



YEAR 2019

# ANNUAL REPORT

*Strengthening domestic justice  
for international and transnational organised crimes*



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## EXECUTIVE SUMMARY



2019 was a busy and productive year for the **Wayamo Foundation**. Over twelve months, Wayamo's public profile grew with the carrying out of four major events in Ghana, Kenya, Uganda and The Netherlands respectively. In all, over 637 participants attended Wayamo events in 2019.

- For further information on these events, kindly see: [www.wayamo.com](http://www.wayamo.com)

Wayamo's capacity-building programming continued throughout the year, with a strategic focus on training investigators and prosecutors in the East Africa region (Ethiopia, Kenya, Rwanda, Somalia, Tanzania and Uganda) as well as Nigeria. Over 150 investigators and prosecutors were trained during this time<sup>1</sup>.

- For further information, kindly see sections on pages 10 and 22.

In 2019, the "*Network of Heads of Public Prosecutions and Criminal Investigations in the East African region*" (East Africa Network) had its first major successes in the form of concrete operational cooperation not only amongst member states, but also between a European government and the Network. Potential new member states from the Horn of Africa were invited to the high-level meeting in Nairobi and expressed interest in joining the Network. The Directors of **Public Prosecutions and Criminal Investigations** reiterated that they were fully committed to and in favour of Wayamo serving as the Network's Secretariat. To further promote the Network and strengthen regional cooperation, Wayamo signed a landmark Memorandum of Understanding with Ambassador Mahboub Maalim, the then Executive Secretary of the **Intergovernmental Authority on Development (IGAD)**, and is looking forward to continued cooperation with IGAD and other regional bodies in the near future.

Wayamo's capacity-building activities in Nigeria continued throughout the year with great success. In capacity-building workshops held jointly with the **International Nuremberg Principles Academy** (Nuremberg Academy), a total of 26 civil and military investigators and prosecutors received training in the investigation and prosecution of international and transnational organised crimes. To supplement and, more importantly, to sustain their ongoing capacity-building efforts in Nigeria, the Wayamo Foundation and the Nuremberg Academy broke new ground by holding an international criminal law course with a "*Train-the-Trainer*" (ToT) component, which was attended by 31 legal scholars and practitioners. The objective of this ToT programme is to support and further equip selected Nigerian institutions with the necessary skills in and knowledge of international criminal law to pass on to their network of relevant legal actors.

- In addition, media training efforts and the production of "*Justice Talks*" videos continued throughout the year (<https://www.wayamo.com/resources/video/>).

2019 also saw the publication of the **Dakar Guidelines on the Establishment of Hybrid Courts in El Salvador**. The Guidelines, a product of the Hybrid Justice project, were authored by Kirsten Ainley of the London School of Economics and Mark Kersten of the Wayamo Foundation, with contributions from experts in international criminal law.

Similarly, Wayamo staff represented the organisation in a number of conferences, media events and private workshops relating to global justice and accountability efforts. Staff members participated in a total of 23 events.

Staff responsibilities and recognition also grew throughout the year. In May 2019, Angela Mudukuti of Wayamo became a regular contributor to the *Opinio Juris* blog. She was also certified and is now listed as an expert on the Justice Rapid Response Roster. Mark Kersten was made an associate member of the Guernica 37 International Law Chambers in London, UK, and a Digital Fellow of the Montreal Institute for Genocide and Human Rights Studies.



<sup>1</sup> Participants attended more than one workshop





In line with their common efforts to further justice and accountability in Africa and beyond, the Wayamo Foundation and the **Africa Group for Justice and Accountability (AGJA)** succeeded in enhancing their respective profiles and strengthening their impact.

The fact that AGJA's annual strategic meeting was held in March in Accra, Ghana, meant that the Group's presence was felt far and wide. AGJA and Wayamo had a very fruitful meeting with Ghanaian President, Nana Akufo-Addo, during which he expressed his full support for the Group's quest for justice and accountability across the region. AGJA members have been actively involved in various engagements, and particularly in the two organisations' joint capacity-building and advocacy efforts. To name but a few of this year's achievements by AGJA members: Betty Murungi sat on the United Nations (UN) Commission into alleged crimes committed during the 2018 protests in Gaza; Fatiha Serour represented AGJA at the UNTOC (United Nations Convention against Transnational Organised Crime) needs assessment workshops in Vienna; Navi Pillay was appointed by The Gambia as an *ad hoc* Judge

at the International Court of Justice, which is looking into the alleged Rohingya genocide; Hassan Jallow, Richard Goldstone and Mohamed Chande Othman were selected as members of the **Independent Expert Review of the International Criminal Court (ICC)** expert review group; and to end the year on a high note, Zainab Bangura of Sierra Leone was appointed as the new Director-General of the UN Office at Nairobi.

In 2020, Wayamo will continue to promote justice and accountability through its capacity-building programmes in Nigeria and East Africa, working with governments, civil society and media in line with its longstanding commitment to foster constructive engagement and compromise. Wayamo believes that strengthening domestic judicial capacity to address international and transnational organised crime is one of the most effective ways to fight impunity.

We are most grateful to all our partners and donors for their untiring and generous support, and hope that we can make a contribution, no matter how modest, to ensuring that justice is done.

## About the Wayamo Foundation

Wayamo gGmbH is an independent, non-profit organisation established to strengthen the rule of law, and promote justice for international and transnational crimes. It does so by:

- building the capacity of national judicial systems;
- training judges, prosecutors, investigators and journalists;
- advocating transparency and accountability, often in post-conflict settings;
- facilitating and supporting dialogue between civil society and government leaders; and,
- creating networks of the highest-ranking investigators and prosecutors to combat international and transnational organised crimes.

► For further information kindly see Annex 2: "What sets us apart" and Annex 3: "Wayamo team".







## About the 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 cooperation 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. AGJA has shown its ability to gain the trust of African states, diplomats, and institutions across the international criminal justice spectrum.

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



\* On 31 December 2019, UN Secretary-General, António Guterres, announced the appointment of Zainab Hawa Bangura as Director-General of the United Nations Office at Nairobi, thereby automatically triggering her resignation from the Group on that same date.



**ATHALIAH MOLOKOMME  
(BOTSWANA)**

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



**HASSAN BUBACAR JALLOW  
(THE GAMBIA)**

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



**FATIHA SEROUR (ALGERIA)**

Director of Serour Associates for Inclusion and Equity, former UN Deputy Special Representative for Somalia



**MOHAMED CHANDE  
OTHMAN (TANZANIA)**

Former Chief Justice of Tanzania



**NAVI PILLAY  
(SOUTH AFRICA)**

Former UN High Commissioner for Human Rights



**DAPO AKANDE (NIGERIA)**

Professor of Public International Law, University of Oxford



**ABDUL TEJAN-COLE  
(SIERRA LEONE)**

Former Executive Director of the Open Society Initiative for West Africa



**RICHARD GOLDSTONE  
(SOUTH AFRICA)**

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



**ZAINAB BANGURA  
(SIERRA LEONE)**

Former United Nations Special Representative of the Secretary-General on Sexual Violence in Conflict \*



**BETTY KAARI MURUNGI  
(KENYA)**

Advocate of the High Court of Kenya



**TIYANJANA MALUWA  
(MALAWI)**

H. Laddie Montague Chair in Law, Pennsylvania State University



**CATHERINE SAMBA-PANZA  
(CENTRAL AFRICA REPUBLIC)**

Former Transitional President of the Central African Republic



## JUSTICE AND ACCOUNTABILITY IN EAST AFRICA: CAPACITY BUILDING AND OPERATIONALISATION OF THE NETWORK

The East African region continues to face challenges relating to the investigation and prosecution of international and transnational organised crimes, which have become more complex and increasingly transnational in nature. Addressing impunity in the region thus calls for planning and action beyond the strict confines of state borders, and a response by justice systems that is both transnationally and regionally coherent.

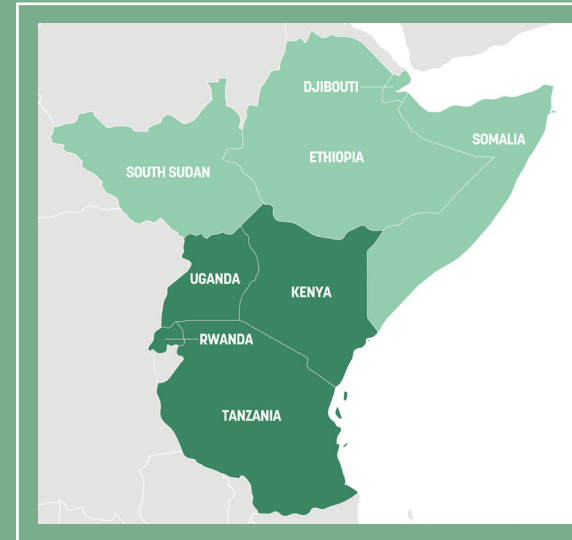
Such an approach will require law enforcement and judicial authorities to leverage all possible areas

of cooperation, in order to enhance regional and international criminal justice, border security, and law enforcement standards and norms.

Coordination among national agencies in the region should be improved, so that they can work together in a seamlessly integrated manner. There is an evident need for a mechanism capable of bridging the divide between the different actors in the criminal justice system, ranging from investigators and prosecutors all the way across to judges.



## Network of Heads of Public Prosecutions and Criminal Investigations in the East African Region



The overall aim of the **Network of Heads of Public Prosecutions and Criminal Investigations in the East African Region (the East Africa Network)** is to strengthen the criminal justice sector in East Africa by ensuring effective cross-border investigation and prosecution of complex crimes, and to bolster inter-agency collaboration at a national and regional level in a manner that is consistent with the rule of law.

The East Africa Network's four main functions are to:

- ▶ act as an avenue for regional and cross-border cooperation and mutual legal assistance in international and transnational criminal cases;
- ▶ promote and encourage collaboration among investigators and prosecutors by following an inter-agency approach;
- ▶ serve as a think-tank and foster discussions about emerging crime patterns, as well as a forum to share information and formulate strategies to counter new security threats; and
- ▶ develop effective training and capacity-building programmes in order to strengthen the relevant crime units of the member countries.

In the last two years, Wayamo has convened meetings in each member state and, in November 2018, Network partners signed a Framework Agreement. Wayamo also set up a secure communication platform for Network members to facilitate communication and coordination, developed a simple database of the pertinent legislation in each member state, and built up strong professional relationships and trust between participating partners and Wayamo.

The Network is also engaging with other regional and international networks which work to fight impunity for international and transnational organised crimes. This includes, but is not limited to the **Eastern Africa Police Chiefs Cooperation Organisation, the Great Lakes Judicial Cooperation Network, the Intergovernmental Authority on Development and the European Network for investigation and prosecution of genocide, crimes against humanity and war crimes (Genocide Network)**. At the 2019 Assembly of States Parties to the Rome Statute in The Hague, Matevž Pezdirc, Head of the Secretariat of the Genocide Network, stressed the importance of replicating the East Africa Network in other regions.

Network members include Directors of Public Prosecutions, Directors of Criminal Investigations, and their contact points (senior investigators and prosecutors from specialised units working on international and transnational organised crime cases in Kenya, Rwanda, Tanzania and Uganda).

As the next step, the East Africa Network needs to expand its existing membership to include representatives from the Horn of Africa. At the last Network meeting in Nairobi, Ethiopia, Djibouti, Somalia and South Sudan expressed interest in joining the Network. Wayamo plans to capitalise on the momentum generated at the recent Nairobi meeting, and harness the trust, interest and goodwill of the members, who have asked Wayamo to serve as the Network's Secretariat.



NAIROBI, 30 JULY 2019

## What is the significance of the East Africa Network in combating international and transnational organised crime in East Africa?

**MIKE CHIBITA**

Director of Public Prosecutions, Uganda

"By bringing together prosecutors and investigators in the region, confidence building, networking and exchange of ideas, contacts and best practices occurs. In turn, all this improves and promotes regional cooperation which is a sine qua non in the fight against organised crime."

**HAJI NOORDIN**

Director of Public Prosecutions, Kenya

"Our laws are beautiful but we have an integrity problem. We need to fight corruption. Through our Network we can directly contact the right people who deal with judicial cooperation. We need to reduce bureaucracy."

**CHARLES KENYELA**

Deputy Commissioner of Police, Deputy Director of Criminal Investigations, Tanzania

"The Network already has enhanced cooperation in combating transnational organised crime matters through the exchange of information, techniques, data, etc., especially for organised crimes that cut across member states."

**LAILA ABDULKARIM MOHAMED**

Advisor and Coordinator, Office of the Attorney-General, Somalia

"The Network will help in coordinating joint investigations with all relevant stakeholders, to combat human trafficking and trafficking in persons, organised crime, transnational and international crimes."

**PAUL KADUSHI**

Director, Asset Forfeiture, Transnational and Specialised Crimes Division, National Prosecutions Agency, Tanzania

"The Network serves as a platform for heads of prosecution agencies and criminal investigation departments to share common challenges, expertise and means of spontaneous exchange of informal information/evidence before formal MLA/extradition measures are implemented. The Network also enables members to discuss common solutions to the emerging criminal trends in the region. Organised crime being transnational, it can only be combated through joint efforts."

**MAKI OMAR ABDOULKADER**

Permanent Secretary, Ministry of Justice, Djibouti

"Having a network will facilitate extraditions, which can sometimes take up to 10 to 15 years, as the Directors of Public Prosecutions of Uganda and Tanzania highlighted. So networking will shorten formal administrative procedures and foster information sharing. Being part of this Network will help counter trafficking and transnational crime."

**YESUF JEMAW**

Director of International Cooperation on Legal Affairs Directorate, Attorney-General, Ethiopia

"It serves as a platform to cooperate amongst countries, it identifies the common problems and challenges and proposes common solutions. It creates an opportunity for informal communication and promotes trust, which is fundamental to fight these crimes."

**JOHN KARIUKI**

Chief of Investigations, Directorate of Criminal Investigations, Kenya

"The Network will promote speedy criminal justice when dealing with suspects/accused. It can shorten extradition formalities, strengthen crime prevention within the region, and stop criminals from enjoying safe heavens in any of the Network countries."





## 2019 activities

17 April 2019, Kampala, Uganda

- 4th Annual Joan Kagezi Memorial Lecture on “Courts not guns: combating terrorism through the law”

The **Wayamo Foundation**, in partnership with the **Ugandan Office of the Director of Public Prosecutions (DPP)**, held the 4th Annual Joan Kagezi Memorial Lecture in Kampala. The event was organised with the financial support of the **European Union**.

The Memorial Lecture focused on how national, regional and international actors can harness domestic and international law to better confront and combat impunity for terrorism. Joan Kagezi worked tirelessly to prosecute terrorist crimes but was killed in an act of terror. This made the 2019 Annual Memorial Lecture especially timely, since states owe it to champions of justice like Kagezi, not only to bring terrorists to account, but also to develop the tools and effective capacity to investigate and prosecute terrorism.

The event was opened by Ugandan DPP, Mike J. Chibita, the late Joan Kagezi's children, and Wayamo Foundation Director, Bettina Ambach. In referring to the ongoing investigation into the murder of Joan Kagezi, Mike Chibita pointedly announced that he was optimistic that, “by the time we have the 5th Joan Kagezi Memorial Lecture, the culprits will have appeared before the courts of law”. Adding a more poignantly personal note, Joan Kagezi's daughter, Carol, said, “What made me very proud today is that Mummy did care a lot about victims and always talked to victims, like former rebel wives. It is humbling to see that, through our discussions today, her work is being taken a step further, and it feels like she's contributing to the furtherance of the rule of law even after her death.” In Bettina Ambach's opening remarks, she recalled that, “Joan Kagezi was wonderful to work with, always eager to cooperate and collaborate with others. She devoted her life and ultimately lost it to the fight against terrorism. May we heed the lessons of her courage and work together to continue her battle – not with guns, but in the courts.”

The day's keynote speech was given by Nicolas Guillou, Judge at the Kosovo Specialist Chambers and Chef de Cabinet to the President of the Special Tribunal for Lebanon. In it, he sought to provide some answers to the following three important questions:

- I. How can we define terrorism?;
- II. What can we do at the international level?; and finally,
- III. How can we investigate and prosecute at the national level?

Remarkably, no universally accepted definition of terrorism currently exists under international law. Indeed, in the realm of international criminal law, only one international tribunal has ever prosecuted terrorism as an international crime, namely, the Special Tribunal for Lebanon. In contrast, national courts have been able to pursue domestic accountability for acts of terrorism. Some states, such as Uganda, even have specialised units devoted to the investigation and prosecution of terrorist activities and have managed to bring some perpetrators to account. Nonetheless, a

lacuna remains, and precisely because of this, terrorism is too rarely prosecuted as a crime against humanity or a war crime. Guillou concluded by giving different examples of how terrorism can be prosecuted as an ordinary and/or international crime at the domestic level.

The keynote speech was followed by remarks by Police Officer Tagoya Bernard, a survivor of the 2010 Kampala terror attack. His testimony led into a panel discussion featuring Philipp Ambach, Chief of the Victims Participation and Reparations Section in the Registry of the ICC, Justice Susan Okalany of the High Court, and John Ndungutse, Assistant Inspector General of Police. It fell to Deputy DPP Charles Elem Ogwal to moderate the discussion, during which the panellists debated how terrorism should be addressed using international, regional and national justice mechanisms, and how the concerns of victims as well as the perceptions of the public should be taken into account in addressing terrorist activities and crimes. High Court Judge Susan





Okalany said that it was *“important to change our attitude towards terrorism. It is a grave offence, but in fighting it, we cannot use the same methods as the offender!”*.

The symposium, which was attended by an audience of well over 450 that included Commonwealth Directors of

Public Prosecutions, international and regional experts, civil society organisations, media, students and many local representatives of the justice sector, was fittingly brought to a close by the country's Minister of Justice and Constitutional Affairs, Hon. Major General Kahinda Otafiire.



#### 6-11 June 2019, Ethiopia and Djibouti

- 6-7 June 2019: meetings in Addis Ababa, Ethiopia
- 9-10 June 2019: meetings in Djibouti

In her capacity as Director of the **Wayamo Foundation**, Bettina Ambach travelled to Djibouti and Ethiopia to prepare for the July Network meeting of Heads of Public Prosecutions and Criminal Investigations in the East African Region.

► For more information about the Network kindly see info box on page 11.

The aim of this introductory visit was to discuss Network expansion, along with challenges and best practices in the investigation and prosecution of transnational organised crime.

Bettina Ambach met with former IGAD Executive Secretary, Mahboub Maalim, Commander Abebe Muluneh, Director of the IGAD Security Sector Programme, Mesay Tsegaye, Head of the Anti-Trafficking Taskforce Secretariat under the Attorney-General's Office (Ethiopia), Aïd Ahmed Ibrahim, Procureur de la République (Djibouti), Maki Omar

Abdoulkader, Permanent Secretary, Justice Ministry (Djibouti), Colonel Abdillahi Abdi Farah, Directeur Général de la Police Nationale et Directeur de l'école de formation d'officiers de police judiciaire (Djibouti), and Simon Nyambura, Director, IGAD Centre of Excellence for Preventing and Countering Violence Extremism (Djibouti).

As a result of these introductory meetings, investigators and prosecutors from Ethiopia and Djibouti attended the July Network meeting and high-level retreat. Ethiopia and Djibouti immediately saw the inherent value of being part of a network whose overarching aim is to strengthen the criminal justice sector in East Africa, and expressed their interest in joining the Network.

#### 29-30 July 2019, Nairobi, Kenya

- 29 July 2019: High-level retreat for the heads of the anti-trafficking units of Rwanda, Uganda, Kenya and Tanzania and the countries of the Horn of Africa
- 30 July 2019: High-level Network Meeting of Directors of Public Prosecution and Directors of Criminal Investigation Departments

The high-level retreat brought together the Heads of the Anti-trafficking Units from Kenya, Uganda, Rwanda, Tanzania, Djibouti, Ethiopia and Somalia to analyse the issue of trafficking from a regional perspective, propose improvements for judicial cooperation, and reflect on strategies to better address human trafficking and migrant smuggling cases.





After the formal opening of the event by Wayamo Director, Bettina Ambach, and **Better Migration Management** Regional Coordinator, Silke Hampson, presentations were given by experts in their respective fields. The participants then took turns to discuss the most prevalent challenges that they were facing, the means available (legislative, political, technical, etc.) to address such challenges, as well as key lessons learnt. The meeting ended on a constructive note with the development of concrete recommendations to improve anti-trafficking measures in the region, which were presented to the Directors of Public Prosecutions and Directors of Criminal Investigations present at the strategic Network meeting held the following day.

Following the retreat, the Directors of Public Prosecutions, Directors of Criminal Investigations (DCIs)

and Deputy Attorneys-General from Kenya, Rwanda, Uganda, Tanzania, Djibouti, Somalia and Ethiopia gathered for the fifth Network meeting. The South Sudanese DPP was scheduled to join the meeting but due to a last-minute flight cancellation, was unable to attend.

The day began with an opening ceremony, given extensive coverage by twenty or more representatives of the Kenyan media, with welcoming remarks by Wayamo Director, Bettina Ambach, Kenyan DPP, Noordin Haji, Kenyan DCI, George Kinoti, and Special guest, Ambassador Mahboub Maalim, in his capacity as Executive Secretary of IGAD. Members of the press were then given an opportunity to ask questions, many of which were addressed to Kenyan DCI George Kinoti and DPP Noordin Haji.



Special Guest, Mahboub Maalim, gave a spirited address reminding the participants that leaders who use sovereignty arguments to limit regional integration should realise that *"East Africans are all one people"*. He highlighted the fact that the Network contributes to regional integration and encourages institutional linkages, thereby falling in line with IGAD's security strategy. Ambassador Maalim concluded by extending an offer on behalf of **IGAD** to host the next Network meeting in Djibouti.

The meeting was then addressed by Agnes Igoye, Commandant of the Uganda Immigration Training Academy, who presented a series of recommendations drawn up by participants at the previous day's high-level anti-trafficking retreat.

Following presentations by Mahboub Maalim and Agnes Igoye, representatives of the Network's potential

new members, Djibouti, Ethiopia, South Sudan and Somalia, were invited to give brief summaries of their experiences of *"Tackling transnational organised crime in the region"*. This was followed by an in-depth discussion on bilateral and regional cooperation in East Africa in the fight against international and transnational organised crimes, as participants identified security threats and emerging crime patterns.

The final part of what had been an intensive and fruitful day was devoted to a brainstorming session on overcoming obstacles to regional cooperation, ensuring the Network's sustainability, encouraging its geographical expansion and enhancing cross-border inter-agency collaboration.



20 September 2019, Berlin, Germany

- 20 September 2019: Mahboub Maalim, IGAD Executive Secretary, and Bettina Ambach, Wayamo Foundation Director, signed a Memorandum of Understanding.

**Wayamo** has worked closely with its partners on the ground and prioritised local commitment, thereby ensuring that each project is locally embedded and supported. Former IGAD Executive Secretary,

Ambassador Mahboub Maalim, highlighted the fact that the East Africa Network contributes to regional integration and encourages institutional linkages, thereby falling in line with IGAD's security strategy. Having identified mutual goals, Wayamo and **IGAD** concluded a Memorandum of Understanding on 20 September 2019, expressing their common desire to enhance regional networking and build the capacity of judicial actors in the IGAD region.



## Main achievements

Overall, the project enhanced the capacity of East African states to investigate and prosecute transnational trafficking cases, and strengthened inter-agency and cross-border collaboration in the region. **Wayamo** succeeded in bringing together the

highest-level investigators and prosecutors from the East African region, while ensuring that the beneficiaries of the capacity-building programming were at the management level. The high-level retreat ended on a constructive note with the compilation of a list of



concrete recommendations to enhance anti-trafficking measures in the region. These recommendations were then presented to the **DPPs** and **DCIs** at the strategic Network meeting with the clear aim of seeing a follow-up process.

In 2019, the Network was used twice for operational cooperation. In the first instance, Network members used the platform to share information, which resulted in the successful extradition of a suspect from Kenya to Tanzania while the extradition request was formally going through the official channels. Another example of the Network's pivotal role in MLA matters was a communication between the **European Genocide Network** and the **East Africa Network Secretariat**. The European Genocide Network had received a request from the Office for International Crimes of the Public Prosecution Service of a European country. These prosecution authorities were seeking the assistance of their counterparts in two Network countries to locate witnesses relevant to one of their cases. In its capacity

as Network Secretariat, Wayamo was able to put the European Authorities into immediate direct contact with the pertinent MLA experts, and the issue was resolved by the competent authorities.

In 2019, the East Africa Network further defined its areas of work, and engaged with various regional actors to prepare for its extension. While its members started working with prosecutors and investigators from Ethiopia, Djibouti, Somalia and South Sudan, Wayamo also entered into a Memorandum of Understanding with **IGAD** to enhance cooperation and encourage institutional linkages with the Network. In its role as Network Secretariat, Wayamo is currently planning the next meeting, which will be held under the umbrella topic of *"Strengthening regional cooperation"*. Countries from the Horn of Africa will be officially invited to attend, formally join the Network and sign the Framework Agreement.



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



Nigeria has been suffering from violent conflict between Boko Haram and government forces for over nine 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, which started in December 2016, is implemented in collaboration with the **Nuremberg Academy**. The aim is 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. The overall objective is to equip Nigerian prosecutors and investigators with the necessary expertise and skills to address serious and complex international, transnational and terrorism-related crimes under Nigerian criminal law, including crimes that may potentially fall under the jurisdiction of the ICC.

With a view to ensuring the sustainability of their combined efforts, the organisations decided in 2018 to expand the scope of their capacity-building programme to include an International Criminal Law Course with a ToT component. The objective of the programme is to support and further equip selected institutions with the necessary skills and international criminal law knowledge to pass on to their network of relevant actors in Nigeria.

Local partners include: Abubakar Malami, Attorney-General of the Federation and Minister of Justice; Muhammed Umar, Director of Public Prosecutions for the Federation, Federal Ministry of Justice; General Tukur Yusuf Buratai, Chief of Army Staff; Olawale Fapohunda, 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; Peter Akper, Research Professor, Nigerian Institute of Advanced Legal Studies (NIALS); Rosaline Irefofe Bozimo, Administrator of the National Judicial Institute (NJI); and General Abayomi Olonisakin, Chief of Defence Staff.

A wide range of experts with extensive experience in the prosecution of international crimes and/or in-depth knowledge of Nigerian legislation and military law have participated in the training sessions.

### Contribution by the Office of the Prosecutor of the ICC

The **Situation Analysis Section**, responsible for preliminary examinations at the **Office of the Prosecutor (OTP)** of the ICC, has been contributing by sending a representative to the various workshops to provide an overview of the potential cases that have been identified for admissibility assessment purposes.

## Overview of all training activities in Nigeria since December 2016

### 7-9 DECEMBER 2016, ABUJA

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

### 28-30 JUNE 2017, LAGOS

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

### 21-23 MAY 2018, ABUJA

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

### 24-26 JUNE 2019, ABUJA

- Capacity building workshop for civil and military investigators and prosecutors with a Train-the-Trainer component

### 13-15 MARCH 2017, LAGOS

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

### 2-4 NOVEMBER 2017, ABUJA

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

### 1-3 NOVEMBER 2018, LAGOS

- Capacity building for civil and military investigators and prosecutors to address the most serious and complex crimes under Nigerian criminal law with a Training of Trainers component

### 26-29 NOVEMBER 2019, ABEOKUTA

- International Criminal Law Course with a Train-the-Trainer component

### 2019 activities

#### 12-19 May 2019, Abuja, Nigeria

- **Train-the-Trainer programme:** Abuja pre-meetings with the Nigerian Chief Justice, the Institute of Advanced Legal Studies, the National Judicial Institute, and the Office of the Chief of Defence Staff

With a view to ensuring the sustainability of their combined efforts, **Wayamo** and the **Nuremberg Academy** decided to expand the scope of their capacity-building programme to include an international criminal law course with a ToT component. Consequently, at the end of 2018, Wayamo and the Nuremberg Academy

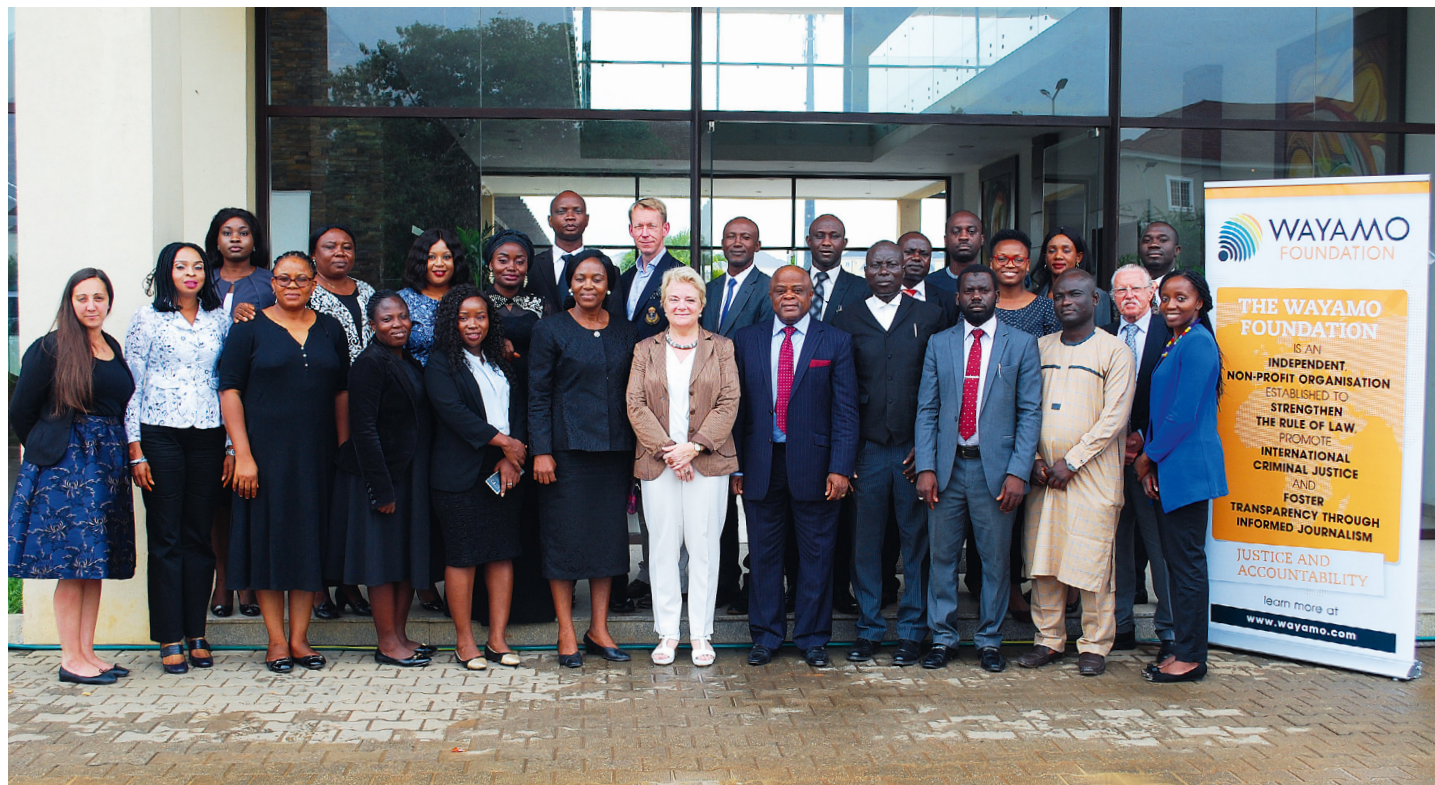




started a “*Train-the-Trainer*” programme to assist Nigerian legal institutions — including the **NJI, military legal services** and **NIALS** — to improve their skills for training others. The aim is to enhance existing curricula with the addition of international criminal law and international humanitarian law, and further equip these institutions to pass on this knowledge to their network of legal practitioners in Nigeria.

In order to prepare for the November training workshop in Abeokuta, the Nuremberg Academy and Wayamo

met with Chief Justice Ibrahim Tanko Mohamed, NIALS Professor, Peter Akper, NJI Administrator, Rosaline Irorefe Bozimo, and Brigadier General Hamisu Hassan from the Office of the Chief of Defence Staff. These meetings afforded an invaluable opportunity to introduce the “*Train-the-Trainer*” programme, and discuss the most effective and efficient ways of building a sustainable domestic capacity to tackle core international crimes.



#### 24-26 June 2019, Abuja, Nigeria

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

The seventh capacity-building workshop was officially opened by **Wayamo Foundation** Director, Bettina Ambach, and Natacha Bracq in her capacity as Senior Officer for Training and Capacity Building at the **Nuremberg Academy**. The 20 handpicked civil prosecutors and six investigators from the Department of State Services, for whom the course was designed, were joined on the third day by a group of military investigators.

The complement of resource persons was made up of mix of experts drawn from Nigeria and beyond, who covered a wide range of topics —legal, psychological and empirical— from both a theoretical and practical standpoint.

Segun Jegede, Special Prosecutor, Federal Republic of Nigeria, and former Prosecutor at the UN International Criminal Tribunal for Rwanda (ICTR) spoke on “*Synergies between domestic Nigerian criminal law and international criminal law: creative interpretation of domestic law to tackle terrorism and international crimes*”, while Lieutenant-Colonel Philip Dygeus, Legal Advisor to Swedish Armed Forces HQ addressed the



topic of “*Fundamentals of international criminal law, international human rights law and the law of armed conflict: the obligation to investigate alleged violations*”. When challenged as to whether a civilian who took up arms to participate directly in hostilities would be a legitimate military target, he confirmed that this would indeed be the case, noting that in the context of a non-international armed conflict “*targeting is not status-based but action-based*”.

Of keen interest to practitioners were the practical pointers given by former Nigerian Director of Public Prosecutions, Olufemi Fatunde, whose many years of experience, precise command of the facts and sheer charisma made her advice and admonitions on “*Effective investigative and prosecutorial techniques (identifying and drafting charges)*”, something that no prosecutor could afford to ignore.

When it came to “*Case management and advocacy skills, cross-examination of witnesses and the collection of digital*

*evidence*”, former UK Prosecutor and Legal Advisor, Rosemary Fernandes, was articulate, dynamic and authoritative, as she variously coaxed and urged her audience to “*know your case really well and be a master of the facts*”, and to “*bear digital evidence in mind as an evidential tool which should be used much more*”.

“*In every single conflict, sexual violence is used as a tool of war*” said UN Expert on the Rule of Law and Sexual Violence in Conflict, Sofia Candeias, as she returned to Nigeria to take on the very difficult and still often ignored subject of “*The investigation and prosecution of conflict-related sexual violence*”. Rather than go over the legal facts, she chose instead to show a short documentary on how rape had first come to be prosecuted as a war crime at the ICTR, interrupting the film at stages to discuss aspects and pose questions. The point she wished to drive home was that investigators and prosecutors are duty-bound to bring these crimes to light and pursue them.





Claus Molitor, ICC Situation Analyst at the OTP was once again brought in to update the participants on *“The ICC’s preliminary examination in Nigeria: understanding the potential cases”*. After running through the overall position and reviewing some of the eight potential cases, he reminded the investigators and prosecutors that *“as a member of the ICC, Nigeria has committed itself to prosecuting Rome Statute crimes.”* Molitor reiterated that it is not enough for a potential perpetrator identified by the ICC to be tried or even convicted domestically of membership of a terrorist organisation, it is essential that such a perpetrator be charged with the specific conduct identified by the ICC.

To bring this home and give the participants an opportunity to apply the knowledge acquired in this and past workshops, Adejoké Babington-Ashaye, international law specialist and former ICC investigator, supervised a case scenario in which teams had to analyse a hypothetical situation and come up with a possible charge list. She exhorted them to *“think as far outside the box as possible!”*

The workshop ended on a fascinating note, with International Security Consultant and former military interrogator, Mark Fallon, talking on *“Strategic investigative interview techniques in compliance with international human rights standards”*. Over the course of two, back-to-back sessions covering *“Confession-driven versus information-gathering interview practices”* and *“Deception and eliciting reliable information”*, he convincingly exploded the myth that *“An innocent person would not confess to a crime he/she did not commit”* and left a number of memorable maxims and golden rules for the participants—and the investigators in particular—to mull on: *“Interrogation is a process not an event”*; *“The job is to get information not a confession”*; *“Education alone will not combat cognitive biases”*; and, most of all, *“Listen, listen, listen!”*

The workshop ended on a high note with an evaluation of the training by the participants and the traditional award of certificates.

26-29 November 2019, Abeokuta, Nigeria

#### ■ International Criminal Law Course with a Training-of-Trainers component

To supplement and sustain their ongoing capacity-building efforts in Nigeria, the **Wayamo Foundation** and the **Nuremberg Academy** held the first of two international criminal law courses with a ToT component. The objective of the ToT programme is to support and further equip selected institutions with the necessary skills in and knowledge of international criminal law to pass on to their network of relevant legal actors around Nigeria.

The course was attended by handpicked members of all three branches of the **Nigerian Armed Forces** and participants from the **NIALS** and **NJI**. The event was officially opened by Wayamo Foundation Director, Bettina Ambach, and Natacha Bracq in her capacity as

Senior Officer for Training and Capacity Building at the Nuremberg Academy. They welcomed the participants and thanked them for making the effort to travel across the country to the training venue in Abeokuta, the capital of Ogun State.

Philipp Ambach, Head of the Victims Participation and Reparations Section at the ICC, initiated the proceedings with an informative introduction to international criminal law, and a detailed review of the Court and how it operates. Having laid the international law foundation, he then handed over to International Human Rights and Training Consultant, Pieter Cronje, for the first of four ToT sessions to be held over the course of the week. Cronje reminded the participants of effective training techniques and provided useful teaching tools. Natacha Bracq concluded the first day with a session on legal research, showing how and where to access international judgments and other legal tools.







Day two began with NIALS Research Professor, Peter Akper, updating the participants on the status of domestication of the Rome Statute in Nigeria and shedding light on the existing synergies between Nigerian law and international criminal law, as the nation continues to tackle terrorism and international crimes. Mr. Akper not only highlighted the challenges facing the domestication process and the domestic prosecution of crimes of international concern, but also listed a series of recommendations aimed at improving the situation, including progressive law reform and the creation of the International Crimes Division in the country's Federal High Court.

He was followed by Wayamo's Senior International Criminal Justice Lawyer, Angela Mudukuti, who took the participants through the fundamentals of universal jurisdiction and provided different examples of how core international crimes have been prosecuted in various parts of Africa. Taking over for what remained of the day, Adejoké Babington-Ashaye, international law specialist and former ICC investigator, and

Akingbolahan Adeniran, Special Adviser (Legal) to the Governor of Ogun State, explained the intricacies of modes of liability, challenging the participants to think *"outside the box"*. Lastly, Ms. Babington-Ashaye concluded her contribution to the course, by thoroughly explaining the investigation and prosecution of sexual and gender-based violence in international criminal law.

The first session on day three was devoted to victims in international law, with Philipp Ambach setting out the duties and responsibilities of his section at the ICC. Tasked with explaining complex aspects of international humanitarian law, Professor Ray Murphy from the Irish Centre for Human Rights at the National University of Ireland Galway, used a set of powerful photographs and case studies to stress, amongst other things, the horrors of war and the need to protect civilian lives.

Other topics addressed on the final day included international fair trial standards and defendant's rights during criminal proceedings. Focusing on the domestic challenges to fair trials, Adebayo Akinlade, Chair of

the Ikorodu Branch of the Nigerian Bar Association, and National Convener of the Fight against Corruption in the Judiciary, engaged in lively exchanges with the participants. Further contributions included a look at the Kainji Trials by NJI Senior Studies Fellow, Ajibolu Afolabi, and an overview and explanation of the Nigerian court-martial system by Army Major R.J. Bakare.

The course was a resounding success, and was characterised throughout by the active participation and engagement of all those involved. The second course is scheduled to take place in early 2020.

## Main achievements

Wayamo's capacity building efforts have enhanced the domestic capacity of Nigerian prosecutors and investigators. Participants who have regularly taken part in Wayamo's workshops have been promoted and seconded to international institutes. In addition,

Wayamo has ensured that the project is sustainable by further developing the aforementioned ToT component, which will ensure that the necessary knowledge is properly disseminated throughout Nigeria's legal and judicial sector.





## CONFERENCES AND SIDE EVENTS

### 2019 activities

#### 20-21 March 2019, Accra, Ghana

- **20 March 2019:** Meeting of the Africa Group for Justice and Accountability and the Wayamo Foundation with the President of Ghana
- **20-21 March 2019:** International Symposium: “*West African International Justice – Leadership, Challenges, and Opportunities*”
- **22 March 2019:** Strategic Meeting of the Africa Group for Justice and Accountability
- **22 March 2019:** Meeting of the Africa Group for Justice and Accountability with Ghana Secretary to the Cabinet

West Africa has been the scene of impressive activity in the fight against impunity for international crimes. Engagement with justice and accountability processes in West Africa thus merits scrutiny in its own right. It was this that prompted the **Wayamo Foundation, AGJA** and **Konrad Adenauer Stiftung’s Rule of Law Programme for Sub-Saharan Africa** to hold a symposium in Accra, Ghana, on the wide-ranging topic of “*West African International Justice – Leadership, Challenges, and Opportunities*”, with the aim of examining and exploring the contributions and ongoing challenges facing West Africa in the fight to achieve meaningful justice and



accountability for atrocities in the region. A handpicked group of international and regional experts came together to assess West Africa’s contributions to global justice and the continuing challenges to achieving this end.

Held at Accra’s **Kofi Annan International Peacekeeping Training Centre (KAIPTC)**, the symposium was officially opened by Air Vice Marshal Griffiths S. Evans in his capacity as the Centre’s Commandant, followed by Wayamo Foundation Director, Bettina Ambach, Chief Justice of The Gambia and AGJA Chairman, Hassan Bubacar Jallow, German Ambassador Christoph Retzlaff, and Peter Wendoh of the Konrad Adenauer Stiftung. These words of welcome were brought to a close by an appeal from Ghana’s Chief Justice, Sophia Akuffo, who felt that, rather than concentrating solely on the atrocity crimes committed by “*political bigwigs*” that are of such concern to the wider international community, attention should instead focus on the need for community-wide institutional arrangements to address the types of

cross-border crimes that are currently plaguing the region.

This thought-provoking opening ceremony was followed by a conversation loosely structured around the topic of “*Leadership, Challenges and Opportunities*”, in which Wayamo moderator, Joseph Roberts-Mensah, guided his two guests, AGJA Members Zainab Bangura, Former UN Special Representative of the UN Secretary General on Sexual Violence in Conflict, and Navi Pillay, former UN High Commissioner for Human Rights, through a series of searching questions.

The remainder of the day was devoted to three panels which discussed topics ranging from “*The International Criminal Court in West Africa: Complementarity in Action?*” to “*The Future of International Justice and Emerging Contexts in the Region*” and “*New Challenges and New Opportunities: Investigating Human Rights Violations and Atrocity Crimes in the Region*”. Ably led by their Wayamo and AGJA moderators, Angela Mudukuti,



Mohamed Othman Chande and Fatiha Serour, a team of panellists, all experts in their chosen fields, made brief presentations and then fielded questions from the floor. Sometimes coinciding, sometimes diverging, the opinions voiced reflected the panellists' respective experiences: as human rights activists, e.g., Elise Keppler and Reed Brody, both from Human Rights Watch, Eric-Aimé Semien from the Ivory Coast Human Rights Observatory, and Adama K. Dempster from the Liberian Civil Society Human Rights Advocacy Platform; as legal practitioners, e.g., Nigerian Complex Casework Group prosecutor, Matthew Odu Una, Philipp Ambach, Chief of the Victims Participation and Reparations Section at the ICC, and Kenyan High Court Advocate and AGJA Member, Betty Kaari Murungi; and as academics, e.g., Kwesi Aning, Director of KAIPTC's Faculty of Academic Affairs & Research.

The symposium was attended by an audience of over 100, which included AGJA members, former Attorney-General of Ghana, Betty Mould-Iddrisu, and Ghanaian deputy Special Prosecutor, Cynthia Lamptey.

On 22 March 2019, a well-attended lecture and discussion on *"Modern Slavery and Human Trafficking"* was held at the Faculty of Law, Ghana Institute of Management and Public Administration. The proceedings were formally opened by Justice Dennis Adjei, Dean of the Law school, accompanied by Victor Brobby and Edmund Foley, Heads of the Private and Public Law Departments respectively.

Coming from a legal and humanitarian background in the case of Rahel Gershuni, UN Office on Drugs and Crime Consultant and former Israeli National Anti-Trafficking Coordinator, and from a legal background in the case of Philipp Ambach, Chief of the ICC's Victims Participation and Reparations Section, the two guest lecturers tackled this troubling and all too common phenomenon, whose tragic effects are now being felt in virtually every corner of the world. Issues such as underlying values, practical tools, victim consent, and the feasibility of prosecuting trafficking as an international as opposed to a national crime were just some of the aspects covered before the subject was



## Message from Joseph Roberts-Mensah, Director of Wayamo Africa

**Wayamo Africa**, an independent non-governmental organisation based in Accra, Ghana, works to strengthen justice and accountability efforts across the African continent through the development and implementation of high-level capacity-building, media-training and advocacy. At the core of Wayamo Africa's mission is the belief that a better understanding of justice means better chances of achieving justice.

In March 2019, Wayamo Africa supported the work of the Wayamo Foundation and, acting as local coordinator, worked in partnership to facilitate all arrangements for the conference. This involved organising private meetings with the President of Ghana, the Chief Justice of Ghana, and the Secretary to the Cabinet. These meetings were specifically organised to introduce both the Wayamo Foundation and AGJA to the Ghanaian leadership.

Later in the year, Wayamo Africa worked with the **African Centre of International Criminal Justice** as facilitator for an international criminal law and justice training course for Anglophone African journalists at the Ghana Institute of Management and Public Administration's Faculty of Law. Wayamo Africa was responsible for all aspects of training on media related issues in the two-day training programme, which had 30 participants from Ghana, Nigeria, Kenya, Sierra Leone, Liberia, Namibia, Malawi, Zambia, Zimbabwe, Swaziland, Uganda and Rwanda.

Over the course of 2019, Wayamo Africa extended its relationship and contact base with other organisations engaged in international criminal justice in Ghana, and submitted proposals under review to the Office of Ghana Special Prosecutor to facilitate training of its personnel.

► More information at: [www.wayamoafrika.com](http://www.wayamoafrika.com)

opened to the floor. As expected, the topic aroused passions, and the questions and comments were both vigorous and heartfelt. The event was seen as timely and hailed as a success by participants and speakers alike. The event was opened by Wayamo's Africa Director Joseph Roberts-Mensah and by Dean of the Law School Justice Sir Dennis Adjei. The panel and subsequent discussion was moderated by Wayamo Deputy Director Mark Kersten.

Aside from its schedule of public events, the Wayamo Foundation and AGJA had very fruitful meetings with the President of Ghana and the Cabinet Secretary, during which the Africa Group's mission and activities were discussed. The President expressed full support for AGJA and its quest for justice and accountability across the region, and the desire to remain engaged with Wayamo and AGJA in the future.



3 December 2019, The Hague, The Netherlands

■ Side event at the 17th International Criminal Court Assembly of States Parties: “It’s about time – revisiting the timing and duration of decision-making at the International Criminal Court”

On 3 December 2019, the Wayamo Foundation held its yearly side event at the Assembly of States Parties of the ICC. The event was generously supported by the governments of Austria, Finland, Germany, the

Netherlands, Norway, and the United Kingdom. Entitled, “It’s About Time - Revisiting the Timing and Duration of Decision-Making at the ICC”, the panel featured: Christian Wenaweser, Permanent Representative of Liechtenstein to the UN; Elizabeth Evenson, Associate Director, Human Rights Watch; Lorraine Smith Van Lin, Post-conflict justice advisor at REDRESS; and Shehzad Charania, Director of the UK Attorney General’s Office and International Law Advisor to the Prime Minister’s Office. Mark Kersten, Senior Consultant, Wayamo



Foundation, acted as moderator. Over the course of 1.5 hours of moderated conversation with the panellists and the audience, the participants discussed and debated the timing and duration of decisions and procedures at the ICC, including the preliminary examination phase, investigations and judicial determinations.

All the panellists agreed that there were important issues to tackle with respect to the real and perceived costs of ICC decision-making, in terms of its efficiency, timing and duration. Addressing these concerns was crucial to future efforts targeted at reforming and strengthening the Court.

Ambassador Wenaweser described the event as “timely”, and stressed that, whether one chose to call the process review or reform, change was called for and that, as an institution, the Court needed to perform better. He observed that it would be in the Court’s (and indeed in everyone’s) interests to address this in a professional manner which takes into account resources and efficiency on the one hand, and the rights of defendants on the other. Smith Van Lin spoke to the concerns of victims over the length of decision-making at the ICC, sharing with the audience the structural, institutional, and procedural issues that unnecessarily prolong decisions at the Court. Echoing the views of others, she stated that it was the right time for a review

of the Court’s record and for effective reform aimed at improving its functioning. Charania addressed the issue of the relationship between states and the ICC and how this affects the timing and duration of decision-making at the Court. He invited states that were concerned about the ICC decision-making time factor to offer what they could to improve the position, by, among other things, bolstering cooperation with the Court and its investigations. Elizabeth Evenson took up the subject of the timing and duration of preliminary examinations. She stressed that, due to the OTP’s engagement with national authorities, preliminary examinations can present unique opportunities to encourage and catalyse credible national proceedings, but have to be planned and effectuated in strategically coherent and transparent manner.

The event also featured a lively discussion with experts who attended the event. Speaking from the floor, senior OTP trial lawyer, Ben Gumpert, shared insights from his recently published blog on the duration of Court proceedings and decision-making, and the measures available to improve the institution’s efficiency.

The session concluded with a lively and engaging Q&A session with members of the audience, including ICC staff, international law scholars, journalists, and members of the diplomatic community.



Wayamo staff participation in other international conferences

► In addition to the events listed above, Wayamo staff took part in numerous conferences and workshops held by other organisations (for further information kindly see Annex 7).



# HYBRID COURTS PROJECT



The Hybrid Justice project, launched in January 2017, analyses the impact of “hybrid” justice mechanisms, featuring varying combinations of international and domestic staff, operative law, structures, financing and rules of procedure in post-conflict states. The project focuses on hybrid courts and resilience. Resilience in this context refers to the ability of hybrid courts to withstand political and other pressures in order to deliver justice and accountability, whilst also bolstering the resilience of affected communities. The interest of

the project in hybrid courts is thus not on the traditional focus of efficiency, rates of convictions, prosecutorial strategies, or the value for money that hybrids offer. Rather, its interest is in the design options available to the creators of hybrid tribunals as well as how their design affects the resiliency of these institutions. The Hybrid Project is funded by the Rockefeller Foundation, the London School of Economics Institute of Global Affairs, and the Wayamo Foundation.



## 2019 activities

- 23 July 2019, San Salvador, El Salvador
- Publication of the Dakar Guidelines on the establishment of hybrid courts

The goal of the Dakar Guidelines is to provide a reference guide on the establishment of hybrid courts. As such, the Guidelines do not represent a roadmap, nor are they a best practices manual. Rather, the Guidelines offer national, regional, and international

actors involved in the establishment of hybrid tribunals a set of key decision points and design options that should be considered when establishing and running a hybrid court. The Guidelines are particularly tailored to achieve two purposes:

- (1) to highlight issues that have proven complicated or had long-term implications for past hybrid courts, and should therefore be given special consideration in the design phase; and
- (2) to suggest design components that may increase the resilience, both of the court (i.e., its own

capacity to act independently and resist political, financial and other pressures) and of affected communities through engagement with the court.

They further offer interested observers, academics, researchers, and students a comprehensive and coherent study of the hybrid court model. In short, this is a practical set of guidelines on the establishment of hybrid tribunals, which is meant to be of utility to a broad array of constituencies.

The issues arising when designing a court are complex, and the Guidelines endeavour to outline the choices available and explain their advantages and disadvantages in different contexts. The Guidelines do not propose a single model to fit all situations. This is neither a checklist nor a box-ticking exercise. The Dakar Guidelines offer a series of lessons learned, questions to ask, and recommendations based on prior experience. In each section of the Guidelines, we discuss the design choices to be made, their implications and, in many sections, the ensuing recommendations. These recommendations are based on extensive research, the experience of the practitioners who have been involved in drafting the Dakar Guidelines, reports by courts, legal practitioners and civil society organisations, and academic literature.



## DAKAR GUIDELINES ON THE ESTABLISHMENT OF HYBRID COURTS

LEAD AUTHORS:  
KIRSTEN AINLEY AND MARK KERSTEN





ANNEXES



Annex 1: List of 2019 activities

Accra, Ghana

20 MARCH 2019

- Meeting of the Africa Group for Justice and Accountability and the Wayamo Foundation with the President of Ghana

20-21 MARCH 2019

- International Symposium: “West African International Justice – Leadership, Challenges, and Opportunities”

22 MARCH 2019

- Strategic Meeting of the Africa Group for Justice and Accountability

22 MARCH 2019

- Meeting of the Africa Group for Justice and Accountability with Ghanaian Secretary to the Cabinet

3 DECEMBER 2019

The Hague, Netherlands

- Side event at the 18th International Criminal Court Assembly of States Parties: “It’s about time – revisiting the timing and duration of decision-making at the International Criminal Court”

20 SEPTEMBER 2019

Berlin, Germany

- Memorandum of Understanding signed by IGAD Executive Secretary, Mahboub Maalim and Wayamo Foundation Director, Bettina Ambach

Abeokuta, Nigeria

26-29 NOVEMBER 2019

- International Criminal Law Course with a Training of Trainers component

Abuja, Nigeria

24-26 JUNE 2019

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

Ethiopia and Djibouti

6-11 JUNE 2019

- Introductory meetings to discuss Network expansion, as well as challenges and best practices regarding the investigation and prosecution of transnational organised crime

Kampala, Uganda

17 APRIL 2019

- 4th Annual Joan Kagezi Memorial Lecture: “Courts not guns: combating terrorism through the law”

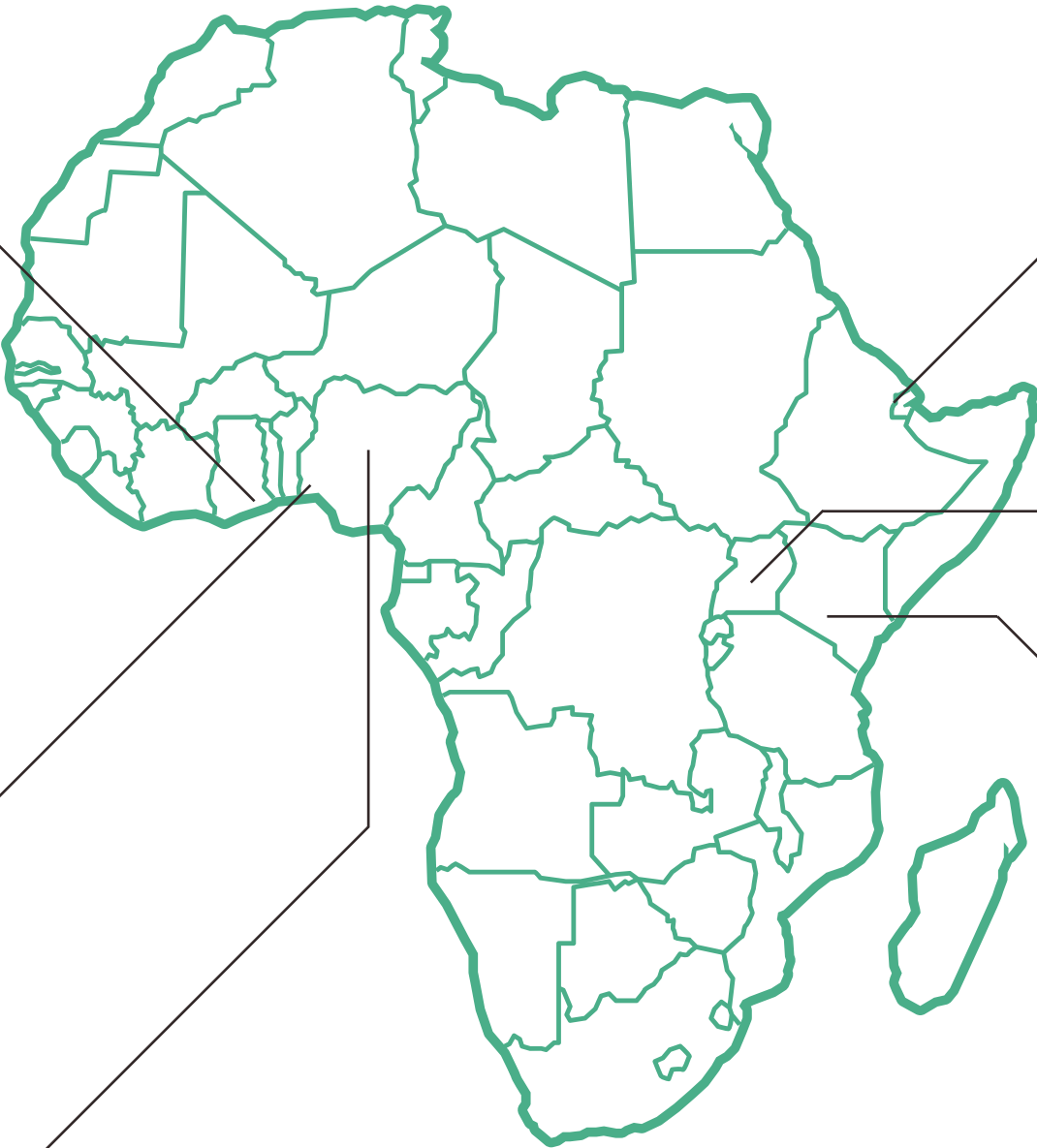
Nairobi, Kenya

29 JULY 2019

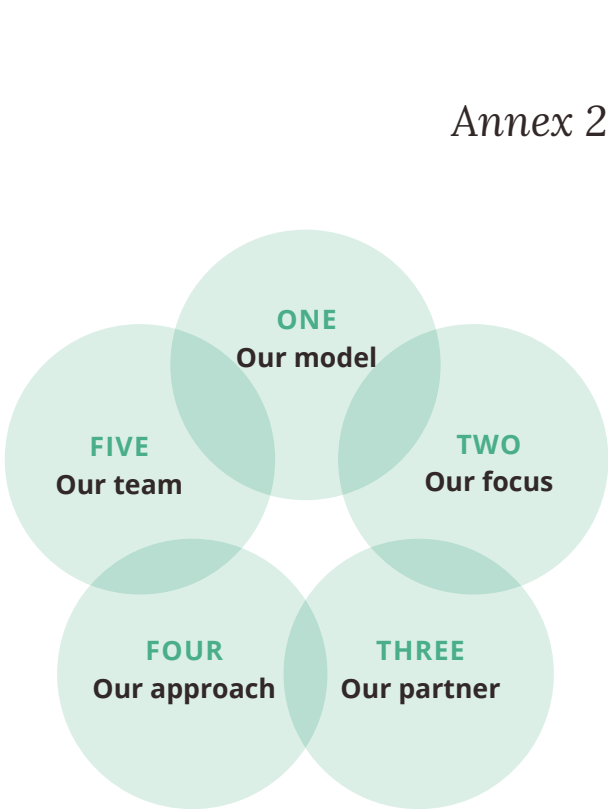
- High-level retreat for the heads of the anti-trafficking units of Rwanda, Uganda, Kenya and Tanzania and the countries of the Horn of Africa

30 JULY 2019

- High-level Network meeting of Directors of Public Prosecutions and Directors of Criminal Investigation Departments







Annex 2: What sets us apart

Wayamo gGmbH is an independent, non-profit organisation established to strengthen the rule of law, promote justice for international and transnational crimes and foster transparency through judicial capacity building, mediation and informed journalism:

Wayamo does this by:

- building the capacity of national judicial systems;
- training judges, prosecutors, investigators and journalists;
- advocating transparency and accountability, often in post-conflict settings;
- facilitating and supporting dialogue between civil society and government leaders; and,
- creating networks of the highest-ranking investigators and prosecutors to combat international and transnational organised crimes.

<b>Our model - Four in one</b>	Wayamo projects are based on a four-pillar model: (i) effective and context-sensitive capacity building for investigators, prosecutors and judges; (ii) top-level research on global justice issues; (iii) high-profile public symposia and conferences; and, (iv) advanced media training. We are the only NGO that can claim to do all of these as part of a unique, coherent and complementary model.
<b>Our focus - Holistic capacity-building approach</b>	The model of our capacity building workshops is based on the conviction that law enforcement agencies, prosecution authorities and the judiciary, all need to work in an integrated fashion. Bringing these actors together to work and train in a practice- oriented environment is what makes our model unique. Further, our capacity building programming combines training in international and transnational organised crimes –as well as the linkages between them.
<b>Our partner - AGJA</b>	Wayamo has demonstrated its unique ability to respond to the ‘pulse’ of international justice with creative and ground-breaking projects, such as the formation of AGJA. Our focus is to identify the problems and bring together the right constellation of actors to address them.
<b>Our approach - Prioritising local</b>	In all of its projects the Wayamo Foundation works closely with partners on the ground and prioritises local buy-in, thereby ensuring that each project is locally embedded, supported and sustained. Our achievements are possible due to the network of trusted partners which we have built up over the years and with which we work at all levels: domestic, regional and international.
<b>Our team - small size, large footprint</b>	The Wayamo team is lean, agile, and highly committed, bringing together a diversity of voices and expertise from the fields of international criminal law, media, international relations and civil society. We punch above our weight.



Annex 3: Wayamo team



**BETTINA AMBACH (GERMANY)**

Executive Director



**MARK KERSTEN (CANADA)**

Senior Consultant



**JOSEPH ROBERTS-MENSAH (GHANA)**

Africa Director



**ANGELA MUDUKUTI (ZIMBABWE)**

Senior International Criminal Justice Lawyer



**KRIS KOTARSKI (CANADA, POLAND)**

Communications and Special Projects Officer



**ELISE CARREAU (FRANCE)**

Programme Manager



**JUDIE KABERIA (KENYA)**

Project Coordinator for East Africa



**MICHAEL BENEDICT (UNITED KINGDOM)**

Documentation Editor



**SONIA WEESE (GERMANY)**

Chief Financial Officer



**NAAZLIN DADANI (KENYA, USA)**

Co-ordinator for The Netherlands





Annex 4: 2019 Funders

European Union



German Foreign Office



Gesellschaft für Internationale Zusammenarbeit



German Cooperation



IGA-Rockefeller Research and Impact Fund



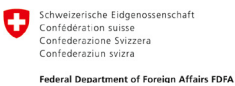
International Nuremberg Principles Academy



Konrad Adenauer Stiftung's Rule of Law Programme for Sub-Saharan Africa



Swiss Department of Foreign Affairs



Ministry of Foreign Affairs of the Netherlands



The United Kingdom Foreign and Commonwealth Office



Ministry of Foreign Affairs of Finland



Federal Ministry Republic of Austria: Europe, Integration and Foreign Affairs



Annex 5: Partners

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 Ethiopia, Kenya, Nigeria, Rwanda, Tanzania and Uganda
- Centre for Justice & Accountability
- Chief Justices of Kenya, Nigeria, Rwanda, Tanzania and Uganda
- Coalition for the International Criminal Court
- Directors of Criminal Investigation Departments of Kenya, Nigeria, Rwanda, Tanzania and Uganda
- Directors of Public Prosecutions of Kenya, Nigeria, Rwanda, South Africa, South Sudan, Tanzania and Uganda
- East Africa Law Society
- East African Association of Prosecutors
- East African Court of Justice
- Eastern Africa Police Chiefs Cooperation Organisation
- European Network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes (Genocide Network)
- European Union delegations to Central African Republic, Kenya, Nigeria, Rwanda, Tanzania and Uganda
- Extraordinary Chambers in the Courts of Cambodia (ECCC)
- Foundation for Human Rights, Johannesburg
- Gesellschaft für Internationale Zusammenarbeit
- Ghana Institute of Management and Public Administration, Faculty of Law
- Great Lakes Judicial Cooperation Network
- Human Rights Watch
- Institute for Security Studies
- Intergovernmental Authority on Development
- International Bar Association
- International Centre for Transitional Justice
- International Commission of Jurists, Kenya
- International Crimes Division, Uganda
- International Criminal Court (Presidency, Chambers, Office of the Prosecutor and Registry)
- International Nuremberg Principles Academy
- INTERPOL
- Joint Investigation Centre
- Kofi Annan International Peacekeeping Training Centre (KAIPTC)
- Kosovo Specialist Chambers
- National Judicial Institute (NJI), Nigeria
- Nigerian Army
- Nigerian Institute for Advanced Legal Studies (NIALS)
- Open Society Justice Initiative
- Pan African Lawyers' Union
- REDRESS
- Residual Special Court for Sierra Leone
- Special Tribunal for Lebanon
- Supreme Courts of Kenya, Nigeria, Rwanda, Tanzania and Uganda
- UN International Residual Mechanism for Criminal Tribunals, Arusha
- UN Office on Drugs and Crime
- UN Special Representative of the Secretary-General on Sexual Violence in Conflict
- Universities of Cape Town and Pretoria (South Africa); and Strathmore (Kenya)



## Annex 6: Main publications and interviews



- **14 JANUARY**  
Dorcas Oduor, Secretary and Deputy Director of Public Prosecutions and Head of Economic International and Emerging Crimes at the Office of the Director of Public Prosecutions, Kenya speaks about improving cooperation to ensure effective investigation and prosecution of complex crimes.



- **22 JANUARY**  
Matevz Pezdirc, Coordinator, European Network for the investigation and prosecution of genocide, crimes against humanity and war crimes, Eurojust, The Hague talks about the successes and challenges of the European Network and steps to establish a network.



- **28 JANUARY**  
Nicholas Koumjian, International Co-Prosecutor at the Extraordinary Chambers in the Courts of Cambodia, speaks with Wayamo Foundation Deputy Director Mark Kersten about trends in international criminal justice.



- **27 FEBRUARY**  
Renowned human rights lawyer **Nicholas Opiyo** discusses the current state of justice and accountability efforts and the rule of law in Uganda with the Wayamo Foundation's Deputy Director Mark Kersten.



- **17 MAY**  
AGJA Member and Former UN Special Representative of the UN Secretary General on Sexual Violence in Conflict, **Zainab Bangura** talks about combating sexual and gender based violence including prevention, accountability and protection of victims.



- **29 MAY**  
Liberian human rights and justice campaigner **Adama Dempster** joins Wayamo Deputy Director Mark Kersten for a discussion on how accountability for war crimes in Liberian can be achieved.



- **2 SEPTEMBER**  
**Agnes Igoye**, Commandant of the Ugandan Immigration Training Academy, talks about the challenges of combating human trafficking and the importance of meaningfully engaging with the victims in the struggle against human trafficking.



- **SEPTEMBER 2**  
Human Rights lawyer **Reed Brody** joins Mark Kersten, Deputy Director of the Wayamo Foundation, for a discussion on justice and accountability for international



- **SEPTEMBER 10**  
**Martin Kyere**, the sole survivor of a massacre committed by agents of the regime of former Gambian President Yahya Jammeh, joins Wayamo Deputy Director Mark Kersten to discuss his quest for accountability.



- **SEPTEMBER 11**  
**Mahboub Maalim**, Executive Secretary of the Intergovernmental Authority on Development (IGAD), talks to Wayamo's Co-ordinator for East Africa, Judie Kaberia about the importance of institutional cooperation.

## Annex 7: Wayamo's participation in international conferences



- **9 JANUARY 2019, LEIDEN, THE NETHERLANDS**  
**Mark Kersten** - Member of PhD Defence Committee for Marieke Wierda, Leiden University



- **6-9 FEBRUARY, NEW YORK, NY, USA**  
**Mark Kersten** - Gender Justice Hub Meeting and workshop participant, New York University



- **13 FEBRUARY, KINGSTON, ONTARIO, CANADA**  
**Mark Kersten** - Lecture on "Nexus between International Crimes and Transnational Organised Crimes", Queens International Affairs Association, Queen's University



**School of Law**  
**UNIVERSITY OF GEORGIA**

- **8 MARCH, ATHENS, GA, USA**  
**Mark Kersten** - Speaker and participant, "The International Criminal Court and the Community of Nations", Dean Ruskin Law School



- **14 MARCH, IBAGUE, COLOMBIA**  
**Mark Kersten** - Speaker at the Special Jurisdiction for Peace of Colombia



- **19 MARCH, GENEVA, SWITZERLAND**  
**Mark Kersten** - Speaker at the Human Rights Council on Libya and the Migrant Crisis



- **27-30 MARCH 2019, TORONTO, CANADA**  
**Mark Kersten** - Participant and speaker, International Studies Association



EUROPEAN UNION

- **27-30 MARCH 2019, ENTEBBE, UGANDA**  
**Bettina Ambach** - Speaker at European Union Conference on "Judicial Networking to Fight Trafficking Crimes"





- **27-30 MARCH 2019, WASHINGTON DC, USA**  
Angela Mudukuti - Speaker, American Society of International Law, Annual Meeting "Immunity of States and their Officials for Atrocities or Terrorist Acts"



MAX-PLANCK-GESELLSCHAFT

- **5-6 MAY 2019, FREIBURG, GERMANY**  
Angela Mudukuti - Speaker, Max Planck Institute for Foreign and International Criminal Law "International backing and support of national law enforcement and justice institutions: Against power crime in Latin America and atrocity crime in weak states in sub-Saharan Africa"



- **7-8 MAY 2019, LONDON, ONTARIO, CANADA**  
Mark Kersten - Participant and speaker, "The Importance of Labelling in Transitional Justice", Western University



- **19-20 MAY, 2019, WASHINGTON, DC, USA**  
Mark Kersten - Participant and speaker, "The Role of Justice in Preventing Mass Atrocities", US Holocaust Memorial Museum



- **4 JUNE 2019, VANCOUVER, CANADA**  
Mark Kersten - Speaker, Canadian Political Science Association



- **5-7 JUNE 2019, CAPE TOWN, SOUTH AFRICA**  
Angela Mudukuti - Selected Participant, The Nelson Mandela School of Public Governance, "Leading in Public Life: Women, Influence, Power"



- **28 JUNE 2019, GALWAY, IRELAND**  
Mark Kersten - Speaker, ICC Summer School

## The Hybrid Justice Project

- **30 JUNE 2019, LONDON, UK**  
Mark Kersten - "Innovations in Accountability and Launch of Dakar Guidelines of the Establishment of Hybrid Courts" - Speaker and organiser  
Angela Mudukuti - Speaker, "Launch of Dakar Guidelines on the Establishment of Hybrid Courts"



- **29 AUGUST - 1 SEPTEMBER, ARUSHA, TANZANIA**  
Angela Mudukuti - Speaker, KAS African Expert Study Group on International Justice



- **21 SEPTEMBER 2019, LONDON, ONTARIO, CANADA**  
Mark Kersten - ICL Works-in-Progress Workshop, Western University Law School

HUMBOLDT-UNIVERSITÄT  
ZU BERLIN

- **25-27 SEPTEMBER 2019, BERLIN, GERMANY**  
Angela Mudukuti - Speaker, LDRN Annual Conference, Humboldt University, "Advocating Social Change through International Law: Exploring the choice between Hard and Soft International Law"



- **11-15 NOVEMBER 2019, THE HAGUE, THE NETHERLANDS**  
Angela Mudukuti - Selected participant, Justice Rapid Response (JRR) Expert Roster recruitment course on International Criminal Investigations

## OPEN SOCIETY JUSTICE INITIATIVE

- **3-7 DECEMBER 2019, THE HAGUE, THE NETHERLANDS**  
Angela Mudukuti - Moderator, "Raising the Bar-Nomination and Election of Judges" Open Society Justice Initiative, ASP Side Event



- **10 DECEMBER 2019, BAYREUTH, GERMANY**  
Elise Carreau - Speaker, Bayreuth University, "Development Studies between Concepts and Practice: An Interdisciplinary Perspective"





## CONTACT

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