

**EVALUATION OF KNOWLEDGE AND  
EXPERTISE IN INTERNATIONAL  
CRIMINAL JUSTICE IN UGANDA**

**BASELINE SURVEY REPORT**

NOVEMBER 2011



# Avocats Sans Frontières



Avocats Sans Frontières is an international nongovernmental organisation. Its mission is to independently contribute to the creation of fair and equitable societies in which the law serves society's most vulnerable groups. Its principle aim is to contribute to the establishment of institutions and mechanisms allowing for independent and impartial access to justice, capable of assuring legal security, and able to guarantee the protection and effectiveness of fundamental rights (civil and political, economic and social).

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The contents of this document are the sole responsibility of Avocats Sans Frontières and can under no circumstances be regarded as reflecting the position of the European Union and MacArthur Foundation.

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## **LIST OF ACRONYMS/ ABBREVIATIONS**

<b>ARLPI</b>	Acholi Religious Leaders Peace Initiative
<b>ASF</b>	Avocats Sans Frontières
<b>CSO</b>	Civil Society Organization
<b>DPP</b>	Directorate of Public Prosecutions
<b>ICC</b>	International Criminal Court
<b>ICD</b>	International Crimes Division
<b>ICTR</b>	International Criminal Tribunal for Rwanda
<b>ICTY</b>	International Criminal Tribunal for Yugoslavia
<b>JLOS</b>	Justice Law and Order Sector
<b>LRA</b>	Lord's Resistance Army
<b>NGO</b>	Non Governmental Organization
<b>ULS</b>	Uganda Law Society
<b>UPDF</b>	Uganda Peoples Defence Force
<b>UPA</b>	Uganda People's Army

## **1. SYNTHESIS OF THE STUDY**

Over the years, ASF has been involved in a number of activities aimed at ensuring the protection and promotion of human rights in select countries across the globe. In 2010, as part of its ongoing efforts to contribute towards greater accountability for gross human rights violations as well as redress for victims, the organization launched a new multi-country project entitled "*Promoting the Rome Statute System and enhancing the effectiveness of the ICC*" with the support of the European Commission and the MacArthur Foundation.

The countries covered under this project include Uganda, the Democratic Republic of Congo, Burundi, East Timor and Nepal. In addition, Burundi, Uganda and Colombia are to serve as the hub for activities involving regional networks for French and English speaking African countries and Latin America respectively. As such, Guatemala, Chad, Guinea, Kenya and Zimbabwe will participate in some of the activities conducted in the aforementioned countries.

This baseline study is part of a series of activities under this new ASF project. ASF realizes that over the years, other organizations have been engaged in projects of this very nature and therefore in a bid to avoid duplication of programs, it decided to carry out this study in order to identify the training needs of different stakeholders in the justice system. This comprehensive analysis therefore necessitated that ASF interacts with key stakeholders in the justice sector, civil society and the legal fraternity.

The findings of this research reveal that more outreach and trainings are needed in order to ensure that all stakeholders embrace the Rome Statute system and understand the vital role it can play in building a nation where perpetrators of gross human rights violations are subjected to justice and accountability.

In addition, there is still need to create a platform for these stakeholders to advocate for key legislative and judicial reforms so as to ensure that there is an effective legal regime and practice aimed at protecting the rights of victims of gross human rights violations and provision of effective redress.

The findings of this baseline study also reveal that the different stakeholders have varying training needs and therefore under the new ICC project, ASF needs to tailor its training programs and other activities to specifically suit each category of professionals.

## 2. INTRODUCTION AND CONTEXT

The Rome Statute which established the International Criminal Court is one of the most progressive international legal instruments in as far as the protection of human rights is concerned. The statute came into force on 1<sup>st</sup> July 2002 after it was ratified by 60 countries. As of October 2011, 119 states are members of the court.

The Rome Statute has finally created a comprehensive system of accountability for gross human rights violations committed by all persons regardless of their standing in society and legal frameworks within their respective countries that give them any form of immunity from prosecution.

Further, the legal provisions within the Rome Statute that provide for reparations for victims of human rights violations are unprecedented in previous international human rights regimes.

Unlike previous international tribunals and courts that have also dealt with perpetrators of human rights violations, the International Criminal Court is a permanent criminal court whose jurisdiction according to Article 5 of the Rome Statute, is limited to the most serious crimes of concern to the international community as a whole. The Article further provides that the Court's jurisdiction extends to try perpetrators of crimes of genocide, crimes against humanity, war crimes and the recently defined crime of aggression.

Uganda is one of the countries in the world that has been enthusiastic about the work of the International Criminal Court since its inception. On 14<sup>th</sup> June 2002, it became one of the first countries in the world to embrace the Rome Statute system when it ratified the Rome Statute.

Later, in December 2003, Uganda became the first country to refer a situation to the ICC when His Excellency Yoweri Kaguta Museveni, the President of the Republic of Uganda, referred the situation concerning the Lord's Resistance Army to the Prosecutor of the Court for further investigation.<sup>1</sup> On 13<sup>th</sup> October 2005, upon completion of investigations, the ICC issued warrants of arrest for five top LRA commanders; Joseph Kony, Vincent Otti (rumored to have died in 2007 though his name still remains in the case), Okot Odhiambo (rumored to have died in April 2008 though his name remains in the case), Dominic Ongwen and Raska Lukwiya (now deceased and his name removed from the case according to the decision of Pretrial Chamber II, No.; ICC-02/04-01/05-248 of 11<sup>th</sup> July 2007).<sup>2</sup>

The issuance of these arrest warrants was one of the most significant actions by the International Criminal Court since its creation because the Northern Uganda conflict had escalated in the 21<sup>st</sup> century and international organizations such as UNICEF estimated that roughly about 20,000 children were abducted by the LRA during the 19 years of the conflict.<sup>3</sup>

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<sup>1</sup> Found at [http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/2004/president%20of%20uganda%20refers%20situation%20concerning%20the%20lord\\_s%20resistance%20army%20\\_lra\\_%20to%20the%20icc?lan=en-GB](http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/2004/president%20of%20uganda%20refers%20situation%20concerning%20the%20lord_s%20resistance%20army%20_lra_%20to%20the%20icc?lan=en-GB)

<sup>2</sup> Found at [www.icc-cpi.int/pressreleases/114.html](http://www.icc-cpi.int/pressreleases/114.html)

<sup>3</sup> Found at [http://www.unicef.org/protection/uganda\\_25184.html](http://www.unicef.org/protection/uganda_25184.html)

Further, according to ARLPI, another organization operating in Northern Uganda at that time, from June to December 2002, the LRA conducted 456 attacks and 43 ambushes; killed 539 civilians and 122 UPDF soldiers; and seriously injured at least 114 civilians and 25 UPDF troops in two of Northern Uganda's three Acholi districts (Kitgum and Pader).<sup>4</sup> The ARLPI reported that at least 2,611 civilians were abducted in 2002 from Kitgum and Pader, of whom three-quarters were children.

At least 870 people escaped or were released within several weeks. One of every two returnees was an adult, leaving most of the children remaining with the LRA.<sup>5</sup> These numbers do not include Gulu district and cover only six months. In addition, the LRA burned at least 1,964 houses and 1,600 storage granaries, looted at least 1,327 houses, 116 villages and 307 shops; stole or looted 991 goats, 1,335 chicken, and burned or looted at least 130 bicycles, and attacked 18 schools and 5 clinics in those two districts.<sup>6</sup>

The ICC investigation into the LRA atrocities and subsequent indictment of its top commanders yielded positive results because it pressured the LRA rebels to seriously consider amnesty as a means to shield themselves from prosecution and also compelled the Sudanese Government to stop supporting the LRA. What followed was that the LRA rebels now begun to take the Juba peace talks with the Government of Uganda more seriously.

As of March 10<sup>th</sup> 2009, the ICC Pretrial Chamber II determined that the case against Joseph Kony and the others is admissible under Article 17 of the Rome Statute. However, the accused persons are still at large. Although the ICC has got political will from Uganda, Democratic Republic of Congo and the Central African Republic to execute the warrants against Kony and his commanders, these efforts have so far not yielded any positive result.

Between May 31<sup>st</sup> 2010 and 11<sup>th</sup> June 2010, Uganda hosted the first ever review conference on the Rome Statute of the International Criminal Court. At this conference, ICC state parties, observer states, international organizations, NGOs and other participants discussed proposed amendments to the Rome Statute that included the final definition of the crime of aggression and took stock of its impact to date, making the Conference a critical milestone in the evolution of the Rome Statute system.<sup>7</sup>

Still in the year 2010, Uganda domesticated the Rome Statute when it enacted "The International Criminal Court Act No. 11 of 2010". According to Section 2 of the Act, the purpose of the new law is to give the Rome Statute force of law in Uganda, to implement obligations assumed by Uganda under the Rome Statute, to make further provision in Uganda's law for the punishment of the international crimes of genocide, crimes against humanity and war crimes, to enable Uganda to co-operate with the ICC in the performance of its functions, including the investigation and prosecution of persons accused of having committed crimes referred to in the Rome Statute, to provide for the

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<sup>4</sup> Acholi Religious Leaders Peace Initiative (ARLPI), Acholibreaks Chronology: Full report and chronology through

December 12, 2002 (ARLPI study), at <http://www.acholipeace.org/chronology2002.htm>

<sup>5</sup> Of 2,611 abductees, some 1,958 were children and 653 were adults. Of 870 persons who escaped or were released, 653 were adults and only 287 were children. This leaves 1,671 children and seventy adults captive, of those who were abducted from two of three districts in the last six months of 2002. ARLPI study, *ibid*.

<sup>6</sup> *Ibid*

<sup>7</sup> <http://www.iccnw.org/?mod=review>

arrest and surrender to the ICC of persons alleged to have committed crimes referred to in the Rome Statute, to enable the ICC to conduct proceedings in Uganda and to enforce any sentence imposed or order made by the ICC.

However, this Act does not specifically enable victims to participate in proceedings or make applications for reparations in national court proceedings.

The Act acknowledges the need for protection of victims and witnesses under Sections 46 and 58 but these provisions can only be reinforced by a substantive law on witness protection which Uganda has not yet enacted. Witness and victim protection is a basic human right which strengthens the criminal justice system. Its absence therefore impacts negatively on safe and secure access to the judicial process by thousands of witnesses and victims to whom justice has been denied for years.

On the issue of reparations, Section 58 of the ICC Act provides for enforcement of ICC orders for victim reparations and not for the provision of victim reparation awards by the national courts. However, it is a principle of international law that the breach of an engagement involves an obligation to make reparation in an adequate form by all courts of law. National Objective XXVIII (i) (b) of the 1995 Constitution of the Republic of Uganda provides that the foreign policy of Uganda shall be based on the principles of respect for international law and treaty obligations. Since Uganda is a state party to the Rome Statute, its domestic legislation should reflect its international obligation within the Statute to have applications for reparations in the ICD.

Uganda took another commendable step when it established the "War Crimes Division" in 2008 which has now been renamed as the "International Crimes Division" following the passing of the High Court (International Crimes Division) Practice Directions, on 31<sup>st</sup> May 2011 by Legal Notice No. 10 of 2011. According to Direction 6(1), the Division has jurisdiction to try, among others, any offence relating to genocide, crimes against humanity, war crimes and any other international crimes that may be contained in the International Criminal Court Act No. 11 of 2010 and any other laws.

The establishment of this Division is proof that the principle of complementarity which principally governs the operations of the International Criminal Court has capacity to operate in furthering domestic human rights protection. This principle is embedded in Article 1 of the Rome Statute which clearly stipulates that the International Criminal Court shall be complementary to national jurisdictions. This in essence means that the court only exercises its powers over crimes committed in a country where the national systems are unable or unwilling to prosecute the perpetrators of the crimes barred under the statute. This is why the court is commonly referred to as a "court of last resort." The effective functioning of the principle of complementarity in Uganda requires the continued engagement of Uganda's judiciary, legal professionals and civil society organizations in improving the existing legal system and judicial structures.

On 11<sup>th</sup> July 2011, the Division began hearing its first case brought by the state against Thomas Kwoyelo, a former LRA commander who is charged with having committed several crimes contrary to the 1964 Geneva Conventions Act and the Penal Code Act of Uganda.

On 16<sup>th</sup> August 2011, the Constitutional Court of Uganda convened to hear matters that were referred to it<sup>8</sup> by the International Crimes Division concerning the case of Uganda v. Thomas Kwoyelo. These included whether the acts of the DPP and the Amnesty Commission in failing to grant amnesty to the applicant while granting the same to others is discriminative and inconsistent with the Constitution of Uganda. The Constitutional Court decided that the DPP acted in contravention of the Constitution when he failed to authorize the grant of amnesty to Thomas Kwoyelo.

The proceedings of this Division monitored by ASF so far reveal that there is good will among the judges, prosecutors and the defence to ensure that justice is done for the victims of the 20 year conflict without necessarily compromising on the protection of the accused's rights. Based upon our observations, it appears that despite operational limitations, the justice sector actors involved in the case are committed to ensuring that the trial is expeditiously handled and is conducted in conformity with standards applicable to fair trial.

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<sup>8</sup> Constitutional Reference No. 36 of 2011

### **3. METHODOLOGY**

This baseline study was conducted in the area of Kampala, the Acholi sub region, the Lango sub region and the Teso sub region. The area of Kampala was covered by this study for the sole reason that many of the actors ASF sought to interview operate in this area. The other sub regions were selected because they were affected by the LRA conflict that had grave effects on the people of the Greater Northern Uganda and which led to the ICC issuance of the arrest warrants for the top leaders of the LRA.

The categories of persons contacted to provide ASF with relevant information included practicing lawyers in Uganda who have attended training programs on the Rome Statute or matters related to it, Ugandan lawyers on the ICC list of counsels, actors who have provided training on the Rome Statute and matters related thereto in Uganda, civil society groups that interact with victims of the Northern Uganda conflict, Government institutions such as JLOS, members of the Judiciary, lawyers defending and prosecuting cases before the newly established International Crimes Division.

Most of these institutions or persons were selected to be a part of this study because of their exposure to the Rome Statute or International Criminal Court through previous trainings attended or in their capacity as trainers or promoters of the Rome Statute system.

ASF developed three types of questionnaires to cover the three categories of selected persons: lawyers, CSO groups, other actors already involved in the promotion of the Rome Statute system. The questionnaires contained questions that covered key principles on the Rome Statute, allowed respondents to assess Uganda's performance as a member of the International Criminal Court and also gave them the opportunity to provide ASF with information regarding previous trainings on the Rome Statute or International Criminal Court that they have attended and further state their current training needs.

23 respondents were met for a physical interview with the ASF researchers and a relevant questionnaire used as a guide for the interview. However, where it was impossible to schedule a physical interview, questionnaires were sent out and these totaled to 29, only 4 of which were filled & returned to ASF.

Apart from these interviews, the baseline study involved meetings with 4 key partners already directly involved in the area of international criminal justice. These meetings held in May 2011 explored ways of collaborating amongst the different actors and discussed how ASF can complement their ongoing efforts. The views of these partners have been included in this report.

The study was later concluded by sharing the draft findings of the baseline study with a number of stakeholders at a consultation meeting. The main objective of this meeting was to identify the constraints, potentials and priorities of the ICJ Project target groups (lawyers, CSOs, Justice Sector actors) and beneficiaries (civic organizations and networks of lawyers, national legal systems, the ICC, victims and communities concerned).

At this consultation meeting, ASF adopted a presentation model approach. As earlier noted, the draft baseline findings were shared with a select group of participants who in turn used the plenary session to discuss the issues raised by ASF. This select group of participants was made up of some of the people that ASF met earlier during the interviews under the baseline study and other individuals who generally work on issues related to peace, justice, conflict or general international criminal justice matters. A report containing all the discussions of the day was prepared and used to feed into this final baseline report.

Relevant documents and literature as well as Ugandan legislation such as the ICC Act 2010 were also reviewed. In addition, researchers examined other relevant legislations such as the Geneva Convention Act Cap 363.

### **3.1. ETHICAL CONSIDERATIONS**

All interviewees were contacted in advance of the field work and informed of the intended mission. All information received from the field mission was confidential and only used for purposes of this report. In this report, names and identities of interviewees are given only in cases where ASF is of the opinion that it will not jeopardize their safety.

### **3.2. LIMITATION OF THE STUDY**

Firstly, there was a high likelihood of recall error resulting from the inability of respondents to give proper accounts of their past trainings due to passage of time.

Secondly, in comparative terms, the study is based on a small sample size that may not be truly representative of all stakeholders across the country. ASF made attempts to involve a number of stakeholders in this study but did not receive responses from the majority. While this does not significantly affect the validity of the study's findings, it suggests that some issues in the study may require further investigation to obtain a more comprehensive understanding of the overall situation. The small sample size is also a reflection of the minimal level of interest on issues of international criminal justice among some of the target groups such as lawyers.

## **4. COLLECTED AND ANALYZED INFORMATION**

### **4.1. PRACTICING LAWYERS IN KAMPALA**

All the 4 lawyers interviewed had received at least one training on the Rome Statute and the International Criminal Court and therefore were speaking from an informed point of view. The common training each of them had received was on the rights of victims under international criminal law. Other additional sources of knowledge of the interviewees on the International Criminal Court included the media, Internet and the 2010 ICC Review Conference.

However, the key trend noted was that the lawyers who had been exposed to the ICC directly either as listed counsels of the court or who had actively participated in the 2010 ICC Review Conference as moot counsels had more knowledge on the way the court operates compared to those whose knowledge on the court was limited to attending trainings on theoretical principles embedded under the Rome Statute.

The lawyers interviewed lack practical experience in handling international criminal cases. Despite having the interest in this subject area, they all admitted that they do not practice international criminal law in Uganda because this is a new area of law practice and the ICD is hearing the first case concerning international crimes committed during the LRA conflict in northern Uganda. Kampala law firms are therefore more inclined to civil and commercial transaction cases that also tend to benefit the lawyers financially. This shows that the knowledge they have received in trainings over the years is more or less redundant. This concentration on legal practice outside international criminal law can explain why some of the lawyers have general but not specific knowledge on key international criminal justice principles.

Some of the participants at the consultation meeting acknowledged that the lack of practical experience in handling international crimes cases is a serious challenge. However, they noted that this should not deter ASF and other stakeholders from organizing training sessions for lawyers who have shown interest in this area.

2 out of the 3 Ugandan lawyers on the ICC list of counsels were met by the ASF team. They informed us that despite being on this list, they have actually not represented any person before the International Criminal Court. In our analysis, this negatively affects training programs because there is likelihood that only a few lawyers will be interested in engaging in training on international criminal law and the Rome Statute when there are hardly any Ugandans who are actively engaged in defending or prosecuting cases of this nature at the international level. This absence of motivation reduces on the number of possible lawyers to practice international criminal law. This also indirectly impacts on the resource pool of Ugandans to facilitate training sessions since many of them lack practical experience.

Further, many of the lawyers interviewed seemed to be more familiar with the work of the Office of the Prosecutor than with the other organs of the court. To many of them, the mention of the name 'Moreno Ocampo' is synonymous with the Office of the Prosecutor.

A participant at the consultation meeting attributed this to the fact that this Office appears to draw more public concern and this creates a necessity to sensitize not only lawyers but the public as well on the role of the other Offices of the court.

The lawyers who have had minimal exposure to the ICC were not very conversant with matters related to the Trust Fund for Victims and Counsel for victims. Still in relation to the question of victims, a lawyer interviewed did not understand why victims should participate in the trial processes when many times they are ignorant about their own plight. All the lawyers however rightly noted that the only role a victim in Uganda can play in the trial process is that of a witness in an international crimes court session.

The lawyers interviewed were all familiar with the principle of complementarity. However, many doubted the capacity of the national courts in Uganda to try suspects of international crimes. According to some of them, one of the biggest challenges is that the national judicial system cannot match up to the Rome statute system. Further, domestic politics seems to pose another serious challenge to any domestic initiative to try international human rights violations. One of the radical proposals made by one of the lawyers interviewed is that the ICC should maintain the sole mandate to try gross human rights violations. This proposal is not viable because the ICC as it stands does not have the resources or manpower to try all the cases of this nature that come before it hence the reason behind complementarity being the cornerstone of the ICC's work.

Much as many of the lawyers interviewed were aware that the Rome Statute had been domesticated by Uganda through the ICC Act 2010, very few of them knew the detailed provisions of this new law. This presents a challenge for organizations such as ASF that intend to carry out legislative advocacy with the support of knowledgeable lawyers in this area. In order for ASF and others to lobby for such changes in the ICC Act to make it in tandem with the Rome Statute, the lawyers need to be familiar with the provisions of this implementing legislation.

#### **4.2. PRACTICING LAWYERS IN THE ACHOLI SUB REGION**

ASF was only able to meet only one lawyer in this region who seems to be actively involved in the area of international criminal justice despite many others having been trained. Because of this, he has a better understanding of the Rome Statute and work of the ICC compared to other lawyers in the Acholi sub region and those in Kampala. This is attributed to his involvement in a number of outreach activities organized in Acholi sub region by the International Criminal Court outreach office and other stakeholders because the sub region was the epicenter of the LRA conflict.

It was noted that trainings and outreach programs in the sub region have influenced some of the lawyers in the area to show interest in international criminal justice issues and also support the Rome Statute system. However, the legal resource in this area is still limited because lawyers are not involved in practicing international criminal law despite being trained in it. For instance, the ongoing trial of Thomas Kwoyelo in the ICD is being handled by Kampala based lawyers.

### **4.3. CIVIL SOCIETY ORGANIZATIONS IN THE ACHOLI SUB REGION**

Our analysis shows that the 3 Civil Society Organizations met in the Acholi sub region generally have a good understanding of the Rome Statute and the International Criminal Court. This is attributable to the fact that a number of outreach activities by different actors have targeted these organizations and a cross-section of communities in Acholi sub region.

The civil society organizations that ASF met strongly believe that the ICC contributed substantially to peace building in Northern Uganda. This therefore strengthens the need for organizations such as ASF to continue promoting the Rome Statute in this area because of the positive role it has played in not only fighting impunity but also promoting peace in this conflict area.

However, on a rather negative note, some of the respondents were completely unaware of the recent enactment of the International Criminal Court Act. This is regrettable because they are unable to identify significant loopholes in the Act on issues of victim reparations and participation that directly affect the people whose interests they seek to protect and advocate for.

All the NGOs interviewed were unfamiliar with the critical role they can play in the investigative processes of the newly created International Crimes Division. Further, many of them have neither interacted with the DPP nor the Registrar of the ICD. This shows a very critical lacuna in the ICD outreach process because such organizations are an important tool in mobilizing support for the newly created division of the High court of Uganda. A participant at the consultation meeting however noted that CSO involvement in the investigative processes is solely dependent on their expertise on such issues which therefore raises the need for capacity building on such aspects.

Still in relation to the above, the CSO groups interviewed revealed that many people in Northern Uganda are not familiar with the proceedings against former LRA rebel leader, Thomas Kwoyelo who was the first person to be charged before the ICD. This shows that the CSOs are not effectively playing their role as being the link between the communities and the justice system.

Many of the respondents did not comprehend the principle of complementarity which is the basis of the International Criminal Court and is one of the many avenues by which international criminal justice for gross human rights violations can be promoted in individual countries. Still in relation to this principle of complementarity, the study shows that CSO groups in this sub region cannot distinguish between the ICC and ICD.

Regarding knowledge of the crimes that can be tried by the ICC, many of the CSO groups in this area appeared to be more familiar with the definition of war crimes compared to the other crimes of genocide, crimes against humanity and the crime of aggression that can also be tried by the same court. The reason behind this could be attributed to the word "war" that gives it an obvious definition in the eyes of these persons who have been victims of a long term civil war.

Further, the CSOs interviewed had little or no knowledge on key procedures followed by the ICC from the investigation stage to the prosecution stage. Some CSO groups interviewed wrongly stated that the Office of the Prosecutor is the one mandated to issue arrest warrants. As persons who are meant to simplify the trial process for lay people, these organizations need to familiarize themselves with this trial procedure and therefore communicate this information to the victim and communities they work with.

Our general impression from the interviews with the CSOs is that many of them are not aware that they are already playing a role as intermediaries through the provision of psycho-social support, protective measures, safe and secure contact that are interventions of a witness management process. Most CSOs have a misconception that they have a practical role to play in securing the protection of witnesses which is a preserve of the state.

The interviews revealed that despite attending trainings on key Rome Statute principles, one respondent did not recall what he was trained on. This could be attributed to the absence of follow-up trainings and refresher courses to ensure that the recipients of such trainings remain familiar with the knowledge that they acquire.

The main challenge revealed by these interviews is that despite the CSO groups in this area recognizing that the ICC played an important role in peace building in the region, many of them now advocate for restorative justice tenets of forgiveness, reconciliation and truth-telling as avenues to bring about sustainable peace. This is parallel to the tenets of the ICC which pursues a retributive model of justice that aims at punishing those that commit serious human rights violations.

Most CSOs interviewed were knowledgeable on the importance of victim participation in court proceedings in both the ICC and the ICD and emphasized the rights of victims to reparation. However, knowledge on the forms of reparation and their applicability in particular cases was limited. Our assessment of the responses from the respondents interviewed show that compensation is the only form of reparation that is known to them as opposed to restitution and rehabilitation as other forms of reparation.

#### **4.4. CIVIL SOCIETY ORGANIZATIONS IN THE LANGO SUB REGION**

The main issue that came up during the interviews with 3 civil society organizations in this sub-region is that the people feel that the Government and other relevant stakeholders have forgotten that they too, like the people of the Acholi sub region, were afflicted by the LRA acts of violence. This has partly contributed to the negative attitude of the people in this region towards the newly created International Crimes Division. Their opinion is that this court should have rotational sittings in the Lango region and all other parts of the country which were affected by the LRA conflict.

At the consultation meeting, Hon. Justice E. Nahamya informed participants that rotational sittings cannot happen in some of the areas affected by the LRA rebellion because they do not have a High Court in place. She further stated that the judiciary made considerable effort to bring justice closer to the people when the ICD held its first trial in Gulu and not Kampala.

Our assessment also shows that the respondents interviewed have minimal knowledge on specific issues or legal principles that govern the International Criminal Court in comparison to the respondents in the Acholi sub region. However, they were well grounded on matters pertaining to the victims' rights and managed to articulate the key concerns of the victims they have interacted with regarding the ICC and the ICD. The interviews also revealed that the communities in the region are more interested in obtaining reparations than following the ongoing Thomas Kwoyelo case in the ICD. This finding confirms that there is a need for a policy on reparations that will guide any legislation that deals with catering for the interests of victims of the LRA conflict.

Information from the CSO groups interviewed reveals that they were not involved in the investigative process of the crimes alleged to have been committed by Thomas Kwoyelo, the LRA Commander who is currently being tried by the ICD. This is attributed to the limited skills of the investigators on probing into international crimes and lack of exposure for cases of this nature.

Generally, the CSOs met were able to identify issues of advocacy for justice in terms of appealing for prosecution for both sides of the conflict. The challenge faced is lack of skills on how to advocate and constructively engage with the relevant institutions.

From a general point of view, the findings revealed by the ASF Baseline study are similar to those discovered by the ICD when it held a field outreach mission prior to commencing the hearing of the court's first case.

#### **4.5. CIVIL SOCIETY GROUPS IN THE TESO SUB REGION**

The key issue that was raised in many of the interviews conducted in this region is that most donors and other stakeholders involved in the promotion of the ICC and other peace building initiatives have focused on the Acholi sub region. In Teso sub-region, the donors and stakeholders operating have mainly focused on economic empowerment activities. This has greatly affected the peoples' attitude towards the court and partly explains why many of the people interviewed in this region had minimal knowledge on the work of the ICC and how it operates.

The interviews with the 9 CSOs met in this sub-region reveal that Teso has been a hub of conflict right from the early rebellions against the NRM government by the UPA, the LRA rebellion and now the attacks from the Karamojongs and therefore it is important for such a region to be exposed to regular trainings on the Rome statute system and the operations of the ICD. The holding of the first ICD trial in the Acholi Sub region is further evidence that indeed the other regions in the country that were also affected by the 20 year LRA rebellion have been left out of the trial process.

Still in relation to the above, 6 respondents from Soroti, Kumi and Amuria who were interviewed had knowledge on the Kwoyelo trial that is currently before the ICD. The 3 respondents from Katakwi were not aware of the ongoing Kwoyelo trial. Our assessment attributes this to the fact that the proceedings are being carried out in Gulu and that the court has not done enough outreach programs in the Teso sub region in order to keep the people informed about the progress of the proceedings.

The because CSOs are not carrying out their intermediary role of linking the justice system to the people due to their lack of capacity to effectively monitor the trial at the ICD and provide feedback to the communities

The respondents interviewed shared a similar view with those of Lango sub region on the alleged partiality of the ICC in investigating the LRA conflict. They asserted that the LRA conflict was not a one sided affair and that the ICC failure to look into the role of the UPDF in this conflict is partly the reason behind the negative attitude of the Teso sub region people towards the court.

Further, 1 CSO out of the 9 interviewed in this sub region has not been trained on the ICC and the Rome statute system and it is therefore unable to sensitize the people on the impact of the work of the ICC in Uganda and how its involvement influenced the Juba peace talks which ushered relative peace currently prevailing in northern Uganda.

All the respondents interviewed expressed more confidence in the ICC as a tool to fight impunity than the ICD because of its strong investigative machinery for the crimes that the court is mandated to try. According to them, the ICD, which is a domestic replica of the ICC, and other institutions such as the police lack the proper mechanisms to investigate crimes against humanity, genocide and war crimes. The result is that the people have less faith in the capacity of this court that has the mandate to fight against impunity in the country. Our assessment of the CSOs is that they are not aware that the ICC is a court of last resort which only prosecutes cases of countries which are either unwilling or unable to do so. As a result, this information has not been passed on to the people.

From a general point of view, the respondents interviewed expressed reservations on the issue of perpetrators of international crimes benefiting from amnesty. These groups appreciate that a person who commits serious crimes such as mass murder should not be exonerated from the wheels of justice. Our observation is that this knowledge is not based on what the law states but on what they view as morally right.

Regarding victims, 6 CSOs in this area were aware of the rights of the victims at the international level. However, only 3 of them had got the opportunity to work directly with the ICC through its Trust Fund for Victims. They therefore proposed that the newly established ICD should put in place adequate mechanisms to cater for the welfare and reparation of the victims of gross human rights violations.

Further, none of the CSO groups interviewed in this region appear to have carried out extensive research on the extent of the LRA conflict in Teso sub region and in the absence of documented experiences of the victims of the LRA conflict in this area, the relevant organs such as the Police and other critical stakeholders find no justification for prioritizing this area in activities related to international criminal justice. Our assessment also shows that the CSO groups interviewed do not properly comprehend the role they can play as a linkage between the victims of international crimes and the newly created ICD.

Regarding the knowledge gap assessment in the Teso sub region, it has been noted that the respondents in Soroti had more knowledge on the ICC than those from the other districts in the Teso sub region. One member of the ICC Kampala Outreach Office who was present at the consultation meeting informed the participants that in the Teso area, outreach has been concentrated in the district of Soroti and therefore needs to be extended to the areas of Serere, Amuria, Katakwi, Kaberamaido, Bukedea, Ngora et cetera. This would ensure that persons in all the districts in this sub region have adequate knowledge on issues related to the court.

However, on a more general note, the majority of the respondents had little or no knowledge at all on the operation of the principle of complementarity that is the basis for the ICC's recognition of the primary role of national legal systems in the fight against impunity. Further, all the respondents were not familiar with the specific provisions of the newly enacted ICC Act 2010 that domesticates the Rome Statute.

#### **4.6. OTHER ACTORS**

The other actors met by ASF that have been previously involved or are involved in the promotion of the Rome Statute and they include the ICC Field Outreach Office in Uganda, an international law firm providing technical assistance to JLOS, two national NGOs, one International NGO, and an ICC listed counsel in Uganda.

Interviews with these actors reveal that a number of trainings on the Rome Statute and the ICC have mainly focused on judicial officials at the higher level, such as Judges of the Supreme Court, Court of Appeal and High Court and to a great extent left out the lower ranking judicial officials at the magisterial level. Unless more judicial officials or investigators are posted to the ICD, there is no need to train on the general and theoretical aspects of the ICC but focus should be on more specific and practical trainings for officials previously trained. Trainings for defence counsels should focus on how to defend war criminals and how to effectively engage with traumatized witnesses.

It was revealed that the CSO groups in northern Uganda do not clearly understand their level of interface with not only the ICC but also the newly created ICD. They are directly working with key victims/witnesses of the conflict in Northern Uganda and therefore have an opportunity to link these to the prosecution side in international crimes matters.

The majority of the respondents interviewed in Kampala and Northern Uganda revealed that the media is also a source of information on the Rome Statute. In addition, media reports have extensively covered the first trial of the ICD. However, according to the partners that ASF met, despite the critical role of the media in disseminating information on matters of international criminal justice, some media outlets have received few trainings and the majority have not received any trainings on how to investigate stories in cases involving international crimes.

Actors such as members of the ICC Outreach Office acknowledged that their outreach activities have not extensively focused on areas such as Serere, Amuria, Katakwi, Kaberamaido, Bukedea, Ngora, Kitgum, West Nile, Adjumani, Moyo, Pader, Amur, Atuke, Dokolo, Apach, Amolatar, Abim, Madi, Moyo, Amolator, the Lango sub region and the Karamoja area.

ASF needs to target local leaders, religious leaders, women groups within the community. Further, involvement with the community should be through interactive activities such as music, dance and drama. ASF should also liaise with village media reporters and also work in schools, some of which have established ICC clubs.

The JLOS International Justice Advisor present for the consultation meeting also cautioned ASF to keep in mind other players with similar activities in the area of international criminal justice. It is important for ASF to explore ways of bringing on board other key target groups such as law students, court clerks et cetera who may have interest in these issues.

#### **4.7. JUSTICE SECTOR ACTORS**

The term "Justice sector actors" under this section of the report refers to judges of all courts of judicature, magistrates, state prosecutors, police investigators et cetera. It is important to note that these actors have taken considerable steps in ensuring that the justice system has strong international criminal justice mechanisms in place. However, more still needs to be done so as to strengthen their capacity.

Even with a legal framework in place to domesticate the Rome statute, capacity gaps still exist within the justice sector. The area of international criminal justice is a relatively new area and therefore many of the prosecutors do not have specialized knowledge on international criminal law which is a key component of the cases they are prosecuting. They therefore rely mainly on trainings by international institutions which have so far trained them on investigation of international crimes and given some of them an opportunity to receive practical training by being attached to international criminal tribunals such as the International Criminal Tribunal of Rwanda based in Arusha, Tanzania.

According to the partners met by ASF, senior judicial officers such as judges have been trained in international criminal law and the Judges in the ICD have either practical or academic knowledge of international criminal law. The lower ranks of the Judiciary such as the magistrates have not received trainings in international criminal justice issues.

The trainings of justice sector actors have mainly focused on judges working directly under the International Crimes Division. Judges of the appellate courts and the legal assistants working for the judges of the International Crimes Division have not received sufficient training on substantial international criminal justice. Specific trainings will therefore be necessary for any justice sector actors involved in trials related to international crimes.

The Hon Justice Elizabeth Nahamya of the ICD was of the view that;  
*".....we need to work out how to draw upon the international rules of procedure in order to adjudicate and prosecute these war crimes and crimes against humanity. There is urgent need to be trained in the applicability of international customary law-in other countries, this is understood and utilized but not here in Uganda. Please note that any planned training must invariably include the Judges of the Appellate chambers....."*

*we need to be on the same page of understanding the applicable law and the problems it raises”*

On the court management side, judicial officials still hand-write court records. There is no good system of judicial archiving in place, and there is an absence of trained judicial interpreters. On the issue of judicial archiving, some of the participants at the consultation meeting were of the view that it remains a challenge because of the constant transfer of the court personnel who are ordinary civil servants. Further, information from one of the judges of the newly created ICD also reveals that the secretaries of the court who have the capacity to transcribe court evidence have not received sufficient training and that the International Crimes Division library lacks sufficient literature to assist in the research functions of the court.

During the consultation meeting, one of the issues that came out strongly was that people have minimal faith in the capacity of the Ugandan Police to investigate international crimes. Some participants expressed disappointment in the way the Kwoyelo investigation was done because of the non-inclusion of gender based crimes which were committed by the LRA among others. To many, this case ought to have set a good precedent in Uganda and the rest of the world.

It was however noted that trainings of police investigators could present a challenge because of the varying education backgrounds and other general capacities of the Police investigators that ASF plans to train.

Significantly, the ICD relies on the Judges’ discretionary powers to order protection to witnesses. There is no witness protection mechanism in place. This is attributed to lack of a substantive law on witness protection. Currently the Uganda Law Reform Commission is drafting a bill to this effect. In the absence of legislation, the ICD needs to establish an interim witness protection system that will assist the ICD in providing effective protection to witnesses who may be threatened for cooperating with the law enforcement agencies while testifying in court proceedings.

Another challenge noted particularly with justice sector institutions is the constant transfers of personnel and this affects continuity in terms of knowledge sharing because new personnel need time to understand the new assignments.

## **5. CHALLENGES AND CONSTRAINTS IN THE IMPLEMENTATION OF THE PROJECT**

### **5.1. PERCEPTIONS OF COMMUNITIES**

Given that communities where gross violations of human rights have been committed in northern and greater northern Uganda come from a diversity of backgrounds and experiences, their perceptions of the modes of justice will be as varied and multidimensional as the communities themselves. For instance, Acholi sub region, a project area which was in the midst of conflict with immediate and urgent security concerns prefers the restorative mode of justice as a mechanism for achieving sustainable peace. This includes truth telling, forgiveness and reconciliation. In another project area, Lango and Teso sub regions, preference is for retributive justice.

This difference in perceptions and preference impacts on the overall project objective of contributing to greater accountability for gross human rights violations and redress for victims which in essence is promoting retributive justice.

### **5.2. LACK OF PRACTICE IN INTERNATIONAL CRIMINAL CASES**

The project is designed to develop advocacy frameworks and support networks to promote and strengthen systems put in place by the Rome statute. Lack of specialization amongst Uganda practicing lawyers in handling cases of international crimes creates a challenge in terms of knowledge transfer within the national and regional networks for lawyers. This could have a negative impact in terms of advocacy efforts and trainings of lawyers in other countries and provision of quality legal and technical assistance so as to promote and strengthen the Rome statute system. The objective of the project, inter alia, is to build the capacity of lawyers in the area of international criminal justice and by so doing, create a pool of lawyers interested in this area.

### **5.3. CHANGING NEEDS OF VICTIMS**

Over the years, the needs of victims have changed and many of them are now more interested in activities aimed at economically empowering them and improving their livelihood. However, the focus of the capacity building for CSOs that work with victims is on the Rome statute system and any related matters. The study shows that the designed capacity building events under the project for CSOs will not make them relevant and responsive to the current needs of the people.

### **5.4. HIGH STAFF TURNOVER**

In terms of capacity, the Justice sector is hindered by frequent personnel transfers. An analysis of the interviews held shows that one of the main challenges ASF may face in the implementation of this project will be building on the trainings received by the justice sector actors such as the police, prosecutors, Registrars and Judges. A number of trainings have been done by other stakeholders but its impact has been diluted due to constant staff transfers.

### **5.5. SCHEDULES OF TARGET GROUPS**

The activities of the project are dependent on the involvement and participation of the target groups that include lawyers, justice sector actors and CSOs. The study has revealed that due to the nature of the work of practicing lawyers and justice sector actors such as the Judges, availability to participate will be a challenge due to busy schedules. Judges have to dispose a number of cases in order to reduce on the case backlog and the lawyers equally have many cases to handle. This leaves little time to be involved in other activities that are not ordinarily part of their daily work schedule.

### **5.6. Unpredictable duration of the Kwoyelo trial in the ICD**

The duration of the trial monitoring of the first trial in the ICD is uncertain due to the possibility of the Kwoyelo case being dropped in the likely event that the accused is granted amnesty as prayed for by the defence team or the likely adjournment of the case and start of proceedings without adequate notifications. This poses challenges and constraints in terms of planning for this activity which may in some cases necessitate short notice trips to Gulu where the first part of the trial is taking place and also make the writing of timely analytical reports difficult. This kind of activity requires adequate preparation which is only possible when either the dates of the trial are communicated in advance or the trial continues consistently to judgment stage.

### **5.7. EXISTING LEGAL FRAMEWORK**

The ICC Act does not include provisions allowing for victim participation, victim reparation before the domestic courts et cetera. This means that training of lawyers to represent victims could be deemed redundant. ASF therefore needs to pursue a two pronged approach by training the target groups while at the same time adopting advocacy strategies targeting bodies such as Parliament and the Uganda Law Reform Commission that have the capacity to make the necessary adjustments to the current law.

## **6. CONCLUSIVE OBSERVATIONS**

A general assessment shows that all the respondents interviewed are aware of the existence of the International Criminal Court. However, many of them believe that it should not be the sole avenue for achieving peace and justice in northern Uganda. The people interviewed are enthusiastic about the positive role that the newly created International Crimes Division will play in the fight against impunity.

In general, the interviews conducted in Kampala Acholi, Lango and Teso sub regions reveal that there is significant lack of legal practice in the area of international criminal law among the lawyers in this area. The study also reveals that fewer lawyers in Lango and Teso sub region have been targeted for trainings in comparison to Kampala and Acholi sub region. Presently in Uganda the curriculum of legal training at undergraduate level does not have a specific component on international criminal law. In 2008, this component was introduced at Bar course level by the Law Development Centre which is mandated to provide practical legal training to lawyers in Uganda. This could partly explain the low level of knowledge in this area amongst the lawyers who attended undergraduate law studies and Bar Course training in Uganda prior to 2008. The level of awareness is higher amongst lawyers who have attained postgraduate qualifications in this area from other jurisdictions such as the United Kingdom, South Africa to mention a few and lawyers in the civil society whose work involves advocacy on international criminal justice issues.

The lawyers who participated in the consultation meeting also revealed that a number of their colleagues are interested in the area of international criminal justice. Stakeholders like ASF therefore need to reach out to them through umbrella bodies such as the ULS. A participant noted that training in international criminal justice related matters is a very expensive process and therefore ASF could also look into connecting persons who are interested in this area to possible funders.

Despite some capacity gaps within the justice sector, there are noted challenges to complementarity proceedings in the ICD. The key question is whether there is sufficient political will to investigate and prosecute crimes allegedly committed by the UPDF in the course of the armed conflict. The position of the government has been that UPDF soldiers who have committed atrocities have been prosecuted in the UPDF Court martial. This has tended to reinforce the perception among many respondents that the government is not completely committed to accountability for crimes committed by senior army officials who have not faced trial as well. However, the expectations voiced by a majority of respondents are that the ICD shall be an impartial temple of justice; that the investigative arm of the Prosecution shall look into crimes that were alleged to have been committed by the UPDF soldiers during the period of the LRA conflict.

There is a certain degree of confusion among communities regarding the role of the International Crimes Division vis-à-vis the International Criminal Court. This issue can only be clarified by the Registry of the International Crimes Division that is tasked with doing outreach for the Court.

Further, our findings reveal that lawyers that are actively involved in promoting the Rome Statute system are more aware of key international criminal justice principles than

those who are practicing law in other areas. This can be attributed to the fact that they have shown interest in international criminal justice matters through engaging in advocacy efforts and handling cases concerning international crimes.

The ICC is looked at as a tool of hope and a representation of the fight against impunity in Uganda. For example, during the April 2011 Walk to Work protests, there were many media reports assessing the likelihood of a case being brought before the ICC against the high ranking security officials for acts of brutality committed against protestors.

There is also minimal interaction of the newly established International Crimes Division with CSO groups and lawyers who operate in the formerly war affected area.

Given the high expectations for the ICC in northern Uganda, and the limited capacity of the ICD to undertake outreach, more investment in civil society outreach efforts need to be done in terms of capacity building.

## **7. RECOMMENDATIONS**

A number of recommendations were made by the various stakeholders that ASF met in the course of preparing this report. The recommendations are all aimed at ensuring that Uganda has an effective justice system that can effectively bring perpetrators of international crimes to book without compromising either the rights of the victims or the rights of the accused persons themselves. Some of the recommendations proposed go beyond the scope and resources available to ASF but can still be done by a number of stakeholders running projects that are in tandem with ASF's international criminal justice program.

### **7.1. GENERAL RECOMMENDATIONS**

To best complement the already ongoing efforts of other stakeholders and benefit from lessons learnt and existing capacity of the target groups, various recommendations were made from the study and these include;

- ASF should extend its trainings to cover lawyers and CSOs outside the traditional Northern Uganda region which were also affected by the LRA conflict. These include the Teso sub region and West Nile Region. The area of coverage for the project should therefore be 'Greater Northern Uganda'. The Registrar of the ICD who was present at the consultation meeting further recommended that training should extend to all lawyers and CSOs interested in issues of international criminal justice regardless of their location.
- The trainings for judges should focus on the judges of the appellate courts, such as judges of the Court of Appeal and Supreme Court, since previous trainings have mainly targeted the judges of the courts of first instance. Trainings should also target magistrates who have not extensively benefited from trainings on the International Criminal Court and its work in Uganda.
- Trainings should target the media. The media have a large audience among the target groups and beneficiaries and thus can be a conduit through which information on international criminal justice can be disseminated. However, a key news reporter that ASF interacted with noted that ASF should conduct trainings for journalists jointly with those targeting other players.
- Trainings should focus on the practical aspects of prosecuting crimes of an international nature and expose the prosecutors to proceedings of International Criminal Tribunals.
- The trainings should also focus on the police investigators to enhance their investigative skills in the area of cases involving international crimes.
- ASF should offer trainings on international criminal law and procedure for law students of Ugandan universities in order to generate interest in the area of international criminal justice.

- A key recommendation arising out of the consultation meeting was that ASF should extend its focus to training defence lawyers because many stakeholders have mainly focused trainings on judges and prosecutors. This recommendation stems from a key observation by one participant that “without an effective defence, there can never be a fair trial.”
- ASF trainings for all the target groups should focus on contemporary issues such as amnesty that affect the capacity of the newly created International Crimes Division to try cases that come before it. A participant at the consultation meeting pointed out that whereas it is true that the Amnesty Act allows the Minister to refuse to award amnesty to any person, the question of discrimination contrary to certain provisions of the Constitution will always arise.
- Another recommendation arising out of the consultation meeting was that ASF should work closely with bodies such as JLOS, ULS already directly involved in the implementation of programs targeting judges, lawyers et cetera.

## **7.2. SPECIFIC RECOMMENDATIONS**

Based on the findings outlined in this report, the following capacity building activities are specifically recommended to complement the efforts of other stakeholders who have trained the target groups.

### **CAPACITY BUILDING EVENTS FOR JUSTICE SECTOR ACTORS**

<b>Activity</b>	<b>Type of activity</b>	<b>Targeted Institution/people</b>
Substantive law issues, including the elements of the crime, criminal liability, and jurisprudence in specific ICTY and ICTR cases involving command responsibility; crimes against humanity; complicity and joint criminal enterprise; international humanitarian law in domestic trials; application of international legal standards; evaluation of evidence; mitigating and aggravating circumstances	Judicial colloquium	Prosecutors, judges of the appellate courts, High Court, Magistrates, Legal Assistants
Best practices for outreach and communications	Practical Training	Court Registry
Theory of war crimes cases, case analysis and the expert witness examination	Practical Training	Prosecutors and legal assistants
Best practices; opening and closing arguments	Practical Training	Prosecutors
International humanitarian law	Practical Training	Police investigators, prosecutors
Investigating and prosecuting Rome	Practical Training	Prosecutors, Police

statute crimes		Investigators
Online legal information research	Practical Training	Judges, prosecutors, other judicial officials, legal assistants
Management of information and evidence	Practical Training	Investigators, Prosecutors, registry
Rights of suspects and accused persons and international standards of detention	Practical Training	Police investigators and Prosecutors
Advocacy related trial skills specifically on the handling of objections, dealing with experts who testify at trial, as well as examination techniques	Judicial symposium	Prosecutors
Forensic investigation for international crimes.	Practical Training	Police investigators
Detailed analysis of international criminal law covering the role of international law in domestic courts, forms of responsibility and the Rome statute offences of genocide, crimes against humanity and war crimes and the ICC Act 2010	Practical Training	Magistrates
Dealing with traumatized witnesses	Practical Training	Judges, Prosecutors, defense counsel, magistrates
Capacity building on the investigation, prosecution and adjudication of sexual and gender based crimes	Practical Training	Police investigators, prosecutors, (they are willing & able to prosecute these crimes) and magistrates
How to respond to the emotional state of victims and the psychological impact of crimes on them	Practical Training	Judges, Prosecutors
Archive management	Practical Training	Judges, Prosecutors, other ICD Court staff
Gender Justice; specifically promote a gender responsive judiciary and promoting gender justice in Judgments	Judicial colloquium	Judges, Prosecutors, Court Registry
Drawing upon the international rules of procedure in order to adjudicate and prosecute international crimes	Judicial colloquium	Judges and Prosecutors
Applicability of international customary law	Training	Judges and Prosecutors
Prosecuting suspects of international crimes	Training	Prosecutors

## CAPACITY BUILDING EVENTS FOR LAWYERS

<b>Activity</b>	<b>Type of activity</b>	<b>Targeted Institution/people</b>
Defending suspects of international crimes	Practical Training	Defense counsel and other legal professionals
Substantive law issues, including the elements of the crime, criminal liability, and jurisprudence in specific ICTY and ICTR cases involving command responsibility; crimes against humanity; complicity and joint criminal enterprise; international humanitarian law in domestic trials; application of international legal standards; evaluation of evidence; mitigating and aggravating circumstances		Defense Counsel and other legal professionals
Theory of war crimes cases, case analysis and the expert witness examination	Practical Training	Defence counsel and other legal professionals
Best practices; opening and closing arguments	Practical Training	Defence counsel and other legal professionals
The role of defence counsel in upholding fair trial standards	Practical Training	Defence counsel and other legal professionals
International humanitarian law, Geneva conventions, international human rights law and trial advocacy, war crimes investigations	Practical Training	Defence counsel and other legal professionals
Online legal information research	Practical Training	Defence counsel and other legal professionals
Management of information and evidence	Practical Training	Defence counsel and other legal professionals
Dealing with traumatized witnesses	Practical Training	Defence counsel and other legal professionals
How to respond to the emotional state of victims and the psychological impact of crimes on them	Practical Training	Defence Counsel and other legal professionals
Advocacy related trial skills specifically on the handling of objections, dealing with	Judicial symposium	Defence Counsel and other legal professionals

experts who testify at trial, as well as examination techniques		
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### **CAPACITY BUILDING EVENTS FOR CIVIL SOCIETY**

<b>Activity</b>	<b>Justification</b>	<b>Targeted Institution/people</b>
Rome statute and the ICC Act	Equip them with skills of collecting evidential information for international crimes	Civil society
Application of the principle of complementarity	Understand the role of the newly created International Crimes Division	Civil society
Advocacy and Lobbying	Skills for advocating for victims' rights and how to lobby relevant institutions	Civil society
Role of retributive and restorative justice and its applicability in the search for sustainable peace	Understand the dynamics of the two forms of justice in relation to the different levels of perpetrators	Civil society
Retrospective effect of legislation	Understand the rationale of non-application of laws in crimes committed prior to their enactment	Civil society
Forms of reparations and applicability in different contexts	Understanding restitution, compensation, rehabilitation, and satisfaction and guarantees of non-repetition	Civil society
Trial monitoring for non-legal staff	To equip them with skills to keep abreast on the factual aspects of the ICD trial and provide feedback to the communities thus linking them to the justice system.	Civil society
Trial monitoring for legal staff	To effectively monitor the procedural aspects of the ICD trial and make analytical reports assessing the court proceedings	Civil society

## CAPACITY BUILDING EVENTS FOR MEDIA

<b>Activity</b>	<b>Type of activity</b>	<b>Targeted Institution/people</b>
Rome statute and the ICC Act 2010	Skills of Investigative journalism and reporting of stories involving cases of international crimes	Media

## ANNEXES

### **ANNEX A: QUESTIONNAIRE FOR LAWYERS**

Contact information:

Name of the institution / organisation:

Type of institution / organisation:

Name of respondent:

Function within the institution / organisation:

Geographical area of intervention:

Date and place:

#### **1. Knowledge of the International Criminal Court**

1. What do you know about the Rome Statute and the International Criminal Court?
  - a) Creation :
  - b) Who can be tried before the ICC (jurisdiction)?
  - c) How are cases brought before of the ICC?
2. How do you come to know about the ICC (principal sources of information)?
3. Could you explain the differences between a war crime, a crime against humanity and a crime of genocide?
4. Could you cite the cases that are currently before the ICC and what the charges are about?
5. Do you know how the ICC works? (constitutive organs)

What is the functions of :	
The Office of the Prosecutor	
The Office of Public Counsel for the Defence	
The Office of Public Counsel for Victims	
The Trust Fund for Victims	
Victims Participation and Reparation Section	
The Chambers	

6. Are military commanders and other hierarchically superior officials responsible for crimes committed by their subordinates under the Rome Statute?
7. Are persons who have committed crimes under the jurisdiction of the ICC pursuant to an order from a government or a superior criminally responsible?
  - a) Yes or no?
  - b) If yes, under what circumstances could they be held responsible
  - c) If no, under what circumstances are they exonerated from criminal responsibility?

## **2. Knowledge of the Rome Statute System:**

8. What do you understand by the principle of complementarity as described under the Rome Statute?
- a) The ICC and National Court can exercise concurrent jurisdiction over a case.
  - b) The ICC can only act if a state is unable or unwilling to exercise jurisdiction over a case.
  - c) National Courts can exercise jurisdiction only if the ICC is unable and unwilling to prosecute.
9. Has Uganda ratified the Rome Statute?
- a) Yes or no?
  - b) If yes, when?
10. State two of the obligations of a State Party to the Rome Statute :
11. How do you rate Uganda's respect for its obligations under the Rome Statute?
- a) Not satisfactory       b) Satisfactory       c) Very satisfactory
12. If your answer to the preceding question is a) or b), what needs to be done to improve the situation?
13. Has Uganda adopted legislation to facilitate the application of the Rome Statute by domestic jurisdictions?
- a) Yes or no?
  - b) If yes, which ones?
  - c) When?
14. Which courts/tribunals have jurisdiction over international crimes in Uganda?
15. Are there any other organs/institutions linked to the litigation of international crimes?
16. Are there any cases in Uganda that have been or could be tried before the ICC?
- a) Yes or no?
  - If yes, b) which ones? c) why?
17. Are there cases in Uganda under the jurisdiction of the ICC that have been or could be tried before domestic jurisdictions?
- a) Yes or no?
  - If yes, b) which ones? c) why?
- ## **3. Knowledge of victims' right to participate in proceedings and their access to such proceedings:**
18. What are the rights of victims under the Rome Statute?

19. How can a victim of an international crime participate in proceedings:
- Before the ICC?
  - Before domestic jurisdictions?

**4. Identification of needs:**

20. Have you already had an experience dealing with criminal or civil cases involving serious violations of Human Rights?

a) Yes / No

If yes; b) How many years of experience do you have in this area? c) Please provide relevant examples of the type of cases you have worked on.

21. Have you or your law firm been or are involved in some way in the investigation or proceedings involving international crimes in Uganda?

a) Yes / No

If yes:

- Please describe the role of your office
- What are the achievements of your office?
- What has your specific role been?
- What challenges have you faced?
- What are your needs in order to meet existing challenges?

22. How do you rate your level of knowledge and understanding of international criminal law?

a) Very limited     b) Average     c) Good     d) Excellent   

If your answer to the above is a) or b) what additional skills or knowledge would you like to acquire?

23. Have you ever participated in capacity-building activities linked to the Rome Statute and international justice or to contribute to the promotion of the Rome Statute System and the work of the ICC?

23.1. Yes /no?

If yes, please specify: a) the nature of the activities? b) in what capacity (trainer / participant / moderator/other-please specify) / c) Who organised the activity / d) the main objectives of the activities/ e) The topics covered/ f) the principal target groups/or participants g) the strengths and weaknesses of the activities?

23.2. Do think there is a need for similar capacity activities in the future?

If yes, please specify, a) the type of activities that you think would be helpful (training/technical support/workshops) and b) the relevant areas or topics to be addressed; c) Where or in which part of the country should such activities take place?

24. Do you consider that the majority of actors of the justice sector in Uganda are familiar with the ICC and the Rome Statute?

## **5. Expectations**

25. What are your expectations in the area of justice linked to international crimes?
26. Do you trust the ICC will fulfill these expectations? a) Yes or no b)if yes, whyor b) if no, why not?
27. Do you trust that the Ugandan justice system will fulfill those expectations? A) yes or no; b)if yes, whyor b) if no, why not?
28. What improvements, if any, would be necessary to promote effective investigate and prosecution of serious violations of human rights
29. What are the priorities in relation to the promotion of greater accountability for serious crimes such as those under the jurisdiction of the ICC in Uganda?
30. Do you believe the work of the ICC has had an impact on Uganda?  
If yes, at what level: a) at the level of policy and/or institutions b) with respect to victims and affected communities
31. Do you believe it is possible to achieve greater accountability for serious right violations and reparation for victims under the Rome Statute System? If yes, a) what should be the role of the legal profession? b) How do you see your own role?

**ANNEX B: QUESTIONNAIRE FOR CIVIL SOCIETY ORGANIZATIONS**

Name of respondent:  
 Contact information:  
 Name of the institution / organisation:  
 Type of institution / organisation:  
 Function within the institution / organisation:  
 Geographical area of intervention:  
 Date and place:

**1. Knowledge of the International Criminal Court**

1. What do you know about the Rome Statute and the International Criminal Court?
  - A) Creation :
  - B) Who can be tried before the ICC (jurisdiction)?
  - C) How are cases brought before of the ICC?
2. How do you come to know about the ICC (principal sources of information)?
3. Could you explain the differences between a war crime, a crime against humanity and a crime of genocide?
4. Could you cite the cases that are currently before the ICC and what the charges are about?
5. Do you know how the ICC works? (constitutive organs)

What is the functions of :	
The Office of the Prosecutor	
The Office of Public Counsel for the Defence	
The Office of Public Counsel for Victims	
The Trust Fund for Victims	
Victims Participation and Reparation Section	
The Chambers	

6. Are military commanders and other hierarchically superior officials responsible for crimes committed by their subordinates under the Rome Statute?
7. Are persons who have committed crimes under the jurisdiction of the ICC pursuant to an order from a government or a superior criminally responsible?
  - A) Yes or no?
  - B) If yes, under what circumstances could they be held responsible
  - C) If no, under what circumstances are they exonerated from criminal responsibility?

**2. Knowledge of the Rome Statute System:**

8. What do you understand by the principle of complementarity as described under the Rome Statute?

- A) The ICC and National Court can exercise concurrent jurisdiction over a case.
- B) The ICC can only act if a state is unable or unwilling to exercise jurisdiction over a case.
- C) National Courts can exercise jurisdiction only if the ICC is unable and unwilling to prosecute.

9. Has Uganda ratified the Rome Statute?

- A) Yes or no?
- B) If yes, when?

10. State two of the obligations of a State Party to the Rome Statute :

11. How do you rate Uganda's respect for its obligations under the Rome Statute?

- a) Not satisfactory  b) Satisfactory  c) Very satisfactory

12. If your answer to the preceding question is a) or b), what needs to be done to improve the situation?

13. Has Uganda adopted legislation to facilitate the application of the Rome Statute by domestic jurisdictions?

- A) Yes or no?
- B) If yes, which ones?
- C) When?

14. Which courts/tribunals have jurisdiction over international crimes in Uganda?

15. Are there any other organs/institutions linked to the litigation of international crimes?

16. Are there any cases in Uganda that have been or could be tried before the ICC?

- b) Yes or no?
- If yes, b) which ones? c) why?

17. Are there cases in Uganda under the jurisdiction of the ICC that have been or could be tried before domestic jurisdictions?

- b) Yes or no?
- If yes, b) which ones? c) why?

### **3. Knowledge of victims' right to participate in proceedings and their access to such proceedings:**

18. What are the rights of victims under the Rome Statute?

19. How can a victim of an international crime participate in proceedings:

- A) Before the ICC?
- B) Before domestic jurisdictions?

#### 4. Needs:

20. Have you or your organisation /institution been involved in the promotion of the Rome Statute?

A) Yes or no.

B) If yes:

a) when b) what were the activities involved c) the names and role of other partners involved, if any.

C) If no,

I. Does your organisation intend to become involved in such activities in the future? b) in what way?

21. Have you or your organisation been involved in some way in relation to the investigation or proceedings involving international crimes/serious human rights violations in Uganda?

a. Yes / No

If yes:

-a) Please describe the role of your office

-b) What are the achievements of your office?

-c) What has your specific role been?

-d) What challenges have you faced?

-e) What are your needs in order to meet existing challenges?

22. How do you rate your level of knowledge and understanding of international criminal law?

a) Very limited  b) Average  c) Good  d) Excellent

23. Have you ever participated in capacity-building activities linked to the Rome Statute and international justice or to contribute to the promotion of the Rome Statute System and the work of the ICC?

A) Yes /no?

If yes, please specify: a) the nature of the activities? b) in what capacity (trainer / participant / moderator/other-please specify) / c) Who organised the activity / d) the main objectives of the activities/ e) The topics covered/ f) the principal target groups/or participants g) the strengths and weaknesses of the activities?

B) Do think there is a need for similar capacity activities in the future?

If yes, please specify, a) the type of activities that you think would be helpful (training/technical support/workshops) and b) the relevant areas or topics to be addressed; c) Where or in which part of the country should such activities take place?

## **5. Expectations**

24. What are your expectations in the areas of justice and accountability in relation to international crimes?
25. Do you trust the ICC can fulfill these expectations? a) Yes or no b) if yes, why or b) if no, why not?
26. Do you believe that the Ugandan justice system can satisfy those expectations? A) yes or no; b) if yes, why or b) if no, why not?
27. What improvements, if any, would be necessary to promote effective investigation and prosecution of serious violations of human rights in Uganda
28. What are the priorities in relation to the promotion of greater accountability for serious crimes such as those under the jurisdiction of the ICC in Uganda?
29. Do you believe it is possible to achieve greater accountability for serious rights violations and reparation for victims under the Rome Statute System? If yes, a) what should be the role of civil society? b) How do you see your own role?
30. Do you believe the work of the ICC has had an impact on Uganda?  
If yes, at what level: a) at the level of policy and/or institutions b) with respect to victims and affected communities

## **ANNEX C: QUESTIONNAIRE FOR FORMAL CONSULTATION WITH STAKEHOLDERS**

Name of respondent:

Contact information:

Name of the institution / organisation:

Type of institution / organisation:

Function within the institution / organisation:

Geographical area of intervention:

Date and place:

1. Have you or your office involved in any way in professional activities concerning areas covered by the International Crimes Act or other related legislation in Uganda? Yes/No

If yes:

- a) Please describe the role of your office
- b) What are the achievements of your office?
- c) What has your specific role been?
- d) What challenges have you faced?
- e) What are your needs in order to meet existing challenges?

2. Do you consider that most members of the Justice sector are familiar with the ICC and the Rome Statute in Uganda?

3. Have you participated in any capacity building activities related to the Rome Statute and the International Crimes Act of Uganda? Yes/No

3.1. Yes /no?

If yes, please specify: a) the nature of the activities? b) in what capacity (trainer / participant / moderator/other-please specify) / c) Who organised the activity / d) the main objectives of the activities/ e) The topics covered/ f) the principal target groups/or participants g) the strengths and weaknesses of the activities?

3.2. Do think there is a need for similar capacity activities in the future?

If yes, please specify, a) the type of activities that you think would be helpful (training/technical support/workshops) and b) the relevant areas or topics to be addressed; c) Where or in which part of the country should such activities take place?

4. What are your expectations in the areas of justice and accountability in relation to international crimes?
5. Do you trust the ICC can fulfill these expectations? a) Yes or no b) if yes, why or b) if no, why not?
6. Do you believe that the Ugandan justice system can satisfy those expectations? A) yes or no; b) if yes, why or b) if no, why not?
7. What improvements, if any, would be necessary to promote effective investigate and prosecution of serious violations of human rights in Uganda

8. What are the priorities in relation to the promotion of greater accountability for serious crimes such as those under the jurisdiction of the ICC in Uganda?
9. Do you believe it is possible to achieve greater accountability for serious right violations and reparation for victims under the Rome Statute System? If yes, a) How do you see your role or that of your office?
10. Do you believe the work of the ICC has had an impact in Uganda?

If yes, at what level: a) at the level of policy and/or institutions b)with respect to victims and affected communities