

## **Statement at Hague Working Group Roundtable on ICC Communications Strategy on 15 May 2014**

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I am speaking from a civil society perspective, having collaborated with and supported the court and been involved in strategic discussions on how the court can improve on its engagement in Kenya.

While we acknowledge a lot has been done in Kenya by various organs of the court to keep the country informed about the judicial proceedings, we are of the opinion that state parties and the court need to be more alive to the different contexts that are inherent to the different situations the court is engaged in.

I am sure you will all agree with me that the Kenya context as a situation country is quite unique and dynamic. A lot has changed since the charging of the accused persons in the Kenyan cases. The cases have overtime become overly politicized. That is a reality state parties must recognize and take into account in a discussion such as this one on communication.

### **So what do we think has worked.**

1. Existence of an office has been one of the good developments from the court. It has ensured presence albeit minimal is felt on the ground.
2. The increased presence by common legal representative on the ground is also commendable in an effort to reach out to the victims and keep them engaged with the presence on a continuous basis.
3. Efforts by the court to partner with CSOs to raise awareness and respond to information needs has also worked to a good extent.
4. The focus by outreach to train a section of Kenyan journalists consistently to build their capacity to understand the ICC judicial process.
5. Outreach to affected communities has been largely effective but there is no doubt in our mind that more needs to be done. The court needs that human face that relates with the general population and more specifically with the affected communities.
6. Court has been consistent in producing video case summaries and documentaries which have been broadcast by Kenyan media and have been effective in reaching out to the masses.

### **What do we view as gaps to be addressed?**

1. Courts capacity: it is great to have local presence by the court through the office. But the question needs to be asked whether the staffing is sufficient. Take for example the outreach office which has one court staff expected to raise awareness about the court and respond to enquiries. Expecting a single official to serve the needs of a population of 40 million people is quite an overstretch in our opinion.

2. Still on capacity: The facilitation of the common legal representatives on the ground needs to be adequate. It is not sufficient to have the CLR's based in the situation countries but not facilitate them to address the information needs of the victims.
3. Financial resources to the court need to be addressed. To demonstrate the necessity to provide sufficient financial resources, one needs to consider that the media is one of the main sources of information in Kenya. The media is also one of the most trusted institutions in Kenya. The war of perception is won or lost in the media. The cost of communicating in Kenya is quite expensive. The court needs ample resources to be able to engage through this important sphere of information dissemination. The detractors of the court have capitalized in the use of the media and the court has lagged behind in this respect.

### **Missed opportunities**

We are of the opinion that there have been numerous missed opportunities by the court to respond to criticism about the court. While we acknowledge the courts independence and impartiality needs to remain above board. An acknowledgement is necessary that the court especially in the Kenya situation operates in a very politicized environment. This reality affects the perception not only of the judicial proceedings but also of the court policy as a whole.

The court needs to think of how to respond to situations such as these that largely discredit the court. What role do State parties play, especially in situations that the registry or OTP perceives too political to engage in? What is the role of the ASP in the absence of court communication especially in political situations?

### **Recommendations:**

1. The state parties need to be more proactive in playing its role in upholding the integrity of the court. The ASP can bridge the gap when the court is unable to communicate publicly.
2. Resources availed must be commensurate to the needs and contexts created by the different situations. For the Kenyan Situation state parties must reconsider the budgets allocated for public information and outreach.
3. Greater investment is needed by the registry, the OTP and the state parties on how to synergise and strengthen their approach on public information and outreach.