

Joint Civil Society Statement

ICC Independent Expert Review: The court and states should seize opportunity to strengthen court's performance

We call on the International Criminal Court (ICC) and its states parties to maximize the unique opportunity provided by the final report of the Independent Expert Review (IER). We believe this requires identifying a plan that is characterized by genuine dialogue; respect for the court's judicial and prosecutorial independence; and transparency and inclusion. The ICC plays a crucial role as a global court of last resort, but performance shortcomings have hampered its progress in realizing its crucial mission. These shortcomings have left some of the most serious crimes unaddressed while also disappointing legitimate expectations of victims and affected communities. At a moment in which the rules-based global order and the ICC itself are under unprecedented attack, a strengthened court robustly supported by its states parties will be more resilient to politicized efforts to obstruct its mandate.

The IER was commissioned by states parties in December 2019, following the request by the ICC's leadership for a review of the court's performance. It was tasked to assess the work of the court and to make "concrete, achievable and actionable recommendations." The IER began its work in January 2020 and is scheduled to issue its final report on September 30. Civil society strongly supported the commissioned review and several organizations made submissions to the IER.

We recommend that the court and states parties put in place processes to assess the experts' recommendations and ensure appropriate follow-up in the coming period, as a common reference point for bolstering the court's work. In order to make the most of the opportunity posed, we believe the next steps by the court and states parties should be guided by the following principles:

- **Genuine dialogue** – Genuine dialogue between court officials across its organs, as well as between the court, states parties, and NGOs, victims and affected communities in situation countries, is essential. This will facilitate a shared understanding of the IER's recommendations. We believe the continued involvement of the experts in discussions will help provide necessary support to the court and states parties. Once elected, the next prosecutor should also be included in these discussions as a crucial actor.
- **Scrupulous respect for the court's judicial and prosecutorial independence** – Some of the topics addressed in the IER report could raise issues that go to the essence of the court's work as an independent judicial institution. States parties should respect this fundamental feature of the ICC.
- **Transparency and inclusion** – Several stakeholders, including court staff and civil society organizations, contributed to the IER process from its inception and have valuable insights to share. They should continue to be involved in discussions around next steps after the publication of the final report. In this regard, the voices of those in affected

communities, the court's primary constituency, need to be heard and given central attention.

European Center for Constitutional and Human Rights

Human Rights Watch

International Federation for Human Rights, FIDH

Justice International

No Peace Without Justice

Open Society Justice Initiative

Parliamentarians for Global Action

Redress

Women's Initiatives for Gender Justice

World Federalist Movement