

**A consultative conference with Local Leaders, CSO's and Partners in Teso region on ICC Maintenance Strategy held on November 22, 2011 at Tik Tik Guest House- Soroti Municipality.**

**ICC maintenance strategy for Teso**

The consultations on International Criminal Court (ICC) maintenance strategy organized for Teso region by SODANN drew various stakeholders comprising of civil society representatives, Local Councilors, representatives of war victims, journalists, youths, women and persons with disabilities. The consultations were facilitated by ICC outreach programme; Uganda Coalition for International Criminal Court and SODANN officials, at Tik Tik Royale Guest House.

The stakeholders observed that ICC outreach programme field office in Kampala was reducing staff from three to one to manage country programme and yet knowledge and understanding of the court was still limited, participation of victims, witnesses and communities was still low and required constant awareness, encouragement and preparations.

**Sequence of events**

The Public Information and Documentation Section (PIDS) initiated its outreach programme after the prosecutor launched his investigation in 2004, and following the opening of the field office in 2005 in Kampala.

It started with consultations of key groups of Ugandan society and resulted in the creation of a network of partners in 2006. From 2007 until now outreach activities have targeted affected communities, including children, women, elders and groups of people with disabilities; journalists, academic and legal communities.

Outreach sessions have been organized mainly in northern and eastern regions of Uganda, more specifically: the Acholi, Madi, Teso and Lango sub-regions, spread throughout the 21 districts of the northern region and 24 districts of the eastern region of the country, where the alleged crimes were committed and communities most affected by such crimes have since settled. The estimated population of the two regions together is 11.6 million inhabitants. Statistics kept by PIDS since 2007 show that from that year as of September 2011, 96,643 Ugandans have participated in outreach sessions.<sup>1</sup>

Throughout 2008 to 2011 PIDS have been actively training its partners to consolidate synergies that might help Ugandans to value justice, and to better understand the evolution of international criminal justice through the system established by the Rome Statute. To enhance its impact, the section has also partnered with 8 radio stations that have greater penetration in the affected communities increasing its estimated audience from 8 million, in 2009 to 11 million in 2011. Information on ICC is provided through one-hour talk shows broadcast every week. And whenever resources would allow, the court in collaboration with stakeholders might maintain the existing communities' radio stations broadcasting interactive ICC programmes to the affected communities of Acholi, Lango, Teso and Madi sub regions.

<sup>1</sup> From 1 October 2010 to 30 September 2011 in the course of 116 outreach sessions 11,415 participated in comparison with 22,894 in 2010; 20,798 in 2009; 32,312 in 2008; and 9,224 in 2007.

***Judith Ajalo Erongot of ICC outreach programme and Patricia Bako of Uganda Coalition for International Criminal Court outline issues related to the maintenance strategy.***

## **Situations in Africa.**

New situations in Africa were emerging and that they were likely to draw the attention of the court away from the existing situations and demoralize the already affected communities in northern Uganda, they noted the following situations:

Suspected war crimes, crimes against humanity and genocide in Sudan; and the pending arrest warrants against Bashir, the President of Sudan. Lack of cooperation in the situation of Sudan where Bashir visited Kenya and the government of Kenya declined to cooperate in arresting him and yet it's a state party to ICC. Whereas, ICC has demanded explanations from Kenya, such actions need to be known by the countries affected and this is possible through the outreach programme, Investigations and prosecutions in the Democratic Republic of Congo (DRC) on crimes against humanity & war crimes that are ongoing,

The Kenyan situation arising from the election violence in 2007, which the prosecutor initiated investigation and found evidence that warrants prosecutions.

Participants further raised concerns regarding the crime of aggression, they observed that ICC requires 20 party states to ratify the crime of aggression; however the USA has since down played this initiative why? They were concerned about the entry of Kenya into Somalia and what ICC could do about it. It was noted that, the entry of Kenya into Somalia was to wave off the attacks by the Alshabab terrorists on Kenyan citizens and therefore; it was a defensive strategy.

### **Concerns by Teso stakeholders on ICC**

#### ***QN: How is ICC preparing the community to receive Kwoyelo?***

ICC has not prepared the community to receive suspected perpetrators; the focus of ICC outreach programme has been to create awareness on the work of the court, its importance and the benefits.

The preparation of communities to receive suspected perpetrators is an issue of reconciliation which is the next focus of the work of ICC.

#### ***QN: What mechanisms does ICC use for protecting victims and witnesses?***

The Pre-Trial Chamber has responsibilities toward witnesses that pertain to their anonymity at trial should the need arise. Article 57(c) of the Rome Statute requires the Pre-Trial Chamber to provide for the "protection and privacy of victims and witnesses," and Article 64(7) like similar provision in the Statute of the ICTY balances the right of the accused (listed in Article 67) to confront witnesses against him with regard for the protection of victims and witnesses. Article 68 announces the mechanisms to support witnesses during the trial.

***Mr. Otim Jimmy Coordinator- ICC outreach programme, explains the developments on various situation countries in Africa. He affirmed that ICC will not be deterred by the new developments.***

***QN: What kind of laws is ICC using for trying suspects?***

ICC uses the *Rome Statute of the International Criminal Court*; it sets out the crimes falling within the jurisdiction of the ICC, the rules of procedure and the mechanisms for States to co-operate with the ICC. The countries which have accepted these rules are known as States Parties and are represented in the Assembly of States Parties.

***QN: Is the ICC meant to replace national courts?***

No, the ICC does not replace national criminal justice systems; rather, it complements them. It can investigate and where necessary, prosecute and try individuals only if the State concerned does not, cannot or is unwilling genuinely to do so. This might occur where proceedings are unduly delayed or are intended to shield individuals from their criminal responsibility. This is known as the principle of complementarity, under which priority is given to national systems. States retain primary responsibility for trying the perpetrators of the most serious of crimes.

***QN: The speed of committing crimes is very high, what will ICC do to help reduce the speed?***

ICC is not a substitute for national courts. According to the Rome Statute, it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes. The International Criminal Court can only intervene if need be.

***QN: Who can be prosecuted before the ICC?***

The ICC prosecutes individuals, not groups or States. Any individual who is alleged to have committed crimes within the jurisdiction of the ICC may be brought before the ICC. In fact, the prosecutor's prosecutorial policy is to focus on those who, having regard to the evidence gathered, bear the greatest responsibility for the crimes, and does not take into account any official position that may be held by the alleged perpetrators.

***QN: How are witnesses protected?***

In order to ensure the safety of witnesses who come to testify before the Court, the Court provides administrative and logistical support and ensures that the experience of testifying does not result in further harm, suffering or trauma for the witnesses. Protection is not limited to physical protection of witnesses, but extends to the protection of their psychological well-being, dignity and privacy, as much as it is not prejudicial to or inconsistent with the right of the accused to a fair trial. For example, the Court may, on an exceptional basis, choose not to reveal their identity to the press and public by holding part of the proceedings in closed session or by using electronic or other special means to conceal the evidence in the courtroom. Special attention is given to the particular needs of children, the elderly, persons with disabilities and victims of sexual or gender violence.

***QN: Where a State is unable or unwilling to carry out investigation and prosecute perpetrators, what will ICC do?***

Article 17 provides the legal basis for "complementarity" and describes how the line should be drawn between the default expectation of national jurisdiction and the exercise of ICC jurisdiction as a last resort when states are unwilling or unable to carry out genuine investigations and prosecutions of crimes under the statute. Specifically, Article 17 outlines what "unwilling" and "unable" mean. A state is understood to be "unwilling" where it acts to "[shield] a person from liability." Unwillingness can also be found when a state acts in a way which is "inconsistent with an intent to bring the person concerned to justice," either through failing to conduct proceedings "independently and impartially" or through an "unjustified delay" in proceedings.

***QN: How is the Court funded?***

The Court is funded by contributions from the States Parties and by voluntary contributions from Governments, international organisations, individuals, corporations and other entities.

***QN: Where does the money for reparations come from (Trust Fund for victims?)***

- Collections/donations from member states,
- Volunteers,
- Parastatals,
- Money from guilty verdict can be frozen by court and given to victims.

**Summary of group presentation on ICC outreach maintenance strategy**

1. How can the Court best maintain outreach networks during its maintenance strategy (when there is an arrest)

- Maintain staff for Uganda country office.
- Decentralize the strategy to local partners.
- Build capacity of the partners they are working with.
- Strengthen civil society organisations & networks.
- Have a focal point person in Eastern region.
- Have regular district consultative meetings, seminars and dialogues.
- Have continuous ICC forums.
- Sensitization of communities on ICC.
- Involve all stakeholders.

2 a) what are your recommendations on maintenance strategy.

- Dissemination of information.
- Networking with other partners.
- Capacity building of CSOs, CBOs.
- Engaging more volunteers.
- Continuous collaboration with civil society organisations.
- Funding of ICC activities & programmes by partners.

## ***Participants proposing recommendations for ICC maintenance strategy during group work***

b) What are your concerns on the maintenance strategy?

- It may reduce its effectiveness.
- Victims may lose hope.
- Routine visits, radio talk shows will be reduced.
- Hard to access information.

### **RECOMMENDATIONS**

A number of key recommendations emerged from the consultative meetings including;

- PIDS should focus on building capacity of partner organisations, networks and volunteers for a sustained outreach programme,
- The court outreach programmes be integrated into the activities of different stakeholders including but not limited to CSO's, local governments and educational institutions,
- The court should find a strategy to continue with the already existing community interactive radio programmes to the affected communities of Acholi, Lango, Teso and Madi sub regions.
- In view of scaling down, the court is hereby advised to continue using dialogue, seminars & the media to reach the affected communities through talk shows, spot messages and jiggles
- With or without judicial development, the ICC should maintain the level of outreach staff to keep the face of the court and give hope to victims.
- The court is further advised not to completely close the field office in Uganda because of negative implications. Field presence will demonstrate clearly that the ICC is still engaged in and committed to the situation. Participants however noted that scaling down resulting from budgetary constraints and operational need is understandable.
- Instead ICC and states parties are advised to scale up their respective diplomatic work to facilitated enforcement of arrest warrants.
- States parties to provide enough resources to the court to facilitate its operation given the growing number of situation before the court and active judicial development.

*Ms Apoco Hellen of Community Integrated Development Initiative,  
presenting recommendations from Teso during the consultations on  
the maintenance strategy organised by SODANN*