

**Cour
Pénale
Internationale**



**International
Criminal
Court**

Original:

No.: ICC-01/21-01/25
Date: 19 February 2026

PRE-TRIAL CHAMBER I

Before: Judge Iulia Antoanella Motoc , Presiding Judge
Judge Reine Adélaïde Sophie Alapini-Gansou
Judge María del Socorro Flores Liera

SITUATION IN THE REPUBLIC OF THE PHILIPPINES

IN THE CASE OF THE PROSECUTOR v. RODRIGO ROA DUTERTE

**Public Redacted Version of
ICC-01/21-01/25-381-Conf**

**Mr Joel Butuyan and Mr Gilbert Andres' Observations on the Defence "Request
for the Disqualification of the External Legal Representatives for the Victims"**

Source: Mr Joel Butuyan and Mr Gilbert Andres

Document to be notified in accordance with regulation 31 of the *Regulations of the Court* to:

☒ The Office of the Prosecutor

☒ Counsel for the Defence
D36

☒ Legal Representatives of the Victims
V50

☐ Legal Representatives of the Applicants

☐ Unrepresented Victims

☐ Unrepresented Applicants
(Participation/Reparation)

☐ The Office of Public Counsel for Victims

☐ The Office of Public Counsel for the Defence

☐ States' Representatives

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☐ Counsel Support Section

☐ Victims and Witnesses Unit

☐ Detention Section

☐ Victims Participation and
Reparations Section

☐ Other

I. INTRODUCTION

1. In a Request rife with internal contradictions, the Defence attempts to put forward a novel and proprietary legal theory concerning the obligations of external Common Legal Representatives of Victims (the “external CLRVs”), **not** even contemplated by the Rome Statute (the “Statute”), the Rules of Procedure and Evidence (the “Rules”), and the Code of Professional Conduct for counsel (the “Code”).

2. The Defence Request was framed after the Chamber [REDACTED].¹

3. The Chamber should also reject the Defence’s Request for the Disqualification of the External Legal Representatives for the Victims (the “Request”) and uphold appointed external CLRVs’ continued effective representation of any admitted victims in this case, in accordance with the Statute, the Rules and the Code.

II. PROCEDURAL BACKGROUND

4. On 26 January 2026, the Pre-Trial Chamber instructed the Registry to appoint Mr Joel Butuyan, Mr Gilbert Andres, and counsel from the Office of Public Counsel for Victims (“OPCV”) as the common legal representatives of victims admitted in the present case.²

5. On 30 January 2026, the Defence sent the CLRVs a request for disclosure of certain facts, including the composition of the CLRV support team.³

¹ REDACTED.

² Decision on victims’ participation and legal representation, [ICC-01/21-01/25-358](#), 26 January 2026 (“Decision on Legal Representation of Victims”), para. 31.

³ Email, Defence to Gilbert Andres and Joel Butuyan, “CenterLaw Philippines”, 30 January 2026, 10:59; Email, Defence to Joel Butuyan and Gilbert Andres, “Composition of the V50 team of legal representatives”, 30 January 2026, 11:40.

6. On 6 February 2026, the Chamber rejected the Defence request to [REDACTED].⁴

7. On 11 February 2026, the Defence filed its Request.⁵

8. On 12 February 2026, the Chamber clarified that the CLRV appointed to represent any victims admitted in the present case shall also represent the victims admitted in its latest decision.⁶

9. On 12 February 2026, the Chamber by e-mail ordered the Prosecution as well as Mr Joel Butuyan and Mr Gilbert Andres to provide their observations on the Defence Request by no later than 16 February 2026.⁷

III. CLASSIFICATION

10. Pursuant to regulation 23*bis* (1) and (2) of the Regulations of the Court, the present submission is classified as confidential because it refers to the content of documents which bear the same classification. A public redacted version will be filed in due course.

⁴ REDACTED.

⁵ "Defence Request for the Disqualification of the External Legal Representatives for the Victims" No. [ICC-01/21-01/25-372-Conf](#), 11 February 2026 ("Request").

⁶ Second decision on victims' participation and legal representation, [ICC-01/21-01/25-375](#), 12 February 2026.

⁷ See the Email Decision of the Chamber dated 12 February 2026 at 10:35.

IV. SUBMISSIONS

a. There is no impediment to representation under Art. 12 of the Code

11. The Code does not apply to Ms. Arcaina's role as case manager, as such role does not fall under the provisions of the Code, specifically [REDACTED].

12. Article 1 of the Code provides for an exclusive enumeration:

This Code shall apply to defence counsel, counsel acting for States, amici curiae and counsel or legal representatives for victims and witnesses practicing at the International Criminal Court, hereinafter referred to as 'counsel'.

13. A case manager is not included in the specific and exclusive enumeration of "counsel" provided in article 1 of the Code.

14. Even the Defence's lead counsel, Mr Kaufman, would be much familiar with the *Bemba I* case wherein the Trial Chamber did not disqualify Mr Kaufman from being later appointed as a "legal consultant" of the Bemba Defence team despite being a former member of the prosecution staff.⁸ The Trial Chamber stated in the *Bemba I* case that:

Mr Kaufman has been appointed as a "legal consultant", and it is of importance that the Code of Conduct applies only to "defence counsel, counsel acting for States, amici curiae and counsel or legal representatives for victims and witnesses practising at the International Criminal Court" (Article 1 of the Code of Conduct, emphasis added). Indeed, the appointment of a "legal consultant" is not separately regulated in the Rome Statute framework, and including in the Code of Conduct, although counsel for the defence may be assisted by other persons with relevant

⁸ *Bemba Gombo*, [ICC-01/05-01/08-769](#), Decision on the "Prosecution's Request to Invalidate the Appointment of Legal Consultant to the Defence Team," 7 May 2010.

experience (Rule 22(1) of the Rules). Therefore, it is to be noted that although Mr Kaufman is registered as counsel for the defence on the list of counsel maintained by the Registry, in this case he has been engaged as a legal consultant and is not the subject of a representation agreement (Article 11 of the Code of Conduct). Ordinarily, a consultant will not represent the accused in court and make oral submissions before the Chamber on his behalf, unless expressly authorized to do so. He may therefore not be considered as "practising at the [...] Court" within the meaning of Article 1 of the Code of Conduct.⁹ (underscoring supplied)

15. From the *Bemba I* case, the enumeration of counsel in article 1 of the Code is exclusive; "counsel" excludes a "legal consultant" as he or she "will not represent the accused in court and make oral submissions before the Chamber on his behalf, unless expressly authorized to do so."

16. The principle in the *Bemba I* case also applies to a case manager as she will not represent the admitted victims in court and make oral submissions before the Chamber on behalf of victims.

17. Further, a case manager is not contemplated in article 2(2) vis-à-vis [REDACTED] of the Code. [REDACTED].

18. Ms Arcaina presently practices law at a distinct organization from the firm headed by Mr Butuyan and Mr Andres. As the Executive Director of the Ateneo Human Rights Center ("AHRC"), Ms Arcaina occupies a legally and experientially differentiated role in the AHRC with its own client constituency, attendant confidentiality obligations, and separate legal matters.

19. At the same time, the role and qualifications of the case manager are distinct from the role and qualifications of counsel - in this case, the role of Mr Butuyan and

⁹ *Idem*, para. 31.

Mr Andres as common legal representatives for victims. A much higher threshold is required for LRVs, as indicated in the Court's Legal Aid Policy.

20. Ms Arcaina's role as case manager for the external CLRV team, actually falls under the category of "persons assisting counsel" and "team member" as outlined in the Court's detailed Legal Aid Policy.¹⁰

21. The Legal Aid Policy in particular indicates that the Code's provisions apply directly to appointed counsel and associate counsel.¹¹ Again, this is laid out in the Code's use of terms, which clarifies that an "associate" under the Code is a lawyer who practices at the same law firm as appointed counsel.¹²

22. Likewise, in the case of *Bemba et al.*, the Court rejected the claim by the Prosecution to extend the applicability [REDACTED] of the Code to any member of the defence team. The Court has explicitly stated in this case that it is "unwilling to endorse such extended meaning to the provision at the time."¹³ In this similar way, the Defence now attempts at extending the applicability of the provision to Ms. Arcaina, as the case manager of the external CLRV team. The Defence is grasping at straws.

23. The object and purpose of article 12 of the Code, as evidenced by its explicit reference to the limitations set by article 16, is to protect the client interests of counsel - in this case, the interests of admitted participating victims of the current proceedings - and safeguard their rights to have their views and concerns effectively presented before the Chamber.

24. The application for appointment by Mr Butuyan and Mr Andres of Ms Arcaina to their team as case manager directly advances this objective by facilitating the

¹⁰ Legal aid policy of the International Criminal Court, paras. 4(d) and (e).

¹¹ *Idem*, para. 142.

¹² ICC Code of Professional Conduct for Counsel, Article 2 (the "Code").

¹³ *Bemba et al.*, Decision on Prosecution submission on the appointment of defence counsel, [ICC-01/05-01/13-909](#), 15 April 2015, para. 17.

appointment of a team member with extensive experience in criminal litigation and physical/digital evidence management, particularly regarding the subject matter of the case before the Chamber - thereby developing an experienced and contextually familiar team to further the interests of their clients, the admitted victims in this case.

25. Anticipated by the multivariable structure of counsel support teams as allocated in the Court's Legal Aid Policy, effective and responsible LRVs are empowered and obligated to construct a team with a varied set of legal and non-legal expertise best suited to the context of the case and situation.

26. But even *assuming arguendo*—but definitely not admitting— that the provision of [REDACTED] of the Code is applicable to Ms. Arcaina as a support member of the external CLRV team, her [REDACTED] before the Court falls under the exception [REDACTED].

27. First, the nature of [REDACTED] relates to an uncontested issue, [REDACTED].

28. [REDACTED].

29. Ms Arcaina's [REDACTED] is [REDACTED]. [REDACTED] that are publicly available, or available upon request [REDACTED] or from [REDACTED], as well as [REDACTED].

30. With respect to Mr Butuyan and Mr Andres as Chair and Executive Director of CenterLaw, respectively, the issue is similarly limited to [REDACTED].

31. [REDACTED].

32. In its [REDACTED].

33. In addition to the clear factual difference between [REDACTED], [REDACTED] was solely aimed at [REDACTED].

34. In fact, the Defence acknowledges [REDACTED] in its characterization of them as “information emanating from governmental offices and ministries and law enforcement agencies.”¹⁴

35. The [REDACTED] regarding [REDACTED].

36. That is, [REDACTED] with the [REDACTED] Ms Arcaina’s [REDACTED]. Rather, the Prosecution [REDACTED] as part of [REDACTED] through the parameters laid down by the Rules.

37. The Appeals Chamber in *Katanga and Ngudjolo* declined to impose requirements crossing the boundaries of LRV’s roles in situations where the evidence “withheld” from the Defence was [REDACTED].¹⁵

38. Accepting the Defence’s line of argument in its Request leads to a result which absurdly limits [REDACTED] (OTP) as an organ of the Court which relies on [REDACTED] to fulfil its mandate across the Court’s geographically varied investigations.

39. Ms Arcaina, [REDACTED], [REDACTED], based on [REDACTED] of the Philippines.

40. This is no different from a scenario wherein [REDACTED], [REDACTED] - or otherwise [REDACTED], after learning that [REDACTED].

41. Whether the OTP then [REDACTED], it is squarely within its discretion and purview as a strategic, prosecutorial body, independent from [REDACTED].

¹⁴ Defence Request, *supra* note 5, para. 7.

¹⁵ *Katanga and Ngudjolo*, Judgment on the Appeal of Mr Katanga Against the Decision of Trial Chamber II of 22 January 2010 Entitled "Decision on the Modalities of Victim Participation at Trial", [ICC-01/04-01/07-2288](#), 16 July 2010, paras. 80-81.

42. To revoke the appointment of external CLRVs on the basis of the OTP's decision on matters regarding its own case presentation unduly links the two parties in a manner constraining their essential purposes and requisite functions in the proceedings - in no small part by forcing the external LRV, often a national of the situation before the Court, to [REDACTED], [REDACTED], and other adversarial matters that are the sole domain of the Prosecution.

43. In sum, by conflating the [REDACTED], the Defence seeks to improperly adjudicate an unripe challenge to the validity [REDACTED] via a round-about challenge to the appointment of external CLRVs and members of their counsel support team.

44. Second, the Defence selectively quotes [REDACTED] of the Code by stating that there is simply [REDACTED], when the standard is [REDACTED].

45. The Defence even admits in its Request that [REDACTED].¹⁶

46. The Defence revealing [REDACTED], when there is no [REDACTED]. The Defence misrepresents and seems to impose an inexistent standard upon this Court.

b. There is no conflict of interest

47. Ms Arcaina's [REDACTED] and as Case Manager of the external CLRV team is not *prima facie* incompatible nor prohibited by the Statute, Rules, Court Regulations, or the Code.

48. As the Defence acknowledges, [REDACTED]. Under the Statute, Rules, and applicable jurisprudence of this Chamber, [REDACTED] as well.

¹⁶ Defence Request, *supra* note 5, para. 20.

49. The Defence's characterization of Ms Arcaina [REDACTED] conflates the two. The Court has recognized that "*the parties and participants do [REDACTED].*"¹⁷

50. [REDACTED].¹⁸

51. On this note, while Mr Butuyan and Mr Andres were aware that Ms Arcaina [REDACTED], both counsels were never made aware of the fact [REDACTED], much less [REDACTED], because [REDACTED] were respected and treated by Ms Arcaina as confidential. Prior to their appointment as CLRVs, Mr Butuyan and Mr Andres could not have known about [REDACTED] that is confidential.

52. Moreover, given the very recent appointments of Mr Butuyan and Mr Andres, they had limited time, and have had trouble [REDACTED]. They did not have a chance to check [REDACTED] at the time they submitted their recommendation for the appointment of Ms Arcaina.

53. It is also worth mentioning that the choice of all the members of the Victims' team went through an exhaustive process of consensus-building among [REDACTED]. This is the reason why there was a unified team [REDACTED], unlike other country situations that were rife with infighting among various counsel teams.

54. Mr Butuyan and Mr Andres adopted the [REDACTED], including [REDACTED], in addition to the fact that they personally knew Ms Arcaina to be competent and qualified for the case manager position. The choice of Ms Arcaina as case manager is infused [REDACTED].

55. For the Defence to accuse that Mr Butuyan and Mr Andres knew [REDACTED] that Ms Arcaina [REDACTED], is to accuse Ms Arcaina of breach of her confidentiality duty.

¹⁷ *Bemba Gombo*, Decision on the "Prosecution Motion on Procedure for Contacting Defence Witnesses and to Compel Disclosure", [ICC-01/05/01/08-2293](#), 4 September 2012, [REDACTED].

¹⁸ ICC Rules of Procedure and Evidence (the "Rules"), REDACTED (REDACTED).

56. It is also worthwhile mentioning that when Mr Butuyan and Mr Andres recently sought clarification from Ms Arcaina, the latter conceded that at the time the case manager position [REDACTED], and when the same was offered to her, the possibility of [REDACTED] escaped her mind because [REDACTED].

57. The Defence statement in its Request is likewise misleading, when, based on Ms Arcaina's [REDACTED], [REDACTED].

58. For LRVs, the conflict of interest framework addresses a set of circumstances distinct from this situation. Article 16(2) of the Code outlines that a conflict of interest for LRVs occurs where there are "potential conflicting interests within the group" of victims they commonly represent. The standard set by the provision is "fair representation of the different yet consistent positions" of their clients. The remedy is not revocation of the LRVs' appointment, but simply notification of the victims.¹⁹

59. Rule 90(4) requires only that the Chamber take reasonable steps to pick an LRV that avoids any conflict of interest among different victims.²⁰ The Court applies a flexible approach to the question of a common LRV, and the "reasonable steps" standard is considered to allow the Court to approach issues on a case-by-case basis.²¹

60. This is distinct from the conflict of interest framework developed to address the unique position of the Prosecutor and the staff that work for him.

61. In much further detail and scope, the Code of Conduct for the Office of the Prosecutor, by contrast, requires that they must "abstain from any conduct which may, directly or indirectly, be in conflict with the discharge of their official duties."²²

¹⁹ Code, *supra* note 12, Article 16(3).

²⁰ ICC Rules, *supra* note 18, Rule 90(4) ("The Chamber and the Registry shall take all reasonable steps to ensure that in the selection of common legal representatives, the distinct interests of the victims, particularly as provided in article 68, paragraph 1, are represented and that any conflict of interest is avoided.").

²¹ *Lubanga*, Decision on victims participation, [ICC-01/04-01/06-1119](#), 18 January 2008, paras. 124-126.

²² ICC Code of Conduct for the Office of the Prosecutor, para. 42.

62. Further the OTP is governed by principles of impartiality as an investigative body.²³

63. Stretching this conception to apply to external CLRVs, the Defence is apparently creating its own *sui generis* standard for conflicts of interest applicable to the LRVs, who by his account must avoid “an objective appearance of bias” - all the while he incompatibly characterizes the LRV position itself as a “partisan” role in proceedings.²⁴

64. In repeating this original standard in its concluding request, Defence cites a decision setting the standards of impartiality for Chamber judges, who retain a distinct role in proceedings from LRVs, thereby revealing the inapplicability of this standard.²⁵

65. This creative liberty is also apparent in the Defence’s use of the example of Ms Arcaina, Mr Butuyan, and Mr Andres’ [REDACTED].

66. Article 12(1)(a) of the Code, for example, addresses the scenario wherein counsel has formerly represented another client whose interests are incompatible with their current client.

67. In *Katanga and Ngudjolo*,²⁶ the Court found a conflict of interest with the LRV that caused his removal from representing a set of victims, wherein the LRV had consulted with the defendant to potentially be his counsel in a domestic case – [REDACTED].

²³ *Idem*, para. 29.

²⁴ Defense Request, *supra* note 5, paras. 21, 24, 26.

²⁵ *Bemba et al.*, Decision of the Plenary of Judges on the Defence Applications for the Disqualification of Judge Cuno Tarfusser from the case of *The Prosecutor v. Jean-Pierre Bemba Gombo, Aimé Kilolo Musamba, Jean-Jacques Mangenda Kabongo, Fidèle Babala Wandu and Narcisse Arido*, [ICC-01/05-01/13-511-Anx](#), 20 June 2014, para. 17. (“The relevant standard of assessment is whether the circumstances would lead a reasonable observer, properly informed, to reasonably apprehend bias in the judge.”).

²⁶ *Katanga and Ngudjolo*, Decision on the Apparent Conflict of Interest in relation to the Legal Representative of Victims a/0015/08, a/0022/08, a/0024/08, a/0025/08, a/0027/08, a/0028/08, a/0029/08, a/0032/08, a/0033/08, a/0034/08 and a/0035/08, [ICC-01/04-01/07-683](#), 16 July 2008.

68. The Court has further addressed situations of fitness of legal representation where victims give conflicting instructions to the LRV or when the situation of victims is very different or even irreconcilable.²⁷ The Defence does not stipulate that this is at issue here.

69. The Defence misleads this Chamber by drawing a conflict of interest issue vis-à-vis [REDACTED]. As the conflict of interest framework does not contemplate this situation, the Defence's insinuation simply does not follow.

70. The Defence's argument creates an impediment to representation that is simply not conceived of by the Code.

71. In *Bemba Gombo*, the Chamber rejected the prosecution's conflict theory as speculative, requiring: (1) direct adversity at the primary level (e.g., defendant's interests in the two cases must demonstrably conflict, not merely overlap as his own unified interests); and (2) latent adversity at the collateral level (e.g., counsel must face more than speculative exposure to ineffective assistance claims via robust strategies by other counsel in the instant case).²⁸

72. Applying the above parameters in a hypothetical situation, a [REDACTED]. At the same time, the Defence has failed to prove any conflict vis-a-vis [REDACTED].

²⁷ *Banda and Jerbo*, Decision on common legal representation, [ICC-02/05-03/09-337](#), 25 May 2012, para. 42 ("With regard to the issue of conflict of interest, although no definition of a conflict of interest is provided under the Code of Conduct applicable to the legal representatives of victims, the approach so far adopted before this Court is that "in case the common legal representative receives conflicting instructions from one or more groups of victims, he or she shall endeavour to represent both positions fairly and equally before the Chamber.").

²⁸ *Bemba et al.*, Decision on Prosecution submission on the appointment of defence counsel, [ICC-01/05-01/13-909](#), 15 April 2015, para. 24 ("The Chamber is not convinced that the Prosecution has taken their theory of conflict of interest beyond mere speculation. For one thing, the conflict is not readily apparent at the primary level of ownership of the interests contemplated as potentially in conflict. For the interest of Mr Bemba in the successful outcome in the Main Case has not been shown to be in conflict with his interest in a successful outcome in the present case. They are both the interests of Mr Bemba himself, not interests belonging to different persons.")

73. Moreover, as an entity under the Court operating analogously to LRVs, the OPCV has represented victims participating in multiple cases under the same situation and the Court has looked favourably on the continuity of legal representation.²⁹

74. Further, characterizing a person as [REDACTED]³⁰ is misleading and conflates roles before the Court that have been explicitly designed to address the system of international justice. To illustrate, even the hypothetical scenario [REDACTED] is well-established before the Court.³¹

75. On the other hand, for the admitted victims that external CLRVs represent in this case, this Court has consistently held that “the Statute grants victims an independent voice and role in proceedings before the Court,”³² as well as the fact that “victims participating in criminal proceedings cannot be regarded as ‘either the opponent - or for that matter necessarily the ally - of the prosecution, their roles and objectives being clearly different.’”³³

76. In addition, the Defence cites *Al Hassan* to point out that a Chamber may require victims to disclose exculpatory evidence, when the Chamber is notified such information is available.³⁴ However, the Chamber in the rest of its deliberation established the presence of this information must not be merely speculative,³⁵ and the Defence in this case has not pointed to any concrete information held solely by the victims/external CLRVs, it only hypothesizes a conditional scenario.³⁶

²⁹ *Ongeven*, Decision on contested victims’ applications for participation, legal representation of victims and their procedural rights, [ICC-02/04-01/15-350](#), 27 November 2015, paras. 19–24.

³⁰ Defence Request, *supra* note 5, paras. 23–24.

³¹ REDACTED.

³² Situation in the Democratic Republic of the Congo, Decision on the applications for participation in the proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6, [ICC-01/04-101-tEN-Corr](#), 17 January 2006, para. 51.

³³ Abu Garda, Decision on victims’ modalities of participation at the Pre-Trial Stage of the Case, [ICC-02/05-02/09-136](#), 6 October 2009, para. 7.

³⁴ *Al Hassan*, Decision on Defence request for provision of victims’ applications, [ICC-01/12-01/18-1248](#), 12 January 2021, para. 11 (citing *Katanga and Ngudjolo*, *supra* note 12, paras. 71, 81).

³⁵ *Idem*, para. 13.

³⁶ Defence Request, *supra* note 5, REDACTED (REDACTED) (emphasis added).

77. On a related insinuation by the Defence, it must be stressed that there are no disclosure obligations on behalf of the external CLRVs even close to what the Defence seeks to imply in its procedural history summary. In fact, later in its Request the Defence recognizes this lack of disclosure obligations and this Chamber has acknowledged this when it held [REDACTED].³⁷

78. The Court has clearly established that disclosure is an *inter partes* process which takes place only between the Prosecution and the Defence.³⁸

79. In *Katanga and Ngudjolo*, the Court held that victims have limited procedural rights and obligations under the Statute and Rules during the pretrial stage; it specifically excluded participation in the *inter partes* disclosure process, as the Statute and Rules "*only expressly grant rights to, and impose obligations on, the Prosecution and Defense.*"³⁹

80. The Appeals Chamber in the same case later upheld this interpretation, finding that LRVs are not obliged to disclose exculpatory evidence to Defence, as this is the sole responsibility of the Prosecution; requiring otherwise would disregard the limited and differing role of the victims in these proceedings vis-a-vis the parties.⁴⁰

81. Similarly, the Court in *Lubanga* unequivocally stated that the disclosure regime "*is imposed on the prosecution alone: in other words, no positive obligation is imposed on the other organs of the Court, the defence, or the participants to disclose exculpatory material.*"⁴¹

82. The conduct of LRVs with respect to disclosing and protecting information is explicitly laid out in Code article 8(4), limiting counsel to only disclose protected

³⁷ *Ibid*; REDACTED.

³⁸ *Lubanga*, Decision on the final system of disclosure and the establishment of a timetable, [ICC-01/04-01/06-102](#), 15 May 2006, paras. 63-65.

³⁹ *Katanga and Ngudjolo*, Decision on the Set of Procedural Rights Attached to Procedural Status of Victim at the Pre-Trial Stage of the Case, [ICC-01/04-01/07-474](#), 13 May 2008, paras. 91-92, 114, 141-44.

⁴⁰ *Katanga and Ngudjolo*, *supra* note 15, paras. 72-75; see also para. 81 (clarifying Prosecution's duty to investigate victim's information and then disclose to Defense).

⁴¹ *Lubanga*, Decision on the defence application for disclosure of victims applications, [ICC-01/04-01/06-1637](#), 21 January 2009, paras. 9-12.

information where the disclosure is provided for by Statute, Rules, or ordered by the Court.

83. Finally, under international human rights law,⁴² non-governmental organizations have a clear role in facilitating the right of access to justice for victims of human rights abuses.⁴³

84. The Court provides for this through its recognition of intermediaries: individuals and organizations who work to make the statutory right of victims to participate before the Court a reality.⁴⁴

85. The various confections made by the Defence (REDACTED) and the accordant siloes in which the Defence envisions all of those entities should work, directly undermines the practice of participatory international criminal justice.

86. Following the Defence's line of argument and criticism of the role of Mr Butuyan, Mr Andres, and Ms Arcaina in [REDACTED] in the Philippines, the Defence would have the Prosecution only gather evidence directly from the same government whose system has perpetuated impunity for the alleged crimes in this case.

87. Thus, the improbability of the Defence's prescriptions further belies a lack of understanding of the foundational principle of complementarity, where the ICC and its organs– the OTP, various victim support bodies like the OPCV and VWU – work

⁴² See Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, UN Doc. [A/RES/53/144](#), 8 March 1999, Articles 5, 16, 18; Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, UN Doc. [A/RES/60/147](#), 16 December 2005, paras. 11-14.

⁴³ See Rome Statute, Article 21(3) (establishing applicability of international human rights standard in the Court's interpretation of law).

⁴⁴ See ICC Guidelines Governing the Relations between the Court and Intermediaries for the Organs and Units of the Court and Counsel working with Intermediaries, March 2014, Section 1.

despite of and because of domestic legal systems that are unwilling or unable or do not at all investigate or prosecute crimes within the jurisdiction of this Court.

88. Thus, as there is no legal impediment under [REDACTED] and no conflict of interest under article 16 of the Code vis-a-vis Mr Butuyan and Mr Andres, this Chamber should reject the Defence Request, especially since as explained in its reasoning behind the appointment of Mr. Butuyan and Mr. Andres: they are familiar with the context of the alleged crimes, competent to represent victims before the Court, retain a field presence and proximity to victims, and are willing to work with any other legal representative, noting that the majority of admitted victims proclaimed their desire for Mr. Butuyan and Mr. Andres to represent them.⁴⁵

89. Finally, Rule 90(1) of the Rules should be upheld which commands that “A victim shall be free to choose a legal representative.” The recommendation that Mr Butuyan and Mr Andres be appointed as CLRVs went through an exhaustive process of [REDACTED].

90. Thus, consistent with article 68(3) of the Statute, the appointment of Mr Butuyan and Mr Andres as external CLRVs is infused with [REDACTED] of the victims who want their views and concerns heard during the confirmation of charges hearing that commences on February 23, 2026.

⁴⁵ Decision on Legal Representation of Victims, *supra* note 2, para. 29.

V. CONCLUSION

91. For all the foregoing reasons, the external CLRVs request the Pre-Trial Chamber to REJECT the Defence Request.



Gilbert Andres



Joel Butuyan

Dated this 19th day of February 2026

At The Hague (The Netherlands)