

INSIGHT

on the
International Criminal Court

Newsletter of the NGO Coalition for the ICC



Issue 8 • July 2006

An Important Juncture in ICC History

By Cecilia Nilsson Kleffner

This is the eighth and final edition of the *Insight*, a CICC newsletter that was established in 2004 in order to provide close monitoring of ICC developments in The Hague. In the first years of the Court's existence, it made sense to have one publication that concentrated on the ICC institutional building in The Hague, and another one, the CICC's *Monitor*, which reported on wider activities like the international campaigns of the CICC, developments at the UN, and regional work being done by CICC members.

However, as the Court enters its judicial phase, this distinction becomes redundant as the work of the Court is increasingly becoming an integrated part of the international justice movement. The Court's judicial and other activities in The Hague are now having a direct impact on civil society in the ICC situation countries and on the ratification and implementation campaigns of the CICC. These positive impacts are the result not only of Court officials' increased efforts in awareness-raising, but also of the growing observation of the Court's judicial developments on the part of non-States Parties that are contemplating ratification of the ICC treaty. Also, as state cooperation obligations and relationship agreements between the ICC and key international organisations become more important to establish, developments in The Hague become everyone's business. This is crucial for advocacy and support of the ICC. And it's not just the ICC that's decentralizing; the Bureau of the Assembly of States Parties is also increasingly more divided

between New York and The Hague. In light of all of these factors, the Coalition has decided to move from publishing two regular newsletters back to one extended newsletter, the *Monitor*, which for the last ten years has been a key source of ICC information for civil society organisations, individuals and a wide range of institutions around the world.

The *Insight* initially served a particular purpose as the first and (at that time) only newsletter to offer an outside perspective into ICC developments in The Hague. Since then, a number of useful publications have been created which focus completely or in part on these Hague-based developments: the ICC has created its own newsletter; the Victims Rights Working Group now has a bulletin on ICC-related victims' issues; the Centre for Justice and Reconciliation publishes a newsletter on Hague activities; and the International Bar Association has issued its first public report on ICC proceedings. This increase in public materials on the ICC is an important development which has also contributed to the decision to transform the *Insight* content into a new, expanded *Monitor*.

This last *Insight* is published at an important juncture in ICC history, which will be reflected in the content of this edition. The first arrest and surrender to the ICC has taken place followed by the Court's first and second public hearings. The Pre-Trial Chambers have already produced ground-breaking decisions and deliberations on important issues relating to issues of complementarity, victims' participation and state cooperation. We feel sure our new merged publication, which will be coming out in the autumn, will provide our readership with comprehensive coverage of the CICC and the Court's work, in The Hague and around the world, in the days ahead. ●

Cecilia Nilsson Kleffner is Head of The Hague Office of the CICC Secretariat.

ICC Prosecutor briefs Security Council on Darfur



On 14 June 2006, ICC Prosecutor Luis Moreno Ocampo delivered his third report to the Security Council on Darfur, Sudan. In his presentation, the Prosecutor outlined the progress of the Darfur investigation since his last presentation to the Council in December 2005 and stressed the importance of cooperation from States and organisations to fulfill his mandate, particularly from the Sudanese Government, the African Union and the United Nations. He is shown here responding to questions from the media outside the Security Council.

See page 2 for an update on the Prosecutor's Report

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As of 1 July 2006

The Rome Statute of the ICC has 100 ratifications & 139 signatories

The Agreement on Privileges and Immunities of the Court has 38 ratifications and 62 signatures.

LATEST NEWS

ICC Prosecutor briefs Security Council on Darfur

By Wasana Punyasena

Luis Moreno-Ocampo, Prosecutor of the International Criminal Court (ICC), briefed the Security Council of the United Nations on 14 June 2006. Under Security Council Resolution 1593 (2005), which referred the Darfur situation to the ICC, the Prosecutor must report to the Council every six months on the progress of his investigation in Darfur.

In his presentation and report, the Prosecutor outlined the progress of the investigation since his last presentation to the Council in December 2005. Prosecution staff visited Khartoum in February and June 2006. The Government of Sudan provided the Prosecutor with a written report in May that responded to questions submitted in February. This report included information on the phases of the conflict, on military and security structures in Darfur, activities of parties to the conflict and the legal system governing military operations. The Court anticipates returning to Khartoum in August to conduct specific interviews.

Mr. Moreno-Ocampo identified the conduct of the investigation, including crime patterns in the region, and gave an overview of his analysis of the activities of various judicial and traditional mechanisms operating in Darfur.

The Prosecutor determined that national authorities have not investigated or prosecuted or are not investigating or prosecuting cases which will be the focus of his Office. A final determination will be made following a full investigation of specific cases selected for prosecution.

The Prosecutor stressed the importance of cooperation from States and organisations to fulfill his mandate, particularly from the Sudanese Government, the African Union and the United Nations. The current phase of the investigation will identify specific cases for full investigation and possible prosecution. The Prosecutor noted that the key challenge will be identifying those individuals with the greatest responsibility for the most serious crimes in Darfur. He envisions that the investigation and subsequent prosecutions will emerge in a sequence of cases, rather than a single case dealing with the situation as a whole.

Following Mr. Ocampo's presentation, the Sudanese Government representative also made a statement on Sudan's stated cooperation and national judicial mechanisms. ●

Wasana Punyasena is Legal Officer at the CICC Secretariat.

Special Court for Sierra Leone to try Charles Taylor in ICC Premises

On 20 June 2006, following the 16 June 2006 UN Security Council resolution allowing for the legal transfer of former Liberian President Charles Taylor from Sierra Leone to the Netherlands, the Special Court for Sierra Leone (SCSL) requested that Mr. Taylor's trial be relocated from Freetown to The Hague where the SCSL will be conducting its trial using ICC courtroom and detention facilities. The ICC and the SCSL concluded a Memorandum of Understanding (MOU) on 13 April 2006 which also allowed for this transfer. Mr. Taylor, who had been staying in the SCSL's detention facilities since 29 March 2006, has been indicted by the Special Court on 11 charges of war crimes and crimes against humanity. In a press release issued by the ICC on 21 June, the Court spelled out the practical sides of this situation clearly: "The [Taylor] trial will be conducted by a Trial Chamber of the Special Court [of Sierra Leone] sitting in The Hague. The ICC will not conduct the trial of Mr Taylor. Under the terms of the MOU,

the ICC will provide courtroom services and facilities, detention services and facilities and related assistance. All costs will be paid in advance by the Special Court, through a Trust Fund established by the ICC Registrar. This arrangement will not affect the functioning of the ICC." ●



On 20 June 2006, former Liberian President Charles Taylor (far left) was transferred from Sierra Leone to the Netherlands. He will be tried in The Hague by the Special Court for Sierra Leone (SCSL). Under a Memorandum of Understanding, the SCSL will be allowed to use ICC courtroom facilities. © SCSL ●

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DRC SPECIAL

Thomas Lubanga Dyilo's Arrest: Survey on the Ground Indicates an Overall Positive Reaction

By Christian Hemedi

The National DRC Coalition for the International Criminal Court (CN-CPI) with the help of SERACOB, a local Congolese polling organisation, has conducted a national survey to assess local responses to the arrest and transfer of Thomas Lubanga Dyilo from the Democratic Republic of the Congo (DRC) to the ICC. The survey encompassed interviews with 2,618 people from 15 different cities across the country, including Kinshasa, Lubumbashi, Likasi, Bukavu, Goma, Shabunda, Walungu, Ituri region (i.e. Bunia, Mahagi, Aru), and Mbanza-Ngungu. The survey's results indicate that the people of the DRC generally welcome the ICC's actions, but that the ICC needs to conduct more information dissemination within the DRC and to do more work to sensitise the Congolese public about the ICC case.

The survey reveals that a large part of the population in DRC was aware that Thomas Lubanga Dyilo was arrested and transferred to The Hague on 17 March 2006. Nearly 88 percent of those surveyed said that they had received information about the arrest and transfer. Only 12 percent were not aware of the event. Three days after the arrest, Thomas Lubanga Dyilo's initial hearing was broadcasted on two television channels: TV Congo (a national channel) and Ragga TV (a private channel). 40 percent of those polled said that they followed the broadcasting, whereas 60 percent indicated that they did not.



Thomas Lubanga Dyilo at his initial hearing on 20 March 2006. © ICC-CPI ●

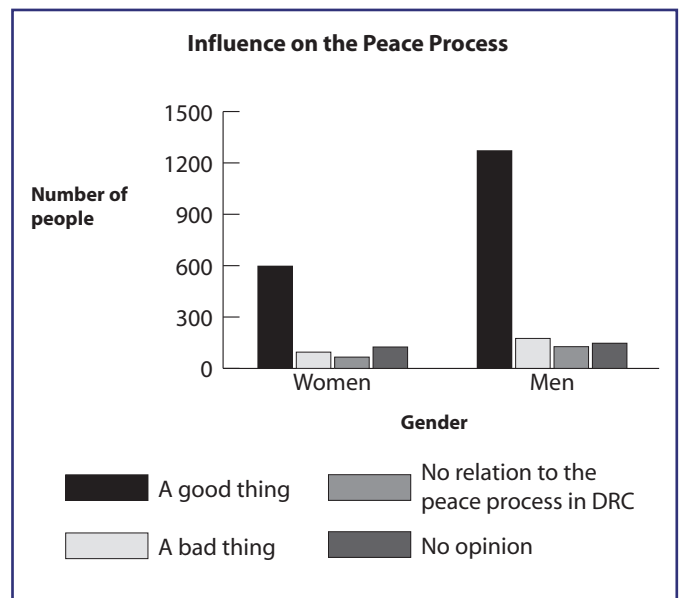
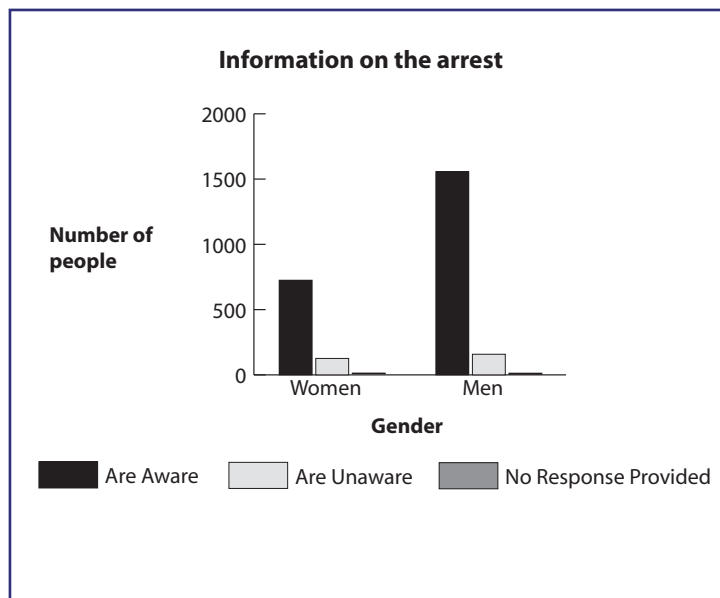
When asked about their personal opinion on the arrest and in particular its impact on the peace process in the DRC, 74 percent of the respondents indicated that they thought that the arrest was, overall, a good thing, while 10 percent said that they believed it was a bad choice. Seven percent

said that they think the arrest has no link at all with the DRC peace process. In addition, 85 percent feel that the Court should investigate other people, even those who hold public office. Only 7 percent opposed this idea.

Regarding the implications that the arrest may have on the upcoming elections in the Democratic Republic of the Congo, almost 22 percent feel that there is a danger that the arrest will disturb the elections while 65 percent think there is no danger. In addition, almost 24 percent of those surveyed think the arrest could influence the results of the elections, while nearly 60 percent think that it will not.

Since the Court's investigations are focused on the Ituri region, a separate poll was conducted there. More people were aware of the arrest in Ituri (92.65 percent) than in the rest of the country, but fewer people (just 23 percent) viewed the broadcasting of the initial hearing. Finally, 71 percent of those polled in Ituri said that they think Lubanga's arrest is a good thing and 81 percent believe that other people including those in public office should be investigated. ●

Christian Hemedi Bayolo is National Coordinator of the DRC Coalition for the ICC in Kinshasa, DRC.



DRC SPECIAL

Video Bridges the Distance Between the ICC and the People of Eastern DRC

By **Hakima Abbas**

In the Democratic Republic of the Congo (DRC), a new film being screened across the eastern region of the country remains in high demand in every community. It is not a Hollywood blockbuster, but rather an advocacy video made specifically to end the voluntary use and recruitment of child soldiers. Produced by two human rights NGOs, AJEDI-Ka/PES and WITNESS, "On the Frontlines" gives voice to child soldiers who joined militia forces voluntarily, out of a sense of duty and sometimes with the agreement of their parents or community, who are soon faced with the devastating realities of life as child soldier. Witnesses to inconceivable atrocities, these children, some as young as eight, are also forced to commit similar acts and are subjected to rape, torture and ill-treatment.

To date, "On the Frontlines" has been viewed by over 8,000 women, men and children most directly affected by the conflict. Bringing together communities, religious leaders, militia commanders, and child soldiers alike, AJEDI-Ka/PES has created safe spaces for dialogue around the issue of child soldiers and the need to end voluntary recruitment. During post-screening discussions in the DRC, audiences sought clarity about the prospects for justice through the International Criminal Court (ICC) and the impact of international investigations at the local level.

In response, AJEDI-Ka/PES and WITNESS have created a two-pronged advocacy strategy. The first part has been the production and distribution of a second video, "A Duty To Protect: Justice for Child Soldiers in the DRC". This film, which is primarily directed at the international community, calls



Screenings of "On The Frontlines" video by AJEDI-Ka/PES and WITNESS in eastern DRC. © Heidi Schumann ●

for international support for the ICC as the only mechanism to end the impunity that has resulted in the recruitment of some 20,000 children. This film also recommends concrete measures to strengthen the work of the ICC in eastern DRC. Following AJEDI-Ka/PES and WITNESS' advocacy drive before the ICC, the Office of the Prosecutor announced the Court's first arrest of Thomas Lubanga Dyilo on charges of conscripting and enlisting child soldiers.

The second advocacy strategy involves bridging the distance between the people of eastern DRC and the Court. Using a similar model to that employed in Rwanda by Internews, AJEDI-Ka/PES and WITNESS have filmed ICC Chief Prosecutor Luis Moreno Ocampo's responses to the questions posed by the Congolese community. This interview is

set to be edited into a short five-minute informational piece that will be screened throughout communities in the DRC as an outreach and sensitisation tool. The project is aimed at preventing miscommunication between the population for which justice is ostensibly sought and the ICC whose mission it is to prosecute those most responsible for crimes against humanity, war crimes and genocide. This video is expected to be completed by the end of July 2006.

For more information about this campaign, please visit www.witness.org. To order copies of the videos, please email orders@witness.org. ●

Hakima Abbas is Program Coordinator for Africa and the Middle East at WITNESS.

DRC Background:

19 April 2004: The Government of the Democratic Republic of the Congo (DRC) formally refers the DRC situation to the ICC, requesting the ICC Prosecutor to investigate whether crimes under the Court's jurisdiction were committed in the territory of the DRC since the entry into force of the Rome Statute on 1 July 2002. In this letter, the Government also commits itself to cooperating with the ICC in its work.

23 June 2004: After analysis of the situation in the DRC, especially in the eastern region of Ituri, the ICC Prosecutor announces his

decision to open the first investigation of the ICC. The situation of DRC is then assigned to Pre-Trial Chamber I (PTC I), with Judge Claude Jorda (France) as the presiding Judge.

17 January 2006: PTC I decides to allow six victims to participate in the investigation stage.

17 March 2006: An arrest warrant is publicly announced and unsealed concerning the situation in DRC. The warrant is for Thomas Lubanga Dyilo, the leader of a political and

military movement, the Union of Congolese Patriots (UPC). This is the first unsealed arrest warrant issued for the DRC situation. It is expected to lead to subsequent requests for arrest warrants as the ICC Prosecutor continues his investigation. On 17 March, Mr. Lubanga is also surrendered to the ICC at Ndjili Airport in Kinshasa and transferred to The Hague.

20 March 2006: PTC I holds a public hearing during which Mr. Lubanga appears before the Chamber. ●

DRC SPECIAL

A Vital Step towards Justice for DRC Child Soldiers

By Alison Smith

The first International Criminal Court (ICC) arrest warrant for Thomas Lubanga of the Democratic Republic of the Congo (DRC), which was unsealed and publicly announced on 17 March 2006, alleges on separate counts the war crimes of enlistment, conscription, and use of children under the age of 15 to participate actively in hostilities. This is important for the protection of children during armed conflict, as it highlights that the mere act of the enlistment or recruitment of children into the armed forces is a war crime, whether or not that child is subsequently used to participate in hostilities and whether or not the enlistment or recruitment is voluntary.

Whether and how child witnesses testify is a policy decision that must be based on the best interests of the child and their right to participate, as well as on prosecutorial and defense case strategies. If child witnesses are called, the Rome Statute requires that all appropriate measures are employed for the protection of their safety, physical and psychological well-being, dignity and privacy. All children affected by the conflict, particularly children appearing before the ICC, should also be provided with services for their recovery and reintegration.



Boys raise their hands to shield their faces and their identities as former child soldiers, at a UNICEF-supported Centre de Transit et Orientation (CTO), a shelter and reintegration centre for recently demobilised child soldiers, in the eastern town of Goma, capital of North Kivu Province, DRC.

© UNICEF/HQ05-0439/ ROGER LEMOYNE ●

Since 2002, the number of children recruited to national armies and other armed groups has increased alarmingly. Watchlist on Children and Armed Conflict estimates that 30,000 boys and girls in the DRC are currently used in hostilities, or for sexual or other services, by the armed forces. The Lubanga indict-

ment is a vital step towards obtaining justice for former child soldiers in the DRC and in ending these ongoing crimes, sending a warning to armed groups that still recruit or use children.

Alison Smith is the Legal Counsel for No Peace Without Justice. ●

What is a Confirmation of Charges Hearing?

By Nerea Suero Fontecha

Mr. Thomas Lubanga Dyilo's arrest and surrender in the Democratic Republic of the Congo (DRC) were requested by the ICC based upon the investigation carried out by ICC Prosecutor Luis Moreno Ocampo. The Court decided, by assessing the initial evidence presented by the Prosecutor, that there were reasonable grounds to believe that the crimes allegedly committed by Mr. Lubanga fell under the jurisdiction of the ICC. Upon his arrival at The Hague, Mr. Lubanga was informed of his rights and the grounds upon which he had been arrested.

The next step in this case is for the Prosecutor to get a confirmation of the charges against Mr. Lubanga. This confirmation will close the pre-trial phase and open the trial stage. During the initial appearance of Thomas Lubanga Dyilo on 20 March 2006 before Pre-Trial Chamber I (PTC I), the confirmation of charges hearing was initially scheduled for 27 June 2006. But on 24 May, PTC I decided to postpone the hearing until 28 September 2006.

The unfolding of the confirmation of charg-

es procedure is detailed in Article 61 of the Rome Statute. Basically, this stage is composed of two steps. First, Mr. Lubanga ('the person') has to be informed in writing of the charges against him for which the Prosecutor will seek confirmation. This same communication needs to contain a breakdown of the evidence upon which the Prosecutor will rely at the hearing. From that moment on, and until the confirmation hearing takes place, however, the Prosecutor is still allowed to carry on with his investigation and is given the opportunity to add or amend the charges accordingly. Any modification needs to be communicated in writing to the person within reasonable time before the hearing. The Prosecutor may even withdraw all or some charges. At the hearing, the Prosecutor shall present sufficient evidence to support the charges he seeks to get confirmed. The person will then be given the chance to object to the charges, challenge the evidence presented and present his own evidence.

The second step of the confirmation proce-

dures is the hearing itself. It has to be borne in mind that at this point Mr. Lubanga's case is still in the pre-trial phase and the final assessment of the evidence against him will only be done by the Trial Chamber during the actual trial phase. There is a lower threshold for evidence laid down at the pre-trial stage: the Pre-Trial Chamber needs to be satisfied that there are substantial grounds for believing that the person committed each of the crimes charged. When the Chamber considers that the threshold established in Article 61 is met, it will confirm the charges. If, on the contrary, the threshold is not deemed to have been met, the Chamber can decline to confirm the charges or request that the Prosecutor either bring in more evidence or amend the charges when the evidence appears to establish different crime(s) within the jurisdiction of the Court. Only once the charges are confirmed can the trial phase commence. ●

Nerea Suero is Legal Officer at the CICC Secretariat.

Introduction

In the previous *Insight*, we reported on the decisions by the Assembly of States Parties (ASP) at its Fourth Session which took place on 28 November - 3 December 2005 and on 26-27 January 2006. Since these meetings, the ASP Bureau has initiated its work in preparation for the Fifth Session. So far, this has involved both structural and substantive work for the Bureau and its two new Working Groups (one in New York and one in The Hague).

The Bureau decided to divide the work of the two Working Groups in the following way: the Working Group in The Hague will deal with interim premises, strategic planning, recruitment, permanent premises and the budget, while the Working Group in New York will deal with participation in the ASP, including ratification and increasing the participation of developing countries, as well as arrears and the New

York Liaison Office. The Bureau also assigned coordinators for the Working Groups and Focal Points for these issues. The Coordinator in New York is H.E. Ambassador Allioaiga Feturi Elisaia of Samoa, while the Coordinator in The Hague is H.E. Ambassador Colleen Swords of Canada.

The following facilitators on certain ICC issues were appointed in New York: Ms. Jennifer McIver (New Zealand) for ASP participation; H.R.H. Prince Zeid Ra'ad Zeid Al-Hussein (Jordan) for proposals for an independent oversight mechanism; and Mr. Sabelo Sivuyile Maqungo (South Africa) for assistance in setting up the New York Liaison Office.

The following facilitators were appointed in The Hague: the ASP Vice-Presidents (H.E. Ambassador Mkhize of South Africa and H.E. Ambassador Erwin Kubesch of Austria) for in-

terim premises and for political dialogue at the ambassadorial level with the Host State; H.E. Ambassador Gilberto V. Saboia (Brazil) for permanent premises; and Ms. Michele Dubrocard (France) for engagement with the Court on the strategic planning process.

The Bureau's substantive work has also started. During the months leading up to the meeting of the Fifth Session of the Committee on Budget and Finance (April 24-26), the Bureau and its Working Group in The Hague focused mainly on the issue of the interim premises of the Court. The Bureau was also consulted on the issue of the potential use of the ICC premises for the proceedings of the Special Court of Sierra Leone against Charles Taylor. The Hague Working Group has initiated its dialogue with the Court on the ICC Strategic Plan through a first briefing by the Court in April. ●

ASP Experts Assess the Court's Financial Situation

While the Court is developing its 2007 budget to be presented to the Assembly of States Parties (ASP) at the end of this year, the Committee on Budget and Finance of the Assembly met on 24-26 April. The Committee meets twice a year and the spring meeting normally serves to assess the financial performance of the previous year as well as the current year in relation to budgetary assumptions. At its April meeting, the CBF also took on the issue of the ICC premises, in particular the urgent matter around the interim premises.

This was the last session presided over by Mr. Karl Paschke, whose period as chairman expires and is not renewable at the beginning of the next meeting. The Committee noted that compared to previous years, the rate of States' payments of their financial contributions had gone down, which is of key concern to the Committee, and of course to the Court. This reduction leaves an amount of €53 million outstanding so far (for the period of 2002-2006). On the 2005 and 2006 budget, the Committee looked at how the budget had been spent and how management and reporting of the spending could be improved. The Prosecutor updated the Committee on the progress in the three countries under investigation, informing the Committee that trials might not occur as quickly as had been assumed in the 2006 budget and that it is uncertain whether and when further arrests will take place this year. The Prosecutor also informed the Committee that a fourth situation will be opened during the course of 2006.

On the 2007 budget, the Committee was informed by the Court that the budget would increase by at least €10 million (due to earlier budgetary decisions, inflation, pension liabilities and new costs for additional interim premises) without adding new posts or resources to the Court's current capacity. The Committee expressed its expectation that any proposed increases for the 2007 budget would be limited and only based on the Court's changed assumptions. The Committee's consideration recognised the current preference of the permanent premises being built on the Alexanderkazerne in The Hague but also recognised the absence of a decision by the Assembly to select this option and the lack of genuine alternatives. While recognising that a delay in this project can be expensive, the Committee urged a cautious approach considering the long-term financial implications. There is still an insufficient basis to draw conclusions as to the exact staff of a future ICC, which is why any alternative would have to be a flexible one with regards to size. The Court and the Committee agreed that the Court needed to acquire greater specialist capacity to lead its work on permanent premises and the Committee requested that the Registrar clarify how the Court is moving forward on this project at the next meeting. Moreover, the Committee considered the issue of interim premises (see article on page 7). On the Court's report on the Strategic Plan, the Committee congratulated the Court on its presentation and on the progress made. It emphasised the importance of the

Court's ownership of the Strategic Plan, with the support of States Parties.

The Committee also addressed the conditions of service and compensation of the Prosecutor and Deputy Prosecutors, based on the fact that the Assembly should determine the salaries, allowances and expenses of the elected officials of the Court, but has yet to do so for these officials. While the Registrar is designated as an Assistant-Secretary-General (according to UN levels), the Prosecutor and the Deputy Prosecutors have been treated on an interim basis at the Under-Secretary-General (USG) and Assistant-Secretary-General (ASG) levels respectively. The Committee noted that there are at least three appropriate options available for the ASP to decide among. The Court had proposed that the Assembly should also consider the level of remuneration for the Prosecutor and Deputy Prosecutors and the Committee suggested that it might be more appropriate to remunerate the Prosecutor at the same level as the judges, rather than at a lower level, and to set remuneration for the Deputy Prosecutors at 75 percent of that level.

Regarding the pension of judges, the Committee felt that provision of a full pension in return for nine years' service provided the judges with an excessive pension income. The Committee requested more information and comparisons with other international institutions and will return to this issue. The next meeting of the Committee will be from 9 to 13 October 2006 in The Hague. ●

ICC to get Prefabricated Premises

By Erik van der Veen

In April, the Court's Host State, the Netherlands, and the International Criminal Court (ICC) reached an agreement to construct prefabricated premises as a solution for the Court's acute need for additional office space. This means that ready-made office units will most likely be installed in a parking lot close to the Court. Initially, these premises will be able to house 300 additional staff and could be expanded to accommodate future space requirements.

The Court has outgrown the ARC-building where it is currently located and has been in need of more office space. As a short-term solution, the Host State made two floors available in the Hoftoren, a high-rise building next to Central Station in the center of The Hague, but the ICC will need even more space in the course of this year, which is why the pre-built office units will be employed now. The Netherlands had also suggested using two other pre-existing buildings in The Hague, but these were thought to be inappropriate.

The Hague Working Group and the Committee on Budget and Finance (CBF), both bodies of the Assembly of States Parties (ASP), have endorsed this 'prefab' option as it provides flexibility, is not more costly than the other available options, and allows for an expansion that is relatively close to the ARC. However, even though prefabricated premises can be put into place relatively quickly, it still might take several months to get the required building permits from the local authorities.

The Vice Presidents of the ASP Bureau, Ambassador Erwin Kubesch from Austria and Ambassador Hlengiwe Mkhize from South Africa, facilitated the negotiation process on interim premises and noted it had gone very smoothly. As H.E. Ambassador



The "Arc" Building in The Hague, where the ICC is currently housed. © ICC-CPI ●

Mkhize comments, "Facilitating the Working Group on Interim Premises was an enriching experience for me. The Working Group was able to conclude its work within a very short space of time, and this was possible due to the maturing of the ICC and the commitment by all the role players – the Host State, the Court and the States Parties. This success is another signal of the greater heights that the Court will attain. The appointment of H.E. Mrs. Colleen Swords as the Coordinator of The Hague Working Group has consolidated the work of the Group."

Ambassador Kubesch also commented on a positive negotiation experience, "Facilitating the issue of interim premises was a demanding and challenging task, particularly because of the urgency of the matter. Still, the Vice Presidents were able to guide States Parties, the Court and the Host State effectively in finding

a solution that is satisfactory to all of them. The key to this success was the continuous and intensive dialogue between the Vice Presidents and all parties concerned, in order to identify common views, and – even more importantly – to explore and dissolve differences of opinion, thereby always bearing in mind feasibility and the needs of the Court alike."

The Host State offered to pay €16.5 million for the costs related to the additional interim premises, which includes covering the rent and other costs in preparing the buildings for the Court's use. The CBF welcomed this offer but also hoped that the Host State would be willing to contribute more if final costs were to exceed this amount. ●

Erik van der Veen is Development and Policy Officer at the CICC Secretariat.

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11. Mr. Myung-jae Hahn (Republic of Korea)

New Coordinator for The Hague Working Group: H.E. Mrs. Colleen Swords Considers the Road Ahead

Her Excellency Mrs. Colleen Swords, a lawyer who has worked in the Canadian Department of Foreign Affairs and International Trade for over 25 years, is the Ambassador of Canada to the Netherlands and the new Coordinator for The Hague Working Group of the Bureau of the Assembly of States Parties (ASP). After Washington, Tanzania, Thailand and Barbados, The Hague is her fifth overseas assignment. ●

The Hague Working Group helps the ICC State Parties prepare for the decisions they need to make at the annual Assembly of States Parties. As H.E. Colleen Swords commented, “Since the ASP sessions are quite short, it makes it difficult for States to make decisions. The purpose of The Hague and New York Working Groups, therefore, is to provide real interim preparation work for the States.”

When asked about the main challenges currently faced by the ICC, Mrs. Swords stresses the point that the ICC, as a relatively new organisation which started from nothing, has to evolve now into a fully operational court, “We are about to face the beginning of the first trials at the Court, so there are many critical transitional issues that need to be addressed such as the Court’s finances, its strategic plan, the capacity of the Court, and the premises issue, amongst others.” In order to help States address these issues, Ambassador Swords decided to better organize the work of her group, “The Working Group will have a set monthly meeting every second Thursday of the month. A regular fixed meeting gives an opportunity



H.E. Mrs. Colleen Swords, Ambassador of Canada and new Coordinator for The Hague Working Group of the Bureau of the ASP. ●

for the Court to be present and for the embassies from Brussels to plan their venue. The aim is also to ensure continuity and regularity.”

In Mrs. Swords’ estimation, the Court’s budget is a crucial issue for the Working Group as she commented, “We do not want to duplicate the work of the Committee on Budget and Finance (CBF), but we do need to be ready. After the CBF issues its report, the Working Group will begin to study it with the ultimate

objective of facilitating an informed discussion by States Parties during the ASP that will lead to the adoption of the budget resolution.” The permanent premises matter is also a central one in Mrs. Swords’ view, “Although the premises issue is dealt with by His Excellency Gilberto Saboia who serves as the facilitator for permanent premises, we do expect to have meetings about this issue. I believe experts from the capitals have to be involved in order to make informed decisions at the next ASP in November or, at the very least, in order to know in which direction we should go. Time is running out on this issue.”

In regards to where she would like the Group and the Court to be at the end of her term as Coordinator, Ambassador Swords said, “A practical, short-term goal for the Group is to facilitate supportive dialogue at the ASP and to make the States better understand the Court, and vice-versa. A long-term goal is to see that the most serious crimes are punished and that justice is being done. I hope to see the Court act as a deterrent and for fewer crimes to be committed.” ●

New Coordinator for the Friends of the ICC

The Friends of the ICC is an informal group of States that meet regularly to exchange information and maintain dialogue about ICC-related issues. Insight on the ICC met with Mr. Tomás López Vilariño, First Secretary of the Spanish Embassy in The Hague and the new Coordinator for the Friends of the ICC in The Hague. ●

Mr. Tomás López Vilariño, First Secretary of the Embassy of Spain to the Netherlands, has been posted in The Hague for the past three years and, largely because the ICC is an issue he strongly relates to, recently accepted the position as the new Coordinator for the *Friends of the ICC*. As he commented, “It is an honour to be appointed as the new Coordinator of the Friends and it will be quite a challenge to follow my predecessor, Mr. Götz Reimann, who has been doing a great job since the beginning. Back when I was posted in Madrid, I had the opportunity to tackle ICC-related issues. The *Friends* group was actually just being formed when I arrived in The Hague, so I was lucky enough to see how ‘this creature’ was born and, therefore, I have a kind of sentimental link to the group too.”

As a successor to the Like-Minded Group, the *Friends* group was created by Mr. Götz Reimann, Counsellor at the German Embassy in The Hague three years ago. Commenting on the reasoning behind the group, Mr. Vilariño noted, “This group owes a lot to its founder

who established the *Friends* group as an informal place to host dialogue between States on the ICC. I have always thought this group has served as a very useful tool for open discussion. And this openness stems from the very fact of the group’s informality.”

The *Friends of the ICC* is distinguished from The Hague Working Group in that it is not a decision-making body. Instead, for Mr. Vilariño,



Mr. Tomás López Vilariño, First Secretary of the Embassy of Spain and new Coordinator for the Friends of the ICC in The Hague. ●

the group provides other important services, “The group offers a good way for States to communicate with the Court as well as with interested actors, but it also provides a rich source of first-hand information on ICC matters. And, even beyond those two key services, the group also importantly engages the participation of non-States Parties.” Indeed, the *Friends* group currently consists of 58 members including 2 non-States Parties, Turkey and Japan.

When asked about the future activities of the *Friends of the ICC*, Lopez Vilariño insists, “I would like the group to continue in the same philosophical vein as that developed by Mr. Reimann; that is, for it to remain a privileged space for open dialogue without the constraints of a definite mandate. Moreover, I want to reinforce the group as a forum for discussion and information-sharing, open to States, to the Court and to NGOs. The door of the *Friends of the ICC* group is always open for discussion with the CICC and its members, especially given the valuable work of the Coalition which, since its inception, has been extremely useful.” ●

ICC Trial Monitoring: What? Who? How?

The CICC and its members are currently consulting with fellow NGOs, journalists and academics to seek answers to a large number of questions regarding upcoming trial observation, reporting and monitoring. ●

NGOs and civil society worldwide have long been involved in monitoring international courts and tribunals. However, given that each judicial institution is different, with distinct mandates, access issues and geographical scopes, it is often hard to apply lessons learned from previous trial monitoring in a blanket way. With regards to the judicial proceedings of the International Criminal Court (ICC), the CICC is currently consulting with fellow NGOs, journalists and academics to seek answers to a large number of questions regarding trial observation, reporting and monitoring. While many projects on international trial monitoring have concerned ad hoc structures which have a final end in sight, the permanent nature of the ICC forces NGOs and other concerned actors to think differently about monitoring issues.



Enrique Carnero Rojo, Assistant Legal Adviser in the ICC Office of the Prosecutor, presenting the Legal Tools Project. ●

Most importantly perhaps, ICC trial monitoring requires long-term vision. Some of the questions that have arisen so far about ICC trial monitoring include: What are the issues and procedures that need to be monitored? How can NGOs and others work together and divide the labour, especially given that NGOs have different mandates and interests? How can monitoring activities be conducted to best serve the affected communities in the situation countries? Where does civil society get the resources to build up a sustainable monitoring system? What kind of training is needed to be able to monitor the trials? How can geographical, legal and gender diversity be ensured among monitors? What role can academic institutions play? The list of questions is long.

The one thing that the ICC's observers, monitors and reporters will all have in common, however, is that they all have to rely on the Court for adequate access to

documents, courtrooms, facilities and court officials, among other things. They will also rely heavily on the information resources of the Court, such as a user-friendly website, webcasts, and the timely translation of documents. In this regard, there are many lessons that have been learned from other international judicial institutions, but there is certainly more that will have to be learned by the ICC itself.

In order to answer some of the questions above, the CICC Secretariat organized a two-day ICC Trial Monitoring Meeting in its Hague Secretariat on 23-24 May. The meeting brought together NGOs, journalist organisations and academic institutions in order to facilitate ICC trial monitoring efforts. Meeting participants recognised the importance of information-sharing and coordination as a way of maximising efforts, but they also underlined the fact that there are limits to such efforts due to the fact that each organisation or individual journalist, expert or target group has a distinct interest in the ICC trials and is bound by different rules. Many organisations also recognised how resource-intensive such activities are and the difficulties they face given their already overwhelming workloads. The common denominator among the participants, however, was that the ICC proceedings will play a crucial role in their future work in one way or another and that they do intend to



Participants to the two-day International Criminal Court Trial Monitoring Meeting at the CICC Hague Secretariat on 23-24 May. ●

follow the trials closely.

As previously noted, one main focus of the meeting was to discuss the services provided by the ICC itself that enable the public to follow the work of the Court. In this context, the Office of the Prosecutor made itself available to the participants for a discussion about the 'legal tools' that are available on the ICC website for those following the developments from a specific legal perspective. The Legal Tools Project is currently being developed by the ICC in order to provide users of its website with relevant legal information. The ultimate goal of this project is to have a complete virtual library on international criminal law and justice available on the ICC website. ●



Christopher Hall, Senior Legal Adviser, International Justice Project, Amnesty International (left) and James Harrison, Research and Programmes Co-ordinator at the University of Nottingham Human Rights Law Centre (right). ●

The International Bar Association: Preserving Human Rights under a Just Rule of Law

The International Bar Association (IBA) is an international association for the legal profession comprised of 30,000 lawyers and over 195 bar associations and law societies. Insight on the ICC met Ms. Anne McMillan, IBA's full-time Representative in The Hague. ●

As a way of presenting her organization, Anne McMillan points out the great range of the IBA: "Our organisation has a broad membership. The IBA covers all practice areas and professional interests." As she goes on to note, it was both a "natural development and a concern" for the IBA to begin promoting international justice. "International Law is now relevant to all legal practitioners," Ms. McMillan explains. "So we wanted to be able to develop that interest and to inform practitioners in a better way", she adds.

The IBA has, in recent years, steadily developed its work on and relationship with the ICC. In 2003 and 2004, the Association helped to draft a code of professional conduct for lawyers in the ICC. The ICC Prosecutor gave the keynote address at the IBA conference in San Francisco in September 2003. A representative from the Office of the ICC Prosecutor attended the IBA's last annual conference in Prague and during the IBA's May 2006 meeting of bar leaders in London, a full session was dedicated to the ICC, with a special focus on ICC treaty ratification and implementation issues. Currently, plans are underway for a session on ICC-related issues at the IBA's next annual conference in Chicago in September.

The IBA has also been developing ways to improve monitoring of the ICC's work. In 1995, the IBA set up the Human Rights Institute (HRI) which aims at promoting the rule of law at the global level. In 2005, the HRI designed an ICC Monitoring and Outreach Programme which was accepted and funded by the MacArthur Foundation. The project is run by a team of two legal experts; one expert works from IBA's office in London and the other, Ms. McMillan, is observing ICC proceedings from The

Hague. Commenting on the goals of the HRI Programme, McMillan said, "The Programme is designed to monitor and report on the work of the ICC. It provides analyses to the ICC, the public and the media. In terms of feedback on how this Programme is working, we are counting on all of the organs of the Court to help us."

On 11 April, as a part of this HRI Programme, the IBA published a Monitoring Report that summarises ICC trial and pre-trial chamber activity from 2004 to April 2006. For Anne McMillan, it feels like the timing of this report was propitious, as she explains, "It seems as if Jean



Ms. Anne McMillan, IBA's full-time Representative in The Hague. ●

Flamme, the Defence Counsel in the Thomas Lubanga case at the Court, felt a positive improvement in his working conditions in terms of access and facilities. Whether or not this is a result of comments we made in our report, the fact remains that conditions have improved and this is a positive step." Nevertheless, Ms. McMillan also adds that the IBA

feels that more support work needs to be done: "In terms of back-up and lobbying, it would be important to set up an ICC defence counsel association, inspired by the models of national bar associations and taking into account the experience of international defence counsel organisations such as the ICTY Association of Defence Counsel (ADC). ICC lawyers need a central organ which can raise important issues on their behalf or provide them with training."

The next steps of the Monitoring and Outreach Programme will be to provide the IBA website with more regular updates on the proceedings at the ICC and to develop assessment reports about the functioning of the Court. Regarding the growth of the outreach side of the Programme, McMillan explains, "We have held two consultative workshops with the Ugandan Law Society on the ICC's role in the Ugandan context. This led to the establishment of a Ugandan working group on implementation of the Rome Statute. Even though access remains difficult, we have also begun talks with interested players and NGOs in Sudan and we hope to develop this partnership. We have also had small workshops with the Bar Association and Criminal Justice Society of India. These experiences on the ground are also all reported to the ICC."

In assessing monitoring work ahead, McMillan underlined the CICC's role as a facilitator in this on-going effort, noting, "The CICC plays a very important role in monitoring the ICC's work and serves both as a useful coordinating body and as an information-sharing platform."

The Association's website is: <http://www.ibanet.org> ●

The International Association of Prosecutors: Different Systems, Common Goals

The International Association of Prosecutors (IAP) is a worldwide non-governmental organisation of prosecutors operating in over 120 countries. Insight on the ICC recently met with Mr. Henk Marquart Scholtz, Secretary-General of the Association, in The Hague. ●

At a meeting of prosecutors from Caribbean countries in Bermuda earlier this year, IAP General Counsel Barry Hancock instructed his audience, "Open your mind to the experience of others." This quotation accurately sums up the vision of the IAP, which was established in 1995 in light of the rapid increase in the number of serious transnational crimes being committed around the world. The IAP remains committed to facilitating ways to help prosecutors "open their minds" as IAP Secretary-General Marquart Scholtz notes, "Our association was created in order to improve worldwide networking and cooperation between prosecutors. We are thus helping to lower barriers between them."

Individual membership in the IAP is open to prosecutors worldwide while organisational membership is open to prosecution services, associations of prosecutors and crime prevention agencies. The IAP's 112 organisational members represent over 200,000 prosecutors. Initially set up in the Vienna United Nations offices, the IAP moved its offices to The Hague in 1999.

The IAP facilitates mutual assistance and international exchange of information amongst prosecutors. As Marquart Scholtz explains, "Prosecutors often contact us to get information and documentation. If we do not have it, we indicate where to find it and, if we don't know, we are at least

able to facilitate the contact with other prosecutors." While the IAP holds regional conferences around the world during the year, its major event is the IAP Annual



Mr. Henk Marquart Scholtz, Secretary General of the International Association of Prosecutors. ●

Conference. Approximately 500 prosecutors, representing 94 countries, attended the IAP's 2005 Conference in Copenhagen. The Association's 2006 Conference, entitled

"Decisions to Prosecute", will be held in Paris in August.

The IAP also supports various justice reform projects and organises human rights trainings for prosecutors. The IAP's Human Rights Manual for Prosecutors, published in 2003, forms the core text for such trainings.

The IAP has also maintained a steady focus on the International Criminal Court (ICC) over the years. As Marquart Scholtz notes, "The IAP has always supported the creation of the ICC. Our association is very interested in the work of the ICC. It is the first time that such an organisation has been created and we consider the Court necessary to judge the world's gravest crimes." In practice, the IAP has made good on this pledge of support and in 2002 and 2003 they helped draft a code of professional conduct for the Office of the Prosecutor (OTP) in collaboration with the CICC. Though this code was not the final version adopted by the Court, it did help to facilitate on-going discussion about the OTP rules.

The IAP expects to receive an organisational membership from the OTP. "We do hope that Mr. Luis Moreno Ocampo's office will soon become a member of our association," Marquart Scholtz commented. "Mr. Ocampo is a very competent man and we all hope that he will manage to succeed in his work ahead."

The IAP's website is: www.iap.nl.com ●

VTF NEWS

On 16 May 2006, the former President and Prime Minister of the Republic of Trinidad and Tobago, Mr. Arthur Napoleon Raymond Robinson, was unanimously elected by the Bureau of the States Parties to join the Board of Directors of the Victims Trust Fund (VTF) for the International Criminal Court to represent the Group of Latin American and Caribbean States. Mr. Robinson succeeds former Costa Rican President Dr. Oscar Arias Sánchez who resigned from the Board in September 2005.

The VTF Board is composed of five members who are elected to serve three year terms by States Parties. The current Board comprises Her Majesty Queen Rania Al-Abdullah of Jordan, His Excellency Mr. Tadeusz Mazowiecki from Poland, Madam Minister Simone Veil from France, and His Eminence Archbishop Emeritus Desmond Tutu from South Africa. The States Parties will hold new elections for all five Board of Directors' positions during the Fifth Session of the Assembly from 23 November to 1 December 2006.

Mr. Robinson has a historic track record with the ICC. As Prime Minister of Trinidad and Tobago in 1989, Mr. Robinson, on behalf of the Caribbean Community Member States (CARICOM), called on the 44th UN General Assembly to again consider the establishment of an International Criminal Court. By the end of that year, the motion which launched the historic process that resulted in the adoption of the Rome Statute in 1998 had successfully made its way through the General Assembly. ●

FENICC and CJR Publish New Manual: 'Advancing Justice and Reconciliation in Relation to the ICC'

By **Jonneke Naber and Margot Stroeken**

The Faith and Ethics Network for the ICC (FENICC) and the Hague-based Centre for Justice and Reconciliation (CJR) have published a new manual for African faith-based communities entitled "Advancing Justice and Reconciliation in Relation to the ICC".

The manual, which was edited by the CJR, was drafted to serve as a resource and training tool on ICC issues for African religious leaders and faith-based communities. It aims at further stimulating involvement in and action on issues of justice and reconciliation in African societies in transition. The manual includes an overview of the ICC's mandate, mission, structure and functioning, as well as ICC's role in justice and reconciliation processes. It also describes potential ways for religious leaders and faith-based groups to become more involved with the ICC's work. In his Foreword to the manual, Archbishop Desmond Tutu states: "This training manual comes in at an appropriate time to give a helping hand to our African communities to advance the cause of Justice and Reconciliation and link our concerns with the international community so that we can build a common future together."

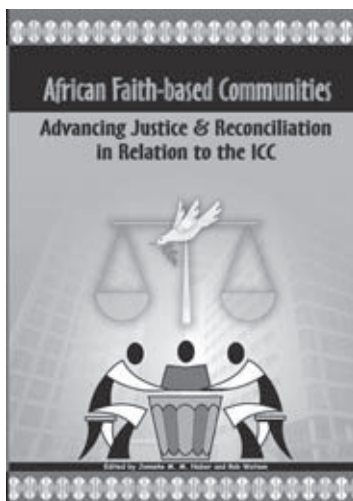
In April, the manual was launched in New York and in Kampala, Uganda. This was followed by a consultation with faith-based groups in Kampala. The Centre for Justice and Reconciliation thereafter organised a three-day "Train the Trainers" workshop in Gulu (northern Uganda) for 30 members of District Peace Teams of the Acholi Religious Leaders Peace Initiative. Participants described the

workshop as an "eye-opener" which resulted in a better understanding of the International Criminal Court and the constructive roles that religious leaders and organisations can play, including work on lobbying and advocacy, victims' support and awareness-raising. FENICC members will implement the manual in their own networks around Africa and CJR is already planning further "Teach the Trainers" workshops in Uganda as well as in the Democratic Republic of the Congo and Sudan.

For training purposes, copies of the manual will be disseminated among African faith-based networks. The manual will be translated into French and possibly other languages.

For further information or to order the manual "Advancing Justice and Reconciliation in Relation to the ICC", please contact: info@cjr.nl ●

Jonneke Naber is Research Director and Margot Stroeken is Programme Officer at the Centre for Justice and Reconciliation (CJR).



Calendar of Events

4 - 5 July 2006:

6th Strategic NGO-Registry Meeting, International Criminal Court (ICC)

6 - 7 July 2006:

NGO-Office of the Prosecutor (OTP) Meeting, ICC

26 - 28 July 2006:

Faith and Ethics Network for the ICC launches its manual for African faith-based communities, "Advancing Justice and Reconciliation in Relation to the ICC", in Liberia

28 September 2006:

Confirmation of Charges Hearing in the case of the Prosecutor vs. Mr. Thomas Lubanga Dyilo, ICC

9 - 13 October 2006:

Committee on Budget and Finance (CBF) Meeting, The Hague

23 November - 1 December 2006:

Fifth Session of the Assembly of States Parties, The Hague, the Netherlands



In April 2006, following the launch of the new manual "Advancing Justice and Reconciliation in Relation to the ICC", the Centre for Justice and Reconciliation (CJR) organised a three-day "Train the Trainers" workshop in Gulu, northern Uganda. ●

About the Coalition for the International Criminal Court (CICC)

The Coalition for the ICC is a diverse, dynamic global network of over 2,000 non-governmental organisations working to promote a fair, effective and independent ICC. For more information, visit: <http://www.iccnw.org>