

Relevance of the International Criminal Court to Other Campaigns to Strengthen Human Security

By Jody Williams, *International Campaign to Ban Landmines*



Photo Credit: Nobel Museum

The International Campaign to Ban Landmines (ICBL) and the NGO Coalition for the International Criminal Court (CICC) are examples of the increasing strength of global grassroots movements to promote peace, human rights protection and the rule of law by seeking effective cooperation at the international level. Both campaigns are structured around a diverse global network of non-governmental organizations (NGOs) whose collaboration with governments and the UN has resulted in strong international consensus on important human security issues.

Many interrelated problems contributed to the proliferation of landmines: the trafficking of light weapons and small arms, religious and ethnic conflicts, social and economic disparities, and, in particular, the dozens of internal conflicts carried out in the context of the Cold War, to name a few. As has been clearly demonstrated through the successes of the ICBL, the complexity and transnational effect of such problems necessitate strong domestic and international solutions. As the terrorist attacks of September 11th and their aftermath have reminded us, the security of the entire world is threatened when one troubled region of the world is ignored for too long.

In our experience with the ICBL, we have repeatedly had to deal with the links between the landmine problem and the conditions which have resulted in their use. How can the problem of landmines, or of any of the myriad threats that confront human security today, be effectively addressed without examining their root causes? While the issue of landmines is directly addressed in the Antipersonnel Mine Ban Treaty, issues of direct relevance to anti-landmine advocates are also incorporated in the ICC. For instance, intentionally directing an attack against a civilian population or non-military target is a war crime under the Rome Statute, and the vast majority of landmine victims are civilians (including children). Given the frequent link between the aggravation of conflicts and the escalation of landmine use, attempts to prevent and resolve conflicts using the ICC could have positive implications in reducing the number of mines incidents.

Likewise the creation of the ICC is of tremendous relevance to those working on a wide variety of issues, and it is important for these groups to better acquaint themselves with the ICC and take advantage of the more than 1,000 member strong NGO Coalition for the ICC. If you or your organization is interested in any of the following issues, the ICC is also of importance to you:

- **Asylum, Migration and Immigration:** Deportation or forcible population transfer (conducted as part of a widespread or systematic attack against any civilian population), with knowledge of the attack, is a crime against humanity under the

Rome Statute. Forcible transfer of children from a group, with the intent to destroy in whole or in part a national, ethnic, racial or religious group, is an act of genocide.

- **Biological/Chemical Warfare and Attacks on the Environment and Public Health:** Weapons of mass destruction – nuclear, biological or chemical – are enormous threats to global peace and security. Under the Rome Statute, the use of poison, poisoned or asphyxiating gasses is a war crime. The intentional targeting of civilian populations and the destruction of hospitals and places where the sick and wounded are collected (provided these are not military targets) are categorized as war crimes. Furthermore, intentionally launching such an attack causing widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage, with prior knowledge of the consequence, is anticipated as a war crime.
- **Children and Child Soldiers:** Children are often the most vulnerable targets of violent crimes in times of conflict and so-called peace. The Rome Statute prohibits the conscription or enlistment of child soldiers under the age of 15, classifies the enslavement and trafficking of children as crimes against humanity, and includes other crimes often committed against children, such as rape, enforced prostitution and others as crimes against humanity and war crimes. In addition, there are procedural guarantees to protect children participating in a case as victims or witnesses, and some members of the Court's staff are required to have expertise in children's issues. Moreover, children under the age of 18, regardless of the gravity of the crimes they are accused of, are not subject to the ICC's jurisdiction.
- **Civil Liberties:** Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law when committed as part of a widespread or systematic attack against a civilian population, with knowledge of the attack, is considered a crime against humanity under the Rome Statute. Furthermore, prosecution for persecution of identifiable groups, vis-a-vis the intentional and severe deprivation of fundamental rights contrary to international law, can be pursued as crimes against humanity as is explained under the 'Minorities' heading.
- **Criminal Law Reform:** The Rome Statute incorporates high procedural standards and provides a system of checks and balances to assure the independence of the Court. It also clarifies and strengthens international law with respect to certain crimes, such as crimes of sexual violence. Countries ratifying the Rome Statute have the unique opportunity to modernize and strengthen their national laws in order to be able to prosecute crimes under the Rome Statute and cooperate with the Court.
- **Development - Economic and Social:** The foundation for a peaceful and prosperous global society cannot be laid without stronger mechanisms for preventing and prosecuting perpetrators of genocide, crimes against humanity and war crimes. Historically, the international community's response to such crimes has been too slow, often after a nation's economic and social structures have collapsed. This collapse further delays a country's ability to reconstruct and re-enter global markets

by offering an attractive and politically stable climate for foreign investors. The existence of the ICC will improve global security and potentially prevent further destruction in conflict situations.

- **Faith:** Persecution of a religious group in connection with any crime under the jurisdiction of the Court, when committed as part of a widespread or systematic attack against a civilian population, with knowledge of the attack, is a crime against humanity under the Rome Statute. In addition, many faith-based groups support the concept of international justice and have recognized the centrality of the ICC in a strengthened global system of international justice.
- **Gender and Women:** In conflict situations, women are often disproportionately the victims of rape, torture, enforced sexual slavery, forced pregnancies, enforced sterilizations and other forms of sexual violence. These acts are considered war crimes under the Rome Statute, and when committed as part of a widespread or systematic attack (directed against any civilian population, with knowledge of the attack), are considered crimes against humanity even in the absence of conflict. The Rome Statute furthermore incorporates unprecedented gender sensitivity as a prerequisite for ICC staff and within the trial process, and set out parameters to ensure gender balance among the Court's elected officials.
- **Hunger and Food Aid:** Under the Rome Statute, any widespread or systematic attempt calculated to bring about the destruction of part of a civilian population by attacking access to food, the means of food production, or medicine, with knowledge of the attack, is a crime against humanity. Improper use of uniforms or flags of the UN humanitarian workers, forced starvation or targeting attacks against humanitarian assistance installations are war crimes.
- **Medicine and Science:** Scientific experiments and physical mutilation conducted on those in the power of another party to a conflict which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death or seriously endanger the health of such person or persons, constitute war crimes under the Rome Statute. Intentionally directing attacks against hospitals and places where the sick and wounded are collected, provided they are not military objectives, is also a war crime.
- **Minorities (Ethnic, Religious, Political and other):** According to the Rome Statute, persecution against any identifiable group or collectivity on political, national, ethnic, cultural, religious, gender, racial or other grounds impermissible under international law, in connection with any crime within the jurisdiction of the Court, constitutes a crime against humanity. Likewise, acts of genocide, including attacks intended to destroy, in whole or in part, a national, ethnic, racial or religious group fall, under the Court's jurisdiction, as does the practice of apartheid count a crime against humanity, if conducted with knowledge and in a widespread or systematic manner.

- **Small Arms:** The possibility of the ICC deterring long-term conflicts and thereby reducing the demand for small arms makes it of direct relevance to arms control advocates.
- **Torture, Victims and Survivors' Rights:** Torture, when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack, is a crime against humanity under the Rome Statute. The ICC furthermore considers certain kinds of torture as war crimes. The Statute provides special procedural assurances to prevent re-traumatization of victims, and allows alternatives to protect the emotional welfare of victims. The ICC also establishes a Victims' Trust Fund to be used to provide reparations to victims of crimes under the jurisdiction of the Court in their attempts to reconstruct their lives.

In the past, those responsible for acts of genocide, crimes against humanity and war crimes have all too often escaped justice, while millions of innocent victims have been relegated to the footnotes of the bloody history of human conflicts. The establishment of the ICC is a tremendous historic achievement and a victory for peace in an increasingly unpredictable, dangerous and conflict-ridden world. The close inter-relatedness of a wide range of domestic and international problems necessitate closer cooperation between groups working on these issue. As the ICBL and ICC campaigns have shown, despite enormous hurdles and opposition, cooperation between NGOs themselves, and between civil society and governments could result in effective global solutions to address these complex challenges to human security.

To learn more about the relevance of the ICC to other issues and/or campaigns, please contact Mr. Joydeep Sengupta at the CICC: Email: cicc6@iccnw.org, or Telephone: 212 687 2863 x 18

Disclaimer:

The above list is by no means comprehensive, as international justice is intricately linked to a wide range of issues of importance to global civil society. Please also note that the discussion above is not intended to serve as legal analysis.

About the Author: Jody Williams was the founding coordinator for the International Campaign to Ban Landmines and now serves as Campaign Ambassador for ICBL. The ICBL and Jody Williams were honored for their work with the Nobel Prize for Peace in 1997.