



H.E. Mr. Mario Javier Agustin Oyarzábal
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12 March 2025

Excellency,

Allow me to bring to your kind attention Statement 6 of the Steering Group of the Coalition for International Criminal Justice (CICJ), “Atrocity Documentation Is Not a Monetary or Political Commodity”. The statement is attached to this letter and can be accessed on the CICJ website (www.cicj.eu).

It argues, first, that civil society organizations should enhance the quality of their fact-finding work with (i) proper internal quality control, (ii) adherence to best practices of interviewing, legal analysis and information-security, and (iii) avoiding commodification of information in their possession. CICJ cautions against a growing problem of NGOs viewing potential evidence that they hold “as a grant opportunity” – or accountability steps as a political commodity.

Secondly, as NGOs choose to aid justice, peace, truth or reconciliation processes, Statement 6 warns that the “limitations of thinly-stretched universal jurisdiction actors” are becoming more apparent, with “risks of inadvertent miscarriages of justice fuelled by good intentions but lacking in expert knowledge of conflicts in distant lands”. As an example, it mentions the recent Argentine arrest warrant against Aung San Suu Kyi, “the civilian leader who the Myanmar military detained from the moment it seized power in a military coup on 1 February 2021, more than four years ago”. NGOs can become morally complicit in misfeasance in office by universal jurisdiction actors if they provide them with information that is not properly quality-controlled.

Finally, Statement 6 encourages NGOs to use the I-DOC platform which, when properly used, “may considerably enhance their fact-work, especially as concerns analysis of patterns and linkages”.

Please accept, Excellency, the assurances of my highest consideration.

Sincerely,

Gunnar M. Ekeløve-Slydal
Director



CICJ Statement No. 6

Atrocity Documentation Is Not a Monetary or Political Commodity

Berlin, Buenos Aires, Florence, London, Oslo and Queenstown, 12 March 2025

Civil society organizations (‘CSOs’), including local organizations trusted by the population in conflict areas, are important partners of criminal justice for core international crimes (such as genocide, crimes against humanity, war crimes and aggression), whether in national, hybrid or international criminal jurisdictions. They play a growing role in documenting such atrocities. However, they can and should improve their performance in this area.

Article 15 of the Statute of the International Criminal Court (‘ICC’) recognizes a CSO role in documentation, pointing to their potential as “reliable sources” in the Prosecutor’s determination of whether to initiate investigations. Prominent institutional players have highlighted this CSO function,¹ but the ICC is only one of several accountability interlocutors for CSO fact-work. Well-known challenges in the operation of the ICC have coincided with the rise of “universal criminal justice”,² which involves another arena of interlocutors: investigators, prosecutors, investigating magistrates and judges at the domestic level. And as the limitations of thinly-stretched universal jurisdiction actors become more apparent – with risks of inadvertent miscarriages of justice fuelled by good intentions but lacking in expert knowledge of conflicts in distant lands³ – further interlocutors for CSO documentation include sanctions policy-makers and -administrators as well as opinion shapers more widely.

In all these arenas, doubts exist about the quality of CSO fact-work. Do they have adequate quality-control mechanisms?⁴ Criminal justice officials fear that CSOs will compromise witness credibility by taking more than one statement on the same topic (increasing the likelihood of inconsistency) or re-traumatizing victims without adequate medical support. Accordingly, various guidelines on CSO fact-work by the ICC, other international organizations or national

¹ See Eurojust, the European Union Network for investigation and prosecution of genocide, crimes against humanity and war crimes, and the ICC Office of the Prosecutor, “Documenting international crimes and human rights violations for accountability purposes: Guidelines for civil society organisations”, September 2022, p. 4 (<https://www.legal-tools.org/doc/f6jllb/>): “Across situations globally, we have seen how civil society actors are increasingly active in documenting core international crimes and human rights violations, demonstrating an ability to make crucial contributions to accountability efforts”.

² See Lucia Leontiev, “On the Rise of Universal Criminal Justice”, Policy Brief Series No. 167 (2025), Torkel Opsahl Academic EPublisher (‘TOAEP’), Brussels, 2025 (<https://www.toaep.org/pbs-pdf/167-leontiev/>).

³ The arrest warrant issued by an Argentine court on 13 February 2025 against a high number of Burmese for crimes against Muslims in northern Rakhine in 2016–2017 – including State Counsellor Aung San Suu Kyi, winner of the 1991 Nobel Peace Prize – has been met with astonishment around the world (see Derek Tonkin, “Preliminary Thoughts on the Argentine Universal Jurisdiction Case Against Aung San Suu Kyi”, Policy Brief Series No. 169 (2025), TOAEP, Brussels, 2025 (<https://www.toaep.org/pbs-pdf/169-tonkin/>)). How can a federal prosecutor who neither works specifically with core international crimes nor with Myanmar, drawing on information submitted by the Burmese Rohingya Organisation UK (BROUK), issue an arrest warrant against the civilian leader who the Myanmar military detained from the moment it seized power in a military coup on 1 February 2021, more than four years ago? See National League for Democracy (the State Counsellor’s party), Central Work Committee, “Proclamation (3/2025)”, 27 February 2025 (<https://www.legal-tools.org/doc/ufn66fkq/>).

⁴ For a leading book on the topic, see Morten Bergsmo and Carsten Stahn (eds.), *Quality Control in Fact-Finding*, Second Edition, TOAEP, Brussels, 2020, pp. 4–5 (<https://www.toaep.org/ps-pdf/19-bergsmo-stahn-second/>).

authorities suggest a role limited to alerting public authorities about situations where core international crimes may have been committed, identifying victims and witnesses, and asking for criminal investigations to be carried out (solely) by competent authorities. CSOs should “avoid taking detailed accounts from persons about their knowledge of crimes”, prioritizing instead mapping topics on which persons could speak and recording their contact details to facilitate future interviews by public authorities.⁵

Projecting high confidence in the ICC and domestic criminal justice, these guidelines nevertheless challenge CSOs reasonably. “It is vital that CSOs ensure that the quality of their documentation is enhanced, gradually becoming valuable partners to national and international justice efforts”, stated the CICJ Steering Group, adding: “Keys to success include internal CSO quality control; adherence to best practices of interviewing, legal analysis and information-security; and avoiding commodification of information in CSO possession”.

Potential evidence of core international crimes should never be seen as a grant opportunity by CSOs. They merely hold such information in trust from victims, affected communities and justice actors. “CSOs cannot betray the trust of victims”, said CICJ Director Gunnar Ekeløve-Slydal: “The way CSOs treat potential evidence reveals their moral backbone. They should not seek to supplant functioning domestic criminal justice agencies, which cannot surrender control over information and potential evidence to CSOs, foreign authorities or international organizations”.

Circumspection is also required as CSOs increase their co-operation with universal jurisdiction actors, some of whom operate under severe resource constraints that curtail their ability to undertake proper factual inquiries before seeking arrest warrants or charging, as may currently be the case in Argentina. “If universal jurisdiction actors largely base their factual propositions on the submissions of CSOs, the latter can become morally complicit in miscarriages of justice if they have not upheld proper quality-control standards”, the CICJ Steering Group noted. “Arrest warrants or charges should not be seen as political commodities to promote CSO interests.”

Given the risks and challenges associated with criminal justice for core international crimes, CSOs should continue fact-work support to international commissions of inquiry and other fact-finding mandates to seek the truth. The Commission of Experts for the Former Yugoslavia, established by UN Security Council Resolution 780 (1992),⁶ has served as a model for later commissions with a mandate to assess compliance with international standards, including international human rights and international criminal law.⁷

To better aid justice, peace, truth and reconciliation processes, the “development of IT tools for documentation, storage, and analysis of large amounts of documents, social media posts, video- and audio-files may enable CSOs to take upon themselves larger roles”, said the CICJ Director, noting that, “I-DOC, properly used by CSOs, may considerably enhance their fact-work, especially as concerns analysis of patterns and linkages”.⁸



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⁵ *Supra* note 1, p. 7. For a list of key resources, see pp. 60–61.

⁶ United Nations (‘UN’) Security Council Resolution 780 (1992), UN Doc. S/RES/780 (1992), 6 October 1992 (<https://www.legal-tools.org/doc/cdc5ad/>).

⁷ *Supra* note 4, pp. 4–5. During the past 20 years, the UN has created more than 20 international commissions of inquiry with mandates to investigate serious human rights violations and international crimes.

⁸ See <https://www.legal-tools.org/i-doc>. The Norwegian Helsinki Committee uses I-DOC in several projects.