

ASIA-PACIFIC UPDATE

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TOGETHER FOR JUSTICE

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PHILIPPINES, MALDIVES, VANUATU

MORE ASIA-PACIFIC COUNTRIES JOIN GLOBAL FIGHT TO END IMPUNITY

On 30 August, 21 September and December 2, three countries in Asia Pacific – the Philippines, the Maldives and Vanuatu -- deposited their respective instruments of ratification to the UN Treaty office in New York, bringing the total number of International Criminal Court (ICC) States Parties in the region to 17.

The CICC commended the governments of these three states for demonstrating their commitment to international justice and the rule of law, and setting an example for other states to follow, in particular in a region where the ICC remains under-represented.

“With six ratifications, more states have joined the Court in 2011 than any year since 2003,”

said CICC Convenor William Pace in a press release welcoming the most recent ratification by the Government of Vanuatu. “We are greatly encouraged that three of the six are from the Asia-Pacific, as it means we are seeing a definite trend towards accountability for the most serious crimes in a region that has seen terrible atrocities committed yet is one of the most under-represented at the ICC.”

CICC Asia Pacific Regional Coordinator Evelyn Balais-Serrano, commending civil society efforts, said: “With the recent ratifications from the Philippines, the Maldives and Vanuatu, it appears that after more than 11 years of campaigning, Asia-Pacific is taking larger steps towards ending impunity and supporting the ICC as an important mechanism for attaining international justice.”



At the welcome ceremony at the ICC in The Hague, Philippine Ambassador, H.E. Ms Lourdes G. Morales, receives a special edition of the Rome Statute from ICC President Sang-Hyun Song; also present is H.E. Mr Jorge Lomónaco, Vice-President of the Assembly of States Parties. Photo: ICC

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The Philippines

On 30 August 2011, the Philippines deposited its instrument of ratification to the UN Treaty office in New York, taking its place in the ICC as its 117th member.

The government under then President Joseph Ejercito Estrada signed the Rome Statute on 28 December 2000. However, the concurrence of two-thirds of the Senate as required by Philippine law remained elusive for years, as the succeeding administration of Gloria Macapagal Arroyo did not transmit the ratification instrument to the Senate.

The Philippine Coalition for the International Criminal Court (PCICC) pursued the campaign for more than a decade, which included filing a mandamus case before the Supreme Court urging it to compel the Executive to transmit the ratification papers to the Senate. The PCICC also promoted the passage of what is now Republic Act 9851, otherwise known as the Philippine International Humanitarian Law of 2009, thus aligning domestic law with the Rome Statute a year before formal ratification.

As staunch Rome Statute advocates, Senators Loren Legarda and Miriam Defensor Santiago kept the issue alive in the Senate by filing resolutions in June 2001 and August 2006, respectively, urging the Executive (under then President Gloria Macapagal Arroyo) to complete the ratification process. Momentum picked up under the presidency of Benigno Aquino III and after the official visit of ICC President Judge Sang Hyun Song in March 2011. The CICC's Universal Ratification Campaign (URC), as well as sustained advocacy by national and international civil society also contributed in speeding up actions on the part of the Philippine government. A URC-focus country for many years, the Philippine government was again urged in February 2011 by CICC Convenor William Pace to prioritize Rome Statute ratification and pave the way for the Philippines to join the global movement to end impunity.

President Aquino endorsed the instrument of ratification of the treaty on 6 May 2011 and subsequently submitted the instrument to the Philippine Senate on 6 May 2011. The resolution filed

LETTER FROM THE REGIONAL COORDINATOR, EVELYN BALAIS-SERRANO

It is inspiring to witness more countries in Asia and the Pacific catching up with the rest of the world in recognizing the important role of the International Criminal Court in the advancement of international justice.

Recent ratifications and progress in the region point towards an increasing awareness and appreciation of the importance of the ICC as a mechanism for justice in the world. With the recent ratifications by the Philippines, Maldives and Vanuatu, we are confident that Malaysia will complete its ratification processes in the near future, bringing the total number of States Parties in the Asia Pacific region to 17.

Ratification campaigns continue in Indonesia, Nepal, Thailand, Vietnam and Laos, while efforts to create further awareness on the ICC and international justice issues are being carried out in China, India, Brunei Darussalam and other parts of the region. Moreover, campaigns for commission of inquiries in Burma and Sri Lanka continue to gain ground as more governments respond to civil society's call for justice for victims of human rights violations.

It is heartening to note that civil society initiatives are promoting the human rights, justice

and peace agenda in every possible venue and forum –the ASEAN, South Asian Association for Regional Cooperation, UN Human Rights Council, the newly established ASEAN Inter-Governmental Commission on Human Rights, the Commissions on Women and Children, national human rights institutions and relevant courts of justice, and other mechanisms aimed towards the realization of a common goal of ending impunity and securing justice for victims, their families and communities.

Implementation remains a major challenge as more states in the region join the ICC. The domestic implementation of the Rome Statute will gauge the impact of the ICC on peoples' lives and will determine the long-term relevance of this mechanism for international justice. It will be up to each of us to ensure that all the gains in our campaigns lead to concrete benefits for our people, especially for those victims who have long suffered as a result of the conflicts and wars that have plagued many parts of our region.

Lastly, with an increased membership from Asia-Pacific, greater representation at the ICC is expected from the region. On the basis of



Ms. Serrano with Hon. Richard Goldstone after his lecture on the ICC in Bangkok. (See story below). Photo: CICC Asia-Pacific

meeting a required minimum number of States Parties in the region, Asia-Pacific is entitled to one Minimum Voting Requirement in the upcoming ICC judicial elections, thus increasing the possibilities for Asia to have a third judge sitting at the ICC bench.

As we continue to convince more states to join the ICC, we hope to strengthen the voice of the people of Asia-Pacific, thus contributing to the global campaign for international justice and peace.

JUDGE RICHARD GOLDSTONE IN THAILAND ICC AS “INDISPENSABLE MECHANISM” FOR INTERNATIONAL HUMANITARIAN LAW



Judge Richard Goldstone and the Royal Princess, Maha Chakri Sirindhorn. Judge Goldstone graced the 5th Princess Maha Chakri Sirindhorn Lecture on International Humanitarian Law held in Bangkok to celebrate His Majesty King Bhumibhol Adulyadej's 84th birthday anniversary. Photo: Thai Red Cross Society

On 13-14 June 2011, former Chief Prosecutor of the UN International Criminal Tribunal for the Former Yugoslavia and for Rwanda, Richard J. Goldstone, visited Thailand upon the invitation

of the Thai Red Cross Society to participate in the 5th Princess Maha Chakri Sirindhorn International Lecture on International Humanitarian Law.

On 13 June, Judge Goldstone delivered a lecture on “The ICC: An Indispensable Mechanism for Prosecution of Violations of International Humanitarian Law” before key Thai government officials, members of diplomatic corps and representatives of international organizations, academe, NGOs and the media.

He focused on the ICC, which he lauded as “the world's best hope for genuine accountability for crimes against humanity.” He also stressed that the ICC “represents a major step forward in the fair, equal, and universal pursuit of justice.”

Judge Goldstone specifically noted CICC's work as contributing to the independence, effectiveness and fairness of the Court and, within this context, highlighted his role as head of the Independent Panel for the 2011 ICC judicial elections at the ASP.

Later that day, he met with representatives of government agencies, international organizations and media. Among the issues discussed were points raised by Thailand's legal experts relating to ICC jurisdiction, updates on the crime of aggression, Al Bashir's arrest warrant, immunities and other topics. He gave examples of states with similar reservations and apprehensions and how they resolved the issues and joined the Court. He said that Thailand could benefit from these experiences in deciding to become a member of the Court.

The immunity question involving the monarchy, specifically King Bhumibhol Adulyadej, often figures as the main concern hindering Thailand's ratification. Featuring Judge Goldstone as the main speaker in the lecture series commemorating the King's 84th birthday was thus seen by diplomatic community members and civil society as a positive indication of the Thai government's direction towards ICC accession.

(For Judge Goldstone's speech, go to http://www.fichl.org/fileadmin/fichl/documents/fichl_ops/fichl_ops_2_goldstone_en.pdf)

CICC ASIA PACIFIC'S FIRST MISSION TO THE MALDIVES

CICC-Asia embarked on a mission to Maldives, one of the target countries for ratification, from 16-22 June 2011.

Being the Coalition's first visit to Maldives, the purpose of the mission was to introduce the ICC and the CICC to NGOs and relevant government agencies, including members of Parliament, and to establish links for future partnerships. It also aimed to follow up on the recent decision of the Parliament to accede to the Rome Statute by encouraging the government to deposit the ratification instrument to the UN at the government's earliest convenience, as well as offering assistance in the drafting and adoption of ICC implementing legislation.

Evelyn Balais Serrano, CICC Asia Pacific Regional Coordinator, met with key people involved in justice and human rights issues, including Mariyam Azra Ahmed, President of the Human Rights Commission of

Maldives (HCRM); Attorney General Abdulla Muizzu; former Justice Minister and current Adviser to President Ahmed Ali Sawad; Prosecutor General Ahmed Muizzu, Deputy Secretary of the Foreign Minister's Office; members of Parliament and representatives of various human rights NGOs. They expressed interest in learning more about the ICC, in preparation for drafting and adopting their own implementation law. They were also receptive to other countries' experiences, especially regarding law reform and development of the judicial system.

Serrano mentioned the efforts that the Commonwealth (of which Maldives is a member) is making in these areas, while citing the work of other organizations like the ICRC, Amnesty International and Parliamentarians for Global Action with regards to implementation of the Rome Statute.

CICC UNIVERSAL RATIFICATION CAMPAIGN TARGETS INDONESIA, NEPAL, THAILAND, VIETNAM IN SECOND HALF OF 2011

Asia remains one of the least represented regions in the ICC. In the second half of 2011, the CICC's Universal Ratification Campaign (URC) focused on four more Asian countries namely Indonesia (July), Nepal (August), Thailand (October) and Vietnam (November). The Coalition calls upon a different country each month to ratify or accede to the Rome Statute.

The URC earlier this year targeted Malaysia (January), the Philippines (February) and the Maldives (May).

In a letter to Indonesian President, H.E. Susilo Bambang Yudhoyono, and other top officials last July, CICC Convenor William Pace encouraged accession to the Rome Statute. "By embracing the Rome Statute system, Indonesia will strengthen its leadership in the Asia region toward increasing accountability for the gravest crimes," Pace said.

The Coalition cited the inclusion of the accession to the Rome Statute within the National Human Rights Action Plan (2011-2014) and called on the government of Indonesia to honor this commitment.

Evelyn Balais-Serrano, the Coalition's Asia Coordinator, pointed out that Indonesia's accession would also serve to "...maximize its leadership role within ASEAN and the Organization of the Islamic Conference."

For the URC in August, CICC wrote to Nepalese President, H.E. Mr. Ram Baran Yadav, and other leaders of Parliament, to call for Nepal's accession to the Rome Statute. It recalled efforts towards ratification of the Rome Statute such as the Nepalese Legislature's decision on 24 July 2006 to unanimously endorse a proposal to accede to the

Rome Statute and the subsequent tabling of the matter before the Cabinet in February 2009.

"Nepal's accession will signal the government's readiness to fulfill its promise to end impunity for genocide, crimes against humanity and war crimes" said Evelyn Balais-Serrano. "It is time for the government to turn its commitments into action and take concrete steps to join the ICC."

The Coalition's URC for October focused on Thailand. Newly elected Prime Minister, H.E. Ms. Yingluck Shinawatra, and other senior officials were encouraged by the CICC through letters and press statements to move forward with the accession process. Evelyn Balais-Serrano stressed Thailand's leading position in the ASEAN as one of the founding member countries alongside Malaysia, the Philippines, Indonesia and Singapore. "With a new government, it is time to consider ratification of the Rome Statute in its efforts to forge unity among its people and its neighboring countries," she said. "Its commitment to ending impunity and pursuing justice for victims of past conflicts are in line with the goals and spirit of the Rome Statute and the ICC."

Thailand was an active participant in the Rome Conference, but steps toward accession have been hampered by legal challenges over the compatibility of the Rome Statute with domestic legislation. Addressing these, the Coalition called on Thailand to draw examples from States Parties that have faced similar concerns and have successfully addressed them. The organization called attention to specific provisions in the Rome Statute which have allowed states to harmonize their domestic legislation with the Rome Statute. They further stressed the principle of complementarity of the Rome Statute system, which recognizes the primary jurisdiction of states over alleged perpetrators of ICC crimes.

Vietnam was the CICC's URC focus for the month of November. In its letter to H.E. Mr. Nguyen Tan Dung, the Coalition recalled that Vietnam had actively participated in the Rome Conference and communicated its readiness to cooperate with the international community in this undertaking. In fact, Vietnam's Criminal Code has already incorporated some of the crimes of the Rome Statute, such as war crimes and crimes against humanity.

Vietnam has since strongly articulated in various ways its sustained interest in and support for the ICC. In April 2006, under EU sponsorship, a delegation of 14 legal experts led by the Vice-Minister of Justice went to the ICC for a study tour. Then in 2008, Vietnam's Ministry of Justice, with the support of the Delegation of the European Commission to Vietnam organized for the first time an International Seminar on the ICC in Danang City. The following year, the Permanent Mission of Vietnam to the UN expressed support for the ICC, as "an objective and independent international court, which complements the national juridical system and operates in accordance with the principles of international law."

Part of this process of reflection on joining the ICC is Vietnam's participation in the annual Assembly of States Parties (ASP) as an observer. It has also ratified other international conventions on human rights, such as the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity (1968), Convention on the Prevention and Punishment of the Crime of Genocide (1948), and International Convention on Suppression and Punishment of the Crime of Apartheid (1973).

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Loretta Ann Rosales (center), chairperson of the Commission on Human Rights of the Philippines celebrates the Philippines' ratification of the Rome Statute with members of the Philippine Coalition for the International Criminal Court. Photo: PCICC

by Sen. Santiago calling for the Senate's concurrence finally passed the third and final reading on 23 August, with a 17-1 vote in favor of ratification. In their sponsorship speeches delivered on 16 August 2011, Sen. Santiago, chair of the subcommittee on the ICC and Sen. Legarda, chair of the Foreign Relations Committee, both stressed the significance of ratifying the Rome Statute as a move that would allow the Philippines to participate in international efforts to end impunity for the most serious international crimes and thus provide better protection for millions of Filipinos. The Philippines made history as the first of the five founding member states of the Association for Southeast Asian Nations (ASEAN) to become a State Party to the ICC. Following in the footsteps of Cambodia and Timor Leste, the Philippines is now the third country in Southeast Asia to become an ICC State Party.

The Maldives

On 21 September 2011, and within three weeks of the Philippines' ratification, Maldives deposited its instrument of accession to the Rome Statute before the UN Treaty Office. Maldives is the third South Asian country to join the ICC after Afghanistan and Bangladesh, and became the 118th State Party.

Previously, in June 2011, President Mohamed Nasheed forwarded the issue of Maldives' accession to Parliament. Lengthy debates ensued, after which the motion of Dr. Abdulla Mausoom of the Dhivehi Rayyithunge Party-People's Alliance

(DRP-PA) was passed to send the matter to the National Security Committee for further study.

A positive recommendation for Maldives to adhere to the treaty was subsequently submitted by the National Security Committee. On 14 June 2011, Parliament took up this recommendation and voted almost unanimously (61-3) in favor of accession.

ICC President, Judge Sang-Hyun Song, who had met parliamentarians from Maldives earlier this year at the Parliamentarians for Global Action's (PGA) Second Asia-Pacific Parliamentary Consultation on the Universality of the Rome Statute of the International Criminal Court, held in Kuala Lumpur, Malaysia, commended them for "the resolve they showed for moving the accession process forward in their country." Judge Song welcomed the development as a contribution to "strengthening Asian participation in the Rome Statute system of international justice."

Civil society advocacy and campaigning have significantly contributed to Maldives' accession. In April 2011, 11 civil society organizations from various countries met in Manila for the CICC Asia Pacific Regional Strategy Meeting, and called on member states of the South Asian Association for Regional Cooperation (SAARC) to follow Afghanistan and Bangladesh's example by ratifying the Rome Statute. The CICC also focused on Maldives in May, as part of the Universal Ratification Campaign. CICC convenor William Pace said in a press release issued on 2 May 2011 that he en-

couraged Maldives "to embrace this new system of international justice and honor its growing commitment to the promotion and protection of human rights."

From June 16 – 22, CICC Asia Coordinator Evelyn Balais-Serrano went on a mission to Maldives to meet with relevant government agencies and NGOs in order to introduce the ICC and the CICC and to establish links for future partnerships. Given that Parliament had just passed the ratification bill on 14 June, Serrano discussed proposals for assistance in the drafting of an implementation law with relevant officials and NGOs. (See p. 3)

Serrano also engaged with the Maldives' media, and, in an interview with Minivan News, stated that Maldives' decision to accept the jurisdiction of the International Criminal Court (ICC) opens many opportunities to improve the country's domestic legal system, and represents a significant commitment with substantial responsi-



At the deposit ceremony at the UN, H.E. Mr. Ahmed Naseem, Minister of Foreign Affairs of the Republic of Maldives and UN Legal Counsel Ms. Patricia O'Brien. Photo: ICC

bilities. (<http://minivannews.com/politics/adopting-rome-statute-benefits-domestic-legal-systems-says-coalition-for-the-international-criminal-court-21588>>)

Maldives currently chairs the South Asian Association for Regional Cooperation (SAARC), with former Attorney General of Maldives Fathimath Dhiyana Saeed serving as SAARC's first female Secretary General. This puts Maldives in an influential position to inspire its neighbors in the region to join the international criminal justice community seeking an end to impunity and accountability for the most serious crimes.

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CICCC Regional Coordinator Evelyn Balais Serrano (fourth from right) after a meeting with representatives of major NGOs during her mission to the Maldives from 16-22 June 2011.
Photo: CICCC Asia-Pacific

Vanuatu

The South Pacific island-nation of Vanuatu deposited its instrument of ratification at the UN Treaty Office in New York on 2 December, making it Asia Pacific's 17th ICC state party and bringing to 120 the total number of ICC state parties in the world.

Said ICC President, Judge Sang-Hyun Song in a press release last 5 December: "With this act, Vanuatu strengthens its contribution to the international legal order and acquires additional protection for its territory and population against the gravest crimes known to humanity. I hope Vanuatu's example will encourage other members of the Pacific Island Forum – many of



Prime Minister Meltek Sato Kilman of Vanuatu. He was elected in September 2011 to preside over the general debate of the 66th session of the UN General Assembly.
Photo: UN Photo

which still remain outside the Rome Statute system – to join the ICC in the near future."

Vanuatu had been making significant strides in its domestic process towards Rome Statute ratification. For one, it passed in August 2011 a law that mandates national courts to investigate and prosecute crimes of genocide, crimes against humanity and war crimes.

In a press release, Amnesty International (AI) urged Vanuatu Prime Minister Sato Kilman who presided over the general debate of the 66th UN General Assembly in September "...to seize the opportunity to accede and thereby confirm Vanuatu's commitment to upholding international human rights standards." (<http://www.amnesty.org/en/for-media/press-releases/vanuatu-urged-demonstrate-its-continuing-commitment-justice-2011-09-20>)

During the Parliamentarians for Global Action's (PGA) Second Asia-Pacific Parliamentary Consultation on the Universality of the Rome Statute of the International Criminal Court in Kuala Lumpur in March, Maryline Arnhambat Abel, the head of the Women's Wing of Vanua'aku Party - Greens Confederation of Vanuatu committed to tabling a report in Parliament in support of ICC ratification as a way of encouraging the process forward. She said that Vanuatu had in fact already agreed to ICC accession when it accepted the terms of Article 11.6 of the revised Cotonou Agreement. The said article commits parties "...to take steps towards ratifying and implementing the Rome Statute and related

instruments." (Agreement amending the partnership agreement between the members of the African, Caribbean and Pacific group of states, of the one part, and the European community and its member states, of the other part, Cotonou, 23 June 2000)

Another Pacific Island participant in the consultation, Speaker of Parliament Hon. Taumati Luta of Kiribati expressed appreciation for positive developments in the relationship between the ICC and key non-States Parties, and shared plans of briefing Parliament and Government to urge ratification.

The PGA consultation also produced the "Kuala Lumpur Action Plan to Promote the Universality of the Rome Statute of the ICC in the Asia-Pacific", which includes a commitment on the part of the Kiribati, Vanuatu and Indonesia participants to "...encourage their Governments to proceed with prioritizing consideration of the Rome Statute's Accession with the view of taking a positive determination as early as possible" as well as "...promote this process and show a readiness to deliberate on accession, if so required, and take action on implementing legislation."

"With this act, Vanuatu strengthens its contribution to the international legal order and acquires additional protection for its territory and population against the gravest crimes known to humanity," said ICC President, Judge Sang-Hyun Song.

CAN MALAYSIA BE FAR BEHIND?

After completing domestic requirements in 2011, the road is clear for Malaysia to move towards ratification of the Rome Statute.

On 21 March 2011, the Malaysian Cabinet – the sole authority in the country to approve and accede to international treaties – reached agreement for the Malaysian government to accede to the ICC. The remaining step is the formal deposit of Malaysia's instrument of ratification at the UN Treaty Office.

Calls for Malaysia to ratify the Rome Statute were made as early as 2002, when the treaty came into force. In the succeeding years, civil society campaigning led and sustained by CICC focal point in the country, the Malaysian Bar Council, kept the issue in the public eye. The past two years turned significant with the Minister in charge of law and parliamentary affairs, Datuk Seri Nazri Aziz himself advocating for this cause, first at the sixth Consultative Assembly of the Parliamentarians for Global Action on ICC in Kampala in May 2010. Nazri stated that "Malaysia cannot fail in its duty to stand with the rest of the world in ending impunity" and further encouraged other Asian countries to "stand in the forefront of this endeavor to transform the 'culture of impunity' into a 'culture of responsibility'".

Nazri's commitment to have an accession bill tabled in Parliament upon his return from Kampala did not materialize, but he continued to show support for Malaysia's accession to the ICC, such as chairing the PGA's Second Asia-Pacific Parliamentary Consultation on the Universality of the Rome Statute of the International Criminal Court in Kuala Lumpur, which PGA organized to coincide with ICC President Judge Song's visit to Malaysia in March 2011.

"Malaysia's participation would certainly enhance its international prestige and inspire other Asia-Pacific nations as well. It would be a significant contribution to the promotion of international criminal justice. International justice is one of the most important expenditures a Government can invest in, not only for prevention, but also to help reconcile conflict situations in the world. The ICC observes the highest standards of fairness and due process," he said in his opening address. He was joined in this view by the Speaker of



Malaysian Bar Council forum commemorating International Justice Day 2011.
Photo: Malaysian Bar Council

the House of Representatives H.E. Tan Sri Datuk Seri Panglima Pandikar Amin Mulia, and the President of the Senate, Tan Sri Abu Zahar Ujang who also expressed support for Malaysia's accession.

A number of reservations are still held by some public officials, such as Attorney General Tan Sri Abdul Gani Petail. During the PGA Consultations, he referred to issues of non-immunity of the monarchy and head of state, the no-reservation clause in the Rome Statute and the death penalty provision in Malaysia's penal code. "But I leave it to the policymakers to decide," he concluded.

These observations were echoed at the Asian-African Legal Consultative Organization Meeting of the Legal Experts on the Rome Statute of the International Criminal Court held in July 2011 in Putrajaya, where Petail recognized the establishment of the ICC in 1998 as a milestone in efforts to bring to justice to victims of the most heinous crimes. He hoped to be clarified on matters of "practical implementation of the Rome Statute at different levels." Petail mentioned his country's commitment to rejecting impunity and upholding the rule of law but at the same time, was "[adopting] a cautious approach and...considering the best way to implement the Rome Statute," before fully acceding as a member of the Court. Other countries' experiences with complying with ICC obligations were also being studied, he noted. (AALCO Summary Report, < <http://www.aalco.int/SummaryReportICC2011%20.pdf>>)

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ASIAN VOICES MARKING INTERNATIONAL JUSTICE DAY 2011

CICC member organizations in several Asian countries commemorated International Justice Day (IJD) with various activities, from issuing media statements to holding public fora on the Rome Statute of the ICC, international humanitarian law and justice, and other related issues. Broadcasted globally through the CICC website and other media outlets, these activities helped to foreground human rights concerns, as well as ongoing campaigns to end impunity and promote international justice, the rule of law and accountability.

AFGHANISTAN

Afghanistan Watch highlighted IJD in a statement issued on 17 July 2011 to remind the Afghan government of its commitment as an ICC State Party to investigate and prosecute crimes included in the Rome Statute.

A State Party to the ICC since February 2003, Afghanistan was opened for preliminary examination by the Office of the Prosecutor in 2007. According to the ICC, requests for information were sent to the Afghan government about alleged crimes within the jurisdiction of the Court, but no response has been received.

From Kabul, Afghanistan Watch urged the international community and the UN "...to work with the Afghan State to ensure that Afghanistan, as a country under preliminary investigation, is ready to fulfill its commitments and obligations." These include the aligning of Afghanistan's national judicial system with ICC standards and requirements, as well as the implementation of the crimes and principles of the Rome Statute within national criminal legislation.

The organization called for urgent attention to the situation in Afghanistan, which it said had worsened since 2001. "According to the latest UN report, the first half of 2011 was the bloodiest for Afghan civilians since the war began in 2001," the organization reported. "During this period, 1462 civilians were killed, 15% higher than the figure for the same period last year."

They thus welcomed the opportunity offered by the IJD to demonstrate solidarity and support for the global struggle for justice and accountability, and to stress the important role of the ICC. "These reports and the recent history of armed conflict and instability have clearly shown that Afghanistan is a country where the urgency and relevance of the ICC is felt more than anywhere else. It is a situation in which human rights violations have continued unabated, a culture of impunity and lack of accountability has been entrenched and

the Afghan state has displayed a chronic lack of commitment and political will to hold accountable those responsible for heinous crimes and massive human rights abuses during the past 30 years."

BANGLADESH

In a statement released on July 17, Odhikar recalled the sustained campaign that successfully led to the country's ratification of the Rome Statute in March 2010, becoming the second among South Asian nations to do so.

At the same time, the organization encouraged reflection on continuing human rights violations in the country, in Asia and other parts of the world. "On this day, Odhikar reflects on the suffering of millions of children, women and men who were victimized and waited for justice, including victims of international crimes committed in Bangladesh during 1971, irrespective of ethnic, cultural, religious or political ideology. Odhikar resolves to keep on working for justice."

Odhikar President Dr. CR Abrar and Secretary Adilur Rahman called on all states to support the ICC, its pursuit of justice and its upholding of the rule of law. They made this call in light of their observation that "State Parties to the Rome Statute as

not referred, such as the issue of Palestine, the legitimacy of the ICC will be affected by the politically motivated actions of the Security Council."

In closing, they called for universal ratification of the Rome Statute, "...to turn the ICC into a truly universal justice instrument."

INDONESIA

On 21 July 2011, the Indonesian Civil Society Network for the ICC held a briefing with Komnasham, the Indonesian Commission on Human Rights, on the challenges facing the process of acceding to the ICC.

These include concerns of the Indonesian security sector about the possible prosecution of past crimes under the ICC.

Bhatara Ibnu Reza, head of IMPARSIAL/Indonesian Civil Society Network for the ICC, pointed out the benefits that accession to the Rome Statute would bring to the protection of human rights in Indonesia. The Jakarta Post quoted Bhatara as stating, "It will set new rules of engagement for the military to avoid violations of human rights. It will also give a distinction for trials of war crimes, which is actually not in the area of the military court."

Marzuki Darusman, Executive Director of the



Panelists at Malaysian Bar Council's IJD Forum: Mr N. Sivananthan, Member of the Malaysian Bar and Vice-President (Asia Pacific) of the International Criminal Bar; Mr Andrew Khoo, Chairperson, Bar Council Human Rights Committee; Mr Shaharuddin Onn, Principal Assistant Secretary, Department of Research, Treaties and International Laws, at the Malaysian Ministry of Foreign Affairs; and Mr Christopher Leong, Vice President, Malaysian Bar. Photo: Malaysian Bar Council

well as other states, who are obliged to cooperate with the ICC, are markedly reluctant to do so."

Odhikar's statement further underscored "the selective approach of the UN Security Council in charging their chartered duties to maintain international peace and security, which impacts the credibility of the ICC. The Security Council should not be biased in its referrals to the ICC, which it has been to this day. If other serious situations are

Human Right Resource Center for ASEAN, who also attended the briefing, told the Jakarta Post that the military needs to be better informed about the ICC. "They have yet to understand that the Rome Statute will only be applicable for actions in the future after a party [ratifies] it, not for human rights violations in the past."

ELSAM, a member organization of the Indonesian Civil Society Network for the ICC, added

ASIAN VOICES MARKING INTERNATIONAL JUSTICE DAY 2011

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Speakers at the forum organized by PCICC, Rebecca Lozada, PCICC national coordinator; Prof. Danilo Concepcion, Dean of the University of the Philippines College of Law; and Atty. Harry Roque, PCICC board member. Photo: PCICC

that there is no reason for the Indonesian military to be concerned and it should not delay the process further.

Indriaswati D. Saptaningrum, ELSAM Director, said the military must change their views of the Statute in order for the government to proceed with ratification.

MALAYSIA

The Malaysian Bar Council's (MBC) Human Rights Committee held a forum on "The Benefit to Malaysia of Being a State Party to the Rome Statute of the International Criminal Court" on 28 July 2011 at the Bar Council Auditorium in Kuala Lumpur.

Opening the forum, Malaysian Bar Vice-President Christopher Leong lauded the Malaysian Government's intent, announced last March, to ratify the Rome Statute and expressed hopes that full ratification would follow.

He quoted MBC President Lim Chee Wee, who stated in a previous press release commending the Malaysian government that "the fact that the ICC operates on a principle of complementarity means that the international jurisdiction of the ICC is carefully balanced with the jurisdiction of the Malaysian courts. Malaysia has nothing to fear from ICC membership. Indeed, by becoming a party to the Rome Statute, Malaysia will enjoy the right to nominate candidates to all the organs of the ICC, including the Offices of the Prosecutor, the Registrar, and judges."

tee, moderated the event.

Shaharuddin Onn informed the audience that the issue of the Rome Statute's supposed incompatibility with the Malaysian common law system was cited during debates at ministerial levels. One argument against ratification pointed to the lack of necessary domestic legal provisions to implement and enforce the Rome Statute locally. However, Shaharuddin Onn clarified that the Rome Statute will indeed complement Malaysia's legal system as a result of its core complementarity principle.

N Sivananthan, supporting Shaharuddin Onn's view, said that should Malaysia ratify, it will be demonstrating respect for humanity, life and the principles associated with international transparency and accountability. A major actor in the Association of Southeast Asian Nations, (ASEAN), Malaysia is also well-positioned to take the lead and set the standard for other countries to follow.

PHILIPPINES

The Philippine Coalition for the ICC (PCICC) marked the 13th anniversary of the adoption of the Rome Statute with a forum and screenings of the film *The Reckoning* in Quezon City and with their project partners in the province of Misamis Oriental in the southern island of Mindanao.

On July 18, an estimated 150 students, network members, lawyers, government officials and human rights advocates participated in a forum

The forum featured speakers from the government and officers of the MBC, including Shaharuddin Onn, Principal Assistant Secretary in the Department of Research, Treaties and International Laws of the Ministry of Foreign Affairs, and N Sivananthan, MBC member currently on the ICC Public Counsel for the Defense and Vice-President of the International Criminal Bar (Asia-Pacific). Meanwhile, Andrew Khoo, Chairperson of the Human Rights Commit-

tee, moderated the event. The forum featured speakers from the government and officers of the MBC, including Shaharuddin Onn, Principal Assistant Secretary in the Department of Research, Treaties and International Laws of the Ministry of Foreign Affairs, and N Sivananthan, MBC member currently on the ICC Public Counsel for the Defense and Vice-President of the International Criminal Bar (Asia-Pacific). Meanwhile, Andrew Khoo, Chairperson of the Human Rights Commit-

tee, moderated the event. A film showing of *The Reckoning*, the Battle for an International Criminal Court provided the backdrop for the forum. Among the featured speakers were CICC Regional Coordinator Evelyn Balais-Serrano and Amnesty International - Philippines country Director Dr. Aurora Parong, who both shared their knowledge and insights about the ICC's past and current work, its special focus on gender justice and victims' rights and protection, and the Philippines' progress towards ratification.

They were joined by former UP Law Dean Merlin Magallona and IILS Director Prof. Harry Roque, who discussed the benefits and challenges of implementation of the Rome Statute in the Philippines. For his part, Dean Yakal Giron of the College of Criminology with the Asian College of Science and Technology, shared information on the current state of criminology and criminal justice education in the country.

PCICC National Coordinator Rebecca Lozada moderated the forum.

On 15 July 2011, civil society and government partners of PCICC in the Misamis Oriental province also commemorated International Justice Day with a public showing of the documentary *The Reckoning* at the Provincial Capitol of Cagayan de Oro City. Participating in the event were members of the Provincial Peace and Order Council, composed of the provincial officers of the Department of Interior and Local Government, the Commission on Human Rights, Armed Forces of the Philippines, Philippine National Police, municipal officials, and civil society representatives such as Amnesty International (CDO Chapter), Balay Mindanaw Foundation, Inc., and Balaod Mindanao.

About a hundred people gathered at the Capitol grounds to see the film. Earlier that week, the provincial government put up a banner in the town plaza signifying its support for the ICC and its intention to observe International Justice Day. A second showing was held on July 17.

PEOPLE'S REPUBLIC OF CHINA

On July 18, the China ICC Project Office organized a workshop with legal experts on "Intern-

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Graduate students of Beijing Normal University holding a workshop on the ICC last 18 July. Photo: ICC Project China

tional Justice Day,” attended by graduate students of Beijing Normal University.

Among the topics discussed were the newly issued arrest warrants by the Court, President Bashir’s visit to China, the situation in Libya, the Darfur investigation and CICC’s campaign on the upcoming ICC elections. The workshop deepened the participants’ understanding of international justice and inspired enthusiasm towards ending impunity.

The participants agreed to select possible cases for study and analysis by the law experts present. A series of case books on this research will be published, as one way of promoting international justice in the country.

THAILAND

On August 18, a seminar on “ICC and the Thai Society -- from Debate to Commitment” was held in north Bangkok, Thailand. Originally set for July 17, the event marked the inauguration of the newly revitalized Thai ICC Working Group led by the Thai National Human Rights Commission (TNHRC).

In her opening remarks, the Chair of the TNHRC, Dr. Amara Pongsapich, emphasized the role of the ICC in preventing human rights violations and in putting an end to impunity for those who commit the most serious crimes. She noted the role of the Commission’s mandate in promoting ratification and implementation of international treaties, including the Rome Statute of the ICC.

The keynote address was delivered by Prof. Kanit Na Nakorn, former Attorney General and now Chair of the Law Reform Commission, a body formed in the wake of the 2009 conflict. Prof. Kanit stressed the important role of this body in incorporating international standards of law into domestic law. He praised the advances made by the international community at the Rome Confer-

ence and discussed how Thai society can benefit from these advances.

Evelyn Balais-Serrano, CICC Asia Regional Coordinator, was one of the key speakers in this event, which she also helped plan in June alongside the Thai ICC Working Group.

the Ministry of Foreign Affairs, Ministry of Justice, Supreme Court, security sector, leading universities and media.

The revitalization of the Thai ICC Working Group is the result of earlier missions to broaden the ICC network in Thailand. It is composed of the Thai National Human Rights Commission as its head organization, the Campaign Committee on Human Rights, Amnesty International - Thailand, Sukothai Thammathirat Open University Law School and other organizations and schools. Its work focuses on information dissemination about the ICC and lobbying for Thailand’s accession to the Rome Statute.



A panel presentation on Thailand perspectives on the ICC during the ICC seminar organized by the Thai Working Group on the ICC led by the National Human Rights Commission held on 18 August. Photo: CICC Asia Pacific

Other speakers included Judge Jaran Pakdithanakul of the Thai Constitutional Court and Prof. Vitit Muntharborn of Chulalongkorn University Law School.

The highlight of the program was a panel composed of representatives from the victims group, The May Victims Foundation, the ruling party Pea Thai Party, opposition party Democratic Party, Law Reform Commission, Human Rights Commission, Attorney General’s Office and Thammasat University Law School.

All agreed that there is a need to implement the rule of law in Thailand and to dispense justice for the victims of past and most recent conflicts. They pointed out that there will be no peace in the country until some mechanisms are put in place to bring justice to victims and to stop the conflicts and violations of human rights from further destroying the economic, social and cultural advances made by Thai society. They further noted the need to raise awareness about the ICC and the benefit of ratifying the Rome Statute among members of government and the public at large. The event brought together 130 participants from

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“Press Release: Malaysian Bar commends Malaysian Government’s intention to ratify the Rome Statute.” 15 March 2011. <http://www.malaysianbar.org.my/press_statements/press_release_malaysian_bar_commends_malaysian_governments_intention_to_ratify_the_rome_statute.html>

JAKARTA, INDONESIA

EXPERTS CONVENE IN 2-DAY REGIONAL SEMINAR ON LESSONS, CHALLENGES IN PROSECUTING SERIOUS CRIMES IN ASIA

On 15-16 November 2011, a regional symposium and expert symposium on “Prosecuting Serious Crimes: Challenges and Lessons Learned in Asia” was held in Jakarta Indonesia, organized by the International Center for Transitional Justice (ICTJ), Kontras, Paramadina University and the Indonesian Coalition for the International Criminal Court (ICICC). CiCC-Asia-Pacific Coordinator Evelyn Balais Serrano participated in the seminar and symposium.

The seminar included a keynote address by Indonesia’s attorney general Basrief Arief and two panels dealing on Prosecutions as part of a Holistic View of Transitional Justice: Lessons and Challenges in Asia, Victims’ Perspectives on the Impact of Serious Crimes in Asia and The Role of the International Criminal Court discussed by Patrick Burgess, ICTJ Asia Director, Mugiyo, ICICC convenor, Nick Koumjian, ICC defense counsel and Prof. Muladi, former justice minister and Indonesia’s delegate to the 1988 Rome Conference, respectively.

Various speakers from Cambodia, Burma, East Timor, Philippines, Indonesia, Nepal, Bangla-



Organizers of the seminar and symposium with keynote speaker, Attorney General Basrief Arief (third from left). Photo: CICC Asia Pacific

desh and Thailand shared their country human rights and justice situations.

They included the Extraordinary Chambers of the Cambodia Court international deputy prosecutor William Smith; Jose Louis de Oliveira, coordinator of the National Victims’ Association; Jose Manuel Diokno, chairperson of the Philippines’ Free Legal Assistance Group; Agus Widjojo, former member of the Commission on

Truth and Friendship; Emy Soeprapto, former commissioner of the Indonesia National Human Rights Commission; Patrick Pierce of ICTJ Burma; Rhesma Thapa of ICTJ Nepal; Pawinee Chumsri of Cross Cultural Foundation of Thailand; Howard Varney of ICTJ Africa; and Maria Warren, Legal Operations Office of the Prosecutor, Special Court for Sierra Leone. Indonesia’s Deputy Minister for Justice and Human Rights Denny Indrayana delivered the closing remarks.

INDONESIAN CICC ORIENTS LOCAL MEDIA ON THE ROME STATUTE; CHALLENGES, PROSPECTS FOR INDONESIA’S RATIFICATION DISCUSSED

The Indonesian Coalition for the International Criminal Court (ICICC) conducted an orientation on the ICC among members of the media last 17 November 2011.

Mugiyo, convenor of the ICICC opened the session. Part of his input was to update participants on the status of ratification of the Rome Statute in Indonesia and the need to inform the public about the ICC. He said that the ratification was included in the 2005-2009 National Human Rights Plan of Action but it did not materialize. It is again included in the 2010-2014 but there is no guarantee that the government will ratify unless there is strong pressure for them to do it.

Bhatara Ibnu Reza, executive member of the ICICC gave a historical background of the ICC and its features. He also updated the participants on the cases before the ICC and the outcome of the first Review Conference.

Evelyn Balais-Serrano, coordinator for Asia-Pacific of the CICC gave an overview of the global campaign and the work of the CICC, highlighting the role of the media in national and international justice work. She shared developments in Asia-Pacific, including the recent advances in the Philippines, Maldives, Malaysia and Vanuatu. She urged members of the media to get involved in the campaign by making ICC well understood by people especially those in the government.

Among the suggestions on the ICC campaign in Indonesia were conducting further discussions on the role of media and the ICC, and information and knowledge sharing through internships and exchange programs for the media.

On November 18, Evelyn Balais Serrano and representatives of the Indonesian Coalition met with MP Eva Kusuma Sundari, member of

Commission III, in-charge of law and human rights in the Parliament and chair of ASEAN Inter-Parliamentary Caucus on Myanmar. MP Sundari proposed concrete actions to move the process of ratification forward, mobilizing fellow MPs to act on the issue.

They also met with the chair of the National Human Rights Commission, Ifdhal Kasim. Kasim said that there is a lot of misunderstanding about the ICC in Indonesia. He said that the idea that ICC can prosecute past crimes remains a major issue that has to be addressed if Indonesia is to become a member of ICC.

Earlier, Serrano met briefly with the deputy minister for law and human rights, Denny Indrayana. He said the government continues to be committed to ratifying the Rome Statute. “In fact, the President has given the go signal for ratification,” he emphasized.

ELECTIONS AT THE 10TH SESSION OF THE ASSEMBLY OF STATES PARTIES

States Parties Reach Consensus on Next ICC Prosecutor

On 1 December 2011, States Parties to the Rome Statute reached an agreement to have a consensus candidate to become the next ICC Prosecutor. Ms. Fatou Bensouda, currently serving as the Deputy Prosecutor to the ICC, was formally nominated on Friday, 9 December, and will be elected on 12 December 2011, on the first day of the tenth session of the Assembly of States Parties.

The Report can be found at http://www.icc-cpi.int/iccdocs/asp_docs/Elections/EP2011/EP2011-PSC-Report-complete-ENG.pdf

Independent Panel on ICC Judicial Elections issues its Report

On 24 October 2011, the Independent Panel on ICC Judicial Elections issued a report on the 19 candidates to be judges of the ICC. The Panel's report is intended to draw attention to the qualification for ICC judicial candidates required by the Rome Statute of the ICC. The report also indicates, based on the separate and distinct requirements of the Rome Statute, whether each of the 19 candidates nominated for the upcoming election is "Qualified" or "Not Qualified" for the list on which the candidate appears, either List A or List B.

The Panel concluded that 15 candidates are "qualified" and 4 "not qualified" for the purposes of Article 36 of the Rome Statute. The Panel's assessments are strictly limited to determining

whether a candidate fulfils the requirements established for ICC judicial candidates by the Rome Statute. Thus, a "Qualified" assessment indicates the Panel's independent finding that the candidate fulfils these requirements. An assessment of "Not Qualified" reflects the Panel's view to the contrary. The assessments, along with other relevant information, are intended to assist governments in the elections process.

The Panel's assessment process has no formal connection to the Rome Statute; it is up to governments to take into consideration the Panel's independent assessments.

The report can be found on the Panel's website at <http://www.iccindependentpanel.org/sites/default/files/Independent%20Panel%20on%20ICC%20Judicial%20Elections%20-%20Report%2026%20October%202011.pdf>

Judicial candidates respond positively to CICC Questionnaires

As part of its actions surrounding the upcoming elections, the Coalition requested all candidates (as it has done in past elections) to fill out questionnaires which provide additional information on the candidates' background and qualifications. These questionnaires help to promote more transparent and merit-based elections, and have been designed with the purpose of contributing toward the election of the most highly qualified individuals. To date, 17 out of the 19 candidates have completed these questionnaires, including the two candidates



Fatou B. Bensouda, current Deputy Prosecutor and soon to be new Prosecutor of the ICC, briefs correspondents at UN Headquarters. Photo: UN Photo/Rick Bajornas

nominated under the Asia group: Miriam Defensor-Santiago (The Philippines) and Georges A. Serghides (Cyprus).

The completed questionnaires can be found at the Coalition's website at <http://www.coalition-fortheicc.org/?mod=electionjudges&idudctp=21&show=all#21>

REGIONAL FORUM ON ROME STATUTE HELD



Atty. Harry Roque, board member of the Philippine Coalition for the ICC and Director of the Institute for International Legal Studies leads the panel on the challenges in the implementation of the ICC during the Regional Forum on the International Criminal Court held on 1-2 December in Makati City, Philippines.

A resource speaker from the ICC and representatives from Cambodia, Indonesia, India, China and the Philippines participated in the forum.

The event was organized by LAWASIA-Philippines and the Konrad Adenauer Stiftung of Germany.

Photo: CICC Asia-Pacific

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Together for Justice: Civil society
in 150 countries advocating for a fair,
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justice is accessible to all. If you would like more information about how you can join in this effort, please visit our website at www.coalitionfortheicc.org or contact us by phone at +1.646.465.8527 or via email at development@coalitionfortheicc.org.

The contents of this publication are the sole responsibility of the Coalition for the International Criminal Court and should in no way be taken to reflect the views of the European Union, Irish Aid, or any other donor.

The Coalition for the International Criminal Court includes 2,500 organizations around the world working in partnership to strengthen international cooperation with the ICC; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity and genocide.

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ICC RESOURCES

The documentary series **Women, War and Peace** challenges conventional wisdom that war and peace are men's domain through interviews with leading thinkers, Secretaries of State and seasoned survivors of war and peace-making. Interviewees include Secretary of State Hillary Clinton; Nobel Laureate Leymah Gbowee; Bosnian war crimes investigator Fadila Memisevic; and globalization expert Moisés Naím. **The full series is now available online at <http://www.pbs.org/wnet/women-war-and-peace/>**

Morten Bergsmo. Using Old Evidence in Core International Crimes Cases (also available in Bengali). Torkel Opsahl Academic EPublisher. Published on 17 October 2011. Appears in English and Bengali as FICHL Policy Brief Series No. 6 (2011) and can be read, printed or downloaded without charge at <http://www.fichl.org/policy-brief-series/>

Legal tools database, www.legal-tools.org. The Legal Tools Database is 'the leading resource for legal information on core international crimes'. States, NGOs and individuals are encouraged to contribute documents relevant to their respective jurisdictions to legal.tools@icc-cpi.int

UPCOMING EVENTS

International Criminal Court: Justice for All?

A Conference - 10 year review of the ICC
13-16 February 2012, Sydney, Australia
For inquiries, contact:

Louise Chappell- l.chappel@unsw.edu.au

For further information, see:

<http://www.justiceforall.unsw.edu.au>

10th Session of the Assembly of States Parties

of the Rome Statute to the ICC
12 – 21 December 2011, New York

UPCOMING 2012 URC TARGETS FOR ASIA

Each month, the Coalition calls upon one country to ratify the Rome Statute and become a member of the International Criminal Court as part of its Universal Ratification Campaign (URC). This exciting campaign utilizes advocacy measures and materials to publicize the work of the Court and the importance of ratification in the targeted country. We work actively with our members in every region, and particularly in the target country, to redouble efforts to ensure universal acceptance of the ICC. More details are available online at <http://www.iccnw.org/?mod=ratimp>

January

Pacific Islands

July

Indonesia

August

Nepal

September

Brunei Darussalam

October

Singapore