website and social media platforms. Unfortunately, the Covid19 pandemic has resulted in even fewer in-country visits and more dependency on virtual meetings. For instance, the ICC-NGO roundtables in 2020 and 2021 have been held virtually due to the pandemic. This has had the benefit of expanding participation from civil society in situation and preliminary examination countries who otherwise may not have been able to travel to The Hague. However, and more generally, for those in situation countries where the internet is often unstable, using digital means of communication has proven a big obstacle for their engagement. The virtual format also did not allow for bilateral discussions or exchanges between civil society representatives and the OTP, which can often be arranged during the roundtables in The Hague.

Furthermore, participants from several countries, including Francophone and Spanish-speaking countries, noted that meetings with the OTP—both virtual and in person—are generally in English. Even if some civil society organisations can count on staff that speak English, this is not always the case and can create a barrier between the ICC and civil society, in particular survivors and victims. While engaging interpreters is always welcomed, internal capacity to speak local languages within the OTP's teams would be an asset in the dissemination of information and in communications to affected communities.

THE ROLE OF CIVIL SOCIETY ORGANISATIONS IN THE OTP'S OUTREACH

In situations where communities live in challenging locations, such as areas with conflict or political instability, in refugee camps, or where the use of mobile devices is restricted, like in Libya and Bangladesh, the exchanges between communities and the OTP are often indirect, relying on the mediation of local and international civil society organisations (hereinafter, "CSOs"). These groups play a critical role in transmitting information to affected communities on ICC processes, frequently filling the gap left by the Court. By doing so, they help raise awareness on the institution and its work and manage expectations of affected groups. This involvement of international NGOs as intermediaries between the OTP and communities was seen as a positive asset by many local organisations, as it allows survivors and victims to understand ICC processes. It can also help focus the attention of the OTP or the international community on a given situation—particularly when the international NGOs are well-known.

However, engaging organisations as mediators to conduct outreach is not without risks. If the organisation leading the engagement lacks cultural and social understanding, or cannot communicate effectively with the communities, the mediator may put them in danger. For instance, a representative of the Rohingya population described how a civil society group representing victims and in contact with the OTP engaged with Rohingya victims without the knowledge to present the issue properly and failed to take adequate security precautions.

Relying too much on CSOs for disseminating information can also lead to gaps between the communities and the OTP, creating confusion and lack of transparency. To mitigate some of these risks, the Prosecution should develop a strategy to engage more effectively with diaspora communities (beyond just The Hague) to communicate information to a broader audience, including from the preliminary examination phase. For example, the OTP can announce news and information through diaspora news and radio channels that have a large following both inside and outside affected countries.

Most importantly, many local and international CSOs in situation countries who undertake this task are not officially recognised as intermediaries. While the ICC does have Guidelines on Intermediaries, which cover organisations assisting "with outreach and public information in the field",¹⁵ most of the groups consulted were not aware of their existence. The few participants who had knowledge of the guidelines lacked clarity on how the OTP selects organisations to act as intermediaries with survivors, victims and affected groups, and what their respective rights and obligations are.

FREQUENCY AND CONTENT OF COMMUNICATIONS

Organisations consulted for this report characterised OTP outreach as irregular communications that are either too spread out or concentrated on a specific moment of the proceedings. Outreach by the OTP, indeed, often seems to be geared towards major developments, such as the opening of an investigation and key judicial decisions in the course of a trial, rather than being conducted in a sustained, ongoing, dynamic and fluid way. Participants mentioned they often had a perception of outreach "saturation", with intense engagement for a few weeks at a time, then silence until the next major event at the Court, often months later. At the same time, information about those key developments is often not communicated properly, or in a timely manner.

Participants regretted the lack of clear information about the capacity of the OTP to engage with different stakeholders across the different phases of the proceedings, from preliminary examination to trial and beyond, especially in terms of victims' participation. As a result, CSOs may lack time to deal with a significant amount of information and be confused about the messaging and the

15. ICC, [Guidelines Governing the Relations between the Court and Intermediaries](#), March 2014.

specific activities the OTP is carrying out. This approach can also raise unrealistic expectations or contribute to misinformation campaigns. Additionally, far from a cohesive message, CSOs that had the opportunity to interact with the OTP appear to have received conflicting information. They reported feeling as though they needed to decode the words and body language of OTP staff members in order to decipher the information being communicated. The ambiguity and lack of clarity conveyed in these interactions gives the impression that the OTP lacks internal clarity about what can be communicated to civil society and by whom, including to groups that have submitted information to the OTP.

This issue is particularly evident around the conclusion of preliminary examinations and the OTP's decisions about whether to request the opening of an investigation. Participants from Nigeria and Ukraine noted that very little information was communicated to affected groups and CSOs in those countries about the OTP's decisions not to request the opening of an investigation. This made them feel abandoned in a crucial moment of the proceedings. Similar points were raised about the OTP's request to the Pre-Trial Chamber on territorial jurisdiction in the situation in the State of Palestine. The perception among affected groups on the opening of an investigation in Afghanistan is particularly telling. They noted that since the opening of the investigation, no outreach was done and no information was provided on the Afghan authorities' request for deferral, which complicated an already complex situation in Afghanistan. The fact that no explanation was provided was perplexing, especially since Afghan and international NGOs had been engaged in the proceedings and had been conducting outreach for the Court. Information being given only to some locations and not to others contributed to distrust towards the Court in general and the OTP in particular, and to a feeling of abandonment.

We acknowledge that there is a need to maintain confidentiality over certain aspects of the work of the OTP. However, without a proper explanation and framing of the work of the Court, the potential results, and the time the process will take, communities may fill in the gaps about the impact that the ICC can have for them. This confusion increases further when other international institutions or investigative missions are working in the same context—such as in Bangladesh/Myanmar¹⁶— or in those countries where state actors seem to be behind the spreading of dis- and misinformation about the Court, such as in Israel/Palestine, Ukraine, and Georgia.¹⁷ In Kenya and the Philippines, the lack of outreach meant there was insufficient reliable information to dispel myths and negative coverage about the ICC being reported in the media. In these situations, the Prosecution should actively and publicly counter misinformation about the OTP's work.

MEDIA AND PUBLIC INFORMATION STRATEGY

Direct and public OTP engagement with media and the public is of utmost importance in countries where civil society is being repressed and faces risks for engaging with the ICC. The Prosecution should adequately and appropriately staff its media team, both in terms of the quantity and quality of staff members. Lawyers, analysts, and other technical members of the Prosecution should not be given *ad hoc* responsibilities for communications. 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 can and should be developed with the guidance and expertise of technical staff members, including the leadership, but must remain the responsibility of trained and experienced communications specialists. For situations under preliminary examination, the OTP should release

16. See ICJ, [The Republic of The Gambia institutes proceedings against the Republic of the Union of Myanmar and asks the Court to indicate provisional measures](#), 11 November 2019; United Nations Human Rights Council, [The independent Investigative Mechanism for Myanmar \(IIMM\)](#), September 2018.

17. See Neve Gordon, [The ICC and Israel's charge of anti-semitism](#), 12 March 2021; Valentyna Polunina, [If the Ukraine Wants for the ICC's Help, It Must Play by the ICC's Rules](#), 24 July 2016; Nika Jeiranashvili, [How the ICC can still be meaningful in Georgia](#), 28 May 2019.

tailored press releases related to each preliminary examination as an accompaniment to the annual reports. This will have more impact in local media and result in greater reporting on preliminary examination developments in affected countries.

Once these communications strategies have been developed, and the boundaries around the information that can be shared publicly are established, all staff members must be informed of the strategy and talking points. In this way, staff members that engage with the public, including CSOs and other stakeholders, are empowered to speak clearly and freely within the appropriate parameters set by the Prosecution. This clarity removes the unnecessary ambiguity in communications with CSOs, and encourages more consistent, accurate, and detailed messaging.

OUTREACH MATERIALS

Annual reports and other communications from the OTP provide important information on the work of the Office. Their impact is however considerably reduced by their very legalistic nature, making them clearly not aimed at CSOs—some of which may not have a legal background or a pre-existing understanding of the ICC’s inner workings—or affected communities, some of whom may have basic education levels or be illiterate. The Prosecution should create an “education” team with the requisite pedagogical skills to translate complex concepts into everyday language for affected communities.

Currently, this burden is on the shoulder of CSOs without the requisite expertise or human and financial capacity to translate the Prosecution’s legalistic reports into more accessible information. The OTP should produce more accessible materials (beyond written documents) and present them in a forum where interaction is possible. For example, videos, audios, and other formats that can be dubbed in local languages should be considered for the dissemination of key information about the proceedings, including from the preliminary examination phase.

Additionally, groups from Myanmar, Bangladesh, Georgia, Uganda, and Nigeria noted that information was oftentimes not available in local languages, referring both to the country’s official language, and to languages commonly used in different parts of the country. CSOs are often left to translate documents into local languages, a task for which they lack means or staff with the technical knowledge to do so. Colleagues from Sudan had noticed an improvement in the availability of Arabic-language information, including on the ICC’s website, but those from Palestine said there was still a lack of information in Arabic designed specifically for survivors, victims, and communities.

CROSS-ORGAN COORDINATION

Without a clear delineation of responsibilities across ICC organs, CSOs will inevitably expect the Prosecution to lead all communications and outreach efforts, as it is the first organ of the Court with whom the vast majority of them interact. As such, some of the suggestions by CSOs reflected in this document may or may not fall within the mandate of the Prosecution. While certain activities can and should be addressed by a well-staffed and dedicated media team within the Prosecution, other actions may fall within the ambit of the Registry and/or necessitate concerted collaboration with CSOs.

Outreach is a cross-organ activity. As such, and in order to be conducted successfully, there must be a clear and coherent strategy among the various organs laying down their respective roles according to their mandates. The 2005 *Integrated Strategy for External Relations, Public Information,*

and Outreach (“Integrated Strategy”) is the only Court-wide strategic document on outreach.¹⁸ Other texts touch on the roles of the different organs, though. For instance, the Registry’s 2006 *Strategic Plan for Outreach of the International Criminal Court* contains elements about coordination between different organs of the Court.¹⁹ The 2012 Court’s *Revised Strategy in Relation to Victims* sets as an objective that victims “receive clear communications about the ICC, its mandate and activities, as well as their right as victims in relation to the elements of the ICC system and at all steps of the judicial process”.²⁰ It also specifies that at the preliminary examination stage, the OTP is the “leading actor” in terms of communication with victims.²¹

Nonetheless, the Integrated Strategy has not been properly implemented, neither has been kept step with the aforementioned strategies and policies developed by Prosecutor Bensouda and other organs of the Court, or other developments at the ICC²²—like the reorganisation of the Registry in 2016 which was meant to address some of the shortcomings in coordination across its different sections.²³ The experts mandated in 2019-2020 to review the performance of the Court highlighted this lack of implementation of the Integrated Strategy. They also pointed out the need for better coordination among the various organs of the Court and recommended that “[a]n outreach plan, at least for every situation country, if not also per region, should be devised and then implemented from the PE [preliminary examination] stage of every situation”.²⁴

The lack of coordination and clarity generates confusion about the different ICC personnel involved in outreach efforts. Many of the organisations consulted raised that it is often difficult for people who do not have an in-depth understanding of how the ICC works to untangle the different roles of people who, for them, are simply “the Court”, irrespective of which organ or unit they represent, and who often do not even convey the same message or coordinate among themselves on their respective activities. For example, there are two judicial decisions (State of Palestine, and Bangladesh/Myanmar) that order the Registry to establish a system of public information and outreach activities for those two situations, echoing civil society demands that outreach activities start at an earlier phase. At the time of writing, there does not seem to be a public implementation plan for these decisions, much less a coordinated effort across organs.

All of these issues have contributed to the spread of misinformation and a lack of understanding about what the Court is doing and why. They also hinder the capacity of civil society to convey accurate and timely information to survivors, victims, and affected communities.

IN-COUNTRY PRESENCE AND CONTEXTUAL KNOWLEDGE

The OTP does not have a continuous or stable presence in any country under preliminary examination or where investigations have commenced. The Prosecution deploys investigators to situation countries on a rotational basis, usually for short missions that last two to three weeks but does not have its own dedicated in country offices—the “field offices” are established and run

18. ICC, [ICC Integrated Strategy for External Relations, Public Information and Outreach, Context and Conceptual Framework](#), July 2005.

19. ICC-ASP/5/12, [Strategic Plan for Outreach of the International Criminal Court](#), 29 September 2006.

20. ICC-ASP/11/38, [Court’s Revised Strategy in relation to Victims](#), 5 November 2012, para. 18. Despite the request from States Parties that the Court submit an updated and more comprehensive approach to victims’ issues, to date, the Victims Strategy has not been revised: ICC-ASP/19/Res.6, [Strengthening the International Criminal Court and the Assembly of State Parties](#), 16 December 2020, para. 111.

21. ICC-ASP/11/38, [Court’s Revised Strategy in relation to Victims](#), 5 November 2012, paras. 15, 18.

22. IER, [Independent Expert Review of the International Criminal Court and the Rome Statute System Final Report](#), 30 September 2020, para. 394.

23. ICC Registry, [Comprehensive Report on the Reorganisation of the Registry of the International Criminal Court](#), August 2016, p. 13.

24. IER, [Independent Expert Review of the International Criminal Court and the Rome Statute System Final Report](#), 30 September 2020, R163, para. 394.

by the Registry once an investigation commences.²⁵ This model is neither efficient nor effective in the eyes of CSOs and victims' representatives. The lack of a stable OTP in-country presence has a negative effect on the OTP's relationship and engagement with survivors, victims, affected communities, and CSOs. It contributes to a lack of clarity and transparency, aggravating the problems about outreach described above. A stable presence would enhance communications with communities, and their trust in the Court and the results the ICC can yield—delivering more meaningful justice for survivors of Rome Statute crimes.

Additionally, the lack of a stable OTP in-country presence reduces the OTP's understanding about issues such as language and safety, or political, social, and cultural matters. The disconnect from realities in the situation countries has a negative impact on the Office's investigative capacities, outreach, cases in the courtroom, and ultimately its overall legitimacy. Some of these issues could be partly addressed by employing staff from the situation countries for outreach activities. For instance, in the context of investigations, the 2003 OTP Policy Paper outlines a commitment to include in its investigative teams nationals of the countries where the ICC is conducting investigations. According to that policy, this would allow the Office to “have a better understanding of the society on which its work has the most direct impact” and “interpret social behaviour and cultural norms as the investigation unfolds”.²⁶ The same reasoning can be applied to outreach activities.

The lack of personnel from situation countries in OTP teams hampers the Office's ability to engage and interact with local actors, even where the OTP uses interpreters. This can create barriers to building trust between the OTP and the people with whom they interact, which is complicated by the difficulties of sharing stories about past trauma. In some situations, like Georgia, the groups consulted indicated that communities may not trust people who do not speak their language, making engagement with them difficult in other languages. For instance, in Bangladesh/Myanmar, the OTP relied on an NGO to reach out to the Rohingya population, but the interpreter did not speak the Rohingya language, only Bengali. Despite some similarities between the two languages, the translation was not always correct and the fine lines of some of the communications were lost.

The lack of contextual knowledge can also have potential negative implications for survivors' and victims' safety. For example, according to those who participated in the consultations, the OTP engaged with victims situated in the Administrative Boundary Line, a buffer area between Georgia-controlled territory and South Ossetia, where law enforcement is lacking, and victims could have been exposed to kidnapping or other forms of violence because of their engagement with the ICC.

25. The [ICC website](#) states that “[t]he ICC has offices in several of the countries in which investigations are being conducted”, albeit not in all situation countries.

26. See OTP, [Policy paper on some policy issues before the OTP](#), 1 September 2003, pp. 8-9.

III. RECOMMENDATIONS

POLICIES, STRATEGIES AND GUIDELINES

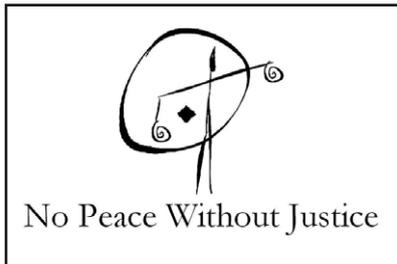
1. The OTP should clarify its outreach mandate by clearly stating the definition, purpose, and scope of the activities this entails, and reviewing existing policies and strategies.
2. The OTP should cooperate with relevant organs and units of the Court to clarify their respective roles in the organisation of outreach activities, and review and update the Integrated Strategy on External Relations, Public Information and Outreach.
3. The OTP should ensure that the Guidelines on Intermediaries are known to local CSOs and, where appropriate, better define the criteria that determine the choice of a particular intermediary, following a strong and reliable selection process.
4. If not yet developed by the Cyber Unit, the OTP should implement guidelines and tools to safeguard the security of communications and contact with survivors and victims—covering both the OTP and intermediaries—and ensure that they are known to and understood by all relevant stakeholders.

COMMUNICATIONS AND MATERIALS

5. The OTP should create a dedicated team responsible for both proactive and reactive communications. This team can also help inform OTP staff about strategies and messaging, including how technical information can be explained in an accessible manner.
6. In its communications to victims and affected communities, the OTP should provide honest, comprehensive, and understandable information and explain key documents and judicial decisions in fora that facilitate interaction with affected communities.
7. The OTP should regularly share information on the scope of crimes and investigations, how victims can provide their views and concerns to the Office, what their participation will entail, an idea of what the Court can and cannot achieve, and general timeframes—from the preliminary examination stage and for all situation countries.
8. The OTP, in coordination with the Court's dedicated information section (PIOS) and other relevant sections of the Registry, should produce more accessible materials in a format that is most suitable for each specific country, such as infographics, comics, videos, annotated decisions with explanations, and voice note updates. These tools and written documents should be produced in local languages, including dialects and indigenous languages in relevant regions.

IN-COUNTRY PRESENCE AND CONTEXTUAL UNDERSTANDING

9. The OTP should establish an in-country presence from the earliest possible opportunity, and proactively develop direct and continuous communication channels with victims, affected communities and civil society in their local languages.
10. The OTP should incorporate people from the situation country within the OTP's teams to facilitate engagement with victims and affected communities, and to increase its contextual understanding.
11. The OTP should increase its direct engagement with affected communities and civil society organisations, especially in countries where civil society faces risks for engaging with the ICC.
12. If the OTP needs to collaborate with external parties, it should try (to the extent possible), to engage local actors who speak the relevant language/s and are trusted by the affected communities. When relying on external parties, the OTP should consider recognising them as intermediaries, and monitor that their engagement is conducted according to the Court's standards.



No Peace Without Justice is an international non-profit organisation that works for the protection and promotion of human rights, democracy, the rule of law and international justice. NPWJ raises awareness and fosters public debate through explicitly political campaigns and the implementation of key programs. NPWJ has acquired unique field experience in conflict mapping and wide-scale documentation of violations of international humanitarian law in areas affected by conflicts and in implementing outreach programs engaging local communities in conflict and post-conflict areas on issues of international criminal justice.

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Keep your eyes open

fidh

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.

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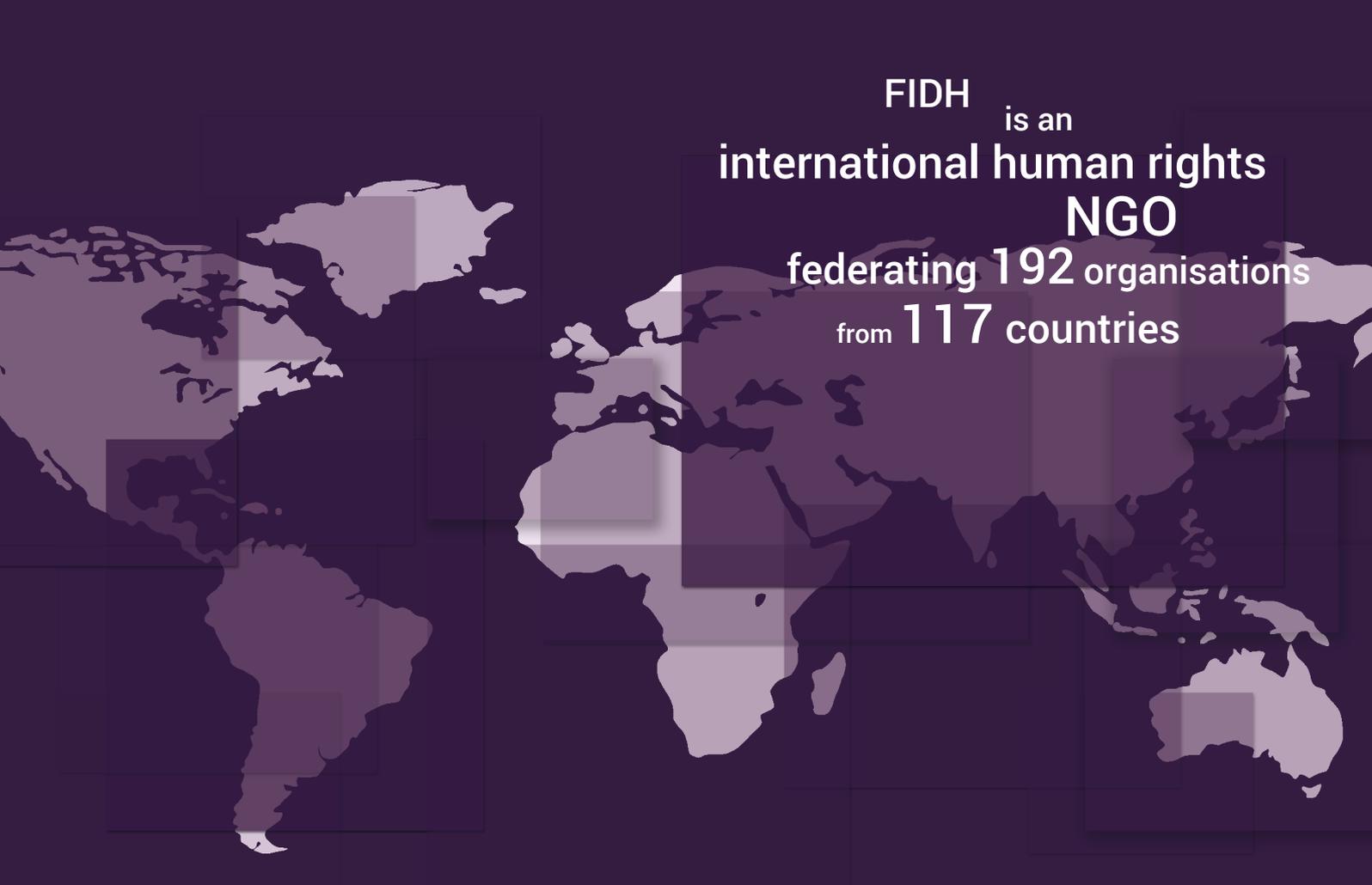
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FIDH is an
**international human rights
NGO**
federating **192** organisations
from **117** countries

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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.