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Interdisciplinary Research Project Complementarity Project

“Resource Centre on domestic investigation and prosecution of international crimes”

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PROJECT SUMMARY

Through 2016 and 2019, the International Nuremberg Principles Academy (Nuremberg Academy) has been cooperating with the Grotius Centre for International Legal Studies of the Leiden University on a research project that aimed at analyzing the ability of crisis and situation countries to investigate and prosecute core international crimes in accordance with their obligation under international law, especially the Rome Statute. The methodology for the project has been developed through 2016 and specifically looked at designing a framework for assessing and monitoring effective investigation and prosecution of international crimes in conflict and post conflict situations. Following roundtable workshop, further assessment of six country situations took place. Local and international experts analyzed and evaluated information collected on the ground, following the set methodology. This work concerned the following countries: Afghanistan, Colombia, Central African Republic, the Democratic Republic of Congo, Palestine, and Ukraine. The baseline for the project has been the concept of ‘complementarity’ as one of the fundamental principles established within the Rome Statute (considering Article 17) and the cornerstone in shaping the relationship between national jurisdiction and the International Criminal Court, the first permanent international criminal court. The project however adopted a wider definition of ‘complementarity’, sparking the relevance of the project beyond the realm of International Criminal Court.

The project aimed at creating a resource center on complementarity monitoring in the long-run. The first project plans were finalized with a delivery of the methodology and relevant mappings. Country reports were also finalized and up-to-date until late 2017. Through 2018 and 2020, the project partners have met several times with the intention of finding a suitable way forward in order to implement the findings into a resource center. Unfortunately, a solution forward contemplated in late 2019 was interrupted by the COVID-19 pandemic challenges in 2020. After careful and further assessments, both project partners concluded that the available resources – at this point in time - do not allow for the required updates and work. Nonetheless, the project partners strongly believe that the methodology developed for this project, including the mapping exercises conducted by the leading experts in the field are of relevance to the topic and advance the ongoing discussions. Thus, the project partners decided that the project will conclude in 2020 with the publication of the methodology that has been developed following in-depth research by leading experts in the field on the issue of complementarity. This methodology can be found below. The mappings are also available on the Nuremberg Academy’s website.

The project partners remain grateful to all experts and consultants for their support of this research project. A special appreciation goes to late Prof. Chandra L. Sriram for her dedication to this subject matter, invaluable expertise provided throughout this project to for her mapping done in the context of national responses to core international crimes. The Nuremberg Academy welcomes feedback on this project, and engagement with relevant stakeholders in addressing the project question.

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FAIR AND EFFECTIVE INVESTIGATION AND PROSECUTION OF INTERNATIONAL CRIMES

Introductory note

1. This framework is designed to provide an instrument to collect information regarding the fair and effective investigation and prosecution of international crimes in conflict and post-conflict situations. The framework will be applied by country specific experts who assess progress and trends on complementarity¹ in International Criminal Court (ICC) situation countries. It is meant to provide an inventory of domestic responses that serves as a baseline for comparison across situations. It is not meant to provide ‘a one-size-fits all model’, nor a blueprint for investigations and prosecutions. The framework is primarily geared at three ‘core crimes’, i.e. genocide, crimes against humanity and war crimes.

2. The project pursues a phased approach. In the first phase, information will be gathered by country researchers. In the second phase, collected information will be analyzed across situations to study trends and practices and to identify lessons learned. Based on these experiences, the project will seek to offer some guidance as to *how* a domestic framework might best address challenges of mass atrocity crimes, and *how* international criminal justice might be improved to work better as a *system of justice* (Phase 3). The notion of justice² is understood in a broad sense to encompass not only retributive elements, such as punishment of the offender, sentencing and vindication of legal norms, but also restorative features, such as participation of the victim in the criminal process and the concept of reparations for damages. At the same time, the legal process is central to the project, while alternative justice options are considered as contextually relevant.

3. The framework is constructed around four clusters which are interrelated: *Cluster 1*: Effective domestication of the Rome Statute and related instruments, *Cluster 2*: Procedures applicable to ICC related crimes under national law, *Cluster 3*: Domestic capacity to investigate and prosecute international crimes, and *Cluster 4*: Contextual factors influencing domestic capacities.

4. The framework takes a *holistic approach* towards the assessment of effectiveness. It is not intended to provide a “checklist” for compliance with complementarity in the narrow legal sense, i.e. admissibility requirements under Art. 17 of the Rome Statute³, but to scrutinize domestic investigation and prosecution from a broader perspective of effectiveness,⁴ and fairness⁵. Effectiveness is broader than complementarity. It includes dimensions such as the capacity to investigate and prosecute, fairness of procedures, including defence interests, remedies for victims, and guarantees of non-repetition. The framework therefore encompasses a broad range of factors, ranging from jurisdiction⁶, criminalization of offences, general principles of criminal law, bars to investigation and prosecution, cooperation and

¹ See Glossary of terms below.

² See Glossary of terms below.

³ Complementarity under Article 17 relates to the organization of jurisdiction between the ICC and domestic jurisdiction, rather than effective investigation and prosecution per se. For criteria, see ICC Informal Expert Paper, Complementarity in Practice, at <https://www.icc-cpi.int/NR/rdonlyres/20BB4494-70F9-4698-8E30-907F631453ED/281984/complementarity.pdf>.

⁴ See Glossary of terms below.

⁵ See Glossary of terms below.

⁶ See Glossary of terms below.

enforcement to procedural and institutional aspects, such as the independence,⁷ impartiality,⁸ effectiveness and fairness of domestic proceedings.⁹

5. Each cluster contains a *benchmark* and *indicators*. *Cluster 1* deals with the substantive law. The ICC Statute is taken as a standardized benchmark or baseline, for the sake of consistency, but it is complemented by other sources.¹⁰ The focus on the Statute does not imply that each domestic jurisdiction should necessarily replicate ICC approaches towards substantive criminal law, criminal procedure, sentencing or reparation. Each domestic system has its unique domestic legal culture and strengths that need to be preserved. For certain categories, such as criminalization of offences and general principles, indicators are broken down into different degrees of synergy (“hard mirror”, “soft mirror”, “no mirror”, extension beyond the ICC framework).

6. *Cluster 2* encompasses procedural law. Domestic procedures are assessed around broader factors, such as genuineness, fairness and inclusiveness. In certain contexts, legal approaches are complemented by alternative justice mechanisms, or new forms of international (ized) enforcement, such as regional or hybrid courts. The indicators are formulated in such a way as to capture these nuances. One key factor of analysis is the degree of *internalisation*¹¹ of norms and procedures. The applicable domestic law can be found in different sources, including constitutions, statutory law, traditional laws and practices, or even religious law. Experiences from ICC situations show that mere domestication of laws and procedures (e.g., through law-making) alone does not ensure effective justice. The key test is whether laws and procedures are effectively implemented and applied in jurisprudence or practice (*de jure* and *de facto*) to particular cases. This requires the analysis of jurisprudence, of institutional approaches, decision-making processes and practices. It also requires analysis of why certain laws are not in place or are not being applied (e.g., misapplication, use of procedures to delay or bypass criminal justice response).

7. *Cluster 3* is designed to examine the contextual conditions within state institutions which may facilitate the domestic investigation and prosecution of international crimes. It seeks to examine whether institutional capacities are set up in such a way as to allow for the investigation and prosecution of Rome Statute crimes. This may involve questions of evaluating structures, including ordinary and extraordinary institutions, and evaluating in as far as possible whether these structures have adequate resources, skill and capacity.

⁷ According to the ICC OTP, *independence* may be determined in light of a number of indicators such as ‘the alleged involvement of the State apparatus, including those department responsible for law and order, in the commission of the alleged crimes; the constitutional role and powers vested in the different institutions of the criminal justice system; the extent to which appointment and dismissal of investigators, prosecutors and judges affect due process in the case; the application of a regime of immunity and jurisdictional privileges for alleged perpetrators belonging to governmental institutions; political interference in the investigation, prosecution or trial; recourse to extra-judicial bodies; and corruption of investigators, prosecutors and judges’ See OTP, Policy Paper on Preliminary Examinations, November 2013, para. 53.

⁸ According to the ICC OTP *impartiality* may be assessed in light of such indicators as, inter alia, ‘connections between the suspected perpetrators and competent authorities responsible for investigation, prosecution or adjudication of the crimes as well as public statements, awards, sanctions, promotions or demotions, deployments, dismissals or reprisals in relation to investigative, prosecutorial or judicial personnel concerned.’ Ibid. para. 54.

⁹ According to the ICC OTP, respect for principles of *due process* “may be assessed in light of the provision of article 67 of the Statute as well as of the principles of due process recognized by international law as elaborated in relevant international instruments and customary international law.” Ibid. para. 55.

¹⁰ Other sources are international treaty standards, customary international law and non-treaty standards (e.g. relating to independence of the judiciary, the procedures, services and actions required to meet the needs of victims of crime, the health and safety measures to be taken for detainees, and the duties that lawyers have to their clients).

¹¹ See Glossary of terms below.

8. *Cluster 4* seeks to place the findings in a broader context; it includes not only the rule of law¹² in context but also a range of societal factors including civil society, education, and religious actors. This cluster seeks to examine whether the “enabling conditions” for accountability of Rome Statute crimes are in place, or whether the political context is conducive to such accountability. These contextual factors are often overlooked in formalistic assessments, although they are of key importance for a comprehensive and sustainable justice response. The sources used in this cluster on contextual factors are illustrative.

Glossary of terms– Explanatory note on concepts and definitions used in the methodological framework:

- *Crimes against humanity* are acts when committed as part of a widespread or systematic attack* directed against any civilian population, with knowledge of the attack: (a) Murder; (b) Extermination*; (c) Enslavement*; (d) Deportation*/forcible transfer of population; (e) Imprisonment / deprivation of liberty (f) Torture*; (g) Sexual crimes / forced pregnancy * (h) Persecution *; (i) Enforced disappearance *of persons; (j) The crime of apartheid*; (k) Other inhumane acts *See definitions Article 7(2) Rome Statute.
- *Complementarity* refers to the interaction between international and domestic jurisdiction. It goes beyond a technical/legal meaning of complementarity in Art. 17 of the Rome Statute, which regulates conflicts of jurisdiction. Complementarity as understood here encompasses legal and policy measures to strengthen the primary responsibility of states to respond to international crimes.
- *Effectiveness* relates to the relationship between inherent aims and goals of justice and its effects. It encompasses qualitative factors relating to input, output and perception of the justice process (e.g., respect of rights, public perception of proceedings, and sustainability of justice) and quantitative factors (e.g., timeliness, costs). It is broader than efficiency which relates to management considerations, including productivity and best use of resources. Where possible, the project will seek to gather pre-existing quantitative data to form part of the project.
- *Fairness* encompasses different dimensions: Fairness of proceedings as a whole and fairness towards particular actors in the criminal process, i.e. Prosecution, Defence, victims etc.
- *Genocide* are acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such as (a) Killing members of the group; (b) Serious bodily or mental harm; (c) Life calculated conditions; (d) Birth prevention measures; (e) Forcibly transferring children.
- *Internalization* refers to the implementation and application (e.g., jurisprudence, practice, decision-making processes) of international norms and procedures in the domestic realm. It includes legislative, executive and judicial measures.
- *Justice* relates to accountability and fairness in the protection and vindication of rights and the prevention and punishment of wrongs. It includes different types of justice: criminal justice and non-criminal justice (civil, administrative etc).
- *Jurisdiction* encompasses four types: national jurisdiction (territorial, nationality-based, universal jurisdiction), subject matter jurisdiction, temporal jurisdiction and personal jurisdiction.
- *Rule of law* is a concept with multiple meanings. It is defined by the UN Secretary-General as “a principle of governance in which all persons, institutions and entities, public and private,

¹² See Glossary of terms below.

including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires, as well, measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.” See (S/2004/616, para. 6).

- *War crimes* are (a) grave breaches of the Geneva Conventions of 12 August 1949; (b) Other serious violations of the laws and customs applicable in international armed conflict; (c) In the case of an armed conflict not of an international character, serious; violations of article 3 common to the four Geneva Conventions of 12 August 1949; (d) Other serious violations of the laws and customs applicable in armed conflicts not of an international character.

Fair and Effective Investigation and Prosecution of International Crimes: Methodology Framework

Themes	Benchmark	Breakdown of the objective / benchmark	Assessment tool/ Indicator
Cluster 1: Effective Domestication of the Rome Statute and related instruments			
1. Jurisdiction over ICC crimes 1.1 Criminalization - Domestic criminalization of international crimes	<ul style="list-style-type: none"> ▪ Article 5 Crimes within the jurisdiction of the Court ▪ Article 6 Genocide ▪ Article 7 Crimes against humanity ▪ Article 8 War Crimes ▪ Article 9 Elements of Crimes 	<ul style="list-style-type: none"> ▪ Domestic law¹³ provides a title for the exercise of jurisdiction over ICC crimes (territorial, active, passive nationality, universal) ▪ Domestic law covers all core crimes, i.e. genocide, crimes against humanity and war crimes¹⁴ ▪ Definition of crimes in domestic legislation/jurisprudence reflects the conduct proscribed or the crimes covered in the Rome Statute, including the contextual elements and the elements of crime¹⁵ ▪ Other crimes if national legislation considers them as international related crimes (i.e. crime of aggression and also other crimes) 	<ol style="list-style-type: none"> 1. How is jurisdiction over ICC crimes defined domestically? 2. To what extent does it cover territorial, active and passive nationality and universal jurisdiction for the respective categories of crimes? 3. What are – if there are – the conditions for the exercise of jurisdiction? (e.g. required nexus to domestic jurisdiction, specific forms of approval) 4. How are the crimes defined?¹⁶ To what degree do they reflect ICC definitions? 5. Are there – if there are - other crimes that domestic legislation consider as international related crimes (i.e. crime of aggression, terrorism, human trafficking, money laundering, etc.)¹⁷ <p>Effectiveness indicators:</p> <ol style="list-style-type: none"> 1. Are ICC crimes defined as crimes under international law and under domestic law? For ease of reference, use the four-fold typology in the description.¹⁸

¹³ Domestic law is understood in the wide sense. It includes written law, such as, constitutions and statutory law, but also traditional laws as well as jurisprudence and practice.

¹⁴ Note that the Rome Statute does not contain an express legal obligation of States to implement core crimes into domestic law.

¹⁵ Note that ICC jurisprudence does not require symmetric crime labeling at the domestic level.

¹⁶ The purpose of this indicator is to capture how the legislation or jurisprudence captures and labels international crimes, e.g. it may label them as international crimes according to the core international crimes in the Rome Statute. It may also define them more narrowly / broadly or differently. In addition, other offences such as terrorism or torture may be considered by the national legislation / practice as international crimes.

¹⁷ The information collected through this indicator will serve as a baseline assessment on the state of the legislation, jurisprudence and practice in the given country. It is not intended to make any suggestion about whether or not the crime of aggression or other crimes are considered or should be considered as international crimes.

¹⁸ Instruction on the use of effectiveness indicators: Four approaches may be distinguished:

			<ol style="list-style-type: none"> 2. Are the contextual elements covered? 3. Is there specific implementing legislation for ICC related crimes, and what is the status of that legislation (e.g. no legislation, draft legislation) 4. Are crimes covered by jurisprudence/case-law? 5. How are the crimes implemented or applied in practice? Are they internalized in the domestic system or do they constitute foreign transplants?¹⁹ If not, why not?
2. Offences against the administration of justice	<ul style="list-style-type: none"> ▪ Article 70 (4) (a) Rome Statute 	<ul style="list-style-type: none"> ▪ Domestic law covering Article 70 offences 	<ol style="list-style-type: none"> 1. Taking into account the different approaches of legal systems to matters such as perjury and contempt, is there specific legislation, jurisprudence or case-law for offences against the administration of justice, and if so, what is the status of that legislation?²⁰ 2. How often and in what circumstances are those legal provisions applied in practice?
3. Principles governing national	<ul style="list-style-type: none"> ▪ Part III General principles of criminal law 	<ul style="list-style-type: none"> ▪ The national criminal law foresees the following provisions reflecting Articles 22-33 of the Rome Statute 	<ol style="list-style-type: none"> 1. To what extent and how are modes of liability²¹ captured by domestic law/ jurisprudence? Are they internalized into the domestic system or foreign transplants? If not, why not?

a) Approach #1: 'No mirror': Crimes are not covered.

b) Approach #2: 'No Soft mirror': Crimes are captured but under different label.

c) Approach #3: 'Hard mirror': Domestic law captures ICC crime labels.

d) Approach #4: Domestic law goes beyond ICC definitions, e.g. where international treaties (such as Protocol I) or customary law contain stronger definitions than those in the Statute.

¹⁹ For purposes of internalization, it is important to understand not only that certain definitions in the national law reflect the ones in the Rome Statute but also to what extent the provisions, jurisprudence and the crimes are in practice used by the prosecution or courts.

²⁰ Accusatorial and inquisitorial systems have different approaches regarding such offences. Provisions in relation of false testimony, corruption or undue interference could be some indicative provisions. The purpose is to identify if similar provisions exists and if or how they are applied.

²¹ Note: According to ICC jurisprudence there is no firm requirement to reflect labels of modes of liability under Articles 25 and 28 in domestic systems. Modes of liability include the following: (i) Individual commission, (ii) Joint Commission (Co perpetration), (iii) Participation, (iv) Participation in Group Activities, (v) Inchoate and Preparatory Acts (e.g., Incitement) and command/superior responsibility (Art. 28). Corporate responsibility is not included in the ICC Statute, but may be reflected in domestic systems.

<p>criminal law relating to 3.1. Prosecution of international crimes incl. modes of participation and criminal liability and defences</p>	<p>(Articles 20 to 33 Rome Statute)</p>	<ul style="list-style-type: none"> ▪ The above principles are implemented and internalized by the judicial actors 	<ol style="list-style-type: none"> 2. Is leadership or superior responsibility captured? 3. What are defences/grounds for excluding criminal responsibility captured by domestic law? How are they captured by the legislation, jurisprudence or case-law? For ease of reference, use the four-fold typology in the description.²²
<p>4. Bars to investigation and prosecution</p>	<ul style="list-style-type: none"> ▪ Article 27 and 98 Rome Statute ▪ Article 53 Rome Statute (interests of justice exception) 	<ul style="list-style-type: none"> ▪ Absence of provisions or measures in the legislation, jurisprudence or practice that shield individuals from individual criminal responsibility or serve as a bar to the exercise of jurisdiction 	<ol style="list-style-type: none"> 1. What are some of the measures captured by the domestic law that allow or facilitate impunity or exclusion of certain individuals or groups from criminal accountability? They may include amnesties, immunities, statutes of limitations, restrictions to the temporal scope of jurisdiction (non-retroactivity), deliberate focus on low-level or marginal perpetrators, or other (e.g. but not limited to the age of criminal responsibility). If there are, provide an overview, including examples on how are they captured and if or how they are implemented in practice.
<p>5. Cooperation framework in the national legislation</p>	<ul style="list-style-type: none"> ▪ Article 3 (3) Rome Statute ▪ Article 48 of the Statute 	<ul style="list-style-type: none"> ▪ The legal framework is in place and adequately covers the full scope of areas in respect of which cooperation and 	<ol style="list-style-type: none"> 1. Is there specific legislation on the cooperation with the ICC and if so to what extent does it cover all the forms of cooperation and assistance under Part IX of the Rome Statute? If not, why not?

²² Instruction on the use of effectiveness indicators:

Approach #1: 'No mirror': Concepts and principles are lacking.

Approach #2: 'Soft mirror': Concepts and principles are captured but under different label.

Approach #3: 'Hard mirror': Domestic law captures ICC concepts and principles.

Approach # 4: Domestic law goes beyond ICC definitions.

<p>5.1 Recognition of ICC Privileges and Immunities of the ICC</p> <p>5.2 Possibility of ICC on-site presence</p> <p>5.3 Enforcement of sentences</p>	<ul style="list-style-type: none"> ▪ Article 62 Rome Statute ▪ Article 72 Rome Statute ▪ Articles 86 to 93 Rome Statute ▪ Article 103 of the Rome Statute ▪ Agreement on privileges and Immunities (APIC) 	<p>assistance is required (see Articles 86 to 93 Rome Statute)</p> <ul style="list-style-type: none"> ▪ In addition, the country has legal provisions and bilateral/regional agreements on mutual legal assistance, extradition and judicial cooperation framework ▪ Country has ratified APIC²³ ▪ Provisions allowing the Court, particularly the Pre-Trial and Trial Chambers, to sit in their territory ▪ Provisions facilitating the use of audio and video links in their territory to permit testimony and examination of witnesses unable to travel to the seat of the Court 	<ol style="list-style-type: none"> 2. What is the status of enforcement / implementation or respective legislation? (e.g., no legislation, draft legislation)? 3. To what extent is the cooperation with ICC applied in practice? Please provide evidence or examples of such cooperation.²⁴ 4. Please provide an overview of the legislation and practice in both vertical and horizontal cooperation including cooperation with other countries or hybrid/internationalized courts? Please provide evidence or example of such cooperation. 5. What grounds for non-cooperation are foreseen in the domestic system? 6. To what extent is APIC applied in practice? 7. What are – if there are – conditions for ICC / other internationalized tribunals’ on-site presence? 8. What are the conditions and circumstances (both formal and informal) for domestic testimony and examination by the ICC? 9. Are there sentence agreements and to what extent are they enforced? Is there willingness to accept sentenced persons?
Themes	Benchmark	Breakdown of the objective / benchmark	Assessment tool/ Indicator
Cluster 2: Procedure applicable to ICC related crimes under national law			
<p>1. Procedure applicable to the investigation and</p>	<ul style="list-style-type: none"> ▪ Preamble para. 6 ▪ Article 17 Rome Statute 	<ul style="list-style-type: none"> ▪ The domestic criminal procedure provides an obligation to exercise criminal jurisdiction over international crimes 	<ol style="list-style-type: none"> 1. Is there a duty/legal obligation under domestic law to investigate or prosecute international crimes (principle of legality)? If so, under what conditions?

²³ Some hold the view that, APIC is binding on all State Parties by virtue of the mention of APIC in Article 48 of the Rome Statute.

²⁴ Areas might include: (a) identification, freezing and seizure of assets; (b) opening channels of communication and domestic procedures for dealing with Court cooperation requests; (c) identification and sharing of best practices; and (d) developing databases on implementing legislation and on national focal points.

<p>prosecution of international crimes</p>	<ul style="list-style-type: none"> ▪ Part V of the Rome Statute ▪ Articles 53-61 Rome Statute ▪ OTP preliminary examinations policy paper, paragraph 48-51 (indicators) https://www.icc-cpi.int/iccdocs/otp/OTP-Policy_Paper_Preliminary_Examinations_2013-ENG.pdf 	<ul style="list-style-type: none"> ▪ The criminal procedure law foresees ‘genuine’ investigation and prosecution of international crimes²⁵ 	<ol style="list-style-type: none"> 2. What type of legal tradition defines the criminal procedure system? (accusatorial/inquisitorial/mixed) 3. What laws and rules cover the investigative stage? How is evidence collected? 4. Are there any differences or procedural adaptations in criminal proceedings in respect of international crimes when compared to ‘ordinary crimes’ and if so, to what extent?²⁶ 5. What are the main criminal procedures in place?²⁷ Are there manifestly insufficient steps in the investigation or prosecution or deviations from established practices and procedures? Do criminal procedures cover all types of perpetrators (most responsible, mid-level, and low-level)? Is there military jurisdiction? 6. To what extent is there prosecutorial discretion? Are there manifest inadequacies in charging and modes of liability in relation to the gravity of the alleged conduct and the purported role of the accused? 7. Which authority and how is it ensured that all sides of the conflict are covered by the investigation (principle of objectivity), and how is it applied? Under what circumstances is there a remedy against a decision not to investigate or prosecute?
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²⁵ In light of the diversity of legal traditions (e.g. accusatorial vs. inquisitorial), there is no need to mirror ICC procedures.

²⁶ Please provide an overview of the types of procedures in place such as: Ordinary vs. extraordinary procedures for international crimes, military vs. civilian jurisdictions.

²⁷ In relation this indicator, please provide an overview of the existing norms and regulations including (if relevant) but not limited to the following:

- Initiation of investigation.
- Duties and powers of the Prosecution, including prosecutorial discretion.
- Police - prosecution relationship in investigation and prosecution of international crimes.
- Pre-trial procedure (functions and powers of the pre-trial chamber).
- Issuance of arrest warrants.
- Arrest and custody proceedings.

			<p>8. Are there other tools to investigate international crimes and if so how are they used in practice?</p> <p>9. Describe how gender sensitive aspects are addressed in domestic proceedings and practice, including the treatment of evidence/evidentiary rules in cases of sexual violence.</p>
<p>2. Procedure applicable to the adjudication of international crimes</p>	<p>▪ Rome Statute:</p> <ul style="list-style-type: none"> ▪ Article 64 ▪ Article 65 ▪ Article 69 ▪ Article 74 ▪ Part VIII 	<ul style="list-style-type: none"> ▪ The criminal procedure foresees trial, appeal and revision procedures²⁸ ▪ The evidentiary regime enables fair proceedings ▪ The principle of expediency is foreseen 	<ol style="list-style-type: none"> 1. Provide an overview of the existing applicable procedure²⁹ to the adjudication of international crimes? 2. Does the criminal procedure foresee appeal and revisions procedures? Are these types of procedures in place? 3. Provide an overview of protections against fabricated evidence, manipulated or coerced statements, and/or undue admission or non-admission of evidence. 4. To what extent is the principle of expediency foreseen?
<p>3. Procedural guarantees of fairness in the proceedings of international crimes</p>	<p>▪ Rome Statute:</p> <ul style="list-style-type: none"> ▪ Article 55 ▪ Article 63 ▪ Article 66 ▪ Article 67 ▪ Article 85 	<ul style="list-style-type: none"> ▪ Domestic proceedings are fair ▪ There are constitutional/legal guarantees covering the rights of suspects and accused, including procedural fairness ▪ These are being implemented/internalized 	<ol style="list-style-type: none"> 1. What are some of the procedures that guarantee the fairness of the proceedings? As of when are the rights of the Defence protected in proceedings (preliminary examination, investigation, arrests, pre-trial, trial)? 2. Provide an overview of the existing norms and regulations.³⁰

²⁸ In light of the diversity of legal traditions (e.g. accusatorial vs. inquisitorial), there is no need to mirror ICC procedures.

²⁹ This shall include by not limited to the following:

- What are the functions/competences of the trial bodies?
- What are the admissibility procedures?
- What type of evidence is required?
- What requirements are mandatory for the decision?
- Shall the verdicts be reasoned?

³⁰ This may include but not limited to the following questions and evidence or concrete examples to show the application of these provisions in practice:

- What are the rights of suspects/accused during the investigation?
- Does the trial require the presence of the defendant?

			<p>3. What is the legal status of these guarantees?</p> <p>4. To what extent are these procedures effective? See effectiveness indicators incl. state of implementation and internalization.³¹</p>
<p>4. Sentencing/ execution of the court decisions</p>	<ul style="list-style-type: none"> ▪ Article 76 Rome Statute 	<ul style="list-style-type: none"> ▪ Sentences are appropriately imposed, taking into account evidence and are publicly pronounced ▪ In determining the sentence Rules of Procedure and evidence are taken into account, as well as the gravity of the crime 	<ol style="list-style-type: none"> 1. What are the penalties imposed / applied in case of a conviction for an international crime (incl. death penalty) or foreseen in the Criminal Code? <ol style="list-style-type: none"> a. What are the minimum and maximum levels of imprisonment b. Are life sentence /death penalty applicable? To what extent is life sentence or death penalty imposed? c. Does the system foresee alternatives for imprisonment? If so, in what cases? 2. What factors are taken into account in the determination of sentences?³² Are the sentences proportionate to the level of responsibility /gravity of the offences? If not, explain why not? 3. To what extent are the sentences applied? Is there grounds/practice of suspension/reduction of sentences pardon/amnesty of persons convicted for international crimes?

- Is trial in absentia allowed /applied?
- Is the presumption of innocence applied?
- How is the right to be tried without undue delay applied?
- Does the law foresee compensation to an arrested/convicted person?

³¹ For purposes of internalization, it is important to examine whether the provisions, jurisprudence and procedures are in practice applied by the prosecution or courts.

³² Provide an overview of the existing norms and regulations in relation to sentences of international crimes incl. but not limited to answering to the following questions:

- a. What are the bases for the sentences?
- b. Are the sentences considered appropriate and based on the law?
- c. Are the sentences pronounced publicly?
- d. To what extent is the accused present when the sentence is pronounced?

5. Protection of victims/ witnesses	<ul style="list-style-type: none"> ▪ Article 68 Rome Statute 	<ul style="list-style-type: none"> ▪ The country has an effective legal regime to protect witnesses and victims 	<ol style="list-style-type: none"> 1. Provide an overview of the existing norms and regulations concerning the protection of witnesses and victims, including types and means of protection.³³
6. Victim participation and information	<ul style="list-style-type: none"> ▪ Rome Statute: ▪ Article 68 ▪ Rules 89 to 91 	<ul style="list-style-type: none"> ▪ Victims are allowed to participate in the criminal proceedings 	<ol style="list-style-type: none"> 1. Provide an overview of the existing norms and regulations concerning the participation of the victims in the criminal proceedings?³⁴ These shall include also an overview of the outreach programs, if any, designated to provide information to the victims at different stages of the proceedings. 2. To what extent are the above provisions applied? (e.g. regularly applied, selectively applied, no cases)
7. Reparation for victims³⁵	<ul style="list-style-type: none"> ▪ Article 75 Rome Statute 	<ul style="list-style-type: none"> ▪ National legislation law provides for reparation for the victims of international crimes 	<ol style="list-style-type: none"> 1. Provide an overview of the existing norms and regulations concerning reparations³⁶, whether administrative or judicial.

³³ Factors include:

- a. To what extent do the protection measures take into account: a) safety, well-being, dignity and privacy b) gender, age, health, nature of crime?
- b. Are there special provisions in relation to sexual and gender/children violence? To what extent are those provisions applicable?
- c. To what extent are the protection measures consistent and in respect with the rights of the accused; ensure fairness and impartiality of trials?
- d. Is the use of special means allowed and applied?
- e. Are the views and concerns of the affected victims taken into consideration?
- f. How is the relationship between the witnesses protection unit and prosecution and court defined?
- g. Are there grounds to believe/cases in which the disclosure of evidence lead to security endangerment?
- h. How is the protection of confidentiality and of sensitive information ensured?

³⁴ This may include the following:

- Does the criminal procedure/court regulation provide for victim participation concerning international crimes?
- How is the 'victim' defined in criminal procedure law?
- What is the status of the victim in criminal procedure: In what circumstances is participation allowed /mandatory?
- What are the stages in the proceedings where victims may intervene?
- What is the scope of participatory rights: Are victims party/participants? Can they submit evidence?

³⁵ For the purpose of this assessment, reparations are understood as a range of actions including: compensation, restitution, rehabilitation, civil proceeding etc.

³⁶ This may include information on the following:

- Is there a procedure for reparation of the victims of international crimes?
- Is it part of the main criminal proceeding or does it require a separate (e.g. administrative or civil) procedure?
- What is the role of the conviction of the accused in reparation proceedings?

			2. To what extent are the above provisions applied? (e.g. regularly applied, selectively applied, no cases of reparation)
8. National proceedings		<ul style="list-style-type: none"> ▪ National proceedings are being conducted for Rome Statute crimes and run in a fair and expeditious way 	<ol style="list-style-type: none"> 1. Provide an overview of ongoing domestic proceedings (investigations, cases and trials) including: <ol style="list-style-type: none"> a. In as far as possible, indicate how many cases of international related crimes are currently being investigated, prosecuted, adjudicated and sentenced? b. Which jurisdictions are handling these cases? c. Are these being tried as international or domestic crimes? d. If there are no cases or proceedings, explain why. 2. If there are cases, identify what particular obstacles or concerns arise relating to fairness. 3. How are the cases being handled? Are there significant delays in the proceedings, in light of factors such as the pace of investigative steps and proceedings? If there are delays, how are they justified? 4. Are cases focused on low- or high-level perpetrators? Are they resulting in convictions?

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- Do victims have the possibility to initiate proceedings and/ or ask for judicial review?

Themes	Benchmark	Breakdown of the objective / benchmark	Assessment tool/ Indicator
Cluster 3: National capacities to investigate, prosecute and adjudicate international crimes³⁷			
1. Institutional framework for investigation, prosecution and adjudication of international crimes	<ul style="list-style-type: none"> ▪ Article 17 Rome Statute 	<ul style="list-style-type: none"> ▪ General: The country has a sound architecture of the criminal³⁸ system related to investigation, prosecution and adjudication of international crimes ▪ Situation-related: The country is able to collect evidence and testimony and to obtain custody over suspects 	<ol style="list-style-type: none"> 1. Provide an overview of the existing institutional architecture³⁹ in place aiming at criminal accountability for international crimes. This shall include a description of institutions⁴⁰ that have as core competences investigation, prosecution and adjudication of international crimes, their position in the judicial hierarchy and capacities to perform their duties, including overlapping competencies. 2. Provide evidence through using different sources/reports about the above institutions integrity including <ol style="list-style-type: none"> a) Independence b) Impartiality c) Effectiveness d) Fairness.⁴¹

³⁷ The following cluster aims at collecting information from relevant official or other sources of information, released during 2002 - 2016, concerning national capacities to investigate and prosecute international crimes. This may include e.g. reports from international institutions (DOMAC, UNDP etc.), local institutions (annual or activities reports), NGOs or other local non-governmental initiatives. When appropriate, the report shall include divergent/ minority views.

³⁸ This assessment shall focus only on the criminal system of investigation, prosecution and adjudication of international crimes. This does not imply other administrative or civil measures / institutions.

³⁹ Please include in the survey all institutions having investigative, prosecutorial and judicial competences in relation to international crimes.

⁴⁰ The description for each institution shall include as appropriate the following:

- Composition and organs.
- Terms of service.
- Qualification, nomination and election.
- Staffing.
- Provisions for disqualification and dealing with a conflict of interest.
- Removal and discipline.
- Privileges and immunities.
- Salaries, allowances and expenses.
- Access of parties and public.
- Regulation and its applicability.

⁴¹ Instruction on the use the following definitions/ proxies:

Independent: free from outside control i.e. from the executive or other political institutions. For ICC OTP indicators, see above footnote 7.

Impartial: their decisions are based on the law; are considered unbiased or not in the benefit of one party. For ICC OTP indicators, see above footnote 8.

Effectiveness: the degree to which the institution achieves its objectives, produce the expected results.

			<p>3. Describe the role of women, including gender composition, the level of responsibility women hold, and any salary or career progression disparities.⁴²</p> <p>4. Provide an overview of domestic capacity to collect evidence and obtain custody over suspects, in particular, if situated abroad. Provide details of extradition arrangements.</p>
2. Specialized institutions	<ul style="list-style-type: none"> ▪ Further capacities/ mechanisms to address international crimes ▪ Articles 17 and 18 Rome Statute ▪ Soft law principles including: UN Basic principles on right to reparation and remedy: http://www.ohchr.org/EN/ProfessionalIn 	<ul style="list-style-type: none"> ▪ The country has in place/ fully operational specialized institutions for investigations and prosecutions for the adjudication of international crimes 	<p>1. Are there any specialized institutions dedicated to the investigation, prosecution or/and adjudication of international related crimes (if different from the above)?⁴³ If not, explain why.</p> <p>2. Overview of forensic capacity.</p> <p>3. If there are such institutions, provide evidence through using different sources / reports about the above institutions' integrity (as above, footnote 41).⁴⁴</p> <p>4. Describe the role of women (see footnote 42).</p>

Fairness: treating parties equally. For ICC OTP indicators, see above footnote 9.

⁴² Please provide a description of the gender composition of the above institutions incl. women in high / medium/ low level of responsibility. Provide examples of disparities if there are any, in the level of salaries, career advancement or other as relevant to the country, situation or context.

⁴³ The list below is indicative to the types of specialized institutions models:

- Specialized police units.
- Specialized prosecution (initial/appeal level).
- Specialized courts/chambers at initial/ appeals or supreme courts level.
- Specialized task forces with mixed investigation and/or prosecution capacities.
- Specialized units with mixed competences including international crimes.
- Specialized units with mixed local /international jurisdictions.

⁴⁴ Indicative questions:

- Is the institution dependent/under direct control of the executive or legislature?
- Is the institution under any judicial oversight?

	<p>terest/Pages/RemedyAndReparation.aspx</p> <ul style="list-style-type: none"> ▪ UN basic principles on the independence of the judiciary: http://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx 		
3. Institutional capacities	<ul style="list-style-type: none"> ▪ UN Basic Principles on Independence of the Judiciary [as above] 	<ul style="list-style-type: none"> ▪ Institutional resources are adequate to allow investigation, prosecution and adjudication of international crimes: <ul style="list-style-type: none"> ○ Human resources ○ Financial / material resources 	<ol style="list-style-type: none"> 1. Provide an overview of the existing guarantees of institutional and financial/material resources⁴⁵. 2. Outline the capacities of institutions that deal for example with transnational crimes e.g. terrorism, drug trafficking etc. and those prosecuting war crimes/ international crimes. 3. Identify whether there is interaction between such institutions, and whether they are integrated or separate. 4. What are capacities for training or the enhancing of capabilities for various actors in the judicial process (police, investigators, judges)?

⁴⁵ Consider some of the following questions:

- Is the leadership of the institution considered capable? E.g. is the leadership of the institution composed of experienced professionals or a political appointee?
- Is the number of staff considered adequate for the institutions in order to carry out its functions?
- What is the ratio between staff in temporary and permanent positions?
- Are the salaries considered as adequate, regular and paid on time? In order to protect the officials from undue influences the salaries / other remunerations should be sufficient e.g. are the salaries at the same level with high / senior civil servants?
- How is the institution funded, including international funding? Are there enough guarantees of the finances e.g. is the financing foreseen on the state budget or it depends on donations/ additional/ temporary sources)?
- Is the local staff considered qualified? E.g. are they professionals and recruited based on their merits and not on their political / affiliation? Do they receive appropriate training in substantive and procedural issues?
- What are the working conditions in these institutions? Are there adequate premises, facilities and supporting staff?

<p>4. Institutions' willingness to investigate, prosecute and adjudicate international crimes</p>	<ul style="list-style-type: none"> ▪ Article 17 (2) Rome Statute ▪ OTP Preliminary Examinations Policy Paper, paragraph 48-51 (indicators) https://www.icc-cpi.int/iccdocs/otp/OTP-Policy_Paper_Preliminary_Examinations_2013-ENG.pdf 	<ul style="list-style-type: none"> ▪ Structures in place are not considered as shielding persons from criminal responsibility ▪ They are working without any unjustified delay, independently and free of political or other undue interference 	<ol style="list-style-type: none"> 1. Summarise the evidence of public trust into the institutions in relation to their willingness of the government/local institutions to prosecute and adjudicate international crimes? Include evidence of assessments of the integrity⁴⁶ and motivation of the public/judicial officials involved directly in the investigation, prosecution and adjudication of international crimes. 2. Are there public statements from the government/ leadership that support or hinder the work of the judicial/law enforcement institutions to investigate, prosecute and adjudicate international related crimes? Have these statements increased or decreased in the last three years? Provide some examples – if applicable. 3. Are there obstacles such as amnesties or other legal barriers to prosecution, including the exclusion of certain actors from civilian justice, or prosecution of limited categories of persons? 4. Are there other impediments such as but not limited to the lack of resources (human, financial, material), protection from threats etc., to the prosecution and adjudication of international crimes? 5. Is there any other evidence that could support the creation of a permissive environment within which unwillingness can be shaped? E.g. conditionality for cooperation and assistance (e.g., EU integration).
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⁴⁶ Integrity is understood as actions/measures in place in order to ensure the lawful and ethical behaviour of officials including transparency of decision-making processes and accountability for misconducts.

<p>5. Institutional framework ensuring cooperation and assistance to ICC</p>	<ul style="list-style-type: none"> ▪ Article 93 Rome Statute 	<ul style="list-style-type: none"> ▪ Institutional framework is in place, with full capacities in terms of human and financial resources and operates free of political or undue interference 	<ol style="list-style-type: none"> 1. Are there specialized institutions/mechanisms to ensure cooperation with the ICC? Are there focal points for cooperation nominated? 2. What are the functions of those institutions/focal points? Are their functions clearly assigned? 3. Are they dependent/under direct control of the executive or legislature? 4. Provide an overview of the existing cooperation with the ICC –if any - including evidence on incoming and outgoing requests for cooperation.
<p>6. Institutional framework ensuring the protection of the witnesses</p>	<ul style="list-style-type: none"> ▪ Articles 43(8) and 68(1) Rome Statute ▪ Report of ICC seminar, 2010: https://www.icc-cpi.int/NR/rdonlyres/08767415-4F1D-46BA-B408-5B447B3AFC8D/0/ProtectionseminarSUMMARY.pdf ▪ United Nations guidance on protection of victims and witnesses, including children: https://www.un.org/ruleoflaw/blog/document-category/victim-witness-protection/ 	<ul style="list-style-type: none"> ▪ Institutional framework in place, with full capacities in terms of human and financial resources ▪ In addition, the country has a solid track record of showing that witnesses of international crimes are being offered adequate protection during and after criminal proceedings take place 	<ol style="list-style-type: none"> 1. Provide an overview of the existing national capacities in relation to witness protection (use institutional capacities indicators, footnote 45). 2. Are there statistics available about the case load/management of the witnesses protections units? 3. Are there known incidents of witnesses being harmed/ 4. Are there alternative options for protection in the region/internationally as necessary? E.g. are there agreements of relocations of witnesses with other countries? What is the consensus of the effectiveness of these options from existing official or other reports?

<p>7. Interaction with regional bodies or cooperation networks</p> <p>7.1 Detention</p>	<ul style="list-style-type: none"> ▪ Article 106 Rome Statute ▪ UN Standard Minimum Rules for the Treatment of Prisoners: https://www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf 	<ul style="list-style-type: none"> ▪ Institutional framework to cooperate with regional or other enforcement bodies and adequate detention conditions 	<ol style="list-style-type: none"> 1. Provide an overview of the existing international/regional agreements in place and their application in concrete cases (incl. e.g. between states, influence by int. actors, e.g., IMF). 2. Provide a summary of existing assessments regarding the compliance of detention with international standards governing treatment of prisoners.
Themes	Benchmark	Breakdown of the objective / benchmark	Assessment tool/ Indicator
Cluster 4: Contextual factors			
<p>1. Security context</p>		<ul style="list-style-type: none"> ▪ Security / political factors affect the domestic investigation and the prosecution of crimes ▪ Peace agreements / political settlements influence stability / sustainability of peace ▪ Continuation of armed conflict/structural violence (in conflict/post-conflict) is relevant to rule of law and transitional justice perspective in general 	<ol style="list-style-type: none"> 1. Describe the nexus between the pursuit of justice and armed conflict/structural violence. Is the country in ongoing conflict, or in a post-conflict setting? Is it an international, or a non-international armed conflict? 2. Is there a peace agreement or a political settlement? Do peace agreements or political settlements guarantee the role of certain actors / parties in government, including the legislature, executive, and security forces, which may enable them to resist accountability measures? 3. What is the security situation? Which are the main security institutions? Are they suspected of participation in Rome Statute crimes?

<p>2. Rule of law</p>	<ul style="list-style-type: none"> ▪ Rule of law which is protective of basic international human rights standards and consistent with principles of democracy but not requiring an assessment of the level of democracy in the state: http://worldjusticeproject.org/what-rule-law; Freedom House: https://freedomhouse.org/our-work; Transparency International: http://www.transparency.org/; Fragile States: http://fsi.fundforpeace.org/ UN Rule of 	<ul style="list-style-type: none"> ▪ The country has a functioning rule of law system and the main state and non-state actors in the country support/have internalized the principles of democracy and the rule of law 	<ol style="list-style-type: none"> 1. Who oversees the work/performance of the judiciary?⁴⁷ 2. Who oversees the work/performance of the police?⁴⁸ 3. Who oversees the work/performance of courts? 4. What do independent reports say regarding the independence of courts from political/other undue intervention? What structural guarantees contribute to guaranteeing the independence of the judiciary? 5. Provide evidence through using different sources / reports about the above institutions integrity including⁴⁹ <ol style="list-style-type: none"> a) Independence b) Impartiality c) Effectiveness d) Fairness.
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⁴⁷ Provide an assessment of the independence of the judiciary from the intervention by the executive or legislature in the country.

⁴⁸ Provide an assessment of the independence of the police from political intervention [e.g. is the security sector under direct control of an elected official or under an autonomous ministry?]

⁴⁹ Instruction on the use the following definitions/ proxies:

Independent: free from outside control i.e. from the executive or other political institutions.

Impartial: their decisions are based on the law; are considered unbiased or not in the benefit of one party.

Effectiveness: the degree to which the institution achieves its objectives, produce the expected results.

Fairness: treating parties equally.

	<p>Law Indicators: http://www.un.org/e/e/events/peacekeepers/2011/publications/un_rule_of_law_indicators.pdf</p>		
3. Rule of law and corruption	<ul style="list-style-type: none"> ▪ As above 	<ul style="list-style-type: none"> ▪ The country has a functioning rule of law system with explicit anti-corruption provisions and institutions 	<ol style="list-style-type: none"> 1. Provide an overview of the corruption prevalence in the country using tools such as CPI/Transparency International/Freedom House or other national/regional surveys? How do such reports assess the judiciary in comparison with other public sectors? 2. Are there functional– if applicable- anti-corruption bodies? Describe their outputs and evidence of impact. 3. Are there functional– if applicable- anti-corruption bodies in the judicial/law enforcement sector? Describe their outputs and evidence of impact. 4. Provide an overview of the existing national capacities in the fight and prevention of corruption in general and in the judicial sector in particular (use institutional capacities indicators, footnote 45)
4. Rule of law and human rights	<ul style="list-style-type: none"> ▪ Human rights protections instituted domestically ▪ External evaluations of human rights records 	<ul style="list-style-type: none"> ▪ The country has a functioning rule of law system with specific legislative and/or institutional provisions for the protection of human rights 	<ol style="list-style-type: none"> 1. Provide an overview of the human rights situation in the country using tools as Human Rights Indicators of OHCHR/Freedom House/Universal Periodic Review/Human Rights Council resolutions or other national/regional surveys. 2. Are there functional and effective – if applicable- human rights institutions such as Ombudsman? What are some of their results?

			3. Provide an overview of the existing national capacities in protecting human rights (use institutional capacities indicators, footnote 45).
5. Transitional justice mechanisms⁵⁰/ safeguards in place to prevent impunity and increased demand for accountability	<ul style="list-style-type: none"> ▪ UN reports on rule of law and transitional justice in conflict and post-conflict countries: http://www.ipu.org/splz-e/unga07/law.pdf and https://www.un.org/ruleoflaw/files/S_2011_634EN.pdf 	<ul style="list-style-type: none"> ▪ The country has in place transitional justice mechanisms to address truth, reconciliation etc. or other state mechanisms in place to prevent mass atrocities to occur and impunity ▪ Transitional justice mechanisms for these purposes include truth commissions, reparations, and institutional reform measures or also customary or traditional forms of justice 	<ol style="list-style-type: none"> 1. Provide an overview of the state sponsored Transitional Justice mechanisms and institutions in place. 2. How have these mechanisms enabled or complicated domestic investigation and prosecution of international crimes?⁵¹ 3. Provide an overview of the existing national capacities in relation to transitional justice institutions / mechanisms (use institutional capacities indicators, footnote 45)
6. Education system		<ul style="list-style-type: none"> ▪ Formal and informal system of education for justice actors enables or hinders capacities of the specialised institutions in investigation and prosecution of international crimes ▪ The country has a formal and informal education system that serves to that purpose 	<ol style="list-style-type: none"> 1. Provide an overview of the formal and informal training, legal education system for police, judges and prosecutors. How are the capacities of the educational institutions and actors shaped by the legal education system? 2. Provide an overview of the training and legal education of other court actors e.g. bar associations, court support staff and experts, etc.

⁵⁰ Traditional justice includes only state initiated/ sponsored measures that include some form of accountability or demand for criminal persecution of the alleged gross human rights violations.

⁵¹ Focus your survey on institutions / mechanisms / processes that address one or more of the following:

- Identifying those responsible for ongoing / past human rights abuses or investigating past crimes.
- Focusing on improving / reforming judiciary or/ and security sector.
- Reparation programs (encompassing material and moral measures).
- Truth / Enquiry Commissions to the extent they lead to further requests for accountability or prosecutions.

<p>7. Non-state actors</p>	<ul style="list-style-type: none"> ▪ Non-state actors have capacity and willingness to promote human rights and/or accountability or not ▪ These include civil society more narrowly defined as NGOs, but also religious leaders, media, and political parties <p>http://www.securityintransition.org/wp-content/uploads/2013/10/TJ-and-CS-Disc-Paper-Iavor.pdf</p> <p>re civil society</p> <p>Freedom House: https://freedomhouse.org/our-work specifically for evaluation of freedom of expression/media</p>	<ul style="list-style-type: none"> ▪ The country has a vibrant/strong civil society and other non-state actors that consistently brings up issues related to human rights violations, monitor the work of the judicial institutions, influence decision-making in areas of rule of law and human rights 	<ol style="list-style-type: none"> 1. Describe key actors distinct from the government which may impact accountability <ol style="list-style-type: none"> a. Political parties b. Civil society organizations c. Media d. Religious organizations e. Non-state armed groups 2. Describe the legal status, including regulations, proscription, and funding for these. 3. Using external assessments outline whether specific actors are independent of government or political influence, and their influence upon government choices (in relation to accountability) 4. Do external assessments view these actors as diverse in terms of their agendas and scope of activity? 5. What activities do they undertake or positions do they make publicly which seek to help or hinder accountability or reconciliation?
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Project Partners:

The **International Nuremberg Principles Academy (Nuremberg Academy)** is a non-profit foundation dedicated to the promotion of international criminal law and related human rights. It was established by the Federal Republic of Germany, the Free State of Bavaria, and the City of Nuremberg in 2014. The foundation carries forward the legacy of the Nuremberg trials and the Nuremberg Principles. Conscious of this historic heritage, the Nuremberg Academy supports the fight against impunity for universally recognized international core crimes. Its main fields of activity include providing a forum for dialogue by convening conferences and expert meetings, conducting interdisciplinary and applied research, engaging in specialized capacity building for practitioners of international criminal law, and human rights education. Dedicated to supporting the worldwide enforcement of international criminal law, the Nuremberg Academy promotes the Nuremberg Principles and the rule of law with a vision of sustainable peace through justice, furthering knowledge, and building capacities of those involved in the judicial process in relation to these crimes.

The **Grotius Centre for International Legal Studies (Grotius Centre)** continues Leiden University's long and outstanding tradition in the study and teaching of public international law. The Grotius Centre explores the frontiers of public international law in light of the increasing transformation of the international legal order. The focus includes the promotion of international criminal justice, sustainable international trade, and the role of international organisation in the rule of law. To this end, it conducts various research events, including the Grotius Dialogues, and hosts visiting researchers within the framework of formal partnerships. Last but not least, the Grotius Centre is also responsible for the publication of the Leiden Journal of International Law, which is firmly established as one of Europe's leading journals in the field. The Grotius Centre has been partnering with relevant institutions in the field, including the Nuremberg Academy, in order to strengthen a common basis for research cooperation and the organization of joint academic and scientific activities.

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