

The role of States Parties in building the ICC's local impact: Findings from delegates' visits to Uganda

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Abstract:

Between January and June 2010, in advance of the Review Conference of the ICC in Kampala, twenty-seven delegates from twenty-one ICC States Parties travelled to Uganda to meet with a range of key stakeholders in the fight against impunity: communities affected by the work of the Court, victims of crimes under its jurisdiction, civil society, and national and local authorities. In the course of the interactions that took place during the visits, HURINET-U, NPWJ and UCICC, as the organisers of the visits, were able to assess the social impact of the ICC in Uganda on a number of levels. This paper presents that assessment, looking at how the Court's involvement in Uganda has had an impact on the overall pursuit of justice and accountability in the country. The analysis will look at the Court's impact on two levels: the political level and the level of victims and affected communities, and the interconnections between the two. The paper finds that the ICC's impact has been built in part through the inadvertent consequences of its involvement and in part through its presence and operations on the ground – including outreach; victims' participation and reparations; interactions with intermediaries; investigations; and the

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ICC Trust Fund for Victims. It will also look at the ICC's current level of interaction with local and national authorities in relation to the promotion of complementarity, where there is significant potential to amplify the ICC's own positive impact at the domestic level. The paper finds that while the ICC has had an overall positive impact in Uganda, there is still much room for improvement in each of the areas studied.

The visits to Uganda also allowed States Parties' delegates to gain a first-hand understanding of the work of the Court in one of its situation countries. The organisers recognised that while States Parties are generally cognisant of the need for the ICC to have a positive impact on communities affected by its work, they do not have a full appreciation of the challenges faced by the Court in maintaining meaningful interaction with victims and affected communities or the difficulties in ensuring that the ICC has a positive impact on the fight against impunity in the country more broadly. In the course of the delegates' visits, the organisers were able to engage in dialogue with delegates and other stakeholders in Uganda on the role of States in the institutional development of the Court and in building the ICC's impact in its situation countries. This paper also finds that the ASP and individual States Parties play a crucial role in supporting and guiding the Court toward becoming a more locally-based and locally-owned institution, but that a stronger level of understanding of the ICC's challenges in the field will be necessary in order for States to make the most of this positive role.

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Introduction

The work of the International Criminal Court (ICC) can have a fundamental, irreversible – and positive – impact on the countries where it operates. The involvement of the ICC can raise hope of redress for thousands of victims of war crimes, crimes against humanity and genocide. The ICC's role also serves as a deterrent to future violence by sending the message that violence committed against civilians will not be cost-free, thus contributing to building post-conflict societies based on accountability and the rule of law. Yet the role of the ICC in its situation countries is often controversial and after its first several years in operation, its impact has by no means reached its full potential. Nowhere is this more evident than in Uganda, one of the Court's oldest situation countries.

On 31 May-11 June 2010, the ICC held its first Review Conference in Kampala, Uganda. The primary purpose of the Conference was to discuss certain amendments to the Rome Statute, notably the amendment on the Crime of Aggression. A second element was later added to the Conference's agenda – a 'stocktaking' exercise, which aimed to assess the international criminal justice system after the first several years of the ICC's existence. The Human Rights Network – Uganda (HURINET), the Uganda Coalition on the ICC (UCICC) and No Peace Without Justice (NPWJ) recognised the holding of the Review Conference in Kampala as an event of great symbolic value, in that it would be the first official ICC-related event to take place in a situation country. HURINET, UCICC and NPWJ joined forces to capitalise on this opportunity to bring the ICC closer to the country and, most importantly, to the victims and affected communities. The Review Conference would bring the Assembly of States Parties (ASP) to Uganda but it would not necessarily bring the delegates who represent their States at the ASP into direct contact with victims and communities affected by the Lord's Resistance Army (LRA) conflict – the Conference venue is far removed from the reality of life in Northern and Eastern Uganda. Beginning in January 2010 therefore, HURINET, UCICC and NPWJ invited ASP delegates to spend a week in Uganda in advance of the Conference, to experience first-hand the impact of the Court in the country and to hear directly from victims and affected communities their views on justice, reconciliation and the ICC. This paper is based on the findings of the five delegates' visits that took place between January and May 2010.

Since the Government of Uganda referred the situation to the ICC in December 2003,² the Court's involvement has had an undeniable and multi-faceted impact at both the political level

² President of Uganda refers situation concerning the Lord's Resistance Army (LRA) to the ICC, ICC-20040129-44, <http://www.icc->

and at the level of victims and affected communities. This impact was brought about in part through the actions of the Court itself – actions whereby the ICC purposefully sought to have an impact – and in part through the indirect consequences of those actions or the interpretation of them by local actors. This paper looks at how the Court’s policies and actions with respect to the Uganda situation – including actions by the Prosecutor; investigations; outreach; victims’ participation and reparations; interactions with intermediaries; and the ICC Trust Fund for Victims – have combined to create its overall local impact.

The delegates’ visits were based on the premise that States Parties, not just the Court itself, have an important role to play in shaping the ICC as an institution, including its impact in its situation countries. While States Parties generally support the ICC’s efforts to have a positive impact on communities affected by its work, they do not always have a full appreciation of the challenges faced by the Court in carrying out its work in the field, maintaining meaningful interaction with victims and affected communities and ensuring a positive and sustainable impact on the fight against impunity in the country more broadly. In the course of the delegates’ visits, the organisers were able to engage in dialogue with delegates and other stakeholders in Uganda on the role of States in the institutional development of the Court and in building the ICC’s impact in its situation countries. This paper also finds that the ASP and individual States Parties play a crucial role in supporting and guiding the Court toward becoming a more locally-based and locally-owned institution, but that a stronger level of understanding of the ICC’s challenges in the field will be necessary in order for States to make the most of this positive role.

The ICC’s involvement in Uganda

The conflict in Northern and Eastern Uganda³ began in the late 1980s and raged for almost two decades. The conflict was characterised by allegations that both the Lord’s Resistance Army (LRA) rebels and Government forces, including the Uganda Peoples Defence Forces (UPDF), had perpetrated serious human rights violations and, in some instances, grave crimes against the civilian population. In December 2003, at a time when the conflict showed no sign of ending,

<http://www.cpi.int/menus/icc/press%20and%20media/press%20releases/2004/president%20of%20uganda%20refers%20situation%20concerning%20the%20lord%20s%20resistance%20army%20lra%20to%20the%20icc?lan=en-GB>. Last accessed 11 April 2011.

³ In Eastern Uganda, Teso sub-region was affected by the insurgency.

the President of Uganda, H.E. Yoweri Museveni referred the situation to the ICC.⁴ After a preliminary examination, ICC Prosecutor Luis Moreno-Ocampo determined that there was sufficient basis to proceed with an investigation.⁵ In July 2004, sealed arrest warrants were issued for five senior leaders of the LRA for crimes against humanity and war crimes committed in Uganda since July 2002. The Pre-Trial Chamber had concluded that there were “reasonable grounds to believe that Joseph Kony, Vincent Otti,⁶ Okot Odhiambo, Dominic Ongwen and Raska Lukwiya,⁷ ordered and/or participated in the commission of crimes within the jurisdiction of the Court”. The warrants were later unsealed in October 2005.⁸ To date, none of the suspects have been arrested, while one warrant, against Raska Lukwiya, has been terminated due to the suspect’s confirmed death.

The impact of the ICC at the political level: peace, justice and complementarity

Information and views on the ICC’s role in the processes of peace, justice and complementarity in Uganda emerged either directly or indirectly from all of the interactions that took place during the delegates’ visits, including with victims and communities, civil society actors and national and local authorities involved in efforts to launch a national transitional justice process. The visits served to highlight the important impact that the ICC has had on the peace process and in promoting domestic political reforms aimed at ending impunity for serious human rights abuses. Many of these reforms were undertaken pursuant to the Juba Agreement on Accountability and

⁴ See ‘President of Uganda refers the situation regarding the Lord’s Resistance Army to the ICC’ Available 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. Last accessed 2 April 2011.

⁵ Prosecutor of the International Criminal Court opens an investigation into Northern Uganda, ICC-OTP-20040729-65, available at: <http://www.icc-cpi.int/menus/icc/press%20and%20media/press%20releases/2004/prosecutor%20of%20the%20international%20criminal%20court%20opens%20an%20investigation%20into%20nothern%20uganda?lan=en-GB> . Last accessed 11 April 2011.

⁶ It is widely believed that Vincent Otti is deceased, however, this has not been confirmed and thus the arrest warrant against him is still outstanding.

⁷ Following the confirmation of the death of Mr. Raska Lukwiya, the proceedings against him have been terminated.

⁸ Situation in Uganda, available at: <http://www.icc-cpi.int/menus/icc/situations%20and%20cases/situations/situation%20icc%200204/> . Last accessed 11 April 2011.

Reconciliation, which was in turn prompted in part by the ICC. As such, these measures can be considered as part of the overall impact the Court has had in Uganda. The visits also demonstrated that certain steps have been taken – often in the name of promoting peace – that have created “impunity gaps”, where perpetrators and victims do not experience any form of accountability.

Peace and Justice

The involvement of the ICC in Uganda has affected the country’s political landscape in a range of ways. Particularly in Gulu and the Acholi sub-region in the north, many political and opinion leaders were initially opposed to the Court’s involvement, publicly and stridently expressing their views that ICC indictments would exacerbate violence and delay peace, or that the ICC was a foreign force, interfering in affairs that are more appropriately dealt with at a local level. According to interlocutors in Uganda during the delegates’ visits, the motivations of those who promoted this view were varied: some were sincere, some were attempting to deflect attention from their own potential complicity and others were taking advantage of an opportunity to gain political advantage through the peace process. Notably, opposition to the Court has mollified since stability returned to the region in recent years, with even some of its most strident early opponents now declaring themselves to be supportive of the ICC.⁹ The political advantage to be gained by adopting anti-ICC stances was partially rooted in the widespread perception that the Government of Uganda had instrumentalised the ICC for its own political purposes. The Government’s referral of the situation and promise of full cooperation to the Court was seen in the public eye as placing the ICC in a position of reliance on the Government. This perception was exacerbated by the ICC’s own actions, such as the announcement of the referral by the ICC Prosecutor and President Museveni at a joint press conference in London in January 2004.¹⁰ The Court has subsequently issued arrest warrants only for suspects on the LRA side of the conflict and has consistently failed to provide a clear explanation as to whether alleged crimes by Government forces have been investigated and why no warrants of arrest have been issued. During the delegates’ visits, interlocutors often pointed out that the Court has failed to take adequate steps to redress the perception of bias, and that both Government and opposition leaders have used this perception to their political advantage.

⁹ Meeting with senior Acholi political leader, Gulu, January 2010.

¹⁰ Human Rights Watch, “Uprooted and Forgotten”, 19 September 2005, available at <http://www.hrw.org/en/node/11614/section/7>. Last accessed 2 June 2011.

One of the most widely contested aspects of the ICC's role in Uganda has been its impact on the peace process between the LRA and the Government of Uganda. Although several attempts at peace talks had been made throughout the conflict, at the time of the referral to the ICC, the peace process was effectively stalled. In July 2006, fresh talks were initiated in Juba, Southern Sudan, under the auspices of the Southern Sudanese Government and the mediation of Vice President Riek Machar. The Juba peace process was the first peace negotiation to take place against a backdrop of an ICC investigation and the LRA leadership has consistently refused to reach a final agreement unless the indictments are withdrawn. It is understandable therefore that the role of the ICC generated controversy.

While some interlocutors in Uganda contend that the ICC has had a negative impact and has been a barrier to peace, an overriding message that emerged from the visits is that the ICC has proved to have a positive impact on the process of establishing and consolidating peace and security in Northern Uganda. There was also widespread consensus that impunity for the kinds of violations suffered by the people of Northern Uganda is not compatible with sustainable peace. Since the tensions that surrounded the ICC's early years in Uganda have abated, there has been a realisation that the ICC, as a justice mechanism, can contribute to peace by serving as a deterrent to those responsible for crimes. The ICC can put pressure on leaders to establish lasting peace and can help remove from positions of power those responsible for the violence in the first place. Perhaps one of the most powerful expressions of the interrelation between peace, justice and reconciliation came from one government official who spoke in relation to the Ugandan Amnesty Commission. The official described the Commission's work in demobilising former combatants, many of them children who had endured abduction and forced conscription. She spoke of the importance of forgiveness and reconciliation in this process. However, she was strongly in favour of the ICC's pursuit of charges against senior LRA figures as a critical step towards restoring the rule of law in the country. In her view, Joseph Kony should be forgiven, but forgiveness does not make him any less of a threat to peace. This threat can only be removed by bringing him to justice.

One clear, positive impact of the ICC's involvement in the Uganda situation was the significant influence it had in shaping the approach to justice issues during the Juba Peace Talks and the resulting incorporation of transitional justice measures in Uganda's legal order. Negotiators at Juba were conscious of the widespread interest in justice and accountability among the people of Northern and Eastern Uganda, triggered in part by the role of the ICC, and proceeded on the assumption that a peace agreement without provisions on accountability and reconciliation

would not win broad acceptance and would therefore be unsustainable.¹¹ As a result, justice considerations were a high priority at Juba, leading to the signing of the Juba Agreement on Accountability and Reconciliation in June 2007.¹² Because this agreement preceded the breakdown of the peace talks, it was considered viable to implement it even in the absence of a final settlement. The agreement on Accountability and Reconciliation provides for a wide range of mechanisms to deal with the situation in Uganda, including the ICC proceedings and the establishment of “national legal arrangements consisting of formal and non formal institutions and measures for ensuring justice and reconciliation with respect to the conflict”.¹³ The provisions of this agreement are now in various stages of being implemented and thus constitute another positive political impact of the ICC, in that the Court’s involvement sparked a high level of interest in justice and reconciliation issues; made these issues a political priority for both negotiating parties; spurred agreement on measures to deal with them; and helped generate sufficient political will to put those measures into practice.

Complementarity

National Transitional Justice Mechanisms

Each group of delegates that visited Uganda heard from a range of interlocutors on the country’s complementarity efforts. These included leading members of the Justice Law and Order Sector (JLOS) Working Group, a group of Government agencies charged with putting in place the country’s transitional justice architecture (among other legal reforms); and civil society actors and legal practitioners who have monitored and contributed to the process. According to the JLOS Working Group, the domestic transitional justice process is intended to follow three tracks: prosecutions; truth telling; and traditional accountability and reconciliation practices.

At the highest level, the Special Division (War Crimes Division) of the High Court should deal with the level of perpetrators below those indicted by the ICC, which is likely to be between 10

¹¹ See, for example, “Uganda: LRA talks reach agreement on accountability”, IRIN, 30 June 2006, in which Captain Barigye Ba-Hoku, the Ugandan delegation spokesman, is quoted as describing reaching agreement on accountability and reconciliation as a “make or break for these talks”, available at <http://irinnews.org/Report.aspx?ReportId=73010>. Last accessed 2 June 2011.

¹² Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord’s Resistance Army/Movement, Juba, Sudan, 29 June 2007

¹³ Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord’s Resistance Army/Movement, Juba, Sudan, 29 June 2007

and 20 people. The War Crimes Division (WCD) of the High Court was established as a direct result of the provisions of the Juba Agreement on Accountability and Reconciliation with the purpose of applying formal justice measures to “any individual who is alleged to have committed serious crimes or human rights violations in the course of the conflict”,¹⁴ providing a practical example of the interaction of the ICC and national jurisdictions. The WCD was established by the Principal Judge of the High Court pursuant to his power under Uganda’s Judicature Act to create new divisions of the Court without a separate Act of Parliament. Since Uganda did not domesticate the Rome Statute until 2010, the WCD began its work within the existing legal framework in Uganda, including the Geneva Conventions Act, the Penal Code, international conventions and customary international law. The WCD does not have a limitation on its temporal jurisdiction and can therefore fill a gap in the ICC’s jurisdiction, which only extends back to 2002. The WCD began operations by establishing a panel of judges and a dedicated team within the Directorate of Public Prosecutions (DPP) which began to investigate its first cases in 2009. The first case opened in 2010 when Thomas Kwoyelo, believed to have been fourth in command in the LRA, was transferred to the WCD after being held in Gulu Central Prison since March 2009. Mr. Kwoyelo is the highest-ranking LRA commander to have been captured so far and reportedly faces 12 counts of kidnapping with intent to murder.¹⁵ His trial is set to begin in September 2011 in Gulu.¹⁶

The second level, which would run parallel to the first, would involve a comprehensive, national truth telling process to address the full scope of Uganda’s decades of conflict and human rights abuses, extending beyond the LRA war. The importance of a truth telling exercise was consistently emphasised during delegates’ visits, by victims, communities and those involved in designing Uganda’s transitional justice process. A process of accounting for the past is seen as essential to promoting national reconciliation and preventing the future recurrence of violence. A truth commission or similar mechanism is envisaged by the Juba Agreement and is provided for in the 2009 draft National Reconciliation Bill which would create a National Reconciliation Forum with a mandate to “direct an independent national reconciliation process in Uganda for

¹⁴ Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord’s Resistance Army/Movement, para 4.1, Juba, Sudan, 29 June 2007

¹⁵ *Reporting Linked to Progress in LRA Suspect Case*, Institute for War and Peace Reporting, 6 October 2010, available at <http://iwpr.net/report-news/reporting-linked-progress-lra-suspect-case>

¹⁶ Meetings with representatives of the Court, April-May 2011

the purpose of establishing the causes, nature and extent of the legacy of violence beginning with the creation of the nation to the cut off date”.¹⁷

Finally, communities will be encouraged to use traditional justice and reconciliation mechanisms to help them overcome their experience of the conflict and to allow former combatants to reintegrate successfully. These systems have an important role to play in Uganda, where the majority of ‘perpetrators’ were victims themselves, as many were abducted at a very young age. Traditional processes can and already have been used to help former combatants reintegrate and be accepted back into their communities. It was also pointed out during the delegates’ visits that traditional practices could complement criminal proceedings by helping integrate convicted individuals who have completed their sentences.

The International Crimes Bill

One of the crucial efforts undertaken in Uganda’s domestic fight against impunity was the domestication of the Rome Statute through implementing legislation. Civil society actors and parliamentarians who met with delegates during the visits provided insight on the history of the domestication process in Uganda and how the process had been affected by the ICC investigation and the resulting impact at the political level. The legislation was first introduced in Parliament in 2006 as the International Criminal Court Bill, but was dropped from the agenda when opposed by parliamentarians who felt that the ICC’s role in Uganda might threaten the Juba peace talks. However, the 2007 decision by the ICC’s Assembly of States Parties to hold the 2010 Review Conference in Kampala generated new pressure to pass Uganda’s implementing legislation prior to the Conference. The bill was reintroduced in 2009 as the International Crimes Bill and faced delays throughout 2009-10, reportedly in part due to efforts to alter its provisions in order to provide immunity for Heads of State.¹⁸ It was eventually passed by Parliament in March 2010¹⁹ and signed by the President in May 2010, a week prior to the conference.²⁰ The

¹⁷ National Reconciliation Bill, 2009, available at:

http://www.coalitionfortheicc.org/documents/TRC_Bill_for_Uganda_2009.pdf

¹⁸ Meetings with Parliamentarians and civil society, Kampala, January – February 2010

¹⁹ MPs pass ICC Bill, New Vision, 10 March 2010, available at: <http://www.newvision.co.ug/D/8/13/712528>

²⁰ The International Criminal Court Act 2010, the Uganda Gazette No 39 Volume CIII dated 25 June 2010; although the Act was not published until June 2010, according to representatives of the Government of Uganda, it was assented to by the President during the week prior to the Review Conference.

Act “give[s] the force of law in Uganda, to the [Rome] Statute”²¹ and can thus be considered a direct indication of progress in Uganda’s adherence to the complementarity principle.

Challenges to complementarity

In discussions with delegates, some of the challenges in implementing complementarity in Uganda became evident. As noted, the passage of the ICC Bill was delayed for several years due to political wrangling about the effect of the ICC on the LRA conflict and later, reported efforts to weaken the provisions of the legislation. The implementation of transitional justice mechanisms has also been delayed: the National Reconciliation Bill was introduced in 2009 but has progressed little since then. It is therefore not yet clear how the truth telling and national reconciliation processes will be implemented, where the resources will be found and how the various facets of the transitional justice process will interact with each other.

The WCD faces some specific challenges. WCD Judges explained that they intend to comply with international standards of due process but that this may create tensions in the national judicial system. For example, Ugandan law mandates the death penalty for certain specific crimes, including murder, thus creating a situation where individuals who have committed crimes of lesser gravity, such as a single murder, could receive a more severe sentence than someone being tried by the WCD for a more serious crime, such as mass killings. In addition, there has been no provision made for the participation of victims in its proceedings and plans for outreach and public information activities have not yet gotten off the ground.

A number of significant challenges have also been identified in relation to traditional accountability processes. Traditional practices are not codified; do not always comply with human rights standards such as due process rights for accused persons; are often not fully inclusive of women and children or responsive to the needs of vulnerable victims and witnesses; and cannot ensure protection for victims, witnesses and accused persons. In addition, Uganda is home to a wide range of different tribes and each applies its own form of traditional justice and while each involves the same basic elements of confession, apology and punishment, there are variations, in particular with regard to the form of punishment. Another consideration is that some communities have remained more attached to their traditional justice systems than others²²

²¹ *International Criminal Court Act*, Uganda Gazette No. 67 Volume XCVIX, section 2(a), 2010.

²² For example, several interlocutors in Soroti and Amuria explained that the Iteso people have not used their traditional justice system of ‘Ai Luc’ for many years and in fact have a high respect for formal justice processes.

and that traditional practices used in Uganda will not be relevant to victims of LRA crimes outside the country. The Ugandan transitional justice process must therefore ensure that in cases where traditional practices are not used, the community has access to alternative means of accountability.²³ Finally, none of the transitional justice mechanisms envisaged for Uganda, including the WCD, make specific provision for reparations, despite this being a clear priority for victims and affected communities. In any event, a widespread process of consultation with victims and affected communities is needed, to determine what kind of transitional justice process they would prefer.

The existence of the Ugandan Amnesty Law of 2000 poses another serious challenge to Uganda's complementarity efforts. On several occasions during the delegates' visits, delegates interacted with the Commissioners and staff of the Ugandan Amnesty Commission. During these discussions, it was pointed out that the Amnesty Law has to date allowed for the demobilisation of thousands of former combatants, the majority of whom had been abducted as children and forced to serve in the rebel forces. However, the problems arising from such an unconditional amnesty were also made clear to delegates by Commission members and others. Under the blanket amnesty, senior commanders who ordered the commission of serious crimes have received amnesty and a generous demobilisation package, which effectively rewarded and was perceived as rewarding their criminal behaviour. Victims and affected communities also highlighted this problem: when alleged perpetrators are 'rewarded' and nothing is done for the victims, victims are left angry at the failure of justice and fearful that they will again be targeted. This is especially true in instances where victims are members of the same communities to which the perpetrators return after demobilisation.

Another challenge to Uganda's complementarity efforts is the lack of accountability to date for government forces accused of crimes committed during the LRA conflict. This issue arose constantly in interactions with victims and communities, where one of the most frequently asked questions was why the ICC has not investigated crimes committed by the Ugandan People's Defence Forces (UPDF) or other government forces. This question was often linked to the perception that the ICC is working on the side of the government, in part because Uganda referred the situation to the ICC in the first place. Representatives of the UPDF and of the

²³ The Juba Agreement already acknowledges the need for communities to employ their own systems (*Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, Para. 3.1*), and the draft National Reconciliation Bill grants the National Reconciliation Forum authority to coordinate the activities of traditional justice institutions but does not dictate the nature of those measures.

Government of Uganda stated that any crimes committed by the UPDF were of lesser gravity than those committed by the LRA; that those responsible were rogue elements within the armed forces who had been dealt with through the military court martial system; and that information on the military proceedings had been provided to the ICC. Communities in the LRA-affected areas, however, stated their belief that UPDF forces had been responsible for incidents of considerable gravity and that they were unaware of any measures having been taken, by the Government or by the ICC, to investigate or prosecute those allegations. During the fifth visit, a representative of the Office of the Prosecutor of the ICC joined the delegates' group and assured communities that the OTP is still monitoring the situation in Uganda and is open to receiving information on crimes under its jurisdiction, regardless of who appears to have committed them. The accountability gap is reinforced by the inability of the War Crimes Division of the High Court to exercise its jurisdiction over government actors. According to the Juba Agreement on Accountability and Reconciliation "... state actors shall be subjected to existing criminal justice processes and not to special justice processes under this Agreement".²⁴

Another important challenge in Uganda is the lack of capacity at the local and national levels to undertake investigations and prosecutions of crimes under international law. Uganda's judicial system is well-functioning in many respects, but although there has been an increase in the level of knowledge and expertise on international criminal law in recent years, there is still a need for additional training, in particular for those directly involved in implementing the new legal regime, including police, prosecutors, lawyers and judges. The imperative of capacity building was also pointed out by civil society actors working as intermediaries with the Court. Many intermediaries have never had training on legal issues and are not familiar with the intricacies of the ICC and the Rome Statute system. Since they often undertake their work in support of the Court without any form of support, they are obliged to develop their own interpretation of their tasks, such as assisting victims to complete application forms for participation in proceedings, which can be incorrect and lead to inefficiencies.

The way forward

Through the visits to Uganda, delegates were able to observe first-hand the political impact of the ICC, both in terms of achievements and challenges, and had the opportunity to reflect on

²⁴ Agreement on Accountability and Reconciliation between the Government of the Republic of Uganda and the Lord's Resistance Army/Movement, Para. 4.1.

how the ICC can improve its impact at the political level. It is clear that Uganda's efforts to fulfil complementarity have faced hurdles and are imperfect. Nevertheless, the accountability and reconciliation efforts underway in Uganda demonstrate that the involvement of the ICC has created important pressure domestically for the country to engage in processes of accountability and transitional justice. The ICC investigation and the holding of the Review Conference in Uganda played a role in generating the political momentum necessary to pass the ICC Bill into law and to resist efforts to weaken its provisions. The War Crimes Division and other proposed transitional justice mechanisms result from the Juba Agreement on Accountability and Reconciliation, which itself resulted in large part from the ICC's involvement in Uganda. The involvement of the ICC has also led to an increased level of interest and expertise in international criminal law that did not previously exist, as legal practitioners have been obliged to educate themselves on international criminal law and transitional justice.²⁵ The ICC's role has also prompted closer international scrutiny of Uganda's processes of reforming its justice, law and order sector and has stimulated interest among donor governments in designating funding for the promotion of the rule of law. These achievements cannot always be ascribed directly to the ICC's actions and certainly other conditions must also be present for the effect to be truly felt. However, it seems clear that the political-level impact of the ICC is a real and crucial element in building political will to implement complementarity and end impunity.

The challenges in implementing complementarity are also significant and come about in part because of political responses to the ICC's role in the country. However, it was pointed out during the delegates' visits that in finding solutions to these challenges, Uganda can bring about progress in its national legal system more broadly, such as the elimination of the death penalty and improved fair trial standards. Judges from the WCD also pointed out that the ICC Act provides Uganda with jurisdiction over certain crimes committed outside Uganda,²⁶ which could ultimately be used to address crimes under international law committed elsewhere in the region, thus expanding the positive effects of complementarity beyond Uganda's borders.

Although the ICC has had a positive influence on Uganda's transitional justice process, more work is still clearly needed by all actors – the Government of Uganda, the ICC itself and its

²⁵ Courses in international criminal law are now taught at Makerere University Faculty of Law and today, Ugandan Lawyers have applied to take part the proceedings of the ICC and the War Crimes Division, including as defence counsel for Thomas Kweyelo.

²⁶ If the perpetrator or the victim is a Ugandan citizen or permanent resident, if the perpetrator is employed by Uganda in a civil or military capacity, or if the perpetrator is present in Uganda after having committed the offense. *International Criminal Court Act*, Uganda Gazette No. 67 Volume XCVIX, section 18, 2010.

States Parties – in order to maximise this impact. The impact of the ICC is created both through its direct actions and their indirect consequences and the Court must improve its ability to anticipate the consequences of its actions, and act accordingly, and its ability to respond to external events shaping the environment in which it is operating. It must develop a higher level of familiarity with the environment in situation countries and exercise more strategic thinking about how to shape its impact and ultimately its legacy. Moreover, the ICC and its States Parties should learn from the experiences of Uganda, as one of its oldest situation countries, in order to ensure an even more positive impact in other situations. In a later section, this paper will propose specific improvements and elaborate further on the role of States Parties in supporting the Court’s direct and indirect impact at the political level.

The impact of the ICC on victims and affected communities: actions and perceptions

The impact of the Court at the political level is closely intertwined with its impact on victims and affected communities. Victims and affected communities across Northern and Eastern Uganda viewed the ICC arrest warrants for the LRA leadership as a ray of hope that justice and accountability for the atrocities committed against them would be assured. However, this optimism has been moderated by a range of complex perceptions that have evolved over the course of the ICC’s involvement in the country.

Perceptions expressed by victims and affected communities

During the delegates’ visits in Northern and Eastern Uganda, both positive and negative perceptions of the ICC’s role in the country were heard from victims and affected communities. In general, victims and community members who engaged with delegates were supportive of the ICC’s mandate: many victims, particularly women and children when speaking with delegates in small groups or one-to-one meetings, expressed their strong desire to see Joseph Kony arrested and tried. Some also expressed the desire for him to be punished with death, seeing this as the most appropriate punishment for the suffering he caused to them. While most did not express a preference for a national or international court, many victims expressed the desire for the trial to take place in Uganda, close to the area most affected by the conflict, so that they could see justice being done.

As at the political level, there was some hostility toward the Court in the past, particularly in the Acholi region. For example, because it was not widely understood that the ICC would target only

those bearing the greatest responsibility for the most serious crimes, many people believed that the ICC may seek to prosecute their children who had been abducted and forced to participate in hostilities. The notion that the ICC would hinder the peace process also gained wide currency, often promoted by political and opinion leaders. In recent years however, overall perceptions have improved in the Acholi region as it became clear that the ICC's involvement was not preventing the return to stability. The ICC's Outreach and other activities have also made a difference in improving perceptions by clarifying the Court's mandate and presenting it as a more transparent institution that wishes to be responsive to the concerns of victims.

In other regions (Lango and Teso), perceptions of the ICC were reportedly more positive initially but have deteriorated in recent years as people's early hopes have been disappointed. Indeed, the failure to apprehend Joseph Kony and other indictees has created, and continues to reinforce, the perception that the Court is a weak institution or a "barking dog without teeth". The failure to enforce the arrest warrants has generated pessimism among victims of LRA crimes who believe that the perpetrators will never be brought to justice and causes them to live in fear that violence may recommence.

A lingering perception among victims and affected communities, however, is that the ICC is not impartial and that it has sacrificed its independence in order to ensure the cooperation of the Government of Uganda. There are widespread calls for UPDF members to be investigated by the ICC as well as the LRA. Victims of human rights violations allegedly committed by Government forces feel that the ICC process has not even begun to respond to their justice needs and expectations. As mentioned previously, this perception was exacerbated by the Court's handling of the Uganda situation, such as the joint press conference by Prosecutor Ocampo and President Museveni to announce the referral. There is also widespread frustration among victims and communities affected by crimes that do not fall under the jurisdiction of the ICC (for example, pre-2002) and a common lack of understanding of why this is the case.

There is a perception that the ICC is a somewhat secretive institution, since ICC operations in Uganda during the investigative phase were conducted with a very low profile. In one region, local leaders stated that they were not aware that ICC investigators had ever been there. This perception is exacerbated by the remoteness and inaccessibility of the Kampala Field Office from the affected communities. Additionally, no senior ICC official had visited Northern Uganda before the President of the ASP as part of this project in January 2010, sending the message that interacting with victims and communities is not a high priority for the ICC. The ICC has also been seen as an institution that has primarily engaged with an elite level of Ugandan

society without having or seeking a substantial impact on the affected communities. Given that most victims and communities live in extreme hardship brought about by the conflict, communities often feel that the Court should have a more direct impact on their lives through stronger reparations mechanisms.

Perceptions of the ICC in Uganda were formed both by the Court's own actions and by external conditions. In the early stages of its involvement, the ICC made some fundamental missteps, such as the joint announcement of the referral with President Museveni; the failure to engage with local political leaders in order to encourage their support; the level of secrecy with which early field operations were carried out; and the lack of direct interaction with victims and affected communities, including through late commencement of outreach activities. In recent years, perceptions have improved, in part because improved security has shown that the ICC is not in fact a threat to peace and in part because the ICC itself has taken action to engage more closely with key local actors. The establishment of the Kampala Field Office and the initiation of its various activities have been crucial in this regard.

Field presence and operations

In the early years of the ICC's involvement in Uganda, its presence on the ground was minimal. As a result, its direct interaction with victim and affected communities was delayed and the only contact or source of information available to those groups was through the media or their political leaders. This vacuum allowed misperceptions and negative perceptions of the ICC's involvement to develop freely while factual information and positive aspects were not given equal airing. According to civil society in Kampala and Northern Uganda, improvements in the ICC's presence and activities on the ground in Uganda in recent years have helped to create more positive perceptions of the ICC as an institution in Uganda. Nonetheless, after several years of the Court's involvement and without any arrests, the Uganda situation inevitably raises questions as to what legacy the Court will leave in the country.

The Kampala Field Office

In the course of the delegates' visits, almost all groups of delegates visited the Kampala Field Office to understand first-hand how the investment of the Court and its States Parties pays off in enabling the ICC's interactions with victims, affected communities and other local actors in Uganda. The Kampala Field Office carries out a large volume of activities with limited resources,

especially since it also serves as a regional hub for the Court's operations in Eastern DRC and Darfur/Eastern Chad. The resource constraints of the Field Office are exacerbated by its location in Kampala, far from where victims and affected communities live. In order to interact with victims and communities, Field Office staff are obliged to travel long distances and stay in hotels in regional towns for long periods of time, creating inefficiencies in the operations of the office overall. As noted above, the remoteness of the office also creates the impression among communities that the ICC is an inaccessible institution, which Field Office staff must work to overcome.

Despite its wide range of activities, the Field Office suffers from a lack of authority and coordination, which impairs the work of the Court in the field. The Field Office staff are generally not empowered to interact with the host government, with the diplomatic community or the media, which limits the impact of the Court on many issues. For example, there has been limited contact between the ICC Field Office and the Ugandan Government's Justice, Law and Order Sector (JLOS) Working Group on Transitional Justice, even though members of the JLOS Secretariat said that they would welcome the exchange of information and expertise with the ICC Field Office. Similarly, because the Field Office is unable to engage with the diplomatic community, it hinders their ability to promote donor initiatives that would facilitate the Court's work or promote complementarity through the national transitional justice process. Certain partner organisations of the ICC Trust Fund for Victims (TFV) have begun to initiate this kind of cooperation with national authorities, for example, through discussions with the Ministry of Health about the government potentially providing work space or allowing duty-free procurement. These contacts are undertaken by the TFV partners, but their ability to initiate them stems in part from the TFV utilising a more de-centralised model of management than other units or organs of the Court. Empowering the Field Office in such a manner could result in improvements in the Court's ability to have a positive impact on domestic accountability processes, thus contributing to its impact overall.

Outreach Activities

From January to June 2010, four outreach events were organised by the Outreach Unit of the ICC's Kampala Field Office in conjunction with the delegates' visits,²⁷ in order to allow delegates to gain a greater appreciation of the importance of outreach. The benefits of the Court's Outreach activities were clear, as communities who had been touched by outreach events generally had more positive perceptions or were at least better informed about the Court. However, outreach in Uganda continues to be an uphill battle to foster positive perceptions of the ICC among affected communities. As noted above, outreach did not begin early enough and negative perceptions and misconceptions percolated freely in the initial years of the Court's involvement. In recent years, since there have been no new judicial developments due to the failure to execute the Court's arrest warrants, the outreach section has struggled to persuade communities that the ICC is still engaged in the situation and is still pursuing the suspects.

One imperative of outreach activities is the need to provide information to permit victims and affected communities to access the justice process. Outreach events often include information on how victims can apply to participate in the ICC process and potentially benefit from reparations.²⁸ However, the information provided could be improved in order to ensure that it responds to the needs and concerns of victims and affected communities. For example, outreach events did not mention how communities could send communications to the Prosecutor, an important omission considering that the Prosecutor's Office has declared that it would welcome receiving such communications. Outreach events also did not usually include information about the ICC Trust Fund for Victims (TFV) and as a result, communities, including NGOs who could be potential TFV partners, were generally not well informed about the TFV's mandate and activities. This lack of coordination among the various units and sections of the Court weakens its overall impact at the local level, since victims and communities are not aware of the full range of ways in which they can access and benefit from the ICC's justice process.

As previously noted, a major shortcoming of outreach activities in Uganda is that no senior ICC official or figure associated with the Court had taken part in an outreach event in Uganda before

²⁷ Other outreach activities in which ICC outreach staff participated during this time included a radio talk show in Lira in February and meetings with local officials, NGOs and other national and international bodies as part of the group that accompanied the delegates each month.

²⁸ Outreach events attended during the delegates' visits did not provide information on the application process, however we were assured by outreach staff that this is usually part of the information they deliver. The outreach events in advance of the Review Conference were focused on the presence of the ASP delegates.

the visits of the President of the ASP and a senior representative of the Office of the Prosecutor (OTP) in January and May 2010 respectively. The presence of an OTP official during an outreach event allowed the Office to engage directly with victims and affected communities on issues such as the status of the OTP's investigation in Uganda and its approach to crimes by Government forces. Such visits demonstrate to victims that high-level officials are interested in hearing their views and help the Court to establish closer ties with individuals, civil society and government officials, which strengthens its long-term impact and legacy.

Victims' participation

Victims who had applied to participate in ICC proceedings strongly affirmed that it provided them with an important opportunity to have their views heard as a part of the legal process. Many others, who had not applied, expressed interest in participating in bringing to justice those responsible for crimes during the LRA conflict. Many hoped that trials could take place in Uganda so victims could see justice being carried out. These views affirmed the importance of victims' participation as a mechanism to integrate victims into the ICC process, thus improving their experience of the ICC and its impact on them. Nevertheless, the Victims Participation and Reparation Section (VPRS) in Kampala is composed of only one Field Officer and one Field Assistant and covers both the Uganda and Darfur situations with a budget of 7,000 Euros per year. The limited resources of VPRS create a reliance on intermediaries in order to engage with victims. However, resource constraints also mean that no training or other forms of support are available to intermediaries, which in turn hinders their ability to support the Court effectively. This example illustrates how budgetary restrictions placed on the Court at the level of the ASP translate into the serious impairment of the ICC's ability to have a positive impact at the local level by implementing the Rome Statute's victims' rights provisions.

Interactions with Intermediaries

The importance of the role of intermediaries in extending the reach of the ICC on the ground cannot be overestimated. Intermediaries serve as points of contact between the Court and victims and affected communities, among other things, by informing victims of their rights under the Rome Statute, assisting with applications to participate in proceedings and implementing projects supported by the ICC Trust Fund for Victims. As such, intermediaries are often the de facto 'Ambassadors' of the Court in the community.

During the delegates' visits to Uganda, intermediaries had multiple opportunities to voice their concerns about their interactions with the ICC.²⁹ There is no definition of an 'intermediary' in the Rome Statute and the importance of their role is not widely recognised. There is also no system of protective measures for them or protocols against retaliatory threats or detention due to their work with the Court. They do not receive training on legal issues, on the functioning of the Court or on working with traumatised victims. These concerns obstruct intermediaries' capacity to undertake their work effectively, causes frustration and can ultimately deter them from working in support of the Court, even though they are otherwise strong advocates of the ICC. In addition, problems in the ICC's interactions with intermediaries can lead to problems with the Court's own functioning, as demonstrated by the difficulties experienced during the Lubanga trial. These concerns are currently the subject of an internal discussion at the ICC to develop guidelines governing the Court's interactions with intermediaries. Given the critical role of intermediaries in building the ICC's local impact, it is crucial that this process result in more satisfactory conditions for them.

Reparations and the ICC Trust Fund for Victims (TFV)

On each visit to Uganda, delegates were faced with the issue of reparations, as victims' rights to reparations are currently far from being met. It was clear that the ICC's reparations mandate greatly strengthens its impact but that it is vitally important for stakeholders in situation countries to have realistic expectations of the Court's limited resources. The ICC Trust Fund for Victims (TFV) is one such limited avenue through which the ICC can provide material support to victims³⁰ and the TFV plays an important role in the ICC's overall impact on victims and affected communities. However, it is clear that its resources are far too limited to respond to the overwhelming number of victims in Northern and Eastern Uganda. There is also a widespread lack of understanding of the TFV's mandate among the public, civil society and local leadership in the regions where it operates, leading to misperceptions that its resources are far greater than it actually has. Civil society actors also reported that the criteria and selection process for implementing partners are not clear. NGOs who openly work as intermediaries with other

²⁹ During the fourth visit, a specific meeting was arranged between delegates and civil society activists working as intermediaries with VPRS; on other occasions, delegates interacted with intermediaries working with the ICC Trust Fund for Victims and the Public Information and Documentation Section.

³⁰ Each group of delegates visited projects supported by the TFV in Uganda and meet with both the civil society implementing partners and the people benefiting the services provided.

sections of the Court are excluded from TFV funding, creating an impression that the Trust Fund does not support the organisations that are themselves the most supportive of the ICC. Furthermore, civil society actors mentioned that beneficiaries of TFV-funded services often do not realise that those projects are associated with the ICC, thus limiting the positive impact of the TFV's work on overall perceptions of the Court.

The way forward

The delegates' visits exposed delegates to the challenges faced by the ICC in carrying out its work in the field and highlighted areas for improvement. They also contributed to creating momentum around the ICC and justice in Uganda along with other activities organised around the Review Conference. Since then however, instead of building on these achievements, the Court has instead been obliged to begin disengaging from Uganda by reducing its field presence and outreach activities.³¹ As noted, an overall impression remains that the ICC is not accessible to victims and affected communities and has not fully exploited its potential to have a positive impact on the fight against impunity in the country. Scaling down the Kampala Field Office further distances the Court from the communities and reinforces the impression that the ICC has abandoned Uganda, long before it has reached its objectives. The tide of public opinion has recently started to turn in the ICC's favour in Uganda and such steps risk again eroding its credibility.

The Court should also explore ways to work through its field offices to support national initiatives to fulfil victims' rights as part of Uganda's complementarity efforts. Some TFV partners have already started to initiate such cooperation and more should be encouraged to move in this direction. Other sections of the Court should explore possibilities to initiate similar cooperation through their own activities, for example, the ICC's Outreach and Victim Participation and Reparation Sections, and the Victims and Witnesses Unit, could provide invaluable advice to the new War Crimes Division of the High Court and the JLOS Transitional Justice Working Group more broadly. Field-based staff could also encourage locally-based donors to undertake programming that would support the ICC's work and objectives in each situation country. Such measures would require increases in effort and resources on the part of the Court and greater authority and coordination in Field Offices. However, the benefits would

³¹ It is our understanding that the Court is planning for 2011 to redeploy international staff based in the Kampala Field Office to other situations, including the Outreach Coordinator.

be significant in broadening the ICC's reach and impact in the fight against impunity in its situation countries.

Role of the ASP in building the ICC's local impact

The responsibility for how the ICC is represented and builds its impact in situation countries lies primarily with the Court itself; however, its States Parties also play a critical role. They are the 'stewards' of the Court, having responsibility for oversight of its non-judicial functions and influencing many aspects of its institutional development. In addition, States Parties contribute financially to the Court and maintain overall approval of its annual budget, which also influences institutional development. As has been emphasised in previous sections, the Court's presence and activities in the field play a critical role in localising the ICC and enhancing its overall impact in situation countries. Field offices ensure protection of both victims and witnesses; implement victims' rights to participation and reparation in proceedings before the ICC; bridge the gap between The Hague and situation countries through outreach programs; and provide support to investigators,³² counsel and other Court representatives travelling to the country. Yet field offices could still play a more useful and effective role. As previously noted, field offices could play a stronger role in promoting complementarity at the local level. It should also be through its field-based staff that the ICC can follow the changing dynamics and complex environment in the situation country and can respond appropriately in order to foster positive perceptions and build its impact at the local level. These opportunities are not currently exploited by the ICC.

States Parties have a strong influence on how the ICC is able to implement its functions effectively in the field, however, many States delegates seem not to value fully the role and importance of field presence and operations. The visits to Uganda were designed to allow States Parties delegates to gain first-hand understanding of the work and challenges of the court in one of its situation countries.

Role of States Parties in determining the ICC's budget

The topic of the field presence and operations of the Court usually arises among States Parties during budget discussions. These are perceived as among the most resource-intensive aspects of the Court's work yet are not always accepted as being strictly necessary to implementing its

³² There are currently no permanent ICC investigators based in the field: instead investigators travel back and forth from The Hague to situation countries. However, in some situation countries, including Kenya, the Prosecutor has decided not to conduct any investigations in the country on the basis of the negative results of their security assessment.

judicial mandate. Because States do not fully appreciate the importance of the Court's work in the field, discussions on this topic generally centre on the need to reduce current expenditures, framed in the context of broader efforts to impose a "zero growth budget". However, this approach risks overlooking the damage caused by severe resource limitations to the Court's local impact. The effects of such resource constraints have already been highlighted by this paper, such as insufficient outreach leading to negative perceptions of the Court, victims' participation forced to rely on intermediaries, who in turn are hindered by the lack of training to carry out their tasks.

In the past year, the ICC has opened two more investigations, in Kenya and just lately in Libya – and may soon open another investigation in Cote d'Ivoire. The Libya investigation was opened after a referral by the UN Security Council, some of whose members are ICC State Parties. The institution is therefore expected to expand its reach without a corresponding increase in investment by its 'stewards', the States Parties. In particular, as regards field presence, the recent expansion has already led to cuts in older situation countries, most notably Uganda and Darfur, Sudan. Leaving situations unfinished and in limbo because of lack of resources poses serious risks to the ICC's long-term credibility and local impact. When States become parties to the Rome Statute, they commit to the ICC and should look at their commitment as an investment in the Court's effectiveness: they must invest adequately for the institution to be truly effective; in evaluating and quantifying 'effectiveness', the impact of the ICC at the local level should be a key determining factor.

Role of States Parties in oversight and institutional development

States Parties exercise oversight and contribute to the institutional development of the ICC through formal mechanisms established by the Assembly of States Parties – such as reports, discussions and resolutions; Bureau meetings; and facilitators or working groups on various issues – and through more informal ongoing dialogue on the Court's policies and strategies. This can involve seeking information from the Court, providing feedback and expressing its views on how the Court should operate. A recent prominent example of the ASP's role in the ICC's institutional development was the 'stocktaking' exercise undertaken at the 2010 Review Conference in Kampala. States Parties evaluated four aspects of the Rome Statute system – complementarity, cooperation, the impact of the Rome Statute system on victims and affected communities and peace and justice – all of which play a part in the ICC's overall impact in situation countries. At the Review Conference, States Parties adopted resolutions or declarations on cooperation, complementarity and victims and affected communities, which recognised a number of areas in which the Court's activities need to be optimised for the ICC to enhance its impact. These resolutions, particularly on victims and affected communities, emphasised the

need to optimise field presence and field-based functions in order to improve the court's positive impact in situation countries.³³

Conclusion and the way forward

The fight against impunity in Uganda has made progress, in part because of the positive influence of the ICC. However, much more work is still needed in order to consolidate gains in Uganda so far. The experience of Uganda shows how the local impact of the ICC is created both through its direct actions and their indirect consequences. The Court must improve its ability to anticipate the consequences of its actions and to respond to external events shaping the environment in which it is operating. It must develop a higher level of familiarity with the environment in situation countries and exercise more strategic thinking about how to shape its impact and ultimately its legacy.

The ICC's work in Uganda is by no means done and neither the Court nor its States Parties should support reducing its presence there. Now is the time to take advantage of recent improvements in public opinion to consolidate the Court's positive impact, rather than taking steps that will again erode its credibility. The Court should also take this opportunity to work through its field offices to support national initiatives to fulfil Uganda's complementarity efforts. Such measures would require increases in effort and resources on the part of the Court and greater authority and coordination in Field Offices. However, the benefits would be significant in broadening the ICC's reach and impact in the fight against impunity in its situation countries.

States Parties must continue to strengthen their oversight of the Court and role in its institutional development. States should adopt a policy of constant learning from situation countries to ensure that decisions made at the ASP reflect the needs of those countries and the victims and affected communities. Delegates working on ICC issues should continue to visit situation countries and should seek greater input on ICC issues from their diplomatic counterparts based locally in situation countries. States Parties should also consistently reaffirm their support for the ICC's mandate in relation to victims, including through statements at ASP meetings and strong language in ASP resolutions in support of functions such as outreach, the field presence of the Court and victims participation and reparations.

³³ *Declaration on Cooperation*, RC/Decl.2, available at http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/RC-Decl.2-ENG.pdf; resolution on *Complementarity*, RC/Res.1, available at http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/RC-Res.1-ENG.pdf; resolution on *The impact of the Rome Statute system on victims and affected communities*, RC/Res.2, available at http://www.icc-cpi.int/iccdocs/asp_docs/Resolutions/RC-Res.2-ENG.pdf. Last accessed on 1 June 2011.

In terms of the budget process, States must provide the Court with adequate resources to carry out its mandate fully and effectively in each of its situation countries. With greater understanding of the Court's functions at the local level, States should no longer approach the budget process looking to cut back field-based or victim-related functions. Given the centrality of the ICC Trust Fund for Victims in building the ICC's positive impact in situation countries, States Parties should also increase their voluntary contributions to the TFV, while supporting the TFV in improving its visibility and the clarity of its mandate.

The question of the ICC's impact at the local level is intrinsically tied to the question of its long-term legacy in its situation countries. The ICC, with the support of its States Parties, needs to begin elaborating its vision for what it intends to accomplish in any given country, what legacy it will leave, how it will assure that legacy and what resources it will need to do so. In recent years, significant effort has been put into securing the legacies of other international tribunals, including the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR) and the Special Court for Sierra Leone (SCSL), and the ICC and its States Parties should learn from those tribunals' experiences. While the ICC is a permanent court, the lessons from other international tribunals are relevant because the ICC's involvement in any situation is necessarily transitional. The Court is currently engaged in a significant strategic planning process on its field operations and how they can be optimised with a view to maximising their impact and the ICC's legacy. States Parties should contribute to the development and refining by the Court of these policies and strategies and should encourage the Court to take steps to move toward becoming a more field-based institution. The experience of Uganda, one of the ICC's oldest situation countries, should serve as a source of instruction as the ICC and its States Parties look to build its positive impact and legacy in an expanding range of situation countries.