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 Coalition for the International Criminal Court
 International Human Rights Law Institute, DePaul University, Chicago

Report

International Criminal Court Programme

ROUND TABLE ON THE RATIFICATION AND IMPLEMENTATION OF THE STATUTE OF THE INTERNATIONAL CRIMINAL COURT IN BAHRAIN

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FOREWORD

FIDH and the International Criminal Court (ICC)

Since 1998, following negotiations in Rome on the Statute for the International Criminal Court (ICC), 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 and reinforce the capacity of national human rights NGOs to act in defense of human rights. The realization of this objective would allow 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.

The FIDH ICC Programme in Bahrain

With its affiliated organization in Bahrain, the *Bahrain Human Rights Society* (BHRS), FIDH organized the first event on the ICC in the country for civil society representatives, by holding, with the support of the Ministry of Justice, a round table on "The ratification and implementation of the Statute of the ICC in Bahrain" in Manama on 2-4 June 2004. More than 40 persons attended, discussing the challenges of ratification

and implementation of the Rome Statute by Bahrain and countries from the Gulf region. The event and the final recommendations were covered by numerous press articles in national and regional newspapers. The presentations and discussions that took place during the round table are the subject of this report.

A national coalition for the ICC was created after this round table and reinforced during the follow-up mission FIDH undertook on 6-10 November 2005. During this follow-up mission in Manama, FIDH participated in training sessions on the ICC for NGO representatives, who were interested in the ICC and in joining the Bahraini Coalition for the ICC. The coalition now counts more than 20 members and undertakes numerous activities of awareness raising towards civil society representatives as well as towards Bahraini authorities, with whom several meetings were organised after the mission.

In May 2006 Bahrain announced that the issue of ratification of the Rome Statute would be discussed during the next Parliamentary session.

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 Bahrain, Yemen, 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. This meeting led to the participants' commitment to take all necessary steps to form a regional coalition for the ICC composed of civil society representatives and activists from the Gulf region and led by Bahrain and Yemen organisations.

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ABBREVIATIONS

ASP : Assembly of States Parties
ASPA: American Service members' Protection Act
BCHR: Bahrain Center for Human Rights
BHRS: Bahrain Human Rights Society
BIA: Bilateral Immunity Agreement
CICC: Coalition for the International Criminal Court
EOHR: Egyptian Organization for Human Rights
FIDH: International Federation for Human Rights
GCC: Gulf Cooperation Council
ICC: International Criminal Court
ICTR: International Criminal Tribunal for Rwanda
ICTY: International Criminal Tribunal for Former Yugoslavia
NGO: Non-governmental organization
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
VTF: Victims Trust Fund

FIDH would like to thank its affiliated organization the Bahrain Human Rights Society for its valuable help in organizing the round table and sharing its experience and expertise on this issue.

FIDH would also like to thank the Coalition for the International Criminal Court for the documentation it provided to the participants as well as for the quality of the presentations made by its representatives.



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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.

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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. (...)

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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.

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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 proceeds, 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 States Parties.
- The Office of the Prosecutor, composed of the Prosecutor, Mr. Luis Moreno Ocampo (Argentina), elected by the Assembly of States 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 States 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 status 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 - ROUND TABLE ON THE RATIFICATION AND IMPLEMENTATION OF THE ICC STATUTE IN BAHRAIN

Introduction

Between 2 and 4 July 2004, the International Federation for Human Rights (FIDH) and its affiliated organization in Bahrain, the Bahrain Human Rights Society (BHRS), in collaboration with the Coalition for the International Criminal Court (CICC) and under the auspices of the Minister of Justice of the Kingdom of Bahrain, Mr. Jawad Salim al Aridh, organized a round table discussion on the ratification and implementation of the Rome Statute establishing the International Criminal Court in Bahrain. This event brought together representatives from official institutions, from the Shura council and NGOs from the Kingdom of Bahrain, the United Arab Emirates and the Kingdom of Saudi Arabia as well as a group of international experts.

Opening Ceremony

The round table began its work on Wednesday, 2 July 2004 in the presence of representatives of the government, ambassadors and representatives of Bahraini civil society. Bahraini national television and other media followed the proceedings.

Opening the round table, H.E. Sheikh Khalid bin Ali Al-Khalifa, Deputy Minister of the Ministry of Justice of the Kingdom of Bahrain, underlined the importance of the ICC and announced the ratification of the Rome Statute by his country as proof of its goodwill and willingness to participate in the international arena. He praised the efforts of the Member States of the Gulf Cooperation Council (GCC) in this area as well as the role they have played in drafting a reference law for Arab countries. In conclusion, Mr. Khalid al Khalifa congratulated FIDH and the CICC for the work they accomplished not only throughout the Rome negotiations but also during the preparatory commissions in New York, in addition to their current efforts to support the ICC.

Mr. Hafez Abu Seada, Secretary General of the Egyptian Organization for Human Rights (EOHR) and representative of FIDH before the League of Arab States, declared that the round table was in line with FIDH's commitment to fight impunity for crimes against humanity, war crimes and genocide; he emphasized the fundamental role of civil society organizations. Given the serious violations of human rights in this region, Mr. Hafez Abu Seada underlined the urgent need for Arab countries to become parties to the ICC. He called

upon the countries of the Gulf to be among the first in the region to ratify the Rome Statute.

The German Ambassador, representing the European Union, highlighted EU recognition of the efforts made by Bahrain in the fields of democracy and human rights. Affirming that democracy and respect for human rights are two necessary conditions for development, the Ambassador reminded all participants that the ICC does not undermine the sovereignty of national legislation. He stressed that during this period of construction, the ICC needs the support of as many countries as possible to participate in the decisions that need to be made.

Finally, Mrs. Sabika Al Najjar, Secretary General of the Bahrain Human Rights Society (BHRS), conveyed her satisfaction regarding the fruitful cooperation between the BHRS and FIDH. She expressed the hope that the round table would represent a significant step forward in international and national efforts (supported by civil society organizations) in favour of human rights. Sabika Al Najjar praised the recent measures taken by the King of Bahrain such as the nomination of the Minister of Interior and the will to carry out reforms in this ministry. She underlined that the government has shown its intention to ratify the two international Covenants relating to civil and political rights as well as to economic, social and cultural rights. To conclude, she addressed the problem of detainees at Guantanamo Bay and the national campaign led by the BHRS for their liberation.

FIRST SESSION

THE ROME STATUTE : A STEP FORWARD IN THE PROTECTION OF HUMAN RIGHTS

The session, chaired by Mr. Hafez Abu Seada, focused on the following subjects :

I - The Competence of the ICC and the Principle of "complementarity" between the ICC and National Tribunals, by Mr. Mohamed Olwan, Professor of International Law at the University of Yarmouk at Irbid, Jordan

Professor Olwan traced the efforts to create a permanent international penal jurisdiction since the end of World War I, explaining the principal characteristics of the institution:

- The ICC was created by an international treaty which allows States to choose whether or not they will accede.
- The absence of immunity to high officials and heads of state.
- The definition of the most serious crimes: genocide, war crimes, crimes against humanity.
- The suspension of the Court's jurisdiction over crimes of aggression until the Statute Review Conference in 2009.
- The possibility for States Parties to exclude the court's jurisdiction over war crimes that concern them for a period of seven years under Article 124 of the ICC Statute.
- Crimes against humanity can be committed in times of peace as well as in times of war.

Professor Olwan went on to discuss in greater detail the problem of the implementation of the Statute of the ICC into national law and the issue of national sovereignty. He explained that the ICC will not serve as a substitute for national justice except in situations where the latter cannot or will not recognize the occurrence of a massive violation of human rights. The ICC can, nonetheless, intervene at the national level and initiate an investigation in three circumstances:

- 1) if the national justice system lacks the will to investigate the situation,
- 2) if the national justice system has not respected the investigation procedure, or
- 3) if the investigation led by the national justice system has not been led in an impartial manner.

II - Victims and the International Criminal Court, by Ms. Jeanne Sulzer, Director, International Justice Programme, FIDH

One of the major achievements of the Rome Statute is the recognition of an independent status for victims of crimes under the jurisdiction of the ICC. It provides for the rights of

victims to participate in ICC procedures, to be protected by the Court and to request reparations.

1) Participation

It is the first time that the fundamental right of victims to an effective remedy and access to justice has been granted before an international criminal tribunal. The mechanisms provided for victims' participation are set in Article 68, paragraph 3, of the Rome Statute and Rule 89 of the Rules of Procedure and Evidence. The definition of the victim includes physical persons and legal persons, and covers material or moral harm sustained directly or indirectly.

The potential for victim participation is amplified by the possibility for victims groups and civil society actors to submit communications directly to the Office of the Prosecutor for review. As of 2 June 2004, 499 communications had been transmitted to the Prosecutor, in accordance with Article 15 of the Rome Statute. To protect the victim, the group working on victims rights at the CICC recommends not using envelopes bearing the mark of the Court in communications with victims.

Taking into account the very nature of the crimes within the jurisdiction of the ICC, there will inevitably be a great number of victims who will seek to participate in the proceedings. The Court's main challenge is therefore to establish an effective Victims Outreach Program to facilitate victims' access to the Court, while allowing criminal proceedings to be conducted without undue delays.

2) Legal representation

Legal representation is strictly regulated. Where there are a great number of victims, they may have to choose a common legal representative, where necessary from among a list provided by the Registry.

In view of the likelihood that victims will not have the resources to pay for legal representation, Rule 90 provides for financial assistance.

3) Notification

Furthermore, regarding notification, the Statute and the Rules of Procedure and Evidence require the Court to notify victims, at different stages of the proceedings. The obligation falls in

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most cases on the Registrar, but can also fall on the Prosecutor.

4) Protection

The ICC has to take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses, especially during the investigation and prosecution of the crimes under the jurisdiction of the ICC.

The Chambers of the ICC may take protective measures during hearings by conducting them in camera, by expunging the name of the victim from the public records of the Chamber or by ordering that testimony be presented by electronic or other special means.

5) Reparation

The ICC is the first international court to enable victims and their families to apply for compensation. The reparation regime is independent from the victims' participation during the proceedings.

Victims have the right to apply for reparation for all forms of prejudice, whether moral or material. The ICC may decide on its own motion without victims having participated in preliminary and/or trial phases. The regime for reparation before the ICC will include restitution, compensation, rehabilitation, satisfaction and guarantee of non-repetition. The Court may order the accused to either bear this burden himself or, because requests for reparation may exceed the assets of the individual, a Trust Fund for victims created for this purpose may provide reparation.

Ultimately, the reparation regime provides for the following elements:

- the rights of victims to present claims for reparation and the obligation of the ICC to define principles of reparation
- the adoption of protective measures
- the enforcement of reparations by State
- the complementary role of the Victims' Trust Fund (VTF)

III - The International Criminal Court and the gender issue, by Ms. Amal Basha, Executive Director of Sisters Arab Forum for Human Rights (SAF) in Yemen.

International treaties, of which the most important is the Universal Declaration of Human Rights, do not address the

problems that affect women. Human rights have been addressed from the point of view of equal opportunity, which, as a principle, uses men as a point of reference.

Nonetheless, the authors of the Rome Statute added chapters that demonstrate a sensibility towards crimes that concern only women and do not affect men except in very rare cases.

1) The Court's Jurisdiction

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

- Included in the list of crimes of genocide: imposing 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: 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.

2) The Organization of the Court

The text of the Rome Statute stipulates that when judges are designated, there must be a fair representation of female and male judges and that the candidates for the functions of Judge, Prosecutor and other official positions must possess, besides experience in the legal and judicial field, experience and knowledge regarding specific issues including violence against women or children.

3) The Protection of Victims

The Rome Statute emphasizes the need to take 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.

Thus, 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.

Discussion: Topics Examined

The discussion focused on the jurisdiction of the Court, the issue of complementarity, the autonomy of national

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jurisdictions, the sovereignty of States Parties, as well as the mechanisms for protecting victims, gender-based problems and in particular the principle of equal opportunity.

The participants addressed the issue of political influence on the ICC and the reasons for the lack of support of Arab countries to the Rome Statute even though the majority of these countries signed international treaties regarding war crimes that would fall under the jurisdiction of the ICC and the fact that Arab and Muslim cultures condemn crimes of this kind.

Finally, the participants examined the crime of aggression and the necessity for Arab countries, through national constitutions, to condemn crimes that would fall within the jurisdiction of the ICC .

SECOND SESSION

INTERNATIONAL EFFORTS TO CREATE THE INTERNATIONAL CRIMINAL COURT

Mr. Hafez Abu Seada chaired this session.

I - The State of Ratifications and Signatures of the ICC Statute and CICC Action, by Mr. Joydeep Sengupta, Outreach Liaison for the Middle East and South Asia at the Coalition for the International Criminal Court

Mr. Joydeep Sengupta introduced the Coalition for the International Criminal Court (CICC), a worldwide network to which more than 2000 NGOs in about 150 countries are members. The CICC played a prominent role during the preparatory period of the ICC and continues to work in support of universal ratification of the Rome Statute. The success of actions taken by the Coalition is largely due to the constructive cooperation that exists between governments, NGOs and official institutions that participate in the project. The Coalition has additionally created a political will regarding these issues and, in certain countries, CICC actions, in conjunction with the actions taken by national coalitions, have allowed for increased sensibility towards the ICC. There have been continued efforts to harmonize national legislations with the ICC Statute.

Thanks to the Coalition, NGOs have been able to take part in the preliminary meetings of the Assembly of States Parties to the ICC. After having successfully included certain measures concerning women, minors and the rights of victims, the Coalition allied itself with governments to ensure transparency in the processes of nominating Judges and the Prosecutor.

The Coalition also ensures that it works together with leaders, intellectuals and Arab jurists, as well as supporting Arab NGOs to put in place national coalitions in favour of the ICC. Enthusiastic about strengthening grassroots action in support of the Court in the Arab world, Mr. Sengupta called upon Arab civil society to play a leading role in raising awareness about the Court as well as advancing ratification of the Rome Statute throughout the region.

Finally, Mr. Sengupta highlighted the positive steps taken by Bahrain in the area of human rights, which gives hope that the country will ratify the ICC Statute sometime in the future. Bahraini ratification would place the country among the 100 first member States of the ICC and among those recognized internationally for placing a high value on human rights.

Given recent steps taken in the direction of protecting human

rights, Bahrain has already indicated its support for many of the principles of the Rome Statute. Since 1999, the liberation of political prisoners, the abolition of the State Security Court and the creation of the Supreme Council for Women indicate the existence of a context of greater openness and a higher respect of human rights in Bahrain. By ratifying the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, Bahrain has committed itself towards greater support of numerous principles of international law codified in the Rome Statute.

If, however, Bahrain does not ratify the Statute, it will not have a say in ICC decisions, especially in the area of nominating judges and officials, which would greatly decrease the power of Bahraini civil society on the international level, as it will be less consulted.

Mr. Sengupta expressed hope that the round table discussions as well as additional outreach efforts in Bahrain would result in increased constructive dialog regarding the ICC.

II - Challenges in the Campaign for Ratification: Efforts to Undermine the Court, by Ms. Jeanne Sulzer

The campaign of the USA against the ICC has intensified since 1998. The opposition of the US Administration is based on its total refusal that a US citizen be investigated on or prosecuted before an international criminal tribunal. The United States fear that politically motivated complaints against American citizens, in particular members of the military, would be brought thus placing them in difficult positions.

During the preparatory period, the United States tried to place the Court under the United Nations Security Council's control, and continued attempts to hinder ICC's activities on three levels:

- 1) National level: "The Hague Invasion Act"

The US Administration adopted a law, the American Service members' Protection Act (ASPA), which aims, among other

**ROUND TABLE ON THE RATIFICATION AND IMPLEMENTATION OF THE STATUTE
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things, to prohibit any military assistance to Member States of the ICC. It has been nicknamed "The Hague Invasion Act", because it authorizes the use of force so to free any American citizen who would be detained in The Hague because of ongoing proceedings against him or her before the ICC.

It has five main aims:

- i. to prevent any type of cooperation between the U.S. and the ICC;
- ii. to refuse all military support to countries that have ratified the Rome Statute with the exception of members of the NATO, strategic allies of the United States and countries that are linked to the United States by bilateral agreements;
- iii. to refuse the transfer of all classified information related to national security to countries that have ratified the Rome Statute;
- iv. to limit the participation of the United States in UN peace-keeping forces, unless the Security Council, creating these forces, grants immunity to American military forces or the operations which take place on the territory of States that are not party to the Rome Statute;
- v. to give the President of the United States the right to use "all means necessary and appropriate" to free US citizens placed in custody by the ICC.

2) Bilateral level: the misuse of Article 98 of the Rome Statute

The US Administration exercises intense pressure on States to sign bilateral immunity agreements (BIA) prohibiting any transfer of US nationals to the ICC. Three Arab countries and Israel are known to have signed such bilateral agreements, which are wrongly based on Article 98 of the Rome Statute.

3) International level: the use of UN Security Council to protect American citizens from the jurisdiction of the ICC

Having failed in their attempt to negotiate an "acceptable" Statute, the United States decided to use the Security Council to hinder ICC's activities and install political control of the ICC, by shielding the U.S. from its jurisdiction. Resolution 1422 granted immunity from ICC prosecution to soldiers and officials (former or current) from every State that is not a party to the Rome Statute regarding acts committed during peace-keeping operations under the UN authority.

III - The role of Parliamentarians in the Development of the International Criminal Court, by Ms. Samar Al-Bulushi, International Law and Human Rights Program Associate, Parliamentarians for Global Action

Parliamentarians for Global Action (PGA) has 1350 members from parliaments in 100 countries worldwide.

The speaker addressed two topics: first, the role of parliamentarians in reinforcing human rights and second, what members of PGA have been able to do so far and what they must continue to do in order to promote the International Criminal Court.

Concerning the first issue, Ms Samar Al-Bulushi explained that it is parliamentarians' obligation to ensure that the population they represent respect human rights. It is also their responsibility to vote for legislation and national laws that respect human rights and to ratify international treaties and to adapt and incorporate such treaties into the national law. The parliament must, when voting on the general budget, consecrate sufficient funds as to make concrete the principle of the protection of human rights and to assure control therein. Parliamentarians must furthermore spread the culture of respect for human rights and assure the promotion of such.

Regarding the reinforcement of the implementation of the principles of the Rome Statute, parliamentarians are first charged with explaining the ICC to their colleagues to encourage universal participation. On a basic level, they must convince their colleagues that the ICC does not contradict national jurisdiction and does not attempt to intervene in national sovereignty. Second, they must ensure the inclusion of crimes within the jurisdiction of the Court in national legislations, considering the ICC as a mechanism of last resort. Third, parliamentarians and the government are responsible for assuring that the State keeps its financial and human commitments regarding the ICC, actively participates in the Court and does not neglect to contribute to the Fund established to help victims. Finally, the mission of Parliamentarians is to preserve the credibility of the Court and not to sign bilateral agreements that would grant immunity for individuals or government officials before the ICC.

In the case of Bahrain, parliamentarians have to encourage the opening of a legislative dialogue both to ensure Arab representation at the Court and to encourage universal support of the ICC.

THIRD SESSION

THE INTERNATIONAL CRIMINAL COURT AND ARAB COUNTRIES

I - Constitutional and Legislative Challenges of Ratification of the ICC Statute in the Arab World, by Mr. Mohamed Abdel Aziz Ibrahim Djaad Al-Haq, ICC Middle East Project Coordinator, International Human Rights Law Institute, DePaul University, Chicago (USA)

The speaker presented concerns in Arab countries regarding the ICC and ratification of its Statute while demonstrating the lack of foundations for such concerns.

a) Concern that great powers could utilize the ICC to put pressure on Arab countries.

This concern is largely unjustified because the majority of States Parties to the Court do not belong to the group of great powers and decisions are made by a two-thirds majority in the Assembly of States Parties (ASP). This Assembly elects the Prosecutor, the Judges, the Registrar and votes for the budget.

b) Concern that the ICC could examine events that occur in one of the Arab countries.

The competence of the Court is not retroactive and the history of Arab countries has not long included this type of egregious crimes, with the exception of the former Baathist regime in Iraq. Arab countries are more often victims of these crimes, as the examples of Palestine and Iraq demonstrate.

c) Fear that the competences and powers of the Prosecutor might be misused.

The ICC Statute specifies that the powers of the Prosecutor are not absolute and are governed by numerous legal procedures. The Statute of the ICC as well as the Rules of Procedure and Evidence offer all recognized guarantees of justice.

d) Fear that the crimes within the jurisdiction of the ICC represent new crimes.

The three types of crimes that are within the jurisdiction of the Court are known and have existed on the international level for a very long time.

e) Concern related to the legal immunity of the President of the Republic.

Certain member states find it improbable that their leaders would commit the crimes enunciated by the ICC Statute. It is, however, necessary to harmonize national legislations and to

provide that no immunity will be given to those who commit international crimes.

f) Concern regarding the transfer of nationals of Arab countries to the ICC.

The ICC is complementary to national justice, and that is why States Parties do not need to take prohibitive measures against the transfer of persons to the Court.

g) Fear of interference with national security.

Cooperation begins at the level of national juridical systems and it appears unlikely that the sovereignty of member states will be questioned.

h) Concern related to life imprisonment.

This penalty can be referred to but on exceptional basis, justified by the extreme gravity of the crime and the individual circumstances of the convicted person, and is submitted to re-evaluation.

Discussion

The following points were addressed during the discussion:

- 1) The share of powers in the Arab world.
- 2) The sources and mechanisms of the ICC.
- 3) The role of the countries of the Gulf Cooperation Council (GCC) and of the region in the time taken by Bahrain to ratify the Rome Statute.
- 4) Bilateral immunity agreements as obstacle to the ratification of the Rome Statute by the States of the region.
- 5) The issue of the possibility of prosecution by the ICC of heads of State for serious crimes and its influence on the refusal of certain Arab countries to ratify the Rome Statute.
- 6) The relations and communication means between the ICC and activists specialized in law.
- 7) The attempt of the USA to exercise pressure on States and to lure certain others with financial support or to threaten to boycott these States if they were to ratify the Statute.
- 8) Prisons over which the ICC has authority.

II - The Experience of Jordan: the Position of Jordan regarding the ICC, by Mr. Mohamed Olwan

As any international convention related to human rights, the Statute of the ICC has to be ratified by the legislative branch to have effects on national law. Moreover, legislative

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measures of implementation have to be taken so that the executive branch applies these rules. The Rome Statute in particular implies the adoption of an implementing legislation that clarifies the modalities of cooperation with the ICC and incorporates the definitions of the crimes within the jurisdiction of the ICC into national law. Because the majority of international conventions in Jordan have been ratified by the executive power, a problem has arisen: international conventions which are contrary to Jordanian law are not applied by tribunals. Jordan has thus prepared a draft implementing law on the ICC that has to be presented to the Parliament for ratification.

Mr. Olwan described the reasons for Jordan's ratification of the Rome Statute. Amongst the principal reasons are the political will of the Head of State and the intensive actions of civil society in favor of the ICC. The ratification of the Rome Statute by Jordan shows its commitment and solidarity with victims of the most hideous crimes that fall under the jurisdiction of the ICC.

One of the problems Jordan had to overcome in order to ratify concerned the application of Article 27 of the Rome Statute on the prosecution of Heads of State and the absence of immunity. Indeed, in Jordan, the King is protected by a total immunity provided by the constitution. The solution or the chosen interpretation was to consider that every Head of State or person in charge who commits such crimes violates the Constitution.

The debate on the implementing legislation also focused on amnesties. Jordan experts agreed that, by ratifying the Rome Statute, Jordan would not accept amnesty for these crimes.

The transfer of Jordan citizens to the ICC was another constitutional obstacle to Jordan's ratification of the Rome Statute. However, despite the sensitivity of the issue, the experts came to the conclusion that the Rome Statute does not contradict the Jordan constitution, insofar as the constitution deals with extradition to another State and not with *surrender* to the ICC. Indeed, the majority of States recognize that the transfer of accused to the ICC does not fall under the usual rules of extradition.

Another issue addressed by Jordan experts in the process of ratification is the death penalty, which exists in Jordanian law but not in the ICC Statute. This point could not impede the ratification by Jordan of the Rome Statute, since it does not require from States parties to abolish death penalty (Article 80).

Finally, Mr. Olwan explained that a commission created by the Minister of Foreign Affairs has drafted a project of implementing legislation including the definitions of the crimes that fall within the jurisdiction of the ICC. A proposal has also been made to create a special court for these crimes at national level.

FOURTH SESSION BAHRAIN AND THE INTERNATIONAL CRIMINAL COURT

I - Political Reforms and Progress of Human Rights in the Kingdom of Bahrain, by Mr. Ahmed Al Hadjiri, Head of the Freedom of Speech Committee of the Bahrain Human Rights Society

The speaker presented the reform projects led by his Majesty the King of Bahrain, that have two main aims:

- 1) the abrogation of the law regarding security of State and the emergency law, and
- 2) the promulgation of a general amnesty that led to the liberation of all political prisoners and detainees and to the return to Bahrain of political opponents and those who had been exiled.

These reforms led to an unprecedented climate of openness in the country and to the initiation of a dialogue between high level officials of State and the civil society opposition figures. The result of this dialogue was the adoption of the national charter that proved that the people of Bahrain support the general lines of the reform plan in spite of divisions regarding the Kingdom's constitution. This dialogue formed part of the first steps towards an emerging democracy.

However, the promulgation in 2002 of Decree 56, making explicit the general amnesty law 10 of 2001, placed the victim and perpetrator of crimes of torture on the same level, which stripped the law of its meaning and meant that victims lost the possibility of prosecuting their torturers. In addition, the law on political rights and elections and the division of the legislative branch into two chambers in which members enjoyed the same prerogatives were not well received.

The speaker then criticized the position of the Shura Council regarding the political problems of the country and drew attention to the necessity of evaluating the activities of the organ of financial control and of the popular assemblies.

Nonetheless, it appears that, in general, important advances have been made in the field of human rights as demonstrated for example by the end of arbitrary arrests, torture and the displacement of persons, the reform of penitentiary institutions, the ratification of a certain number of international treaties regarding human rights and the creation of unions.

II - Judicial and Political Obstacles to Bahrain's Accession to the International Criminal Court, by Ms. Zaynet Al Mansoori, lawyer and member of the Bahrain Human Rights Society

The kingdom of Bahrain signed the Rome Statute on 11 December 2000. Therefore, it is incumbent on the government to study the necessary amendments to the Constitution, national legislation and administrative procedures as a preliminary and necessary step to fulfill its commitments towards ratification. In conformity with the constitution, treaties concerning sovereignty, human rights, territory, natural resources or those that oblige the State to assign expenses to, other than those included in the general budget, before becoming effective, must be adopted by an implementing legislation - and this applies to the Rome Statute.

The immunity of the Head of State guaranteed by the Constitution seems contrary to the Rome Statute. Nonetheless, this immunity has not been instituted to cover crimes that fall within the jurisdiction of the International Criminal Court.

Ms. Al Mansoori underlined that, to permit the implementation of the complementarity principle between the ICC and national tribunals, it is essential that the crimes under the jurisdiction of the ICC are integrated in the penal code of Bahrain. It is additionally important for the provisions of Article 29 of the Statute, which states the non-applicability of any statute of limitation for crimes that fall within the Court's jurisdiction, be implemented into national law, insofar as they are contrary to the penal code of Bahrain, which provides for a statute of limitations of ten years for all crimes.

Finally, every implementing law will have to foresee a chapter on the cooperation with the ICC, according to Chapter IX of the Statute, which provides a list of obligations of the States parties for every step of the procedures.

Discussion

The discussion focused on the following issues:

- 1) The primacy of international conventions over national constitutions and legislation.
- 2) Confering the right to surrender a person to the ICC, on the executive branch - the Council of Ministers in Jordan-, as this

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right should be conferred on the judiciary.

3) The contradiction between Bahraini Decree 56 of 2002 and the Rome Statute. Two different interpretations were presented during debates:

- The imprescriptibility of crimes against humanity means that it will be necessary to abrogate this law before or as soon as Bahrain ratifies the Rome Statute;
- the jurisdiction of the ICC concerns the crimes committed after ratification. Therefore the decree should not constitute an obstacle to ratification.

4) The implementation of the principle of complementarity, in particular the rules the ICC will have to respect to determine whether or not national tribunals have the will or the capacity to prosecute individuals for crimes that fall within the jurisdiction of the ICC.

5) The degree of opposition to the ratification of military tribunals.

FIFTH SESSION

THE STRATEGY FOR A CAMPAIGN IN FAVOR OF BAHRAIN'S RATIFICATION OF THE STATUTE OF THE INTERNATIONAL CRIMINAL COURT AND THE CREATION OF A NATIONAL COALITION

Ms. Sabika Al Najjar, Secretary General of the Bahrain Human Rights Society, chaired this session, in which the participants discussed the strategy for achieving coordination between them and the possibility of launching a national coalition for the ICC.

Ms. Amal Basha first presented the experience of Yemen concerning the creation of a national coalition for the ICC, highlighting that Sisters Arab Forum for Human Rights was at the forefront of national efforts in Yemen. The members of the Forum firstly debated among them the problems relating to the ICC and later a larger meeting brought together twenty-five civil society organizations in Yemen, where the participants agreed to work in favor of the ratification of the Rome Statute by Yemen. The coalition additionally agreed to coordinate its action with the Parliament through its parliamentarians members and to ask for the expertise of legal specialists and academics.

Under the leadership of Ms. Asma Khader, the organization 'Mizan' (Balance) has found itself at the forefront of efforts by Jordanian civil society, which resulted in the ratification of the Rome Statute by Jordan. The Jordanian coalition that gathers fifteen national organizations organized numerous events and trainings in which the coalition of Yemen participated. The coalition works maintaining its relations with official institutions and to request the help of experienced persons, in particular academics.

A general debate then took place on the possibility of establishing a coalition in Bahrain. Mr. Joydeep Sengupta explained that this coalition would need to bring together human rights associations as well as organizations in support of the rights of women, children and the protection of the environment since actions of this type of associations are related to the promotion of peace and development and lies at the heart of the mission of the ICC. Mr. Sengupta further emphasized the fact that the CICC was ready to cooperate with the Bahraini Coalition by organizing training courses, providing technical assistance and supporting actions taken by the Bahraini Coalition.

The participants then discussed judicial aspects of the creation of such a coalition and its compatibility with national

legislation. They concluded that Bahrain was not opposed to the ICC because it had signed the Rome Statute. In addition, coordination between national associations, in whatever area, is not in contradiction with national laws as long as these associations act within the scope of their mandate.

An agreement was found on the fact that human rights associations of Bahrain would be responsible for this coordination and would call a meeting in which the associations that took part in the round table would discuss the subject and prepare a draft action plan, with the essential aim of explaining all aspects of the ICC to the participants.

All the national associations were thus invited to come together and launch a national coalition for the ICC, with a link to CICC.

The attending associations from other countries of the Gulf region agreed on the need to act in the same way in their respective countries and to cooperate among them and with Bahraini organizations to exchange experiences and information concerning the ICC. The participants also agreed on the need to invite parliamentarians of both chambers to participate in this organization and to cooperate with the concerned governmental institutions.

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III - FOLLOW UP MISSION

An FIDH delegation visited Bahrain from 6 to 10 November 2005 for a follow-up mission to the round table which took place on 2-4 June 2004. FIDH participated on that occasion in the second Parallel Conference to the Forum for the Future, organised meetings with Bahraini authorities and foreign embassies to discuss developments towards the ratification of the Rome Statute and participated in training sessions for civil society representatives on the ICC and Bahrain.

Forum for the Future, a recommendation urging them " to ratify the Statute of the ICC and incorporate the Statute into domestic law ".

1. Meetings with Bahraini authorities and foreign embassies

On 9 November 2005, the FIDH delegation composed of FIDH and BHRS representatives met Bahraini authorities to discuss initiatives taken since June 2004 in the ratification of the ICC Statute. The delegation met with representatives from the Ministry of Justice, the Ministry of Foreign Affairs, the Shura council and the Council of representatives, as well as with the UK ambassador, representing the EU Presidency. The Bahraini authorities expressed real interest in the ICC and have taken steps to harmonize domestic law with the Rome Statute. Some representatives of the Bahraini authorities indicated that ratification of the Rome Statute could occur in the first half of 2006.

2. Training sessions on 9-10 November 2005

During the follow-up mission, FIDH also supported and took part in a two-day training session on 9-10 November 2005, organized by Amnesty International Bahrain and the CICC with the support of the Bahrain Bar Association, for representatives of Bahraini and Gulf civil society. This session aimed at disseminating further information about the ICC to representatives of Bahraini civil society and to reinforce the national coalition for the ICC, that now includes more than 20 organizations, human rights activists and lawyers. The Bahraini Coalition for the ICC also intends to initiate a regional coalition to bring together members of Gulf civil society.

It should also be noted that the ICC issue was discussed during the second Parallel Conference to the Forum for the Future, held from 6 to 8 November 2005, attended by numerous civil society NGOs and individuals upon an initiative by the BHRS with the support of the Bahraini Ministry of Foreign Affairs. The participants to the second Parallel Conference in Manama decided, to include, among the recommendations to be addressed to States Parties to the

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ANNEX 1

Non-official translation

**Recommendations of the Round table on Ratification and Implementation of the
ICC Statute, held in Manama, Bahrain
June 2-4, 2004**

Preamble:

We the members of civil society in the Arab world who were invited by the Bahrain Human Rights Society, under the patronage of H.E. the Bahraini Minister of Justice, and in cooperation with the International Federation for Human Rights (FIDH), the Coalition for the International Criminal Court (CICC)¹, and with the presence of 46 representatives of non-governmental organizations, governmental institutions, Shura Council, and human rights organizations from Bahrain and GCC countries,

Met in the Kingdom of Bahrain during a round table to discuss the ratification and implementation of the ICC Statute,

Discussed the importance of the ratification of the ICC Statute, and the need for Arab countries to join the ICC in order to promote international criminal justice, and the role of the ICC in prosecuting perpetrators of genocide, war crimes and crimes against humanity,

Adopted the following recommendations:

- Urging Arab countries and mainly GCC countries to ratify the Statute of the ICC in accordance with the Vienna Convention that considers signing any agreement as a promise by countries to ratify it. Moreover, the crimes against humanity committed in the Arab region, mainly in Palestine and Iraq, should make the support of the ICC one of the most urgent priorities.
- Expressing their grave concern regarding the US attempts to impede the ICC through the conclusion of bilateral agreements with countries in the region, in order to give US soldiers and citizens immunity within the ICC.
- Expressing their solidarity with the Security Council's decision not to renew the immunity of US soldiers working with the UN peace-keeping forces.
- Assuring their support to the ICC as an independent and impartial international criminal justice body with jurisdiction on all persons indiscriminately and their dedication to international criminal justice.
- Calling for drafting a model guidance law for Arab States related to the implementation of crimes under the jurisdiction of the ICC, the general principles of law, and international legal principles and procedures according to the international standards.
- Underlining the need for an independent and impartial national judicial system capable of dealing with crimes under the jurisdiction of the ICC, according to the principle of complementarity between the national and international tribunals, stipulated in the Rome Statute. This requires training of judges to enable them to judge international crimes, and make them understand the international and national criminal law, and to disseminate awareness of the importance of the role of the civil society in this regard.
- Emphasizing the fundamental role of the parliamentarians in the ratification of international treaties and conventions related to human rights and international humanitarian law and their implementation into national legislations.
- Emphasizing the importance of constructive dialog between civil society organizations and governments in Arab States, in order to promote and protect human rights principles and values, the rule of law, as well as international criminal justice.
- Underlining the necessity to create national and regional coalitions for the International Criminal Court, linked to the CICC.

1. The International Human Rights Law Institute of De Paul University, Chicago, and the Institute of International Criminal Sciences also participated.

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ANNEX 2

fidh

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

الجمعية البحرينية لحقوق الانسان



Coalition for the International Criminal Court

***National Roundtable on the Ratification and Implementation of the International
Criminal Court Statute in Bahrain***

Manama, Bahrain
June 2- 4th, 2004

Organized by the International Federation for Human Rights (FIDH) in cooperation with the Bahrain Human Rights Society (BHRS) and the Coalition for the International Criminal Court (CICC)

AGENDA

JUNE 2, 2004

8:00 pm

Opening Ceremony

- Remarks by Dr. *Sabika Al Najjar*, Bahrain Human Rights Society
- Remarks by H.E. *Khalid bin Ali Al-Khalifa*, Deputy Minister, Ministry of Justice
- Remarks by European Union representative (TBC)
- Remarks by Mr. *Hafez Abu Seada*, lawyer, Vice President of FIDH and Secretary General of the Egyptian Organization for Human Rights

JUNE 3, 2004

8:30

Arrival/registration of participants

09:00-10:00 **The Rome Statute: Advancements in the Protection of Human Rights**

- Jurisdiction of the ICC and the Principle of Complementarity between the ICC and National Courts –
Mr. Mohamed Obwan, Public International Law Professor at Yarmouk University in Irbid (Jordan)
- Victims Issues – *Ms. Jeanne Sulzer*, International Justice Program Director, FIDH
- Gender Justice and the ICC – *Ms. Amal Basha*, Executive Director, Sisters Arabic forum for Human Rights (Yemen)

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Questions and Answers

11:00-11:15 Coffee Break

11:15-12:45 **Worldwide Efforts to Establish the International Criminal Court**

- Status of signatures/ratifications, work of the CICC - *Mr. Joydeep Sengupta, Outreach Liaison for the Middle East, Coalition for the International Criminal Court*
- Challenges in the Ratification Campaign: efforts to Undermine the Court - *Ms. Jeanne Sulzer and Stéphanie David, FIDH*
- The role of parliamentarians in advancing the ICC - *Samar Al-Bulushi, International Law & Human Rights Programme Associate, Parliamentarians for Global Action*

Questions and Answers

12:45-1:00 Break

1:00-2:00 **The ICC in the context of the Arab region**

- Constitutional and Legislative Challenges for Ratification in the Arab world – *Mr. Mohamed Ibrahim, ICC Middle East Project Coordinator, International Human Rights Law Institute, DePaul University, Chicago (USA)*
- The Jordanian experience – *Mr. Mohamed Olwan, Public International Law Professor at Yarmouk University in Irbid (Jordan)*

Questions and Answers

2:00 **LUNCH**

Reception hosted by the Italian Embassy

JUNE 4, 2004

8:45 **Arrival of participants**

9:00-11:00 **Bahrain and the ICC**

- Recent Constitutional Reforms and Human Rights Developments in Bahrain - *Mr. Ahmed Al-Hujiri, Member of BHRS and Head of the Freedom of Speech Committee at the Society*
- Legal, Political Constitutional issues for ratification and implementation of the ICC in Bahrain - *Ms. Zaynat Al-Mansoori, Lawyer and member of Bahrain Human Rights Society*
- Constitutional and political implications for ratification and implementing the ICC Statute into national law - *H.E. Sheikh Khalid bin Ali Al-Khalifa, Deputy Minister, Ministry of Justice*

**ROUND TABLE ON THE RATIFICATION AND IMPLEMENTATION OF THE STATUTE
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Questions and Answers

11:00-11:15 Coffee Break

11:15-13:30 **Strategy session: Bahrain ICC Ratification Campaign and Launching of ICC Coalition**

What can Bahraini Civil Society do to ensure speedy ICC Ratification?

- Discussion on experiences in other Arab Campaigns (experts from Egypt, Yemen and Jordan)
- How can the Parliament be involved?
- Tools and Resources of the CICC/Assembly of States Parties:
- Creation and Launching of Bahraini ICC Coalition (CICC Support available)
- Drafting and Adoption of Bahraini ICC Coalition Action Plan

13.30 Concluding remarks

With the financial support of the European Commission

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ANNEX 3

LIST OF PARTICIPANTS

Organization	Name
الجمعية الوطنية لحقوق الإنسان في السعودي	د حسين الشريف
الاتحاد النسائي	ابتهاج جعفر لعريض
جمعية أول النسائية	نعيمه عبد العزيز المحمود
الجمعية البحرينية للحريات العامة	نزار محمد علي القاري
الاتحاد العام لنقابات عمال البحرين	كريم يوسف رضي
جمعية المحامين البحرينية	جميلة علي سلمان
جمعية الحقوقيين الاماراتية	د محمد علي المنصوري
صحفي	عبد الوهاب صالح لعريض
جامعة دي بول, المعهد الدولي لحقوق الإنسان	محمد عبد العزيز ابراهيم
الفدراليه الدولية لحقوق الإنسان	أمل الباشا
مركز البحرين للدراسات و البحوث	يوسف محمد البنخليل
شخصي	فاطمه ربيعه حسين
الجمعية البحرينية لمقاومة التطبيع	ابراهيم السيد علي كمال الدين
الجمعية البحرينية للشفافية	د جاسم العجمي
مستقل	د. نجيب النعيمي
مستقل	فيصل فولاذ
مجلس الشورى	عبدالرحمن محمد الغتم
وزارة الخارجية	منى عباس رضي
وزارة العدل	عبدالعزيز محمد البنعلي
المجلس الأعلى للقضاء	أحمد علي يحيى
النيابة العامة	فهد سالم عتيق
وزارة الداخلية	محمد راشد بو حمود
وزارة الخارجية	ابراهيم مبارك الدوسري
ISISC-IHRLJ	حاتم فؤاد علي

**ROUND TABLE ON THE RATIFICATION AND IMPLEMENTATION OF THE STATUTE
OF THE INTERNATIONAL CRIMINAL COURT IN BAHRAIN**

الجمعية البحرينية لحقوق الإنسان	وداد صالح جمشير
الجمعية البحرينية لحقوق الإنسان	عبدالرضا حسن علي
الجمعية البحرينية لحقوق الإنسان	عبدالشهيد حسن عمران
الجمعية البحرينية لحقوق الإنسان	جميل عبدالنبي فردان
الجمعية البحرينية لحقوق الإنسان	زينب إبراهيم عيسي
الجمعية البحرينية لحقوق الإنسان	أحمد كاظم الحجيري
الجمعية البحرينية لحقوق الإنسان	محمد جعفر المطوع
الجمعية البحرينية لحقوق الإنسان	زينات عبدالرحمن المنصوري
الجمعية البحرينية لحقوق الإنسان	موسى الموسوي
الجمعية البحرينية لحقوق الإنسان	محمود الجمري
الجمعية البحرينية لحقوق الإنسان	محمد علي سلمان
الجمعية البحرينية لحقوق الإنسان	د. سبيكة النجار
الجمعية البحرينية لحقوق الإنسان	عيسي الغائب
الجمعية البحرينية لحقوق الإنسان	حصاة الخميري
الجمعية البحرينية لحقوق الإنسان	د. عبدالله الدرازي
الجمعية البحرينية لحقوق الإنسان	بسام عبدالرزاق بوخوة
الجمعية البحرينية لحقوق الإنسان	عبدالنبي العكري
FIDH	Stéphanie David
FIDH	Hafez Abou Saada
FIDH	Sébastien Bourgoïn
CICC	Joydeep Sengupta
PGA	Samar Al-Bulushi
Yarmouk University	Mohammed Olwan
DePaul University	Mohammed Ibrahim

ANNEX 4

Press coverage

May-June 2004

Gulf Daily News

Criminal law to be probed

Published: 29 May 2004

The International Criminal Court will be in the spotlight this week at a round-table discussion in Bahrain. More than 50 participants from across the region are expected to attend the three-day event, which begins on Wednesday.

The opening ceremony will be held at the Bahrain Medical Society in Juffair under the patronage of Justice Minister Jawad Al Arrayed at 8pm. The round-table talks, organised by the Bahrain Human Rights Society (BHRS) and the International Federation for Human Rights, will be held at the Elite Hotel on June 3 and 4.

"We will have participants from GCC countries interested in criminal law, Justice Ministry representatives, international lawyers and civil societies members," said BHRS member Abdulla Al Derazi.

"Bahrain and other Arab countries have signed the treaty setting up the International Criminal Court but have not endorsed it. We will be encouraging them to endorse it."

Other topics of discussion will include international criminal law in general and whether Bahrain's legislation is in line with that law.

The International Criminal Court has been set up by the UN and is based in The Hague.

It has the jurisdiction to prosecute individuals for the most horrific crimes: genocide, crimes against humanity and war crimes. Arab countries were urged to ratify the treaty by UN secretary-general Kofi Annan earlier this year.

Gulf Daily News
2 June 2004

Rights experts to review role of UN criminal court

By **ABDULRAHMAN FAKHRI**

BAHRAIN'S potential role under the umbrella of the International Criminal Court (ICC) will come under the spotlight at a seminar opening in Bahrain today.

The seminar is being held by the Bahrain Human Rights Society (BHRS).

An opening ceremony will be held at the Bahrain Medical Society, Juffair. The seminar itself will be held at the Elite Hotel, Juffair, tomorrow and on Friday.

The ICC has been set up by the UN and is based in The Hague. It has the jurisdiction

to prosecute individuals for the most horrific of crimes: genocide, crimes against humanity and war crimes. It will only act when countries are unable or unwilling to investigate or prosecute.

The Round Table Seminar on the ICC is being held in Bahrain under the patronage of the Justice Minister Jawad Al Arrayed,

Protection

It has been organised in co-operation with the International Federation for Human Rights and the Coalition for the International Criminal Court.

The ICC, an independent international organisation, was established by the Rome Statute of the International Criminal Court on July 17, 1988. At the time, 120 states participating in the United

MPs briefed on statute

SHURA Council members and MPs were briefed yesterday on moves for Bahrain to ratify the statute which created the International Criminal Court.

They were briefed at meetings with Coalition for the International Criminal Court outreach liaison for the Middle East and South Asia, Joydeep Sengupta and the Parliamentarians for Global Action (PGA) programme associate Samar Al Bulushi.

"The seven Shura Council members attending the meeting were very receptive and several of them expressed interest in joining the PGA," said Mr Sengupta.

The second meeting was with MPs, who were briefed on technical misunderstandings over the statute. "The representatives were more politically oriented and focused on the US-Israeli-Iraq related issues," said Mr Sengupta.

He said the MPs backed the idea of ensuring universal standards for grave human rights violations, but were sceptical if powerful countries were put to the test.

Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Court of Justice, adopted the statute.

BHRS secretary-general Salman Kamaludeen said that even though Bahrain signed the Rome Statute in December, 2000, it had yet to ratify the convention.

"We will call on the Bahraini government to ratify the convention since the court's duties are an integral part in the human rights protection field," he said. "The ICC ratification will be part of ongoing progressive political and judicial reforms in the kingdom."

Mr Kamaludeen said the objective of the seminar was to promote the principles of the ICC and the right of the governments of Bahrain and other Arab countries to ratify the convention.

Gulf Daily News
3 June 2004

Bahrain vows to back peace bids

By ABULRAHMAN FAKHRI

BAHRAIN last night pledged its full backing for all international efforts to promote peace, security and justice.

The pledge by Justice Minister Under-Secretary Shaikh Khalid bin Ali Al Khalifa came at a ceremony at Bahrain Medical Society marking the opening of the Round Table seminar on the role and status of the International Criminal Court (ICC).

Shaikh Khalid said Bahrain had signed the ICC statute in Rome on December 11, 2000, as a sign of its determination to support global justice.

He added that GCC justice ministers and the Arab Justice Ministers Council were also keen to follow up the



International Criminal Court issue and had set up a committee of experts to co-ordinate their efforts.

The seminar is held by the Bahrain Human Rights Society (BHRS) in co-operation with the International Federation for Human Rights and the Committee for the International Criminal Court (CICC) under the patronage of Justice Minister Jawad Al Arayel.

BHRS president Dr Sabiha Al Najjar said he hoped Bahrain would ratify the ICC conven-



Left, the main speakers, Abu Seada, left, Shaikh Khalid and Dr Al-Najar at the ceremony. Above, the audience

tion and become an example for other GCC and Arab countries to follow.

She also proposed the setting up of a human rights committee at the Interior Ministry and highlighted efforts being made to secure the release of the Bahraini detainees at Guantanamo.

IFHR permanent representative and secretary general of the Egyptian Organisation for Human Rights, Hafez Abu Seada, said the event was part of an ongoing effort by the federation to fight war crimes and strengthen civil societies in the Arab region.

"We urgently need world-wide and prompt adherence to the ICC," said Mr Abu Seada. "This is particularly important in the Middle East, which continues to witness some of the gravest assaults on human dignity."

The seminar will be held at the Elite Hotel, Juffair, today and tomorrow.

Bahrain Tribune
4 June 2004

BT_04/06/04

Bahrain's rights record praised

Signing of ICC accords held likely

By Mazen Mahdi

A TOP Bahraini legal official said on Wednesday that signing the accords of the International Criminal Court (ICC) was an issue that remains under review as international non-governmental organisations and European Union representatives urged the government to sign it.

The Undersecretary for the Ministry of Justice, Shaikh Khalid bin Ali bin Abdullah Al Khalifa, said that Bahrain was working closely with other nations in the Arab League to iron out the differences and concerns related to the ICC.

"Bahrain took part in the 1988 Diplomatic Conference of Plenipotentiaries on the Establishment of an International Court of Justice in Rome that laid the statute of the ICC," he said. "On December 11, 2000 Bahrain signed the Rome Statute."

Shaikh Khalid, who was speaking at the roundtable seminar on the ICC that opened on Wednesday, said that he hoped the seminar would be an opportunity to bridge the differences and answer the queries about the role of ICC and its jurisdictions.

"We have to see how these statutes adapt to local ones, especially that the local courts would have to enforce the laws related to these crimes," he said.

The German ambassador to Bahrain, Wolfgang Lerke, who delivered the EU speech on behalf the Irish presidency, said that the EU appreciated the efforts of Bahrain and other Arab countries to intensify the dialogue with the civil society on democracy, human rights and the ICC.

"The Sana'a Conference held in January 2004 revealed the relevance of these interrelated issues for Arab societies at large," he said.



Shaikh Khalid with Hafez and Dr Sabeeka at the opening ceremony of the roundtable discussion on the ICC accords. Picture - Mazen Mahdi

"The Sana'a Declaration adopted by the representatives of the region can serve as a good basis to broaden the dialogue in an effort to find common solutions for the promotion of these goals based on common standards and international conventions."

He added that the Rome statute must be seen as an important instrument to avoid impunity for the most severe atrocities.

"Culprits may no longer hide behind state immunity" he said. "However, it does not replace local jurisdiction and responsibility to deal with such crimes."

The British ambassador, Robin Lamb, who attended the opening ceremony along with the French ambassador, Anita Limido, told the *Tribune* that the status of human rights in Bahrain witnessed impressive improvement following the reforms undertaken by His Majesty the King, Shaikh Hamad bin Isa Al Khalifa.

"The United Kingdom was one of the first countries to join the ICC and we will support its ratification by the Bahraini government and encourage it to join," he said.

Presently of the Arab countries only Jordan is a party to the Rome Statute.

Jeanne Sulzer, the French-based International Federation for Human Rights (FIDH) international justice officer, said that this was the second conference of its kind in the region.

"The first was held in Yemen and we chose Bahrain because there is some recent openness," she said. "Bahrain could be a party to the ICC and it could ratify but all it needs is political action from all sides."

She added that there was a misunderstanding about the ICC role by many, which has created fear of its role.

Sulzer said that the US also opposed the ICC because of issues related to impunity especially following the Abu Gharib incident.

"From what I see there have been important judicial reforms here in Bahrain," she said. "But, we have some concerns over issues like Decree 56 and the recent clash between the Bahrain Human Rights Centre and the Ministry of Labour and Social Affairs."

She added that FIDH - a network of human rights organisations working towards a fair, effective and independent ICC since 1995 - was focusing on the Gulf region and India in its activities.

"We feel that the Gulf region had witnessed a significant improvement in openness and that our services could be expanded to the area," she said.

FIDH's permanent representatives at the Arab League, Hafez Abu Senda, said that strengthening civil society in the Arab region to promote international justice and universal acceptance of the Rome Statute was one of the top priorities of FIDH.

"The FIDH welcomes the recent legislative reforms undertaken by Bahrain, particularly the Bahraini security law," he said. "However, the FIDH is concerned over the implementation of decrees No. 10 and No. 56 issued in 2001 and 2002."

Bahrain Human Rights Society (BHRS) president Dr Sabeeka Al Najjar, said that Ministry of Foreign Affairs had said that it would ratify the accords in the near future.

"Signing the accords will help ensure the independence of the judiciary branch and increase the margin of freedom in the Kingdom enabling the non-governmental organisations (NGOs) to operate more freely without being bounded by the current civil societies laws," she said.

The roundtable, which was organised by the BHRS in co-operation with FIDH and the Coalition for the International Criminal Court (CICC), opened under the patronage of the Justice Minister Jawad Al Arayed. It began its meetings yesterday.

A number of papers were presented by the participants.

ROUND TABLE ON THE RATIFICATION AND IMPLEMENTATION OF THE STATUTE OF THE INTERNATIONAL CRIMINAL COURT IN BAHRAIN

**Gulf Daily News
4 June 2004**

BAHRAIN Gulf Daily News Friday, 4th June 2004 5

Bahrain urged to ratify ICC statute



■ Participants at the meeting



■ Guests at the reception last night

By ABDULRAHMAN FAKHRI

BAHRAIN is being urged to fly the flag of justice and human rights by ratifying the International Criminal Court (ICC) statute.

This would be a signal to the world that Bahrain values international human rights, an expert declared yesterday.

Bahrain signed the ICC's Rome Statute on December, 2000, but has yet to ratify the convention.

Doing so would also help improve Bahrain's own laws, said Joydeep Sengupta, who is outreach liaison for the Middle East and South Asia at the International Federation for Human Rights and the Coalition for the International Criminal Court (CICC).

He said an important element in Bahrain's ratification process would be the opportunity to examine Kingdom's criminal code and other laws to ensure that the crimes enshrined in the Rome Statute are included in domestic law.

Mr Sengupta was speaking at the round-table seminar on the role and status of the ICC, organised by the Bahrain Human Rights Society (BHRS) in co-operation with the CICC and International Federation for Human Rights.

It is being held at the Elite Hotel, Juffair, and concludes today.

"Adhering to the Rome Statute would further strengthen Bahrain's commitment to ensuring justice and accountability and consolidate its place internationally as a country which places high values on international human rights,"

said Mr Sengupta.

He said that the Kingdom had initiated many reforms that upgraded its status in the human rights protection field.

"Since 1999, the release of political prisoners and detainees, the abolition of the State Security Court, and the establishment of the Supreme Council for Women all point towards a climate of greater openness and respect for human rights in Bahrain," said Mr Sengupta.

He said that Bahrain had already ratified many conventions committing it to uphold many of the principles of international law codified in the Rome Statute.

They include the Convention Against Torture, the Convention on the Rights of the Child, the Genocide Convention, Convention to Eliminate Discrimination Against Women and the Convention to Eliminate all forms of Racial Discrimination.

"Without ratification, Bahrain will not have an opportunity to nominate future judges to the ICC, nor will it be able to vote on the election of future judges and other court officials, or take part in the decision-making process shaping the court," said Mr Sengupta.

He praised Bahrain's support for the ICC by actively participating in the Rome Conference, adopting the treaty and in the subsequent Preparatory Commissions.

Bahrain's signing of the Rome Statute in December 2000 underlined this support.

Mr Sengupta said that it was encouraging that the Justice Ministry was committed to reviewing domestic laws and constitutional concerns as they relate to the Rome Statute, in collaboration with the Arab League's team of experts.

"We hope this roundtable and related outreach efforts by Bahraini civil society will widen the dialogue on the ICC in Bahrain and the solutions to potential challenges with ratification may be sought through a constructive dialogue between all stakeholders," he said.

The ICC has been set up by the United Nations and is based in The Hague and has the jurisdiction to prosecute individuals for the most horrific of crimes: genocide, crimes against humanity and war crimes.

It will only act when countries are unable or unwilling to investigate or prosecute.

Arab countries were urged to ratify the treaty by UN secretary-general Kofi Annan earlier this year.

Italian Ambassador Angelo La Marte hosted a reception at the Regency Inter-Continental Hotel last night for delegates and officials attending the roundtable seminar.

Al Wasat
4 June 2004

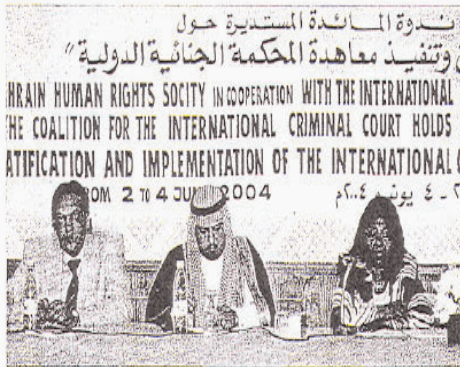
Friday 4 June 2004, Issue No. 637

الوسط

عدد 637 الجمعة 4 يونيو 2004 الموافق 16 ربيع الثاني 1425 هـ

نظمتها جمعية حقوق الإنسان بالتعاون مع الفيدرالية الدولية وكيل «العدل» يفتتح ندوة التصديق على معاهدة المحكمة الجنائية الدولية

التصوير - حسن خضف



جانب من الندوة

ندوة التصديق على معاهدة المحكمة الجنائية الدولية
BRAIN HUMAN RIGHTS SOCIETY IN COOPERATION WITH THE INTERNATIONAL
THE COALITION FOR THE INTERNATIONAL CRIMINAL COURT HOLDS
RATIFICATION AND IMPLEMENTATION OF THE INTERNATIONAL
FROM 2 TO 4 JUNE 2004
٢ - ٤ يونيو ٢٠٠٤

وعن تأثير المحكمة الجنائية الدولية على الحكام الوظيفية، فإن المحاكم الوطنية ستشكل دائما هي المختصة بنظر تلك الجرائم، لأنه ينفذ الاختصاص للمحكمة الدولية إذا ما عجزت المحاكم الوطنية عن القيام بذلك، أو لأن الضمومة مثلا غير كافية في محاكمة مواطنيها، وخصوصا إذا كانوا من كبار المسؤولين أو قد يكون الشقاق الثقافي قد أثار نتيجة لصراع داخلي كما حدث في رواندا. ويمكن للمحكمة محاكمة الأفراد العنصرية في ارتكابهم جرائم خطيرة إذا ما تم ارتكاب تلك الجرائم في أراضي دولة صرقت على نظام روما الأساسي، وعندما يكون مرتكب الجرائم من الدول المصدرة على الظاهر، وعندما تغفل دولة لم تصدق على النظام الأساسي أنها تقبل باختصاص المحكمة الجنائية.

أما بشأن سؤال ما إذا كانت المحكمة تستطيع معاقبة الأفراد على الجرائم التي ارتكبوها قبل تأسيسها فإجابة هي كالتالي إن المحكمة ليست مختصة إلا بالجرائم التي ترتب بعد دخول نظام روما الأساسي حيز التنفيذ، أما من سيطروا الحالات التي سبقتها فما

الافتتاح وكيل وزارة العدل الشيخ خالد بن علي آل خليفة مساء أمس الأول في مقر جمعية الأبناء بالجفير ندوة المائدة المستديرة عن التصديق وتطبيق معاهدة المحكمة الجنائية الدولية، تنظمتها الجمعية البحرينية لحقوق الإنسان بالتعاون مع الفيدرالية الدولية لحقوق الإنسان والشأن الدولي من أجل المحكمة المذكورة برعاية رسمية من وزارة العمل في المملكة، وأثنى مخد الندوة التي تلتها أعمالها اليوم ضمن حملة يقوم بها الحقوقيون لتسويق المعاهدة ومطالبة الدول بالتصديق عليها.

وأشار وكيل وزارة العدل في كلمته الافتتاحية أمام عدد من الدبلوماسيين والحقوقيين وسفلي جمعيات المجتمع الأهلي إلى «أن البحرين شاركت في مؤتمر روما الديبلوماسي للعام 1998 والذي أجري فيه النظام الأساسي للمحكمة الجنائية الدولية، كما شاركت في إعداد الوثائق والاتفاقات التمهيدية لعمل المحكمة ويعرف الأمم المتحدة في نيويورك، وجاء توقيع البحرين على نظام روما الأساسي في 11 ديسمبر/ كانون الأول لعام 2000، ليؤكد موقف المملكة الإيجابي في المحافل الدولية، وتعبيراً عن الأمل الأسمى لعلها لوفاة المثلث قريبا للمعاهدات لعام 1968 م، بعدم إثبات ما يحيط الغرض والهدف من إنشاء المحكمة الجنائية الدولية الواويرة وهو ما لا يزال في المصادفة».

وأشار الوكيل إلى الكثير من الفعاليات التثقيبية والعربية التي تنارست مسألة الأثار المترتبة على الانضمام للمعاهدة، موضحاً أن «وزارة العدل في دول مجلس التعاون الخليجي كفلوا لجهة لخيراء شكلت خصيصاً لفنسيق اعماق تفيد المحكمة المذكورة بوضع قانون استمرجادي متكامل للتعامل العربية يتناول تعريف الجرائم العاطلة في اختصاص المحكمة بشكل يتناسب مع التشريعات الداخلية، وكذلك الأحكام العامة في المسؤولية الجنائية الدولية».

ملاحظات نقدية على نظام المحكمة

وأبدى الشيخ خالد بن علي بعض الملاحظات على نظام روما الأساسي، مشيراً إلى أن نظام روما عجز عن تعريف جريمة العدوان على رغم وجوده في الجمعية العامة للأمم المتحدة يعرف الأفعال التي تعد عدواناً، إلا أن موضوع العدوان أدى إلى إبقاء الاستعمال غير المشروع للقوة خارج نطاق التجريم، كما عجز نظام روما عن تجريم استخدام الأسلحة النووية وتم فرض أية حماية قانونية بشأن الاتفاقات التي تقع في الأراضي المحتلة، إلا أنه ينكر نظام روما أنه جزء الفكري للسكان المدنيين ووضع تعريفاً لمصطلح الجرائم ضد الإنسانية، وأيضاً تقليفاً قانونياً خاصاً يحد مسؤولية القادة العسكريين والمدنيين.

ما هي «الجنائية الدولية»؟

أولاً: إن المحكمة الجنائية الدولية هي هيئة قضائية مستقلة تأسست بالتعاون الدولي لأحد محاكمة مرتكبي أخطر الجرائم التي يؤثها القانون الدولي وهي: الإبادة الجماعية والجرائم الأخرى ضد الإنسانية وجرائم الحرب، وقد تأسست المحكمة في يوليو/ تموز 1998 م، إذ تم اعتماد نظام روما الأساسي للمحكمة الجنائية الدولية بغالبية ساحقة بلغت 120 دولة مؤيدة، وسبع دول معارضة، فيما امتنعت 21 دولة عن التصويت، وتحتاج المحكمة إلى تصديق ستين دولة لتدخل إلى حيز الوجود، ولم تصدق على النظام الأساسي حتى الآن سوى 14 دولة فقط، وعن ضرورة المحكمة فإن المحكمة مستخدم عدة أغراض أولها: رفع كل شخص تتوهم له ارتكاب الجرائم الموثمة في القانون الدولي، متدفع أجهزة الإزعاج الوطنية داخل الدول التي ملاحقة المسؤولين عن تلك الجرائم، سبهم لفرصة للشحايا وتوهم ليحصلوا على العدالة، وستكون المحكمة خطوة كبرى لإنهاء ظاهرة الإفلات من العقاب.

ما الذي يصنع العرب من التصديق على المعاهدة؟

أشار منسق مشروع الشرق الأوسط للمحكمة الجنائية محمد إبراهيم خلال ورشة العمل التي عرضها للأمم إلى أن دولاً عربية فقط من أصل 22 دولة عربية دعاء الأمم وجمعية أصدقاء على توقيع اتفاق روما المنشئة المحكمة الجنائية الدولية، بينما راعت من دون التصديق على المعاهدة 11 دولة عربية فقط هي: البحرين، مصر، الجزائر، سورية، الإمارات، اليمن، سلطنة عمان، الكويت، المغرب، السودان، جزر القمر.

وأوضح إبراهيم أن الدول العربية التي لم تصدق على المعاهدة توجد لديها ثمة تعقيدات هي: استخدام المحكمة وسيلة ضغط من الدول لبعض دول العربية، قيام المحكمة بظهور في إحدى الدول التي هي من الأنظمة العربية والتي تخاف ضعف اختصاص المحكمة، التخوف من استناد المعاهدة العام للمحكمة الجنائية الدولية بسطها، كما تتسامح الدول العربية عن التصديقات القضائية التي تكفلها المحكمة، وتتسامح أيضاً معاً إذا في النظام الأساسي للمحكمة بجرائم مستترة، وتتخطى على مسألة تسليم مواطني الدول العربية إلى المحكمة وهو الأمر الذي تحظره دساتير وثقافة دول عربية، والتخوف من المساس بالسيادة الوطنية، ومعارضة الدول المخففة لغوية السنين لدى الجناة.

أما الخيف الثاني والذي يثار القلق بشأنه لدى كثير من المختصات القانونية التي ترى أن النظام الأساسي على الإلتزامات القائمة في نظام الأساس المعاهدة للمحكمة يلزم الدول المصدرة عليه بتسليم أي شخص بعض الظن من جنسيتهم أو أصله الرسمي أو العنقوي، بينما تحظر وثائق وتسليم معظم الدول العربية محاكمة بعض الأفراد نظراً إلى مناصبهم كرئيس الدولة أو أعضاء الحكومة، وقد تأخذ هذه الصعاب أشكالاً مختلفة مثل الحفاظ التام من تعرض الشخص لأي نوع من أنواع العلوق القلونية، ووجود مواد في دساتير الدول وخصوصاً العربية تنص على أن تلك الملك مسوية لا تمنع، وهي الأمر الذي يتعارض مع نظام الأساس المعاهدة، وتكرارهم أن الأردن سبق أن المعاهدة على رغم وجود مثل هذا الأمر، ولم يتم بتعديل معاهدة المستديرة، ذلك بالإضافة إلى مشاركة قيام تلك البلاد مع هذا الجرائم وبالتالي فهي لا يفي من ريع المختصات.

Akhbar Al Khaleef
5 June 2004

توصيات المائدة المستديرة حول معاهدة المحكمة الجنائية الدولية قلق للدور الأمريكي المعرقل للمحكمة.. وأهمية دعمها

اختصاصه على جميع الأشخاص دون تمييز أو انتقائية ترسيخاً لمبادئ العدالة الجنائية التي تقضي بأن أخطر الجرائم التي تثير المجتمع الدولي بأسره يجب ألا تُرد دون عقاب.
رابعاً: الدعوة لإعداد قانون نموذجي استرشادي للدول العربية لإنفاذ الجرائم التي تختص بها المحكمة الجنائية الدولية والمبادئ القانونية العامة والإجراءات والتعاون الدولي وفقاً للمعايير الدولية.

خامساً: ضرورة وجود قضاء وطني، مستقل، ومحايد، وقادر على التعامل مع الجرائم الدولية الواردة بالنظام الأساسي للمحكمة الجنائية الدولية، استناداً إلى القاعدة التكميلية بين القضاء الوطني والقضاء الدولي. المنصوص عليها في معاهدة روما، الأمر الذي يتطلب ضرورة إعداد وتدريب أعضاء الهيئة القضائية على التعامل مع الجرائم الدولية والإلمام بمبادئ القانون الدولي فضلاً عن مبادئ القانون الجنائي، ونشر الوعي بأهمية الدور الذي يمكن أن يلعبه المجتمع المدني في هذا المضمار.

سادساً: تأكيد الدور المهم الذي ينبغي أن يلعبه أعضاء السلطة التشريعية في التصديق على المعاهدات والموثيق الدولية لحقوق الإنسان والقانون الدولي الإنساني وتعميقها والتشريعات الوطنية.

سابعاً: أهمية الحوار البناء بين مؤسسات المجتمع المدني وحكومات الدول العربية من أجل تعزيز وحماية قيم ومبادئ حقوق الإنسان ودولة سيادة القانون والعدالة الجنائية الدولية. ثامناً: ضرورة إنشاء تحالف على المستويين الوطني والافريقي من أجل المحكمة الجنائية الدولية، بحيث يكون عضواً في الإتحاد الدولي.

ملاحظة مرتكبي جرائم الإبادة الجماعية، وجرائم الحرب والجرائم ضد الإنسانية وجريمة العدوان حال وضع تعريف لها، وقد انتهى المشاركون والمشاركات إلى التوصيات التالية:

التوصيات:

أولاً: دعوة البلدان العربية وبخاصة دول مجلس التعاون الخليجي التي وقعت على اتفاقية روما لإنشاء المحكمة الجنائية الدولية إلى الانضمام والتصديق على المعاهدة استناداً إلى أن التوقيع على المعاهدة وفقاً للاتفاقية يفيدنا التي تجعل من توقيع الدول على أية معاهدة بمثابة تعهد بالتصديق، كما أن ما شهده من مطلقاً من اعتداءات وجرائم ضد الإنسانية ضد المواطنين العرب وخصوصاً في فلسطين والعراق تجعل من تفعيل دور المحكمة ذا أولوية قصوى.

فضلاً عن معارضة المضي قدماً في إجراءات التصديق على الاتفاقيات الثنائية التي تبرمها الولايات المتحدة مع العديد من الدول، ولما هذا الإطّار سائس المشاركون أعضاء السلطة التشريعية في الدول العربية عدم التصديق على تلك الاتفاقيات الثنائية.

ثانياً: الإعراب عن قلقهم البالغ للدور الذي تلعبه الولايات المتحدة الأمريكية في عرقلة دور المحكمة الجنائية الدولية وذلك عبر توقيع اتفاقيات ثنائية مع بلدان المنطقة لحماية الجنود والمواطنين الأمريكيين من الخضوع لأحكام معاهدة المحكمة الجنائية الدولية.

كما أعربوا عن تضامنهم في عدم الموافقة على تجديد قرار مجلس الأمن الخاص بأسباب الحماية للقوات الأمريكية العاملة تحت إمرة الأمم المتحدة.

ثالثاً: أهمية دعم المحكمة الدولية كقضاء جنائي دولي دائم ومستقل ومحايد يمارس

أعلنت المائدة المستديرة لأعضاء المجتمع المدني العربي في ختام اجتماعاتهم في البحرين أسس حول التصديق وتطبيق معاهدة المحكمة الجنائية الدولية توصياتها، مؤكدة أهمية التصديق على النظام الأساسي للمحكمة.

وأعربت التوصيات عن القلق البالغ للدور الذي تلعبه أمريكا في عرقلة دور المحكمة الجنائية الدولية، وأهمية دعم المحكمة الدولية كقضاء جنائي دولي دائم ومستقل ومحايد، وضرورة وجود قضاء وطني مستقل ومحايد وقادر على التعامل مع الجرائم الدولية الواردة بالنظام الأساسي للمحكمة وتأكيد الدور المهم الذي ينبغي أن يلعبه أعضاء السلطة التشريعية. وقبلاً يلي البيان الخاصي لإجتماع المائدة المستديرة منضمناً التوصيات الصادرة عنه:

نحن أعضاء المجتمع المدني في كافة أرجاء العالم العربي المجتمعين في مملكة البحرين بدعوة من الجمعية البحرينية لحقوق الإنسان ولحت رعاية وزارة العدل البحرينية وبالتعاون مع القيادة الدولية لحقوق الإنسان والتحالف الدولي من أجل المحكمة الجنائية الدولية

وبحضور ٤٩، ممثلين من الجمعيات، والمؤسسات الحكومية، والمنظمات غير الحكومية المعنية بحقوق الإنسان والقانون الإنساني الدولي بمملكة البحرين وتحالف دول مجلس التعاون الخليجي قد اجتمعنا في مملكة البحرين في دائرة مستديرة لمناقشة التصديق على معاهدة المحكمة الجنائية الدولية وتداول الحاضرون أهمية التصديق على النظام الأساسي للمحكمة الجنائية الدولية وانضمام الدول العربية إلى جمعية الدول الأطراف في المعاهدة وذلك بهدف تعزيز العدالة الجنائية الدولية ودور المحكمة الجنائية الدولية في

Al Wasat
5 June 2004

في اختتام ندوة المائدة المستديرة امس

«الدولة العربية إلى توقيع معاهدة «الجناية الدولية»



جانب من ندوة المائدة المستديرة العامة لتوقيع على معاهدة المحكمة الجنائية الدولية

حتى الآن، وتهدف بالدرجة الأولى إلى حماية الجنود الأميركيين من الانتزاع أمام المحكمة الجنائية الدولية.

تطور حقوق الإنسان في المملكة ومن جهة قدم عضو الجمعية المحررين في حقوق الإنسان أحمد الشحيبي وروبة عن الإصلاحات القضائية وحقوق الإنسان في مجلة البحرين سنوياً في ثلاثة أقرن حدثت بحدوث عهد جلالته الملك، وتحتوي على عدد من مرسوم منها برسم إلغاء محكمة أمن الدولة، والبرصود الضابطاً للقانون وتدابير أمن الدولة، وبرسم المحفل كالمثال تطبيقاً في شؤنا برين هذا الحرس بمرور برسم رقم (56) والذي يولي بطرف المحسبي من الضحايا والبيانات، وتحتوي على بياناً عن معاهدة المحكمة الجنائية الدولية التي عدت في مزاياه، حيثه، منيراً إلى الاختلاف الجوهري بين الدولة والمؤسسات بشأن المسؤولية، وتطرق المحسبي إلى الشكايات الأخرى كالمسألة ديوان الرقابة المالية، وما تحققت عدم نسيبت إلى مجلس النواب، وصور قانون الصعوبات وإجراء الانتخابات العامة، وخرج على الإصلاحات القضائية لإشادة الهيئة العامة ولا من الإجراء العام، ووضعت عن وزارة الداخلية وإصدار قانون الشركات الجديدة، والتشديدات في القضاء الفرعي، وإشادة المحكمة الدستورية والمحاكمة الإدارية، وإخفاء مخالفات الإحتلال العسكري، والتشديد والإجراءات، وإلزامها، وذلك على رغم تسجيل الشحيبي ملاحظته عن بعض الثغرات التي لم يصبها اعتراضات الصعوبات المدنية ووضع العراقيل أمام بعض الانتصارات، واعتبر المحسبي القوانين في مجال حقوق الإنسان في المملكة إيجابية وأنها لعبت بظلالها على تحسين لوضع حقوق الإنسان.

دعا المحققون المشاركون في ندوة المائدة المستديرة بشأن المحكمة الجنائية الدولية الدول العربية إلى توقيع معاهدة روما الخاصة بإنشاء المحكمة الجنائية الدولية، وشكلت أسس بعدد من المجتمعات البحرينية متعلقاً محلياً لأجل الدفع باتجاه توقيع المملكة المعاهدة المذكورة، ومن جانبها لجان التضامنية زينات المنصورى: «إن تصديق محكمة البحرين والتضامنية إلى معاهدة روما بشأن المحكمة الجنائية الدولية سيضمن أنها التزمت بمرورها في إنتاج أفضل لإنجاز خلقه البشرية في مجال العدالة الجنائية الدولية والقضاء على ظاهرة الإلثا من العقاب. هذا، وقد اختتمت الندوة أعمالها أمس.

الحصانة الدستورية لذات الملك

وأضافت المنصورى، ترحيماً أملاً من نظام روما الأساسي (2002) من نظام روما الأساسي مما تطبيق النظام على الأشخاص عائلته من يوم أي إعداماً بآلية صفة رسمية لهم، بينما نص المادة 27قرة (أ) من دستور المنطق في أن «ذلك رأس الدولة، والممثل الأساسي لها، فإنه مصونة لا نص، وهو الحامي الأمين للدين والوطن، ورمز الوحدة الوطنية، ولقد هذه العلاقة أكثر مما يصح أن تكون بغيره في البرودة الرسمية، حتى تصبح نظام المعاهدة جزءاً من القانون الوطني الظاهر ويكون لأحكامه الأولية عليه عند التعرض، إلا أن تلك الإيمتت عدم ضرورة إضراء أية تعديلات في القوانين الوطنية الموجودة، مثل قانون العقوبات أو قانون الإجراءات الجنائية أو الحاجة في من قوانين جديدة تتعلق بتطبيق المظالمين المحمات أو بالمساعدة القانونية المتبادلة التي تلحق كليات التعاون بين محكمة البحرين وبين المحكمة الجنائية الدولية».

وقدمت زينات المنصورى ورقتها المحمات، بالإضافة لبقاؤنا والمساهمة في مجال التضامنية إلى المحكمة الجنائية الدولية، وأكدت خلالها أن المحسبيين وبعدهم قانون روما الأساسي الخاص بالمعاهدة المتكاملة الدولية، وهي تعتبر بذلك هي عزها على التصديق عليها، ونحن هنا نأمل في تشكيل تحالف وطني يسهل من المجتمع الدولي الذي أخذ على عاتقه مسؤولية توفير من تكرر له الجرائم خطيرة ضد الإنسانية إلى المحاكم.

وتطرقت المنصورى إلى الكليات الدستورية والقانونية المتعلقة بقانوني إلى المعاهدة المتعلقة بآلية المحكمة الجنائية الدولية، حيث أن المادة 27 من دستور المملكة تنص على أنه «يؤمّن الملك المعاملات الشخصية، ويملكها في مجلس الوزراء والشؤون فوراً، وتكون للمعاهدة قوة القانون بعد إبرامها والتصديق عليها، وتطرق في معاهدات الصلح والتسليم، والمسافات المتعلقة بأراضي الدولة أو أراضيها، فيحقوق الجبهة أو حقوق الموانئ البحرية أو الخاصة، والمسافات المتبادلة والمصاحبة والإقامة، والبرامات التي تحمي شؤنا الدولة، حيثاً من التقلبات غير الواردة في الوثائق أو تتحدث بعمدة لقوانين البحرين، يجب إخطارها عن بطلانها، ولا يجوز في أي حال من الأحوال أن يتضمن المساعدة شروطاً ترمية تخالف شروطها العامة، ولما كانت أحكام نظام روما الأساسي تنص على إيجابيتها في حقوق المساءة وحقوق المواطنين، كما أنها تشمل طرائق الدولة، مثل من المقاتلات والتضمن تعديلات القوانين الوطنية، يجب ملاحظة ما يجب أن تعرض على المجلس الوطني من أجل إبرامها وإصدارها بموجب قانون، ومن هنا نشاء أهمية أن يطرحه المصطفى الوطني من أجل التضامنية إلى

التوصيات الختامية لندوة

بأمره بعداً الأثر من دون غلب.

وأما الإجراء إلى إجماع دولي، فقد تقرر روما التي تتضمنها المحكمة الجنائية الدولية، والتمكين الوطني، ولما تعاليم الدولية.

خاصة ضرورة وجود قضاء وطني مستقل، وإعداد في التعامل مع الجرائم الدولية الواردة في النظام الأساسي للمحكمة الجنائية الدولية إلى إشادة الأمانة العامة بين القضاء الوطني والقضاء الدولي، المنصوص عليها في معاهدة روما، الذي ينص ضرورة إعداد ترتيبات خاصة الهيئة القضائية على الترتيب مع الجرائم الدولية والإجراءات القانونية التي تشملها من مبادئ القانون الدولي، وتطور التي وأهمها الجوانب التي يمكن أن يجمع التسليم الوطني في هذا الصدد.

سائماً بكون دور الجمع الذي ينبغي أن يبعده أعضاء السلطة التشريعية إلى التصديق على المعاهدات والموثوق الدولية لحقوق الإنسان والمواطنون الدولي الإنساني، والمسئولية التشريعية الدولية.

سائماً أهمية الحوار المتبادل بين مؤسسات المجتمع المدني، ومكثرت الدول العربية من أمن تعزيز وجدية في مجال حقوق الإنسان، وهدت سيادة القانون، ورامة المثالية الدولية.

كذلك، ضرورة إنشاء تحالف وطني للتصديق على المعاهدة الدولية، بحيث يكون مفصلاً في الاتحاد الدولي.

Al Ayyam
5 June 2004

مائدة «حقوق الانسان» حول المحكمة الجنائية الدولية توصي: ضرورة معارضة اتفاقيات حماية الجنود الأمريكيين



شخص من حضور المائدة المستديرة



المنظر من داخل وزارة العدل ورئيس الجمعية العراقية لحقوق الانسان

ضمن اعدادات المحكمة وساعات في مسألة استقلالية الدعم بحيث تضمن عدم خضوع المحكمة لتصرفات سياسية وخاصة من الاعضاء الخمسة المنتخبين في مجلس الامن الابرار اعطيت من قبل للارتقاء اهم نقطة حصلت فيها للتصديق غير الحكومية الفتح.

واقبلت هذا الشرح فان افضل اجهود الجزيرة التي بنيتها الائتلاف من اجل المحكمة الجنائية الدولية والذي يشاركنا في دولتنا عذراء وهو يتسم في عسوقته منظمات غير حكومية من الشمال والجنوب، وأسأل ان تشملنا اشيرة من تشجيع اللذان محلي يكون حضور في التحالف الدولي في هذا الشأن كما نأمل ان يتكلم اخواننا في دول مجلس التعاون العربي، والى حد ما ان يصاحبه حضور فيرلين على مساعدة روما ويؤكد بحيث تكون مؤنجا بحدوثه في منطقة الخليج والمنطقة العربية.

واختتم من وزير الداخلية الجديد ان يوضح اهمية حقوق الانسان زيارة دورية للمسجونين واحسان الظروف الفروع بتقرير موضوعي ومحايد ايوهم مصداقية الاجراءات التي اتخذتها الوزارة في مجال اصلاح المسجونين مرصحة بطورة الحكومة لتوقيع المعهودين العربيين فريدا.

واشارت الى العريضة التي اطلقتها الجمعية شاصرة مستفسرة خواتمها نمو ايجابية بالملقن سراجهم.

السلطة التشريعية في التصديق على المعاهدات والوثائق الدولية لحقوق الانسان والمفهوم الدولي الانساني وتضمينها لتشريعات الوطنية، وخاصة النوازل المتأخر بين مؤسسات المجتمع المدني ومؤسسات الدول العربية من اجل تعزيز وحماية حقوق ومبادئ حقوق الانسان ومبادئ سيادة القانون والعدالة الجنائية الدولية.

وتضرورة اقامة ندواتها على المستويين الوطني والاقليمي من اجل المحكمة الجنائية الدولية. بحيث يكون حضورا في الاتحاد الدولي.

ولم تترك متابعه وزراء العدل عشوا ايجع تقدم في تشكيل اللجنة بمثابة اعدادها وقامت جامعة الدول العربية بفتح شارة حول الأثر القانوني للتصديق او الانضمام للمعاهدة الجنائية الدولية والتي شرارة العيرين من المستقلين بالملقن بالملقن لغرض ايجاد آرائهم حول النظام الاساسي في ضوء اجراءات المحكمة الدولية لحقوق الانسان.

والهدف الرئيسية جمعيات حقوق الانسان من سيطرة التجار من دور مختلفات للتشجيع المدني في برائة التصديقات حول اشاء المنظمة الجنائية الدولية بحيث استطاعت فرض ضوابطه الاجراءات كما رسمه ورأيه جميع انظروا في الخطوات المتخذة في سيطرة المنظمة الجنائية الدولية ويقتطع المعلومات حولها غير نيرات الاشرت والبريسد الاستراتيجي وطعت بيان شؤون المرأة والسفلى

الروس المشاركين في اعادة المستفيرة حول التصديق وتطبيق معاهدة المحكمة الدولية الجنائية امن بتسوية معارضة اعضاء السلطة التشريعية في الدول العربية للتصديق على الاتفاقية الثنائية التي توهمها امريكا مع كندا من الدول لحماية جنودها ومراقبيها الامريكين من الخوض لاحكام معاهدة المحكمة الجنائية الدولية.



رئيس الجمعية الدولية

لما هو العارلة الجنائية التي تظني بسان الجرائم التي تثير المجتمع الدولي بأسره. يجب ان لا تتر دون عقاب.

والدعوة لاحكام قانوني الاتحاد استراتيجي لدول العربية لاتخاذ اجراءات التي تلتصق بها المحكمة الجنائية الدولية والبدان القانوني العامة والاجراءات الدولية والاعلان الدولي والاعلان الدولية، وبضرورة وجود قضاء وطني قادر، ومستقل ومحايد يحسن التعامل مع الجرائم الدولية الواردة بالنظام الاساسي للمنظمة الجنائية لعزانيا ايجادها الى المساعدة المتبادلة بين اعضاء السونسي والسفهاء الدولي.

التصوير سلبها في معاهدة روما. وانه للفرانكون على الدول لهم اعدى يضيحي ان ينسبه لعضاء

توقيع الدول على اية معاهدة بمثابة تعهد بالتصديق. كما ان ما تشهده منطقتنا من اعتداءات وجرائم ضد الانسانية وضم النوازل العرب وخصوصا في فلسطين والعراق تجعل من تفعيل دور اللجنة اولوية قصوى.

فصلا عن معارضة النصي قدام في اجراءات التصديق على الاتفاقية الجنائية التي ترميها الولايات المتحدة مع العديد من الدول، وفي هذا الاطار نؤكد للفرانكون اعضاء المنظمة التشريعية في الدول العربية عدم التصديق على تلك الاتفاقية الثنائية.

والاعتراف من قسطهم البالغ الدور الذي تلعبه الولايات المتحدة الاسم كعجلة في حكمة من المحكمة الجنائية الدولية وذلك عبر توقيع الاتفاقيات ثنائية مع بلدان المنظمة لعضوية الجسود والواحد من الامريكان من الخوض لاحكام معاهدة المحكمة الجنائية الدولية.

كما اريدنا ان نقتلهم في عدم الموافقة على تجديده فرج مجلس الامن لكائن باعدادات جنائية القوات الامريكية العاملة تحت ابرة الامم المتحدة.

ولم نظفرون لعيرة مع المحكمة الجنائية الدولية لفضاء بناتي دولي ولم يستلزم ومبادئ باريس انضمامه على جميع الانداس دون تعيين او استغناء فرسيجا

وقامت بصحبة حقوق الانسان برعاية وزارة العدل العراقية قد انضمت على مدار 13 ايام من الاربعة الى يونيو لعقبة الثانية للمستفيرة حول التصديق وتطبيق معاهدة المحكمة الجنائية الدولية بالتعاون مع الشرطة الدولية لحقوق الانسان والمحاكم الدولي من اجل المحكمة الجنائية الدولية ويستحسن 2004. فضلا عن اجتماعات الجمعيات، والؤسسات الحكومية، والقطاعات غير الحكومية المعنية بحقوق الانسان والقانون الدولي الدولي بعقبة الجبرين وقلة دول مجلس التعاون الخليجي، وتداول الناضرون اهمية التصديق على النظام الاساسي للمحكمة الجنائية الدولية واتضمام الدول العربية الى جمعية الدول اطراف في المعاهدة وذلك بهدف تعزيز العدالة لجنائية انسانية وبنير المنظمة الجنائية الدولية في منطقة مرتكبي جرائم الازمة لاجتماعية. جرائم حرب والخرق ضد الانسانية ودرعية القانون حال وضع تعريف لها.

وقد انتهى المشاركون الى دعوة المنظمات لجنائية وخاصة دول مجلس التعاون الخليجي والى وقت منى اتفاقية روما لشاء المنظمة الجنائية الدولية الى الانضمام والتصديق على اتفاقية استنادا الى ان التوقيع على المعاهدة وفقا لاتفاقية لينا التي حصل من

Bahrain Tribune
5 June 2004

Call for Arab states to sign ICC statute

THE three-day roundtable seminar on the International Criminal Court concluded yesterday with eight recommendations to the Arab states – particularly the GCC – to sign the ICC statute, writes Mazen Mahdi.

The seminar expressed concern over the US efforts to hamper the ICC role by signing bilateral agreements protecting US servicemen against prosecution under the court's statutes.

Participants from 46 civil societies from the Arab world urged the Arab countries to ratify the ICC Statute to enable it to extend protection to Arabs, in view of crimes being committed against them in Palestine and Iraq.

"We express our opposition to the US agreements with other countries to protect its servicemen against prosecution under the accords and urge the Arab states not to ratify them," the participants said in a statement.

The participants also expressed opposition to the renewal of the protection status for US servicemen under UN command. "It is important to support the ICC as an independent and neutral court to emphasise the principles of justice against crimes that impact the international community," the statement said.

The Undersecretary of the Ministry of Justice, Shaikh Khalid bin Ali bin Abdullah Al Khalifa, had earlier said that Bahrain was working with other nations in the Arab League to iron out the differences and concerns related to the ICC.

Bahrain took part in the 1998 Diplomatic Conference of Plenipotentiaries on the Establishment of an International Court of Justice in Rome that laid the Statute of the ICC. On December 11, 2000 Bahrain signed the Rome Statute.

This was the second conference this year following the Sana'a meeting on the ICC in January, calling upon the Arab states to sign the Rome Statute. Only Jordan and Djibouti signed the Rome Statute in 2002.

The Bahrain Human Rights Society, in co-operation with France-based International Federation for Human Rights and the Coalition for the International Criminal Court organised the roundtable. The ICC has been set up by the UN and is based in The Hague.

ICC bid backed by Arab groups

THE crimes being committed against Arab citizens, particularly in Palestine and Iraq, make ratification of the International Criminal Court (ICC) statute essential, representatives of Arab and GCC non-governmental organisations stressed in Bahrain yesterday.

They also expressed their concern at US efforts to hinder the court's role by signing bilateral agreements with countries in the region "to protect American soldiers and citizens from being held accountable under the provisions of the ICC".

The organisations were issuing a final communique at the end of a round-table seminar on the role and

By ABDULRAHMAN FAKHRI

status of the ICC.

The event, held at the Elite Hotel, Juffair, was organised by the Bahrain Human Rights Society (BHRS).

The communique said it was important the ICC had the authority to promote international justice by punishing crimes such as genocide.

They also called for independent and impartial courts to be set up in Arab countries to deal with international crimes based on the provisions of the ICC's statute.

The two-day seminar was organised in co-operation with the International Federation for Human Rights and the Coalition for the International Criminal Court.

Gulf Daily News Saturday, 5th June 2004

**ROUND TABLE ON THE RATIFICATION AND IMPLEMENTATION OF THE STATUTE
OF THE INTERNATIONAL CRIMINAL COURT IN BAHRAIN**

ANNEX 5



Coalition for the ICC



Ratification and Implementation of the International Criminal Court Statute in Bahrain
Manama, Bahrain
9-10 November, 2005

DRAFT AGENDA

9 November, 2005

05.00-05.15 **Opening speech: Building on the recommendations of the ICC roundtable of June 2004**

for *Amal Basha, Coordinator of the Coalition for the International Criminal Court (CICC) North Africa and the Middle East*

05:15-06:15 **Introduction to the ICC and its jurisdiction**

Complementarity principle. Exercise of Jurisdiction. Cooperation. ICC/UN relations
Amal Basha, Coordinator of the CICC for North Africa and the Middle East

Definition of Crimes and General Principles of Criminal Law

Delphine Carlens, International Justice Desk of the International Federation for Human Rights (FIDH)

06:15-06:45 **Questions and Answers**

06:45-07.00 **Coffee Break**

07:00- 08.15 **The organization of the ICC and current challenges**

Overview of the situations before the Court

Amal Basha, Coordinator of the CICC for North Africa and the Middle East

Victims Rights before the ICC and important developments within the ICC

Participation, representation, reparation, protection

Delphine Carlens, International Justice Desk of the FIDH

Questions and Answers

**ROUND TABLE ON THE RATIFICATION AND IMPLEMENTATION OF THE STATUTE
OF THE INTERNATIONAL CRIMINAL COURT IN BAHRAIN**

-
- 05:45 **The Universal Ratification Campaign for the ICC**
Status of signatures/ratifications, work of the CICC
Amal Basha, Coordinator of the CICC for North Africa and the Middle East
- The regional FIDH activities pertaining to the ratification of the ICC Rome Statute**
Marie Camberlin, North Africa and Middle East Desk of the FIDH
- 05:45-06:15 **The ICC in the context of the Arab region**
Constitutional and Legislative Challenges for Ratification in the Arab world
Amal Basha, Coordinator of the CICC for North Africa and the Middle East
- 06.15-06.45 **Questions and Answers**
- 06.45-07.00 **Coffee Break**
- 07.00-08.00 **Bahrain and the ICC**
*Constitutional and political implications for ratification and implementing the
ICC Statute into national law*
Abdulla Al-Shamlawi, Lawyer and representative member in CICC
- The role of parliamentarians in advancing the ICC in Bahrain*
- Questions and Answers**
- 08:00-08:30 **Strategy session: Bahrain ICC Ratification Campaign and Launching of ICC
Coalition**
What can Bahraini Civil Society do to ensure speedy ICC Ratification?

ANNEX 6

RECOMMENDATIONS OF THE TRAINING SESSIONS ON THE ICC 9-10 NOVEMBER 2005

We, the participants in a training workshop on "the International Criminal Court", which was organized by Amnesty International (AI) Bahrain in cooperation with the MENA office of the Coalition for the International Criminal Court (CICC) and the support of the International Federation for Human Rights (FIDH), in Manama, Kingdom of Bahrain, from 9 to 10 November 2005 in the presence of Mr. Abdul Hadi Marhoon, Deputy Chairman of the Representative Council, and representatives of Bahraini NGOs, committees and activists interested in ICC from Bahrain and Saudi Arabia;

We discussed several topics related to the ICC and the importance of ratifying and implementing the ICC Statute for Bahrain and other Arab countries, especially GCC countries in addition to the need and necessity to join the ICC in order to promote international justice in our region;

We recommended the following:

1. Creating a national coalition in Bahrain consisting of Bahraini NGOs, committees and individuals supporting the ICC. The coalition would work later on extending itself locally and promote its objectives and activities regionally through asking the interested organisations to join the CICC.
2. Encouraging Bahraini government to ratify the ICC and speed up its process and asking other Arab countries, mainly GCC countries, to join and ratify the Rome Statute, as well as to reject the bilateral immunity agreements with the United States of America.
3. Calling members of the legislative bodies in all Arab countries, especially GCC countries, to discuss and ratify international treaties and conventions related to human rights and work on ratifying the ICC and integrating their provisions into national law, in addition to showing their opposition to bilateral immunity agreements with the United States of America.

We, the participants, also agreed to work together in raising awareness of NGOs, journalists, lawyers, judges, human rights activists and all concerned bodies and individuals on the ICC, and to create a network with the CICC and other coalitions in the region to exchange experiences and build common activities and campaigns in support of the ICC.

ANNEX 7

List of participants to the training sessions on the ICC, 9-10 November 2005

1. Amnesty International, Bahrain
2. Bahrain Centre for Human Rights
3. Bahrain Human Rights Society
4. Bahrain Bar Society
5. The Society for Public Freedom and Democracy Support
6. Al-Menbar Democratic Society
7. Bahrain Youth Forum Society
8. Bahrain Youth Society for Human Rights
9. Al-Wefaq Islamic Society
10. Islamic Action Society
11. The National Committee for Torture Victims
12. Women Petition Committee
13. The Bahraini Partnership on Violence Against Women
14. Abdul Hadi Marhoon, The Deputy Chairman of Representative Council
15. Mansour Al-Arrayed (Member of Shoura Council)
16. Abdulla Al-Shamlawi (Lawyer)
17. Jalila Al-Sayyed (Lawyer)
18. Mohd Ahmed (Lawyer)
19. Abdul Aziz Abul (Human Rights Activist)
20. Nabeel Rajab (Human Rights Activist)
21. Adel Al-Ghanim (Saudi Human Rights Activist)

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:

- Mobilise the international community
- Prevent violations, and support civil society
- Observe and alert
- 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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The **Bahrain Human Rights Society (BHRS)** was established on 31 May 2001. Its mission is to use peaceful and legal means to reinforce human rights principles and to prevent human rights violations as to preserve human dignity, justice and equality. In order to raise awareness on human rights principles and related international conventions, BHRS monitors and documents human rights violations and the efforts to resolve them, organizes training sessions, participates in local, regional and international activities related to BHRS goals and mission, publishes articles and press reports on matters related to human rights and files cases.

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