



VICTIMS' TRUST FUND TEAM
COALITION FOR THE INTERNATIONAL CRIMINAL COURT (CICC)
COMMENTS AND RECOMMENDATIONS¹
TO THE SEVENTH SESSION OF THE ASSEMBLY OF STATES PARTIES
14 NOVEMBER - 22 NOVEMBER 2008, The Hague

6 November 2008

The Victims' Trust Fund Team ("Team"), a part of the CICC NGO team structure, has been in existence since 2005. It monitors and provides input to the effective establishment and operation of the International Criminal Court's Trust Fund for Victims ("Trust Fund" or "Fund") established by Article 79 of the Rome Statute.

Assessment of the Implementation of the Regulations and support for the Trust Fund

The Team notes that the Assembly decided at its fourth session, that it would assess the implementation of the Trust Fund Regulations no later than at its seventh regular session².

The Team followed closely the drafting and negotiation process leading up to the adoption of the Trust Fund Regulations. It advocated for the Assembly of States Parties to adopt effective and well-balanced Regulations that would enable the Trust Fund to both provide assistance to victims prior to a conviction, and implement reparations orders. The Team welcomed the adoption of the Regulations as a major step towards ensuring the effective functioning of the Trust Fund.

Since becoming operational in 2007, the Trust Fund Secretariat has made significant progress at various levels of its work. However, having completed only its first year of operations, with important areas of the Regulations not having been tested in practice yet, we believe that revising the Trust Fund's Regulations at this seventh ASP session would be premature. This is true in particular with regard to the reparation mandate of the Trust Fund.

Therefore, the Team recommends that the ASP defers a review of the Trust Fund Regulations to a later stage and instead renews its support for the general principles that must guide the work of the Trust Fund.

1) Assistance and reparations: the Trust Fund's two-fold mandate

After intense negotiations, States agreed to give the Trust Fund not only a mandate to implement reparation orders but also a mandate to provide assistance to victims prior to any conviction. The Team attaches particular importance to this double mandate and considers it a significant achievement of the Rome Statute system. The Team believes that the two parts of the mandate complement and strengthen each other.

¹ While the work of the Victims' Trust Fund Team reflects the positions of those Coalition members most active on particular issues and this paper has been prepared in consultation with other Coalition teams, this paper cannot be construed to represent the views of all organizations/members of the CICC. Since the Rome Diplomatic Conference, Coalition members have organized themselves into teams, one to follow each working group or theme of the intergovernmental process. Coalition teams now follow issues addressed by the Assembly of States Parties or its subsidiary mechanisms and by the International Criminal Court. Teams provide a forum within which interested members discuss issues, follow developments, elaborate relevant research and positions in response to developments, and elaborate and implement advocacy strategies in relation to those positions. All Coalition members are welcome to join any teams and all Coalition members are regularly apprised of the work of the teams.

² Resolution ICC-ASP/4/Res.3

2) The Trust Fund as a *sui generis* institution: independent but at the same time intrinsically linked with the International Criminal Court

By adopting the Trust Fund Regulations, States have created a unique institution. The Trust Fund enjoys independence in its operational activities and falls under the full authority and guidance of its Board of Directors. At the same time, it has important ties with the International Criminal Court: the Fund's mandate is intrinsically linked to the Court's jurisdiction. It provides assistance and implements reparations orders for the benefit of victims *of the crimes within the jurisdiction of the Court*.

It also has institutional ties with the *Registry*, to which it is attached for administrative purposes; and with the *Chambers*, whom the Board of Directors must notify of its intention to undertake assistance projects (procedure established in TF Regulation 50) and who will issue reparations awards.

As the work of the Trust Fund develops the Team calls on all actors to do their utmost to ensure efficient cooperation.

3) The Trust Fund as a well-recognised, adequately supported institution

In order to gain long-term support and develop into a well-recognized institution, including among victim communities, the Trust Fund must increase its visibility and devise clear communication strategies. Making public its goals and strategic priorities, its procedures for the selection of projects and its evaluation mechanisms, will secure it further support.

The Team recommends that the ASP request the Board of Directors to make public the Trust Fund for Victims Strategic Plan 2008 - 2011 (referred to in the Board's latest Report to the ASP on its activities and projects). NGOs would welcome the opportunity to engage with the Board and the Secretariat in developing the Plan.

4) The Trust Fund as a model of good administration

With the Fund's vision of reaching tens of thousands of victims and raising substantial amounts of money, financial propriety and transparency are vital to ensuring credibility and support.

Call for voluntary contributions

The Team calls on States to continue and expand their voluntary contributions and to pay special attention to the recently launched donor appeal aimed at assisting victims of sexual violence in all four situation countries.

The Team encourages States to make pledges during the ASP's general debate, while expressing support for the afore-mentioned principles. A call for voluntary contributions should be included in the omnibus resolution.

Upcoming election of board members at the 8th ASP session

The Team attaches particular importance to the oversight exercised by the Board of Directors. Considering that elections for the Board of Directors will be held at the eighth ASP session, the Team encourages States to start the process of identifying appropriate candidates in all five continents in a timely manner.