



International Criminal Tribunals and Civil Society: Impediments and Opportunities for Engagement





Syria Justice and Accountability Centre

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Executive Summary

Previous international tribunals demonstrate that the work of international criminal justice mechanisms (ICJMs) and local civil society organizations (CSOs) often overlap. However, this shared mission has not always led to close cooperation. Little formal guidance is available to guide ICJMs and CSOs on how best to work together to accomplish their shared goals, yet professionals working in the field offer a wealth of practical information. This report relies on 30 interviews with local CSO staff, former international criminal mechanism staff, and subject-matter experts to ascertain how past experiences can inform future frameworks for ICJM-CSO cooperation.

The interviews clearly indicate that there are benefits to cooperation. CSOs are often an untapped source of local knowledge and an avenue for local access, including:

- **Direct access to the community**, including potential witnesses;
- **Valuable local knowledge** that can offer context for an ICJM's work and improve the quality of interviews and other documentation; and the
- **Supply of documentation and information** about the conflict not otherwise available.

Interviewees agreed that ICJMs are more likely to work with CSOs that have a strong reputation, offer credible information, and are reliable. However, establishing these factors can be difficult due to issues of accessibility: CSOs may not realize that they can or should try to engage with an ICJM, an ICJM may not be aware that local CSOs possessed valuable information, and ICJM and CSO staff may face language barriers. It is important for ICJMs to be willing to engage with a wide variety of CSOs before reaching conclusions about the quality of their work.

Impediments to ICJM-CSO Cooperation

The report identifies four main impediments to ICJM-CSO cooperation.

1) ICJMs and CSOs have different mandates, with accountability often representing only one facet of a CSO's work. For this reason, CSOs may not present documentation in a format that meets an ICJM's standards. ICJMs can address this concern by offering clear guidelines as to the type and format of information they need, making this information available in the local language and accessible to those without legal expertise.

2) ICJM staff may discount local CSOs' work by presuming local CSOs to be biased. ICJMs can avoid this concern by engaging with a broad spectrum of local CSOs, by utilizing best practices of international organizations in requiring information about CSOs' donors and members, and by ensuring that there is some degree of differentiation between prosecutorial staff, and those engaging with the local community.

3) Information provided by CSOs may be unintentionally tainted, such as interviews that rely on leading questions. Instead of discounting these CSOs, ICJMs should work with them to create guidelines for documentation. Many CSOs could be unaware that such practices may invalidate their documentation and would be willing to change their methodologies when provided appropriate guidance.

4) There is a general lack of communication between ICJMs and CSOs, including after information has been submitted, which could leave CSOs and the affected community feeling disengaged from the process. Communication between ICJMs and CSOs needs to be institutionalized and continue throughout the ICJM's mandate.

Recommendations. In addition to suggestions to overcome these impediments, the report offers several broader recommendations to ICJMs and CSOs based on interviewee responses. Ultimately, there is a skewed power dynamic, with ICJMs having access to resources and information about criminal processes that CSOs cannot obtain on their own. For this reason, it is integral that ICJMs take the first step of prioritizing and institutionalizing CSO engagement.

Recommendations for ICJMs:

- 1) Make space for local CSO's valuable contributions by "meeting them where they are."
- 2) Outreach must mean engagement.
- 3) Engagement should be broad, diverse, and regular.
- 4) Understand and act on ICJM's role in transitional justice.

Recommendations for CSOs:

- 1) Identify strengths and recognize limitations.
- 2) Put the interests of victims first.
- 3) Have a methodology and keep communication simple.
- 4) Partner with like-minded organizations.

Introduction



“The perception is: if he is ‘local’ he might not be neutral. This seems to be the international mind-set. Instead, this should be about working together. Applying the old blueprint to, for example, Kosovo for what was done in Sierra Leone or in Cambodia doesn’t work. There are things that can be learned if local organizations aren’t ignored.”-Gjylbehare Bella Murati, University Haxhi Zeka¹

The concept for this study developed while researching available guidance for civil society organizations (CSOs)* interested in contributing to international criminal justice mechanisms (ICJMs).** Although there was great interest in the potential relationship between ICJMs and CSOs at the creation of the International Criminal Court (ICC), there is little practical guidance on how CSOs, and specifically local CSOs, can interact with ICJMs. There is also very little literature available looking at CSO experiences across different ICJMs. A tremendous source of knowledge must exist in the experiences of local CSOs that have interacted, or are presently interacting, with ICJMs.

December 2016, the UN General Assembly passed resolution 71/248 to establish the International, Impartial, and Independent Mechanism (IIIM) to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious under International Law Committed in the Syrian Arab Republic since March 2011. The IIIM’s mandate is to, “provide assistance in the investigation and prosecution of persons responsible for the most serious crimes under international law by collecting, consolidating, and preserving information.”²

* The term “civil society organizations” (CSOs) includes both informal groups and registered non-governmental organizations (NGOs).

** The term “international criminal justice mechanisms” (ICJMs) is used to incorporate the international ad hoc and hybrid tribunals and the International Criminal Court, as well as domestic courts hearing international criminal trials. Its meaning is construed broadly, recognizing that future mechanisms will necessarily innovate and build on previous models.



This information is to be analyzed and used in case files to expedite national, regional, or international prosecution as jurisdiction is available.

Paragraph 6 of the resolution includes a call for civil society to “cooperate fully with the [IIIM] and the Commission of Inquiry ***...in particular, to provide them with any information and documentation [actors] may possess.”³

*** The Independent International Commission of Inquiry on the Syrian Arab Republic (Commission of Inquiry) was established in August 2011 by the UN Human Rights Council. Its mandate is to investigate violations of international human rights law committed since March 2011 in the Syrian conflict, with a focus of establishing facts and circumstances around such violations. In contrast, the IIIM’s mandate focuses on collecting and preserving potential evidence of international human rights and humanitarian law violations, with a view to establish intent and modes of criminal liability. While the Commission of Inquiry’s findings are made public, the IIIM’s work is intended to be shared solely in relation to prosecuting international crimes committed in Syria.

A January 2017 report by the UN Secretary General on the resolution’s implementation explains, “notably pursuant to paragraph 6 of resolution 71/248, the [IIIM] will have the capacity to conclude agreements with any State or entity,”⁴ which includes concluding memorandums of understanding with CSOs. Both the General Assembly resolution and the Secretary General’s report signal a broader institutional recognition of CSOs as important actors in pursuing international criminal justice. With this recognition, there is an important opportunity to learn from prior experience.



Methodology

This report is based on 30 interviews with current and former local CSO staff, former international criminal mechanism staff, and subject-matter experts. The term “local” is used to clarify this study’s focus on CSOs developed by citizens of an affected country and working in that country, as well as small organizations working with specific diaspora populations. It is intended to distinguish such CSOs from larger, multinational or international organizations commonly represented in literature on international criminal justice. While input from larger, international non-governmental organizations (INGOs) would also be valuable for future studies, INGOs often have greater resources to have their voices heard and fewer impediments to engaging with ICJMs.

The interviews were conducted by one volunteer researcher over Skype, telephone, or email between September 2017 and February 2018. Responses were provided in English or French. As the study’s initial concept was broad, interview selection was conducted by volunteer and opportunity sampling.

Interviewee or organizational experience represented in this report includes the situations in Bosnia-Herzegovina, Cambodia, Croatia, Democratic Republic of the Congo, Georgia, Iraq, Kosovo, Palestine, Serbia, Sudan, Timor-Leste, and Ukraine.

Local organizational experience was both in-country (13 interviewees) and outside the affected country with resettled members of affected communities (two interviewees).⁵ Three of the 30 interviewees worked either for or with organizations that provided technical support to ICJMs.⁶ Five interviewees had prior experience as staff with tribunals or courts including the Extraordinary Courts of Cambodia (ECCC), the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and the ICC. One interviewee’s experience bridged both ICJMs and CSOs. Six subject-matter experts provided experience with CSO/ICJM coalition-building or research into the relationship between local organizations and ICJMs.

Outline

The report is divided into four sections. Section I summarizes the importance and utility of ICJM engagement with local CSOs, noting that local CSOs have the unique ability to build relationships with affected communities, to provide contextual knowledge, and to access information. Section II critically examines commonly-cited traits that local CSOs should hold in order to be “visible” and “useful” to ICJMs, finding that these each require that an ICJM be accessible by local CSOs in the first place. Section III cites four possible impediments to greater engagement between ICJMs and local CSOs but finds that each impediment can be overcome with achievable changes by an ICJM. The fact that such impediments *could* be overcome by an ICJM suggests that, in fact, the ultimate impediment to greater engagement is prioritization of engagement by the ICJM itself. Section IV provides recommendations for both ICJMs and local CSOs for improving engagement.

By drawing from experiences across ICJMs and across contexts, the insights expressed in this report can assist current and future ICJMs, local and international CSOs, and donors interested in funding international criminal justice efforts. The author hopes that this report will encourage ICJMs, CSOs, and donors to examine their practices, expectations, and goals, ultimately increasing effective engagement between ICJMs and local CSOs.

I. Importance of Engaging Local CSOs⁷

“

“Resources are limited [in an ICJM,] so it is really important to focus where you use those limited resources. This is where [CSOs] become quite important.”- former ICJM investigator⁸

Interviews began from a presumption that local CSOs have particular assets that made their work valuable to ICJMs. Across interviews, interviewees indicated local CSOs’ greatest assets are their proximity to and on-going contact with affected communities. The value of proximity to affected communities relates to the fact that local CSO staff are physically closer to affected communities than ICJM staff. Local CSO staff also often *come from* affected communities whereas staff of ICJMs generally do not.⁹ The value of on-going contact with affected communities relates to the fact that local CSOs’ work often pre-dates the work of an ICJM and continues after prosecutions conclude, thus providing an important sense of continuity and stability.

Local CSOs’ proximity is less of an advantage when an ICJM is situated in-country; their on-going contact with affected communities is an asset regardless of whether the ICJM is situated in-country or abroad.

Proximity to and on-going contact with affected communities underpin three distinct but interconnected benefits for ICJMs in engaging with local CSOs: 1) direct access to the affected community, including potential witnesses, and the ability to build important relationships; 2) valuable local knowledge that can offer context for an ICJM’s work; and 3) a supply of documentation and information about the conflict not otherwise available. These advantages mean that engagement with local CSOs allows an ICJM to maximize its resources and, therefore, work more efficiently and effectively.





“We drive to the conflict zone, we communicate with civilians, we communicate with the military, we collect evidence, and we analyze it. That’s what we do.”- Yaropolk Brynykh, Truth Hounds¹⁰

“People want to feel safe for the first time in years. Sometimes it takes painstakingly slow and time-consuming work to bring them to a point where they feel like the idea of providing testimony to the ICC is an option.”- Maddy Crowther, Waging Peace¹¹

Their proximity to and on-going contact with affected communities means local CSOs have the ability to build relevant, important relationships and therefore have access to individuals who may want to tell their story to an ICJM.

Local CSOs often have contact with victims and potential witnesses before ICJMs are present or where ICJMs have difficulty acquiring access. “We have been working on the ground for a long time,” stated one interviewee of a Palestinian CSO. “Because we are on the ground, we can always identify the key witnesses [when] are able to successfully document.”¹² Because of this, local CSOs are also able to direct ICJM staff quickly to individuals of interest. For example, Truth Hounds, Ukraine (Truth Hounds) has submitted three communications to the Office of the Prosecutor of the International Criminal Court (OTP-ICC). In discussing how Truth Hounds could respond if the OTP-ICC wanted to act on its information, former Head of Field Mission Yaropolk Brynykh noted: “[In addition

to receiving their consent for using their information,] we always stay in contact with victims and witnesses after the communication. We do this to keep them updated and to check that they will be willing to give new, public witness testimony if requested by the Court.”¹³

This contact means that local CSOs can play an important screening role by collecting initial statements from the affected population.¹⁴ For example, after communication with a women’s center in Zagreb, Croatia, the Australian Committee of Investigation into War Crimes (ACIWC) formed as a way to allow Yugoslav conflict-related sexual violence survivors, resettled in Australia, to provide statements to the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia (OTP-ICTY). Although limited to taking information such as, “the nature of the crime, the crime’s time, date, and place, and whether the individual would be willing to be a witness,”¹⁵ ACIWC’s work led to “the discovery of several important witnesses” for the OTP-ICTY.¹⁶

In addition to knowing the community well enough to identify members that may be willing to provide information, local CSOs’ proximity and on-going contact with affected communities enables CSOs to build relationships of trust.¹⁷

For example, local CSOs are able to encourage affected communities to participate in ICJM processes and can help guide individuals through ICJM logistics. This was the case for the Extraordinary Chambers in the Courts of Cambodia (ECCC), where local CSOs were crucial in encouraging victim participation through application as civil parties.¹⁸ Intermediary non-governmental organizations (NGOs), including local CSOs, participated in enabling more than 90 civil parties to participate in the ECCC’s Case 001 and over 3,850 civil parties to

participate in Case 002.19 Approximately 84 percent of all victim application forms were submitted to the ECCC's Victim Support Section through intermediary NGOs.²⁰

Local CSOs also provide services that can be necessary for making an individual's participation with an ICJM possible—services such as on-going psycho-social care, legal advice, or basic resettlement assistance.²¹ These services are often outside of an ICJM's budget and jurisdiction or may only be available to individuals after they have been recognized by the ICJM as victims or witnesses. Yet, such services are particularly important in post-conflict states where comparable government services are either unavailable or distrusted by affected communities,²² or where victims and witnesses have relocated and need assistance in settling. Through these relationships with affected communities, local CSOs can complement ICJM outreach efforts. This contribution has been especially important where ICJM outreach efforts were delayed,²³ underfunded,²⁴ or nonexistent.²⁵ For instance, despite on-going investigations into the 2008 conflict in South Ossetia, the ICC does not have a country outreach office in Georgia. Nino Tsagareishvili, Co-Director of the Human Rights Center in Tbilisi noted: "Since the January 2016 opening of the ICC investigation, we observed a critical...information gap between what people need and want to know and what the Court has been able to provide."²⁶ To help remedy this, the Human Rights Center "disseminated various statements"²⁷ and made visits to internally displaced person (IDP) camps to inform local communities about the ICC's processes.²⁸

However, local CSOs' work should not be used as a "substitute" for outreach by the ICJM.²⁹ For example, the ECCC allocated minimal funding for outreach, and local CSOs filled the gap by developing programs to reach the Cambodian public including: "designing and distributing specialized information materials, radio call-in shows, websites, films, public forums and community-based outreach sessions."³¹ Despite the

success of such efforts, a survey conducted by the Cambodian CSO the Documentation Center of Cambodia (DC-Cam) found that the majority of respondents preferred to learn about the ECCC from the ECCC itself or from the Cambodian government because they were viewed as the authorities on trying Khmer Rouge leaders.³²

Contextual Knowledge



"Internationals need to listen to CSOs on the ground. As a local, you are the master of your context." - Milica Kostić, formerly with the Humanitarian Law Center³³

Proximity to and on-going contact with affected communities enables local CSOs to best translate social, political, and cultural norms into useful advice for ICJM processes and proceedings. Many interviewees referred to this as providing "context" to an ICJM's work.³⁴ Included in providing context were very practical expressions of local knowledge: understanding the social or political dividing lines within communities;³⁵ knowing how best to begin interviews to enable trust between interviewer and interviewee;³⁶ and preempting misunderstandings between ICJM staff and victims or witnesses.³⁷

Two interviewees provided useful examples where understanding context was crucial for identifying credible information and protecting those who provide it, respectively. Milica Kostić, former Legal Program Director of the Humanitarian Law Center in Belgrade, Serbia described how misinterpreting an individual's responses—unrelated to the information nec-

essary to the ICJM prosecution—may discount the credibility of a witness:

“

I have never interviewed a mother of a dead son who will say that her son died [in the conflict] in anything other than heroic circumstances. As a local, I know that the families of dead combatants are eligible for benefits. So, a mother may say that her son died in combat so that she can receive benefits to live, although her son may not actually have been a combatant. While this lie may be completely unconnected to the information that makes her a relevant witness, the Prosecution or Defense may use it to discredit her. But the lie, in 99% of circumstances, is for an objectively verifiable reason and in no way compromises what she's seen or what she knows. It just means she can get what she needs to survive.³⁸

Wendy Lobwein, former Deputy Chief and Acting Chief of the Victim and Witness Section (ICTY) and Coordinator of the Witness and Expert Support Unit (ECCC), provided a similar example regarding the need for local contextualization. Here, an adequate understanding of local context would enable ICJM staff to ask the right questions to properly provide witness protection:

“

I may ask a witness, 'Who did you tell you were submitting information?' And his answer is, 'no one.' But when I dig deeper, he has told his wife, his children,

their spouses, and his neighbors. This is not because he lied to me, it's because he understands them as an extension of who he is; it's an extension of 'I.' When internationals come from an individualistic society, it is very difficult to understand this. If I'm not aware this may be how he's answering, I can't know what we need to do to keep him safe.³⁹

Even where ICJM staff includes investigators skilled in relevant local languages, local CSOs' knowledge of context, and their ability to translate shades of meaning, is vital to the work of ICJMs.

Ability to Supply Documentation and Information Not Otherwise Available

Finally, their proximity and on-going contact with affected communities enable local CSOs to provide ICJMs information necessary to enable ICJM functions—not only vital information necessary for successful prosecutions, but also feedback on how local CSOs would like to participate and how to increase local buy-in.

Local CSOs may have the only information collected during or shortly after violations of international law occurred.⁴⁰ This is because CSOs often pre-date the establishment or jurisdiction of ICJMs⁴¹ and their members may be the first individuals documenting violations.⁴² In fact, local CSOs' advocacy and documentation have been crucial in *establishment* of ICJMs. For example, the Cambodian CSO DC-Cam was crucial in the creation and operation of ECCC.⁴³ Opening in 1995 as a field office for Yale University's research on genocide and crimes against humanity, DC-Cam became an independent, locally-driven entity in 1997. This was six years before Cambodia and the United Nations signed an agreement to establish the



ECCC, and nine years before the Court adopted its Internal Rules. Because DC-Cam had been collecting and preserving documents long before the ECCC's trials began, it was able to be an integral component in these discussions. DC-Cam has also been recognized as "one of the key in-kind donors of documentary materials to the court."⁴⁴

Moreover, their proximity to and on-going contact with affected communities enables local CSOs to provide ICJMs with valuable leads and additional avenues of investigation.⁴⁵ As discussed above, this can occur by screening victims and potential witnesses, submitting their documentation and analysis to the relevant OTP, or conducting thematic work that encourages an ICJM's investigation to include specific issues. Cambodia provides an example of the last, less obvious, contribution as it was through victim statements taken by local organizations and additional advocacy by NGOs and victims' lawyers that the ECCC identified potential cases of forced marriage—an avenue not previously addressed by the Court.⁴⁶

Likewise, rape and sexual violence identified by local CSOs—including women's movements in Bosnia—set the stage for the ICTY to find rape as a war crime and a crime against humanity.⁴⁷ Finally, because they understand the context and have greater contact with affected communities, local CSOs could be a valuable conduit to relay to ICJMs feedback from those communities. If a two-way conversation between local CSOs and an ICJM was possible, the ICJM could better understand what affected communities need to understand about the mechanism, which in turn could better inform ICJM outreach. This would increase buy-in and participation from affected communities, as well as better situate the ICJM within a broader program of transitional justice. Because outreach efforts by ICJMs are often more for distributing court information rather than receiving it (discussed below), this capability of local CSOs appears to be an undervalued and under-utilized benefit of engagement

II. Reputation, Credibility, Reliability, and Accessibility



“Credibility and reputation are important. If you can’t rest on your reputation with the international actors, you need multiple voices backing you up.”- David Joseph Deutch, Addameer Prisoner Support and Human Rights Association⁴⁸

Interviewees across the study were asked what traits they thought made local CSOs “visible” and “useful” to ICJMs—terms used to approximate the metric by which an ICJM might consider it worthwhile to engage a local CSO or incorporate the CSO’s work. Responses across the study, both from interviewees with experience within an ICJM and representatives of local CSOs, suggested that local CSOs were visible or useful if they had a strong reputation, their work was credible, and the information they provided was reliable. The value of these traits is intuitive: if an ICJM plans to engage a local CSO in order to increase its efficiency and effectiveness, it would only do so if the work of such an organization would be beneficial to the ICJM.

When these traits were unpacked, the qualities that established organizational reputation and credibility stemmed from diverse sources including long-established experience in documenting violations,⁴⁹ pre-existing professional relationships with, or knowledge of, staff at an ICJM,⁵⁰ or having staff from the “perpetrator community” investigating violations.⁵¹ Credibility and reliability also stemmed from the organization receiving expert support on documentation and evidence collection⁵² and thus being able to claim its work was in line with international standards.⁵³

However, recognizing a local CSO’s reputation, credibility, or reliability requires that, first, the

ICJM was open to engaging local CSOs, and second, that the ICJM or the local CSO was *accessible*. In other words, local CSOs needed to know that providing information or engaging with the ICJM was possible, and the ICJM needed to know that valuable local CSOs existed.

Regarding access to the ICJM, some respondents noted the value of having staff with legal training,⁵⁴ amongst staff with other valuable skills, in order to know how to correspond with the relevant ICJM. Where legal training was not available on-staff, partnering with an international lawyer was important for learning documentation methods and preparing submissions.⁵⁵

The potential for cooperation may also increase when a local CSO works in a language familiar to the ICJM (e.g. French, English) and has staff members with prior professional knowledge of international mechanisms. Advocating for accountability in Timor-Leste, where no ICJM has yet been established, Charles Scheiner of the Timorese organization La’o Hamutuk noted the importance of fluency in English and prior staff experience in international mechanisms: “We had essentially unlimited visibility. Very few local [CSOs] have staff fluent in English, and we had internationals who could answer in ways that United Nations staff, the World Bank, and other internationals could understand.”⁵⁶

In order to better access ICJMs, interviewees also noted the importance of partnering with other local CSOs or INGOs.⁵⁷ Regarding partnership with INGOs, interviewees noted that such partnership allows local CSOs to receive training,⁵⁸ access funding for case research or report dissemination,⁵⁹ and expand their capacity and skillsets.⁶⁰ This, in turn, likely promotes credibility. For instance, in research on accepted *amicus curiae* briefs, Professor Sarah Williams noted that the likelihood for smaller organizations' briefs to be accepted improved when paired with a larger INGO.⁶¹ Such partnership is also beneficial to INGOs because they rely on the documentation collection and reporting of local CSOs to improve their own work and credibility.⁶²

While reputation, credibility, and reliability are useful traits for ICJMs when they seek to identify trustworthy organizations, their absence should not preclude an ICJM from engaging with a local CSO. The perception that groups do or do not possess such traits does not always coincide with reality, and not all organizations can easily shift to using the ICJM's working language or hire staff with international experience. Instead, these are traits for which local CSOs should aim. At the same time, ICJMs should be encouraged to dig deeper than these superficial competencies. ICJMs should also build relationships with a wide range of groups so that smaller organizations can demonstrate their value and ability to deliver reputable, credible, and reliable contributions to accountability efforts.

III. Overcoming Impediments to Engagement

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“If, early on, the prosecutor met with [CSOs] and people who work in the field, and the approach to cooperation between [CSOs] and the ICTY was more formal than informal, I think it would have had more impact. But when the ICTY was established, they themselves were not sure what kind of approach they wanted.”- Marija Ristić, Balkan Investigative Reporting Network⁶³

Recognizing the valuable contributions that local CSOs can make to ICJMs, it is important to ask: why is there not greater ICJM engagement of local CSOs? In teasing out answers to this question, four broad themes emerged across the interviews. These four themes, or impediments to greater ICJM engagement of local CSOs, are discussed below. Interviewees also broadly provided recommendations that spoke to each impediment. These four responses, distilled from interviewee suggestions, offer actions ICJMs could take to overcome such impediments. That such impediments *could* be overcome by an ICJM suggests that, in fact, the ultimate impediment to greater engagement is prioritization of engagement by the ICJM itself.

Impediment 1: Different Mandates, Different Ways of Working

The mandate of an ICJM is often fairly narrow: prosecute individuals responsible for gross violations of international law. In short, an ICJM's core purpose is to pursue criminal accountability. However, a local CSO may include accountability only as one part of their mandate. They may also be interested in community reconciliation, human rights advocacy, truth-telling, or

the provision of assistance to affected communities.⁶⁴

Local CSOs, like ICJMs, aim to maximize limited resources. To do so, they may choose to submit the same documentation to ICJMs as they do for domestic prosecutions⁶⁵ or they may be juggling multiple submissions to several domestic and international actors. As David Joseph Deutch of Addameer Prisoner Support and Human Rights Association in Ramallah, Palestine, explained:

“

We don't have much faith that the international community will ensure that Israel lives up to its international obligations, but we want it known that Israel is not meeting those obligations. To do that, we participate in any international legal mechanism that is open to us: the special rapporteurs, Israel's Universal Periodic Review with the UN Human Rights Council, and the ICC.⁶⁶

Since each mechanism requires a different type of submission in accordance with its mandate, local CSOs' information may get lost in the mechanisms' differences in preferred documentation methods, terminology, and tone. Having experience both in the International Criminal Court and as staff of different human rights NGOs, Montserrat Solano explained:

It's a different way of working and a different end result. Regarding methods, the level of detail necessary for a national or international criminal investigation [in a case] against an individual is far greater than the essential information to make a case of state responsibility for human rights violations. Regarding the end result, the Office of the Prosecutor of the ICC will not issue the same types of statements as, for example, an Inter-American Commissioner of Human Rights. This is because the Inter-American Commission for Human Rights has a quasi-political mandate, where the ICC does not.⁶⁷

When local CSOs' present information using politically-charged language⁶⁸ or a methodology that lacks the rigor of criminal prosecution,⁶⁹ ICJMs tend to discount their credibility and, therefore, utility.⁷⁰ The less prepared local CSOs are to adapt to ICJM preferences, the less likely their information will be used. Additionally, local CSOs with multi-dimensional mandates do not necessarily want to restrict their goals and cater solely to international

criminal prosecutions, particularly if the ICJM is slow-going and limited in scope.

Response: *ICJMs can provide clear guidelines on preferred types of information and formats of presentation required.*

Although, as mentioned above, some local CSOs benefit from advice from international criminal lawyers, international criminal law expertise should not be a pre-requisite for contributing to international criminal accountability. ICJMs should provide both a primer of elements of international crimes and responsibility⁷¹ and clear guidance on preferred types of information and evidence admissibility.⁷² Providing an example of how this would work for amicus submissions, Dr. Avidan Kent recommended: "Court secretariats should help in the technical preparation of briefs by providing very specific information regarding what kinds of arguments can be made, under what conditions briefs can be submitted, and page limits."⁷³ All of this information should be in local languages relevant to the local CSOs.

This information should be distributed directly to local CSOs by the ICJM, as well as being made available online. Attention should be given to explaining relevant terminology. Such guidance will provide interested organizations with valuable information towards more useful ICJM submissions. Such guidance also allows broader participation of groups than only those with very high capacity and knowledge of international criminal law.

It should be noted that even when the submissions do not meet the high standards of the tribunal, CSO documentation and analysis can still greatly assist the ICJM with contextual and background information, connections to witnesses and victims, and leads to other evidence. By broadening the intake of information, an ICJM can enrich investigations without necessarily using the CSO's work directly in a criminal file.

Impediment 2: Perceiving CSO Bias or Politicization

For many of the same reasons that local organizations have comparative advantage in accessing affected populations, they may also seem “too close” to the parties under the ICJM’s jurisdiction.⁷⁴ Because of this, ICJMs may deem it unproductive to engage local CSOs. This may either be because information provided by the local CSO is assumed to be unreliable or because cooperation with a local CSO may be seen to put an investigator’s impartiality at risk. Noting this caution, a former IJCM trial lawyer stated: “How close [is the local organization] to the opposition? What is their real mission? I don’t think [local organizations] should be discounted wholesale, I just think you have to be pretty careful on who you pick.”⁷⁵ Professor Luc Reydamas stated: “It’s the same reason why the ICTR for the first six to seven years did not hire a Rwandan. The person could come from anywhere, but the perception was that was still better than a local.”⁷⁶

Response: *ICJMs should ensure engagement across a broad spectrum of local CSOs, while utilizing best practices of international organizations in requiring information about CSOs.*

Rather than excluding local CSOs outright to avoid the perception of bias, ICJMs should proactively seek diverse groups with whom to regularly engage. Through regular engagement, ICJMs can understand local CSOs’ work and their missions—using that information to gauge the organizations’ usefulness for ICJM proceedings—and help local CSOs’ to better understand the ICJM’s process.⁷⁷

Broad and open engagement is best. Although ICJMs often shy away from broad engagement due to limited time and funding, identifying useful CSO representatives does not require extensive ICJM resources. David Joseph Deutch of Addameer Prisoner Support and Human Rights Association recommended:



The quickest way to identify [local organizations] would be through well-respected international organizations on the ground, like the Danish Refugee Council, the Norwegian Refugee Council, and Save the Children—organizations [that ICJM staff] may be used to and that no one has a bone to pick with. I would spend a day speaking to them and then speaking to other international organizations like the Office of the High Commissioner for Human Rights. That way, you can efficiently get an idea of who you should be talking to because those organizations already engage with everybody. However, I would not let these big INGOs connect the dots for you. Instead, I would want to connect with multiple big INGOs and have each one draw a picture of their engagement. Then with each picture, you can assemble a whole.”⁷⁸

Furthermore, ICJMs concerned with open engagement can require CSOs to answer basic questions. On accepting amicus briefs from CSOs, Dr. Avidan Kent suggested that ICJMs could draw on best practices from other international organizations: “Think about NGO advisory status in institutions like the United Nations Economic and Social Council, where NGOs are under an obligation to present information about donors and explain from where their members come.”⁷⁹ The ICJM can request responses to a simple questionnaire in the local language to better understand the CSO’s goals, policies, methods, and donors. This questionnaire can serve as the ICJM’s due diligence for engagement.

Finally, it is possible for an ICJM to engage broadly without it reflecting on the impartiality of court proceedings. Engagement—an active and meaningful exchange of ideas on the work of the ICJM—can be isolated from evidentiary analysis. Making a clear distinction between ICJM staff that engage with local organizations and the prosecutorial and judicial teams that evaluate information can insulate the complementary processes from perceptions of bias.⁸⁰

Impediment 3: CSOs May Taint Evidence

It was broadly recognized following decisions in the ICC case of *Prosecutor v Thomas Lubanga Dyilo* that the use of intermediaries can present problems for successful prosecution where those intermediaries influence witness statements.⁸¹ Local CSOs' relationships with the affected population and their unique access to potential evidence—traits that make them valuable to ICJMs—also place them in a position to potentially taint the evidence that they would otherwise provide.

A former ICJM investigator gave two clear examples:



First, there is a problem with leading questions. We were given a lot of information that [individuals] fled because of Serb attacks on Kosovar villages. But a lot of that information was not admissible because they were being asked, 'Did you leave Kosovo because of the Serb attacks?' which is a leading question. If they had been asked, 'Why did you leave?' and the answer was, 'because of the Serbs,' that would have been great evidence.

Second, there is a [problem with] identification. Identification of suspects in criminal matters is a really complex matter. Say 'X' committed a crime. If you go to the witness and say: 'We believe X did it,' show them a single photo of X and then ask, 'Is this the person who committed the crime?...' Even if they say 'yes,' that information is now tainted.⁸²

Where much of the work by a local CSO may be conducted by individuals without criminal legal training, tainting of potential statements may occur unintentionally. Where an ICJM perceives some information collected by a local CSO to be tainted, it may be seen to be more efficient to disregard all of the information provided by that CSO.

Response: ICJMs should provide simple, easy-to-use methodology in relevant languages for collecting each type of information, indicating common pitfalls to avoid. Such guidance should be developed in consultation with local CSOs so that the ICJM has a realistic understanding of local organizations' resources and capacities.

ICJMs can get in front of potential evidence contamination by communicating early in their tenure what conduct might risk the inadmissibility of information in a criminal proceeding. For information already collected by local CSOs, such guidance can assist the organization in paring down submissions to omit findings based on these risks. For future information collection, such guidance can help the organization shield its work from reproach.

Such guidance does not have to be complicated. For example, guidance on collecting statements could include limiting questions to: "who was involved; who were the victims;

where did it happen; what sort of event was it; and the time and date.”⁸³ On digital evidence, Eliot Higgins of Bellingcat, an organization specializing in open source and social media investigation, stated: “It’s as simple as saying, if you’re going save YouTube videos, pull down all the metadata with it. If you’re going to have a spreadsheet, keep it in this order. Ultimately, we all want the same thing. It’s just a matter of getting us on the same page.”⁸⁴ Provided that the ICJM clearly explain *why* certain processes are important, and provided that the new processes do not require significant increases in resources, many local CSOs will be willing and able to comply.⁸⁵

Impediment 4: Little Communication between Local CSOs and ICJMs Leaves Local CSOs in the Dark

Most of the local CSO representatives interviewed for this study were contacted because they had submitted information to ICJMs. However, there are likely many more local CSOs that do valuable work but have never submitted to ICJMs, primarily because they did not know how or when to do so. The process can seem daunting and can appear to require greater international legal expertise than local CSOs may have on staff.

Even CSO representatives who were involved in submitting information noted they had little contact with the ICJM once their information had been received by the mechanism.⁸⁶ Interviewees said it would have been useful to know the stage of the ICJM’s investigations and how long investigations may continue—both so that local CSOs could tailor their work to that of the ICJM⁸⁷ and to advise the victims and potential witnesses with whom they engage “what to expect from [an] investigation.”⁸⁸

When criminal prosecutions take place in a national jurisdiction different from the affected community, the need for local CSOs to be able

to follow mechanism proceedings becomes greater. This is because national courts often do not have the same translating resources or requirements as ICJMs. Regarding monitoring prosecutions under universal jurisdiction, Marija Ristic of the Balkan Investigative Reporting Network (BIRN), which monitors and reports on war crimes trials in the Balkans, noted:



*Because war crimes prosecutions are not something that happen every day, courts dealing with this kind of prosecution should be aware that there is a greater need for and interest in information about these cases—both for organizations and the public. [When a trial under universal jurisdiction takes place, naturally outside of the affected state] you often cannot know the stage of an investigation or prosecution unless you get information from a prosecutor. For example, when a prosecution for a war crime takes place in Sweden, it is necessary to contact the Swedish prosecutor and then any information about the prosecution is only provided in Swedish. Then you need the capacity to translate it before you can understand it and use it. The information needs to be accessible and in appropriate languages.*⁸⁹

If an organization which has years of experience directly contributing to criminal prosecutions finds it difficult to engage with certain mechanisms, it would likely be much more difficult for other organizations that do not have a similar mission or skillset to do so.

Response: Communication between ICJMs and CSOs should be institutionalized and continue throughout the ICJM's mandate.

Although investigations are not often linear, the stages through which an investigation or a prosecution proceeds are consistent. Aside from ad hoc calls for evidence or judicial decisions where submissions from specific actors may be requested, ICJMs should have regular communications and cycles of consultation with local CSOs. A simple process should be available by which a local CSO can notify the ICJM that the CSO has potential contributions or is interested in being involved.

While investigations teams and outreach offices identify and contact CSOs one-on-one, the ICJM can also disseminate regular communiques, in the working language(s), to keep CSOs and victim communities abreast of the ICJM's workings and to allow CSOs to prepare for future submissions. Yaropolk Brynykh, former Head of Field Mission, Truth Hounds noted: "It is helpful when [the OTP] tells us what they really need. For example, what is most important to prove now, what kind of information they already have, and what is missing from other sources. And so, according to the needs of the Prosecutor's office, we can adapt some of our activities towards presenting that information."⁹⁰

Such communication does not have to be time-consuming or extensive. "No one wants super-secret information," stated Marija Ristic of BIRN, "just to be kept aware, you need basic information of the defendants, the charges, the movement of the case, and the outcomes."

⁹¹ On amicus briefs, Dr. Avidan Kent suggested: "[Local CSOs] should know at this date, a hearing will take place, and on this date, an indictment will be submitted. This would make it so the CSOs can better keep track and be aware of when things are happening."⁹²

Moreover, establishing regular cycles of consultation allow local CSOs to ask questions about

submissions and upcoming opportunities for participation, as well as to provide feedback to an ICJM, in predictable and organized sessions. As recommended by Dr. Deborah Ruiz Verduzco:



To maximize opportunities for contribution of CSOs it is important to establish processes and have periodicity. Think about the regular sessions of the Assembly of States Parties for the ICC and the bi-annual consultations that NGOs hold with the organs of the ICC. They provide a semi-formal space in a periodic session, which is scheduled considering the strategic, operational, planning, funding, and reporting processes of ICC. Clear processes and regular cycles bring order and rhythm to the work of CSOs, promote equitable opportunities of participation, facilitate their own planning and allocation of time and resources, and provide timelines to measure progress of the relevant institutions. The recognition of the [CSOs] as stakeholders means that there is space for [CSOs] to contribute in a meaningful manner to decision-making.⁹³

IV. Recommendations for ICJMs and Local CSOs



“The more they can meet, the more they can understand each other. It’s important to keep in mind that CSOs are not investigative bodies for an ICJM and ICJMs cannot provide CSOs the same level of political engagement as a human rights treaty body or special rapporteur. At the end of the day, it is about understanding each other’s different mandates and different capacities.”- Montserrat Solano, human rights practitioner⁹⁴

“Larger [INGOs] talk to the local organizations. So, they filter information and certify it, in a way. But it would be good if local [CSOs] were not displaced and were not marginalized. When I teach international criminal justice, I always ask: whose justice is it? Outside positions, outside advocacy-[they’re] not accountable to anybody and they won’t feel or suffer the consequences.”-Luc Reydam, University of Notre Dame⁹⁵

Recommendations for ICJMs

The interviews indicate that ICJMs and local CSOs can both take measures to better engage one another. However, the information asymmetry created by the relatively tightly controlled nature of criminal justice mechanisms and the highly specialized world of international criminal law suggests that ICJMs’ prioritization of engagement with local CSOs will go the furthest in promoting cooperation. The following four recommendations highlight and expand on interviewee responses. All recommendations are applicable to existing and future mechanisms.

Make Space for Local CSOs’ Valuable Contributions by “Meeting Them Where They Are

Maximizing the contributions local CSOs can make to an ICJM requires recognizing their value and meeting them “where they are.”⁹⁶ This requires that an ICJM take into consideration the needs, concerns, and capacity of lo-

cal CSOs and work with those considerations. For example, ICJMs should recognize that local CSO staff may be taking significant personal risks to both collect information and to engage with the ICJM,⁹⁷ and may require direct contact or secure channels by which they can provide information.⁹⁸ Local CSOs may not have access to the technology of an ICJM and may work in low or no internet-connectivity environments under heavy surveillance.⁹⁹ Local CSOs may have organized quickly, as an urgent response to violence.¹⁰⁰ They may be a large all-volunteer organization¹⁰¹ or may consist of only one or two dedicated individuals;¹⁰² their members or staff may maintain other responsibilities while collecting valuable information to submit to an ICJM.¹⁰³ And local CSOs may collect and present information in ways that cannot, as prepared, be used in criminal prosecution. Nevertheless, the contributions local CSOs can make to an ICJM’s work could be invaluable. Though local CSOs may operate in ways that seem like barriers to engagement by an ICJM, it is possible to institute relatively small changes in ICJMs’ processes that can make greater space for local CSOs’ contributions.¹⁰⁴

Outreach Must Mean Engagement, not Public Affairs

Contact with local CSOs by an ICJM often falls under “Outreach,” and Outreach efforts are often underfunded. When an ICJM does undertake Outreach, they often treat communication as a one-way flow of information. In contrast, “engagement,” which maximizes the potential contributions of local CSOs, is proactive.

Engagement allows organizations to ask questions and receive substantive responses,¹⁰⁵ thus building trust between CSOs and the ICJM.¹⁰⁶ It also increases local CSOs’ understanding of ICJM processes and how to contribute.¹⁰⁷ CSOs can then translate that trust-building and greater understanding into their work with affected communities, increasing buy-in from the local population. Engagement further allows an ICJM to glean important information from local CSOs to inform its work, to build local CSOs’ capacity so that they can contribute further, and to build legitimacy amongst local CSOs and affected communities.¹⁰⁸ Engagement, thus, requires mapping the work of active local organizations, as well as identifying new groups to contact.¹⁰⁹ It also requires regular, planned contact and communication. In as such, engagement also requires greater resources.

Engagement Should be Broad, Diverse, and Regular

Engagement with local CSOs should be as broad and diverse as possible, given the importance of maintaining an ICJM’s institutional independence and impartiality. Broad and diverse engagement not only diffuses the risk of appearing partial, it also potentially contributes to bridging divisions in affected communities.¹¹⁰ This is because engagement by an ICJM of local CSOs that represent specific interests makes those interests feel heard.¹¹¹

Regular briefings by ICJMs to local CSOs allow CSOs to be prepared for more substantive interactions with an ICJM. Furthermore, regular informal briefings, as well as good outreach and public information availability, contribute to ensuring that input from local organizations and ICJMs is relevant and efficient.¹¹² This is important both for local CSOs’ ability to provide information for cases and their ability to give feedback on court processes and procedures. As noted by Montserrat Solano, “More training on international criminal investigation is important for CSOs. But a lot of that can be provided by greater interaction with ICJMs in general. The more can they meet, the more they can understand each other.”¹¹³ Likewise, Professor Bella Murati stated: “Working together regularly would erase doubts about each other. This is what we want to have, to build this trust.”¹¹⁴

The more that ICJMs trust local CSOs, the more value the local CSOs can be to the mechanism. Likewise, the greater the trust organizations have in the ICJM, the greater the ICJM’s legitimacy.

Understand and Act on ICJM’s Role in Transitional Justice

Although an ICJM’s mandate is generally limited to prosecuting individuals under international law, it is important to remember that the mechanism itself is a part of a larger process of transitional justice.

For instance, an ICJM must take a fair and balanced approach to engaging local organizations.¹¹⁵ Milena Čalic-Jelic, Legal Adviser and War Crime Trials Monitor of the Croatian organization Documenta, noted of Documenta’s work in monitoring and reporting on trials: “Balance means building legitimacy, and this is always an ongoing process. As an organization, we try to create balance ourselves to prevent manipulation of the

facts. So, in collecting victim information, we'll meet with women and men, Serbs and Croats, and so on."¹¹⁶ This "on-going process" applies in the same way to ICJMs and their engagement across local organizations. ICJMs should give special attention to the relationships between the organizations with whom they engage and keep abreast of how their engagement impacts both those relationships and affected communities. Although justice and diplomacy are often thought of as separate pursuits, they are interrelated in building institutional legitimacy and impacting post-conflict peace.

Moreover, the policies and processes enacted under an ICJM can contribute to the work of human rights and justice-focused CSOs, as well as influence how affected communities perceive the rule of law in the post-conflict state. For example, by making the documentary evidence presented in court publicly accessible, Milica Kostić, formerly of the Humanitarian Law Center, noted:

“

*This was a way of leveling our obstacles. With the tens of thousands of witness statements we've collected, combined with the documentary evidence like military documents available from the tribunal, we can build political will for accountability and truth-telling. It is the most important thing the ICTY has done.*¹¹⁷

When the work of the ICJM in the affected community ends, local CSOs continue their activities and have to contend with the legacy the ICJM left behind.¹¹⁸

Recommendations for Local CSOs

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"I always advise other NGOs that you are not a prosecutor, you are not an investigator. We are here to get as much information as we can, and a prosecutor will play a different role and try to determine a version of the truth."- Milica Kostić, formerly with the Humanitarian Law Center¹¹⁹

"Have a clear mission; outline exactly what you would want to achieve or concentrate your work on; get trustworthy and committed volunteers to join your team; invest in training; develop a methodology which is both easily used internationally but also works for the local context... work with other organizations that have experience in this sector; and do not invent something new when things have been tested for many years."- Arjeta Emra, Council for the Defense of Human Rights and Freedoms¹²⁰

"Never give up...Be patient and gather as much information on the ground as you can...You will struggle at the beginning, but someone will listen."- Maher G. Nawaf, Yazda¹²¹

Although ICJMs can make the simplest and yet most dramatic changes to encourage greater engagement with local CSOs, there are steps that local CSOs themselves can take to maximize their visibility and utility to an ICJM. Importantly, interviewees provided the following important recommendations for local organizations.

Identify the Organization's Mission and Strengths; Recognize its Limitations

As noted above, local CSOs are “masters of [their] context” and have valuable knowledge to share with ICJMs.¹²² Local CSOs should be clear about their mission and what they want to accomplish.¹²³ They should be able to communicate their mission and goals to the individuals with whom they work, including victims and potential witnesses.¹²⁴ By adhering to their mission and working with their strengths, local CSOs establish expertise that make them valuable to the work of ICJMs.

However, regardless of their expertise, local CSOs are not expected to be experts in international criminal prosecution. To this point, Montserrat Solano noted: “The information human rights NGOs provide may be a basis to start an investigation but it’s not an investigation in and of itself. It does not have to be the same strength as an investigation because human rights NGOs contribute something different.”¹²⁵ Local CSOs do not need to meet a court’s high evidentiary standards in order to be useful in pursuing accountability, as long as their work follows an identifiable methodology.¹²⁶

Recognizing its limitations requires a local CSO to consider the role it undertakes in engaging with an ICJM. Living in and working with affected communities, local CSOs may be seen as a face that victims, witnesses, and the general public can associate with ICJMs. Because of this, interviewees noted the importance of controlling expectations. George McEncroe stated of the work of the ACIWC: “We promised very little. We would just say if you are willing to be involved and if your evidence can be used by the tribunal, someone from the tribunal will contact you. Because everything was unfolding as we went, that is all we could say.”¹²⁷ Moreover, it is in a CSO’s best interest not to appear to be an arm of the ICJM in the eyes of the community. As Milica Kostić noted of the work of the Humanitarian Law Center: “We do other work beyond contribute to prosecutions, so we

are not a middleman between victim and the court. We have always kept our distance; that has been important when tribunals fail.”¹²⁸

Put the Interests of Victims First

When asked about advice for other organizations, Milica Kostić emphasized: “Even if your goal as an NGO is accountability, the interest of the victim is paramount. A victim may not always be thinking about his or her interest objectively. A tribunal is thinking about the best interests of the case. But, as an organization, you are supposed to think about things that other people will not. You’re the gatekeeper for victims’ and witnesses’ confidence and security.”¹²⁹

Protecting victims’ “confidence and security” requires being upfront about what a local CSO can and cannot provide. For instance, a local CSO should not promise complete confidentiality, because complete confidentiality cannot be ensured if information is given to an ICJM. As noted by a former ICJM investigator: “A criminal investigator would never promise confidentiality because one of the things that underpins criminal legal processes is that information is given in an open court.”¹³⁰ Protecting victims’ confidence and security also requires fully explaining the process of giving information before a victim decides to speak.¹³¹

Finally, putting the interests of victims first requires protecting victims’ and witnesses’ personal information. Many interviewees noted adhering to specified protocols to maintain the security of personal information. This included coding victim or witness statements,¹³² requiring informed consent to use any information provided,¹³³ and redacting public statements for personal information.¹³⁴ Such processes were emphasized by Yaropolk Brynykh of Truth Hounds which has documented more than 1000 cases of war crimes and crimes against humanity in Eastern Ukraine and Crimea: “For

us, confidentiality is most important. We are responsible not only for the information we gathered, but in most cases, we are also responsible for their lives.”¹³⁵

Have a Methodology for Information Collection and Keep Communications Simple

As noted above, information provided to ICJMs is useful and reliable when collected using a strict methodology for collection.¹³⁶ When asked what other organizations should know for engaging with ICJMs, Yaropolk Brynykh stated: “They should have a methodology and stick to it. It is possible that [our organization’s methodology will] be different in comparison with others, but we are strict with it and work according to it. That is key to the quality of your information.”¹³⁷ Working to a methodology for collecting information includes maintaining a record of the source, the context, and the preservation of the information.¹³⁸

When presenting the information collected, keep all communications to ICJMs simple. Yaropolk Brynykh provided a useful example:

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*The first time we submitted [to the ICC], we submitted more than 300 cases with lots of witness statements, lots of videos, lots of photos, and lots of other materials. This was just impossible to handle all of this information without a case map and without properly describing the issues we found...We have to remember, we have lived this conflict for three years, every day. But we should always... explain the situation in the easiest way so to be sure that by what we submit, [the ICJM staff] correctly understands what we know.*¹³⁹

In the same manner that using a methodology aids usefulness and lends reliability to a local CSO’s work, so too does producing easy-to-digest submissions. This requires collating data, statements, or documents in a way that is easy to read and search.

Where Possible, Partner with Like-Minded Organizations

Addressing what advice she had for organizations wanting to do similar work to the Council for the Defense of Human Rights and Freedoms in Pristina, Kosovo, Arjeta Emra noted, “Work with other organizations that have experience in this sector.”¹⁴⁰ This was repeated by several interviewees. Partnerships among local CSOs increased groups’ overall capacity by enlarging “the pool of staff with relevant expertise,”¹⁴¹ as well as their visibility and credibility, particularly when they worked “closely on joint submissions to provide a totalizing view.”¹⁴² David Joseph Deutch of Addameer Prisoner Support and Human Rights Association explained: “We have a strong network of Palestinian [CSOs], and we work closely in coordination to do the best we can with submissions and activities relating to an international body. If you don’t already have the credence with the international actors, coalition-building is essential.”¹⁴³ Maher G. Nawaf agreed: “Without coalitions, you can’t be heard. With coalitions, you have a strong voice and people will be listening.”¹⁴⁴

(Endnotes)

- 1 Author interview with Gjylbehare Bella Murati, Law Professor, Faculty of Law, University Haxhi Zeka, Peja, Kosovo, prior experience with ICRC and Kosovo Ombudsman, September 2017.
- 2 *Report of the Secretary-General pursuant to General Assembly Resolution 71/248, Implementation of the resolution establishing the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011*, UN Doc A/71/755 (19 January 2017) [3].
- 3 United Nations General Assembly resolution 71/248, A/RES/71/248 (21 December 2016) [6].
- 4 *Report of the Secretary-General pursuant to General Assembly Resolution 71/248, Implementation of the resolution establishing the International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011*, UN Doc A/71/755 (19 January 2017) [37].
- 5 While not situated in-country, these two interviewees worked with organizations that did not have international offices and that worked specifically with members of the diaspora of affected communities. Their insights, while not “local” as in “domestic,” are an important model to consider for reaching potential victims and witnesses who have left or fled their home community.
- 6 Although not working primarily with affected communities, these interviewees provided valuable insight into considerations of socializing change within ICJMs.
- 7 Although this study focuses on the work of local CSOs, Charles Scheiner of the Timorese organization La’o Hamutuk made this important point: “Beyond just CSOs, ICJMs should be engaging with *people* from the country, including individuals, who know the historical and social context better than newly-arrived internationals who don’t speak local languages.” Author interview with Charles Scheiner, Researcher with La’o Hamutuk (The Timor-Leste Institute for Development Monitoring and Analysis), November 2017.
- 8 Author interview with (name withheld), former ICJM Investigator, interview n.6, September 2017.
- 9 More than just physical proximity and having staff from affected communities, it is important to have: “Staff who are *a part* of those communities. It’s deeper than the CSO as an organization, because it includes people who lived through the events that the ICJM is trying to address, and who know the players, context, and events that [may not have been] observed overseas or by internationals.” Author interview with Charles Scheiner, Researcher with La’o Hamutuk (The Timor-Leste Institute for Development Monitoring and Analysis), November 2017.
- 10 Author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.
- 11 Author interview with Maddy Crowther, Co-Executive Director, Waging Peace, January 2018.
- 12 Author interview with (name withheld), Palestinian CSO, interview n. 14, December 2017.
- 13 Author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017. Maher G. Nawaf, UK Director and Board Member of Yazda also noted keeping victims updated by posting any progress on Yazda’s website, on social media, and through holding seminars to keep the community informed. Author interview with Maher G. Nawaf, UK Director and Board Member, Yazda, February 2018.
- 14 Author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017.
- 15 Author interview with George McEncroe, formerly of the Australian Committee of Investigation into War Crimes, September 2017.
- 16 Letter from Graham Blewitt, Deputy Prosecutor, ICTY (The Hague, 26 September 1995), as cited in Helen Durham, “Women and Civil Society: NGOs and International Criminal Law,” in Kelly D Askin and Doreen M Koenig, eds. *Women and International Human Rights Law*, 3 (2001) (New York: Transnational Publishers, Inc.) 819-843, 836.
- 17 Author interview with Maddy Crowther, Co-Executive Director, Waging Peace, January 2018. This was also noted by Maher G. Nawaf, UK Director and Board Member of Yazda regarding taking statements from Yazidi survivors of ISIS violence: “Victims come to us. They ask for us to take their testimony because they know us, they know Yazda, they trust [Yazda is] advocating globally for their rights and to bring justice to the victims.” Author interview with Maher G. Nawaf, UK Director and Board Member, Yazda, February 2018. It should be noted that if a local CSO has built trust with a community, and that CSO engages with an ICJM, there

is the potential to build the community's trust of the mechanism. Trust, then, builds legitimacy.

18 Author interview with Heather Ryan, former Khmer Rouge Tribunal Monitor, December 2017 and author interview with Christoph Sperfeldt, researcher and former advisor to Cambodian NGOs and the ECCC, January 2018.

19 Christoph Sperfeldt, "Cambodian Civil Society and the Khmer Rouge Tribunal," *The International Journal of Transitional Justice*, 6 (2012) 149–160, 151.

20 Data provided by the Victim Support Section, as of 26 August 2010, cited in Christoph Sperfeldt, "Cambodian Civil Society and the Khmer Rouge Tribunal," *The International Journal of Transitional Justice*, 6 (2012) 149–160, 151.

21 For example, local organizations in the Balkans have provided or currently provide: "lobbying and advocacy for victims' support, like concentration camp detainees and victims of sexual slavery and rape, as well as psychological and legal support for testifying witnesses." Author interview with Velma Šarić, Founder and President, Post-Conflict Research Center, Editor-in-Chief, Balkan Diskurs, November 2017. Also noted in author interview with Maddy Crowther, Co-Executive Director, Waging Peace, January 2018, and author interview with Maher G. Nawaf, UK Director and Board Member, Yazda, February 2018. See also Christoph Sperfeldt, "Cambodian Civil Society and the Khmer Rouge Tribunal," *The International Journal of Transitional Justice*, 6 (2012) 149–160, 151.

22 Author interview with Velma Šarić, Founder and President, Post-Conflict Research Center, Editor-in-Chief, Balkan Diskurs, November 2017; and author interview with Christoph Sperfeldt, researcher and former advisor to Cambodian NGOs and the ECCC, January 2018.

23 See Ana Ljubojevic, "Frames of Acceptance of International Criminal Justice in Serbia," in Susanne Buckley-Zistel, Friederike Mieth and Marjana Papa, eds, *After Nuremberg, Exploring Multiple Dimensions of the Acceptance of International Criminal Justice*, (2017) (Nuremberg: International Nuremberg Principles Academy), 16.

24 Author interview with Heather Ryan, former Khmer Rouge Tribunal Monitor, December 2017; see also Christoph Sperfeldt, "Cambodian Civil Society and the Khmer Rouge Tribunal," *The International Journal of Transitional Justice*, 6 (2012) 149–160, 151.

25 See the website of the International Criminal Court, last visited 31 March 2018, at <https://www.icc-cpi.int/get-involved/Pages/ngos.aspx> and noting, "The ICC

has offices in several of the countries in which investigations are being conducted, though not currently in Darfur (Sudan), Georgia or Mali. Those wishing to cooperate with the Court at these local offices, participate in proceedings, assist in Outreach activities, or otherwise engage with the Court in the field are welcome to contact the offices."

26 Author interview (by email) with Nino Tsagareishvili, Co-Director, Human Rights Center, Tbilisi, Georgia, December 2017. The Human Rights Center has submitted complaints on behalf of victims to the European Court of Human Rights and representation forms on behalf of 190 victims to the ICC.

27 Author interview (by email) with Nino Tsagareishvili, Co-Director, Human Rights Center, Tbilisi, Georgia, December 2017.

28 See Natia Gogolashvili, "Victims are not aware of the commenced investigation in the 2008 August War," *Humanrights.ge*, January 25, 2017, available at: <http://www.humanrights.ge/index.php?a=main&pid=19086&lang=eng>.

29 Human Rights Watch, *Justice in Motion: The Trial Phase of the Special Court for Sierra Leone*, (November 2005) 30, cited in Norman Henry Pentelovitch, "Seeing Justice Done: The Importance of Prioritizing Outreach Efforts at International Criminal Tribunals," 39 *Georgetown Journal of International Law* (2008) 445, 488–491.

30 Heather Ryan and Laura McGrew, "Performance and Perspective: The Impact of the Extraordinary Chambers of the Courts of Cambodia," *Open Society Justice Initiative Report* (February 2016) 85.

31 Christoph Sperfeldt, "Cambodian Civil Society and the Khmer Rouge Tribunal," *The International Journal of Transitional Justice*, 6 (2012) 149–160, 151; also noted in author interview with Heather Ryan, former Khmer Rouge Tribunal monitor, December 2017.

32 Norman Pentelovitch, Kathryn Simon and Sok-Kheang Ly, DC-CAM, *The Outreach Preferences of Rural Cambodians Regarding the Extraordinary Chambers in the Courts of Cambodia* (July 2007) http://www.dccam.org/Abouts/Intern/Norman_and_Kathryn_DC-Cam_Outreach_Report.pdf, 3, cited in Norman Henry Pentelovitch, "Seeing Justice Done: The Importance of Prioritizing Outreach Efforts at International Criminal Tribunals," 39 *Georgetown Journal of International Law* (2008) 445, 491.

33 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.

34 Author interview with Ifeoma Ojemeni Okali,

former Senior Trial Attorney, International Criminal Tribunal for Rwanda, November 2017; author interview with Charles Scheiner, Researcher with La'o Hamutuk (The Timor-Leste Institute for Development Monitoring and Analysis), November 2017; author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017; author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017.

35 Author interview with Maddy Crowther, Co-Executive Director, Waging Peace, January 2018.

36 Author interview with Gjylbehare Bella Murati, Law Professor, Faculty of Law, University Haxhi Zeka, Peja, Kosovo, prior experience with ICRC and Kosovo Ombudsman, September 2017.

37 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017; author interview with Wendy Lobwein, formerly Deputy Chief and Acting Chief of the Victim and Witness Section (International Criminal Tribunal for the Former Yugoslavia), and Coordinator of the Witness and Expert Support Unit (Extraordinary Chambers in the Courts of Cambodia) December 2017.

38 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.

39 Author interview with Wendy Lobwein, formerly Deputy Chief and Acting Chief of the Victim and Witness Section (International Criminal Tribunal for the Former Yugoslavia), and Coordinator of the Witness and Expert Support Unit (Extraordinary Chambers in the Courts of Cambodia) December 2017.

40 Author interview with (name withheld), former IJCM trial lawyer, interview n. 5, October 2017; author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017; author interview (by email translated from French) with Omar Kavota, Coordinator, CEPADHO, December 2017.

41 In the case of the Centre d'Études pour la Promotion de la Paix, la Démocratie et les Droits de L'Homme (CEPADHO) in the eastern Democratic Republic of the Congo and La'o Hamutuk in Timor-Leste, local organizations also importantly continue to work for strengthening the rule of law where no ICJM attention or jurisdiction has been given. Further studies should account for the experiences of CSOs that advocate for international justice in the absence of ICJM jurisdiction or investigation. As noted by Charles Scheiner of La'o Hamutuk, "Given that the establishment of an ICJM is

an international, political/diplomatic decision, whether or not the mechanism *is established* is often more based on factors outside the country than factors within. CSOs can also try to encourage local and international authorities to create or strengthen accountability before, during, and after the ICJM exists, or even if it never does." Author interview with Charles Scheiner, Researcher with La'o Hamutuk (The Timor-Leste Institute for Development Monitoring and Analysis), November 2017.

42 Author interview (by email translated from French) with Omar Kavota, Coordinator, CEPADHO, December 2017; author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.

43 Author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017.

44 As emailed to the author by Youk Chhang, Executive Director of the Documentation Center of Cambodia (DC-CAM), November 2017 citing a letter from the Office of the Administration of ECCC, Tony Kranh, Acting Director & Knut Rosandhaug, Deputy Director, 21 May 2010 [on file with DC-CAM] recognizing DC-Cam as "one of the key in-kind donors of documentary materials to the court."

45 Author interview with Ifeoma Ojemeni Okali, former Senior Trial Attorney, International Criminal Tribunal for Rwanda, November 2017; author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017; author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017; author interview with (name withheld), former IJCM trial lawyer, interview n. 5, October 2017; and as emailed to the author by Youk Chhang, Executive Director of the Documentation Center of Cambodia (DC-CAM), November 2017.

46 Author interview with Christoph Sperfeldt, researcher and former advisor to Cambodian NGOs and the ECCC, January 2018. See also Heather Ryan and Laura McGrew, "Performance and Perspective: The Impact of the Extraordinary Chambers of the Courts of Cambodia," *Open Society Justice Initiative Report*, (February 2016) 45.

47 Author interview with George McEncroe, formerly of the Australian Committee of Investigation into War Crimes, September 2017; author interview with Velma Šarić, Founder and President, Post-Conflict Research Center, Editor-in-Chief, Balkan Diskurs, November 2017.

48 Author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and

Human Rights Association, December 2017.

49 As emailed to the author by Youk Chhang, Executive Director of the Documentation Center of Cambodia (DC-CAM), November 2017; author interview with Gjylbehare Bella Murati, Law Professor, Faculty of Law, University Haxhi Zeka, Peja, Kosovo, prior experience with ICRC and Kosovo Ombudsman, September 2017.

50 Author interview with Dr. Megan Price, Executive Director, Human Rights Data Analysis Group, November 2017; author interview with (name withheld), former IJCM trial lawyer, interview n. 5, October 2017; author interview with George McEncroe, formerly of the Australian Committee of Investigation into War Crimes, September 2017.

51 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.

52 Author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017; author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017; author interview with (name withheld), Palestinian CSO, interview n. 14, December 2017.

53 Author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017.

54 Author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017; author interview with George McEncroe, formerly of the Australian Committee of Investigation into War Crimes, September 2017.

55 Author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017; author interview with Maher G. Nawaf, UK Director and Board Member, Yazda, February 2018.

56 “Additionally, internationals involved in planning, evaluating or working in an ICJM need to *learn* local languages and context or employ people who have this knowledge at professional levels. They need to respect such staff and encourage them to say what they know, even when it differs with the international mandate they are meant to carry out.” Author interview with Charles Scheiner, Researcher with La’o Hamutuk (The Timor-Leste Institute for Development Monitoring and Analysis), November 2017.

57 Author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Free-

doms, Pristina, Kosovo, December 2017.

58 Author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.

59 Author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017; author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.

60 Author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017; author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.

61 Author interview with Professor Sarah Williams, Faculty of Law, University of New South Wales, December 2017.

62 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017; author interview with Dr. Megan Price, Executive Director, Human Rights Data Analysis Group, November 2017.

63 Author interview with Marija Ristic, Program Director, Balkan Investigative Reporting Network, December 2017.

64 Author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017; author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017; author interview (by email translated from French) with Omar Kavota, Coordinator, CEPADHO, December 2017.

65 “CEPADHO has always favored the approach of national justice and considered international justice as complementary. So far, ICC staff are absent. Since the domestic trial of the Allied Democratic Forces has now closed, CEPADHO will consider whether it is really worthwhile to seize the ICC.” Author interview (by email translated from French) with Omar Kavota, Coordinator, CEPADHO, December 2017.

66 Author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017.

67 Author interview with Montserrat Solano, prior experience both in the International Criminal Court and as staff of different human rights NGOs, January 2018.

68 For example, a former IJCM trial lawyer noted: “I had someone say, ‘that’s genocide.’ And I had to explain, no, that was just the word you are using. It was a case of advocacy. I understand why they used the word, but you have to show more than they were to make out genocide in court.” Author interview with (name withheld), former IJCM trial lawyer, interview n. 5, October 2017.

69 Author interview with Dr. Megan Price, Executive Director, Human Rights Data Analysis Group, November 2017.

70 Author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017.

71 Author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017.

72 Author interview with (name withheld), Palestinian CSO, interview n. 14, December 2017.

73 Author interview with Dr. Avidan Kent, Lecturer, School of Law, University of East Anglia, September 2017.

74 Author interview with Gjylbehare Bella Murati, Law Professor, Faculty of Law, University Haxhi Zeka, Peja, Kosovo, prior experience with ICRC and Kosovo Ombudsman, September 2017. See also Gjylbehare Bella Murati, “Layered Justice: Assessing the Acceptance of the Multiple International Criminal Justice Mechanisms in Post-War Kosovo,” in Susanne Buckley-Zistel, Friederike Mieth and Marjana Papa, eds, *After Nuremberg: Exploring Multiple Dimensions of the Acceptance of International Criminal Justice*, (2017) (Nuremberg: International Nuremberg Principles Academy.) Furthermore, especially when representing victims, a local CSO may be perceived to be biased. “It is a perception that is often based on fact. But that bias comes from this: as a victim, you have an interest. Victims may lie, but they may do so for very good reasons [—including self-preservation.]” The perception of bias should not preclude further interrogation of the information presented. Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.

75 Author interview with (name withheld), former IJCM trial lawyer, interview n. 5, October 2017.

76 Author interview with Luc Reydam, Associate Professor of the Practice in the Political Science Department of the University of Notre Dame, November 2017.

77 Author interview with Montserrat Solano, prior experience both in the International Criminal Court and as staff of different human rights NGOs, January

2018.

78 Author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017.

79 Author interview with Dr. Avidan Kent, Lecturer, School of Law, University of East Anglia, September 2017.

80 The author recognizes that there is considerable debate about the merit of completely isolating investigatory and prosecutorial teams, so further research and consideration on this issue is warranted.

81 See *Prosecutor v Lubanga*, (*Urgent Prosecution’s Application for Leave to Appeal the Trial Chamber I’s Decision of 8 July 2010 Staying the Proceedings for Abuse of Process*) (Trial Chamber I, International Criminal Court, Case No. ICC-01/04-01/06, 14 July 2010).

82 Author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017.

83 Author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017.

84 Author interview with Eliot Higgins, Founder, Bellingcat, November 2017.

85 For example, George McEncroe noted: “We were terrified that somebody’s witness statement might be discounted on the count that we’d messed it up. We asked a member of the [OTP-ICTY] and we were just told to ask incredibly broad questions about the nature of the crime, the time, date, and place; and whether the person would be willing to be a witness. That was it. Then, we sent that off for the OTP to make sense of what we were gathering.” Author interview with George McEncroe, formerly of the Australian Committee of Investigation into War Crimes, September 2017.

86 Author interview with (name withheld), Palestinian CSO, interview n. 14, December 2017; author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.

87 “We don’t think they’re simply not responding, we know it’s a delicate process politically and we understand. But it would be nice to be kept in the loop because we continuously collect information. So, we would like an avenue of communication to continue feeding that information somewhere useful.” Author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017.

88 Author interview (by email) with Nino Tsaga-

reishvili, Co-Director, Human Rights Center Tbilisi, Georgia, December 2017. This was also noted in author interview with Marija Ristic, Program Director, Balkan Investigative Reporting Network, December 2017.

89 Author interview with Marija Ristic, Program Director, Balkan Investigative Reporting Network, December 2017.

90 Author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.

91 Author interview with Marija Ristic, Program Director, Balkan Investigative Reporting Network, December 2017.

92 Author interview with Dr. Avidan Kent, Lecturer, School of Law, University of East Anglia, September 2017. On ICJMs facilitating amicus participation by local organizations see: Avidan Kent and Jamie Trinidad, “The Management of Third-Party Amicus Participation before International Criminal Tribunals: Juggling Efficiency and Legitimacy,” *International Criminal Law Review* 17 (2017) 728, 746-747.

93 Author interview with Dr. Deborah Ruiz Verduzco, former Deputy Director of the International Law and Human Rights Program of Parliamentarians for Global Action, a steering committee member of the Coalition for the International Criminal Court (CICC); and Deputy Team leader of the CICC Team on ICC Outreach; currently Head of Civil Society Initiatives at the International Commission on Missing Persons, January 2018.

94 Author interview with Montserrat Solano, prior experience both in the International Criminal Court and as staff of different human rights NGOs, January 2018.

95 Author interview with Luc Reydam, Associate Professor of the Practice in the Political Science Department of the University of Notre Dame, November 2017.

96 “There is a vast amount of potential evidence that has been collected by people who weren’t lawyers and didn’t think it would be used at trial. We have to find a way to deal with the information the way it is, not impose standards on how to collect it.” Author interview with (name withheld), International Criminal Justice professional, interview n. 23, December 2017. “There is an expectation on the part of ICJMs in general that CSOs will present the information they need, which is not a valid expectation. CSOs can’t take the risks that a mechanism can take because CSOs don’t have international standing, protection, and status, and CSOs don’t have the resources. Also, they don’t necessarily need to develop capacity at the same level of a prosecutor.” Au-

thor interview with Montserrat Solano, prior experience both in the International Criminal Court and as staff of different human rights NGOs, January 2018.

97 Author interview (by email translated from French) with Omar Kavota, Coordinator, CEPADHO, December 2017.

98 Author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017; and author interview with Eliot Higgins, Founder, Bellinchat, November 2017; author interview with (name withheld), Palestinian CSO, interview n. 14, December 2017.

99 Author interview with (name withheld), International Criminal Justice professional, interview n. 23, December 2017.

100 Author interview with Maher G. Nawaf, UK Director and Board Member, Yazda, February 2018.

101 Author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017.

102 Author interview with Velma Šarić, Founder and President, Post-Conflict Research Center, Editor-in-Chief, Balkan Diskurs, November 2017.

103 Author interview with George McEncroe, formerly of the Australian Committee of Investigation into War Crimes, September 2017; and author interview with Maher G. Nawaf, UK Director and Board Member, Yazda, February 2018.

104 It should be noted that, “just acknowledging CSOs important role early on might encourage them to be funded and help them to be listened to and respected.” In other words, ICJMs’ engagement with local CSOs may encourage donors to both fund and train local CSOs, in turn increasing the organizations’ capacity to meet ICJM standards. Author interview with Heather Ryan, former Khmer Rouge Tribunal Monitor, December 2017.

105 Author interview with Christoph Sperfeldt, researcher and former advisor to Cambodian NGOs and the ECCC, January 2018.

106 Author interview with Gjylbehare Bella Murati, Law Professor, Faculty of Law, University Haxhi Zeka, Peja, Kosovo, prior experience with ICRC and Kosovo Ombudsman, September 2017.

107 Author interview with Montserrat Solano, prior experience both in the International Criminal Court and as staff of different human rights NGOs, January 2018.

- 108 Author interview with Montserrat Solano, prior experience both in the International Criminal Court and as staff of different human rights NGOs, January 2018.
- 109 Author interview with Eliot Higgins, Founder, Bellingcat, November 2017; author interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017; author interview with (name withheld), Palestinian CSO, interview n. 14, December 2017.
- 110 Author interview with Maddy Crowther, Co-Executive Director, Waging Peace, January 2018; author interview with Velma Šarić, Founder and President, Post-Conflict Research Center, Editor-in-Chief, Balkan Diskurs, November 2017.
- 111 Author interview with Velma Šarić, Founder and President, Post-Conflict Research Center, Editor-in-Chief, Balkan Diskurs, November 2017.
- 112 Author interview with Dr. Deborah Ruiz Verduzco, former Deputy Director of the International Law and Human Rights Program of Parliamentarians for Global Action, a steering committee member of the Coalition for the International Criminal Court (CICC); and Deputy Team leader of the CICC Team on ICC Outreach; currently Head of Civil Society Initiatives at the International Commission on Missing Persons, January 2018.
- 113 Author interview with Montserrat Solano, prior experience both in the International Criminal Court and as staff of different human rights NGOs, January 2018.
- 114 Author interview with Gjylbehare Bella Murati, Law Professor, Faculty of Law, University Haxhi Zeka, Peja, Kosovo, prior experience with ICRC and Kosovo Ombudsman, September 2017.
- 115 Author interview with Velma Šarić, Founder and President, Post-Conflict Research Center, Editor-in-Chief, Balkan Diskurs, November 2017.
- 116 Author interview with Milena Čalic-Jelic, Legal Adviser and War Crime Trials Monitor, Documenta—Centre for Dealing with Past, Zagreb, Croatia, January 2018.
- 117 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017; also noted in author interview with Velma Šarić, Founder and President, Post-Conflict Research Center, Editor-in-Chief, Balkan Diskurs, November 2017.
- 118 Author interview with Luc Reydam, Associate Professor of the Practice in the Political Science Department of the University of Notre Dame, November 2017; author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.
- 119 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.
- 120 Author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017.
- 121 Author interview with Maher G. Nawaf, UK Director and Board Member, Yazda, February 2018.
- 122 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.
- 123 Author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017.
- 124 Author interview (by email) with Nino Tsagareishvili, Co-Director, Human Rights Center, Tbilisi, Georgia, December 2017.
- 125 Author interview with Montserrat Solano, prior experience both in the International Criminal Court and as staff of different human rights NGOs, January 2018.
- 126 One interviewee stated: “We can get hung up on idea that processing information, for example from social media, is like processing a crime scene. We need to stop trying to map old forensic mindsets onto new data. Instead, we need to focus on basic legal questions: Is this evidence or is it a lead? If it’s evidence, what is the proposition I’m trying to support? Until I know that, I don’t know what I need to do to make such information reliable and I might be dissuading receiving useful information.” Author interview with (name withheld), International Criminal Justice professional, interview n. 23, December 2017.
- 127 Author interview with George McEncroe, formerly of the Australian Committee of Investigation into War Crimes, September 2017.
- 128 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017.
- 129 Author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Bel-

grade, Serbia, October 2017.

130 Author interview with (name withheld), former ICJM Investigator, interview n. 6, September 2017.

131 Author interview with Maher G. Nawaf, UK Director and Board Member, Yazda, February 2018.

132 Noted in author interview with George McEncroe, formerly of the Australian Committee of Investigation into War Crimes, September 2017; and author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.

133 Noted in author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017; and author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.

134 Author interview with (name withheld), Palestinian CSO, interview n. 14, December 2017; author interview (by email) with Nino Tsagareishvili, Co-Director, Human Rights Center Tbilisi, Georgia, December 2017.

135 Author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.

136 Author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017; author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017; interview with David Joseph Deutch, Advocacy Coordinator, Addameer Prisoner Support and Human Rights Association, December 2017.

137 Author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017. This was also repeated in author interview with Milica Kostić, former Legal Program Director, Humanitarian Law Center, Belgrade, Serbia, October 2017; author interview with Arjeta Emra, formerly of the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017.

138 Author interview with Ifeoma Ojemeni Okali, former Senior Trial Attorney, International Criminal Tribunal for Rwanda, November 2017; author interview with (name withheld), International Criminal Justice professional, interview n. 23, December 2017.

139 Author interview with Yaropolk Brynykh, former Head of Field Mission, Truth Hounds, Ukraine, November 2017.

140 Author interview with Arjeta Emra, formerly of

the Council for the Defense of Human Rights and Freedoms, Pristina, Kosovo, December 2017.

141 Author interview with (name withheld), Palestinian CSO, interview n. 14, December 2017.

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