

## **The International Criminal Court's Submissions in relation to the consultation process outlined in UNGA Resolution 78/227: "Equal access to justice for all"**

### **I. Introduction**

The International Criminal Court ("ICC") welcomes the opportunity to contribute to the expert consultation process outlined in General Assembly resolution 78/227, "Equal access to justice for all." This resolution, adopted on 19 December 2023, underscores the importance of justice for all, especially for vulnerable groups, in promoting the rule of law and protecting human rights.

As the world's first permanent international court prosecuting grave crimes like genocide, war crimes, crimes against humanity and the crime of aggression, the ICC is committed to supporting global efforts to strengthen justice systems. The ICC also contributes directly to SDG 16 and reinforces the principle of the rule of law. Also, the Rome Statute ("Statute") and the ICC's activities catalyse the strengthening of domestic efforts of accountability.

### **II. Enhancing Access to Justice**

#### **a) Empowering Victims and Communities**

The ICC's victim participation framework is a crucial element in ensuring access to justice for those in most dire need. Victims have extensive rights within the ICC's process, including the right to participate in judicial proceedings and request reparations. The Registry's Victims Participation and Reparations Section ("VPRS") facilitates victim involvement from the initiation of investigations to reparations following a conviction. VPRS engages directly with victims to inform them of their rights and ensure their meaningful participation in the ICC judicial process.

At relevant procedural stages, the VPRS establishes networks with victim communities and their representatives, enabling victims to come forward individually and to submit their applications to participate in ICC proceedings and receive reparations. The VPRS has established a standardised system to collect victims' information, guaranteeing an even-handed approach and a high level of confidentiality which is crucial for victims in active crisis areas. Every victim application is individually assessed and submitted to the judges for their final decision on the victim's participatory status.

The VPRS enables victims to come forward from the initial stages of a case long into the trial phase. In its interactions with victims, the VPRS applies a trauma-informed approach, heeding

special attention to vulnerabilities, needs and victimisation, with a focus on SGBC victims. It ensures equal access and representation for all victim groups before the ICC.

The ICC provides free legal representation for victims unable to afford it. Victims' specific needs and interests are reported to the judges so that victims can enjoy appropriate and meaningful representation of their interests in court.

At the end of a judicial process, the ICC may award reparations to victims in case of a conviction. The VPRS ensures victims' full access to these proceedings by enabling them, through networks on the ground and ICC field presences, to come forward and partake in the reparations process.

The ICC Registry, through the VPRS serves as a link between victims and the institution. Its continuous interaction with victims across all phases of proceedings has a beneficial effect on victims, if only to inform and provide a continuous channel for them to communicate with the ICC. Legal representatives of participating victims play also an important role in this regard, bringing victims' views and concerns to the courtroom which empowers victims in their active participation in the ICC justice process.

#### **b) Public Information and Outreach**

A core objective of the ICC's Public Information and Outreach Section is to ensure meaningful access to justice, particularly through its Outreach Unit. The ICC's regulations mandate outreach programs to make judicial proceedings accessible to communities affected by its cases. To fulfil this, the Outreach Unit operates from ICC country offices and headquarters, using various communication methods such as victim consultations, town hall meetings, radio and TV programs, and social media content. Materials like leaflets, posters, and audio-visual content are shared in local languages, with attention to gender and trauma-sensitive approaches.

The Outreach Unit collaborates with local stakeholders—civil society, media, academia, and community leaders—to broaden the reach of information, ensuring victims are informed of their rights and how to exercise them in a clear, understandable manner. Access to justice is central to the ICC's mission, and the outreach activities play a crucial role in supporting this goal.

As part of its own core activities, the ICC Office of the Prosecutor ("OTP") too engages closely with domestic stakeholders, in accordance with its strategic objectives to bring justice closer to communities and deepen engagement with civil society.

### **c) Field Presences**

The ICC's field presences are key to performing its work, particularly in its direct interaction with victims. The ICC has presences in many situation countries, which aims at supporting operations on the ground, enhancing understanding of environments and building trust with affected communities.

This approach enhances:

- Knowledge and understanding of local environments;
- Identification of information and evidence;
- Visibility and accessibility for affected communities;
- Victims' access to the ICC to exercise their participatory rights and request reparations.

## **III. Strengthening Justice Systems**

### **a) A Survivor-Centred, Trauma-Informed Approach**

Together with the Registry, the OTP prioritises a trauma-informed approach to its work, particularly in cases involving gender-based crimes and crimes affecting children.

Building on its policy on Gender-based Crimes<sup>1</sup> and its policy on Children<sup>2</sup>, the OTP aim to spotlight and implement best practices in investigating and prosecuting these crimes.

This includes:

- Prioritising a trauma-informed and intersectional approach;
- Providing child- and survivor-friendly interview facilities;
- Strengthening capacity for trauma-informed interactions.

### **b) Use of Advanced Technology**

The ICC has embarked on a significant digital transformation to enhance its operations and impact towards the fulfilment of justice.

Key initiatives include:

- OTP Project Harmony: Enhancing capacity to process large quantities of evidence, to exploit the entirety of both the physical and digital footprint of alleged crimes in modern day conflict zones, including through integration of AI and Machine Learning to streamline and strengthen analysis processes.
- OTP Link: A web-based platform for receiving evidence and information submissions;
- Use of IT technology to render victims' access to the ICC most secure and effective.

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<sup>1</sup> [Policy on Gender-based Crimes | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int/policy-on-gender-based-crimes)

<sup>2</sup> [Policy on Children | International Criminal Court \(icc-cpi.int\)](https://www.icc-cpi.int/policy-on-children)

### **c) Witness Protection**

The ICC's robust witness protection program is a critical component of ensuring access to justice for victims and witnesses of international crimes. The ICC legal texts provide a strong legal basis for witness protection measures at the ICC. Article 68 of the Statute specifically mandates the Court to take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses.

Over the years, a specialised unit of the Registry, the Victims and Witnesses Section ("VWS") has developed a range of best practices to ensure both the physical and psychological protection of victims and witnesses, as well as to facilitate their participation in ICC justice processes. This has been achieved through the implementation of an Integrated Model for Witness Support and Protection, which emphasises the joint focus on psychological and physical protection at every stage of the witness protection process.

Key practices include the familiarisation of witnesses and victims before their court appearances, the use of in-court protective measures (such as voice and face distortion, in line with Rule 87 of the Rules of Procedure and Evidence ("RPE")) to protect their identities, and the development of a threat and risk assessment methodology. Additionally, the VWS employs Special Measures for vulnerable witnesses (as outlined in Rule 88 of the RPE) and has adopted a Vulnerability Protocol to support the most at-risk individuals in testifying before the Court.

Effective witness protection enables witnesses to testify without fear of retaliation, which is crucial for successful prosecutions and establishing the truth about serious crimes. By providing comprehensive witness protection, the ICC removes a major barrier to participation in its proceedings, thereby enhancing access to justice for victims and witnesses of the world's most serious crimes. This robust program helps ensure that crucial testimony can be safely obtained to hold perpetrators accountable.

## **IV. Reparations as Justice**

### **a) Promoting the rule of law through reparations**

The Statute provides that reparations may be ordered by the ICC judges following a conviction and for the benefit of the victims affected by the crimes (Article 75 of the Statute). Article 79 of the Statute provides for the establishment of a Trust Fund for Victims ("TFV") to secure funding, in case the convicted person is indigent, to design and implement court-ordered reparations (at the case level) and also to deliver assistance for the benefit of victims of the crimes under the jurisdiction of the Court (at the situation level).

Because of its subject matter, victims before the ICC proceedings include children, men and women of all ages suffering maiming, torture, rape, sexual violence, trauma, pillaging, property and livelihood losses, and missed education. The ICC has investigated and convicted individuals who are responsible for the conscription and/or use of thousands of children under the age of 15 in hostilities. Cases before the ICC include sexual gender violence including the crimes of rape, sexual enslavement, and forced pregnancy. The ICC's cases recognize the transgenerational harm and communal harm caused by these crimes, and has considered impact to communities affected in their cultural and religious buildings.

Independent evaluations to reparation programmes document that individuals who have benefited from reparations report general satisfaction on their possibility to access justice and attain recognition for the harm they suffered. Individuals who have received reparations have increased trust in the rule of law.

#### **b) Reparations as a linkage between SDG16 and the other SDGs**

The liability of the convicted persons and the measures ordered are based on assessment of harm caused by the crimes they committed. The measures may take the form of symbolic or material and individual or collective measures, including pecuniary payments, goods or items, services, or activities such as memorialisation and peacebuilding efforts. Such measures seek to rehabilitate, retribute, compensate or recognize the harm suffered by victims.

Considering that the most serious crimes impact negatively massive number of victims in their physical and mental health, opportunities for education, livelihoods and societies, the reparative measures ordered by the ICC address the harm suffered by thousands of victims contributes directly to all other sustainable development goals, in particular SDGs 1, 2, 3, 4, 5, 8, 10, and 17 on no poverty, zero hunger, good health and wellbeing, quality education, gender equality and peace, decent work and economic growth, reduced inequality respectively.

Such measures include:

- *Medical treatment*: addressing the care and rehabilitation needs of those who have suffered sexual and gender-based violence and/or other types of physical injury or mutilation. This can include provision of reconstructive surgery, general surgery, bullet and bomb fragment removal, prosthetic and orthopaedic devices, referrals to services like fistula repair, and HIV and AIDS screening, treatment, care and support.
- *Psychological rehabilitation*: addressing the psychological consequences and traumatising from war, conflict, sexual violence and other crimes.
- *Socio-economic support*: aimed at improving the economic status of victims through education, vocational training, savings and loan schemes, rebuilding of community infrastructure and creation of income-generating and productive projects.

- *Special initiatives for survivors of sexual violence and their children*, including children born out of rape: including access to basic health services, trauma-counselling aimed at strengthening the mother to child to family bonds, education grants, nutrition support, and inter-generational responses addressing stigma, discrimination and reconciliation in families and communities.
- *Peacebuilding and reconciliation*: aimed at addressing the collective harm in the communities. This includes the provision of community sensitisation workshops and radio broadcasts on victims' rights, information sessions and large-scale community meetings. Community awareness responses may include engaging community dialogue and reconciliation to foster peace within and between the communities that create a suitable environment for prevention of crimes.
- *Memorialisation*: to ensure recognition and symbolic commemoration thus contribution to reconciliation and the prevention of reoccurrence of conflict.

## V. Catalysing access to justice at the domestic levels

The Statute is a landmark instrument contributing to the development of norms to prevent and punish heinous forms of violence, including sexual based violence, violence against children, against cultural property and against the environment which may constitute crimes against humanity and/or war crimes. The Statute also enshrines key principles of judicial independence and integrity, due process, fair trial, and access to victims to remedies and justice.

Considering that States have the primary responsibility to investigate and punish such crimes, the implementation of the Rome Statute in domestic legislation, and the acquired experience of the Court, which is available to States for the prosecution of massive and complex crimes catalyses domestic initiatives around the world, which result in increased accountability and access to justice at the domestic level.

This dynamic posture is also reflected in the OTP's Policy on Complementarity and Cooperation (2024)<sup>3</sup>, renewing its approach to the principles of complementarity and cooperation at the heart of the Rome Statute, with the objective of bringing the OTP's work closer to affected communities and deepening its partnerships with States, civil society and regional and international organisations, as a hub at the centre of global accountability efforts. Court-ordered reparations programmes also have the effect of catalysing domestic initiatives. Reparations programmes are thus implemented in a manner that allows authorities to participate and learn from the efforts.

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<sup>3</sup> [Policy on Complementarity and Cooperation \(2024\) | International Criminal Court \(icc-cpi.int\)](#)

## **VI. Conclusion**

The ICC remains committed to promoting equal access to justice for all, particularly for vulnerable groups. Through its comprehensive and robust victims and witness protection, victim participation framework, reparations to the victims, and emphasis on outreach and technological innovation, the ICC has developed significant expertise in addressing many of the key challenges outlined in General Assembly Resolution 78/227.

The ICC stands ready to contribute further to global efforts to improve access to justice and remains committed to supporting the principles outlined in the resolution.