

## **ANNEX 1**

## VICTIMS' VIEWS AND CONCERNS

This is an illustrative set of views and concerns expressed by 93 Victims communicated in person to the LRV during meetings with 702 Victims held in Kenya during the period 25 May to 17 June 2015. Views have been translated from the language in which they were spoken (usually Kiswahili, Luo or Luhya) to English.

The purpose of each meeting was primarily to update and inform the Victims of recent developments in the present case, including: the withdrawal of charges against Mr Kenyatta; the termination of the case by the Trial Chamber; the proceedings before the Appeals Chamber concerning the co-operation of the Government of Kenya; the March 2015 promise by Mr Kenyatta regarding compensation to victims of human rights abuses; the Prosecution's decision not to actively investigate; and the inactivity in Kenya of the Trust Fund for Victims. The Victims were informed that this was the last meeting which they would attend with the LRV. The Victims were also expressly invited to indicate whether they wished the LRV to file an application for review of the Prosecution's decision to cease active investigation. By overwhelming majority they expressed their support.

At each meeting, Victims were also given an opportunity to ask questions and to communicate any views or concerns they wished. An illustrative sample of those views and concerns appears below. This summary inevitably fails to convey the bitterness and anger with which many of them were communicated.

	Pseudonym	Gender	Reactions
1.	a/9331/11	Male	<p>When Bensouda visited Kenya, she did not interact with the victims. Many victims were killed, and in fact one of us had to carry the head of her dead husband from Nakuru so that she could bury it. Her husband was killed during PEV. Do you know how traumatizing that is? Another lady's husband was killed in their house. These women are suffering and their only hope was the ICC. You are now informing us that the case has been terminated, do you want us to kill ourselves also? (<i>Halafu unatuambia case imeisha, unataka hata sisi tujiue?</i>)</p> <p>The next time there is ethnic bloodshed in Kenya, the ICC should not even bother showing up.</p> <p>We do not understand why there is an ICC office in</p>

			Nairobi. What are they doing there? They too should pack up and leave us alone.
2.	a/9297/11	Male	Is the ongoing appeal going to be of any help to the Victims?
3.	a/9295/11	Female	It is so sad that this case has been terminated. Bensouda has greatly betrayed us. God will judge her.
4.	a/9294/11	Female	We were expecting that we would benefit from participating in this the process as victims. How can the case be terminated yet we haven't been compensated? Can Bensouda drop out of the case and we get another prosecutor?
5.	a/25074/11	Female	We are not happy with the termination of the case. If there is any organization that can help the victims then they should come forward. We suffered economic loss as a result of the property we lost and we cannot access healthcare. The Nyanza IDPs <sup>1</sup> have been deserted; even the local leaders do not bother anymore. Will the Court at least allow us to give our opinions in regards to this termination? There is so much we have to tell the Court and we feel they should listen to our grievances.
6.	a/25056/11	Male	I think the law as it is favours the rich. We had mass killings in Kenya and so far no one has been prosecuted. What kind of justice is this? We have nothing to show for taking part in this process as victims. We have victims who have benefited by being compensated by the Government whereas we have been left with nothing.
7.	a/9388/11	Female	I am very bitter on learning that the case has been terminated. We were hoping that we would get assistance from the ICC. Where is that assistance?
8.	a/9391/11	Male	Is there a possibility that Bensouda could be made to resign and then someone else takes up her position? The other alternative would be if other judges can be assigned to the Kenyan case. Kenya Case I is still going on; how come Case II has been terminated?

<sup>1</sup> Most Victims are Luo, Luhya or Kisii. A small number are Kikuyu women targeted for having Luo or Luhya husbands. The majority of the Victims, following their expulsion from Naivasha and Nakuru, went to the Nyanza and Western regions of Kenya where many now live in poverty. The population of Nyanza is predominantly Luo. The population of Western is predominantly Luhya. The perception that Kikuyu (and, to a lesser extent, Kalenjin) PEV victims have benefited disproportionately from Government assistance is a recurrent theme expressed by Victims. The term IDP ('Internally Displaced Person') is widely used within the victim community.

9.	a/25067/13	Male	We would like to have a meeting with Bensouda so that we can question her directly. We are very disappointed in her and her office.
10.	a/9379/11	Female	This appeal that you are talking about on the non-cooperation of Kenya with the ICC. How does this appeal help the victims?
11.	a/9342/11	Female	It is only the Kikuyu victims who benefited. No one has bothered with the rest of us. The people of Nyanza and Western have been forgotten.
12.	a/9380/11	Female	When the decision to terminate the case was being made, did our lawyer question them?
13.	a/25077/11	Male	We are the poor and Uhuru Kenyatta is a rich man. We cannot triumph over him. He has used all the resources at his disposal and he has ensured that the case does not progress.
14.	a/9337/11	Male	The ICC and its officials should not come to Kenya. They have done nothing and there is no need to engage with them.
15.	a/35613/14	Male	Now that the case has been terminated, we have been left with nothing and no one to fight for us.  We want to appeal to the lawyer to continue engaging with us. He should look for ways and means in which he can support us. We also feel that Bensouda should have taken time to do more research and gather more evidence on the case.
16.	a/35267/14	Male	We witnessed what happened in Naivasha and we lost all of our property. We are disappointed that the case has been terminated. In my opinion, during the Ocampo period, the case was progressing well.
17.	a/35619/14	Male	It is clear to everyone that Naivasha and Nakuru were greatly affected. Many observers including representatives from the European Union were present in the polling stations and they witnessed what was going on. Our lawyer should continue working together with Bensouda so that they can gather enough evidence. I do not understand how Case II lacks sufficient evidence.
18.	a/35256/11	Female	I was in Nakuru when the PEV occurred. It has been a

			whole seven years since we were affected. Our lives were torn apart and we continue to suffer. The ICC was our last hope and the news of the termination of the case is devastating.
19.	a/8600/11	Female	I am not interested in the ongoing appeal. The President of Kenya, who is the accused person in this case, paid the Kalenjins and Kikuyus and he even gave them land. We the IDPs from Nyanza got nothing.
20.	a/25026/13	Male	The Government failed to give to the OTP the requisite documents that would have beefed up the evidence.
21.	a/8455/11	Female	I am very bitter today. I was displaced from Nakuru and I haven't received any form of compensation.
22.	a/25034/13	Female	Does it mean all the time we have dedicated to attend these meetings and the long journeys we made to come here for all these meetings did not bear any fruit? Will the Ruto/Sang case also collapse? I am not happy with this development because I was hopeful that I would get some compensation out of this process. I got up today at 3.00 a.m. to attend this meeting. I am extremely unhappy with Bensouda.
23.	a/9292/11	Female	It has been so many years since we started this process. The Kikuyu IDPs were given money and the Government resettled them. The Nyanza IDPs got nothing; we do not have houses or even land. Our lawyer should find a way of assisting us.
24.	a/9201/11	Male	We need to distinguish between the work of the ICC and the Government. Our lawyer has informed us of the ongoing appeal on the non-cooperation by Kenya. How will this appeal help us? If the judges allowed the case to be terminated, how then are they going to help us?
25.	a/9385/11	Male	It seems the Government does not recognize the people from Nyanza. The Government has neglected us and the ICC has followed suit. They have not been of any help to us. Is it possible for both the VPRS and our lawyer to work together so that we may get some form of compensation?
26.	a/9397/11	Female	Our case was made difficult after the accused person became the president of this country. Is there a possibility that the ICC can compensate us for some of the property that we lost?
27.	a/9350/11	Male	We are the ones who suffered during PEV. All through we

			had hoped that the ICC could help us. We now have no hope and it is better to die now that the case has been terminated. Is there is anything that can be done for the case to go on?
28.	a/9356/11	Male	We are very disappointed with the case and the outcome too. Impunity is rife in Kenya. Recently our friend Yebei was killed and his body was found in Tsavo. Those who killed him are yet to be brought to court. We feel that now that the case has been terminated, our lives will be at risk. The accused might look for all the victims who have been participating in the case.
29.	a/9302/11	Male	I have heard that there is an appeal that is currently ongoing. If Bensouda's appeal is rejected that means that everything has collapsed. The VPRS and our lawyer should devise a way in which they can help the Victims.
30.	a/1203/10	Male	The ICC is the worst institution ever. I lost eleven members of my family [in a single incident during the PEV]. The Kikuyus and Kalenjins were given land and in addition to that the Government gave them Kshs. 400,000. Now that this case has been terminated, we should just be left alone and you should never call us for another meeting.
31.	a/9177/11	Male	Our lawyer must have heard or read how both the Kibaki and Uhuru administration have favored the Kikuyu community in terms of resettling the IDPs.
32.	a/9181/11	Male	During the PEV, the Government did very little to the IDPs. In the Garissa terror attacks, the Government went out of its way to help the victims and their families. Why is the government discriminating? Are we lesser victims? In regard to the ICC, they haven't offered us any help either. How poor is the Court and the entire ICC as an institution that it cannot even offer a bag of maize to the women and children?
33.	a/9401/11	Male	How come this particular case has been terminated whereas the Ruto/Sang case is still ongoing?
34.	a/8457/11	Male	If fresh investigations were to be carried out in this case, then this should also include a request for a change in the prosecutor. We do not believe that Bensouda will do a thorough job.
35.	a/8456/11	Male	Is it fair that the ICC has followed the footsteps of Kenyan courts? Where the rich and mighty get off scot-free for lack

			of evidence? I do not believe that there is insufficient evidence. The case was compromised because the accused is rich and the President of Kenya.
36.	a/25094/13	Female	We are still suffering and it seems that our fate has been sealed. We were promised that we would eventually get some compensation but this never happened. Since the case has been terminated, what are you leaving us with? Do we get to benefit for having attended all these meetings?
37.	a/35658/14	Female	What will happen to us the victims? Even if we were to have fresh investigations into this matter, do you think that the Government would cooperate?
38.	a/9194/11	Male	I lost my wife [during the PEV]. You are the contact person between us the victims and the ICC. Please talk to the ICC and your friends who can help us so that we can start businesses and our children can go to school.
39.	a/35266/14	Male	I do not have words to express my disappointment with both the ICC and the Government. Does the Government recognize the people of Nyanza?
40.	a/35648/14	Male	When Uhuru and Ruto came into power, they visited many African countries seeking support. They even met with Bensouda and you never know if this is what led to the case being compromised. What we want to know, however, is if the case has been terminated, who is paying our lawyer? Where is that money coming from?
41.	a/8613/11	Male	You have informed us that there is an ongoing appeal. What does this appeal have to do with the victims? Can you please clarify if any action will be taken against Kenya if this appeal goes through?
42.	a/25100/13	Female	I have a request that I wish to present to our lawyer. The IDPs who remained behind in Rift Valley and in Nakuru were compensated and even their children have been taken to school. The IDPs from Nyanza equally have children and require assistance. We too have children who need to go school but we do not have the finances to pay for their school fees. My plea to you is that you connect us with donors and other people who can help us.
43.	a/8612/11	Male	The case has been terminated and we have been left hopeless. What will happen to us and our children?
44.	a/9383/11	Male	I believe that those ICC judges were bribed. Bensouda and

			the judges have not done everything in their power to ensure the case goes on. In the case of Walter Barasa what action has been taken against him until now? He is still in Kenya despite having interfered with the witnesses. The judges and OTP are failing.
45.	a/8284/11	Male	I propose that Bensouda should be sacked and another prosecutor appointed. We feel that Bensouda has failed us and she is the reason why the case has been terminated. Is it possible for the victims to demonstrate and express their outrage with OTP? What role can the victims play now that the case has been terminated?
46.	a/9367/11	Female	I was a victim from Nakuru. All those victims who were residents of Nakuru were resettled. Those who came to upcountry in Nyanza region did not get any assistance from the Government.
47.	a/9100/11	Male	You have just informed us that this is the last meeting and you have also informed us that the case has been terminated and that they have given up. However, we as the victims have not left the case, we are still part of this case. We have not given up. We should have been asked what our opinion was before the court terminated the case. We want to know who in particular abandoned this case.
48.	a/25099/13	Male	It has come to my knowledge that the case has been terminated. We recently learnt that some IDPs were given Kshs. 400,000 by the Government. Where did this money come from? How come we, the IDPs from Nyanza, did not get this money?
49.	a/25087/13	Female	Our lawyer informed us that there were some witnesses who withdrew from the case. How come we as the victims have never received an opportunity to testify? We know what happened and we therefore have the first account of what transpired. Is there any possibility in the future for the victims to testify?
50.	a/35651/14	Male	I was stabbed during the PEV in Nakuru. I witnessed MPs who were inciting the perpetrators and using various avenues to ensure that non-Kikuyus be evicted from Nakuru. How come these MPs have not been prosecuted? We witnessed leaders inciting people and many people were killed. Why has the ICC not prosecuted all these leaders who played a huge role in financing the Mungiki?
51.	a/9283/11	Male	The victims should be compensated. We have waited for all these years only to be told that the case has been



			terminated. We will be having our general elections in 2017. If any violence breaks out during that electioneering period, people will not be afraid to take the law unto their own hands as there is no deterrent factor. Only two tribes benefited: that is the Kalenjins and Kikuyus. They should know that Kenya does not belong to only these two tribes.
52.	a/15291/11	Female	2017 <sup>2</sup> is fast approaching. If the accused person cannot be convicted, we are going to retaliate. We have those who were compensated and the victims from Nyanza got nothing. The Red Cross brought aid to all those who were in the camps; how come when it came to the issue of government compensation, we were left behind?
53.	35404/14	Female	How can this be the last meeting? We still need the services of our lawyer so that we can get some sort of compensation.  Our demands have not been met. How will we get feedback from today's deliberations if our lawyer and his team will not be contacting us?  We have very young widows left with their children. Some had parts of their bodies amputated. We lost our property. How can this be the last meeting when there is so much that the ICC has not dealt with?
54.	a/35014/14	Male	As a victim I feel that I have had to pay for crimes that I did not commit. The accused person is living a lavish lifestyle yet he is the one who caused all this. We, the victims of the case, are languishing in poverty. In Kenya, there is a trend if you air your issues to any of the leaders, they will find a way to silence you.
55.	a/9064/11	Male	This has been a long process that has borne no fruit. I feel that we just wasted our time. What kind of justice is this that favors the rich only?
56.	a/8641/11	Male	What measures has the ICC put in place to ensure that victims who participated in the case are not victimized? Case I is still going on but Case II has been terminated; this poses a huge problem because it means that the victims in Case I <sup>3</sup> will benefit and will be compensated.
57.	a/8615/11	Female	We live just like squatters. All our property was destroyed and we were left with nothing. This is so sad to hear that this case has now been terminated.

<sup>2</sup> Kenya is due to hold its next general and presidential elections in 2017.

<sup>3</sup> The victims of case I are predominantly Kikuyu.

58.	a/8606/11	Male	How come the statements initially taken from witnesses have not been used in this case to ensure sufficient evidence? We have a crop of bad leaders in Africa who promote impunity. The termination of this case just shows that no matter the atrocities committed by influential people, they will always go scot-free. We have lost faith in this court.
59.	a/8617/11	Female	We went through a very traumatizing experience during the PEV. We urge you, our lawyer not to give up. If there should be fresh investigations, then the judges too should come to Kenya and talk to the victims and see their current living standards.
60.	a/25117/13	Female	We had confidence in the way Ocampo was handling the case. In fact during his tenure the case was proceeding well. Is there any possibility that Ocampo can get back his position? We feel he is better placed to prosecute this case. It looks like Bensouda has been compromised.
61.	a/8701/11	Male	The President had indicated that the Victims would be compensated. Has that money been channeled to ICC offices?
62.	a/9230/11	Female	We should get some sort of compensation. At least a ¼ of what we lost if we cannot get everything. Instead of pursuing this case, the accused should be made to pay the victims part of what they lost.
63.	a/9240/11	Female	I hear that Bensouda has appealed on the issue of Kenya's non-cooperation. How will this benefit victims? Action should be taken against the President of Kenya because he is the one who failed to cooperate with the court.
64.	a/8669/11	Female	All along Bensouda was aware of what happened in 2007/2008; why then did she withdraw the charges? The accused person should have been tried and then sent to jail.
65.	a/9220/11	Male	I do not have faith in Bensouda's office. I am not happy with her work. Since 2008 many victims have died and yet no form of reprieve was given to their families. Those people (the perpetrators) were given 1000 [Kenyan shillings] for every person they killed. How come these people have not been called to testify so that they can tell the court who was funding them?
66.	a/8670/11	Male	Our hope was with the ICC. We are now heartbroken

			following the termination of this case. I think Bensouda has failed.
67.	a/8823/11	Female	If there is anyone with evidence, he should come forward and testify. We cannot allow our case to be terminated without trying.
68.	a/25120/13	Female	We still believe that our lawyer is capable of pursuing this case. I believe there is something he can do.
69.	a/8790/11	Male	Our lawyer has done a lot for us but we still feel that he should do more. Bensouda only visited Rift Valley, Central and Eldoret. Victims from Western and Nyanza continue to suffer.
70.	a/35039/11	Male	During PEV we witnessed what happened. It is now very clear that even Ocampo did not conduct proper investigations.
71.	a/35046/14	Male	It is sad to hear that the case has been terminated and this leaves us with no hope. We have been left with nothing. All those IDPs left in Nakuru were rewarded by the Uhuru administration. The OTP should not rely on the Government. In Ocampo's time, the Government used to advise Ocampo on which places to visit and this ensured he did not collect enough evidence.
72.	a/35373/14	Male	Manyara purchased pangas even before the 2007 elections. This shows that they were armed in advance. In Naivasha, they would take Luos and forcibly circumcise them. It was such a horrific moment to witness what was going on. After all we went through, we are being informed that the case has been terminated. We feel shortchanged.
73.	a/35037/14	Male	What mechanisms have you put in place to avoid the case failing? Is there another way to obtain the evidence other than depending on the Government?
74.	a/35525/14	Female	We have been ignored as victims. If the current situation prevails, the next general election will be a bloodbath as no one will care because there is nowhere to be taken to account for the violence caused.
75.	a/35539/14	Male	Why is Bensouda not appealing against the decision to have the charges withdrawn rather than making an appeal against the decision for non-cooperation?

76.	a/35492/14	Male	I understand that there are some countries that gather intelligence on Kenya. An example is that these countries use that information to issue travel advisories to their citizens who intend to visit Kenya or are staying in Kenya. Why did Bensouda rely on the Government to grant access to evidence yet she could have used other sources to obtain evidence; for example, request other countries to help her?
77.	a/35544/14	Male	Bensouda has really failed. When she withdrew the case she stated that Uhuru Kenyatta was involved in the interference of the case; why did she then withdraw the case?
78.	a/35489/14	Male	The ICC judges are doing a poor job. How can they expect Kenya to cooperate yet Uhuru Kenyatta is the president. I think Ocampo would have done a better job. Fresh investigation is a waste of time. We no longer have faith in Bensouda.
79.	a/35500/14	Male	I am confused. What criteria or law did Bensouda use to arrest Laurent Gbagbo that she cannot use against Uhuru? This case was initiated by the OTP and yet they have let us down.
80.	a/35553/14	Male	When Bensouda visited Kenya, the Government did not want any of the victims to talk to her. I was in Pipeline [IDP camp] when she visited there and we were not allowed to even come close to her. How then could we have talked to her? The Government knew what they were doing. The case should continue and Bensouda should come and re-investigate. In Kenya, if you speak the truth you will be killed.
81.	a/35329/14	Male	If [the Assembly of States Parties] cannot give the ICC teeth to deal with non-cooperation then I don't know their role. It looks like they are weak.
82.	a/35526/14	Female	When we had meetings last year, it was suggested that the ICC should use witness statements of those witnesses who withdraw or refuse to testify. What happened to that suggestion? It is true that 'a weak man has no justice'. In my view, we should be compensated so that we recover

			from some of our losses.
83.	a/35517/14	Female	It looks like it is difficult to prosecute Uhuru Kenyatta while he is still president. Is it possible for the ICC to prosecute him after he leaves power?
84.	a/35555/14	Male	The ICC will keep losing cases because they never do proper investigations. African leaders will not cooperate and they will ensure that when they leave power only their allies take over so that non-cooperation with the ICC is guaranteed.
85.	a/35552/14	Male	If the case fails we will lose faith in the ICC. We thought we would get justice. As ordinary Kenyans we cannot access high offices in Kenya to seek compensation. I request our lawyer to push for us to be compensated.
86.	a/35506/14	Male	From a political perspective, there is always tension during elections in Kenya. What measures has the ICC put in place to ensure they obtain sufficient evidence should there be violence in future?
87.	a/a/35040/14	Male	I request the ICC to use alternative modes of investigations so that we never have another scenario where there is insufficient evidence. Ocampo only toured Kenya to look at animals at the national park and adopted some of them rather than doing serious investigations. Can we get alternative means to obtain evidence?
88.	a/35292/14	Female	Now that the victims have no voice, what will happen to us? We have been spiritually, emotionally and physically hurt. Our wounds have not healed. How can you help us as our lawyer?
89.	a/9412/11	Male	I heard some suggestions that fresh investigations should be done. Would that be possible while Uhuru is still the president?
90.	a/8636/11	Male	Some of the African leaders are ASP members. From their attitude towards victims, do you think when they go to the ASP there will be any positive outcome for the victims? Is there anything that will be done? Secondly, what action will the ICC take against the witnesses who withdrew? A lot of resources were used on these witnesses.
91.	a/0641/10	Male	I am concerned about the Kenyan politicians, especially

			those in Jubilee coalition. This is because they keep asking for Kenya to withdraw from the ICC whenever they attend AU meetings. I am afraid they will hinder victims' justice.
92.	a/14395/11	Male	The OTP from the beginning was weak. They should review the evidence and begin fresh investigations. I also think Bensouda should be fired. Is there another option of another prosecutor since Bensouda has failed us? Secondly, Kenya is now big-headed. They have denied access to evidence. I think they should be referred to the ASP. The ICC has refused to refer them to the ASP. We want them to be referred to the ASP.
93.	a/9263/11	Male	Why has there been no evidence when it comes to the victims' cases? There has been no compensation for non-Kikuyu victims. Why have we not been compensated?