

In collaboration with
Coalition for the International Criminal Court

Report

International Criminal Court Programme

Round Table on the Ratification and Implementation of the International Criminal Court Statute in Yemen

Sana'a, Yemen - 7-8 January 2004

FOREWORD	3
ABBREVIATIONS	7
I - BRIEF INTRODUCTION TO THE ICC	8
II - INTRODUCTION	12
III - OPENING CEREMONY	13
IV - FIRST WORKING SESSION	15
V - SECOND WORKING SESSION	22
VI - THIRD WORKING SESSION	25
VII - FOURTH WORKING SESSION	30
VIII FINDINGS AND RECOMMENDATION	31
IX - FOLLOW-UP MISSION , AUGUST 11-21, 2005, SANA'A, YEMEN	32
ANNEXES	35

FOREWORD

FIDH and the International Criminal Court (ICC)

Since 1998, following negotiations in Rome on the Statute for the International Criminal Court, the International Federation for Human Rights (FIDH) has worked for the implementation of an independent and impartial ICC to protect the rights of victims. Throughout the process of implementation, FIDH has worked to defend these principles.

Today, FIDH focuses on transforming the ICC into an effective tool to be used in the struggle against impunity for crimes committed in violation of international law.

The FIDH ICC Programme

The FIDH programme devoted to the International Criminal Court – “The struggle against impunity and the promotion of international justice”— has one primary global objective: to train national human rights NGOs and to reinforce their capacity to act in defense of human rights. The realization of this objective would permit these organizations to promote and *in fine* to utilize the mechanisms currently available in the struggle against impunity of those who commit the most serious crimes against human rights - one of the most important of such mechanisms being the ICC. This programme benefits from the support of the European Commission (European Initiative for Democracy and Human Rights).

FIDH, in the context of the campaign for universal ratification of the Statute of the ICC, has chosen to focus its action on countries in Asia, North Africa, and the Middle East, regions in which very few states have ratified the Statute. Thus, in close collaboration with NGOs in the concerned countries, FIDH organizes international missions and other activities in the field, including the organization of round tables, in support of its objectives.

TABLE OF CONTENTS

Foreword	3
Abbreviations	7
I - Brief Introduction to the ICC	8
<i>Historic Overview</i>	8
<i>The ICC is permanent and complementary to national justice</i>	8
<i>How to refer a situation to the ICC</i>	8
<i>Jurisdiction of the ICC</i>	8
<i>Core crimes defined in the Statute of the ICC</i>	9
<i>General principles of criminal law</i>	10
<i>Sentences</i>	10
<i>Organization of the Court</i>	11
<i>Victims rights</i>	11
II - Introduction	12
III - Opening Ceremony	13
IV - First working session	15
<u>Presentation of the ICC and the international efforts involved in its creation</u>	15
<u>Ratification and implementation in the Middle East and the Arab region</u>	15
<u>The US campaign against the ICC</u>	18
<u>Discussions and debates</u>	21
V - Second working session	22
<u>Introduction to the ICC</u>	22
<u>ICC developments</u>	22
VI – Third working session	25
<u>Innovations of the Rome Statute: victims' rights</u>	25
<u>ICC and gender issue</u>	28
<u>Discussions</u>	29
VII - Fourth working session	30
<u>Towards the ratification of the Rome Statute by Yemen</u>	30
<u>Discussions</u>	30
VIII Findings and Recommendation	31
IX – Follow-up Mission , August 11-21, 2005, Sana'a, Yemen	32

X Annexes	35
<u>List of participants</u>	35
<u>Agenda of the Roundtable on the ICC, January 7-8, 2004, in English</u>	38
<u>Agenda of the Roundtable on the ICC, January 7-8, 2004, in Arabic</u>	40
<u>Press coverage of the Roundtable on the ICC, January 7-8, 2004</u>	42
<u>Press coverage of the Follow up mission, August 11-21, 2005</u>	46
<u>Open letter to Yemeni Members of Parliament, 16th January, 2006</u>	49

ABBREVIATIONS

ASP : Assembly of State Parties
ASPA : American Service Members' Protection Act
BIA : Bilateral Immunity Agreement
CICC : Coalition for the International Criminal Court
EU : European Union
FIDH: International Federation for Human Rights
ICB: International Criminal Bar
ICC: International Criminal Court
ICRC: International Committee of the Red Cross
ICTR: International Criminal Tribunal for Rwanda
ICTY: International Criminal Tribunal for Former Yugoslavia
JCCD : Jurisdiction, Complementarity and Cooperation Division
NATO: North Atlantic Treaty Organisation
NGO : Non-governmental organization
OTP : Office of the Prosecutor
RS : Rome Statute – Statute of the ICC
RPE : Rules of Procedure and Evidence of the ICC
SAF: Sisters' Arab Forum for Human Rights
UN: United Nations
VPRS : Victims Participation and Reparation Section
VTF: Victims Trust Fund
VWU : Victims and Witnesses Unit

*The round table was organized in coordination with
the Coalition for the International Criminal Court (CICC)*



This report was elaborated with the support of the European Commission. The points of views presented herein reflect the opinion of participants in the seminar and not under any circumstances the official point of view of the European Union.

I - BRIEF INTRODUCTION TO THE ICC

1 – Historic overview

On 17 July 1998, 120 States overwhelmingly approved a Statute to establish a permanent and independent International Criminal Court (ICC). Four years later, on 11 April 2002, following the 60th ratification, the Rome Statute (RS) of the ICC entered into force. On 1 July 2002, the ICC became fully competent to try individuals for genocide, crimes against humanity and war crimes.

The “road to Rome” was a long and often contentious one. Efforts to create a global criminal court can be traced back to the early 19th century. The story began in 1872 with Gustav Moynier – one of the founders of the International Committee of the Red Cross – who proposed a permanent court in response to the crimes of the Franco-Prussian War.

Following World War II, the Allies set up the Nuremberg and Tokyo tribunals to try Axis war criminals.

Because of the Cold war, 50 years passed before the world’s leaders decided to put the ICC on their agenda again.

Nonetheless, efforts were made in the 90's to develop a system of international criminal justice with the establishment by the UN Security Council of the ad hoc tribunals, the International Criminal Tribunal for Former Yugoslavia (ICTY) in 1993 and the International Criminal Tribunal for Rwanda (ICTR) in 1994, and the creation of hybrid tribunals, like the Special Tribunal for Sierra Leone, the Khmer Rouge Tribunal in Cambodia and the Tribunal for East Timor, applying a combination of international and national law.

2 – The ICC is permanent and complementary to national justice

Permanent jurisdiction

Unlike the ad hoc tribunals, which have jurisdiction over core crimes committed in Former Yugoslavia from 1991 to 1993 and in Rwanda in 1994, and the hybrid tribunals, the ICC has jurisdiction with respect to crimes committed after the entry into force of the Rome Statute, that is after 1st of July 2002. This means that the ICC cannot try individuals for crimes committed before this date and thus has a non-retroactive jurisdiction.

Complementary jurisdiction

The ICC is complementary to national criminal jurisdictions and does not replace national courts. The Court will **only** investigate and prosecute if a State is unwilling or unable to genuinely prosecute (i.e. where there are unjustified delays in proceedings, as well as proceedings which are intended merely to shield persons from criminal responsibility).

3 – How to refer a situation to the ICC

There are three ways to refer a situation to the ICC Prosecutor:

State Party referral. A Non State Party may also accept the jurisdiction of the Court.

United Nations **Security Council** referral under Chapter VII of the UN Charter

Any person can refer a situation to the **Prosecutor** who, pursuant to his *proprio motu* prerogative, can decide to initiate an investigation, if he believes that there is “reasonable basis” to investigate. He must then seek the authorization of the Pre-Trial Chamber before proceeding with the investigation.

4 - Jurisdiction of the ICC

The ICC has jurisdiction to prosecute **individuals** of crimes under the Rome Statute when:
crimes have been committed in the **territory** of a state which has ratified the Rome Statute;
crimes have been committed by a **citizen** of a state which has ratified or made a *ad hoc* referral to the Rome Statute;

the Security Council refers a situation to the ICC. In such a case the Court's jurisdiction is truly universal, meaning that it is not necessary for the alleged perpetrator of the crime to be citizen of a State Party or for the crime to have been committed on the territory of a State Party.

Since **1 July 2002**, the Court has jurisdiction over the crime of genocide, crimes against humanity and war crimes. The Court will exercise jurisdiction over the crime of aggression only once the terms of its definition have been agreed upon.

If a State becomes a Party to the Rome Statute after July 2002, the Rome Statute will enter into force for this State **60 days** after the deposit of its instrument of ratification.

5 - Core crimes defined in the Statute of the ICC

What crimes fall under the jurisdiction of the International Criminal Court?

The ICC has jurisdiction over the most serious violations of international human rights and humanitarian law: genocide, crimes against humanity, war crimes.

Genocide (Article 6 RS):

The definition of the crime of genocide has been taken from the 1948 Genocide Convention. Genocide is any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group:

- Killing members of the group
- Causing serious bodily or mental harm to members of the group
- Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part
- Imposing measures intended to prevent births within the group
- Forcibly transferring children of the group to another group.

Crimes Against Humanity (Article 7 RS):

The Rome Statute is the first international convention which codifies crimes against humanity.

Crimes against humanity are defined as any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- Murder
- Extermination
- Enslavement
- Deportation or forcible transfer of population
- Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law
- Torture
- Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity
- Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, or other grounds that are universally recognized as impermissible under international law
- Enforced disappearance of persons
- The crime of apartheid
- Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health. (...)

War Crimes (Article 8 RS):

Under the Rome Statute, war crimes are any of the following grave breaches of the Geneva Conventions of 12 August 1949, perpetrated against any persons or property:

- Willful killing
- Torture or inhuman treatment, including biological experiments
- Willfully causing great suffering, or serious injury to body or health
- Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly
- Compelling a prisoner of war or other protected person to serve in the forces of a hostile power

- Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial
- Unlawful deportation or transfer or unlawful confinement
- Taking of hostages.

Under the definition of war crimes, the Court will also have jurisdiction over the most serious violations of the laws and customs applicable in international armed conflict within the established framework of international law. These violations are defined extensively in Article 8, subparagraph (b) of the Rome Statute. In the case of armed conflict not of an international character, the Court's jurisdiction will cover breaches of Article 3 common to the four Geneva Conventions of 12 August 1949.

Crime of Aggression:

The Court will have jurisdiction over the crime of aggression once a provision defining the crime has been adopted during the Review conference in 2009.

The **applicable law of the ICC** (the sources) is primarily the Rome Statute (RS), the Elements of Crimes and the Rules of Procedure and Evidence (RPE) (article 21).

6 - General principles of criminal law

Individual criminal responsibility (Article 25 RS)

The ICC has jurisdiction over individuals and not legal entities, such as multinationals or corporations.

Minimum age for ICC jurisdiction (Article 26 RS)

The ICC only has jurisdiction over individuals of 18 years of age or older.

Non-retroactivity (Article 24 RS)

No person shall be criminally responsible under this Statute for conduct prior to the entry into force of the Statute.

Command responsibility (Article 28 RS)

Commanders, from the military as well as other superiors, can be tried where they knew or should have known that their subordinates were committing crimes within the jurisdiction of the ICC, when they failed to take necessary measures to prevent or repress their commission and, for other superiors, when the crimes concerned activities that were within their effective responsibility and control.

***Ne Bis In Idem* (Article 20 RS)**

No person shall be tried by another court for a crime referred to in article 5 for which that person has already been convicted or acquitted by the Court. No person who has been tried by another court for conduct also proscribed under article 6, 7 or 8 shall be tried by the Court with respect to the same conduct unless the proceedings in the other court were for the purpose of shielding the person concerned from criminal responsibility or were not conducted independently or impartially in accordance with the norms of due process recognized by international law.

Irrelevance of official capacity (Article 27)

The Rome Statute applies equally to all persons without any distinction based on official capacity. Immunities that may apply under national or international law are not applicable before the ICC.

7 - Sentences

The ICC does not recognize the death penalty and can impose a maximum penalty of 30 years of imprisonment or a term of life imprisonment when justified by the extreme gravity of the crime. In addition to imprisonment, the ICC can order a fine or a forfeiture of proceed, property and assets.

8 - Organization of the Court

There are four organs within the ICC:

The **Presidency**, composed of the President, Mr. Philippe Kirsch (Canada), and two Vice-Presidents.

The **Chambers**, divided into Pre-Trial Chambers, Trial-Chambers and Appeals Chambers and composed of 18 judges, elected by the Assembly of State Parties.

The **Office of the Prosecutor**, composed of the Prosecutor, Mr. Luis Moreno Ocampo (Argentina), elected by the Assembly of State Parties, two Deputy Prosecutors, Mr. Serge Brammertz (Belgium) and Mrs. Fatou Bensouda (Gambia), also elected by the Assembly of States Parties.

The **Registry**, headed by the Registrar, Mr. Bruno Cathala (France), elected by the Assembly of State Parties.

9 – Victims rights

Victims' access to international criminal justice is new. Indeed, for a long time, the interests of victims were not considered in international law. In Nuremberg in 1945 as well as before the international criminal tribunals created in 1993 and 1994 (International Criminal Tribunal for Former Yugoslavia – ICTY – and International Criminal Tribunal for Rwanda – ICTR) the victim is only considered as a witness.

The Statute of the ICC consecrates the statute of the victim in international law. It includes innovating provisions enabling the protection, participation, legal representation and the reparation of victims.

Wide definition of “victim”

The Statute of the ICC includes in the definition of victims not only direct victims but also indirect victims. Moreover, psychological harm is recognized next to physical harm. Only natural persons are recognized as victims before the ICC.

Protection of Victims and members of their family

Another progressive aspect of the ICC is the obligation of protection of victims-witnesses, during the investigation phase as well as during the proceedings. Victims and witnesses have the right to physical protection, but also to receive psychological assistance from all the organs of the Court.

Effective participation

Beyond the possibility of supplying information to investigations, victims can participate in the proceedings before the ICC, provided that they are effectively informed of their rights and are fairly represented. Having been informed of the consequences, modalities and limits of the participation to the proceedings before the ICC, victims are free to choose counsel of their choice. If there is a large number of victims, they will generally have to choose a common legal representative, for whose remuneration they can receive financial assistance from the ICC – within the limits defined by the Court.

Reparation

Unlike the *ad hoc* tribunals, the ICC establishes a real system of reparation for victims. The Court may determine the scope and extent of any damage to be repaired by the convicted person to the victims or their beneficiaries (restitution, compensation or rehabilitation), without the need for any specific request. If reparation cannot be paid directly by the convicted person, the Victims' Trust Fund, a subsidiary organ of the ICC, assists. The funds collected by the Trust Fund will come from forfeitures and fines ordered by the Court against convicted persons, as well as from voluntary contributions from States, individuals and organizations.

II - Introduction

Sisters' Arab Forum for Human Rights (SAF), a human rights NGO based in Yemen, in collaboration with the International Federation for Human Rights (FIDH) and the International Coalition for the ICC (CICC), and under the patronage of the Yemeni Ministry of Human Rights, organized a two-day **Round Table on the International Criminal Court on 7-8 January 2004** in the Yemeni capital, Sana'a.

This round table in Yemen was the first roundtable organized by the FIDH international justice programme as well as the first national event for civil society representatives on the ICC in the country, after the creation of the Yemeni coalition for the ICC on 23 October 2003.

The main purpose of the event was to strengthen the **Yemeni Coalition for the ICC** and to discuss Yemen's ratification of the ICC treaty by providing information and training on the ICC, with a particular focus on the jurisdiction of the Court, the legal and political obstacles leading some States not to ratify the Rome Statute.

The Yemeni Coalition for the ICC was launched in October 2003 at an event called "National Dialog on the ICC" after the idea was informally discussed by SAF SAF's Chairperson Ms. Amal Basha, FIDH and CICC at a regional seminar organized by FIDH in Ankara, Turkey in September 2004 on "*Post 9/11 Era and subsequent attempts to suspend human rights and international humanitarian law*".

The two-day round table gathered more than 60 participants, representatives from Yemeni civil society (NGOs, lawyers, university professors, judges) as well as members of parliament, representatives of political parties and the media. Roughly a third of the participants were women, including the Assistant Deputy of Women's Affairs Department of the Office of the President. In addition, the opening ceremony featured several distinguished speakers, including Her Excellency Amat Al-Alim Al-Suswa, Human Rights Minister of Yemen, along with Ms. Emma Bonino and Mr. Gianfranco Dell'Alba from *No Peace Without Justice* and the European Parliament. Several members of parliament, legal academics and members of the press were also present.

The round table benefited from a large **press coverage** in the local and national media.

FIDH decided then to organize a **follow-up mission** to the round table on **11-21 August 2005**, with the aim to analyze the implementation of the recommendations adopted during the first conference. Numerous initiatives for training on the ICC and the principle of complementarity were organized since the round table of January 2004 and the Yemeni Coalition for the ICC has become an active and important network.

Two years after the launching of the ratification campaign in Yemen and the creation of the Yemeni Coalition for the ICC, the Yemeni Parliament announced in **January 2006** that it would put the ratification of the Rome Statute on the agenda of its next session. An open letter from FIDH and SAF was sent to members of the Yemeni Parliament urging them to vote for the ratification and implementation of the ICC Statute.

As a follow-up to these activities, FIDH organized a **training session in The Hague on 19-23 June 2006** for representatives of civil society from Yemen, Bahrain, Lebanon and Jordan, to deepen their understanding of the system of the ICC and the rights of victims recognized by the Rome Statute and to exchange experiences within the MENA region, as well as to build up a dialog between them and representatives of the different organs of the ICC.

III - Opening ceremony

Ms. Amal Basha chairperson of SAF, leading the Yemeni Coalition for the ICC opened the round table session. She emphasized the need for an independent and effective mechanism of international criminal justice to fight against impunity those responsible for the most hideous crimes such as genocide, crimes against humanity and war crimes.

She underlined the importance of the Sana'a round table as an opportunity to reiterate the request of human rights NGOs for the ratification of the Rome Statute. She emphasized the importance for the Republic of Yemen and the Arab countries to follow the steps of Jordan and Djibouti by ratifying the Statute and thus resisting to the pressure from the United States of America against the ratification process.

Ms. Jeanne Sulzer, FIDH International Justice Director, spoke on behalf of **Mr. Driss El Yazami**, Secretary General of FIDH, urging all attendees to cooperate and coordinate their efforts to encourage the Yemeni government to ratify the Statute of the ICC. Ms. Sulzer emphasized the importance of universal ratification to remove all possibilities for the perpetrators of crimes against humanity to remain unpunished. She also called on civil society organizations and political parties to participate actively in the international coalition to press governments to ratify the Statute.

Following Ms. Sulzer, **Mr Gianfranco Dell'Alba**, member of the European Parliament and Secretary General of the organization *No Peace Without Justice*, underlined the importance of the round table. He argued that it is necessary to reach agreement on recommendations in order to strengthen efforts for the ratification of the Rome Statute by the Yemeni government and by the rest of the Arab countries.

Ms. Emma Bonino, member of the European Parliament and founding member of *No Peace Without Justice* reviewed actions taken between April 2002, when the Statute reached 60 ratifications, and its entry into force on July 2002. She expressed regret that Yemen, which had been among the most active countries during the negotiations in Rome and had even signed the Statute at an early stage, is now delaying ratification and thus losing the opportunity to contribute to the most recent developments of the Court.



Ms. Emma Bonino, member of the European Parliament and founding member of *No Peace Without Justice*

Finally, **H.E Amat Al-Alim Al-Soswa**, the Yemeni Minister of Human Rights, welcomed the participants and representatives of FIDH and the CICC. She underlined that Yemen, like twelve other Arab countries, had already signed the Rome Statute and realized the importance of human rights issues, which are among the top priorities of the international community.

She underlined the progress made in the field of human rights in Yemen during the last fourteen years, notably, the creation of a ministry dedicated solely to human rights issues. Yemen also ratified most international conventions regarding human rights and incorporated their principles and guarantees into effective national laws. She also added that a number of Arab countries, including Yemen, had played an important role in formulating the Rome Statute for the ICC and that Yemen had supported the creation of the ICC in discussions within the League of Arab States.

Moreover, the Minister pointed out the need to support practical guarantees for the protection of human rights, but also emphasized the necessity of raising awareness on the impact that implementation of these rights will have on the people of the states involved. She concluded by assuring the participants that Yemen would do its best to enhance human rights, but also by expressing her hope that human rights issues would not threaten States' sovereignty or interfere with internal affairs.

IV - First working session

Presentation of the ICC and the international efforts involved in its creation

Mr. Joydeep Sengupta, Outreach liaison for the International Coalition for the International Criminal Court (CICC)

It is important to underline the great international efforts involved in the creation of the ICC. Yemen played an important role in the elaboration of the Statute. However by delaying ratification, the Yemeni authorities deprive themselves of the privileges granted to the member states. For instance Jordan and Djibouti, having ratified the Statute, have the right to appoint judges to the ICC.

Yemen is an essential partner and supporter of the ICC, and thus it is important to encourage the Yemeni government to ratify the Rome Statute.

Ratification and implementation in the Middle East and the Arab region

Ms. Stephanie David, Program Officer for Middle East and North Africa at the FIDH

The Arab region represents a great challenge as well as a paradox regarding the International Criminal Court.

Why?- Because this region is one of those most destabilized by ongoing conflicts and has suffered great human losses in recent years.

Paradox? - Because the region is very poorly represented among the ICC States parties. Among the 92 countries in the world that have ratified the Rome Statute, only one Arab country, Jordan, has ratified.

Of those 92 countries, less than 20 have adopted an implementing legislation (national law in conformity with the Rome statute). Jordan is currently in the process of passing implementing legislation.

It should be stressed that in the Middle East, the ICC enjoys strong support from Jordan, whose Ambassador to the UN currently serves as the president of the ICC Assembly of States parties.

The Middle East is also represented by Her Majesty Queen Rania Al Abdullah of Jordan, recently elected as one of the seven members of the Board of Directors of the ICC Victims' Trust Fund.

In February 2002, the Department of Legal Affairs of the League of Arab States held a legal symposium in Cairo on the impact of ratification and accession to the Rome Statute. Representatives of 19 Arab countries participated. The final recommendation of the symposium did not call on Arab countries to ratify, but did allow a careful examination of the ICC Statute and stressed the importance of passing strong domestic legislation and upholding high international procedural standards for criminal prosecution in order to retain domestic jurisdiction with a view to protecting national sovereignty of non-States parties.

In the region, the following countries have signed the Rome Statute:

Morocco
Algeria
Egypt

Jordan
Syria
Oman
United Arab Emirates
Bahrain
Kuwait
Yemen

The Islamic Republic of Iran signed on the same day as Israel and the USA 31 December 2000, racing against the deadline for signature.

Despite the fact that the procedure of ratification may be very different from one country to the other, if we examine the Arab constitutions and national laws, there are very few legal impediments to accession to the ICC.

Reluctance to adhere to the Rome Statute is mainly due to political concerns. However, one major constitutional concern is the issue of immunity of Heads of State.

A second reason for reluctance is based on the concern over the absence of a definition of the « crime of aggression » in the Rome statute

Survey country by country:

Jordan: signed on 7 October 1998 and ratified on 11 April 2002. A law was published on 16 April 2002 establishing Jordan's compliance with the Rome Statute. The law contains 3 articles: article 1 incorporates the full text of the Rome Statute; article 2 sets the date of entry into force; article 3 specifies the need for implementation of the Statute into national law.

Algeria: signed on 28 December 2000.

It has been reported that the issue of terrorism is impeding ratification.

A working group formed by experts from the Ministry of Justice and Foreign Affairs has been in charge of examining the ICC Statute since 1999.

The President of the Republic has the power to conclude and ratify international treaties. But the parliament may open a debate on foreign policy that will result in a resolution drafted by both chambers and then sent to the President of the Republic.

Morocco: signed on 8 September 2000. The government is studying the Rome Statute. In order to address possible constitutional issues, the government is reportedly considering Jordan's ratification bill as model legislation. According to the Jordanian constitution « The king shall sign and ratify treaties »; therefore, ratification might imply some modification in the constitution.

Egypt: signed on 26 December 2000. On 2 January 2002, the Minister of Justice announced a « new project on the ratification of the ICC statute » among 14 other legal initiatives aimed at reinforcing the domestic judicial system. According to the Minister, the project clarifies the constitutional and legislative requirements for the ratification and implementation of the Statute in the Egyptian legal order. But it remains unclear whether the government will move towards ratification soon.

Syria: signed on 29 November 2000, although it had indicated that it would wait until the crime of aggression was defined before deciding its position on the ICC. The pending definition of the crime of aggression continues to be Syria's main concern regarding ratification.

It seems that things are moving forward, though, as a conference on the ICC was organized in Damascus (by the International Committee of the Red Cross) few weeks ago.

Parliament (The People's Assembly) still has to approve the ICC Statute.

Oman: signed on 20 December 2000. The Omani Attorney General and two other senior officials of the Ministry of justice attended the Assembly of States Parties in September 2003. Oman has been examining the Rome Statute for 4 years and it is a matter of time before Oman ratifies the ICC.

United Arab Emirates: signed on 27 November 2000. Officials from Ministry of Justice attended the Assembly of States Parties in September 2003. Legal complications have almost been resolved apparently, whereas political obstacles remain an issue. The Ministry of Foreign Affairs has also been closely examining the possibilities of ratification.

Bahrain: signed on 11 December 2000. Officials from Ministry of Justice attended the Assembly of States Parties in September 2003. They expressed interest in NGO assistance in the ratification campaign.

It may be the next place for campaign for ratification.

Kuwait: signed on 8 September 2000. Legal advisers and the Director of the Department of International Relations at the Ministry of Justice attended the Assembly of States parties in September 2003. There is a great interest in the establishment of the ICC; however Kuwait awaits a definition of the crime of aggression before it moves forward on ratification.

The US campaign against the ICC

Ms. Jeanne Sulzer, International Justice Director of the FIDH,

It is a spectacular achievement that the ICC came into force on July 1, 2002 while in parallel the United States developed a very imaginative and dangerous opposition to the first permanent International Criminal Court. The US campaign against the ICC has been growing in intensity throughout the years since 1998. Today, the US opposition to the ICC has reached a very high level of hostility.

What is at stake? The opposition of the US administration is based on their absolute refusal that US citizens be one day investigated or prosecuted before an International Criminal Court. The US claims that politically motivated claims may put US citizens and in particular soldiers in a difficult position.

The United States of America was one of the 7 States to vote against the Rome Statute establishing the International Criminal Court on 17 July 1998 in Rome.

The US during the negotiations supported the idea of an ICC under the authority and the control of the UN Security. What has been adopted is far from US idea as the ICC can be triggered by either a State Party, the Security Council or by the Prosecutor himself. Thus the role of the Security Council, in theory had been kept aside to prevent limitation to the ICC jurisdiction. However, pursuant to a US proposal in Rome, the US obtained the adoption of Article 16, which gives the Security Council the power to freeze an ICC investigation for one year. But for this to happen, a unanimous vote in favor of blocking ICC proceedings would be needed, which might be difficult to obtain with two permanent members of the Security Council being State Parties, that is France and the UK.

Since their clear opposition on the day of adoption of the Rome Statute, the United States have been seeking means of guaranteeing that US nationals will never be prosecuted by the ICC.

On 31 December 2000, when US President Bill Clinton asked his Ambassador for War Crimes, David Scheffer, to affix the signature of the United States to the ICC Statute, a glimmer of hope appeared. Very soon however, rumors circulated to the effect that the Bush Administration intended to "un-sign" the Statute. Since March 2001, the seats of the American delegation to the ICC negotiations have remained desperately empty.

To do so, they built a complex legal machinery and started almost simultaneously to undertake actions at the domestic level, the international level and in their bilateral relations with states.

Level 1 : At the domestic level : The Hague Invasion Act

The Bush Administration endorsed an anti-International Criminal Court (ICC) Bill named "American Service members' Protection Act" (ASPA) that aims, amongst other things, to prohibit all military assistance to States having ratified the Rome Statute creating the permanent Court. This domestic legislation, which was quickly nicknamed "Hague Invasion Act", as it allows the use of force to free a US citizen that would be imprisoned in The Hague by the ICC, represents the public position of the US on the ICC.

It recalls in its Preamble that an international treaty cannot create obligations towards a non State Party and that consequently the US refuse the jurisdiction of the Court over their nationals.

1. It prohibits all US cooperation with the ICC: in addition to the general prohibition on cooperation with the Court, this article prohibits extradition of a person from the United States to the Court; aid in the transfer of an American citizen or an alien permanent resident of the United States to the ICC; the use of any appropriated funds for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the Court; the conduct, in the United States, of any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

2. It forbids all military assistance to most States having ratified the Rome Statute: the general principle laid down in this article states that, a year after entry into force of the Court, no American military assistance may be provided to a State Party to the ICC. However the law provides that some States may be exempted in accordance with American national interests. Thus, the non-assistance clause is not applicable to NATO member States (North Atlantic Treaty Organisation), essential allies other than members of NATO (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, New Zealand) and Taiwan. Similarly, the President can revise the prohibition if the State in question has entered into an agreement with the United States, in accordance with Article 98 of the Statute, explicitly prohibiting the transfer of an American to the ICC.

3. It restrains the transfer of classified national security information to a country having ratified the ICC statute.

4. It restricts American participation in UN peacekeeping operations: the President is requested to use the American voice and vote in the Security Council to guarantee that all resolutions voted in the framework of chapters VI or VII of the UN Charter, respectively authorizing the creation of peacekeeping or peace enforcement operations, permanently exempt members of the American armed forces from criminal prosecution by the ICC for actions undertaken in connection with the operation. The participation of American armed forces would only be accepted if the operation takes place on the territory of States not being parties to the Statute.

5. It would authorize the President to use "all means necessary and appropriate" for the release of any American citizen held by the ICC, hence the nickname, "Hague Invasion Act".

The law provides that 6 months after the entry into force of the Court, the President should provide the Congress with a detailed report on each military alliance of which the United States is a member, specifying the extent to which the members of the American armed forces may, in the context of a military operation directed by that alliance, be placed under the operational control of foreign officers subject to the jurisdiction of the ICC as nationals of a State Party to the Court and evaluate the resulting risks for those forces.

The restrictions on the participation of American armed forces in peacekeeping operations and the prohibition on providing military assistance to countries having ratified the ICC may be suspended by the President for a one year period. In doing so, he would, nevertheless, have to guarantee that the ICC could not exercise jurisdiction over US nationals and that the latter could not be arrested, prosecuted or imprisoned.

The one year period may be renewed if, in a report to the Congress, the President demonstrates that the United States have entered into an agreement binding the ICC that prohibits it from exercising its jurisdiction over American nationals.

With or without the United States, the entry into force of the permanent International Criminal Court for the prosecution of the alleged individual authors of war crimes, crimes against humanity and genocide, is henceforth only a question of months.

Level 2 - At the international level : using the Security Council to shield Americans from the jurisdiction of the ICC

The United States continued to undermine the jurisdiction of the Court and to violate the integrity of the Statute in the context of international diplomacy.

Having failed in its attempt to negotiate an “acceptable ICC Statute in Rome, during the following sessions of the Preparatory Commission for the ICC, the US decided to use the Security Council forum in order to ensure a political control over the jurisdiction of the Court. Despite the amazing mobilization of States, NGOs as well as the Secretary General of the UN, Kofi Annan, Resolution 1422 was unanimously approved on 12 July 2002. That resolution grants immunity from the ICC to officials and personnel (current and former) of a contributing state not party to the Rome Statute over acts or omissions relating to a UN established or authorized operation.

Level 3 – At the bilateral level : the fallacious use of Article 98 of the Rome Statute to enter into impunity non surrender agreements

Immense US pressure is also being put on states – on a bilateral basis – through the signing of an agreement that prevents the surrender of an American national to the Court.

From what we know, countries from the Arab region, which have entered into non-surrender impunity agreements, are Bahrain, Israel, Tunisia and Egypt.

Discussions and debates

After these presentations, discussions focused on the following issues:

- Doubts concerning the ability of the ICC to work effectively in view of the signature by a large number of countries of bilateral agreements with the USA to protect American citizens from prosecution.
- The fear of the eventual use of political extortion and double-standard policies as a new means of pressure, as is the case with international organizations such as the Atomic Energy Agency.
- The need for effective lobbying methods to encourage States, that have not signed the Rome Statute yet, to move towards signature and ratification.
- The participants also underlined the need to define the role of civil society organizations in mobilizing public opinion to push the authorities of their country to ratify the Rome Statute and to abandon their reservations.
- The serious obstacles that Arab countries face when considering ratification of the Rome Statute. These include:
 - a) The fact that rulers of the countries see themselves as the nation and the people;
 - b) The Arab Parliamentarians that do not understand even the minimum level of human right issues;
 - c) The US Administration whose projects for expansion contradict the principles of justice.
- The need for more cooperation and coordination efforts at the national, regional and international levels to urge the Yemeni parliament to support ratification.
- Debate also focused on pressure by the United States on certain states to block the ICC ratification process. The international community should not allow this pressure.
- Furthermore, bilateral agreements adopted by the United States against the ICC jurisdiction are not justified. A mobilization of academic, legal, and political actors is necessary to demonstrate that these bilateral agreements are not legitimate.
- Finally, the discussions made it clear that a memorandum signed by all participants of the roundtable should be sent to the parliament and a group of people should ask to meet representatives of the parliament to brief them on the importance of ratification for Yemen, especially in the context of the American military presence on Yemeni soil.

V - Second working session

Introduction to the ICC

Mr. Shawke Al-Qadi, Member of the Parliament.

First, **Mr. Shawqi Al-Qadi**, made a general presentation on the ICC. He explained its origins, the competence of the Court, its relation with the UN and national law, the cores crimes of the Statute and general principles of law applicable. He also made clear the non-retroactivity principle, the existing organs of the court, the importance of the Assembly of States Parties and the question of the sentences.

A summary of this part can be found in the introduction of the report.

He then stressed the importance of cooperation of all States parties with the ICC, important condition for an effective ICC. Cooperation and communication with American civil society organizations is necessary in order to mobilize a public opinion to lobby the American administration. This lobbying promoting ratification could contribute towards a less aggressive American policy, with the purpose of limiting the signature of bilateral agreements. The current position of the American administration is not shared by all of the American people - on the contrary.

Finally it is also important to make clear that the ICC will not have primacy over national courts. The Court is an organ complementary to national courts, and the ICC will only have jurisdiction when the national courts are unable or unwilling to prosecute the crimes of the Statute (Article 17 of the ICC Statute).

ICC developments

Ms. Jeanne Sulzer, International Justice Director of the FIDH

An ideal ICC is one that would never or very rarely take up a case, as all States would assume their primary obligation to investigate and prosecute alleged perpetrators of war crimes, crimes against humanity and genocide.

One of the main characteristics of the ICC is that it is only complementary to national courts in contrast to the former ad hoc tribunals established by UN Security Council Resolutions, which had primacy over domestic courts.

According to Article 17 of the Rome Statute, the ICC has jurisdiction only if the State is unwilling or unable to prosecute.

To determine unwillingness in a particular case, the Court shall consider,

- The national proceedings were or are being undertaken for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court referred to in article 5;*
- There has been an unjustified delay in the proceedings which in the circumstances is inconsistent with an intent to bring the person concerned to justice*
- The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner, which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.*

In order to determine inability in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings.

The main issue is how the Court, that is to say the judges, will be able to independently assess and analyze, in the interest of justice, the national judicial system of a State.

Therefore, there should be a set of clear guidelines and checklists to arrive at a determination, which is as objective as possible on how the State is conducting the investigation and prosecution at the national level.

National civil society, in particular human rights NGOs, has an important role to play. Building upon experiences in drafting shadow reports before UN Treaty monitoring bodies such as the Committee against torture, national NGOs are often in a better place to monitor the judicial system of their country.

If the ICC allows for biased, masquerade type justice, on the basis of a State exercising its principle of complementarity at the national level, the ICC will greatly lose its credibility in the eyes of its first constituency, the victims.

The impunity gap

For FIDH, it is absolutely essential that the Prosecutor makes clear policy statements when deciding to take a case. In the interest of victims, the ICC should be clear from the beginning that it has limited resources and therefore a limited reach of who it can indict.

The limited resources of the Court will allow it to take only a very small number of cases per year. It is estimated that the Court will not be able to manage more than 2 or 3 situations maximum at the same time. This fact inevitably shows the importance of the Court setting up a clear prosecutorial strategy and policy.

The ICC Prosecutor, the Argentinean Luis Moreno Ocampo provided guidance on how to interpret the complementarity principle in his *"Paper on some policy issues before the Office of the Prosecutor"* of September 2003¹.

It sets out clearly that the ICC will only target the individuals with the highest degree of responsibility in the commission of crimes within the jurisdiction of the ICC.

That criminal policy decision has direct consequences on the implementation of the complementarity principle with national courts.

This is known as the "Impunity Gap".

Several conclusions can be drawn from this gap:

- If crimes within the jurisdiction of the ICC are committed in a country, the ICC pursuant to the Rome Statute will only look at the "most serious crimes".
- Within those "most serious crimes", the ICC will only target the leaders that have the highest responsibility in the commission of the said crimes.
- This leaves, as the figure shows a wide gap of cases, which will not be with dealt by the ICC, known as the "Impunity gap".

¹ Paper available on ICC website at: http://www.icc-cpi.int/otp/otp_policy.html

- Therefore, whether or not the State concerned will decide to exercise its complementarity with the ICC, there will still be, in any case, a large responsibility in the fight against impunity which will rest on the State's national tribunals capacity and on the State's willingness policy to open investigations.

The OTP should support States taking action at the national level. In doing so, the Court should accept that in some situation, traditional types of justice can not cope with an entire situation.

Furthermore, the ICC should acknowledge its role as a deterrent mechanism to avoid the commission of future crimes. Prevention cannot and should not be opposed to the fight against impunity. The Office of the Prosecutor needs to implement its own set of preventive policy guidelines. Prevention and Justice are two landmark pillars that need to be addressed in the interest of victims and peace.

Here is a concrete example:

In 1993, FIDH conducted an international fact finding mission in Rwanda. The report issued showed clearly that all the conditions for the commission of a genocide were met. It recommended urgent action by the international community. What resulted is, unfortunately, of common knowledge. Hundreds of thousands of individuals were killed in less than a couple of months. The International Community, for mainly political and unacceptable reasons, failed to prevent what will remain as one of the worst pages of history. The Security Council resolution to create an ad hoc tribunal for the crimes committed in Rwanda is recognized as an important and necessary mechanism in the fight against impunity, yet it inevitably acknowledges the complete failure of States to react, in due time, to an expected large scale and systematic massacre.

This should be in every day's mind of the Office of the Prosecutor staff. It would be unacceptable for the ICC to wait for the commission of crimes before taking action.

The policy of the Prosecutor should therefore include guidelines for urgent and ad hoc interventions in a view to prevent the commission of crimes.

The ICC, better than any human rights organization will be able to reach out and voice concerns at a much larger scale and thus maybe prevents future grave human rights violations.

Measuring the preventive impact of the Office of the Prosecutor can only be a post facto assessment, yet it is in the vital interest of the ICC to try, whenever possible, to use this tool and hopefully prevent other crimes against humanity and genocide from happening.

The independent status of the Prosecutor enables him to be above realpolitik considerations that govern the community of States. It is absolutely crucial that his voice be heard without consideration of color, nationality, religion or state's interests. If this is true for an effective ICC prosecutorial strategy, it is equally true for an effective ICC preventive strategy.

VI - Third working session

Innovations of the Rome Statute: victims' rights

Ms. Jeanne Sulzer, International Justice Director of the FIDH

Negotiating the provisions related to victim's rights in both the Rome Statute and the Rules of Procedure and Evidence proved to be a very difficult exercise as many states expressed their fear that the Court could be overwhelmed, and argued that their legal system did not allow reparations in criminal proceedings.

To understand the ICC mechanisms related to victims participation, notification, representation and reparation, it is absolutely necessary to read the Rome Statute as a stand-alone law, a hybrid / political compromise between the different legal systems of the world. This *locus standi*, is absolutely new in international criminal proceedings. It does not duplicate any national criminal system. It is a real *sui generis* proceeding, as a result of intense diplomatic negotiations.

For the first time, victims are recognized as victims before an international criminal jurisdiction. It is important to recall that based on a common law approach, the two ad hoc tribunals for the former Yugoslavia and Rwanda did not acknowledge a participative role for victims but only as witnesses, whose testimonies are used by the prosecution to establish the responsibility of the convicted person. This lack of victims' participation has lead, amongst other political considerations, to the current quasi-blockage of the ICTR as two of the main victim's organizations have decided to boycott the Arusha Tribunal.

One of the major achievements of the Rome Statute was the recognition of an independent status for the victims of crimes under the jurisdiction of the Court which provides for the right of victims to be protected by the Court, to participate in the proceedings and to ask for, and to receive, reparation.

1. Participation

Victims' participation is one of the most important innovations brought about by the ICC. It is the first time the fundamental rights for victims to an effective remedy and to access to justice has been granted before an international criminal jurisdiction.

Past experiences before both national and international courts show that it is of crucial importance that victims are provided the right to have their views and concerns heard. Being able to participate in the proceedings is the first step towards the recognition of their prejudice and their status as victims.

Victims' participation is amplified by the historically unprecedented ability of victims' groups and civil society actors to submit communications directly to the Office of the Prosecutor for review. Then the ICC Prosecutor may initiate an investigation based on these communications. When in July 2003, Luis Moreno Ocampo issued his first analysis of the communications received, he declared that out of 499 communications, all had been triggered through Article 15 and none by State Party referral. Today we know that at least two States Party referrals have been processes by the Prosecutor coming from the governments of Uganda and the Democratic Republic of Congo. These, consequently, have become the two priority cases of the ICC. In favoring State Party trigger, the OTP is weakening indirectly its *proprio motu* power and victims' and NGOs capacity to directly trigger the ICC.

The mechanisms providing for victims' participation are set out in Article 68(3) of the Statute and Rule 89 of the Rules of Procedure and Evidence. The Rome Statute states, "*where personal interests of victims are affected, the Court shall permit their views and concerns to be presented*". However the Chamber on its own initiative or on the application of the Prosecutor or the defense, may reject the application if it considers that the person is not a victim".

To be able to participate before the Court, victims will need to be recognized as such by the Court itself pursuant to a definition that can be found in the Rules of Procedure and Evidence (Rule 85). It reads:

"Victim means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court.

Victims may include organizations or institutions that have sustained direct harm to any of their property, which is dedicated to religion, education, art or science and charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes."

So victims are defined in a broad sense and include direct and indirect victims as well as physical and mental prejudice.

Consequently, taking into account the very nature of the crimes within the jurisdiction of the ICC, there will be inevitably a great number of victims that will aim at participating in the proceedings.

The challenge for the Court is therefore to establish an effective Victim's Outreach Programme, facilitating victims' access to the Court while at the same time allowing criminal proceedings to be conducted without undue delays.

2. Legal Representation

In order to avoid overwhelming the International Criminal Court, the legal representation of victims is a key element of this regime. Legal representation is strictly organized and where there are a number of victims, they will have to choose a common legal representative, if necessary from a list presented by the Registry. That means that victims may choose, or be asked to choose common legal representative before the Court.

It is necessary here to inform participants that an International Criminal Bar (ICB) before the ICC has been recently created in order to organize the work of counsels before the Court. The ICB will include both defense lawyers and lawyers of the victims. Individual lawyers can register to the ICB.

The legal representative will have to receive all notification, to effectively represent the views of all interested victims in this process. As it is reasonable to think that victims will not have the resources to pay for representation, Rule 90 provides for financial assistance. However this year, the budget might not ensure the effectiveness of victims' rights, it might not be able to provide legal aid.

3. Notification

As far as notification is concerned, the Statute and Rules of Procedure and Evidence oblige the Court to notify victims at different stages of the proceedings. In most cases, the obligation falls on the Registrar to notify victims in respect of proceedings before the Court though in some instances, the Prosecutor is under a direct obligation to notify victims. For example they have the right to be notified by the Court about a decision of the Prosecutor not to initiate an investigation or not to prosecute, or of a decision of the Court to confirm charges.

The most serious notification challenge relates to the initial stage of the proceedings, before legal representatives are involved. Here it is very important that the Court makes sure that when notifying to victims they don't expose them to additional risks and security issues. Therefore, the

recommendations of the Victim's Rights Working Group of the CICC, of which the FIDH is an active member, included for example the use of envelopes without the ICC logo.

4. Reparation

The ICC is the first international court to recognize the role of victims by enabling them and their families to apply for compensation. The reparations regime is independent from victims' participation during the proceedings. A victim can apply for reparation, or the Court can decide on its own motion, without victims having participated in preliminary and/or in trial phases.

Victims who want to apply for reparation have to fill in a special form and the Registry must also notify legal representatives for victims that the Court will proceed on its own motion, in order to enable the victims to present their views (Rule 95), to present their own demands or to refuse any reparation.

Such a provision protects the right to due process and gives due recognition to the involvement of victims in the process.

The reparation regime provides for the following elements:

- the right of victims to present claims for reparation and the obligation of the Court to define principles of reparation, taking into account representations made by the convicted person, victims and other interested persons or states
- the adoption of protective measures
- the enforcement of reparations by States
- the complementary role of the Trust Fund for victims.

The regime for reparation before the ICC shall include: restitution, compensation rehabilitation, satisfaction and guarantee of non-repetition. But because the defendant's assets might be insufficient and the number of victims very high, the Statute created a "Trust Fund for the benefit of victims of crimes within the jurisdiction of the Court and their families" (VTF).

The Trust Fund operates in tandem with the Court's reparative function. It reinforces the restorative function of the Court. Article 79(1) of the Rome Statute has broadly characterized the purpose of the VTF as "for the benefit of victims of crimes within the jurisdiction of the Court, and of the families of such victims." The following uses have been identified:

- A vehicle of the Court to transfer money or other property collected through fines and forfeiture proceedings [Article 79(2)]
- A mechanism to channel awards for reparation which the Court decides to make through the trust fund [rule 98(2)-(4)]
- A tool to channel resources for the benefit of victims [Rule 98(5)]

In September 2003, the Assembly of States Parties, representing the five UN regional groups, elected an extraordinarily high profile Board of Directors for the Trust Fund for Victims.

- Her Majesty Queen Rania Al Abdullah from Jordan
 - Archbishop Desmond Tutu from South Africa
 - Former Minister of Health and prominent feminist figure Simone Weil from France
 - Former Polish Prime Minister Tadeusz Mazowiecki
 - Former Costa Rican President Oscar Arias Sanchez
- Both Desmond Tutu and Oscar Arias are Nobel Laureates.

The Fund's Board will be responsible for the distribution of funds to individuals the ICC finds to have been victims of genocide, crimes against humanity and war crimes.

To conclude, a brilliant initiative was launched by the Coalition of US based NGOs. In response to the US aggressive attempt to destroy the ICC, NGOs have established a nationwide Trust Fund for Victims Campaign, which aims at collecting money from US citizens to be sent to the Trust Fund. This initiative is based on the assumption that the government's opposition to the ICC does not necessarily represent the view of the American citizens.

The Campaign is based on a system in which the individuals that wish to contribute to the ICC Trust Fund have to send their cheque to their local Senators, who will then have to send it on to The Hague. Willing or unwilling, those US representatives have an obligation to take a pro-active action vis-à-vis the Court).

ICC and gender issue

Ms. Amal Basha, chairperson of SAF, Coordinator of the Yemeni coalition for the ICC

An important issue to be discussed is the relationship between gender and justice within the framework of the ICC. Women are especially vulnerable during civil wars or international conflicts and the ICC has taken these issues into consideration and needs to work on prosecuting perpetrators of crimes against women.

a) The Court's Jurisdiction

International treaties, especially the most important one, the Universal Declaration of Human Rights, do not address special issues on problems that affect women especially sexual violence. Human rights treaties based on equality and non-discrimination generally refer to men in a generic term as a reference.

The authors of the Rome Statute added chapters that demonstrate a sensibility towards gender crimes that concern women or that only rarely affect men.

The jurisdiction of the ICC includes the following aspects related to gender:

- Included in the list of crimes of collective genocide is the imposition of measures intended to prevent births within the group with intent to destroy, in whole or in part, a national, ethnical, racial or religious group;
- Included in the list of crimes against humanity are rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity. Paragraph 3 of Article 7 of the Rome Statute indicates that the term "gender" refers to both men and women within the context of society.

b) The Organization of the Court

The text of the Rome Statute stipulates that in the judicial appointment process, there must be a fair representation of female and male judges. Candidates for the posts of Judge, Prosecutor and other official positions must, possess, in addition to experience in law, experience and knowledge regarding specific issues including violence against women or children.

c) The Protection of Victims

The Rome Statute emphasizes the necessity of taking into account all aspects related to gender, health and the nature of the crime when there is sexual violence, violence between the two sexes or violence against minors.

The text of the Rome Statute reflects the essential role played by feminist movements as well as the pressure applied by women's associations to include these elements in the Statute.

Discussions

- Participants stressed the need to adopt effective mechanisms to reduce conflicts not only between national and international laws, but also between different international laws.
- The discussions revealed that the concept of gender differs from country to country. This point is a source of problems in various fields: legal and social, as well as in the field of development.
- Participants supported fair representation of women at the ICC and requested updates on events, procedures and developments inside the Court. Participants recognized that it is difficult to collect evidence of crimes against women especially when women are inadequately represented or are not represented. All participants recognized that fair representation of women is necessary to guarantee justice and protection of female victims. There should be fair representation of women in all organs of the court, the prosecution, the defense and the judges.
- Participants expressed the view that a common national and international position concerning the crime of aggression is fundamental in view of crimes committed daily in Palestine and Iraq.

VII - Fourth working session:

Towards the ratification of the Rome Statute by Yemen

Dr. Ahmad Al-Humaidi, Professor of law at Taiz University,

The ratification of the ICC Statute does not only have international consequences. The ratification and the necessary implementation of the Rome Statute into national law will have constitutional and political impacts.

Under constitutional texts, Yemen is required to comply with international charters, treaties, agreements, and conventions. Furthermore Yemen is part of the international community and international law is fully applicable.

Yemen -, as a subject of international law and having ratified more than fifty international treaties and conventions is bound by international law. It could be understood that Yemen has given up a part of its sovereignty for the interest of the international community. It is important to remind that the ratification of the Rome Statute would not affect Yemeni national sovereignty.

Discussions:

- After the presentation, the participants underlined the need to explain the theory (texts) of the ICC and practice (implementation) at the national and international levels.
- The debate underlined that some important aspects of national legislation are incompatible with the Rome Statute. Some sentences such as the death penalty, amputation of limbs or stoning to death clearly violate international standards, which prohibit the death penalty and physical punishments.

VIII - Findings and Recommendations

At the end of the roundtable, participants agreed on recommendations and suggestions for the effective functioning of the Yemeni Coalition for the ICC and for the active promotion of the ICC at a national level.

Suggestions

- Determine a mechanism for maintaining contact with the International Coalition for the ICC.
- Share contacts in civil society organizations internationally.
- Set appointments for regular meetings among members of the coalition to determine roles and tasks.
- Determine the roles of member organizations of the coalition at the national and international levels in accordance with set priorities.
- Contact the media presenting the efforts of the International Coalition for the ICC to spread awareness of the importance of supporting ICC activities.

Recommendations

- 1) Distribute the final statement that was issued at the end of the round table, calling for ratification of the Rome Statute.
- 2) Hold a similar round table with media representatives.
- 3) Contact universities and urge them to join the international coalition.
- 4) Contact the Parliament and form a team that will deliver a copy of the final statement and recommendations along with a letter asking the Parliament to support the ratification of the Rome Statute and form a group of "*friends of the ICC*" inside the Parliament for that purpose.
- 5) Coordinate and cooperate with Arab partners.
- 6) Form follow-up and coordination committees at the national, regional and international levels.
- 7) Strengthen the role and activities of the Yemeni coalition for the ICC.
- 8) Build the capacities of members and organizations willing to join the coalition.
- 9) Contact and coordinate with the syndicate of lawyers to spread awareness of the importance of ratification of the Rome Statute.
- 10) Send letters containing the results of the roundtable to the government and authorities concerned.
- 11) Design a brochure with information on the ICC and its importance and distribute it without charge.
- 12) Include the recommendations and findings of the round table in the final statement.
- 13) Include in the final statement the civil society organizations' call to the government to ratify the Rome Statute as soon as possible.

Sana'a- Round table on the International Criminal Court, January 7-8, 2004

IX - Follow-up Mission, August 11-21, 2005, Sana'a, Yemen

In accordance with the ICC programme of FIDH, the purpose of the follow-up was to assess the implementation of the recommendations adopted at the roundtable in 2004.

This mission was undertaken by:

- Mr. **Raji Sourani**, Vice President of FIDH and director of the *Palestinian Center for Human Rights*.
- Ms. **Stephanie David**, Programme Officer for Middle East and North Africa at FIDH.
- Ms. **Marie Camberlin**, Programme Assistant for Middle East and North Africa at FIDH.

The mission took place during the Coalition for International Criminal Court (CICC) Middle East and North Africa regional strategy meeting, with the collaboration of the Sisters Arab Forum for human rights (SAF) and FIDH, in Sana'a, Yemen. These two days (13-14 August, 2005) of roundtables provided an opportunity for SAF (Amal Basha, president of SAF and CICC Regional Coordinator) and the CICC (William Pace, CICC coordinator-) to make important contributions. Yemeni authorities were also represented by Members of Parliament and of the *Shura Council* (equivalent to the Senate), and by the Minister for Human Rights.

The main aim of this meeting was to identify obstacles to the ratification of the ICC in the MENA Region and define a regional strategy and action plan to promote the Rome Statute and to encourage ratification by states in the Middle East and North Africa region.

The follow-up mission was also an opportunity for high-level political meetings. The General Prosecutor and the Chief Officer of the "Technical office" of the Office of the General Prosecutor invited the mission members. They also discussed the issue of ICC ratification in great depth with the Ministry of Human Rights, the directors of the judicial and international organizations departments, and also with the Justice Minister. The follow up mission, met the Yemeni President, the President of *Shura Council*, and the Deputy Minister of Foreign Affairs, General Prosecutor, as well as some members of Parliament.

Conclusions of these political meetings and of the follow-up mission can be summarized as follows:

- 1) The round table revealed some gaps in information about the ICC statute in Yemen, specially about the complementarity principle.
- 2) Lots of training sessions have been initiated on the issue of ICC ratification since the FIDH and SAF roundtable organized in January 2004.
- 3) The Yemeni Coalition for the ICC, created in October 2003, is now, with the impulse of the round table, an active and important network.
- 4) Despite the positive impact of the round table, ratification by Yemen in the short or medium term seems unlikely, in particular because of American pressures on Yemeni government.

Since the follow-up mission in August 2005, important events in favor of the ratification of the ICC Statute by Yemen have taken place and should be welcomed and encouraged.

Indeed, the Yemeni Parliament announced that the ratification of the Statute of the ICC is on the agenda of the 2006 session.

To support this process, FIDH and its affiliated organization in Yemen, SAF, two years after launching their ratification campaign and the creation of the Yemeni Coalition for the ICC, urged the Yemeni Members of Parliament to vote for the ratification of the Statute of the ICC during the 2006 session.

To promote this recommendation, on 16 January 2006, an open letter was sent to the Yemeni Members of Parliament (see annex). The purpose of this letter was to support more active participation by Yemen in the development of the ICC, and the ratification and implementation of the Rome Statute at the national level. The open letter reminded Yemeni members of Parliament of the important role they can play in the Middle East and North Africa region and in moving towards a universal ICC.

On 1 July 2006, the Constitutional and Legal Affairs Committee submitted its report on the ratification of the Rome Statute to the Parliament for discussion.

However, FIDH and SAF do not expect the ratification of the ICC Statute to be on the agenda of the Parliament before December 2006. Indeed, the month of July 2006 will be dedicated to the nomination of candidates for the Presidential elections to be held on 10 September 2006 and will be followed by one month of vacation and one month of Ramadan.

Meanwhile, SAF and the Yemeni coalition for the ICC will extend efforts targeting the Parliament for ratification.

ANNEXES

fidh

Fédération Internationale des Ligues des Droits de l'Homme

ORGANISATION INTERNATIONALE NON GOUVERNEMENTALE AVANT STATUT CONSULTATIF AUPRES DES NATIONS UNIES, DE L'UNESCO,
ET DU CONSEIL DE L'EUROPE, ET D'OBSERVATEUR AUPRES DE LA COMMISSION AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

INTERNATIONAL FEDERATION
OF HUMAN RIGHTS

FEDERACION INTERNACIONAL
DE DERECHOS HUMANOS

الجمعية الدولية لحقوق الإنسان



كشف بأسماء المشاركين في أعمال المائدة المستديرة حول المحكمة الجنائية الدولية
للفترة 7-8 يناير 2004م الساعة التاسعة صباحاً
صنعاء - اليمن

**List of participants in the Roundtable on International Criminal Court
7-8 Jan. 2004 Sana'a, Yemen**

	خالد الانسي	1
	نبيلة المفتي	2
-	خليل المقالح	3
	صادق النبهاني	4
	محمد الصبري	5
	محمد المخلافي	6
	جمال الشامي	7
()	عبد الله السقاف	8
()	عبد الكريم الحمادي	9
	نادية مرعي	10
	محمد قحطان	11
+ -	عدي المنيفي	12
	غناء حيدر المقداد	13
	نبيلة محمد الوصابي	14
	خالد الشعبي	15
صحيفة الميثاق	طاهر محمد الجنيد	16
	أمال الدبعي	17

	سماح حسن	18
	أمل محمد الباشا	19
	رنا غانم	20
	رياض الذرحاني	21
	محمد ودف	22
	انتصار بامطرف	23
	يسرى الدولة	24
	مها عوض	25
	جمال محمد الجعبي	26
	جمال عبد الله الجهم	27
	د. عبد العزيز محمد الكميم	28
	بروفسور محمد يحيى الشرفي	29
	إيمان محمد الشرفي	30
	سلطان العتواني	31
	أحمد طه الأحمدى	32
/	سهام سليمان	33
	أحمد عبده سيف	34
	عادل المنيفي	35
	محمد عبد الله الصوفي	36
	د. عبد العزيز الكميم	37
	حاتم أبو حاتم	38
	نضال الارياني	39
	حميد المسوري	40
	علي سيف حسن	41
	منير السقايف	42
	عبد الرحمن الغابري	43
	أحمد عبده غانم	44
	عبد السلام المحويطي	45
مكتب مشاركة المجتمع	عبد الله محمود طالب	46
المركز اليمني لدراسة حقوق الإنسان	عفراء خالد الحريري	47
نقابة المحامين	نظيرة الشرجبي	48
إتحاد نساء اليمن	إحسان عبيد	49
المنظمة اليمنية للدفاع عن حقوق الإنسان والحريات الديمقراطية	همدان حميد الحيدري	50
نقابة المحامين	عبد الله نعمان القدسي	51
جمعية المتوكل الاجتماعية	نشوان أمين حراب	52

Round Table on the Ratification and Implementation of the International Criminal Court Statute in Yemen

	شوقي القاضي	53
()	باسم الحاج	54
	مسك الجنيد	55
جامعة تعز	د. أحمد الحميدي	56
	وهيب عبد الرب	57
جمعية المستقبل الاجتماعي	أمين العباسي	58
ممثل محافظة مأرب	ناصر محمد نمي	59
محامي	أمين حفظ الله الربيعي	60

FIDH

In partnership with :
Sisters Arab Forum for Human Rights (SAF)
Coalition for the International Criminal Court (CICC)

With the support of the European Union

**NATIONAL ROUNDTABLE
ON THE RATIFICATION AND THE IMPLEMENTATION OF
THE INTERNATIONAL CRIMINAL COURT STATUTE
IN YEMEN**

Sana'a, Yemen (Sana'a International Hotel)
7-8 January 2004

DAY I - 7 JANUARY 2004:

9:00 – 9.45 : OPENING CEREMONY

- ❖ Remarks by Amal BASHA, Executive Director of SAF (5min.)
- ❖ Remarks by Jeanne SULZER, International Justice Program on behalf of Driss EL YAZAMI, Secretary General of FIDH (5min.)
- ❖ Remarks by the Hon. Gianfranco DELL'ALBA, Secretary General of NPWJ (5min.)
- ❖ Remarks by the Hon Emma BONINO, Member of the European Parliament (5min.)
- ❖ Remarks by the H.E. Amat AL ALEEM AL SOSWA, Minister of Human Rights of the Republic of Yemen

9.45 – 10.00 Coffee break

10:00 – 11.30 : I - WORLDWIDE EFFORTS TO ESTABLISH THE INTERNATIONAL CRIMINAL COURT AND THE ROLE OF CIVIL SOCIETY

- ❖ Worldwide efforts to establish the ICC: status of signatures/ratifications and the role of the Coalition for the ICC (CICC), Joydeep SENGUPTA, Outreach Liaison CICC
- ❖ The United States campaign against the ICC, Jeanne SULZER, International Justice Program Director, FIDH
- ❖ The process of ratification and implementation of the ICC Statute in the Middle East / Arab region, Stéphanie DAVID, Middle East and North Africa Desk, FIDH

11.30 – 11.45 Coffee break

11:45 – 14.00 : I - INTRODUCTION TO THE ICC

- ❖ Jurisdiction of the ICC and crimes within the jurisdiction of the ICC, Shawki Al-Kadi
- ❖ The principle of complementarity between the ICC and national courts and strategy of the Prosecutor of the ICC, Jeanne SULZER, International Justice Program Director, FIDH

14.00 Lunch

منتدى الشفانق العربي لحقوق الإنسان - منظمة طوعية غير حكومية حاصلة على ترخيص رقم ٢٠ لعام ١٩٩٩ من وزارة الثقافة - اليمن. تلفاكس
شقة رقم (٢) عمارة الحاشدي، شارع القاهرة - امتداد الدائري الغربي باتجاه جولة العنوان: saf@v.net.ye : ٠٠٩٦٧١٢٣١٦٨٦ - بريد الإلكتروني
سبأ - صنعاء، صندوق بريد: (١٤٤٤٦).
SAF for Human Rights is a Yemeni National NGO works under permit No. 20 for 1999 from the Ministry of Culture.
Tel fax: 00 967 1 231 686.E-mail: saf@v.net.ye Address: Flat No (2) Al- Hashidi Building Al- Qahira St.Sana'a P. O.
Box : (١٤٤٤٦).

fidh

Fédération Internationale des Ligues des Droits de l'Homme

ORGANIZATION INTERNATIONALE DES LIGUES DES DROITS DE L'HOMME

INTERNATIONAL FEDERATION
OF HUMAN RIGHTS
FEDERAZIONE INTERNAZIONALE
DEI DIRITTI UMANI
FEDERACIÃO INTERNACIONAL
DE DIREITOS HUMANOS



DAY 2 - 8 JANUARY 2004

09.00 – 10.00 : III - INNOVATIONS IN THE ROME STATUTE

- ❖ Victims issues, *Jeanne SULZER, International Justice Program Director, FIDH*
- ❖ Gender justice and the ICC, *Amal Basha, Executive Director of SAF*
- ❖ Children and the ICC, *Alison Smith, author of "International Criminal Justice and Children" (NPWJ and Unicef publication)*

10.00 – 10.15 : Coffee break

10.15 – 11.00 : IV - YEMEN AND THE ICC

- ❖ Legal, Political Constitutional issues for ratification and implementation of the ICC, *Jeanne SULZER, International Justice Program Director, FIDH*
- ❖ The ICC and Yemen: Constitutional and political implications for ratification and implementing the ICC Statute into national law, *Ahmed Al Hamidi, Professor at the University of Taiz, Yemen*

11.00 – 14.00 : WORKSHOPS on YEMEN AND ICC CAMPAIGN STRATEGIES

Participants will divide into groups to discuss the various issues outlined below, devising recommendations and plans of action for the Yemeni ICC Coalition. Following lunch, the participants will regroup in plenary, at which the recommendations and plans from each working group will be discussed and adopted. The topics for discussion are:

- 1- NGO cooperation with the ICC, including investigations, public information and education strategies and influencing positive change, for example in proposing amendments to the Statute and working with the Assembly of States Parties
- 2- Implementation of the Rome Statute and strategies for positive follow on benefits for other national legislation and practice
- 3- Protecting the rights of victims: issues related to women, children and others, including the ICC Trust Fund for Victims

14.00 - Lunch

منتدى الشقائق العربي لحقوق الإنسان - منظمة طوعية غير حكومية حاصلة على ترخيص رقم ٢٠ لعام ١٩٩٩ من وزارة الثقافة - اليمن. تليفون: ٠٠٩٦٧١٢٣١٦٨٦ - بريد إلكتروني: saf@y.net.ye العنوان: إمتداد الدائري الغربي باتجاه جولة (٢) عمارة الحاشدي، شارع القاهرة - إمتداد الدائري الغربي باتجاه جولة (١٤٤٦) .
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برعاية وزارة حقوق الإنسان، ينظم منتدى الشقائق العربي لحقوق الإنسان بالتعاون مع الفيدرالية الدولية لحقوق الإنسان والتحالف الدولي للمنظمات غير الحكومية للمحكمة الجنائية الدولية
المائدة المستديرة حول المحكمة الجنائية الدولية
فندق صنعاء الدولي قاعة المؤتمرات الدور الثالث
٧-٨ يناير ٢٠٠٤

جدول الأعمال

اليوم الأول الأربعاء ٧ يناير :

I. ١١،٣٠-١٠ الجهود الدولية لإنشاء المحكمة الجنائية الدولية ودور المجتمع المدني:

- الجهود الدولية لإنشاء المحكمة الجنائية الدولية: حال المصادقات والتوقيعات على نظام روما الأساسي ودور التحالف الدولي للمنظمات غير الحكومية للمحكمة الجنائية الدولية- جوديب سنجويتا- المسئول الإعلامي للتحالف الدولي حول المحكمة الجنائية الدولية.
- حملة الولايات المتحدة الأمريكية ضد المحكمة الجنائية الدولية- جين سولزر مديرة برنامج العدالة الدولية للفيدرالية.
- عملية التصديق والتنفيذ للمحكمة في الشرق الأوسط والمنطقة العربية- ستيفاني دافيد مسؤولة الشرق الأوسط وشمال أفريقيا في الفيدرالية.
- مناقشة.

١١،٣٠ ١١،٤٥ استراحة

II. مدخل للمحكمة الجنائية الدولية:

- اختصاص المحكمة والجرائم التي تنتظر فيها- شوقي القاضي عضو مجلس النواب.
- مبادئ المواثمة بين نظام المحكمة والمحاكم الوطنية واستراتيجية التقاضي- جين سولزر
- مناقشة

٢،٠٠ غداء

منتدى الشقائق العربي لحقوق الإنسان - منظمة طوعية غير حكومية حاصلة على ترخيص رقم ٢٠ لعام ١٩٩٩ من وزارة الثقافة - شقة رقم (٢) عمارة الحاشدي، شارع العنوان: saf@v.net.ye : ٠٠٩٦٧١٢٣١٦٨٦ - بريد الإلكتروني: اليمن. تلغرافس القاهرة - إمتداد الدائري الغربي باتجاه جولة سباء - صنعاء. صندوق بريد: (١٤٤٤٦).
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اليوم الثاني ٨ يناير:

III. الابتكارات في نظام روما الأساسي: ٩,٠٠-١٠,٠٠

- قضايا الضحايا- جين سولزر
- النوع الاجتماعي والعدالة في إطار المحكمة الجنائية الدولية- أمل الباشا رئيسة منتدى الشفائق.
- الأطفال والمحكمة الجنائية الدولية – أليسون سمث مؤلفة كتاب (الأطفال والمحكمة الجنائية الدولية) صادر عن منظمة لا سلام دون عدالة ومنظمة اليونيسف.
- مناقشة.

١٠,٠٠-١٠,١٥ استراحة

IV. اليمن والمحكمة الجنائية الدولية:

- التجارب الدولية فيما يخص القضايا الدستورية والقانونية والسياسية المتعلقة بالتصديق والتنفيذ للمحكمة الجنائية- جين سولزر.
- المحكمة الجنائية واليمن: الآثار الدستورية والسياسية لقضية التصديق والتنفيذ لنظام روما الأساسي للمحكمة في التشريع الوطني- أحمد الحميدي مدرس في جامعة تعز.
- مناقشة.

V. ورش عمل حول اليمن واستراتيجية الحملة للمصادقة: ينقسم المشاركون إلى ثلاثة مجموعات لمناقشة المحاور التالية:

- ١- تعاون المنظمات غير الحكومية مع المحكمة ويشمل التحقيقات واستراتيجية التثقيف والإعلام وإحداث التأثير الإيجابي على سبيل المثال: اقتراح التعديلات ال خاصة بنظام روما والعمل مع جمعية الدول الأطراف.
 - ٢- تنفيذ نظام روما واستراتيجية المتابعة.
 - ٣- حماية حقوق الضحايا: قضايا متعلقة بالنساء والأطفال وآخرون ويشمل أيضاً صندوق الائتمان للضحايا.
- سيتم عرض عمل المجموعات والمناقشة.

١,٣٠-٢,٠٠ جلسة الاختتام

منتدى الشفائق العربي لحقوق الإنسان – منظمة طوعية غير حكومية حاصلة على ترخيص رقم ٢٠ لعام ١٩٩٩ من وزارة الثقافة – شقة رقم (٢) عمارة الحاشدي، شارع العنوان: saf@y.net.ye : ٠٠٩٦٧١٢٣١٦٨٦ - بريد الإلكتروني: اليمن تليفاكس القاهرة – امتداد الدائري الغربي باتجاه جولة سباء – صنعاء. صندوق بريد: (١٤٤٦).
SAF for Human Rights is a Yemeni National NGO works under permit No. 20 for 1999 from the Ministry of Culture. Tel fax: 00 967 1 231 ١٨٦. E-mail: saf@y.net.ye Address: Flat No (2) Al-Hashidi Building Al- Qahira St.Sana'a P. O. Box : (١٤٤٦).

Press coverage of the Roundtable on the ICC, January 7-8, 2004

الناشر رئيس التحرير
شهاب الاهدل

النهار

AL NAHAR

اسبوعية - اقتصادية - عامة

12 صفحة
20 ريالاً

الخميس ٢٢ ذو القعدة ١٤٢٤هـ الموافق ١٥ يناير ٢٠٠٤م
العدد (٩٢) السنة الرابعة

مائدة الشقائق تدعو البرلمان إلى المصادقة على نظام روما

دعا المشاركون في المائدة المستديرة التي نظمتها منتدى الشقائق العربي لحقوق الإنسان بالتعاون مع المفوضية الدولية لحقوق الإنسان والشخالف الدولي للمنظمات عسكر الحكومية للمحكمة الجنائية الدولية مجلس النواب اليمني الى سرعة المصادقة على نظام روما الاساسي للمحكمة الجنائية الدولية. وقال المشاركون ان اليمن اضافة الى عدد من الدول العربية كان لها دور بناء في صياغة مشروع النظام الاساسي للمحكمة الجنائية الدولية وابتد قيام هذه المحكمة مع وجود توافق ضمانات تؤمن نجاحها وممارسة اختصاصاتها بنزاهة وحيدة واستقلال بعيداً عن مبدأ الانواجبية والتكامل بمكتباتين وكانت المائدة قد عقدت بحضور وزيرة حقوق الإنسان الامانة امة العليم السوسيوه التي اكدت في كلمتها التي القاها في حفل الافتتاح ان ضرورة العصر تقتضي تعزيز الوعي بأهمية الترابيط بين عناصر الشعوب والنسيج المنسوجة في التنمية واحترام حقوق الإنسان من خلال انشاء البسات عمل دولية جديدة تعكس المسؤولية المشتركة في التنمية وتقلع كل مايلحق بالديمقراطية والقانون وحقوق الإنسان من اذى.

دعا المشاركون في المائدة المستديرة التي نظمتها منتدى الشقائق العربي لحقوق الإنسان بالتعاون مع المفوضية الدولية لحقوق الإنسان والشخالف الدولي للمنظمات عسكر الحكومية للمحكمة الجنائية الدولية مجلس النواب اليمني الى سرعة المصادقة على نظام روما الاساسي للمحكمة الجنائية الدولية. وقال المشاركون ان اليمن اضافة الى عدد من الدول العربية كان لها دور بناء في صياغة مشروع النظام الاساسي للمحكمة الجنائية الدولية وابتد قيام هذه المحكمة مع وجود توافق ضمانات تؤمن نجاحها وممارسة



To ratify ICC Treaty
Roundtable in Yemen

Under auspices of Ms. Amat Al-Aleem Al-Souswa, Human Rights Minister, Sister Arab Forum for Human Rights (SAF), along with International Federation for Human Rights (Fidh), opened and held on Wednesday 7 January the roundtable about International Criminal Court (ICC) to ratify and implement the Rome Statute in Yemen that took place at Sana'a International Hotel. Members of the European Parliament as well as No Peace Without Justice representatives (PWJ), ambassadors along with a number of members of Yemen parliament and human rights activists and representatives of various civil society organizations attended the opening ceremony.

Ms Amat AL-Aleem stressed the importance of holding the roundtable in Yemen to discuss issues of human rights and the key role of the ICC in enhancing human rights "Yemeni leadership is keen to develop the status of human rights. Consequently, the presidential decree was issued to create a Human Rights Ministry that vividly links actions to words. Yemen has signed and ratified most of the conventions and agreements in this regard." Al-Souswa wished success and good luck for participants hoping to come up with fruitful results.

Jeanne Sulzer, International Justice Program Director, delivered a speech on behalf of Driss El Yazami, Secretary General of Fidh "The Yemeni national roundtable for the ratification and implementation of the ICC Statute represents the first event of an on going effort and commitment on the part of Fidh for the fight against impunity of the most heinous crimes. By ratifying the Rome Statute, Yemen would find itself among countries with encouraging human rights records which support accountability at the global level and the rule of law while acknowledging that the primary responsibility for the prosecution of international crimes remains on the State national courts"

Sulzer added "Yemen recent commitments to strengthening human rights have been impressive, from the creation of a ministry for Human Rights currently led by Ms Amat Al-Aleem Al-Souswa, to support a culture of participatory democracy among civil society."

Ms. Amal AL-Basha, head of SAF, said in her address "We are here today for justice and fairness and for protecting human rights. We are here to put our hands together to run after those criminals who have committed heinous crimes against humanity."

She further said "Today we loudly call on those countries which have not ratified the ICC Statute yet, including Yemen and Arab countries, that we today demand them to ratify as Jordan and Djibouti did."

She concluded, "All of us are looking for seeing less-violence and more justice world and as Luther King said "The evils spread in the world not because they are everywhere but because the good people do not work well."

Fahmia Al-Fotih for the Yemen Times

Issue: (702), Volume 13 , From 12 January 2004 to 14 January 2004



Yemeni civil society urges ICC ratification

Momentum is gathering from all sectors of Yemeni civil society in support of the International Criminal Court (ICC). Just before governments from around the Arab world and beyond arrived in Yemen to discuss this important issue, NGOs from several governorates, representing a diverse range of Yemeni civil society came together for a first ever two-day “National Roundtable on the Ratification and Implementation of the International Criminal Court in Yemen”. Held between 7-8 January, 2004, the roundtable was co-sponsored by the Federation International des Ligues des Droits de l’Homme (International Federation for Human Rights, FIDH) and Sisters’ Arab Forum for Human Rights (SAF, Yemen), with the support of the newly created Yemeni Coalition for the ICC and the International Coalition of NGOs for the ICC (CICC).

The idea for the Yemeni Coalition for the ICC was first discussed at the FIDH regional NGO Conference on “Anti-terrorism, and the post 9/11 Attempts to Undermine Human rights and international humanitarian law” held in Ankara, Turkey between September 19-22, 2003 which ended with the launch of the FIDH campaign for the ratification and implementation of the ICC Statute in the countries of the southern and eastern Mediterranean.

Ms. Amal Basha, representing the SAF, initiated and played a leading role in creating and launching the Yemeni Coalition for the ICC, which now represents over 60 non-governmental organizations from around Yemen. The group is also supported by numerous Yemeni human rights activists, journalists, law professors, parliamentarians and prominent government officials.

Ms. Amal Basha of SAF welcomed the participants and honored guests, at the opening ceremony on January 7, 2004, which was attended by NGOs, representatives of foreign intergovernmental organizations and members of the press. The ceremony enjoyed the gracious presence of Her Excellency, Ms. Amat Al-Aleem Al Soswa, Minister for Human Rights, as well as Her Excellency Ms. Emma Bonino, Member of the European Parliament, the Honorable Mr. Gianfranco dell’Alba, Secretary General of No Peace Without Justice, and Ms. Jeanne Sulzer, on behalf of FIDH. Speakers praised the event as a necessary complementary event, together with the today’s opening of the Democracy, Human Rights and International Criminal Court event. According to Ms. Jeanne Sulzer, International Justice program of the FIDH, the goal of the two-day roundtable was, “to support and strengthen Yemeni Civil Society in its efforts to raise awareness about the ICC; to develop local expertise to assist the government in drafting effective ratification and implementation legislation; and welcoming Yemeni NGOs into the worldwide campaign for the ICC.”

According to Ms. Jeanne Sulzer, International Justice program Director of the FIDH, the goal of the two-day roundtable was “to support and strengthen Yemeni Civil Society in its efforts to raise awareness about the ICC; to develop local expertise to assist the government in drafting effective ratification and implementation legislation; and welcoming Yemeni NGOs into the worldwide campaign for the ICC.”

The first day of the roundtable focused on worldwide efforts to establish the ICC and the role of civil society, presented by Mr. Joydeep Sengupta of the Coalition for the ICC. Other presentations by Ms. Jeanne Sulzer and Ms. Stephanie David of FIDH, included the United States campaign to undermine the ICC and the process of ratification and implementation of the ICC in the Middle East/Arab Region. Mr. Shawki Al-Kadi, Member of the Yemeni Parliament, one of the leading Yemeni experts on the ICC spoke on the jurisdiction of the ICC and the crimes within the jurisdiction of the ICC. Other presenters from FIDH, SAF and the Coalition from the ICC introduced the principle of complementarity between the ICC and national courts, the ICC Prosecutorial Strategy, Victims Issues in the Court and Gender Justice and the ICC.

The highlight of the roundtable was a presentation by Professor Ahmed Al Hamidi, from the University of Tai’z, Yemen, a leading expert of Yemeni law and the ICC. “There are no constitutional objections, or any conflict with Shari’a law, for Yemen’s ratification of the ICC” Professor Al-Hamidi, declared.

The roundtable ended with a concrete set of strategies and a plan of action, on behalf of the Yemeni Coalition for the ICC. An immediate declaration (see below), was adopted. A detailed post-roundtable report will be produced by FIDH and SAF, with the Yemeni Coalition and will be available for distribution in Arabic and English from www.fidh.org, or from sisters’ Arab Forum office in Sana’a.

The International Criminal Court came into force, thanks to the extraordinary support of global civil society, favoring accountability for war crimes, crimes against humanity and genocide. This unique process benefited from the unprecedented partnership between Like-Minded States, independent NGOs and intergovernmental organizations, supporting the creation of a fair, effective and independent International Criminal Court. It is therefore, very encouraging, that civil society in Yemen has identified the ICC as a key priority in the nation's move towards a stronger democracy and protection of human rights. An historic innovation of the ICC is that it will allow victims of the worst human rights violations to participate, to be represented and to seek reparation.

The victims of these heinous crimes should always remain at center of the ICC process, both domestically and internationally.

The participants adopted the following Declaration:

“We, the participants of the National Roundtable on the International Criminal Court, which took place from 7-8 January in Sana'a organized by Sisters Arab Forum for Human Rights, the International Federation for Human Rights and the Coalition for the International Criminal Court, urge the Yemeni Parliament to ratify Rome Statute of the International Criminal Court.”

- The Sisters' Arabic Forum for Human Rights (SAF)**
- The International Federation for Human Rights (FIDH)**
- The international Coalition for the ICC (CICC)**

Issue: (703), Volume 13 , From 15 January 2004 to 18 January 2004

Press coverage of the Follow up mission, August 11-21, 2005.



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لقاء صنعاء التشاوري حول محكمة الجنايات الدولية يجتتم أعماله: دعوة المجموعة الدولية إلى إرساء مبادئ الديمقراطية والمصادقة على نظام روما

■ صنعاء/سبأ

اختتمت أمس بصنعاء أعمال اللقاء التشاوري الاقليمي حول المحكمة الجنائية الدولية الذي نظمه منتدى الشقائق العربي بالتعاون والتنسيق مع وزارة حقوق الإنسان والتحالف الدولي لتسوية الجنايات الدولية والفيدالية الدولية لحقوق الإنسان على مدى يومين.

وأوصى المشاركون في بيانهم الختامي الدول على اصلاح أنظمتها القضائية الجنائية بما يتفق والنظام الأساسي للمحكمة وذلك عبر الإلتزام بأعمال نصوص اتفاقية إنشاء المحكمة الجنائية الدولية في المجال الداخلي عبر إصدار جميع التدابير والتشريعات اللازمة وتعديلها بما يتماشى مع التزاماتها الدولية، وأكدوا على أهمية تكوين تحالفات اقليمية واسعة من منظمات المجتمع المدني لحث الحكومات المصادقة على نظام روما الأساسي.

وطالب البيان بإقامة الندوات والحلقات الدراسية والنقاشية المنقولة بواسطة أجهزة الإعلام للعمل على التوعية حول المحكمة وأهدافها ودعم اللجان التحضيرية للمحكمة وتشجيع مشاركة المنظمات غير الحكومية في هذه اللجان وتدريب المحامين والقانونيين على التعامل الفني والقانوني مع فكرة العدالة الجنائية الدولية.

وحث التوصيات الحكومات المصادقة على النظام الأساسي للمحكمة والعمل على قيام سلطاتها التشريعية بمواءمة التشريعات الوطنية والنظام الأساسي للمحكمة الدولية.

وأشاروا إلى أهمية إرساء مبادئ الديمقراطية وسيادة الشعوب في تقرير مصيرها كوسائل كفيلة للحد من ارتكاب تلك الجرائم وحث الدول على الاستجابة لمتطلبات التعاون الذي يتوقف عمل المحكمة الجنائية الدولية عليه، وطالبوا بتكثيف دعم الجانب الإعلامي والمعلوماتي بشأن المحكمة والتوعية بأهميتها والتنسيق بين الجهات المختلفة لخلق رأي عام عالمي مساند لإنشاء المحكمة والسعي والضغط على الحكومات من أجل جعل إجراءات المحاكم الوطنية متفقة مع معايير القانون الدولي وإقرار مبدأ الاختصاص الجنائي وتشكيل لوبي من القانونيين والبرلمانيين والمجتمع المدني لتوسيع قاعدة المؤيدين للمحكمة في البرلمانات العربية ومواصلة الضغط على الأحزاب السياسية لتكون قضية المحكمة في أجندتها وبرامجها السياسية.

وكان ستون مشاركا من ١٢ دولة استعرضوا على مدى يومين التحديات القانونية والسياسية المعيقة لمصادقة الدول العربية على اتفاقية إنشاء المحكمة الجنائية الدولية وآليات تفعيل دور المنظمات الإقليمية مثل جامعة الدول العربية ومنظمة المؤتمر الإسلامي ومجلس التعاون الخليجي والاتحاد الأفريقي لدعم المحكمة، كما استعرض المشاركون التحديات المشتركة بين دول المنطقة والمنفردة لكل دولة وكيفية تفعيل دور المنظمات الإقليمية إلى جانب الدول المستهدفة لحملة التصديق الدولية واستعراض الأنشطة والموارد المتاحة والمطلوبة.



وامنه للحظر.

لقاء عربي إقليمي حول المحكمة الجنائية الدولية

□ صنعاء «الأيام» خاص :

ينظم منتدى الشقائق العربي لحقوق الإنسان برعاية وزارة حقوق الإنسان وبالتعاون مع التحالف الدولي للمحكمة الجنائية الدولية والفيدرالية الدولية لحقوق الإنسان اللقاء التشاوري الإقليمي حول المحكمة الجنائية الدولية، خلال الفترة من 13-14 أغسطس الجاري، وسيحضر اللقاء المنسق العام للتحالف الدولي للمحكمة الجنائية الدولية السيد بيل آر. بيس والأخ راجي صوراني، نائب رئيس الفيديرالية الدولية لحقوق الإنسان رئيس المركز الفلسطيني لحقوق الإنسان وممثلون لكل من التحالف الدولي للمحكمة الجنائية الدولية والفيدرالية الدولية لحقوق الإنسان ومعهد ديبول للقانون الدولي في جامعة شيكاغو ومحامون من 12 دولة عربية. ويهدف اللقاء إلى التنسيق والضغط باتجاه التصديق على نظام روما الأساسي

للمحكمة الجنائية الدولية، كما سيسلط اللقاء الضوء على التحديات المتعلقة بتصديق دول المنطقة على نظام روما وتنفيذه والتنسيق لرفع عدد الدول المصادقة، من خلال فهم أفضل لدور المحكمة في ضمان حماية حقوق الإنسان كآلية رادعة، الجدير بالذكر أن عدد الدول المصادقة بلغ 100 دولة، وتعتبر الأردن وجيبوتي الدولتين العربيتين فقط، اللتين صادقتا على

هذا النظام.

وقد تم في العام الماضي اختيار منتدى الشقائق مركزاً إقليمياً للتحالف الدولي لمنطقة الشرق الأوسط وشمال أفريقيا ضمن خمسة مراكز دولية. ويضم التحالف أكثر من 2000 منظمة حول العالم في 150 دولة، وتقوم الأخت أمل الباشا، رئيسة المنتدى بدور المنسقة الإقليمية للتحالف الدولي للمحكمة الجنائية الدولية.



Fédération internationale des ligues des droits de l'Homme
International federation for human rights
Federacion internacional de los derechos humanos
الفيدرالية الدولية لحقوق الانسان



16 January 2006

Open letter to Yemeni members of Parliament

Excellencies,

The International Federation for Human Rights (FIDH) and its affiliated organisation in Yemen, Sisters Arab Forum for Human Rights (SAF) welcome the announcement of the Yemeni Parliament to put the ratification of the Statute of the International Criminal Court (ICC) on the agenda of the current session.

Two years after launching their ratification campaign and the creation of the Yemeni Coalition for the ICC, FIDH and SAF urge the Yemeni Members of Parliament to vote for the ratification of the Statute of the ICC.

FIDH and SAF believe that the ratification of the Rome Statute by Yemen could raise Yemen as an example for the Arab region in the fight against impunity and the respect and promotion of international justice and human rights, and allow a more active implication and participation of Yemen in the development of the ICC.

The ICC, created in 2002, is indeed an important instrument in the fight against impunity all over the world. 100 States are parties to the ICC, that is already functioning with 4 situations referred to the ICC (Uganda, Democratic Republic of Congo, Central African Republic, Darfur – Sudan), 1 non State Party having recognized the jurisdiction of the Court over the crimes committed on its territory (Ivory Coast) and 3 investigations opened by the Prosecutor of the ICC. However, in the Middle East and North Africa (MENA) region, only Jordan and Djibuti have ratified the Rome Statute.

For these reasons, FIDH and SAF call upon the Yemen Parliamentarians to make all efforts to ensure that: Yemen becomes a State party to the ICC by ratifying, during the current Parliamentary session, the Rome Statute;

Yemen implements the Rome Statute in its domestic law in order to allow the national jurisdictions to exercise the principle of complementarity with the ICC;

Yemen ratifies the Agreement on Privileges and Immunities of the ICC

Yemen plays an important role in the MENA region and shares its experience to promote the ICC among the countries of this region so to make the Court more universal.

FIDH and SAF, in collaboration with the International Coalition for the ICC (CICC), initiated a campaign for the ICC in Yemen, illustrated by the organisation, under the high patronage of the Yemeni Ministry of Human Rights, of a roundtable on the ICC for civil society representatives on 7-8 January 2004, followed

by the creation of the Yemeni Coalition for the ICC. After more than one year of regular campaigning, FIDH organised with SAF and the CICC a follow-up mission to the roundtable in August 2005, during which we had the honour to discuss more deeply the issue of ICC ratification with the President of the Yemeni Republic, representatives from the judiciary, as well as with the Deputy Speaker of the Yemeni Parliament, several Parliamentarians and the President of the Shura Council².

Sidiki Kaba
President of FIDH

² The report of the roundtable on the ICC and the follow-up mission in Yemen will soon be published.

The **International Federation for Human Rights (FIDH)** is an international non-governmental organisation for the defence of human rights as enshrined in the Universal Declaration of Human Rights of 1948. Created in 1922, the FIDH brings together 141 human rights organisations from 100 countries. FIDH has undertaken over a thousand missions of investigation, trial observations, and trainings in more than one hundred countries. It provides its members with an unparalleled network of expertise and solidarity, as well as guidance to the procedures of international organisations. The FIDH works to:

- a) Mobilise the international community
- b) Prevent violations, and support civil society
- c) Observe and alert
- d) Inform, denounce, and protect

The FIDH is historically the first international human rights organisation with a universal mandate to defend all human rights. FIDH enjoys observer status with the United Nations Economic and Social Council (UNESCO), the Council of Europe's Permanent Committee, the International Labour Organization (ILO), and consultative status with the African Commission on Human and Peoples' Rights. FIDH is represented at the United Nations and the European Union through its permanent delegations in Geneva and Brussels.



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Principles and Goals of SAF:

1. Raising awareness and spreading education of human rights principles stipulated in the international human rights instruments
2. Promoting the human rights of women and improving their status and roles full partnership with official institutions and civil society organizations, through activating women's contributions in all walks of life intellectually, legally, socially, politically, and economically
3. Participating effectively and seriously in the dialogue existing between intellectual and cultural institutions, the dialogue that aims at creating a tolerant, renewable, open-minded, and innovative society
4. Ensuring the right of women's partnership in social and cultural change process through the positive values system which respect human rights for both men and women
5. Taking part in re-reading national, Arab, Islamic and universal human heritage, in a quiet, objective and enlightened manner that can deduce the lessons and examples to push the women movement forward and react cautiously with modernization
6. Be open-minded to the world human heritage and positively react to it, with alert vision, immunized by knowledge and cultural reference which can preserve positive particularity and identity, and that guarantee not dissolving in the process of globalization which erase peoples identities.

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