

**SECRETARIAT OF THE ASSEMBLY OF STATES PARTIES TO THE ROME
STATUTE OF THE INTERNATIONAL CRIMINAL COURT**

THE HAGUE WORKING GROUP

Complementarity

Fifth meeting

30 September 2026

Informal summary

The seminar was chaired by the ad country co-focal point Ambassador Greg French (Australia).

Complementarity in Practice: State Experience, Partnerships and the Way Forward

Background: Complementarity is a cornerstone of the Rome Statute system and plays a key role in strengthening national accountability for international crimes. The seminar provided a platform for States Parties, the Court, civil society, academia and other stakeholders to exchange practical experiences on domestic accountability, cooperation and capacity-building. It aimed to complement formal discussions within the Assembly of States Parties by fostering practical, forward-looking dialogue and identifying opportunities to strengthen partnerships supporting domestic proceedings.

1. Panel 1: Complementarity in Practice: State Perspectives

The first panel focused on practical experiences in implementing complementarity across different national and institutional contexts. Speakers reflected on approaches to strengthening domestic accountability, lessons learned, challenges encountered and opportunities for further cooperation. The discussion highlighted the diversity of national experiences and contributed to a broader understanding of how complementarity operates in practice.

A representative of Uganda reflected on national experience in strengthening domestic accountability for international crimes, highlighting challenges relating to proceedings, witness protection, victim participation, outreach and legal issues. The presentation emphasized national ownership, trained personnel, adequate resources, retention of expertise and cooperation responsive to nationally identified needs as important elements of sustainable complementarity.

A representative of Australia reflected on Australia's experience of domestic accountability for alleged international crimes. The presentation highlighted practical challenges associated with complex investigations, including access to evidence and witnesses, the passage of time, witness welfare and the handling of sensitive material. It emphasized the importance of specialist expertise, institutional cooperation, sustained investment, and long-term political commitment.

A representative of the Special Criminal Court (SCC) in the Central African Republic described the national hybrid court and its relationship with the ICC. Advantages of the hybrid model included proximity to evidence, witnesses and victims, local-language proceedings, national ownership, and capacity-building. Despite significant funding constraints, legacy planning included staff training, preservation of archives and electronic case management, while cooperation with the ICC covered information exchange, training, forensic expertise, and witness protection.

2. Panel 2: Partnerships and the Way Forward

The second panel examined how partnerships and cooperation can support the effective implementation of complementarity, drawing on perspectives from practitioners, academia and civil society. The moderated roundtable brought together Deputy Prosecutor Nazhat Khan from the Office of the Prosecutor, Professor Carsten Stahn of Leiden University, Professor Sarah Nouwen of the University of Cambridge, and Ms Ashley Waye of the International Federation for Human Rights (FIDH). The discussion focused on three main themes: demonstrating genuine domestic proceedings, building effective partnerships

and capacity, and identifying future priorities for complementarity, including ways to address contemporary challenges to domestic accountability and strengthen cooperation among relevant stakeholders.

On demonstrating genuine proceedings, Deputy Prosecutor Nazhat Khan recalled that the first question under the complementarity framework was whether relevant national investigations or prosecutions existed. Where they did, the assessment turned to whether proceedings were genuine, including whether they were designed to shield a person, involved unjustified delay, or reflected an inability genuinely to proceed. Delays had to be assessed in context, and the analysis should remain focused on the relevant case rather than becoming a general assessment of the national judicial system.

Professor Sarah Nouwen of University of Cambridge distinguished the legal rule of complementarity under the Rome Statute from the broader political and policy idea of complementarity. The Statute principally determines when the ICC may proceed and does not itself generate domestic investigations or prosecutions. The existence of implementing legislation or a specialised court was therefore not sufficient in itself to make an ICC case inadmissible; relevant domestic proceedings had to exist. It was also noted that concepts such as positive or proactive complementarity could become difficult to assess where the underlying objective was not clearly defined.

Ms Ashley Waye of FIDH emphasized that credibility also had to be assessed from the perspective of victims, with meaningful participation, protection, and reparations forming central elements of victim-centred accountability. Guinea was cited as an example where civil society documentation and victim participation had contributed to domestic proceedings and the ICC preliminary examination. Victim testimony, public broadcasting, and convictions for crimes against humanity were highlighted, alongside concerns regarding the transparency, scope, and timing of reparations. The Habré proceedings were also cited to illustrate the importance of protection, monitoring, and implementation of reparations beyond judgment.

Professor Carsten Stahn of Leiden University traced the development of complementarity from an approach focused on sovereignty and implementing legislation towards a more diversified system involving national, hybrid, regional, and international mechanisms. Participants discussed the 'same person/same conduct' approach, the difficulty for States to develop domestic proceedings once ICC proceedings were advanced, and the need for both leverage and trust, long-term monitoring, and careful assessment of where the Court could add value. Colombia was discussed as an example of sustained domestic accountability developments, while it was cautioned that such developments should not be attributed solely to ICC influence given the role of domestic constitutional law and regional human rights jurisprudence.

On effective partnerships, Professor Stahn emphasized that cooperation was particularly useful where domestic institutions possessed basic capacity but required additional expertise, resources or political support. Examples included Colombia, Guinea, and Ukraine, including joint investigation and digital case management arrangements. Deputy Prosecutor Khan noted an increase in concrete requests from States for forensic expertise, victim identification and protection, and specialised investigative support, as well as cooperation in Ukraine and Libya, exchanges with specialised national bodies, and training on sexual and gender-based crimes. Capacity-building was considered most effective when linked to identified needs in specific investigations or proceedings rather than isolated workshops.

Ms Waye described civil society as contributing to victim identification, documentation of crimes, monitoring of national proceedings, information relevant to genuineness assessments, and communication with affected communities. Participants emphasized sustained and structured relationships, a clear division of roles, and two-way transparency. Professor Nouwen also noted that successful partnership depended on whether the objective was accountability somewhere or specifically at the domestic level. She cautioned against automatically creating expensive specialised structures resembling 'mini-ICCs' where international-crime proceedings could instead be integrated into ordinary national systems, and stressed the need to examine concrete political obstacles where lack of political will impeded domestic action.

In discussing locally driven capacity-building, Deputy Prosecutor Khan emphasized listening to national actors, identifying specific capacity gaps, and avoiding the imposition of a single external model. Ms Waye emphasized that civil society and victim perspectives were considered important for identifying effects of partnerships that might not be visible to international actors.

Looking to the future, Deputy Prosecutor Khan identified continued investment in complementarity and cooperation, a growing role for universal jurisdiction, continued engagement with national authorities after closure of preliminary examinations, and deeper relationships with civil society as priorities. Professor Stahn emphasized that the increasingly diversified accountability landscape required identifying where the ICC could add value without duplicating other jurisdictions, including by addressing gaps insufficiently covered by domestic proceedings. Reparations, geopolitical polarization, selective cooperation, and the risk of instrumentalization of the Court were also identified as relevant considerations.

Professor Nouwen also questioned whether the current legal framework fully reflected the broader and increasingly pluralist understanding of complementarity. Issues raised included the difficulty for a State to assume responsibility for an entire situation once an ICC investigation had opened, whether domestic proceedings should always mirror the ICC's same-person/same-conduct approach or legal characterization of crimes, and the absence of an equivalent mechanism assessing whether the Court itself was better placed than the national system in a particular context.

From a victim-centred perspective, Ms Wayne considered success to require more than institutional milestones such as closing a situation or signing a memorandum of understanding. Durable convictions, effective reparations, prevention of further crimes, and meaningful survivor participation were identified as relevant outcomes. Referring to Guinea and the IOM evaluation discussed at the previous meeting, participants highlighted the value of concrete timelines, milestones, monitoring mechanisms, and triggers for reconsideration, with civil society and victims' associations involved in their design. Enforcement of sentences and post-judgment developments were also considered part of continuing assessment.

In the final discussion, delegations highlighted the Ljubljana–The Hague Convention as an instrument supporting States' capacity to investigate and prosecute serious international crimes and encouraged its ratification. Delegations also asked how engagement with Guinea should continue following the memorandum of understanding while respecting national ownership. Ms Wayne emphasized concrete negotiated steps, timelines, and consequences, while Deputy Prosecutor Khan noted that the IOM review of Guinea had been useful in assessing whether the complementarity model was delivering justice and responding to victims, while providing lessons for other situations.

3. Concluding reflections

In concluding the seminar, the Chair highlighted several themes emerging from the discussion. Complementarity required credible national action and could operate through different institutional models, including ordinary national proceedings, specialised domestic structures, and hybrid courts. Sustained capacity depended on specialised expertise, adequate resources, secure institutions, and long-term political support. Discussions highlighted that there is no single model for implementing complementarity, and that domestic, specialized and hybrid accountability mechanisms can each contribute to achieving meaningful justice in different contexts. Partnerships among States, the Court, civil society, international organizations, practitioners, and academia were most effective when practical, coordinated, and responsive to locally identified priorities, while victims and affected communities had to remain central to the accessibility, transparency, and credibility of accountability processes. The Chair noted that the seminar had reflected a range of perspectives rather than agreement on every issue and that the discussion would inform the future work of the Complementarity Facilitation.
