

YEAR 2017

ANNUAL REPORT

*Promoting justice for international crimes
on the African continent*



A strong and impactful Wayamo-AGJA partnership

Capacity building, public outreach, and media engagement - a successful approach

**Six main projects implemented in Kenya, Nigeria, Rwanda, Senegal, Tanzania,
The Gambia and Uganda**

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MESSAGE FROM THE DIRECTORS

Dear Friends,

These past twelve months have been a difficult and challenging time for the project of international justice. Indeed, the tribulations of 2017 have been felt at all levels —globally, regionally and domestically. It will be anything but easy, but now is precisely the time to redouble our efforts to ensure that a cohesive and coherent system of international justice continues to mature and develop.

Throughout 2017, the Wayamo Foundation and its partner organisation, the Africa Group for Justice and Accountability (AGJA), have been working tirelessly on all levels across the length and breadth of the African continent to promote justice for international crimes. The year saw the strength, standing and impact of the Wayamo-AGJA partnership reach new heights.

The Wayamo Foundation is proud of its record in tackling the challenges facing international justice and accountability. Not only have we continued to advocate for accountability for international and transnational organised crimes, but, over the past year, we have made a lasting contribution to building capacity for the investigation and prosecution of such crimes in a number of African states, ranging from Kenya to Nigeria, Rwanda, Senegal, Tanzania, The Gambia and Uganda. Ongoing projects include *"Fighting Impunity in East Africa"*, *"Building Capacity for the Special Criminal Court of the Central African Republic"*, and *"Strengthening Justice and Accountability in Nigeria through Capacity-Building for Civil and Military Prosecutors"*.

All our efforts highlight our staff's unrelenting commitment to foster complementarity and to playing a constructive and collaborative role in building sustainable capacity for justice and accountability at the national level.

In the face of uncertainty, there is an ever-present need for advocacy for, and increased understanding of, international justice. Hence, Wayamo and AGJA members regularly publish articles in the media and, in line with our unyielding commitment to growing and improving public knowledge of these issues, we have continued to hold public symposia, judicial and media workshops in all of our project countries, as well as side events at the Assembly of States Parties of the ICC. As ever, the Wayamo Foundation and the AGJA remain firmly committed to providing space for respectful dialogue on contentious issues and to identifying



effective compromises that ensure a better functioning system of international justice.

None of Wayamo's efforts and achievements would be possible without the generous support of our donors and our partners around the globe. We thank them for their ongoing commitment and faith in our work.

The global fight against impunity is unlikely to be any easier in 2018. However, with your ongoing support, the Wayamo Foundation will continue to make a difference and play its role in building a stronger system of international justice and accountability.

We wish you all a happy festive season and the very best for the coming New Year!

Bettina Ambach
Mark Kersten

Bettina Ambach, Director
Mark Kersten, Deputy Director

Wayamo Foundation

EXECUTIVE SUMMARY

2017 has been an extremely busy year for the Wayamo Foundation and the Africa Group for Justice and Accountability. Although the AGJA is an independent group of experts, it works in tandem with its Secretariat and Convenor, the Wayamo Foundation. Consequently, this report details the activities of both the Wayamo Foundation and the AGJA. Together, the two entities have succeeded in raising awareness about the importance of international justice and accountability, thus contributing to efforts to bridge the perceived Africa-ICC divide.

The Wayamo Foundation and the AGJA responded to developments in South Africa, The Gambia, Burundi and other situations by issuing public statements which were widely covered by the media. Wayamo and AGJA members have also been involved in sensitive diplomatic and legal efforts aimed at helping resolve the tension between the International Criminal Court (ICC) on the one hand, and African states and the African Union (AU) on the other, as well as challenging the perception that the ICC is targeting African states.

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This report details the activities of both the Wayamo Foundation and the AGJA. Together, the two entities have succeeded in raising awareness about the importance of international justice and accountability, thus contributing to efforts to bridge the perceived Africa-ICC divide.



Over the course of the year, Wayamo has held a number of public conferences and roundtable meetings with students, journalists, practitioners and government officials, to enhance awareness and understanding of international criminal justice processes in Africa and highlight states' capacity to investigate and prosecute international crimes domestically.

In accordance with its commitment to make the principle of complementarity a functional reality, Wayamo has been involved in a number of capacity-building events, targeted at strengthening national

justice systems and thereby enable them to address international and transnational crime domestically.

June 2017 marked the launch of the “*Fighting Impunity and Ensuring Accountability in East Africa*” project (2017-2018), aimed at strengthening the rule of law and countries' capacity to deal effectively with complex and transborder crimes. Within the framework of this project, Wayamo organised three symposia and training workshops for investigators, prosecutors and judges from East Africa, and started working



on the development of a Network of Directors of Public Prosecution (DPPs) and Directors of Criminal Investigation (DCIs), to ensure effective investigation and prosecution of complex crimes and intensification of inter-agency collaboration at the regional (East African) level. This network initiative has been endorsed by the East African Prosecutors Association and identified by the ICC as a potential regional interlocutor.

In the case of Nigeria, a country under preliminary examination by the ICC, Wayamo has enhanced co-operation between the Court and the Nigerian prosecution authorities. Similarly, it is engaged in ongoing training exercises with investigators and prosecutors to ensure that Nigeria's own judicial system will be in a position to address crimes allegedly committed by both Boko Haram and the security forces.

In appreciation of the fact that justice cannot always be achieved at an international or domestic level but that a combination of the two is often required, 2017 witnessed the launch of Wayamo's *"Hybrid Courts Project"*, aimed at bringing experts together to draft guidelines on the establishment of hybrid tribunals (to be published in 2018).

In response to a request from The Gambia, Wayamo and the AGJA advised the nation's government on its Truth, Reconciliation & Reparations Commission, with many of its recommendations being subsequently adopted. In addition, a Wayamo-AGJA delegation travelled to Banjul to ascertain in person how best to contribute to the country's remarkable transition

to democracy and respect for the rule of law. Based on the needs-assessment report that was drawn up as a result of this visit, capacity-building activities with investigators, prosecutors, judges, civil society members and the media will be designed in the coming year.

In addition, Wayamo organised the first capacity-building event for the newly nominated personnel of the Special Criminal Court in the Central African Republic, which will address mass atrocities committed in that country, and also held a South African-German Justice Dialogue to address emerging international criminal justice issues.

The AGJA and the Wayamo Foundation featured prominently at the 16th Annual ICC Assembly of States Parties (ASP) with two, highly acclaimed side events: the first, entitled, *"Weaving the Strands-Domestic, Regional, Hybrid and ICC Justice"* provided an extensive overview of the varying justice mechanisms and the importance of their complementary existence; the second dealt with the contentious issue of immunities under international law and provided a platform for various perspectives on the issue.

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The Wayamo Foundation is an independent, non-profit organisation established to strengthen the rule of law, and promote international criminal justice by:

- building the capacity of national judicial systems to address crimes of concern to the international community;
- providing education for legal practitioners, journalists and the public;
- advocating transparency and accountability, often in post-conflict settings; and,
- facilitating and supporting dialogue between civil society and government leaders.

For further information, see Annex 3: Wayamo team.



AFRICA GROUP

FOR JUSTICE AND ACCOUNTABILITY

The Africa Group for Justice and Accountability is an independent group of senior African experts on international criminal law including political figures, members of international and domestic tribunals, and human rights advocates. It was established on 23 November 2015 with the mandate to “*strengthen justice and accountability measures in Africa through domestic and regional capacity building, advice and outreach, and enhancing co-operation between Africa and the International Criminal Court*”.

One of its unique features is its independence from governments, the ICC and other organisations. This has been indispensable to the Group’s mandate. The AGJA has shown its ability to gain the trust of African states, diplomats, and institutions across the international criminal justice spectrum.

In November 2017, Zainab Bangura (Sierra Leone), former Special Representative of the Secretary-General on Sexual Violence in Conflict, became the 13th AGJA member.

The Wayamo Foundation is the Group’s secretariat and convener.

For further information, see Annex 2: AGJA Members.

THE “FIGHTING IMPUNITY IN EAST AFRICA” PROJECT (2017–2018)



Project description

The “*Fighting Impunity and Ensuring Accountability in East Africa*” project (2017–2018), funded by the German Foreign Ministry and launched on 6 June 2017, aims to strengthen the rule of law and the capacity to deal effectively with complex and transborder crimes through capacity building and training for investigators, prosecutors and judges. This timely project stems from the reality that the rule of law and access to justice are an essential component of international crisis management as well as key components in the development of peaceful democracies.

Only with accountable, transparent and reliable structures assuring the investigation and prosecution of core international crimes and transnational organised crime can societies move on to peaceful co-existence safe from cycles of recurring violence. This cannot be achieved solely at an international level. The capacity of states to investigate and prosecute international crimes must be strengthened at the national level, whilst respecting state sovereignty and bolstering regional co-operation and support. To this end, the Wayamo Foundation and AGJA, have been applying their expertise, knowledge and experience in four countries: Tanzania, Kenya, Uganda, and Rwanda.

The project has thus far: involved key decision makers and high-level officials

in order to further political and regional collaboration and create trust and commitment among stakeholders; built local capacity through the development of a network of DPPs and DCIs; and engaged civil society and the media through public conferences, debates and symposia.

In addition, feedback from participants has been very positive, e.g., investigators and prosecutors who took part reported that, “*the workshop provided motivation for change in one’s daily work*” and that they “*gained valuable knowledge*”.

5-8 JUNE 2017

Arusha, Tanzania: launch of the East Africa Project

- **5 June 2017:** Network Meeting for DPPs and DCIs of East Africa
- **6 June 2017:** International Symposium: “*Fighting Impunity in East Africa – Ensuring accountability for international and transnational organised crimes*”
- **7-8 June 2017:** Capacity building for prosecutors and investigators from East Africa on international and transnational organised crimes

The symposium sought to explore the current state of international criminal justice, its links with transnational organised crime, and national and regional efforts to deal with these crimes across East Africa. The event welcomed some 80 experts on international and transnational criminal law, academics, legal practitioners, the media, and civil society organisations from across Africa and other parts of the world.

The proceedings were opened by Tanzanian Court of Appeal Judge, **Sauda Mjasiri**, who said, “*It is indeed timely and of vital importance to explore the current state of International criminal justice, its links with transnational organised crimes in East Africa and the development of*

KEY TOPICS DISCUSSED

1

Is international criminal law of importance in East Africa?

2

National and regional efforts to prosecute international and transnational crime

3

Crime beyond borders – tackling transnational organised crime

4

The potential and promise of linking the investigation and prosecution of transnational organised crime to that of international crime



Economic Crime Branch, United Nations Office on Drugs and Crime; **Mr. Justice Buwaneka Aluwihare**, Supreme Court of Sri Lanka; **Emmanuelle Marchand**, Legal Counsel, Civitas Maxima; and **Abbah Sambo Usman**, Economic and Financial Crimes Commission, Nigeria.

There were representatives from a range of organisations, including the: Office of the Legal Counsel, African Union Commission; African Court on Human and Peoples' Rights; East African Community; East African Court of Justice; United Nations Mechanism for International Criminal Tribunals; East African Law Society, Tanzania Network of Legal Aid Providers; and Pan African Lawyers Union.

possible networks to enhance judicial co-operation and exchange of information". Other guest speakers at the opening ceremony were **Mohamed Chande Othman**, former Chief Justice of Tanzania and AGJA member, **Isaac Lenaola**, Deputy Principal Judge of the East African Court of Justice, and **Fritz Schuchmann**, Legal Counsel of the Embassy of the Federal Republic of Germany in Dar es Salaam.

The roster of panellists included: **Brenda J. Hollis**, Prosecutor, Residual Special Court for Sierra Leone; **Shirani de Fontgalland**, International Law Expert; **Anton Steynberg**, Senior Trial Lawyer, Office of the Prosecutor, ICC; **Candice Welsch**, Chief, Implementation Support Section, Corruption and

As part of the project's launch activities, the Wayamo Foundation facilitated the first network meeting of DPPs and DCIs from Kenya, Tanzania and Uganda, who met with the aim of sharing their experience and establishing a network to ensure effective investigation and prosecution of complex crimes and intensification of inter-agency collaboration at the regional (East African) level. The participants welcomed the initiative and agreed that forming a network was essential to regional co-operation. Together, they drafted a Framework Agreement which seeks to establish and set out the key features and main objectives of the proposed East African Network of Prosecutors and Investigators.

As envisaged, the network will have three main functions, namely:

- (1) to serve as a mechanism for exchanging knowledge, sharing policies, tools, templates and guidelines on topics such as witness protection, arrest and extradition;
- (2) to enhance the working relationship between police and prosecutors during the course of investigations; and,
- (3) to be an avenue for regional and cross-border collaboration and mutual legal assistance in international and transnational criminal cases.



In addition, a two-day training session for prosecutors and investigators from Kenya, Rwanda, Tanzania and Uganda was held on 7 and 8 June, with the overall aim of improving local competency to address core international crimes and transnational organised crime. This model is purpose-designed to put the complementarity principle into practice, while simultaneously fostering synergies between the international criminal justice community and national legal actors. Sixteen investigators and prosecutors from Kenya, Tanzania and Uganda received training in the investigation and prosecution of international and transnational crimes (with special sessions on cybercrime, financial crimes, including the “*Anti-money laundering task force*”, and asset recovery). Thanks to the training and experiences shared in this first session, the 16 participants reported that they had gained knowledge and skills which they now planned to use in their professional lives to prosecute and investigate international crimes and transnational organised crime.



Noting that a well-informed population through well-trained media contributes to public accountability, and to sustained pressure for equality and access to justice, the organisers also arranged a special side-line engagement with the media. Journalists from Kenya, Rwanda, Uganda and Tanzania were invited to further develop their reporting skills, and interview some of the guest speakers during the symposium.

7-8 AUGUST 2017

Arusha, Tanzania

■ **7 August 2017:** International Symposium: *"Judicial Independence — A Foundation for Combating International and Transnational Crime"*

■ **8 August 2017:** Judges' retreat on judicial independence

On 7 August, Arusha played host to an international symposium aimed at exploring: judicial independence, integrity and ethics in the fight against international and transnational crime; case studies on the role of the judiciary in addressing human trafficking and corruption; and the relationship between domestic, regional, and international courts in combating serious crimes.

Following welcoming remarks by **Bettina Ambach**, Director of the Wayamo Foundation and **Paulette Brown**, Immediate Past President of the American Bar Association (ABA), the event was officially opened by **Ibrahim H. Juma**, Acting Chief Justice of Tanzania and **Mohamed Chande Othman**, former Chief Justice

of Tanzania and member of the AGJA. An opening conversation between **US Supreme Court Judge Sonia Sotomayor** and **Appeals Court Judge M. Margaret McKeown**, was followed by addresses by guest speakers, **Navi Pillay**, Former UN High Commissioner for Human Rights and AGJA member, and **Bertram Schmitt**, Judge at the ICC.

Co-convened by the Wayamo Foundation and the ABA Rule of Law Initiative, with the financial support of the German Federal Foreign Office and the United States Agency for International Development, the symposium brought together senior judges from the East African region, experts on international criminal justice, academics and practitioners from the fields of international and transnational criminal law, and members of civil society. Participants discussed the adjudication of international and transnational crime, human trafficking and corruption, and prosecution of core international crimes and other serious crimes.

Throughout the symposium, the panellists expressed their commitment to protecting and enhancing judicial independence, as well as increasing co-operation among judiciaries, courts, and relevant institutions, both regionally and internationally. This was particularly important in order to tackle crimes that were of relevance across borders, i.e., not only international crimes, but also transnational crimes such as poaching, human trafficking, cybercrime, and corruption. There was widespread acknowledgement of the need to ensure sufficient political will to investigate and prosecute these crimes effectively, and ensure the independence of judiciaries and courts. Representatives from local, regional and international courts, as well as the Mechanism for International

KEY TOPICS DISCUSSED

1

Judicial independence and ethics in the fight against transnational crime

2

Case studies on the role of the judiciary in addressing human trafficking and corruption

3

The relationship between domestic, regional, and international courts in combating serious crime



Criminal Tribunals, reiterated their shared interest in working together to combat impunity and improve collaboration between institutions.

As part of the Wayamo Foundation's commitment to spreading knowledge and building capacity among judges in the East African region, the symposium was followed by a one-day retreat on 8 August, attended by fifteen judges from national, regional, and international courts. They shared experiences in tackling transnational organised crime, building effective judiciaries and courts, and protecting the independence of their institutions. The retreat was a powerful demonstration of the commitment shown by both the participants and the Wayamo Foundation to strengthen the rule of law through the fostering of strong, independent and effective judiciaries.

20-22 NOVEMBER 2017

Kigali, Rwanda

- **20 November 2017:** Network Meeting for DPPs and DCIs of East Africa
- **21 November 2017:** International Symposium: *"International crimes, domestic justice – accountability and capacity building in East Africa"*
- **22 November 2017:** Capacity building for prosecutors and investigators from East Africa on international and transnational organised crimes

Over a three-day period from 20-22 November 2017, Kigali, Rwanda, played host to the Wayamo Foundation's third East African international justice event aimed at exploring the current state of international criminal justice, its links with transnational organised crime, and national and regional efforts to deal with these crimes. The event was held thanks to the unstinting collaboration of the Rwandan Ministry of Justice and the financial support of the German Federal Foreign Office.

Of the East Africa Programme's four "pillars", perhaps the most widely reported in the media was the well-attended international public symposium on the theme of *"International crimes, domestic justice – accountability and capacity building in East Africa"*. In addition to the participation of co-hosts, **Prosecutor General Jean-Bosco Mutangana** and **Commissioner General of Police Emmanuel Gasana**, the symposium was formally opened by the **Hon. Evode Uwizeyimana**, Minister of State in the Minister of Justice of Rwanda and **Dr. Peter Woeste**, German

KEY TOPICS DISCUSSED

1

The impact of international, regional and domestic justice systems

2

Achieving justice and accountability for international crimes (from the Ugandan ICD to universal jurisdiction cases)

3

Witness protection and linkages between international and transnational organized crimes

4

Networks and International judicial cooperation





Ambassador to the Republic of Rwanda.

The symposium brought together an eminent array of international and local experts on international criminal justice and transnational organised crime, non-governmental organisations, academics, practitioners, and members of civil society. Those taking part included: Burundi Judge and former President of the African Court on Human and Peoples' Rights, **Gerard Niyungeko**; Nigerians **Adeniran Akingbolahan**, Rule of Law Advisor, and **Charles Adeogun-Phillips**, Litigation Practitioner; **Mike Chibita**, Ugandan Director of Public Prosecutions, **Sarah Kasande Kihita**, International Centre for Transitional Justice, Uganda; **Tora Holst**, Former Chief Public Prosecutor of the Swedish Specialised International Crimes Unit; Kenyans **Victor Mule**, Prosecutor and Head of International Co-operation, Extradition and Mutual Legal Assistance Division and **Stella Ndirangu**, International Commission of Jurists; and **William Rosato** and **Gerhard van Rooyen** from the ICC.

Some of the critical topics discussed were: the impact of international, regional and domestic justice systems; achieving justice through International Crime Divisions

and universal jurisdiction; witness protection; linkages between transnational organised crime and core international crimes; and judicial networks.

Another of the programme's pillars was the following day's intensive training session for investigators and prosecutors from Kenya, Rwanda, Tanzania and Uganda, aimed at building competencies in the investigation and prosecution of international and transnational crimes domestically. This model is designed to put the complementarity principle into practice, whilst simultaneously fostering synergies between the international criminal justice community and national legal actors. The expertise of the previous day's panellists was harnessed for training purposes where topics such as cybercrime, and prosecuting international crimes from an international and domestic perspective, extradition and mutual legal assistance and witness protection were covered. Wayamo's Africa Director, **Joseph "Kojo" Roberts-Mensah**, and Co-ordinator for East Africa, **Judie Kaberia**, brought together a bevy of fellow journalists from several East African countries to further develop their reporting skills, interview some of the guest speakers during the symposium, and build knowledge on critical justice-related issues affecting the region, including conflict-sensitive reporting and hate speech. **Professor Kayumba** led a lively session on hate speech, with special attention to modern media techniques being employed, using Rwanda and its experience as a primary example.



However, the pillar of greatest potential practical importance was arguably the second High-level Network Meeting of DPPs and DCIs from Kenya, Tanzania, Uganda and Rwanda held on Monday 20 November. It aimed to strengthen the rule of law by ensuring effective investigation and prosecution of complex crimes and intensify inter-agency collaboration at the regional level.

“CHANGING THE NARRATIVE- FROM WITHDRAWAL TO CONSTRUCTIVE ENGAGEMENT”- INTERNATIONAL JUSTICE SYMPOSIUM



Project description

2016 saw the submission of notices of withdrawal from the ICC by South Africa, Burundi and the Gambia. Whilst only Burundi followed through with its withdrawal, the issue nonetheless remains important and in need of significant, focused attention. Given that the Wayamo Foundation and the AGJA seek to facilitate dialogue and promote constructive engagement on matters of international criminal justice, the organisations held a symposium to address the challenges faced by several African states in the execution of their duty to co-operate with the ICC, and other relevant international justice issues.

7-8 JULY 2017

Dakar, Senegal

■ **7-8 July:** International Symposium: “*Changing the Narrative – From Withdrawal to Constructive Engagement*”

From 7-8 July 2017, Senegal's capital of Dakar was the scene of a public symposium entitled, “*Changing the Narrative – From Withdrawal to Constructive Engagement*”. The symposium brought together a number of leading stakeholders, experts, scholars, and practitioners in order to discuss a range of topics, including the current status of the relationship between **African states** and the **ICC**, possible reforms to improve the Court and interpreting the **African Union's** ICC Withdrawal Strategy as a package of reforms, the role of hybrid mechanisms in prosecuting international crimes, combating impunity at a regional level, the activation of the crime of aggression, and the thorny issue of sequencing peace and justice.

Attending and participating in the lively discussions were representatives, from the ICC, United Nations agencies, Kosovo Specialist Chambers, Extraordinary African Chambers in Senegal, the Mechanism for International Criminal Tribunals (MICT), International Criminal Tribunal for Rwanda, Central African Republic's Special Criminal Court (SCC), NGOs such as Amnesty International and the Institute for Security Studies, and the academic world.

The sheer wealth of experience and knowledge in the room was further underlined by the number of dignitaries who chose to take an active part in the proceedings. These included former Prime Minister of Senegal, **Aminata Touré**, former Transitional President of the Central African Republic, **Catherine Samba-Panza**, Chief Justice of The Gambia, **Hassan Bubacar Jallow**, Former Chief Justice of Tanzania, **Mohamed Othman Chande**, Permanent Representative of Liechtenstein to the United Nations, Ambassador **Christian Wenaweser**, former UN High Commissioner for Human Rights **Navi Pillay**, former Chief Prosecutor of the United Nations International Criminal Tribunal for Rwanda and the former



Yugoslavia, **Richard Goldstone**, and former United States Ambassador-at-Large for War Crimes Issues, **Stephen Rapp**. Ambassador Wenaweser agreed to take part in a one-to-one conversation with Wayamo's International Criminal Justice Lawyer, Angela Mudukuti, on the activation of ICC jurisdiction over the crime of aggression.

On balance, it was the victims of international crimes and human rights abuses who were the focus of many of the participants' comments. **Richard Goldstone** was *"delighted at the attention that had been paid to victims"* over the course of the discussions. This message was driven home by Justice **Mohamed Chande Othman**, who stressed the need to look at the *"gaps"* when addressing the subject of victims, and **Navi Pillay** who, referring specifically to violence against women and girls, wanted to see *"justice delivered holistically"* to all victims. Perhaps the most moving testimony, however, came from AGJA member **Tiyanjana Maluwa**, who quoted a woman refugee in Dafur as saying: *"We want peace. If it is flying in the air, I am prepared to fly and catch it. If it is buried underground, I am prepared to dig to get it. If it is available in the market, I will find the money to buy it."*



Following the symposium, the Wayamo Foundation and the AGJA convened a two-day training workshop for the members of the Special Criminal Court in the Central African Republic (10-11 July), marking the first time that the new staff members of the SCC had all been brought together.

See Annex 1: Capacity building workshops for the members of the SCC, 2017 activities.

KEY TOPICS DISCUSSED

1

From withdrawal to constructive engagement

2

Change from within — building a better ICC

3

Complementarity: a holistic approach to international criminal justice

4

The activation of ICC jurisdiction over the crime of aggression

5

International criminal justice beyond the ICC

6

Peace and justice — finding a balance

CAPACITY BUILDING WORKSHOPS FOR THE MEMBERS OF THE SPECIAL CRIMINAL COURT IN THE CENTRAL AFRICAN REPUBLIC



Project description

The Special Criminal Court of the Central African Republic (CAR) was created on 3 June 2015 by Organic Law No. 15.003. Pursuant to Article 3, the SCC has jurisdiction to *"try serious violations of human rights law and serious violations of international humanitarian law committed on the territory of the Central African Republic since 1 January 2003, as defined by the Central African Republic Penal Code, and under the international obligations entered into by the Central African Republic in the field of international law, in particular the crime of genocide, crimes against humanity and war crimes."*

This Court will operate alongside the national courts and the ICC, and a strategy will have to be finalised to clarify the relationship between these three jurisdictions. Operationalising the SCC will

be an enormous task which will require strong political and financial support. Not only will the Court have to address many complex and serious crimes in a dangerous environment (only 12 of the country's 16 prefectures are under the control of the national army), but it will also have to operate with limited financial human resources, and its team of national and international prosecutors will have to work together and gain public confidence.

In order to support the SCC's establishment and full operationalisation, the Wayamo Foundation held a workshop in 2016 to: raise awareness about its significance and importance; build domestic capacities; identify challenges and design new and purpose-tailored training programmes.

10-11 JULY 2017

Dakar, Senegal

■ **10-11 July:** Capacity building for prosecutors of the newly established Special Criminal Court in the Central African Republic

Following the above-mentioned Dakar symposium, the Wayamo Foundation and the AGJA convened a two-day training workshop (10-11 July), marking the first time that the new staff members of the SCC had all been brought together.

The workshop was attended by eight (out of nine) SCC magistrates, members of the Extraordinary African Chambers, and several international experts, including AGJA member **Catherine Samba-Panza**, the former CAR Transitional President and a key supporter of the 2015 law establishing the SCC, MICT Prosecutor **Serge Brammertz**, AGJA member **Fatiha Serour**, Director of Serour Associates for Inclusion and Equity, **Erica Bussey**, legal advisor to Amnesty International, **Gberdao Gustave Kam**, former President, and **Mbacké Fall**, former Prosecutor of the hybrid mechanism in Senegal.

SCC Prosecutor, **Toussaint Muntazini** concluded the workshop by saying, *"This is the first time that we all met together over six days of training and informal activities. It allowed us to build a team and develop a team spirit. The work during these past six days has been extremely intense and very instructive. We benefited from the experience of those who have worked in jurisdictions that preceded the SCC and, personally, I feel much stronger in the belief that many people want the SCC to succeed and are ready to support the Court in this immense and difficult task ahead."*

KEY TOPICS DISCUSSED

1

Devising a prosecutorial strategy, a criminal justice policy and a method of prioritising cases

2

The challenges of investigating international crimes

3

The relationship between the SCC, ICC and ordinary courts in light of the principle of complementarity

4

Operational challenges, budgetary and organisational constraints



STRENGTHENING JUSTICE AND ACCOUNTABILITY IN NIGERIA THROUGH CAPACITY BUILDING FOR CIVIL AND MILITARY INVESTIGATORS AND PROSECUTORS

Project description

Nigeria has been suffering from violent conflict between Boko Haram and government forces for many years. In 2010, the ICC commenced a preliminary examination into the situation in Nigeria, looking at allegations of crimes against humanity and war crimes committed by both Boko Haram and the Nigerian security forces. Its preliminary examination focuses on the existence and genuineness of Nigerian national proceedings relating to these crimes. This is in line with the principle of complementarity, whereby the Court will only investigate serious crimes or prosecute an individual where the state concerned is unwilling or unable to do so itself.

This current training project (2016–2018), which is organised in collaboration with the International Nuremberg Principles Academy (Nuremberg Academy) and has held 3 workshops in 2017, aims to strengthen justice and accountability in Nigeria, and enhance domestic capacity to investigate and prosecute complex international crimes in a genuine manner, particularly through a comparative analysis of Rome Statute offences and the equivalent domestic crimes in Nigeria. If Nigeria can investigate and/or prosecute the crimes allegedly committed by Boko Haram and the Nigerian security forces domestically, it will be acting in accordance with its international obligations under the Rome Statute and will potentially obviate the need for ICC intervention.

Local partners include: **Abubakar Malami**, Senior Advocate of Nigeria, Attorney-General; **Muhammed Umar**, Director of Public Prosecutions for the Federation, Federal Ministry of Justice, Abuja; **Akingbolahan Adeniran**, Rule of Law Advisor, Office of the Vice-President of the Federal Republic of Nigeria; Gen. **Tukur**

Yusuf Buratai, Chief of Army Staff; and **Olawale Fapohunda**, Former Attorney-General of Ekiti State and member of the Presidential Investigation Panel to Review Compliance of the Armed Forces with Human Rights Obligations and Rules of Engagement.

A wide range of experts with extensive experience of prosecuting international crimes coming within the jurisdiction of the ICC, other international criminal tribunals and hybrid courts, and/or with in-depth knowledge of Nigerian legislation and military law have participated in the training sessions.

Feedback received from participants has been positive, with both military and civil participants expressing their gratitude and indicating that the workshops were “*very interactive, informative and educational*”.



13-15 MARCH 2017

Lagos, Nigeria

■ Capacity building for prosecutors to address the most serious and complex crimes under Nigerian criminal law

From 13-15 March 2017 a capacity-building workshop for prosecutors was held in collaboration with the Nigerian Federal Ministry of Justice.

The 19 prosecutors travelled from Abuja to Lagos to attend the intensive three-day course given by a quartet of leading legal practitioners, thoroughly conversant with the day-to-day problems of prosecution, ranging from the legal, strategic and practical, to the purely ethical. These included: **Claus Molitor**, Office of the Prosecutor, ICC; **Alex Whiting**, Professor, Harvard Law School; **Adejoké Babington Ashaye**, International law specialist and former ICC investigator; **Chino Obiagwu**, National Co-ordinator of the Legal Defence & Assistance Project.

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The workshop was a resounding success, with a hands-on, interactive, practice-oriented approach, that allowed for some extremely lively and instructive discussion.

Judging by the reactions of the participants and trainers alike, the workshop was a resounding success, with a hands-on, interactive, practice-oriented approach that allowed for some extremely lively and instructive discussion, further insight into the international dimensions of the work involved, and ample space for a series of challenging exercises, purpose-designed to hone their prosecution skills and test their ability to work in teams on real case scenarios.



28-30 JUNE 2017

Lagos, Nigeria

■ Capacity building for military prosecutors to address the most serious and complex crimes under Nigerian criminal law

From 28-30 June, Wayamo held a capacity-building workshop for military investigators and prosecutors in Lagos. The three-day workshop, which was opened by **General Yusuf Shalangwa, Director of Legal Services of the Nigerian Army**, was the first joint training session to be organised for military investigators and prosecutors.

The list of trainers included national and international experts in international criminal justice and military law, including: **Andrew Cayley**, QC, Director of Service Prosecutions, Service Prosecuting Authority, Ministry of Defence, UK; **Claus Molitor**, Office of the Prosecutor, ICC; **Charles Garraway**, Fellow Human Rights Centre, University of Essex, Retired Colonel, United Kingdom Army Legal Services; **Dapo Akande**, Professor of Public International Law, University of Oxford; **Fergal Gaynor**, Team Leader and Senior Counsel, Commission for International Justice and Accountability; **Olawale Fapohunda**, former Attorney General of Ekiti State, and Chair, Nigerian Military Human Rights Dialogue; and **Rodney Dixon** QC, Barrister, Temple Garden Chambers, London.



KEY TOPICS DISCUSSED

1

Introduction to International Criminal Law and the Geneva Conventions: Crimes against Humanity and War Crimes

2

Command responsibility and superior orders

3

The ICC in Nigeria – Status of the activities of the OTP and admissibility requirements

4

Complementarity regime at the ICC - Legal requirements and practical examples including the UK, Kenya and Libya

5

Military justice system and military rules of evidence

6

Respecting human rights: overview of the report of the Special Board of Inquiry to investigate allegations of human rights violations by the Nigerian Army

7

National investigations and prosecutions for war crimes and crimes against humanity

2-4 NOVEMBER 2017

Abuja, Nigeria

■ Capacity building for civil and military prosecutors to address the most serious and complex crimes under Nigerian criminal law

Over the course of three days from 2-4 November 2017, the fourth of the current series of capacity-building workshops on “*Strengthening Justice and Accountability in Nigeria*” was held in Abuja.

This workshop marked a radical shift in that it was **the first to combine training for both military and civil investigators and prosecutors** and addressed investigating and prosecuting the most serious and complex crimes under Nigerian criminal law (international, transnational and terrorism related crimes), including crimes that potentially fall under the jurisdiction of the ICC.

Opening the event, **General Yusuf Shalangwa**, Director Legal Services Nigerian Army, noted that the military was in the forefront of investigations of these crimes in Nigeria and that the Army would continue to operate strictly within the ambit of the law. On behalf of the civilian participants, **Yusuf Abdulkadir**, Assistant Director of Public Prosecutions, said that they were looking forward to “*sharing ideas*”.

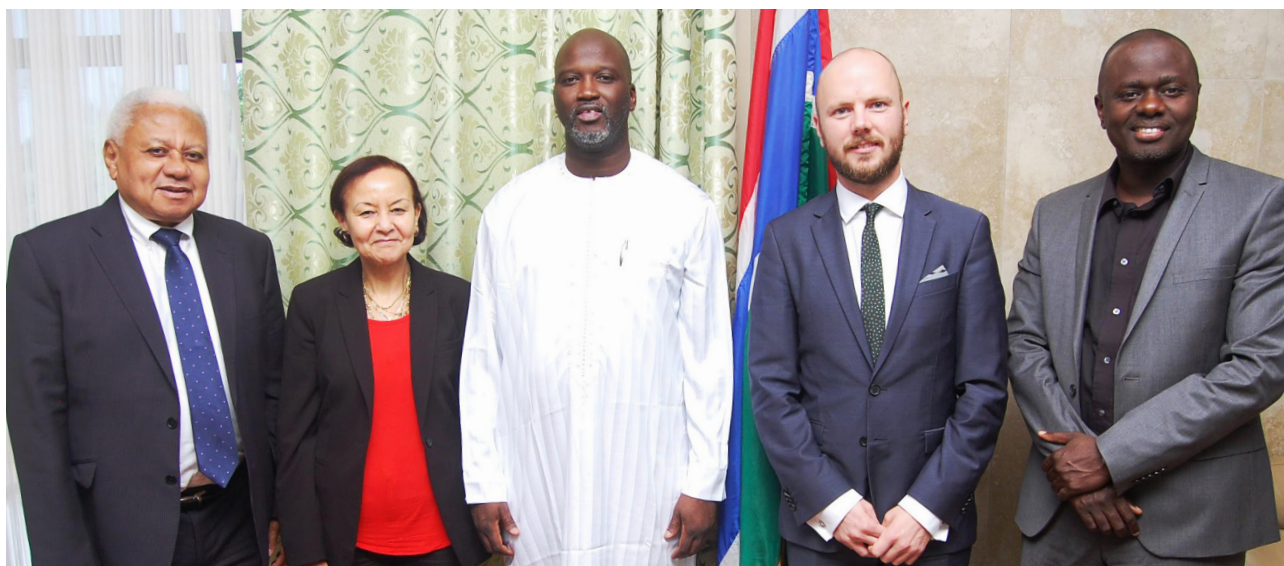
In order to tailor the content to domestic needs, lecturers and trainers represented a carefully chosen mix of leading legal experts and practitioners from Nigeria and abroad. These included: **Segun Jegede**, former prosecutor at the International Criminal Tribunal for Rwanda (ICTR); **Charles Adeogun-Phillips**, Litigation Practitioner and Former Lead International Prosecutor at ICTR; and **Sofia Candeias** from the UN Team of Experts on the Rule of Law and Sexual Violence in Conflict.

Contribution by the Office of the Prosecutor of the ICC

The Situation Analysis Section, responsible for preliminary examinations at the OTP of the ICC, is contributing to the training events by sending a representative to the various workshops to provide an overview of the potential cases which have been identified for admissibility assessment purposes.



TRANSITIONAL JUSTICE ADVICE TO THE GAMBIA



Project description

The AGJA has been engaging with The Gambia on matters pertaining to the country's justice and reconciliation efforts. Following its democratic transition earlier this year, The Gambia embarked on a remarkable political journey and **President Adama Barrow** has not only pledged to introduce a programme of transitional justice, but has also affirmed his commitment to international criminal justice. One of his first steps was to appoint current AGJA chairman **Hassan Bubacar Jallow** as the nation's Chief Justice.

In July 2017, the AGJA signalled its interest in and commitment to offering assistance and expertise during the transition period. Members of the AGJA and the Wayamo Foundation were subsequently invited by the Gambian government to comment and advise on the *"Truth, Reconciliation and Reparations Commission Bill, 2017"* and to put forward recommendations on how the Bill could be strengthened. The resulting advisory report informed the design of the Commission. In the wake of the delegation's consultations with key stakeholders, Wayamo/AGJA are now drawing up a hands-on training and capacity-building programme relating to justice and accountability efforts for human rights violations and international crimes in the country.

31 OCTOBER – 3 NOVEMBER 2017

Banjul, The Gambia

■ AGJA delegation to The Gambia

From 31 October - 3 November 2017, the AGJA and Wayamo Foundation sent a fact-finding mission to The Gambia in response to an invitation from **Justice Minister, Abubacarr Tambadou**. Its aim was to understand the nature of The Gambia's ongoing transition from authoritarian rule under former President Yahya Jammeh to democracy and the rule of law. Over a series of wide-ranging consultations with key stakeholders (including the Vice-President, Minister of Justice, Inspector General of Police, parliamentarians, embassies, media, UN, and civil society organisations) the delegation sought to form an idea of some of the challenges and priorities confronting the achievement of justice and accountability in the country. The delegation was led by former Tanzanian Chief Justice, **Mohamed Chande Othman**, and included human rights advocate, **Fatiha Serour**, and Wayamo Foundation Deputy Director, **Mark Kersten**.

A very well-attended public event entitled, *"The Gambia in Transition — Lessons and Examples from Abroad"*, was held at the University of The Gambia Law Faculty, and afforded an invaluable opportunity for vibrant and constructive discussion and interaction.

HYBRID COURTS PROJECT

Project description

The project, launched in January 2017, analyses the impact of 'hybrid' justice mechanisms, featuring varying combinations of international and domestic staff, operative law, structure, financing and rules of procedure in post-conflict states. Its aim is to: produce a number of publications, including Guidelines on the Establishment of Hybrid Tribunals; conduct an authoritative comparison of past and present hybrids; carry out a critical evaluation of the impact of hybrids on resilience in post-conflict societies, including within wider programmes of transitional justice; and draw up policy advice for the ICC on how hybrids should be evaluated in terms of complementarity requirements.

Funded by the Rockefeller Foundation and the London School of Economics, Institute of Global Affairs and the Wayamo Foundation,

this project has brought together several experts on hybrids from academia, the ICC, and hybrid tribunals themselves.



23-24 MARCH 2017

London, United Kingdom

■ **1st workshop:** assessment of hybrid justice mechanisms

From 23-24 March 2017, the Hybrid Courts Project convened a group of approximately 40 expert practitioners and academics in London, UK, to discuss the design and application of hybridity in international tribunals. The aim of the workshop was to assess the diversity of ways in which tribunals can be hybridised, and to learn from individuals who have studied or worked at hybrid courts in various capacities. It included members of the registry, prosecution, and defence counsel, as well as diplomats, interested observers and funders, and academics. The discussions and findings of the London workshop were collected and fed directly into a subsequent meeting in Dakar, Senegal, which had the aim of drafting guidelines on the establishment of hybrid tribunals.

10-11 JULY 2017

Dakar, Senegal

■ **2nd workshop:** drafting guidelines for the establishment of hybrid tribunals

From 10-11 July, the Hybrid Courts Project convened a workshop aimed at drafting guidelines for the establishment of hybrid tribunals. Along with project leaders **Dr. Kirsten Ainley**, Assistant Professor in the Department of International Relations and Director of the Centre for International Studies at the London School of Economics and Political Science, and **Mark Kersten**, Deputy Director of the Wayamo Foundation, workshop participants included AGJA member **Tiya Maluwa**, **Fidelma Donlon**, Registrar of the Kosovo Specialist Chambers, **Philipp Ambach**, Chief of the Victims Participation and Reparations Section in the Registry of the ICC, and Wayamo's International Criminal Justice Lawyer, **Angela Mudukuti**. The Hybrid Court Guidelines are scheduled to be finalised and published in 2018.

CONFERENCES AND SIDE EVENTS

The South African-German Justice Dialogue

From 27-28 March 2017 in Pretoria, the South African-German Justice Dialogue brought together South African, German and international experts in the areas of international criminal law and human rights, as well as 25 participants, including diplomats, civil society representatives and academics. The event was organised in co-operation with the German Federal Foreign Office and commenced with welcoming remarks by **Michael Koch**, Director-General, Legal Department, Federal Foreign Office, Germany, followed by a keynote speech delivered by **Navi Pillay**, Former UN High Commissioner for Human Rights.

The South African-German Justice Dialogue sought to contribute to constructive, respectful and open engagement on issues relating to the relationship between the ICC and its African constituency, recognising the key role that both Germany and South Africa have played in dealing with the challenges of achieving international justice and accountability.

Discussions and interventions centred around concerns and perceptions of the ICC, including the role of the UN Security Council, the issue of head-of-state immunity, achieving peace and justice, and reform initiatives within the ICC. Discussions were conducted under Chatham House Rules.



INTERNATIONAL CRIMINAL COURT ASSEMBLY OF STATES PARTIES: SIDE EVENT 1

“Weaving the Strands – Domestic, Regional, Hybrid and ICC Justice”

During the 16th Annual International Criminal Court Assembly of States Parties, the Wayamo Foundation and the AGJA held a side event entitled, “*Weaving the Strands – Domestic, Regional, Hybrid and ICC Justice*”, on Thursday 7 December 2017. The event was made possible by the generous funding of Switzerland, The Netherlands, Finland, Norway, Germany, and the United Kingdom.

ICC President, **Judge Silvia Fernández de Gurmendi** opened the event and positively highlighted the expanding activities of the AGJA, which she saw as an important actor and a voice of expertise in international criminal justice.

Her remarks were followed by **Navi Pillay** who began by discussing the relationship between the ICC and Africa while former United States Ambassador-at-Large for War Crimes, **Stephen Rapp**, focused on different domestic justice initiatives and the need to promote and encourage domestic accountability.

Tackling regional justice, **Charles C. Jalloh**, Professor of Law at Florida International University gave a detailed, analytical account of the challenges and opportunities present in the idea of establishing an African Court with criminal jurisdiction, as proposed by the Malabo Protocol.

The side event also featured a presentation from the AGJA's newest member, **Zainab Bangura**, former United Nations Special Representative on Sexual Violence in Conflict, who stressed the importance of having international, regional, hybrid and domestic justice to ensure the successful investigation and prosecution of conflict-related sexual violence.

A rigorous and rich debate followed, with numerous questions and comments coming from the floor. The event was brought to a close by AGJA chairman and Chief Justice of the Gambia, **Hassan Bubacar Jallow**, who, in his role as moderator, summed up the evening's deliberations by noting that justice at the regional, domestic and international level is vital to end impunity and protect the rule of law.



INTERNATIONAL CRIMINAL COURT ASSEMBLY OF STATES PARTIES: SIDE EVENT 2

“Immunities under International Law”

The second side event, co-hosted by the governments of the Republic of Uganda, Republic of Sierra Leone and the Federal Republic of Nigeria, was held on Friday 8 December 2017 and dealt with the thorny issue of “*Immunities Under International Law*”.

The event began with opening remarks from Ambassador **Adonia Ayebare** from Uganda, who highlighted the importance of the event, given the existing concerns surrounding head of state immunity in international justice. The event was also attended by **Amadu Koroma**, Deputy Permanent Representative of Sierra Leone and the Permanent Representative of Nigeria to the United Nations, **Tijjani Muhammad Bande**.

The panel included leading experts, **Dapo Akande**, Professor of Public International Law, University of



Oxford and AGJA member, **Dire Tladi**, Professor of International Law, University of Pretoria, Special Adviser to the South African Minister of International Relations and Co-operation, and member of the UN International Law Commission, **Elise Keppler**, Associate Director of the International Justice Programme at Human Rights Watch, and **Max du Plessis**, Advocate of the High Court of South Africa and Associate at Doughty Street Chambers London.

Inspired by the spirited and opposing views presented by the panellists, there were numerous questions from members of the audience. A lively discussion followed, and panellists were then given an opportunity to make closing remarks.

ANNEX 1

LIST OF 2017 ACTIVITIES

7-8 JULY 2017

Dakar, Senegal

- International Symposium :
"Changing the Narrative – From
Withdrawal to Constructive
Engagement"

10-11 JULY 2017

Dakar, Senegal

- Capacity building for
prosecutors of the newly
established Special Criminal Court
in the Central African Republic

10-11 JULY 2017

Dakar, Senegal

- 2nd workshop: Hybrid Justice
Project meeting

31 OCTOBER – 3 NOVEMBER 2017

Banjul, The Gambia

- AGJA delegation to The Gambia

13-15 MARCH 2017

Lagos, Nigeria

- Capacity building for
prosecutors to address the most
serious and complex crimes under
Nigerian criminal law

28-30 JUNE 2017

Lagos, Nigeria

- Capacity building for military
prosecutors to address the most
serious and complex crimes under
Nigerian criminal law

23-24 MARCH 2017

London, UK

- 1st workshop: Hybrid Justice
Project meeting

7 DECEMBER 2017

New York, USA

- ASP Side Event Conference:
"Weaving the Strands - Domestic,
Regional, Hybrid, and ICC Justice"



20 NOVEMBER 2017**Kigali, Rwanda**

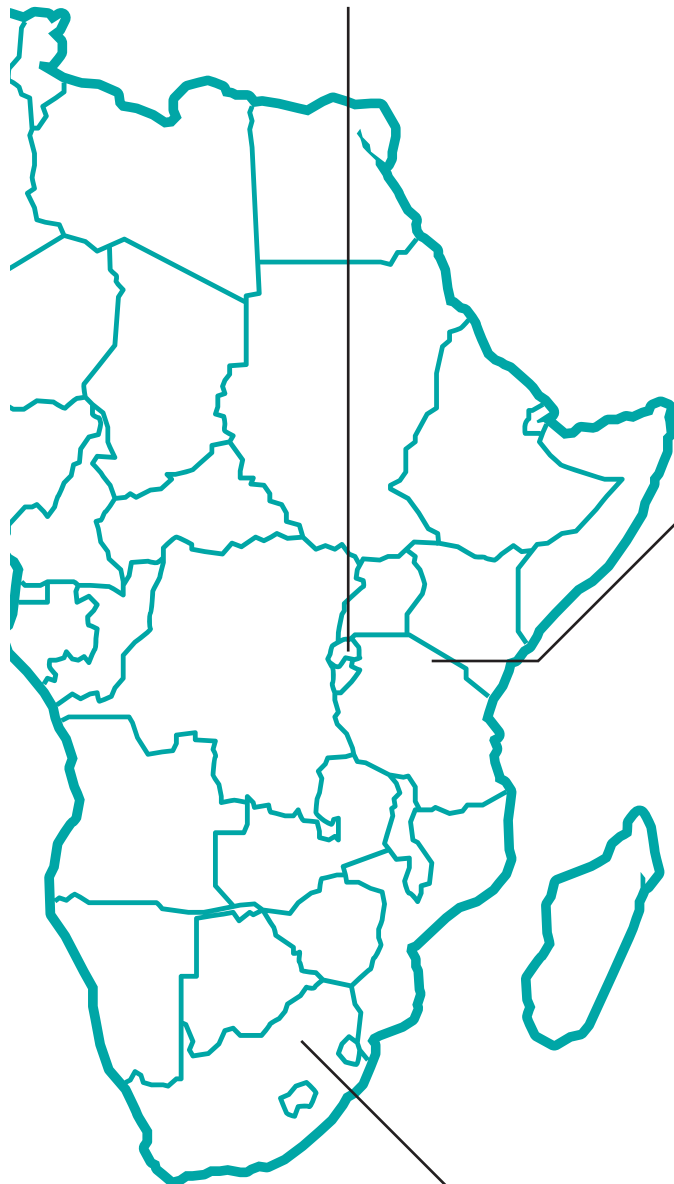
- Network Meeting for DPPs and DCIs of East Africa

21 NOVEMBER 2017**Kigali, Rwanda**

- International Symposium: "International Crimes, domestic justice – Accountability and capacity building in East Africa"

22 NOVEMBER 2017**Kigali, Rwanda**

- Capacity building for prosecutors and investigators from East Africa on international and transnational organised crimes

**5 JUNE 2017****Arusha Tanzania**

- Network Meeting for DPPs and DCIs of East Africa

6 JUNE 2017**Arusha, Tanzania**

- International Symposium: "Fighting Impunity in East Africa – Ensuring accountability for international and transnational organised crimes"

7-8 JUNE 2017**Arusha, Tanzania**

- Capacity building for prosecutors and investigators from East Africa on international and transnational organised crimes

7 AUGUST 2017**Arusha, Tanzania**

- International Symposium: "Judicial Independence — A Foundation for Combating International and Transnational Crime"

8 AUGUST 2017**Arusha, Tanzania**

- Judges' retreat on judicial independence

2-4 NOVEMBER 2017**Abuja, Nigeria**

- Capacity building for civil and military prosecutors to address the most serious and complex crimes under Nigerian criminal law

27-28 MARCH 2017**Pretoria, South Africa**

- South African-German Justice Dialogue

ANNEX 2

AGJA MEMBERS



Abdul Tejan-Cole

Executive Director of the Open Society Initiative for West Africa



Dr. Athaliah Molokomme

Ambassador and Permanent Representative of Botswana to Switzerland and the UN Office in Geneva, and former Attorney-General of Botswana



Betty Kaari Murungi

Senior Advisor on Transitional Justice to the Joint Monitoring and Evaluation Commission (JMEC), South Sudan



Catherine Samba-Panza

Former Transitional President of the Central African Republic



Richard J. Goldstone

Former Chief Prosecutor of the United Nations International Criminal Tribunal for Rwanda and the former Yugoslavia



Femi Falana

Human rights activist and lawyer



Mohamed Chande Othman

Former Chief Justice of Tanzania



Hassan Bubacar Jallow

Chief Justice of the Gambia, former Prosecutor at the International Criminal Tribunal for Rwanda and International Residual Mechanism for Criminal Tribunals



Dapo Akande

Professor of Public International Law, University of Oxford



Tiyanjana Maluwa

H. Laddie Montague Chair in Law, Pennsylvania State University School of Law; Former Associate Dean for International Affairs, School of Law & Director, School of International Affairs



Navi Pillay

Former UN High Commissioner for Human Rights



Zainab Bangura

Former United Nations Special Representative on Sexual Violence in Conflict



Fatiha Serour

Director of Serour Associates for Inclusion and Equity

ANNEX 3

WAYAMO TEAM



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Communication Officer

ANNEX 4

FUNDERS

Ministry for Foreign Affairs of Finland



Ford Foundation



German Foreign Office



IGA-Rockefeller Research and Impact Fund



International Nuremberg Principles Academy



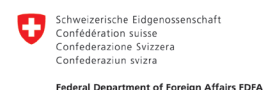
Norwegian Ministry of Foreign Affairs



Government Offices of Sweden



Swiss Confederation: Federal Department of Foreign Affairs (FDFA)



Ministry of Foreign Affairs of the Netherlands



The United Kingdom Foreign & Commonwealth Office



ANNEX 5

MAJOR PARTNER ORGANISATIONS

- African Court on Human and Peoples' Rights
- African Union, Office of the Legal Counsel
- American Bar Association
- Amnesty International
- Attorneys-General of Kenya, Tanzania, Uganda, Rwanda, Nigeria
- Chief Justices of Kenya, Tanzania, Uganda, Rwanda, Nigeria
- Coalition for the International Criminal Court
- Director of Public Prosecutions of Kenya, Tanzania, Uganda, Rwanda, Nigeria, South Africa
- Directors of Criminal Investigation Departments of Kenya, Tanzania, Uganda, Rwanda, Nigeria
- East Africa Law Society
- East African Association of Prosecutors
- East African Court of Justice
- EU delegations to Kenya, Tanzania, Uganda, Rwanda, Nigeria, Central African Republic
- European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (Genocide Network)
- Extraordinary African Chambers in the Senegalese Courts
- Foundation for Human Rights, Johannesburg
- Gesellschaft für Internationale Zusammenarbeit
- Human Rights Watch
- Institute for Security Studies
- International Bar Association
- International Centre for Transitional Justice
- International Commission of Jurists, Kenya
- International Committee of the Red Cross
- International Crimes Division, Uganda
- International Criminal Court (Presidency, Chambers, Office of the Prosecutor and Registry)
- International Criminal Tribunal for the former Yugoslavia
- International Nuremberg Principles Academy
- INTERPOL
- Mechanism for International Criminal Tribunals
- Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict
- Open Society Justice Initiative
- Pan African Lawyers' Union
- Residual Special Court for Sierra Leone
- Special Criminal Court in the Central African Republic
- Supreme Court of Kenya, Tanzania, Uganda, Rwanda, Nigeria, Central African Republic
- United Nations mission in the Central African Republic
- United Nations Development Programme in the Central African Republic
- United Nations Mechanism for International Criminal Tribunals, Arusha
- United Nations Office on Drugs and Crime
- United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict
- Universities of The Gambia, Cape Town (South Africa), Pretoria (South Africa), Riara (Kenya), Strathmore (Kenya)



AFRICA GROUP
FOR JUSTICE AND ACCOUNTABILITY



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