



The International Criminal Court MONITOR

4 Ratifications
83 Signatures

The Newspaper of the NGO Coalition for an International Criminal Court

Issue 12 • August 1999

GLOBAL RATIFICATION CAMPAIGN LAUNCHED

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The ICC MONITOR
is a publication of the
NGO Coalition for an ICC

Rome + 1, Treaty + 4



Professors Mauro Politti (left) and Umberto Leanza (center) of the Italian delegation deposit Italy's ratification of the Rome Statute with Palitha Kohona, head of the Treaty Section at the UN, on Monday, July 26, 1999. Photo courtesy of No Peace Without Justice.

We have just passed the anniversary of the adoption of the Rome Statute of the International Criminal Court. Eighty-three nations have signed the Rome Statute, which has been described as the greatest advance in the rule of law since the adoption of the United Nations Charter. Four nations have already ratified the Statute and three or four additional ratifications are expected in 1999.

At the same time, important ICC-related resolutions continue to be adopted by intergovernmental organizations: by the SADC governments meeting in Pretoria (July 9), the Francophonie's Assemblée Parlementaire (July 7), the Parliamentary Assembly of the Council of Europe (May 26), CARICOM Law Ministers (March 17), the Organisation of African Unity Ministerial Conference on Human Rights (16 April), the European Parliament (May 6), and Commonwealth Law Ministers (May 7).

In a preliminary assessment of the status of the ICC treaty, the Coalition predicts that another 20-30 nations may sign the treaty during the next 18 months, and during each of the next two years between 15-30 nations will complete the ratification process. Thus, the predictions that it would take 10-15 years to ratify the ICC treaty seem as miscast as the even longer estimates of how long it would take to adopt a statute.

Other developments reflect and add to the growing global momentum for the ICC. Within weeks of the adoption of the Rome Statute, Spanish courts requested the United Kingdom to transfer Chile's Augusto Pinochet for trial, a request twice upheld by the Law Lords. In a truly historic action, on May 27 ICTY Prosecutor Louise Arbour announced the indictment of Yugoslav President Slobodan Milosevic, the first time a sitting head of state had been indicted by an

international tribunal. Foreign affairs experts the world over predicted this would destroy all chances of ending the war raging in the Balkans. Instead, with great assistance from Finland and Russia, within two weeks a peace agreement had been concluded with Milosevic. It is now argued that the indictment actually expedited the peace process!

On June 28, both houses of the French parliament met in joint session and approved an amendment to the French constitution for the purposes of ICC ratification, which is scheduled to be completed this autumn. Extraordinary, for only one year earlier this government was not included among the strongest supporters of the ICC.

On July 1, Italy's parliament approved ratification and on July 26 Italy became the first European Union nation to deposit its ratification with the United Nations. The CICC predicts that at least 12 additional EU member states will ratify during the next three years.

The globalisation of justice, led largely by the historic ICC process, is an amazing development in international affairs, and an antidote to so many other dark and dangerous global forces. The NGO Coalition for an ICC is aware that tremendous efforts must still be made, and that the dangerous forces - those emerging from chaos and as well as from ignorance - will threaten to undermine this great initiative. The only secure answer to these threats is to complete the establishment of the ICC. The NGO Coalition joins governments, parliaments, regional and international organizations in this great endeavor.

William R. Pace,
CICC Convenor

Quote of the Month



“Some of the advocates of this court have suggested that we adopt a policy of benign neglect – not on your sweet patootie.”

Comment of US Senate Foreign Relations Committee Chairman Jesse Helms during the confirmation hearings of Richard Holbrooke to be US Ambassador to the UN on June 22, 1999.

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a publication of the
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(CICC)

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S. African Governments Adopt Common Approach to ICC Ratification

by Richard Dicker

From July 5 through July 9 delegates representing 12 member states of the Southern Africa Development Community (SADC) participated in the SADC Conference on the Statute of the International Criminal Court in Pretoria, South Africa. Officials from Angola, Botswana, Lesotho, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe attended. They were joined by a representative of the International Committee of the Red Cross, Amnesty International, Human Rights Watch, Parliamentarians for Global Action, Lawyers for Human Rights (South Africa) and the Community Law Center (Durban). The meeting reflected the deep commitment in southern Africa to the International Criminal Court and the increasing leadership role the SADC states are assuming in the overall process to bring the Court into being.

The purpose of the conference was to discuss the process of ratification of the Statute of the ICC as well as two items on the agenda of the upcoming Preparatory Commission. The organizers set out the objectives as:

1. Familiarizing government officials with the provisions of the statute and to discuss the implications for legislation
2. Identifying areas in the statute which would require domestic

legislation for implementation including, offenses within the Court's jurisdiction; enforcement; and international cooperation.

3. Coordinating as far as possible the process of ratification in the region

4. Agreeing to the extent possible on harmonization of domestic legislation in order to facilitate cooperation with the Court.

The conference was opened by South Africa's Deputy Minister of Justice, Cheryl Gillwald. Justice Richard Goldstone made an introductory speech underlining the need for a permanent international criminal court.

The conference was organized in four Working Groups. The first two groups addressed issues relating to ratification. The other two considered the Rules of Procedure and Evidence and Elements of Crimes. The Conference also discussed and adopted a Model Enabling Act - Ratification Kit for the ICC. The conferees also discussed the crime of aggression.

Members of the non-governmental community contributed to the discussions of the various Working Groups and plenary sessions. The partnership between the non-governmental community and the SADC officials committed to strengthening the rule of law through the early establishment of

the ICC was deepened through the process.

At the end of the conference the participants adopted a Statement of Common Understanding setting out general principles which would guide the SADC approach to ratification and the PrepComs. The conference passed these principles through the SADC Legal Sector to be forwarded to the relevant bodies of SADC for adoption.

The statement of common principles affirmed the need to

- recommend to the relevant authorities the expeditious ratification of the Statute in their respective countries;

- stress need for implementing legislation and recommend to the relevant authorities the use of the Ratification kit developed by the SADC conference

- continue working together through an exchange of information on the implementation of the Statute

- stress the importance of safeguarding the integrity of the Statute as a guiding principle of the work of the PrepCom and recommend every effort should be made to avoid conflict between the Statute and the Rules and Elements of Crime

- agree to continue working together during the PrepCom with other delegations in order to ensure the timely completion of the

PrepCom's mandate, in particular to ensure the rules of evidence and Elements be finished before 30 June 2000.

On every level the meeting was a highly successful event. The expertise of a number of "veteran" participants brought to the session and the commitment to move forward with ratification reflected SADC's increasing contribution to the overall ICC negotiation. Delegates who had not previously participated in the ICC process brought skill and enthusiasm to the discussions. By the end of the conference every delegate had been brought into the process. Hopefully, several of the newer participants from capital will be able to attend the PrepCom in New York.

The conference was closed by Director General of the Ministry of Foreign Affairs, S.A. Minty.

As a result of the meeting, SADC delegations are well prepared to play a strong role at the July-August PrepCom and improve the discussion overall. SADC states will be among the first to ratify the Statute.

Richard Dicker is Director of Human Rights Watch's ICC Campaign

Pretoria Statement of Common Understanding on the ICC

Delegations to the Conference on the International Criminal Court from States of the Southern African Development Community (SADC):

RECALLING the Principles of Consensus on the Court adopted by the SADC Government Legal Experts Meeting held at the Farm Inn Pretoria, 10-14 September, 1997;

RECALLING further the decision of the SADC Ministers of Justice/ Attorneys-General on the International Criminal Court at their meeting in Swakopmund, 27-29 April, 1998;

WELCOMING the adoption of the Rome Statute on the International Criminal Court;

ACKNOWLEDGING the important role played by the SADC countries in the adoption of the Statute;

ACKNOWLEDGING further that many of the countries of SADC have already signed the Statute;

STRESSING the importance of the early entry into force of the Statute;

AFFIRMING their desire to work together, in partnership with other countries, in the work of the Preparatory Commission for the International Criminal Court, established pursuant to resolution F of the Final Act of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court;

MINDFUL of the need to safeguard the integrity of the Rome Statute of the International Criminal Court;

HEREBY:

1. AFFIRM their full support for the Rome Statute of the International Criminal Court; and to this end agreed to recommend to the relevant authorities for the expeditious ratification of the Statute in the respective countries;

1. FURTHER AFFIRM the need for implementing legislation internally to give effect to the Rome Statute, and recommend to the relevant authorities the use of the Ratification Kit developed by the SADC Conference on the International Criminal Court;

1. AGREED to continue working together through an exchange of information on issues relating to the implementation of the Rome Statute;

1. STRESS the importance of safeguarding the integrity of the Rome Statute as a guiding principle on the work of the Preparatory Commission, and to this end recommend that every effort should be made to avoid conflict between the Statute and the Rules of Procedure and Evidence, as well as between the Statute and the Elements of Crime;

1. AGREE to continue working together during the work of the Preparatory Commission with other delegations in order to ensure the timely completions of the mandate of the Preparatory Commission, in particular to ensure that the Rule of Evidence and Procedure and Elements of Crime shall be finalised before 30 June 2000;

1. EXPRESS their gratitude to the Government of South Africa for its hospitality and the Open Society Foundation and The Friedrich Ebert Stiftung of Germany as well as the British Government for their co-sponsorship of the Conference.

Successful Intersessional Meeting at Siracusa

From the 21st to the 26th of June an informal consultation meeting was held in Siracusa, Italy, with the participation of delegates from fifty countries. The goal of the meeting was to facilitate the work of the Preparatory Commission (Prepcom) by finding areas of consensus among various competing proposals on the Rules of Procedure and Evidence. Ms. Silvia Fernández Gurmendi, Coordinator of the prepcom Working Group on Rules of Procedure and Evidence, kindly granted the ICC Monitor an interview to share with our readers her views on the outcome of the intersessional meeting. We thank Hector Olasolo for conducting the interview.

The ICC Monitor: Was participation at the Siracusa meeting representative of all the regions active at the Prepcom?

Silvia Fernandez: Siracusa was an intersessional working meeting to which all States were invited. Representatives of fifty States from different regional groups participated in its work. Obviously, it was not a formal meeting, but representation was wide enough for the discussion to reflect the various opinions on the issues at hand.

M: Among the issues on the table, could you tell us which were the subject of more considerable discussion?

SF: The discussion paper resulting from Siracusa has three well defined parts: 1) general and particular rules on evidence, 2) regulation of the proceedings before the Trial Chamber during the trial, 3) procedures to prosecute offenses against the administration of justice (art. 70 of the Statute) and to impose sanctions for misconduct before the Court (art. 71 of the Statute).

Discussion was particularly extensive on the privileges of non-disclosure of the conversations between the defendant and his or her lawyer, or other individuals to be determined, and on evidence related to the crimes of rape and sexual violence.

M: On examination of the discussion paper we are struck by rule 6.4 lit. a, inc. iii, which states that communications between a person and his or her legal counsel shall be regarded as privileged and consequently not subject to disclosure, unless the Chamber is satisfied that the communication was not for the purpose of giving or receiving legal advice. What reasons have been argued by the delegates to place this kind of limitation on the confidentiality of the communications between the defendant and the legal counsel? How could the content of these communications be controlled if, by definition, only the participants are familiar with their content?

SF: This was the result of a long discussion on the extent of the privilege of non-disclosure because, according to some viewpoints, this privilege should be limited to professional communications. In this sense, some said that certain conversations between the defendant and legal counsel could have the aim of preparing new crimes, which would go beyond the scope of professional secret and therefore should not be protected by the privilege of non-disclosure. Regarding control, some delegations expressed concern about the difficulties in controlling the contents of these conversations without violating the rights of the defendant. Therefore, at the meeting an intermediate formulation was attempted in order to produce the discussion paper. The issue of privileges – and the rest of the contents of the paper – will

be debated again in July and August.

M: Could you tell us the terms in which the discussion on the rules of evidence in cases of rape and sexual violence was carried out?

SF: There was a long discussion on this point and it was made clear that some issues in particular required more reflection. Concretely, you will find in rule 6.5 a note stating that consideration needs to be given to the possibility of accepting evidence regarding the victim's prior sexual conduct. In this point, some delegations, based on the proposal of the Australian delegation (which, until now, is the only one that has been introduced on this matter) pointed out to the need to prohibit this kind of evidence in order to protect the victim, while other delegations, attending to a possible violation of the rights of the defendant asked to grant the Chamber a certain degree of discretion regarding admission of this evidence.

M: As a closing note, we would like to know your general evaluation of the outcomes of the intersessional meeting at Siracusa.

SF: I believe that the Siracusa meeting surpassed expectations. In the first place, as I mentioned before, participation was representative in terms of regional representation. The paper resulting from the meeting helps us to face the next session of the Preparatory Commission, providing us with a basic document on which to continue the discussion, thus solving one of the main problems we had in February, when excessive time was spent trying to unify the different proposals in a single text.

The Discussion Paper from the Siracusa Intersessional is available at www.iccnw.org/html/rpe6199907.html

States Parties and Signatories to the Rome Treaty

Alphabetically, as of 5 August, 1999

States Parties	Ratification Date				
Italy	26 July 1999	Czech Republic	13 April 1999	Mali	17 July 1998
San Marino	13 May 1999	Denmark	25 September 1998	Malta	17 July 1998
Senegal	2 February 1999	Djibouti	7 October 1998	Mauritius	11 November 1998
Trinidad & Tobago	6 April 1999	Ecuador	7 October 1998	Monaco	18 July 1998
		Eritrea	7 October 1998	Namibia	27 October 1998
		Finland	7 October 1998	Netherlands	18 July 1998
		France	18 July 1998	New Zealand	7 October 1998
		Gabon	22 December 1998	Niger	17 July 1998
		Gambia	7 December 1998	Norway	28 August 1998
		Germany	10 December 1998	Panama	18 July 1998
		Georgia	18 July 1998	Paraguay	7 October 1998
		Ghana	18 July 1998	Poland	9 April 1999
		Greece	18 July 1998	Portugal	7 October 1998
		Haiti	26 February 1999	Romania	7 July 1999
		Honduras	7 October 1998	Samoa	17 July 1998
		Hungary	15 December 1998	Sierra Leone	17 October 1998
		Iceland	26 August 1998	Slovakia	23 December 1998
		Ireland	7 October 1998	Slovenia	7 October 1998
		Jordan	7 October 1998	Solomon Islands	3 December 1998
		Kyrgyzstan	8 December 1998	South Africa	17 July 1998
		Latvia	22 April 1999	Spain	18 July 1998
		Lesotho	30 November 1998	Sweden	7 October 1998
		Liberia	17 July 1998	Switzerland	18 July 1998
		Liechtenstein	18 July 1998	Tajikistan	30 November 1998
		Lithuania	10 December 1998	Uganda	17 March 1999
		Luxembourg	13 October 1998	United Kingdom	30 November 1998
		Macedonia, FYR	7 October 1998	Venezuela	14 October 1998
		Madagascar	18 July 1998	Zambia	17 July 1998
		Malawi	3 March 1999	Zimbabwe	17 July 1998

Paris Seminar on Victims' Access to the ICC

by Fiona McKay

Government delegates, NGOs and other experts met in Paris between 27 and 29 April at a seminar on victims' access to the ICC. The seminar, hosted by the French Government, was aimed at developing draft Rules of Procedure and Evidence relating to four key areas relating to victims: 1) the role of victims during referral of a case by the Prosecutor to the Pre-Trial Chamber and proceedings regarding challenges to jurisdiction and admissibility (Articles 15 and 19 of the Statute); 2) participation of victims in the proceedings where their views and concerns may be presented (such as under Article 68 of the Statute); 3) measures for the protection of victims and witnesses (as provided under Article 43.6 of the Statute and other articles); and 4) reparation, including the trust fund (primarily articles 75 and 79 of the Statute).

At the February PrepCom in the Working Group on Rules of Procedure and Evidence, there were few references to victims' issues and a prevailing sense that the different matters concerning victims should be dealt with comprehensively. The French Government offered to organise the seminar in order to provide a forum for such discussions to take place, and to make progress in developing rules. Given the deadline of March 2000 for finalising the Rules of Procedure and Evidence, and the history of lengthy debate on certain victims' issues during the ICC negotiations to date, the offer was generally welcomed.

During the three days of intensive discussions, participants were closeted into four separate workshops. A participant in one workshop had little idea of what was going on in another, until the reports from each workshop were presented in plenary on the final day. This reporter, who chaired the reparations workshop, can therefore comment to only a limited extent on the proceedings in the other three workshops.

Certain issues stood out as warranting prolonged and often heated debate. One was the question of whether or not provision should be made in

the Rules for witnesses to remain anonymous and have their identity withheld even from the accused, covered by the workshop on protective measures. Here the right of defendants to a fair trial was pitched against the interests of effectively protecting witnesses. Even when this workshop reported to the plenary, it was not clear whether the group had agreed to include such a provision or not. The outcome appeared to be that the Court would, in exceptional circumstances, be able to order "special measures" above and beyond measures such as in camera hearings, the use of a pseudonym and other means of preventing the identities of witnesses being made known to the public or the press. However it would not be specified that such measures could include the complete anonymity of witnesses.

The definition of "victim" provoked lengthy debate in workshops 1 and 4. Advocates of victims' rights had for many years fought for a wide definition which would include not only direct victims of a violation, but also those who suffer indirectly, such as close family members. A number of issues were raised, including how to deal with different cultural models such as extended families and multiple wives. A definition needs to be sufficiently flexible but also certain. A consensus emerged in both Workshops that the basis and the inspiration for a satisfactory definition should be the 1985 UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power. The first part of the definition proposed by Workshop 1 is: "Victim means any person or group of persons who individually or collectively, directly or indirectly, suffered harm as a result of crimes within the jurisdiction of the Court."

A common dilemma was how to determine which matters should be dealt with in the Rules, and which should be left to the Court's discretion. In the Workshop on reparation, the group was divided on whether or not the definition of "reparation" in the Statute ("including restitution, compensation and

rehabilitation") should be further defined in the Rules, for instance by reference to the UN draft Basic Principles and Guidelines on reparation (the "van Boven Principles"). It was not disputed that these international standards were an appropriate source for interpretation of what constitutes reparation. But while some believed it was important to give guidance to the Court in order to avoid inconsistent or ill-founded jurisprudence (as has been the case with some of the international human rights mechanisms), others felt that the Statute clearly indicated that it was for the Court to develop principles regarding reparation, and that the Court should be free to draw on a range of international law and principles. Since no agreement could be reached, the reference was not included.

Workshop 4 on reparation suffered from having a larger amount of ground to cover than other workshops, and several controversial issues. As a result, it was not able to completely cover draft rules on all questions. The seminar - and in particular the Workshop on reparation - benefitted from the presence of a number of experts who had not previously been involved in the ICC negotiations, including representatives of the ad hoc international criminal tribunals and of the UN Compensation Commission.

The report of the seminar, which is in the form of draft rules, will be forwarded by the French Government to the PrepCom. It is not yet clear what status they will have, and whether or not they will be formally adopted by one or more governments. It also remains to be seen how much broad support the Paris draft rules will attract. The key to the ultimate success of the Paris seminar depends on this.

The Final Report and Report of Workshops are available at
www.iccnw.org/html/access19990429.html
www.iccnw.org/html/accessb19990429.html

Fiona McKay is the Legal Officer of Redress

The Hague Centennial and the Future of International Law

by Jennifer Schense

The year 1999 has provided numerous opportunities for reflection upon the achievements and failures of the last century in terms of the development of international law. In particular, the closing of the United Nations Decade of International Law, in conjunction with the umbrella of events addressing the centennial of the First International Peace Conference, has highlighted the need to examine the current international legal regime with a critical eye. Especially in light of the crisis in Kosovo—only recently propelled to the front pages of newspapers, but fuelled by years of human rights abuses—is the international community any closer to securing the peace and security which it claims to be paramount?

The Hague Appeal for Peace

The Hague Appeal for Peace is a global civil society campaign for peace, the focal point of which was a conference which took place in The Hague from May 11-15, 1999. The conference itself was a response to the call from civil society for a United Nations world conference on peace which, for various reasons, was never convened. The purpose of the Hague Appeal for Peace conference was to examine the original themes of the First International Peace Conference of 1899 in light of developments in international law over the last century. Those original themes—armament issues, laws of war, and the peaceful settlement of disputes—

continued on page 11

Promoting the Court in Russia



The Russian Coalition for an ICC held a press conference on June 22 to present its ratification campaign plans to the Russian news media. Participants included (from left to right) Ella Poliakova, chairperson of Soldiers' Mothers of St. Petersburg, Serguei Grigoriant, chairperson of the Glasnost Foundation, and William Pace, CICC convenor.

Launch of the Global Ratification Campaign

Throughout the spring and early summer, a number national campaigns for promoting the completion of the ICC were launched in Latin America and Europe, including in Argentina, Germany, Guatemala, Romania, Russia (see photo box on page 5), Spain and in other countries. The launch of the CICC global ratification campaign took place on May 13, 1999, against the backdrop of the Hague Appeal for Peace conference.

The launch of the international campaign was kicked off with a press conference at which Coalition members described the work which remains to be completed in the ICC establishment process. Addressing the international news media for the first time since the Rome conference, the CICC Steering Committee also introduced a number of the practical tools which will be used by the Coalition to promote ratification of the Rome Statute. One of these tools – a 90-second video for television broadcast produced by the Witness program of the Lawyers Committee for Human Rights (see photo box on page 8) – as presented for the first time at the opening of the press conference, and a print advertisement calling for early ratification was also unveiled.

Several Coalition members who spoke at the press conference emphasized the growing momentum for the establishment of the ICC among governments and civil society. “Anyone anywhere who believes they will be able to prevent, delay, or cripple this court from coming into being had best wake up to the reality of a world that is moving from a culture of impunity to a culture of accountability,” stated Richard Dicker of Human Rights Watch. (A full transcript of the press conference has been posted on the CICC website at <http://www.iccnw.org/html/transcript.html>)

Following the press conference a number of high-profile figures in the fight for international justice took to the stage to deliver speeches and messages of support for the ICC and the CICC global ratification campaign. Louise Arbour, Prosecutor of the International Criminal Tribunals for Rwanda and the former Yugoslavia, described the situation in Kosovo as a backdrop to her endorsement of the ICC establishment process (see this page), while Ambassador Philippe Kirsch, Chairman of the Preparatory Commission, described the work which remains to be done in the prepcom. Other speakers included Nobel Peace Prize winner José Ramos Horta; the Special Representative



Francisco Soberón (APRODEH) and Miranda Sissons (CICC Middle East liason) in the CICC booth at the Hague Appeal for Peace Conference

of the U.N. Secretary-General on Children and Armed Conflict, Olara Otunnu (see page 10); representatives of the Office of the High Commissioner for Human Rights and UNICEF; and representatives of CICC member organizations. Above all, the launch provided the Coalition with an opportunity to interact with hundreds of civil society representatives, who had little prior exposure to the ICC, but who are committed to working on issues of justice and human rights.

A number of additional sessions at the Hague Appeal conference organized by Coalition member organizations examined the ICC in the context of different sectoral and regional perspectives. One session, which examined the special significance of the ICC in the Global South, produced the Declaration of The Hague, a document enunciating the support of members of civil society from the Global South for the establishment of the ICC. (See page 9) The Declaration is open for signature, or for adherence by individuals not from the Global South, on the CICC website (<http://www.iccnw.org>).

“Despair and Hope: Kosovo”

A number of leading figures in the cause of human rights and international justice participated in the launching of the CICC Global Ratification Campaign on 13 May 1999 in The Hague. Among them was Louise Arbour, Prosecutor for the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR). The title of her address was “Despair and Hope: Kosovo and the ICC”. The full text of her speech follows.

“As we are gathered here this week, as part of this spectacular launch of the campaign for a speedy ratification of the Rome Treaty creating a permanent International Criminal Court, few will fail to reflect on the significance of the armed conflict raging in Kosovo. I will not prejudice the range of commentary that this unhappy coincidence will provoke. Many will no doubt plead for a speedier ratification process in light of the urgency of addressing the high crime content of modern warfare. I would like to add my voice to the call for an immediate, universal and effective repression of the most serious violations of fundamental international human rights, perpetrated against civilian populations rendered vulnerable by the collusion, the impotence or the indifference of governments.

“I will focus, if I may, on three themes that are critical to the adoption of the Rome Treaty: authority, universality, and urgency.

“The ICTR and ICTY are powerful judicial institutions. The Prosecutor of the Tribunals is explicitly empowered by the Security Council of the United Nations, through resolutions that all member States have agreed will bind them, to conduct investigations and prosecutions, acting independently and on her own initiative, and in the exercise of that power, to question suspects, victims and witnesses, and to conduct on-site investigations. Furthermore, all States are required, by the same binding Security Council resolutions, to cooperate with the Prosecutor’s investigations, and to comply with requests for assistance and court orders.

“It is in that empowering environment that I affirmed publicly in March 1998 the jurisdiction of the Tribunal over alleged war crimes and crimes against humanity being committed in Kosovo. It is in that same empowering environment that the Security Council in three separate resolutions, on 31 March 1998, 23 September 1998 and on 24 October 1998, supported that position and reaffirmed these obligations to cooperate and assist my work. And it is also in this empowering environment that I, and my investigators, have been systematically denied visas for Kosovo since last fall, and that I was turned down when I presented myself at the border of the Federal Republic of Yugoslavia two days after the Racak massacre, to conduct

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“The need for the Court is clear. In the half century since the end of the Nuremberg and Tokyo trials, despite millions of victims of genocide, other crimes against humanity and war crimes, states have largely failed to fulfill their responsibility to bring those responsible to justice.”

- Pierre Sané, Secretary General of Amnesty International, in an appeal to all states issued in The Hague on May 13, 1999.

Photo: ©1999 IVMFOTO/Ilya van Marle, the Netherlands

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“When it comes to the exercise of lawful authoritative powers, empty threats are a grave folly. The political spirit of accommodation and compromise, which is so crucial for the peaceful resolution of all conflicts, is entirely inappropriate when it comes to compliance with the law. It is an affront to those who obey it and a betrayal of those who rely on its protection.

“This, in my view, should be the first reminder of what has been activated in Rome last year. It is the promise that something greater than force will govern, something that does not get traded away, something worthy of trust.

“Irrationally selective prosecutions undermine the perception of justice as fair and even-handed, and therefore serve as the basis for defiance and contempt. The ad hoc nature of the existing Tribunals is indeed a severe fault line in the aspirations of a universally applicable system of criminal accountability. There is no answer to the complaint of those who have been called to account for their actions that others, even more culpable, were never subjected to scrutiny. Why Yugoslavia? Why Rwanda? Why the 1990s? Why only 1994? Not that the impunity of some makes others less culpable, but it makes it less just to single them out. It therefore runs the risk of giving credence to their claim of victimisation, and even if it does not cast doubt on the legitimacy of their punishment, it taints the process that turns a blind eye to the culpability of others.

“The broader the reach of the International Criminal Court, the better it will overcome these shortcomings of ad hoc justice. And sad as they are, the recent events in Kosovo have created in my view, an unanswerable precedent in favour of a broad-based application of international humanitarian law, enforceable before an international forum. On 24 March 1999, 19 European and north American countries have said with their deeds what some of them were reluctant to say with words. They have voluntarily submitted themselves to the jurisdiction of a pre-existing International Tribunal, whose mandate applies to the theatre of their chosen military operations, whose reach is unqualified by nationality, whose investigations are triggered at the sole discretion of the Prosecutor and who has primacy over national courts.

“Politicians are often the first to recognize that more is conveyed by deeds than by rhetoric. I would have thought that the 19 countries of NATO should be able to ratify a Treaty under which they would have considerably less exposure to scrutiny, let alone prosecution, than they have before ICTY.

“Having said that, I am obviously not commenting on any allegations of violations of international humanitarian law supposedly perpetrated by nationals of NATO countries. I accept the assurances given by NATO leaders that they intend to conduct their operations in the Federal Republic of Yugoslavia in full compliance with international humanitarian law. I have reminded many of them, when the occasion presented itself, of their obligation to conduct fair and open-minded investigations of any possible deviance from that policy, and of the obligation of commanders to prevent and punish, if required.

“At the time of the Rome Diplomatic Conference, issues had been raised about the risk, unacceptable to many in the military establishment, of submitting to the judgement of others the complex, and sometimes unclear boundaries between justifiable military targets and possible civilian casualties, and the even more problematic appreciation of the issue of tolerable proportionality between military advantage and foreseeable civilian cost.

“By engaging in military operations in Kosovo under the jurisdictional competence of ICTY, NATO leaders have affirmed their confidence in an international forum that, even in its short history, has demonstrated its competence, its integrity, and its transparency. It is, in my opinion, the greatest gesture of confidence in international criminal justice, and it fares well for the launch of a ratification campaign for an institution that will be considerably less intrusive than the ad hoc tribunals, but that, if well-staffed and well-run, should enjoy the same credibility.

“The willingness to submit to impartial, unbiased scrutiny, is not only the trademark of law-abiding persons and institutions, but it is in my view a prerequisite of their moral entitlement to calling others to account. The 120 countries that signed the text of the Rome Treaty recognized that we live in a world where warfare inflicts unspeakable harm to many, whether through medieval-style hand combat with agricultural implements, cheap land-mines or high-tech precision instruments that still sometimes fail.

“There is a fin de siècle urgency to this endeavour. International criminal justice has become an inseparable component of the international efforts to make and keep peace and security. Human security depends on a system which allows for international judicial intervention. World order without human security is an abstraction. Our ruling generation holds in trust the enforcement of the rules of governance. If we are to embark in wars of values, it is worth fighting for international justice. Authoritative, universal justice.”

- Louise Arbour

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Regional Updates

Italy

On 1 July 1999, the Italian Chamber of Deputies unanimously approved a ratification bill which the Senate had approved earlier in the year. The president affixed his signature to the bill on July 12. The formal depositing of the instrument of ratification occurred on July 26.

Argentina

In July the Ministry of Foreign Affairs finalized a draft ratification bill. The bill will be reviewed by the Ministries of Justice and Defense and then sent to the President of the Republic and Congress for approval. CICC sources estimate that Argentina will be able to complete the ratification process by late 1999 or early 2000.

Chile

In June, the Foreign Affairs Committee of the Chamber of Deputies began debating a draft ratification bill. After hearing testimony from a number of experts, the Committee concluded its debate and is now expected to forward the bill with a positive recommendation to the full Chamber by early August.



Sheikh Hasina
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/Ilya van Marle, the
Netherlands

Bangladesh

Addressing the closing plenary of the Hague Appeal for Peace conference on 15 May 1999, the prime minister of Bangladesh, Sheikh Hasina, announced that her government would sign and ratify the Rome Statute "very soon."

France

On 28 June 1999, a joint session of the National Assembly and the Senate was convened in palace of Versailles and voted 858 to 6 to amend the constitution to enable ratification of the Rome Statute. (In January, the Conseil Constitutionnel had declared the Statute unconstitutional.) A bill of ratification is expected to be submitted to parliament in October. The precise date when the ratification bill is to be discussed will be set in September.

Austria

On 19 May 1999 the Austrian parliament unanimously passed a resolution which

calls on the Austrian government to submit the Rome Statute to the Parliament for ratification as soon as possible. The resolution further requests the Austrian Ministry of Foreign Affairs, in bilateral negotiations as well negotiations within the context of the European Union, to publicly call on those countries which have not yet signed the Statute to do so as soon as possible.

Bolivia

In late spring, the Chamber of Deputies approved a bill of ratification and forwarded it to the Senate for approval

Ghana

A ratification bill has been prepared and sent to Parliament. The bill is on the agenda of the current parliamentary session, which opened on 18 May 1999.

For continuous updates on ratification efforts around the world, check out the clickable ratification atlas which has recently been added to the CICC website (<http://www.iccnw.org/html/countryindex.html>). Monitor readers are encouraged to forward ratification news to the CICC secretariat for inclusion in our ratification updates.

Sorting Out the Votes...

As the final vote on the ICC Statute at the Rome Diplomatic Conference was officially unrecorded, there has been much speculation as to which countries were among the seven voting against the adoption of the Statute and the 21 which abstained from the vote. In the latest edition of its Human Rights Monitor, the International Service for Human Rights published an unofficial list of the no-votes and abstentions compiled by comparing a color photograph of the voting board with the official seating chart. The CICC reprints the two lists below, and invites comments and suggested changes from Monitor readers.

No: China, Iraq, Israel, Qatar, Sri Lanka, Sudan, United States of America

Abstained: Algeria, Bahrain, Ethiopia, India, Indonesia, Iran, Kuwait, Lao People's Democratic Republic, Libyan Arab Jamahiriya, Malaysia, Mexico, Morocco, Nepal, Oman, Saudi Arabia, Singapore, Syrian Arab Republic, Trinidad and Tobago, Turkey, Uzbekistan, Viet Nam.



ICC Video Produced

WITNESS, an award-winning pioneer in human rights video advocacy, in partnership with the Coalition for an International Criminal Court, has produced a video public service announcement (PSA) to educate the international community about the need for an International Criminal Court; The video, which will be broadcast internationally in English, Spanish, and French throughout the ratification campaign, can be viewed in English at the WITNESS website: (<http://www.witness.org/archive/iccvideo.htm>).

NGO's from Global South Produce New Tri-continental Initiative

Building on the successes of the tri-continental alliance in Rome, CICC member organizations participating in the launch of the CICC global ratification campaign at the Hague Appeal for Peace conference adopted the "Declaration of The Hague", a reaffirmation of support for the ICC by organizations from the Global South. To date, over 140 NGOs and umbrella organizations from Asia, Africa, Latin America and the Caribbean have signed the declaration.

DECLARATION OF THE HAGUE

We, organizations and individuals from Africa, Latin America, the Middle East, the Caribbean, Asia and The Pacific, come together to affirm our commitment to the establishment of an independent, fair and effective International Criminal Court, through the prompt ratification of its Statute, approved in Rome on July 17, 1998.

THE NEED FOR AN INTERNATIONAL CRIMINAL COURT

At the end of the most violent century of recorded history, a glance at the terrible realities of war, tyranny, and discrimination forces us to recognize that Humankind continues to suffer under scourges of its own making, even when it has the intellectual and material means to prevent them. This sobering recognition inspires in us mixed feelings of anxiety and hope at the dawn of a new century: the men and women of the twenty-first century, our children, will carry the legacy of our failure or success in the struggle for peace and justice. The task of creating a just world for them is felt with more urgency in our societies in the Global South, marked by a tragic common history of colonialism, genocide and slavery and by the persistence of human rights violations.

The titanic challenge we face, however, has not discouraged us: on the contrary, it has allowed us to discover forms of transregional solidarity and organization that go beyond borders, languages or geography. As a result, global civil society has emerged as a new actor in the arena of international lawmaking.

International Law is an essential tool for the advance of peace and justice, but the worthy principles established in international treaties are often violated by the same governments that proclaim them. Therefore we need effective international institutions to protect our rights when the national legal systems are proven to be unable or unwilling to comply with their duties. Otherwise, the culture of impunity will be reinforced, thus weakening the hope in justice, and encouraging the repetition of the same offenses.

One of the most promising developments in this regard is the passage in 1998 of the Rome Statute of the International Criminal Court, a permanent body empowered to try those individuals accused of the most heinous crimes that offend human conscience: aggression, genocide, crimes against

humanity, and war crimes.

The Global South has enthusiastically hailed the Rome Statute and has called for its prompt ratification. This has been emphasized in recommendations from organizations such as the Inter-American Commission for Human Rights, the Ibero-American Federation of the Ombudsman, the First Ministers of the Organization of the African Unity, the Justice Ministers of the Caribbean Community, the Southern Africa Development Community, and others.

Until now, eighty-two countries have signed the Rome Statute, but only two countries, one in Africa and one in the Americas, have ratified it. We acknowledge the governments that have decided to sign the statute and we salute the commitment and vision of the governments of Senegal and Trinidad and Tobago, who with their gesture have set an example of the defense of the values and interests of the peoples of the Global South.

THE ROME STATUTE: A DELICATE BALANCE

The approval of the Statute for an International Criminal Court by the UN Conference of Plenipotentiaries held in Rome between June and July of 1998 has been a historic step forward in the protection of the rights of human beings and peoples.

Indeed, the Rome Statute:

- Makes evident the growing world consensus about the need to end the impunity enjoyed by those responsible for aggression, genocide, crimes against humanity and war crimes. It encompasses under its jurisdiction those crimes derived from internal conflicts and violations that are committed in times of peace (Arts. 5, 6, 7, 8).
- Is built on the principle of complementarity, thus emphasizing the primary responsibility of the national judicial systems to prosecute the abovementioned crimes, but guaranteeing at the same time a remedy when those systems are unable or unwilling to fulfill their obligations (Art. 12).
- Equips the Court with an independent office of the prosecutor, empowered to initiate investigations *motu proprio*, in cases where allegations and evidence provided by civil society, victims, the media and other non-state sources give sufficient grounds for the presumption of grave crimes (Art. 15).
- Affirms the responsibility of individuals before international justice, disregarding their having committed crimes in official capacity as heads of State or military leaders (Arts. 25, 27, 28).
- Protects the victims, defending their right to participate in all the phases of the process, taking care for their safety and establishing forms of compensation and rehabilitation (Art. 68, 79).
- Incorporates a gender perspective, clearly defining those crimes involving sexual exploitation and gender discrimination, such as rape, sexual slavery, forced pregnancy, and

enforced sterilization. It ensures a composition of the Court that will guarantee sensitivity towards gender-specific violations (Arts. 7, 8, 36).

- Provides the highest standards of due process, guaranteeing the rights of those accused and avoiding forms of cruel and unusual punishment such as the Death Penalty (Arts. 63, 66, 67, 69, 77).

These extraordinary achievements bear the imprint of the efforts of hundreds of civil society organizations around the world and show the commitment of the like-minded group of countries. However, at the same time, the Rome Statute was built on the recognition of the necessity to arrive at compromises and build consensus. Some of these compromises were creative steps that produced increased support for the Statute while ensuring ways to ensure justice. Some others, however, were more problematic and remind us of the continuous necessity of civil society participation to strengthen institutions of justice.

Among these compromises, we must mention:

- The fact that the Court has not been built upon the principle of universal jurisdiction over cases involving serious violations of Human Rights. Indeed, the Court will be able to intervene only in those cases where the alleged conduct involves the territory or the citizens of a State that is a party of the Statute. This is problematic because in many cases, grave violations may occur involving the citizens and territory of non-party States, in which case the Court may be impotent unless it receives a referral by the UN Security Council. This must place additional pressure on the governments of the world to produce a high number of ratifications, in order to reduce the areas outside of the Court's jurisdiction (Art. 12).
- The ability of the UN Security Council to delay Court proceedings. The Security Council, in exercising its duties under the UN Charter, will be empowered to refer cases to the Court, but it also will also be able to delay cases for renewable 12-month periods. No member of the Council will have the power to individually veto the Court's actions, because the delay will have to be requested by the absolute majority of the SC including all the permanent members. The fact, however, that the Council as such will have the power to delay cases raises concern over the possibility of those cases being stopped for long periods, and it is a powerful reminder of the necessary task to democratize the UN structure (Art. 16).
- The temporary disposition that allows any state, at the time of ratification, to declare that -for a period of seven years - it will not accept jurisdiction of the Court for cases related to war crimes allegedly committed on its territory or by its nationals. This disposition has no moral justification whatsoever and can only be described as a "license to kill". It poses to civil society

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Moving from an Era of Elaboration to One of Application

As part of the launch of the CICC's global ratification campaign in The Hague on May 13, 1999, Olara Otunnu, Special Representative of the Secretary-General for Children and Armed Conflict delivered the following address on the significance of the Rome Statute to efforts to protect children in times of war.

"Thank you very much Bill. Yesterday I spoke about the importance of launching an era of application, the application of international human rights and humanitarian norms which have been developed in a most impressive way over these last fifty years or so.

"How does one go about ensuring the application, the observance of these norms? There are two major ways: one is by mobilizing political pressure, mobilizing worldwide political movement to lean on those who are violating these norms. That is an immediate, continuing process and I hope that you will all very much be a part of that. The second way is through institutional mechanisms that seek to implement norms which have been agreed upon. And by far, the most important institutional mechanism which only a few years ago seemed an utter utopia, but now is within reach, it is all but reality, is the International Criminal Court.

"The first reason and the most important reason is that this will be a very important mechanism for translating into application very specific provisions, norms and standards. But, there are particular reasons why this is of interest to my mandate as the special representative of the Secretary General for children and armed conflict. And there are three particular issues which concern me tremendously and which were part of the campaign last year in the drafting of the statute.

"One is the fact that we are witnessing increasingly a very systematic attack directed against civilian populations. The estimate today is something close to 90% of all casualties in ongoing conflicts are civilians. This translates rapidly into children and women, and within this we see increasingly the targeting of locales where children predominate: the family home, the school, the hospital. The statute has provided for the protection of such localities where children predominate and has made that a crime of war. That is an extremely important achievement, one that we are eager to see translated into practice and implemented.

"Secondly, the issue of rape and sexual violence against women. Again, we are seeing increasingly in situations of conflict sexual violence directed especially against women, young women in particular, but also older women. Within this context, the fact that rape has now been made a war crime and a crime against humanity under the statute is of tremendous importance, is a groundbreaking development, one that is

worthy of celebration. It is another reason why we are very eager to see that the court begin to function.

"And then thirdly, the third issue which is of particular preoccupation to me is of course the exploitation of children as



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"The statute makes it clear that those who recruit ... children below the age of 15, that this has become a crime of war. ... If we're able to implement that, it would be a revolution."

- Olara Otunnu

instruments of war; the recruitment, the kidnapping of children and their being pressed to serve as child soldiers. Again, this is a rampant practice now across the globe. I may have mentioned yesterday the fact that today we estimate something close to 300,000 young persons below the age of 18 are being used as child soldiers in different parts of the world. Now we would have of course wanted that the age limit for recruitment and participation would have been higher under the statute; nevertheless, it is critical, it is very important to us, the

fact that the statute makes it clear that those who recruit and press children into participation, children below the age of 15, that this has become a crime of war. And again if we're able to implement that, it would be a revolution.

"These are three issues that are attached to the protection, the welfare of children, which are now embraced within the statute for which we are very keen to see implemented. That is why I am happy to join you in this very important campaign to see that the statute doesn't remain a wonderful important landmark, one that is largely impressive on paper. We must make this one of the first rapidly translated instruments from words into practice.

"And finally let me say that the fact that individuals, not the state, not the armed group, but individuals are held accountable under the statute will serve as a salutary and major deterrence. Even if we are not able to haul before the court as many people as we would like, the fact that they know they could be hauled before the court will serve as a very important example. All these are reasons why I am very happy to join in this campaign to urge that we all get our different governments to sign, to ratify, so that the court can begin to function very soon. Maybe this will become the first but most critical block in this edifice that we must build, moving us, as I said, from the era of elaboration to the era of application and respect for the norms and standards which have been developed.

"Thank you very much, and I wish you the very best in this campaign."

Recent ICC Related Publications

"The International Criminal Court: The Making of the Rome Statute – Issues, Negotiations, Results", edited by Roy Lee. This volume is published by Kluwer Law International and is available in hardbook edition for \$177.00 (\$132.75 for UN delegates.) For more information, contact the publishers at www.kluwerlaw.com or by phone (617) 354-0140.

The "Commentary on the Rome Statute of the International Criminal Court – Observers' Notes, Article by Article" (ed. Otto Triffterer) will soon be available. For more information or to order the volume, contact the publisher, NOMOS Verlagsgesellschaft, by email (NOMOS@nomos.de), fax (+49 7221 210427) or on the internet (www.nomos.de).

The US-based Council on Foreign Relations (CFR) has recently published a booklet entitled "Toward an International Criminal Court?", which contains the full texts of speeches on the ICC given by Anne-Marie Slaughter, Human Rights Watch's Kenneth Roth, John Bolton and Ruth Wedgwood. For further information contact the CFR at www.foreignrelations.org or by phone at (212) 434-9400.

The Association Internationale de Droit Penal has published a volume entitled "ICC Ratification and National Implementing Legislation". The book contains a historical survey by M. Cherif Bassiouni and two technical papers ("The ICC: Overview and Cooperation with States" and "The ICC: A checklist for National Implementation") by Bruce Broomhall. Spanish, French and English language versions of all three texts are contained in the book. For more information contact Professor Bassiouni's office at +1 312 362 8332.

"Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court", in Human Rights Monitor No. 44, a publication of the International Service for Human Rights.

"Global South NGO's" continued from page 9
around the world the urgent task to press governments not to invoke this clause (Art. 124).

AN URGENT APPEAL TO STATES

The great victory for justice obtained during the Rome negotiations showed the commitment to an ethical foreign policy of a great number of States, particularly those acting together in the Like-Minded Group. Their ability to compromise and at the same time maintain principled standards, has given the world the unique opportunity to open the twenty-first century with an extraordinary new instrument for the defense of Peace and Justice.

Now, it is necessary to exploit this rare victory and give life to the Rome Statute. We are living in an extraordinary window of opportunity that may be closed unexpectedly if we don't act promptly. Therefore, we urge the governments of the world to:

1. Proceed immediately with signature of the Rome Statute for the International Criminal Court, therefore accepting not to engage in any policy that could be detrimental for its prompt entry into force.
2. Give priority to the ratification process, either facilitating parliamentary procedures or by executive decision where that is possible. If the ratification of the ICC Statute makes it necessary to engage in constitutional amendments prior to ratification, then we ask States to proceed soon to those necessary procedures.
3. Actively participate in the current work of the Preparatory Commission for the Establishment of the ICC, which has the delicate mission of establishing the Rules of Procedure and Evidence, the Elements of Crimes, discussing the definition of Aggression and other important issues. Discussion in this Commission must be undertaken with the maximum efficiency and with the goal to facilitate the actual work of the Court, preserving the integrity of the Rome Statute.
4. Upon ratification, Parliaments need to undertake the important mission of passing enabling legislation to ensure that crimes under the jurisdiction of the ICC are also crimes under domestic laws. This is essential to ensure that the Court's action will be complementary and that States will maintain

their primary responsibility as protectors of humanitarian laws and Human Rights.

5. Enact enabling legislation on aspects of cooperation with the Court in areas such as police action, judiciary proceedings, financial responsibilities and execution of the penalties.
6. Reject the activation of the seven-year clause that would shelter their nationals from prosecution in the case of war crimes.
7. Avoid bilateral treaties with non-party States in issues – such as extradition -- that may affect the obligation of the State party to surrender indicted individuals or otherwise fully cooperate with the Court.
8. Create a Trust Fund to support the fulfillment of financial obligations with the Court by developing and least developed countries.
9. Ratify other international instruments for the protection of Human Rights and Humanitarian Law and accept the jurisdiction of regional bodies of regional Human Rights courts in order to strengthen the new juridical order in which the ICC will operate.
10. Support the prompt establishment of the ICC at regional gatherings and bilateral contacts, creating commitment in regional organizations such as the Asia-Pacific Economic Cooperation (APEC), the Arab League, the Association of Southeast Asian Nations (ASEAN), the Caribbean Community and Common Market (CARICOM), the European Union, the Organization of American States (OAS), the Organization of the African Unity (OAU), the South Asia Association for Regional Cooperation (SAARC), and the Southern Africa Development Community (SADC) so that the support for effective international justice becomes part of their normal lines of action.

The sooner these tasks are undertaken, the sooner the ICC will become a reality. But the road to justice will not end there: new commitments and struggles will begin. States should assume that these efforts will be only the beginning of their commitments to the ICC, and should be prepared for a long-term engagement in tasks such as the strengthening of a democratic Assembly of States parties, the nomination of a plural, fair and efficient pool of judges and their participation in the revision conference of the Rome Statute, seven years after its entry into force.

OUR COMMITMENT

As a part of Global Civil Society, the organizations of the Global South have the firmest intention to be decisive actors in the process of establishment of the ICC and after its entry into force. We vow to be active in the following lines of action and processes:

- We participate in the International NGO Coalition for an International Criminal Court, a global alliance of over 800 organizations that has facilitated an unprecedented process of mutual understanding and learning between civil society and governments engaged in the approval of the Rome Statute, and that continues to be an effective voice for the rights of victims of heinous crimes against international humanitarian and Human Rights law.
- We currently participate in the work of the Preparatory Commission for the Establishment of the International Criminal Court, advocating for the integrity of the Rome Statute and for the approval of definitions and procedures that will facilitate the most effective and fair action of the Court.
- We are determined to obtain in the shortest time possible a large number of ratifications in the Global South in order to make possible the prompt establishment of the Assembly of States Party, where our civil society organizations will continue to be engaged observers.
- We are engaged in a pedagogic effort to help our societies to understand the necessity of international justice as a deterrent to war, a remedy against impunity and a tool for the advance of Human Rights and the rule of law.
- We commit our support as independent experts for our governments and the future Court in every area of legislative and judiciary action necessary.
- We will undertake all the necessary organizational efforts so that our organizations will follow up -as a permanent line of action- the process of establishment of the ICC.

**WITH AN ICC, JUSTICE WINS,
WE ALL WIN!
RATIFY THE ICC STATUTE NOW!**

To sign the Declaration of the Hague, please notify the CICC at cicc2@icc.org, fax +1 212 599 1332, or by post c/o WFM 12th Floor, 777 UN Plaza, New York NY 10017, USA

"Centennial" continued from page 5

took on new dimensions in the context of the Hague Appeal as disarmament and human security; international humanitarian and human rights laws and institutions; and the prevention, resolution and transformation of violent conflict; to which was added a fourth theme, namely the root causes of war and building a culture of peace.

The primary purpose of the Hague Appeal for Peace Conference was to bring together activists from diverse fields of interest to create and sustain a dialogue about practical steps to be taken towards the abolition of war. Towards this end, participating organizations took part in over four hundred substantive sessions, ranging from how to stop the use of child soldiers to the role of youth in conflict prevention, from the

challenge of nuclear disarmament to the search for solutions to conflicts in Kosovo, the Sudan, and Kashmir, among other places. Prominent among these sessions was the launch of the global ratification campaign of the Coalition for an International Criminal Court. (see pages 6-7)

The conference hosted somewhere between eight and ten thousand people over five days, including numerous governmental and United Nations representatives. What is perhaps more remarkable is the way that these participants interacted so freely with each other: Nobel laureates and high school students, a Queen and a novelist, musicians and foreign ministers, parliamentarians and peace marchers, city mayors and mine victims, athletes and artists. The conference was, in many ways, a living example of what is known as the new

diplomacy—the collaboration of civil society, governments and intergovernmental organizations—which has already proved its effectiveness in bringing about the treaty to ban landmines, the statute creating the International Criminal Court and the World Court opinion on the illegality of nuclear weapons.

The Hague Appeal for Peace was a dynamic experience which will likely yield a number of new coalitions and advocacy movements. The most immediate product of the Hague Appeal, though, is the Hague Agenda for Peace and Justice for the 21st Century. This document was the result of an extensive consultation process with participating organizations, governments and international organizations, who used it as a

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NGO Coalition for an International Criminal Court



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About the NGO Coalition for an ICC

The main purpose of the NGO Coalition for an International Criminal Court is to advocate the creation of an effective and just International Criminal Court. The Coalition brings together a broad-based network of NGOs and international law experts to develop strategies on substantive legal and political issues relating to the Rome Statute. A key goal is to foster awareness and support among a wide range of civil society organizations: human rights, international law, judicial, humanitarian, religious, peace, women's, parliamentarian and others. To these ends, we engage in the following activities:

- Convene the Coalition and its working groups, such as the ad hoc Tribunal (ICTR-ICTY) working group, which endeavors to support the purpose, funding, state cooperation and successful completion of these important bodies.

- Maintain a World Wide Web page, international computer conferences and listserv email lists to facilitate the exchange of NGO and expert documentation and information concerning the ICC negotiations and the ad hoc Tribunals and to foster discussion and debate about substantive issues arising from the process of establishing a permanent International Criminal Court.
- Facilitate meetings between the Coalition and representatives of governments, UN officials and others involved in the ICC negotiations.
- Promote education and awareness of the ICC proposals and negotiations at relevant public and professional conferences - including UN conferences, committee, commission and preparatory meetings.
- Produce newsletters, media advisories, reviews and papers on the developments and negotiations.

To Join the Coalition

The NGO Coalition for an International Criminal Court (CICC) welcomes the participation of non-governmental organizations from all sectors of civil society.

To be a participating organization of the Coalition, a non-governmental organization must (1) endorse in principle the creation of a just and effective International Criminal Court, (2) wish to be involved at some level with the supporting the establishment of the ICC, and (3) make an active commitment to the earliest possible world-wide ratification and entry into force of the Rome Statute for the ICC adopted on July 17, 1998.

We encourage both organizations and individuals to support the Coalition as they are able. There is no membership fee to join the Coalition. The Coalition does not have individual members.

In general the Coalition does not take positions, but serves to raise awareness of the positions of its members.

To join the Coalition, or to receive more information in the future, please fill out the form below and return it to the CICC Secretariat.

To Subscribe to the Email List

If you are interested in keeping abreast of day-to-day developments pertaining to the ICC, you are invited to subscribe to the ICC listserv. To subscribe, please email: majordomo@igc.org with the one-line command: **subscribe icc-info** in the body (not the subject line) of the email. The email account from which you send this message will be signed on to the list automatically. Below and return it to the CICC Secretariat.

To Contribute to the Coalition

If you are interested in making a tax-deductible contribution to the International Secretariat of the Coalition, please make the check payable to the CICC

and send it to: NGO Coalition for an ICC
c/o WFM, 777 UN Plaza, 12th Floor
New York, NY 10017, USA

"Centennial" continued from page 11

medium by which to express their own progress towards achieving their ambitious agendas and plans for the future. If the long-term goal of delegitimizing war is to have a chance of succeeding, it will rest on the efforts of organizations such as these, working at the national, the regional and the international level, to combat the root causes and the effects of conflict around the world.

The Dutch Centennial Conference

Following the commemoration of the Centennial of the Permanent Court of Arbitration on May 17, the government of the Netherlands hosted a conference on May 18 and 19, 1999, in commemoration of the First International Peace Conference of 1899. The purpose of the Dutch Centennial Conference was to examine the normative and legislative developments in international law over the last hundred years, with a view towards the future evolution of the law.

Again, as with the Hague Appeal for Peace, the crisis in Kosovo made its presence felt in the course of the discussions at the Dutch Centennial. In the words of Hans van Mierlo, Minister of State of the Kingdom of the Netherlands and Chairman of the National Organizing Committee for the Centennial celebration at The Hague, the Kosovo conflict calls into question whether international law can keep up with the conflicts which clearly threaten international peace and security: "Perhaps you, as lawyers, will ask yourselves the question: when does the international community have the right, or even the duty, to intervene as a last resort? Can responsible statesmen afford to wait until disaster has actually happened? Or are you lawyers going to provide a legal platform for their actions? What can they do on the basis of law?"

Just as the Hague Appeal for Peace called upon civil society, as well as governments and international organizations, to think beyond the boundaries of their current roles in

international affairs and in the quest for peace, so the Dutch Centennial posed the question to the lawyers and policy-makers of the traditional foreign policy and international law establishments: what is the vision for international law for the 21st century, and how can that vision answer the conflicts which so clearly challenge our understanding of the modern international order?

The Russian Centennial Conference

The Russian Centennial Conference, which took place in St. Petersburg on June 21-25, 1999 sought to address this dilemma by examining the implementation of international law. The lack of consistent implementation or enforcement of international law has often been cited as an undermining force in the security of the international system.

As in the Dutch Centennial Conference, representatives of the Hague Appeal for Peace participated actively in the dialogue with government and international organization representatives and contributed as well to the recommendations for action, which will be presented to the United Nations General Assembly in the context of the closing of the U.N. Decade of International Law, in November 1999.

When the pomp and ceremony of this centennial year has faded, as we face a new millennium, we—meaning civil society, governments and international organizations alike and together—must seek ways to translate the commitment, expressed so openly and publicly at the Hague Appeal for Peace and the two government centennial conferences, into concrete and meaningful action to spare future generations from the scourge of war.

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For More Information

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