

Report

Position Paper No. 11 International Criminal Court

Recommendations to the Fifth session of the Assembly of States Parties to the Statute of the International Criminal Court

23 November - 1 December 2006

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INTRODUCTION

The fifth session of the Assembly of the States Parties (ASP or Assembly) to the Statute of the International Criminal Court (ICC or Court) will be held in The Hague from 23 November to 1 December 2006.

For the first time, the ASP will discuss the overall strategy of the ICC and the way forward. While respecting the Court's independence as a judicial institution, it will make crucial decisions on the short- and long-term activities that the ICC will conduct in order to “put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes.”¹ It is hoped that in analysing the Court's future activities, the ASP will bear in mind its complementary nature vis-à-vis national jurisdictions.

In deciding upon the budget, the ASP will determine the Court's activities in the coming year. It will play a crucial role in deciding how the Court will increase its impact and its presence in the field. In addition, a strategic plan on ICC activities for the next ten years will be presented to the ASP. The Court will also submit a detailed plan on outreach activities to promote understanding of the ICC among the affected communities and to encourage the support of local populations to the Court and its activities in the situation countries.

The fifth session of the ASP will also elect the members of the Board of Directors of the Trust Fund for Victims, who will be responsible for identifying how to provide physical and psychological rehabilitation or material support for the benefit of victims of crimes within the jurisdiction of the Court and their families.

It will also play an important role in making decisions on the Court's permanent premises and on ASP future sessions to advance the definition of the crime of aggression.

As an active member of the thematic teams of the Coalition for the International Criminal Court (CICC), FIDH fully supports the reports of the CICC Teams, available at: <http://www.iccnw.org/?mod=asp5>

In this paper, FIDH puts forward specific recommendations to the fifth session of the ASP. The paper analyses the implementation of victims' rights before the ICC, the Court's budget for 2007 in relation to victims' issues and other matters. The paper also presents FIDH activities on the ICC since the fourth session of the ASP.

¹ Rome Statute, Preamble

PART I – RECOMMENDATIONS TO THE FIFTH ASSEMBLY OF STATES PARTIES

The Court is currently operating in three situations: Uganda, Democratic Republic of Congo (DRC) and Darfur, Sudan. It has also received a referral by the Central African Republic for crimes committed on its territory since 1 July 2002.² Additionally, Côte d'Ivoire, which is not a party to the Rome Statute, has filed a declaration accepting the jurisdiction of the Court for crimes committed on its territory since 19 September 2002.³ The situations in the Central African Republic and in Côte d'Ivoire are under analysis and no decision has been taken to date.

In addition, the Office of the Prosecutor (OTP) has indicated that it has received over 1900 communications from individuals or groups, 80% of which were found to be manifestly outside the jurisdiction of the Court during their initial review. Approximately 20% of those communications warranted further examination. As a result, three other situations are also under preliminary analysis. The OTP has decided not to make these situations public.⁴

Although the budget for 2006 predicted the opening of an investigation into a fourth situation,⁵ no such a decision has been taken to date. The OTP has however indicated that it plans to open such an investigation before end of the year.⁶

In 2006, the Court entered a new phase in its operations with the arrest and surrender of the first suspect, Thomas Lubanga Dyilo, former leader of *Union des Patriotes Congolais'* militia operating in Ituri, DRC. Thomas Lubanga Dyilo is charged with conscripting, enlisting and using child under the age of 15 years and using them to participate actively in the hostilities. The confirmation of charges hearing, which started on 9 November, could lead to the commencement of the first ICC trial in 2007.

The Court's judicial activity in the three on-going situations has increased considerably. The ICC Chambers have rendered innovative decisions in various areas relevant to the work of the Court including victim participation, defendant's rights, witness protection and jurisdiction of the Court.

However, the ICC faces enormous challenges which are related to its credibility as a newly established institution: maximising its impact in the affected countries through outreach and increased field presence; ensuring effective participation of victims; guaranteeing protection of victims and witnesses; and gaining effective cooperation of other actors, including states.

I. FIDH ANALYSIS AND RECOMMENDATIONS ON THE IMPLEMENTATION OF VICTIMS' RIGHTS BEFORE THE ICC

Provisions on participation and protection of victims and on reparations are at the very heart of the Rome Statute. They are the result of the recognition of the evolving role of victims in international criminal justice. Given the central role of victims in the system of the ICC, they must be taken into consideration in the elaboration and implementation of plans, strategies and policies of the Court.

This section analyses the status of implementation of victims' rights before the ICC in the light of recent

² Press Release, Prosecutor receives referral concerning Central African Republic, 7 January 2005, http://www.icc-cpi.int/pressrelease_details&id=87&l=en.html

³ Press Release, Registrar confirms that the Republic of Côte d'Ivoire has accepted the jurisdiction of the Court, 15 February 2005, <http://www.icc-cpi.int/press/pressreleases/93.html>

⁴ Office of the Prosecutor, Report on the activities performed during the first three years (June 2003 - June 2006), 12 September 2006, http://www.icc-cpi.int/library/organs/otp/OTP_3-year-report-20060914_English.pdf, p. 10

⁵ Proposed Programme Budget for 2006 of the International Criminal Court, http://www.icc-cpi.int/library/asp/ICC-ASP-4-5_English.pdf, para. 10

⁶ ICC-ASP/5/9, Proposed Programme Budget for 2007 of the International Criminal Court, http://www.icc-cpi.int/library/asp/ICC-ASP-5-9_English.pdf (hereinafter "Proposed Programme Budget"), para. 11

developments and of the major documents that will be submitted and discussed during the fifth session of the ASP. Specific recommendations on the budget are contained in the next section.

A. Implementation of the victim participation regime by the Chambers

During 2006, the ICC rendered innovative decisions acknowledging the scope of victims' rights. These decisions have contributed to the interpretation of the Statute's rules on victims' participation, protection and legal assistance. Before evaluating the status of implementation of victims' rights before the ICC, some of the landmark decisions rendered in 2006 should be highlighted.⁷

First victims authorised to participate in proceedings before the ICC. On 17 January 2006, the Pre-Trial Chamber I accepted the applications of the first six victims to participate in proceedings before the Court. In a historic decision,⁸ the Chamber established that victims can participate as of the investigation stage, before the announcement of any charges or the issuance of arrest warrants, and accordingly granted the six applicants the status of victims in the *situation* in DRC. The Chamber considered that "the personal interests of victims are affected in general at the investigation stage, since the participation of victims at this stage can serve to clarify the facts, to punish the perpetrators of the crimes and to request reparations for the harm suffered."⁹ It further noted "the right to present their views and concerns and to file material pertaining to the ongoing investigation stems from the fact that the victims' personal interests are affected because it is at this stage that the persons allegedly responsible for the crimes from which they suffered must be identified as a first step towards their indictment. The close link between the personal interests of the victims and the investigation is even more important in the regime established by the Rome Statute, given the effect that such an investigation can have on future orders for reparations pursuant to article 75 of the Statute."¹⁰

The decision also established the four criteria that have to be met in order to be recognised as a victim before the Court: "the victim must be a natural person;¹¹ he or she must have suffered harm; the crime from which the harm ensued must fall within the jurisdiction of the Court; and there must be a causal link between the crime and the harm suffered."¹² The Chamber decided that the victims could exercise their procedural rights by presenting their views and concerns, by filing documents and by requesting the Chamber to order specific measures.¹³

Finally, the decision acknowledged the important role of non-governmental organisations (NGOs) in facilitating victims' access to the ICC, by confirming that they can file applications in the name of the relevant applicant.¹⁴ Indeed, FIDH had gathered the testimonies and applications from the victims, and was mandated to transmit them to the Court. In this capacity, FIDH had been present at a hearing held on 12 July 2005, where the Chamber requested further information on the applications.

The Prosecutor's request for leave to appeal the decision¹⁵ was rejected by the Pre-Trial Chamber on 31 March 2006.¹⁶ The Prosecutor then sought an extraordinary review by the Appeals Chamber, which

⁷ Please note that the names given to the decisions below do not correspond to their official names

⁸ ICC-01/04-101, Decision on the applications for participation in the proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS 6, of 17 January 2006, http://www.icc-cpi.int/library/cases/ICC-01-04-101_tEnglish-Corr.pdf (hereinafter Decision of 17 January 2006)

⁹ *Id.* para. 63

¹⁰ *Id.* para. 72

¹¹ The relevant decision only concerned natural persons. However, it should be noted according to rule 85(b) of the Rules of Procedure and Evidence, legal persons can also be considered victims when they "have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes."

¹² Decision of 17 January 2007, para. 79

¹³ *Id.* p. 42

¹⁴ *Id.* para. 104

¹⁵ In accordance with article 82(1)(d) of the Rome Statute and rule 155(1) of the Rules of Procedure and Evidence

¹⁶ ICC-01/04-135, Decision on the Prosecution's application for leave to appeal the Chamber's Decision of 17 January 2006 on the applications for participation in the proceedings of VPRS 1, VPRS 2, VPRS 3, VPRS 4, VPRS 5 and VPRS

dismissed the application considering that it was ill-founded.¹⁷

FIDH welcomed these decisions which reaffirmed the new role of victims in international criminal justice.¹⁸

First victims authorised to participate in a case. On 28 July 2006, three victims were authorised to participate in proceedings in the case of *The Prosecutor v. Thomas Lubanga Dyilo* (Lubanga case). In this decision the Chamber established that, in proceedings related to a case, in order for an applicant to be recognised as victim before the Court, he or she must demonstrate that there is a causal link between the harm suffered and the crimes mentioned in the relevant arrest warrant.¹⁹ Referring to the “Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power”²⁰, the Chamber established that “the causal link [...] with regard to the stage of the case is demonstrated once the victim, and if applicable, the immediate family or dependants of that victim, provide sufficient evidence to establish that the person has suffered crimes set out in the arrest warrant or that the person has suffered harm by intervening to assist the direct victims in the case or to prevent these victims from becoming victims as a result of these crimes being committed.”

Decision on the modalities of victims' participation at the confirmation hearing. In a decision delivered on 22 September 2006, the Chamber accepted, firstly, the victims' request that their names not be disclosed to the Defence. It considered that “the recent deterioration in the security situation in certain areas of the Democratic Republic of Congo (DRC) has had repercussions on the range of protective measures currently available and which might be implemented to protect victims a/0001/06 to a/0003/06 who are particularly vulnerable and live in risk in DRC; and that in this context and following a meticulous examination of each case, non-disclosure of the identities of these victims to the Defence for the purpose of the confirmation hearing, remains at present the only protective measure available and which might be implemented to duly protect them.” The Chamber held that, as a result of the anonymity of victims, the scope and the modalities of their participation at the confirmation hearing must be limited.²¹ It nonetheless granted the victims' legal representative the right to: “a. make opening and closing statements at the confirmation hearing; b. request during the public sessions of the confirmation hearing, leave to intervene [...]”²²

Decision on 59 applications to participate in the case *The Prosecutor v. Thomas Lubanga Dyilo*. This decision of 20 October 2006 held that in 52 out of 59 applications filed between July and September 2006, there was no causal link between the harm suffered by the applicants and the crimes mentioned in the arrest warrant.²³ The Chamber recognised that 6 applicants had demonstrated the existence of a causal link between the harm they suffered and the crimes mentioned in the arrest warrant. These applicants are therefore entitled to participate and the Chamber should have normally authorised them to do so. However, the Chamber noted that they are also witnesses for the Prosecution and as such benefit from protection measures. In the view of the Chamber, granting victim status to those applicants would increase the security risks that they already incur, and accordingly decided that authorising them to participate would not be appropriate at this stage of

6, of 31 March 2006, http://www.icc-cpi.int/library/cases/ICC-01-04-135_tEnglish.pdf

¹⁷ ICC-01/04-168, Judgment on the Prosecutor's application for Extraordinary Review of Pre-Trial Chamber I's 31 March 2006 Decision denying leave to appeal, 13 July 2006, http://www.icc-cpi.int/library/cases/ICC-01-04-168_English.pdf

¹⁸ FIDH press release, First victims recognised by the International Criminal Court, 20 January 2006, http://www.fidh.org/article.php3?id_article=2998

¹⁹ ICC-01/04-01/06-228, Decision on the applications for participation in the proceedings of a/0001/06, a/0002/06 and a/0003/06 in the case of the Prosecutor v. Thomas Lubanga Dyilo and of the investigation in the Democratic Republic of Congo, of 28 July 2006, <http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-228-tEnglish.pdf>

²⁰ Adopted by Resolution 40/34 of the United Nations' General Assembly on 29 November 1985

²¹ ICC-01/04-01/06-462, Decision on the Arrangement for Participation of Victims a/0001/06, a/0002/06 and a/0003/06 at the Confirmation Hearing, of 22 September 2006, http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-462_tEnglish.pdf, p. 6

²² *Id.* p. 8

²³ ICC.01/04.01/06-601, Décision sur les demandes de participation à la procédure a/0004/06 à a/0009/06, a/0016/06 à a/0063/06, a/0071/06 à a/0080/06 et a/0105/06 dans le cadre de l'affaire Le Procureur c. Thomas Lubanga Dyilo, of 20 October 2006, http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-601_French.pdf, p. 9

the proceedings.²⁴ Only one out of the 59 applicants was granted victims' status.²⁵

Decision confirming victims' rights to non-disclosure of identity during the application procedure. Non-disclosure to the Defence of the identity of victims applying to participate in the proceedings had been decided by the Pre-Trial Chamber I in the context of the first applications for participation in July 2005.²⁶ In a decision of 6 November 2006 rejecting the Defence request for leave to appeal non-disclosure of the identities of victims as a protective measure, the Chamber confirmed that such a measure does not infringe on the rights of the defendant, in particular the equality of arms and the presumption of innocence, since non-disclosure of identity "constitute a measure allowing the applicants to make an application for participation whilst protecting their security and well-being."²⁷

First Decision granting legal aid to victims. Following the first application for legal aid by a victim, the Registry decided that the victim being a minor, he must be presumed indigent. Additionally, the preliminary examination of the information regarding the victim's assets confirmed that he lacked sufficient means to pay for legal assistance. Consequently, the Registry decided to provisionally consider the victim totally indigent until the investigation into the victim's assets has been finalised.²⁸

These decisions set out the criteria that define and implement newly recognised rights: the right of victims of genocide, war crimes and crimes against humanity to participate in proceedings before an international criminal tribunal, in a way that is consistent with the rights of the Defence. While FIDH welcomes the advances made by the ICC, in particular by the Pre-Trial Chamber I, in relation to victim participation, it believes that the analysis of the decisions listed above raises a number of concerns:

- The restrictive interpretation of the concept of victim participation at the case phase, requiring the establishment of a direct causal link between the harm suffered by the applicant and the crimes mentioned in the arrest warrant, coupled with the narrow scope of the charges brought against Thomas Lubanga Dyilo, severely limits victim participation in the single current case.²⁹ In the view of FIDH, it is imperative that prosecutions are genuinely representative of the whole range of criminality and types of victimisation, so as to allow a higher number of victims to participate and claim reparations.
- The high number of applications recently dismissed appear to indicate that the applicants were not aware of the rules of the Court or of the charges brought against Mr. Lubanga.³⁰ FIDH has learned that the majority of the population in DRC is indeed unaware of the charges for which Lubanga might be brought to trial. This demonstrates that there is a great need for the Court to intensify outreach and training activities vis-à-vis victims both in DRC and in other situations, in order to provide them with accurate and up-to-date information on their rights as well as on the Chamber's interpretation of those rights. Outreach activities can also serve to manage victims' expectations. Strengthening outreach and

²⁴ "[L]a Chambre considère que l'exercice effectif des droits procéduraux découlant de la reconnaissance de la qualité de victimes autorisées à participer à la procédure requerrait des contacts successifs entre les dits Demandeurs et leurs Représentants légaux; [...] la Chambre est d'avis que ces contacts successifs bien que nécessaires pour l'exercice effectif de ces droits procéduraux et même s'ils sont organisés par l'Unité d'aide aux victimes et aux témoins, auraient pour conséquence d'augmenter sérieusement les risques encourus par les Demandeurs," *Id.* p. 11

²⁵ *Id.* p. 12

²⁶ ICC-01/04-73, Decision on protective measures requested by applicants 01/04-1/dp to 01/04-6/dp (Public Redacted version), of 25 July 2005, http://www.icc-cpi.int/library/cases/ICC-01-04-73_English.pdf

²⁷ ICC-01/04-01/06-672, Decision on the Defence request for leave to appeal regarding the transmission of applications for victim participation, 6 November 2006, http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-672_tEnglish.pdf

²⁸ ICC-01/04-01/06, Décision du Greffier sur la demande d'aide judiciaire aux frais de la Cour déposée par la victime a/0105/06, http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-650_French.pdf

²⁹ Concern about the temporary suspension of the investigation in respect of other crimes in the case against Thomas Lubanga, Joint Letter to the Prosecutor of the International Criminal Court (signed by Avocats sans frontières, Center for Justice and Reconciliation, Coalition Nationale pour la Cour Pénale Internationale – DRC, FIDH, Human Rights Watch, International Center for Transitional Justice, REDRESS and Women's Initiative for Gender Justice), 31 July 2006, http://www.fidh.org/article.php3?id_article=3622

³⁰ FIDH has not had access to the applications, which remain confidential. This conclusion is inferred from the Chamber's decision.

training activities could also minimise the cost of processing large number of applications which fall outside the scope of the requirements established by the Chamber.

- While FIDH is aware of the security situation in DRC and of the high risks that those who are granted victim status incur, it believes that participation of victims should not be limited due to security considerations. Given the fact that the ICC operates in countries where the conflict is ongoing, security risks will always be present. Therefore, it is imperative that the Court adopts measures to protect participating victims in accordance with article 68(1) of the Rome Statute to ensure that those victims who are willing to participate can do so. As far as FIDH is aware, the Court has not yet developed measures to protect participating victims other than non-disclosure of their identity. While witnesses have been accepted into the “protection programme”, victims have not been informed of this possibility so that they can apply for protective measures should they need to do so. FIDH recalls that according to article 68(1) of the Rome Statute, “[t]he Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of **victims** and witnesses” (emphasis added).³¹
- A very low number of victims will be in a position to pay for legal assistance. FIDH welcomes the first provisional decision on legal aid for victims. It notes, however, that the Court has not yet made available the application forms for legal aid for victims. Nor has the Court, as far as FIDH is aware, determined the criteria by which victims’ indigence will be assessed. The need for transparency in the activities of the Court, in particular, those related to the provision of legal aid, require that the relevant application forms and conditions are made public at the earliest possible opportunity. As a member of the Victims’ Rights Working Group (VRWG), FIDH fully endorses the “VRWG Submission to the ICC Regarding its Application Forms for Indigent Victims.”³²

Therefore, FIDH recommends that the Assembly of States Parties:

- **Encourages the Court to intensify its outreach and training activities vis-à-vis victims to inform them of their rights and on the Chamber’s interpretation of those rights;**
- **Requests the Court to present a report to the Bureau on the measures devised for the protection of participating victims; and**
- **Requests the Court to finalise and make public the application forms for legal aid for victims as well as the conditions to assess victims’ indigence.**

B. Cooperation on victims' issues

During 2006, ICC officials have repeatedly expressed that the Court needs States’ cooperation in order to fulfil its mandate. As noted in the Report on the activities of the Court, “[t]he past year has shown that cooperation will be increasingly important for the success of the Court. Many forms of cooperation will be essential.”³³

While execution of arrest warrants and surrender of suspects to the Court are the most evident forms of cooperation, there are many other ways in which States Parties can assist the ICC. This section highlights forms of cooperation on issues relevant to victims. Recommendations under this section apply not only to States on whose territory the Court is operating, but to all States Parties.

Protection of victims and witnesses: relocation agreements. Relocation of victims and witnesses to another country is an extreme measure which must only be adopted once all other protective measures have been exhausted. Because of the high security risks that exist in the countries where the ICC operates, it can be predicted that the Court will need to relocate victims, witnesses and others at risk due to their involvement in

³¹ FIDH Press Release, Opening of the confirmation of charges hearing against Thomas Lubanga Dyilo: Hope of a first trial, 9 November 2006, http://www.fidh.org/article.php3?id_article=3809

³² Available at: <http://www.vrwg.org/Publications/01/VRWG%20paper%20on%20indigence%20forms%20FINAL.pdf>

³³ ICC-ASP/5/15, Report on the activities of the Court, http://www.icc-cpi.int/library/asp/ICC-ASP-5-15_English.pdf, para. 197

ICC activities. Such relocation is only possible if States conclude relocation agreements with the Court.

Freezing of assets and seizure of property to secure future reparation awards. On 31 March 2006, the Court issued the first request for freezing of assets and seizure of property. The Pre-Trial Chamber I noted that “the reparations scheme provided for in the Statute is not only one of the Statute’s unique feature. It is a key feature” and that “the success of the Court is, to some extent, linked to the success of its reparation system.” Accordingly, it considered that “the identification, tracing, freezing and seizure of property of Mr. Thomas Lubanga Dyilo is necessary in the best interest of the victims in order to guarantee that should Mr. Thomas Lubanga Dyilo be found guilty of the crimes of which he is accused, the said victims, by virtue of article 75 of the Statute, will obtain reparations for the harm they have suffered.”³⁴ In the case of Mr. Lubanga, implementation of the request at the national level was facilitated by the existence of a Security Council resolution³⁵ and the fact the relevant Security Council Sanctions Committee had already identified Mr. Lubanga as one of the persons concerned by the said resolution. It is expected that the Court will issue similar requests for freezing and seizure of assets and property in respect of other persons that will be surrendered to the Court in the future. Therefore, States Parties must make sure that national legislation allowing implementation of the Court’s order at the national level is in place, including in cases where there is no Security Council resolution.

As a member of the CICC ASP Structure Team, FIDH fully supports the recommendation that the ASP should consider establishing a mechanism to address cooperation of States with the Court. FIDH further submits that such a mechanism should deal with all types of cooperation, including those relevant to victims. Additionally, FIDH believes that the States Parties should report regularly on the status of compliance with their obligation to cooperate with the Court.

Therefore, FIDH recommends that States Parties:

- ♦ **Consider signing relocation agreements with the Court;**
- ♦ **Adopt or review their implementing legislation in order to provide for national mechanisms to implement the Court’s orders to identify, trace, freeze or seize assets and property;**
- ♦ **Execute the Court’s requests for cooperation in compliance with their obligations under the Rome Statute.**

FIDH recommends that the Assembly of States Parties:

- ♦ **Urges all States Parties to comply with their obligation to cooperate with the Court, including on issues relevant to victims, in the omnibus resolution.**

C. Vision of the Court: Victims and the Strategic Plan

The Strategic Plan of the International Criminal Court (Strategic Plan or Plan)³⁶ is intended to be an instrument for the Court to realise the aims of the Rome Statute. It must cover the full scope of activities of the ICC and set the priorities that will guide the Court in carrying out its mandate. By requesting the preparation of a strategic plan, the Committee of Budget and Finance (CBF) encouraged the Court to develop a key management instrument that would facilitate continual improvement in the planning of the activities of the Court and ensure consistency between long-term goals and short-term action.³⁷

FIDH welcomes the development of the Strategic Plan. It also appreciates the Court’s efforts to engage in consultation with both States and NGOs during this process. As noted in the proposed budget for 2007,³⁸ the

³⁴ ICC-01/04-01/06-62, Request to States Parties to the Rome Statute for the identification, trace, freezing or seizure of property and assets of Mr. Thomas Lubanga Dyilo, of 31 March 2006, <http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-62-tEnglish.pdf>

³⁵ UN Doc. S/RES/1596 (2005)

³⁶ ICC-ASP/5/6, Strategic Plan of the International Criminal Court, http://www.icc-cpi.int/library/asp/ICC-ASP-5-6_English.pdf

³⁷ ICC-ASP/4/2, Report of the Committee of Budget and Finance on the work of its fourth session, http://www.icc-cpi.int/library/asp/ICC-ASP-4-2_English.pdf, para. 40

³⁸ Proposed Programme Budget for 2007, para. 17

Court's annual budget will be linked to the Strategic Plan, thus allowing the ASP to assess better the Court's resource requirements. In this respect, FIDH highlights the major role that the Strategic Plan will play in the future. Formulation of unnecessary objectives might result in an overspent in certain areas. On the other hand, if some key objectives are missed out, certain activities will be underestimated and will be allocated sufficient resources.

FIDH believes that the Strategic Plan is a positive development. This instrument will allow the Court to keep its mandate in perspective when devising strategies and planning activities. FIDH has noted that the Strategic Plan succeeds in identifying some of the key aspects of the Court's mandate as set up in the Rome Statute. However, FIDH is concerned that it lacks vision with respect to victims and their rights.

The recognition of the rights of victims is a historical achievement of the Rome Statute: their right to participation, legal representation and reparations in the context of international criminal proceedings, as well as their entitlement to protection, is a unique feature of the ICC. Yet, the mission statement of the Strategic Plan fails to recognise that the ICC is a forum for victims to express their independent views and concerns. It is by providing a forum for the victims to be heard and by the award of reparations that the Court will leave a meaningful legacy in the affected communities. The issue of victims' rights is central and it should be part of the vision shared by all organs of the ICC.³⁹

Therefore, FIDH believes that the Strategic Plan should be revised to take into consideration victims' rights and the Court's contribution to the affected communities.

Additionally, there are a number of areas in which the Plan could be further improved, namely:

- ♦ Objectives under strategic goal 1 ("Quality of Justice") are generally related to the quantity of investigations and trials, and the court capacity model. FIDH has been encouraging the Court, especially the OTP, to strengthen its on-going investigations by focusing on a wider range of crimes in order to prosecute more persons and for an increased number of charges. However, when laying out the number of investigations and trials, the Strategic Plan does not provide any information about the "quality" of such investigations and trials, in particular about achievements in the area of focused investigations that are representative of the range of criminality and types of victimization; actual contribution to prevention of crimes; or participants' access to justice.
- ♦ Administrative objectives seem to be over-emphasised (see strategic goal 3 "A Model for Public Administration"). These should be regarded as a means to achieve objectives, rather than as result-objectives. Coordination between organs and recruitment of highly-qualified staff, are important, but they are devoid of any meaning if these activities do not serve other primary goals. However, the Strategic Plan treats administrative objectives on an equal footing with other objectives, thus creating confusion as to the priorities of the Court, the means used and the expected results.
- ♦ The Plan fails to adequately link the mission and goals. For example, although the mission statement addresses the Court's contribution to long-lasting respect for international justice and prevention of crime, this is not at all reflected in the goals and objectives.⁴⁰
- ♦ The Strategic Plan also fails to outline the link and interaction between the different goals and objectives. For example, outreach can serve many different objectives. Although it is partially addressed under strategic goal 2 ("A well-recognised and adequately supported institution"), the Plan fails to recognise that by conducting effective outreach activities, the Court will not only get recognition and support but it will also

³⁹ As a member of the Victims' Rights Working Group (VRWG), FIDH endorses the VRWG Position Paper on the ICC's Strategic Plan, <http://www.vrwg.org/Publications/01/2006%20June%202016%20%20strategic%20plan1.pdf>

⁴⁰ Although "contribution to long-lasting respect for international justice and prevention of crime" had been identified as a goal in a previous version of the Plan, it was later on moved to the mission and no corresponding goals and objectives were formulated. See ICC-ASP/4/27, Report of the Committee of Budget and Finance on the work of its fifth session, http://www.icc-cpi.int/library/asp/ICC-ASP-4-27_English.pdf, para. 25, footnote 2

achieve “quality of justice”.

FIDH has taken particular note of the Court's recognition that this is a flexible Plan that will be reviewed regularly. FIDH considers that it is essential that the Plan be modified not only in the light of new experience of the Court and the lessons that it will certainly learn in the conduct of its activities, but also to improve the shortcomings described above. Additionally, FIDH believes that in revising the Plan, the Court should continue to engage in consultation with other actors, including States and NGOs.

Furthermore, FIDH would like to stress that the Plan must be complemented by the development of strategies and implementation of concrete activities. While FIDH is of the opinion that the ASP should respect the Courts' independence and, therefore, the Court should retain ownership of the Plan,⁴¹ it believes that the ASP has played and will continue to play a fundamental role in encouraging the Court to carry on with this process. Finally, FIDH recommends that implementation of the Plan be followed by careful assessment of the accomplishment of goals and objectives.

FIDH has also submitted comments and recommendations on the Prosecutorial Strategy, following the OTP's release of two documents, namely: a Report on the activities performed during the first three years⁴² and the Prosecutorial Strategy,⁴³ and the Prosecutor's invitation to States and civil society to comment on these documents at the OTP second hearing in The Hague and in New York (see Annexe I).

Therefore, FIDH recommends that the Assembly of States Parties:

- **Welcomes the development of the Strategic Plan;**
- **Requests the Court to further improve the Strategic Plan to account in particular for victims' prominent role in the system of the Rome Statute;**
- **Stresses that the Strategic Plan must be regularly reviewed in light of the Court's experience and lessons learned;**
- **Invites the Court to engage in sustained consultation with other actors in the process of revision of the Strategic Plan;**
- **Encourages the Court to develop detailed strategies to implement the objectives outlined in the Strategic Plan; and**
- **Recommends that the Court regularly evaluates accomplishment of the strategic goals and objectives.**

D. Maximising the Court's impact in the field: the Outreach Strategy

At its fourth session, the Assembly of States Parties recognised the importance of engaging local communities in constructive interaction with the Court, in order to promote understanding and support for its mandate, and accordingly encouraged the Court to intensify outreach activities and requested that it presented a detailed strategic plan in relation to outreach in advance of its fifth session.⁴⁴ In compliance with the Assembly's request, the Court has produced a Strategic Plan for Outreach (Outreach Strategy or Strategy).⁴⁵ FIDH welcomes the progress made in this document in terms of planning how to maximise the impact of the Court in the affected communities. Although some concerns remain, the Strategy is overall a very good instrument.

⁴¹ ICC-ASP/5/1, Report of the Committee of Budget and Finance on the work of its sixth session, http://www.icc-cpi.int/library/asp/ICC-ASP-5-1_English.pdf, para. 56

⁴² *Supra* note 4

⁴³ The Office of the Prosecutor's Report on Prosecutorial Strategy, 14 September 2006, http://www.icc-cpi.int/library/organs/otp/OTP_Prosecutorial-Strategy-20060914_English.pdf

⁴⁴ ICC-ASP/4/Res.4, Strengthening the International Criminal Court and the Assembly of States Parties, http://www.icc-cpi.int/library/asp/ICC-ASP-4-Res4_English.pdf, para. 22

⁴⁵ ICC-ASP/5/12, Strategic Plan for Outreach, http://www.icc-cpi.int/library/asp/ICC-ASP-5-12_English.pdf (hereinafter “Outreach Strategy”)

1. The need to increase outreach activities

Outreach is a two-way communication established to bridge the distance between the Court and the communities concerned by investigations or prosecutions. This two-way process serves to increase the confidence of these communities that will be better informed about the Court and its role. It also enables the Court to understand better the concerns and expectations of local communities so that it can respond more effectively and clarify, where necessary, any misconceptions that might exist.⁴⁶

Outreach is different from “external relations” and from “public information”. The term “External relations” refers to the dialogue between the Court and other stakeholders, including states, intergovernmental organisations and NGOs, aimed at obtaining the support and cooperation necessary for the Court to carry out its functions. “Public information” refers to information about the Court and its activities distributed to the general public, including through the media.

FIDH, as well as other NGOs and in particular the CICC Communications Team, have stressed that **outreach is at the heart of the Court's activities**. In the absence of adequate outreach, the activities of the Court at its seat in The Hague risk appearing far removed from and irrelevant to the communities they are intended to benefit. Outreach is important for the Court to fulfil its deterrent role as proclaimed in the preamble to the Rome Statute. Furthermore, outreach is essential in order to implement victim's rights before the Court. Victims of crimes that may fall into the Court's jurisdiction must be fully informed of their rights including the possibility of participation in the proceedings and of obtaining reparations. Unless victims are sufficiently informed, the provisions relating to victims will have little or no impact. Further, as outreach helps build people's confidence in the ICC, it can determine witnesses' willingness to testify and cooperate with the Court, thus contributing to more effective investigations and prosecutions. Finally, outreach is important to manage expectations, to leave legacy in the affected communities and to promote reconciliation. **Because this communication with the affected communities is intrinsic to the mandate of the ICC, NGOs cannot do outreach for the Court.** They cannot replace the Court nor speak on its behalf. They have their own mandate and cannot respond to criticism about the Court or its activities. The involvement of local civil society organisations is certainly crucial for the success of any outreach programme, as they have detailed knowledge about the context in which the Court operates. However, the prime responsibility for carrying out effective outreach rests with the ICC itself. Action by NGOs is limited by the principle of independence of the Court and the fact that they may not fully share the Court's view. “FIDH strongly believes that NGOs cannot replace an effective and independent ICC communication. Clearly some messages can only be given by the Court. Relying too much on local intermediaries could place them in a difficult position and, if they were to be assimilated the Court on the field, could threaten their independence [...] Furthermore, many national and local NGOs face a serious lack of resources [...] NGOs already work in very dangerous conditions and are on the front line, such cooperation might put them at risk.”⁴⁷

2. Content of the Outreach Strategy and need for immediate implementation

FIDH notes at the outset that the Outreach Strategy represents a real improvement in terms of conceptualisation of outreach and identification of outreach activities.⁴⁸ The Strategy is composed of a general description of the outreach activities, a section on outreach in each of the situations currently under investigation and charts indicating concrete activities for the implementation of the Strategy in 2007. The identification of the Registry as the organ responsible for outreach ensures neutrality. The Strategy further acknowledges that the content of the messages will vary according to the different stages of the proceedings. It clearly describes target groups and the tools that the Court intends to use.

⁴⁶ *Id.* para. 3

⁴⁷ FIDH Position Paper No. 10 – Recommendations to the Fourth Session of the Assembly of States Parties to the International Criminal Court, <http://www.fidh.org/IMG/pdf/icc2005a.pdf>, (hereinafter FIDH Position Paper No. 10) p. 14

⁴⁸ For an assessment of the improvement made during 2006, it is useful to look back at the recommendations made at the end of 2005. See FIDH Position Paper No. 10, p. 9-10 and CICC Communications Team, Comments and Recommendations to the States Parties in relation to ICC and Outreach, 24 November 2005, http://www.iccnw.org/documents/CommsTeam_ASPadvocacydoc24Nov05.pdf

Although the Strategy covers overall most of the main points required to conduct effective outreach activities, FIDH believes that there is room for improvement. For example, while the Strategy provides for activities in the investigative and pre-trial phases, no outreach activities are planned during the preliminary analysis where an investigation has not yet been launched, as in the case of the Central African Republic or Côte d'Ivoire. FIDH's experience in those two countries has revealed that there is major misunderstanding and a great need for information about the ICC and its mandate. In addition, outreach activities could contribute to maximising the impact of the ICC, thus deterring commission of further crimes.

FIDH also notes with concern that description of the Outreach Strategy in respect of the situation in Darfur seems somehow weak and incomplete. This part of the document lacks information on how information materials will be distributed and on how the Court will assess the different target groups' needs.

FIDH is also concerned that although the OTP has announced that investigative activities in relation to a fourth situation will take place in 2007, the Outreach Strategy does not contain any plans with regard to such a situation. Experience of other international tribunals demonstrate that outreach activities should start at the earliest possible opportunity, since delaying flow of information could negatively impact on the work of the Court.

FIDH has long advocated for adequate design and implementation of outreach campaigns to reach out to victims in order to inform them of the possibility to participate in the proceedings and to claim reparations. FIDH thus welcomes the fact that material for outreach to victims and the forms to apply for participation and reparation have now been uploaded on the Court's website.⁴⁹ While this measure is important, it is crucial that the Victims' Participation and Reparation Section (VPRS) maintains and continues to increase the level of activity in the field. During 2006, the VPRS conducted a number of seminars in Uganda and DRC. FIDH regrets to note that no activities to reach out to victims have been conducted in respect of the Darfur situation.

In terms of plans for 2007, FIDH welcomes the fact that the Outreach Strategy identifies "victims" as a target group and recognises that they have a central role in the work of the Court.⁵⁰ Nonetheless, FIDH regrets that the Strategy fails to address coordination and division of labour between the Public Information and Documentation Section (PIDS) and the VPRS on matters related to outreach to victims. In addition, FIDH notes with satisfaction that the charts for implementation of the Strategy in 2007 indicate that specific activities to target victims will be conducted in DRC and Uganda, and that there are plans to distribute material on victims' rights. However, FIDH notes with concern that there are no specific plans to address victims in Darfur.

Despite these concerns, FIDH believes that there is a major need for the Outreach Strategy to be implemented immediately. While the Court will be able to tune and further refine the Strategy during 2007, it is imperative that the ASP supports urgent implementation of the activities outlined in the document. It is also crucial that adequate resources be allocated to outreach activities (for more information on the budget for outreach, see section II.A.1 below).

Therefore, FIDH recommends that the Assembly of States Parties:

- **Welcomes the development of the Outreach Strategy;**
- **Requests the Court to immediately implement the Strategy and highlight its importance in the omnibus resolution;**
- **Supports implementation of the Outreach Strategy by allocating the resources necessary to conduct effective outreach activities.**

⁴⁹ The booklet "A guide for the Participation of Victims in the Proceedings of the Court" and the forms are available at: <http://www.icc-cpi.int/victimissues/victimsparticipation.html>

⁵⁰ Outreach Strategy, para. 22

II. OTHER RECOMMENDATIONS TO THE ASSEMBLY OF STATES PARTIES

A. Budget on victims' issues

The Proposed budget for 2006 is €93.46 million. This reflects an increase of €13 million over the 2006 budget. Approximately 73% of this increase is due to existing obligations and 26% is attributable to new resources.

In preparing the budget for 2006, the Court has revised its assumptions. While in 2005, the Court had predicted that four situations would be investigated and that two trials would be held; the ICC now foresees that there will be four investigations in 2007, but that only one trial will take place. The Court has acquired more experience and, therefore, revision of assumptions is natural. This year, the Court has budgeted only for the activities that will almost certainly take place.

Under this section, FIDH seeks to draw the attention of the Assembly of the States Parties to the Court's Budget in respect of victims' issues, in particular: 1) outreach; 2) protection of victims and witnesses; 3) participation and legal representation of victims; and 4) the Trust Fund for Victims.

1. Outreach

The Court has required further resources to implement the Outreach Strategy.⁵¹ As described above, the Outreach Strategy presented by the Court to the ASP is a big improvement; therefore, adequate resources should be allocated for the Court to implement it. FIDH believes that the budget requested by the Court matches the Outreach Strategy. The Strategy indicates that:

- A permanent Outreach Unit will be established within PIDS to ensure coordination and oversight of the implementation of the Strategy. The Unit will consist of permanent staff based in The Hague and in the field offices.
 - Staff at the ICC Headquarters is required to coordinate actions between the different organs and offices in the implementation of the outreach programme. In addition, this staff will be responsible for ensuring sustained information flow between the Headquarters and the field, in particular through preparation of regular briefs on outreach activities and weekly summaries on trial proceedings.
 - Field Staff will be responsible for carrying out core outreach activities. FIDH welcomes investment in this area. Effective outreach requires that staff interacts constantly with the local populations in order to understand their culture and expectations, and thus be in a better position to address misconceptions and concerns. Outreach activities conducted by field staff will be more credible to the eyes of the local population which will expect that those who address them are aware of their traditions and beliefs. Finally, field staff is also essential to liaise with relevant local partners.
- The Unit will need to produce material, including visual and audio-visual material, to carry out outreach activities. Failure to allocate sufficient resources in this area could seriously affect the Court's ability to carry out outreach activities effectively. FIDH welcomes in particular investment in translation of material into local languages, since it believes that this is crucial to communicate with the local populations.

FIDH is seriously concerned by the cuts recommended by the CBF⁵² since it believes that the

⁵¹ Proposed Programme Budget, paras. 334-347

⁵² ICC-ASP/5/23, Report of the Committee of Budget and Finance on the work of its seventh session, http://www.icc-cpi.int/library/asp/ICC-ASP-5-23_English.pdf (hereinafter "CBF report"), para. 77

implementation of the Outreach Strategy could be seriously affected if those resources are not approved. Further, given the importance that the ASP attached to the issue of outreach during its fourth session, the Assembly should avoid sending mixed signals to the Court. Accordingly, the ASP should reject the CBF recommendations and support the development of the Outreach Strategy by allocating sufficient resources to ensure its effective implementation.

Therefore, FIDH recommends that the Assembly of States Parties:

- ♦ **Rejects the CBF recommendations for cuts in the area of outreach; and**
- ♦ **Approves the budget requested by the Court.**

For other recommendations on outreach, see section I.D above.

2. Protection of victims and witnesses

Victims and witnesses are entitled to protection against reprisals and re-traumatisation. Protection of victims and witnesses is an obligation of the Court according to article 68(1) of the Rome Statute. Given the fact that the ICC operates in countries where conflict is on-going, protection of victims and witnesses represents a serious challenge for the Court. Support and protection of victims and witnesses is an area in which field presence is essential.

Protection issues have been a dominant theme in the proceedings before the ICC Chambers during 2006. Protection issues might affect the conduct of the proceedings and they are on many occasions at the heart of specific judicial decisions. Some of the most relevant decisions are listed below:

First postponement of the confirmation hearing. The confirmation of charges hearing in the Lubanga case was postponed on several occasions. The first postponement decided on 24 May 2006 was due to the need to give the Victims and Witnesses' Unit (VWU) the time necessary to implement protective measures.⁵³

Decision inviting observations from Professor Antonio Cassese and the High Commissioner for Human Rights, Louis Arbour, on protection of witnesses and preservation of evidence in Darfur.⁵⁴ Considering that the protection of victims in Darfur is paramount and in accordance with its obligations under article 57(3)(c) of the Statute, the Pre-Trial Chamber I sought experts' view on this issue. In her brief, the High Commissioner for Human Rights shared the experience of her office in Darfur and concluded that increased presence of the ICC in the field would provide a noticeable measure of protection and would contribute to the deterrence of further crimes.⁵⁵ At the time of writing, the Pre-Trial Chamber had not taken any decision following the observations received. However, should the Chamber share Ms. Arbour's views and recommend that the ICC be present in Darfur, other simultaneous measures to protect witnesses and victims, including protection programmes, will need to be put in place.

Decision on the modalities of victim participation at the confirmation hearing⁵⁶ (of 22 September 2006) and ***Decision on 59 applications to participate in the proceedings concerning the case The Prosecutor v.***

⁵³ ICC-01/04-01/06-126, Decision on the postponement of the confirmation hearing and the adjustment of the timetable set in the decision on the final system of disclosure, of 24 May 2006, http://www.icc-cpi.int/library/cases/ICC-01-04-01-06-126_English.pdf

⁵⁴ ICC-02/05-10, Decision inviting observations in application of rule 103 of the Rules of Procedure and Evidence, of 24 July 2006, http://www.icc-cpi.int/library/cases/ICC-02-05-10_English.pdf

⁵⁵ ICC-02/05-10, Observations of the United Nations High Commissioner for Human Rights invited in application of rule 103 of the Rules of Procedure and Evidence, of 10 October 2006, http://www.icc-cpi.int/library/cases/ICC-02-05-19_English.pdf

⁵⁶ *Supra* note 21

Thomas Lubanga Dyilo (of 20 October 2006)⁵⁷ - both described above. These decisions recognised that the “deterioration in the security situation in certain areas of the Democratic Republic of Congo (DRC) has had repercussions on the range of protective measures currently available and which might be implemented to protect victims [...]” As explained above, the later of these decisions restricts victims’ participation on the basis of security constraints.

These decisions have reaffirmed the importance for the Court to set up protective programmes for victims applying or participating in the proceedings, and to intensify protective measures for witnesses. The proposed budget for 2007 requests further resources to implement such measures.⁵⁸ Effective protection of victims and witnesses who are themselves in the field requires adequate field presence. Accordingly, most of the additional resources are requested to hire more field staff. FIDH advocated for increased field presence in its recommendations to the ASP at its fourth session,⁵⁹ and, therefore, welcomes the Court’s decision in this regard.

However, FIDH is seriously concerned by the CBF recommendations to cut most of requested resources in the area of protection of victims and witnesses.⁶⁰ FIDH believes that the VWU’s request for additional resources is justified on the basis of the following considerations:

- As the Court has now entered into full operation, protection of victims and witnesses needs to be reinforced. Firstly, protective measures concerning the redaction of names and non-disclosure of information to the Defence, will not be applicable at later stages of the proceedings since compliance with provisions in the Rome Statute and the Rules of Procedure and Evidence requires that the Prosecutor discloses witnesses’ identities to the Defence.⁶¹ Consequently, other protective measures need to be put in place.
- The VWU will be in charge of protecting not only witnesses for the Prosecution but also witnesses for the Defence, and potentially witnesses for the victims.
- In addition, the Unit’s services might be required by victims participating in the proceedings.
- It should be recalled that the VWU’s obligations are investigation-related (as opposed to case-related). Therefore, with the opening of a fourth investigation, VWU’s tasks will necessarily increase.
- The experience of national systems for protection of victims and witnesses show that security risks increase as proceedings advance.

FIDH believes that the CBF proposal to fund some of these positions with General Temporary Assistance (GTA) contracts is unacceptable. Protection of victims and witnesses requires highly-qualified candidates, who will be difficult to attract for temporary positions.

Therefore, FIDH recommends that the Assembly of States Parties:

- ♦ **Rejects the CBF recommendations for cuts in the area of protection and support of victims and witnesses; and**
- ♦ **Approves all the resources requested by the Court.**

3. Victim participation and legal representation

FIDH believes that the adequate implementation of victims’ rights requires outreach activities to be conducted vis-à-vis victims. The presence of field staff that can support outreach activities in respect to victims is essential to ensure success of those campaigns. FIDH therefore welcomes the creation of a new field position.⁶² At present, there are two VPRS field officers, one in Kinshasa and one in Kampala. While welcoming the upcoming recruitment of a third field officer, FIDH notes that if a fourth investigation is opened as planned, three field officers will be insufficient to cover four situations. VPRS field staff should be

⁵⁷ *Supra* note 23

⁵⁸ Proposed Programme Budget, paras. 304-317

⁵⁹ FIDH Position Paper No. 10, p. 12

⁶⁰ CBF report, para. 75

⁶¹ Rome Statute, articles 61(3) and 67(2); Rules of Procedure and Evidence, rules 76-84 and 121

⁶² Proposed Programme Budget, paras. 364-365

in place as of the commencement of the Court's activities in a certain country. This would allow planning and implementation of outreach campaigns targeting victims to start at the earliest possible opportunity. FIDH also notes that having only one person in each field office to develop strategies and policies for each situation, to organise trainings and to maintain daily contacts with victims and intermediaries, is seriously not enough.

The Court has requested resources to fund General Services (GS) GTA contracts in order to adequately process applications for participation received during peak periods.⁶³ The CBF has recommended against these resources.⁶⁴ Although FIDH considers that process of applications, including the preparation of the relevant report to the Chamber, require permanent (as opposed to temporary)⁶⁵ and professional (as opposed to GS) staff, it notes that the Court is willing to carry out this tasks by requesting the least resources possible, and, therefore, believes that these resources should be granted.

According to rule 90 of the Rules of Procedure and Evidence, victims are entitled to legal representation, including by a common legal representative when the number of victims seeking participation and representation is large. Victims are also entitled to legal assistance paid by the Court when they lack sufficient means to pay for their representation. Accordingly, it is essential that the Court's annual budget provides sufficient resources to cover the costs of several teams of legal representatives.

Legal aid in the proposed budget for 2007 is based upon the assumption that there will be two victim's legal representatives "per case"⁶⁶ and, therefore, as the Court plans to have only one case in 2007, resources will be provided for two teams of victims' legal representatives on the whole. FIDH submits that this assumption is wrong and in clear contradiction with the case-law developed by Pre-Trial Chamber I. While the Court plans to have only one trial in 2007, it will be investigating in four situations. Consequently, there is a risk that resources budgeted for legal representation of victims will be insufficient. Assumptions should be based on a number of legal representatives "per situation" (as opposed to "per case") in the light of the Chamber's decision authorising victims' participation at the investigation stage, before the announcement of charges or the issuance of arrest warrants.⁶⁷

Although if need be, the Chamber might decide to join groups of victims under a common legal representative or to appoint the Office of Public Counsel for Victims, FIDH reminds that that will not always be possible since in joining groups of victims the Chamber must avoid conflicts of interests.⁶⁸

Therefore, FIDH recommends that the Assembly of States Parties:

- ♦ **Approves the additional resources required for the creation of a new VPRS field position;**
- ♦ **Rejects the CBF recommendations to cut GTA resources; and**
- ♦ **Allocates sufficient funds to legal aid for victims in all four situations.**

4. Trust Fund for Victims

FIDH notes with great concern that the CBF report recommends that the annual budget of the Secretariat of the Trust Fund for Victims (Trust Fund) "should be fully incorporated into future proposed budgets for the Court and that a separate presentation of the activities of the Board of Directors of the Trust Fund for Victims should not appear in the report to the Assembly."⁶⁹ This measure would seriously undermine the

⁶³ Proposed Programme Budget, para. 366

⁶⁴ CBF report, para. 79

⁶⁵ Preparation of reports to the Chamber requires experience and expertise. One of the disadvantages of having temporary staff in this position is the need to train new staff very often.

⁶⁶ Proposed Programme Budget, Annex III

⁶⁷ Decision of 17 January 2006

⁶⁸ Rules of Procedure and Evidence, rule 90(4)

⁶⁹ CBF report, para. 80

independence of the Trust Fund, which is a distinct institution and not an organ of the ICC. As such, it must keep a separate budget.

FIDH also notes that the CBF recommended cuts in travel resources. In the view of FIDH, this raises serious concerns. Assessment of whether it is necessary “to provide physical or psychological rehabilitation or material support”⁷⁰ and consultation with victims⁷¹ will require that the staff of the Secretariat of the Trust Fund conduct regular missions to the field. An Executive Director of the Secretariat of the Trust Fund will soon be appointed and sufficient funds should be granted for him or her to carry out such missions, in compliance with the instructions of the Board of Directors of the Trust Fund (Board of Directors or Board).

Therefore, FIDH recommends that the Assembly of States Parties:

- ♦ **Rejects the CBF recommendation that the annual budget of the Secretariat of the Trust Fund should be fully incorporated into future proposed budgets; and**
- ♦ **Rejects the CBF recommendation to cut travel resources of the Secretariat of the Trust Fund.**

B. Election of the members of the Board of Directors of the Trust Fund for Victims

At its fifth session, the Assembly of States Parties will elect the new members of the Board of Directors of the Trust Fund. FIDH would like to take this opportunity to recall the importance of this body and the tasks the new members of the Board of Directors will be entrusted with.

1. Background to the Trust Fund and the way forward

The Trust Fund was established by the ASP at its first session,⁷² pursuant to article 79 of the Rome Statute. The first members of the Board of Directors were elected in 2003. The ASP also took important measures in respect of the Trust Fund at its third and fourth sessions: in 2004, it established the Secretariat of the Trust Fund;⁷³ in 2005, it adopted the Regulations of the Trust Fund.⁷⁴

FIDH highlights the importance of the Trust Fund as a historical institution, which is crucial for the accomplishment of the reparative mandate of the ICC. The mandate of the Trust Fund is two-fold: 1) to execute the reparations awards ordered by the Court; and 2) to determine the appropriate use of voluntary contributions to provide assistance to the victims of crimes within the jurisdiction of the Court, and their families. Consequently, the tasks with which the Trust Fund is entrusted are complementary to the Rome Statute's recognition of victims' rights to participate in the proceedings, apply for reparations and to be adequately protected.

As explained above, in 2006, the ICC delivered innovative decisions acknowledging the scope of victims' rights in the Rome Statute. Yet, FIDH notes that although the Court is presently investigating in three situations and preparing for its first trial, a very low number of victims have been authorised to participate in the proceedings. Not all victims of crimes within the jurisdiction of the Court are in a position to apply for participation and/or reparations. Others might not be recognised as “victims” as a result of a narrow interpretation of the relevant rules.⁷⁵ FIDH therefore considers that, as a complementary tool to the Court, the Trust Fund has enormous potential to provide assistance to the affected communities. The Regulations having been adopted, it is imperative that the Trust Fund start to plan concrete activities and projects, in

⁷⁰ Regulations of the Trust Fund, para. 50(a)

⁷¹ *Id.* para. 49

⁷² ICC- ASP/1/Res. 6, Establishment of a fund for the benefit of victims of crimes within the jurisdiction of the court, and of the families of such victims, 9 September 2002, http://www.un.org/law/icc/asp/1stsession/report/english/part_iv_res_6_e.pdf

⁷³ ICC-ASP/3/Res.7, Establishment of the Secretariat for the Trust Fund for Victims, 10 September 2004, http://www.icc-cpi.int/library/asp/ICC-ASP-3-25-III_English.pdf

⁷⁴ ICC-ASP/4/Res.3, Regulations of the Trust Fund, 3 December 2005, http://www.icc-cpi.int/library/asp/PartIII_-_Resolutions.pdf

⁷⁵ See *supra* section I.A

particular in view of paragraph 50(a) of the Regulations.⁷⁶

FIDH acknowledges that planning and implementation of projects require extensive preparations, including the development of guidelines and criteria. The new members of the Board of Directors will be entrusted with this crucial task. They will also decide on the first projects to provide physical or psychological assistance or material support to victims of the situations under investigation by the Court and their families.

FIDH appreciates the sustained dialogue between the Board of Directors' and civil society at the Board's annual meetings. FIDH hopes that the new Board will continue to engage in such a dialogue and looks forward to further collaboration with the new Board as well as with the Secretariat of the Trust Fund.

2. Election

The Board comprises five members, each representing a different continent. They are elected by the ASP for a three-year term, and can be re-elected once only. Each member serves in an individual capacity on a pro-bono basis. The members of the Board shall "be of high moral character, impartiality and integrity and shall have competence in the assistance to victims of serious crimes."⁷⁷

Considering the importance of the tasks and responsibilities of the Board of Directors, FIDH believes that its members should be highly motivated individuals, who are deeply committed to and have experience in the field of human rights in general, and victim's rights in particular, and are ready to assume the paramount responsibility that such a position entails. FIDH would then like to encourage States Parties to take all these factors into consideration when electing the new members of the Board.

The candidates for the elections are: Abdoulaye Barry (Burkina Faso); Viktor Gumi (Albania); Tadeusz Mazowiecki (Poland; current member of the Board); Arthur N.R. Robinson (Trinidad and Tobago; current member of the Board); Desmond Tutu (South Africa; current member of the Board); Simone Veil (France; current member and Chair of the Board). No candidate from Asia had yet been nominated at the time of writing.

3. Voluntary contributions

As of 29 August 2006, the Trust Fund had collected 1,630,237.20 euros. The projects and activities to be implemented by the Trust Fund will require further contributions from all sectors, including governments, individuals, corporations and other entities. FIDH takes this opportunity to encourage individual States Parties to make voluntary contributions to the Trust Fund, and to recommend that a call for contributions be made in the omnibus resolution.

Therefore FIDH recommends that the Assembly of States Parties:

- ♦ **Elects to the Board of Directors candidates who are highly motivated and deeply committed to victim's issues and are ready to take up the paramount responsibility that such a position entails;**
- ♦ **Encourages the Trust Fund and the new Board of Directors to start planning concrete activities and projects; and**
- ♦ **Call for voluntary contributions to the Trust Fund in the omnibus resolution.**

⁷⁶ ICC-ASP/4/12, Second Report to the Assembly of States Parties on the activities and projects of the Board of Directors of the Trust Fund for Victims for the Period 16 July 2004 to 15 August 2005, 29 September 2005, http://www.icc-cpi.int/library/asp/ICC-ASP-4-12_English.pdf, para. 2

⁷⁷ ICC-ASP/1/Res.7, Procedure for nomination and election of members of the Board of Directors of the Trust Fund for the benefit of victims, 9 September 2002, http://www.un.org/law/icc/asp/1stsession/report/english/part_iv_res_7_e.pdf

C. OTHER MATTERS

1. Resources for a fourth investigation

The budget for 2007 requires that additional resources be allocated for posts and activities related to a fourth investigation. While the opening of a fourth investigation was already foreseen in the 2006 budget, the proposed budget for 2007 requires allocation of further resources in a number of areas, including staff (translators; field interpreters; analysts; field operators; trial support; security field officers; protection officers)⁷⁸ and non-staff resources (travel related to investigation missions).⁷⁹

FIDH notes that while the OTP has requested sufficient resources to conduct a fourth investigation, the Registry seems not to have budgeted enough resources to cover expenses which would arise as a result of such an investigation. For instance, insufficient resources to ensure field presence for issues such as victim and witness protection, dissemination of information on victim participation and outreach, have been requested.

The OTP must make decisions on the opening of the fourth investigation upon consideration of jurisdiction and admissibility requirements. Lack of sufficient resources should not be an obstacle for the OTP to conduct investigations, once the Prosecutor has determined that the statutory requirements are fulfilled and that a new investigation into crimes within the jurisdiction of the Court should be initiated.

FIDH highlights that opening of investigations is important not only for the ICC to try those responsible for the most serious crimes, but also to deter further commission of atrocities in the relevant country or region. FIDH has long advocated for the OTP to open investigations in Central African Republic, Côte d'Ivoire and Colombia. The draft budget seems to indicate that the OTP has come or will soon come to a positive decision on one of these or another situation, and FIDH believes that the ASP should endorse this action by approving the necessary resources. Absence of these resources could result in the inability of the OTP to conduct the investigation in an effective and timely manner. In this respect, FIDH notes with concern the CBF's recommendation against an Analyst position⁸⁰ that, according to the Court's proposed budget, would be assigned to work in the fourth situation team.⁸¹

Finally, FIDH is concerned about the "rotation resource model" that will be applied by the OTP.⁸² It has been explained that resources from situation 1 (Uganda) will be rotated to situation 4. While this is acceptable for practical reasons (as it ensures minimum requirement for new resources), it implies that future opening of investigations on new situations will be necessarily delayed until another investigation has been completed. FIDH submits that this approach is inconsistent with the OTP obligation to open an investigation as soon as it has determined that the statutory requirements are met. Delaying the opening of an investigation on the basis of practical considerations is unacceptable.

Therefore, FIDH recommends that the Assembly of States Parties:

- ♦ **Allocates the resources related to the fourth situation to all organs of the Court.**

2. In situ hearings

According to the Rome Statute the seat of the Court is in The Hague. However, the Statute recognises that the Court may sit elsewhere, whenever it considers it desirable.⁸³ The Statute further establishes that "[u]nless otherwise provided, the place of trial shall be the seat of the Court."⁸⁴ FIDH submits that holding *in*

⁷⁸ Proposed Programme Budget, paras. 79-80, 133, 135, 150, 176, 306

⁷⁹ *Id.* paras. 86, 89, 139 and 150

⁸⁰ CBF Report, para. 66

⁸¹ Proposed Programme Budget, paras. 133-134

⁸² *Id.* para. 60

⁸³ Rome Statute, article 3(3)

⁸⁴ Rome Statute, article 62

situ hearings is essential to bridge the distance between the Court and the field. The Registry's efforts to promote greater understanding about the Court and its mandate and to engage into a two-way dialogue with the affected communities, must be complemented by *in situ* hearings. Such hearings are crucial to enhance awareness about the ICC, and to maximize the impact of the Court on prevention of further commission of crimes. *In situ* hearings are also essential to advance victims' right to "access to justice." Finally, they can prove beneficial to the judges, who can acquire a better understanding of the cultural and geographical context of the crimes by sitting in the region where they were committed.⁸⁵

With the beginning of the first trial in 2007, the Court should start planning to conduct *in situ* hearings in Ituri, DRC. Additionally, it could consider holding key *in situ* proceedings with respect to other situations at the pre-trial stage.

Therefore, FIDH recommends that the Assembly of States Parties:

- ♦ **Encourages the Court to hold *in situ* hearings; and**
- ♦ **Allocates the resources necessary to hold such hearings.**

3. Translation

According to article 50(2) of the Rome Statute, the working languages of the Court are English and French. Additionally, according to article 50(1) of the Rome Statute and regulation 40(1) of the Regulations of the Court, the Registry must translate decisions resolving fundamental issues before the Court into all official languages and in accordance with regulation 40(3) of the Regulations of the Court, the Registry shall ensure translation of all decisions and orders by the Chamber into the other working language.

FIDH has noted that a substantial number of judicial documents are not translated and that some judicial and other documents are only translated with significant delays. Although the Chambers have already delivered a number of landmark decisions, no decision has been translated into all official languages. Additionally, FIDH considers that more decisions, documents and reports concerning the situation in Darfur, Sudan should be translated into Arabic.

FIDH believes that translation is essential for transparency and access to the Court's activities. Furthermore, problems with translation might result in delays in processes and decisions, including judicial proceedings. They might also affect the right to a fair and expeditious trial.

The judicial activity of the Court has increased in the last year and will most probably continue to increase in the coming months. As activities and, consequently, the need for translation and interpretation rise, FIDH fears that the translation/interpretation situation might worsen in 2007. Although the Court requested further translation-related resources,⁸⁶ the CBF recommended that most of them should not be approved.⁸⁷

Therefore FIDH recommends that the Assembly of States Parties:

- ♦ **Approves the resources in the area of translation and interpretation; and**
- ♦ **Rejects the CBF recommendations in this area.**

4. Review conference

According to article 123(1) of the Rome Statute "[s]even years after the entry into force of th[e] Statute the Secretary-General of the United Nations shall convene a Review Conference to consider any amendments to this Statute." FIDH notes that the ASP has not yet started to make adequate preparations for the organisation of this event.

⁸⁵ REDRESS, *Victims, Perpetrators or Heroes? Child Soldiers Before the International Criminal Court*, September 2006, p. 51

⁸⁶ Proposed Programme Budget, paras. 289-303

⁸⁷ CBF report, para. 76

The ASP must start preparing for the Review Conference in order to ensure that procedures, structures and adequate budget are available in time. As a member of the CICC Review Conference Team, FIDH supports the recommendations addressed to the ASP.

Therefore FIDH encourages the Assembly of States Parties:

- ♦ **To start making adequate preparations for the Review Conference in order to ensure that procedures, structures and adequate budget are available in time.**

5. Premises

The ICC is currently located in interim premises that the Host State provides free of charge until 2012. States Parties must then make a decision as to the permanent premises of the ICC after this date. In this regard, the Host State has provided three alternatives: 1) staying in the current building and making more adjustments (since the current premises had not previously been used to host a judicial institution); 2) moving to the building of the ICTY; or 3) building purpose-built premises on the Alexanderkazerne site in the outskirts of The Hague. The Host State, the Court and the CBF seem to agree that the latter is the best option.

Taking into account the long period that will be needed to build the new permanent premises, the ASP should make a decision on the one of three options at its fifth session. It should be noted that delaying a decision might result in additional costs.

Therefore FIDH recommends that the Assembly of States Parties:

- ♦ **Makes a decision on the permanent premises of the Court.**

6. Crime of aggression

According to article 5(2) of the Rome Statute “[t]he Court shall exercise jurisdiction over the crime of aggression once a provision is adopted in accordance with articles 121 and 123 defining the crime and setting out the conditions under which the Court shall exercise jurisdiction with respect to that crime [...]” A Special Working Group on the crime of aggression (SWGCA) was established by the ASP at its first session.⁸⁸ The SWGCA met during the second, third and fourth sessions of the ASP, as well as in inter-sessional meetings in June, 2004, June 2005 and June 2006 in Princeton, New Jersey.

The ASP decided at its fourth session that the SWGCA should be allocated at least 10 days of meetings in New York during resumed sessions and hold inter-sessional meetings as appropriate.⁸⁹ Accordingly, the SWGCA has been allotted three days of meetings during the resumed fifth session of the ASP. Considering that the SWGCA has decided to conclude its work at the latest 12 months prior to the Review Conference,⁹⁰ additional meeting time should be allocated at the resumed sixth session of the Assembly to be held in the first trimester of 2008.⁹¹

Therefore, FIDH recommends that the Assembly of States Parties:

- ♦ **Allocates the SWGCA additional meeting time during the resumed sixth session of the ASP.**

⁸⁸ ICC-ASP/1/Res.1, 9 September 2002, http://www.un.org/law/icc/asp/1stsession/report/english/part_iv_res_1_e.pdf

⁸⁹ *Supra* note 44, paras. 37 and 53

⁹⁰ ICC-ASP/4/32, Report of the informal inter-sessional meeting of the Special Working Group on the Crime of Aggression from 13 to 15 June 2005, http://www.icc-cpi.int/library/asp/SWWGCA-annex_II_A_-_English.pdf, para. 90

⁹¹ ICC-ASP/5/SWGCA/INF.1, Informal inter-sessional meeting of the Special Working Group on the Crime of Aggression, 5 September 2006, http://www.icc-cpi.int/library/asp/ICC-ASP-5-SWGCA-INF1_English.pdf, para. 96

PART II – RECENT FIDH ACTIVITIES ON THE ICC

FIDH is a federation of human rights around the world. It currently represents 141 organisations in more than 100 countries. One of its priorities is the fight against impunity and the support of victims' legal actions before national and international tribunals.

FIDH has been involved in ICC activities since the Preparatory Committee for the Establishment of an International Criminal Court. It has extensively worked to promote universal ratification and implementation of the Rome Statute through the organisation of seminars in different regions around the world, and through the provision of technical assistance.

In 2004, FIDH established an office in The Hague to support FIDH's work in the area of victim participation, and to promote greater dialogue between local NGOs and the ICC. This office also organises regular trainings for members of local NGOs on the Rome Statute and the rights of victims. Through its office in The Hague, FIDH monitors both the institutional developments and the judicial activities of the Court. It takes part in numerous meetings with Court officials and other experts present in The Hague. As an active member of the CICC, it works in partnership with the CICC Secretariat and other CICC members. FIDH is an active member of the CICC thematic teams and leads the CICC team on the Victims' Trust Fund. Finally, FIDH regularly takes part in the NGO-ICC biannual meetings, and it provides input on issues in which it has particular expertise when the Court's organs open matters to consultation.

I. NATIONAL CAMPAIGNS FOR RATIFICATION AND IMPLEMENTATION OF THE ROME STATUTE

- ♦ **AFGHANISTAN (Kabul)**, 5-15 January 2006: A preparatory mission was conducted to Kabul in order to evaluate the possibility of organising a round table on the ICC and international justice in Afghanistan later during the year. The round table initially scheduled for 16-18 June was first postponed for 8-10 July and later cancelled, due to security reasons. A compilation in Dari of the presentations that were to be made at this round table will soon be published. A paper in English summarising the main points of these presentations and the Afghan context will also be released soon.
- ♦ **INDIA-SRI LANKA**, 30 January-2 February 2006: A preparatory mission was conducted to New Delhi and Colombo in order to evaluate the possibility of organising a round table on the ICC and international justice, and to identify local partners.
- ♦ **SRI LANKA (Colombo)** 15-16-18 July 2006: A workshop on “Seeking Justice in Sri Lanka: national and international remedies for victims of grave violations of human rights and international humanitarian law” and focusing in particular on the ICC, was organised in cooperation with the Sri Lankan NGO *Law and Society Trust* (LST) and the CICC. The event gathered 30 persons, including representatives of civil society organizations, lawyers and judges.
- ♦ **LEBANON (Beirut)**, 4-12 February 2006, 19-21 May 2006: A preparatory mission conducted in February was followed by the organisation in May of a round table on ICC and international criminal justice in cooperation with the Lebanese Coalition for the ICC, the CICC and the Human Rights Institute of Beirut Bar Association. The event gathered 150 persons, including representatives of Human Rights organisations, lawyers, judges and parliamentarians.
- ♦ **ISRAEL (Tel Aviv)**, 3-4 June 2006: Lawyers and representatives of *Adalah - The Legal Center for Arab Minority Rights in Israel*, the *Association for Civil Rights in Israel* (ACRI), the *Public Committee against Torture in Israel* (PCATI), *HaMoked - Center for the Defence of the Individual*, and *Mossawa - the Advocacy Center for Arab Citizens in Israel* discussed the importance of the ICC in the fight against the impunity of alleged perpetrators of war crimes, crimes against humanity and genocide. The seminar was organised in cooperation with the CICC.

II. TECHNICAL ASSISTANCE PROGRAMME ON THE IMPLEMENTATION OF THE ROME STATUTE INTO DOMESTIC LAW

- ♦ **CAMBODIA (Phnom Penh)**, 2-6 May 2006: Follow-up mission of a three-month mission conducted in 2005 with the aim of analysing domestic law relevant to the Rome Statute and to identify the main problems and challenges for the implementation of the Rome Statute.
- ♦ **COLOMBIA (Bogotá)**, 1-3 June 2006: Following the organisation of five regional workshops on the ICC (March-May 2006), FIDH and its member organisations in Colombia (*Corporación Colectivo de Abogados José Alvear Restrepo – CCAJAR*; *Comité Permanente por la Defensa de los Derechos Humanos – CPDH*; and *Instituto Latinoamericano de Servicios Legales Alternativos – ILSA*) organised a major national workshop in June. The event gathered over 300 participants, including representatives of civil society organizations, lawyers and law students.

III. FIDH SUPPORT TO VICTIMS IN THEIR ACTIONS BEFORE THE ICC

A. Training sessions for representatives of national NGOs on victims' rights and dialogue with the ICC in The Hague

- ♦ **CENTRAL AFRICAN REPUBLIC**, 16 February 2006: Representatives of FIDH and *Organisation pour la Compassion et le Développement des Familles en Détresse (OCODEFAD)*, met the Office of the Prosecutor and the Registry (Division of victims and Counsel).
- ♦ **CAMBODIA**, 20-24 February 2006: Training session for representatives of *Cambodian Human Rights and Development Association (ADHOC)* and *Community Mental Health Programme in Cambodia (TPO)*.
- ♦ **COTE D'IVOIRE**, 5-9 June 2006: Training session for representatives of *Ligue Ivoirienne des Droits de l'Homme (LIDHO)* and *Mouvement Ivoirien des Droits de l'Homme (MIDH)*.
- ♦ **MIDDLE EAST**, 19-23 June 2006: Training session for representatives of national NGOs from Bahrain (*Bahrain Bar Society - BBS*, *Bahrain Center for Human Rights - BCHR*, *Bahrain Human Rights Society - BHRS*); Jordan (*Amman Center for Human Rights Studies - ACHRS*); Lebanon (*Association Libanese des Droits de l'Homme – ALDHOM*, *Association Libanese pour l'Education et la Formation - ALEF-NDO*, *Justice Without Frontiers - JWF/Lebanese Coalition for the ICC*) and Yemen (*Human Rights Information and Training Center - HRITC*, *Sisters' Arabic Forum for Human Rights - SAF*, *Yemeni Coalition for the ICC – NODS*).
- ♦ **COLOMBIA**, 22 June 2006, FIDH and its member organisations in Colombia (*Corporación Colectivo de Abogados José Alvear Restrepo – CCAJAR* and *Comité Permanente por la Defensa de los Derechos Humanos – CPDH*) submitted further communications to the Office of the Prosecutor.
- ♦ **LEGAL ACTION GROUP**, 18-20 July 2006: Seminar on victims' rights and legal representation before the ICC for lawyers involved or interested in the legal representation of victims through the FIDH Legal Action Group.
- ♦ **CENTRAL AFRICAN REPUBLIC**, 10 and 20 July 2006: Representatives of FIDH and *Organisation pour la Compassion et le Développement des Familles en Détresse (OCODEFAD)* submitted the conclusions of FIDH latest mission in Central African Republic to the Office of the Prosecutor.

B. Support to victim participation and legal representation

FIDH Legal Action Group is a network of judges, lawyers and attorneys who are involved in FIDH activities through its member organisations or otherwise. The Legal Action Group's mandate is to represent victims of

serious human rights violations through the filing of complaints and legal representation before national and international tribunals.

The Group has extensive experience in the legal representation of victims in cases of universal jurisdiction before national courts. In 2004 FIDH and its Legal Action Group decided to engage in the support of victims before the ICC. During an investigation mission to DRC in 2004, FIDH collected victims' applications to participate in the proceedings. In 2005, FIDH transmitted some of these applications to the VPRS. Mindful of the difficulties related to security concerns and the fact that these were the very first applications, FIDH selected on six victims. In doing so, it chose applications that would be representatives of the different types of crimes perpetrated in DRC, as well as of the incidents committed in different regions and by different groups. The applications filed in May 2005 led the Pre-Trial I landmark decision of 17 January 2006. For more information on FIDH support to Congolese victims, see the Report of the FIDH Legal Action Group: FIDH support to the participation of Congolese victims before the International Criminal Court.

IV. Comments and recommendations on prosecutorial policies and the prosecutorial strategy

During 2006, FIDH submitted recommendations on the prosecutorial policy with regard to the interest of justice and the selection of cases and situations.

When commenting on the concept of the “interests of justice” provision (article 53 of the Rome Statute), FIDH stressed that interpretation should be guided by the objects and purpose of the Rome Statute, which include States Parties' resolution “to put an end to impunity”, “to contribute to the prevention of [the most serious crimes of international concern]” and to “guarantee lasting respect for and the enforcement of international justice.” FIDH reminded that the OTP is an organ of a judicial institution and must therefore avoid by all means suspension of investigations or prosecutions on the basis of political considerations.

FIDH also noted that in the light of the context of article 53, once the gravity threshold has been met, a decision not to investigate or not to prosecute would contradict the Statute's most fundamental aim, i.e. to put an end to impunity for the perpetrators of most serious crimes of international concern. As regards assessment of the interests of victims, FIDH stressed a comprehensive assessment of those interests should account for the fact that any decision not to investigate or not to prosecute would result in a denial of justice, and will thus seriously affect victims' most fundamental rights. Finally, FIDH recommended that in order to conduct meaningful consultations with victims, these victims should first of all be informed about the matter on which their views are sought.

When commenting on the criteria to select situations and cases, FIDH noted with great satisfaction the recognition that assessment of gravity is a complex process based not only on the number of victims but also on other very relevant factors, such as the scale of the crimes, the nature of the crimes, the manner of commission of the crimes and the impact of the crimes. FIDH especially welcomed the consideration, among other elements, of the impact of the crimes on the affected communities as well as on regional peace and security, and highlighted the importance of bearing in mind the potential impact of investigations as a deterrent element for commission of further crimes.

FIDH also welcomed the fact that one of the criteria taken into consideration for selection of cases is the selection of charges. However, in the light of recent developments, FIDH respectfully submitted that this policy was not being consistently applied in practice. FIDH remains deeply concerned that the nature of the charges brought against Thomas Lubanga Dyilo in the context of the case currently leading to a trial, are not only extremely limited but also not representative of the range and seriousness of crimes committed by the UPC. According to the United Nations, more than 60,000 have been slaughtered in Ituri alone in the past six years. While FIDH is aware that the policy of the OTP is to bring limited counts and focused charges, it believes that it is imperative that those limited and focused charges are representative of the range of crimes committed, in order to render justice to victims and maximize the impact of the Court's trials. FIDH joined other NGOs in an open letter addressed to the Prosecutor, in which it shared its concern about the suspension

of the investigation in respect of other charges in the case against Thomas Lubanga Dyilo.⁹²

FIDH has also expressed concerns about the “sequenced approach” applied by the OTP. It has indicated that in its view, this approach poses serious difficulties in terms of preservation of evidence and that it might also affect the perception of impartiality of the Court.

FIDH has also made comments to the OTP Report on the activities performed during the first three years and on the Prosecutorial Strategy by making statements at the OTP public hearings in The Hague and in New York (see Annexe I).

⁹² *Supra* note 29

ANNEXE I

FIDH STATEMENT ON THE PROSECUTORIAL STRATEGY **OF THE OFFICE OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT**

The Hague, 26 September 2006
By Antoine Bernard, Executive Director

Introduction

The International Federation for Human Rights (FIDH) welcomes the opportunity given by the Office of the Prosecutor (Office) to the civil society to comment on its Prosecutorial Strategy.

In particular, FIDH welcomes the Office's initiative to report on the activities conducted in the last three years and to establish a prosecutorial strategy for the coming three years.

As a criminal tribunal and a public institution, the International Criminal Court (ICC) must conduct its activities in an independent and transparent way, in particular vis-à-vis the communities affected by the crimes that will be tried before it. FIDH thus welcomes this exercise to listen and exchange views between the Office and the representatives of civil society.

FIDH notes with satisfaction that the prosecutorial strategy provides an answer to concerns that FIDH and other human rights organisations have drawn to the attention of the Office of the Prosecutor for many years. However, FIDH believes that there is a fundamental difference between the strategy that is announced and the implementation of the outlined principles. According to FIDH, the Office must yet do a lot to effectively achieve the objectives announced in this strategy.

This strategy raises an important number of questions. FIDH has chosen to focus its analysis on three points that it finds particularly critical, namely:

- I.- Maximisation of the impact
- II.- Focused investigations and prosecutions
- III.- Victim participation

I.- MAXIMIZATION OF THE IMPACT

FIDH has long advocated for the Office of the Prosecutor to take into consideration the deterrent effect that its investigations and prosecutions could have on the commission of further crimes, both in the countries currently under investigation or preliminary analysis, as well as in other countries around the world. The deterrent effect is without any doubt at the heart of the creation of a *permanent* international criminal court.

As described in the prosecutorial strategy, the monitoring of a situation and the announcement of an investigation could have a significant deterrent effect. As the Office has noted in several occasions, the Court does not have the capacity to operate in all parts of the world where crimes falling under its jurisdiction are committed. This is why its impact as a deterrent factor for the commission of the gravest international crimes is a fundamental principle.

However, FIDH notes that there is a fundamental difference between the policy announced by the Office and the practice of the Office in the latest years.

In order for the Office to seriously maximize its impact, it is imperative that it adopts much of a higher approach in its communications and relations with the media. One can difficultly imagine how the Court could constitute a deterrent factor, if those planning the massive crimes over which the Court has jurisdiction, are not aware of the Office's activities, if these activities are not more widely supported by the relevant national community and the international community.

According to the prosecutorial strategy, the mere “monitoring of a situation” is a preventive factor for commission of further crimes. However, FIDH notes that the Office of the Prosecutor has repeatedly explained that only those situations under analysis which have been made public by the senders of communications would be made public by the Office. As a result of this, the monitoring of certain situations by the Office -which should have a deterrent effect on commission of further crimes- remains however unknown.

Further, even in those cases where it has been made public that a particular situation is under preliminary analysis, FIDH believes that the Office should adopt a much more proactive role.

The situation in Colombia clearly illustrates what this means. When in March 2005 a letter sent by the Prosecutor to the Colombia President was made public, the Court became a strong instrument to fight against impunity in that country. Unfortunately, this dialogue has not been followed up in a public way, which has minimized any preventive impact of the ICC.

The prosecutorial strategy also highlights the potential impact that the announcement of the opening of an investigation could have. In this regard, FIDH wishes to highlight the failure of the Office of the Prosecutor concerning the Central African Republic. Indeed, a genuine call for action by the Office was launched several years ago. Firstly, FIDH has transmitted communications under article 15 since February 2003. Secondly, the government of the Central African Republic itself referred the situation to the Office in December 2004. Thirdly, decisions of the Central African tribunals (the last of which was issued by the *Cour de cassation* in April 2006) confirmed the inability of the Central African judiciary to genuinely carry out investigations and prosecutions for crimes committed between October 2002 and March 2003. These decisions explicitly defer to the ICC. Nonetheless, almost two years after the State's referral, the Office has not yet announced whether it will open an investigation. For several months now, the Central African Republic has been plagued by a growing conflict which causes numerous international crimes, and impunity continues to prevail. The victims, who counted on the ICC, express their disappointment.

These victims are thus three times victims: victims of the serious crimes they have suffered; victims of social stigma because most of them have been victims of the use of rape as an arm of war and are infected with HIV/AIDS; and victims of the total impunity those responsible for the crimes enjoy. Large number of these victims suffering from AIDS will die before obtaining justice. The Office remains in silence, a silence that carries a message, a message of indifference. The Office of the Prosecutor clearly misses here the opportunity to “maximize its impact”.

II. FOCUSED INVESTIGATIONS AND PROSECUTIONS

Investigations and trials are also instruments that the Office can use to maximize its impact, as they send a clear message to the international community that those who commit serious crimes will be tried and convicted.

In order to prevent further commission of the most serious crimes of international concern, it is essential that the Office's focused investigations and prosecutions are representative of the range of criminality. The single current case is in this sense alarming. FIDH is convinced that that recruiting, enlisting and using child soldiers to participate actively in the hostilities are crimes of a very serious nature. But FIDH also deeply regrets that the charges for which Thomas Lubanga will be tried are neither representative of the crimes committed by the *Union des Patriotes Congolais*, which he has been leading, nor reflective of the victimisation suffered by the communities.

FIDH has expressed its concerns regarding other elements of the investigation strategy in several occasions. It has for example explained the difficulties posed by the sequential approach. Firstly, this approach presents serious risks in terms of preservation of evidence. As time passes by, more it is difficult to find the witnesses of the events, more they forget details of their experiences, more chances there are that documentary evidence get easily destroyed or be rapidly made disappeared. We have no indication on whether the Office

has taken these adverse effects into consideration and, if so, on which measures have been adopted to avoid these negative consequences.

Secondly, the sequenced approach poses a serious challenge in terms of perception of impartiality. It is the policy of the Office to investigate crimes committed by one group after the other. As a consequence, arrest warrants for leaders of one armed group will be issued before other groups are investigated. This is why FIDH believes that it is imperative that the Office publicly announces not only that it is preparing other charges in the Lubanga case, but also that other groups are targeted by the investigation. Otherwise, the Office will lose the trust of the relevant communities, the non-governmental organisations and all those who work for the effectiveness of justice.

Moreover, according to FIDH, it is essential that the Office publicly announces that it is possible to attain peace with justice in the context of the Ugandan conflict, that the arrest warrants issued against the commanders of the Lord's Resistance Army will be maintained, and that eventual amnesty granted at the national level cannot be invoked to stop the prosecutions that it has initiated.

III.- VICTIM PARTICIPATION

Finally, FIDH would like to draw the Office's attention to the issue of victim participation. FIDH notes that in the coming three years the Office aims to continuously reinforce and improve the way it interacts with victims and addresses their concerns.

Provisions for victims' participation and reparation are at the very heart of the Rome Statute, and constitute, without doubt, a historical achievement for victims of the most serious crimes. As a consequence, the Court's legitimacy will be intrinsically related to its capacity to address the victims' concerns.

FIDH has repeatedly highlighted that the terms "victims", "witness" and "community affected by a certain conflict" must not be interchanged, and it invites the Office to address to victims themselves, i.e. those who have suffered harm as a result of the commission of the crimes.

In order for the victims to participate in the trial and to obtain reparations, it is necessary that those responsible for the crimes they have suffered are effectively prosecuted. Moreover, it is important that the Office make serious efforts to forge closer communication with victims, so that they can become stakeholders of the investigations.

A policy of the Office more favourable to victim participation would also be necessary in the framework of improving communication with them. Contrary to the Prosecutor's expressed fears, victim participation does not jeopardize his independence, but on the contrary it reinforces the legitimacy of his action. The scope of victims' rights in the Rome Statute is inherent in the recognition of their new position in international criminal law. They do not intend to get involved in a process to which they are strangers, but they are, on the contrary, the main stakeholders of these actions that aim at convicting those responsible for the atrocities that they have endured and at compensating them for the harm they suffered as a result of the commission of such crimes.

FIDH STATEMENT ON THE PROSECUTORIAL STRATEGY
OF THE OFFICE OF THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT

New York, 18 October 2006
by Jeanne Sulzer, Coordinator of the FIDH Legal Action Group

The International Federation for Human Rights (FIDH) welcomes the opportunity given by the Office of the Prosecutor (OTP) to comment on its recent reports regarding the past three years and the planned strategy for the future.

FIDH was given an opportunity to share its views during the public hearing the Office organized in The Hague a few weeks ago. The statement made by Antoine Bernard, Executive Director of FIDH are available online on the FIDH website (www.fidh.org) and I will therefore not repeat the issues raised, but rather focus on some specific aspects of the strategy of the Prosecutor. My observations are both based on the practice of the Office in the last three years and the set of guidelines that are to be found in the recent policy paper for the future work of the OTP.

FIDH actions are different from those of other very active actors of the civil society that have an interest in the International Criminal Court (ICC). Like many others FIDH works toward achieving the universality of the ICC by promoting the Rome Statute in many countries, in particular in those that are still underrepresented, like the States of the League of Arab States and Asian States. FIDH also promotes the enactment of national legislation in order to implement the principle of complementarity between domestic courts and the ICC which transcends the philosophy of action of the ICC.

With its office in The Hague FIDH continues to actively monitor the work of all organs of the Court participating in working groups of the Coalition for the ICC (CICC), taking part in experts meetings with different offices of the Court and following closely the work of the OTP and the Chambers in the current proceedings before the Court.

FIDH also uses the Court to promote the fundamental right of victims of the most serious crimes to have a judicial remedy before a fair and independent Court. To achieve that ambitious objective FIDH uses all possible levels of participation of victims before the Court. FIDH has therefore been one of the first organizations to send information to the Prosecutor based on article 15 of the Rome Statute regarding the situation in the Central African Republic, the Democratic Republic of the Congo, Colombia and Ivory Coast. By doing so FIDH has been promoting actively the use by the Prosecutor of its *proprio motu* power to decide to seek the authorization of the Pre Trial Chamber to open an investigation without the voluntary consent of the State of nationality of the presumed perpetrator or the State on which the crimes have been committed.

FIDH through its Legal Action Group has effortlessly supported the unprecedented rights of victims to participate, be represented and seek awards of reparation at all stages of the proceedings before the ICC. FIDH has purposely used rule 89(3) of the Rules of Procedure and Evidence to transmit the first six victim's requests for participation in the history of the Court. As many of you are aware the PTC I issued a landmark decision on January 17, 2006 authorizing those six Congolese victims to participate in the DRC proceedings at the stage of the investigation. Members of the FIDH Legal Action Group registered on the list of counsel of the ICC, and now represent, on a *pro bono* basis, those victims to make sure that their views and concerns are being taken into account.

By promoting, monitoring and using the ICC, FIDH is, we believe, in a good position to comment on the OTP reports submitted recently. The concerns expressed above seek to continue the positive and constructive dialogue with the civil society that has been promoted by the OTP since the election of Luis Moreno Ocampo.

FIDH welcomes in that sense the fact that many of the comments made in the last years have been successfully integrated in the work of the Prosecutor and therefore reaffirms that constructive criticism is seen as extremely important and valuable for the 141 member organizations that FIDH represents.

Again FIDH is grateful to the OTP for the transparency of the ongoing process of exchange.

On the issue of voluntary referrals by State Parties and the *de facto* creation of a hierarchy amongst the possible trigger mechanisms available to the Prosecutor

Voluntary referrals by States Parties (referrals by the government of States on whose territory the crimes alleged have been presumably committed) before the ICC were not clearly foreseen as such in 1998 when States negotiated the Statute in Rome. On the contrary the experience of regional courts such as the European Court for Human Rights made most States and NGOs believe that the mechanism underlying article 12 would not be often used. Indeed most people thought that it was uncommon at the international level to see States triggering the ICC for crimes committed on the territory of other States. Few believed or could have predicted that article 12 would be used to seek voluntary referrals to the Prosecutor by the States themselves on whose territory the crimes were committed. The last three years saw on the contrary unexpected referrals of the governments of DRC, Uganda and the Central African Republic seeking investigations on the situation of their own countries or at least regions of conflicts under their State's sovereignty.

FIDH believes, like the Prosecutor, that there may be some understandable positive aspects of giving priority to voluntary state referrals over the use of the *proprio motu* power of the Prosecutor. One of the advantages is evidently the *prima facie* willingness of the State Party authorities to cooperate with your office and acknowledgment that domestic courts of these countries are either unwilling or unable to investigate and prosecute those crimes.

In that sense FIDH understands that the OTP has been promoting voluntary State Parties referrals and believes that this policy contributes to the fight against impunity as it raises the issue of impunity at the highest level of the State.

FIDH however recalls that the Rome Statute did not intend to create a hierarchy of importance and priority amongst the three trigger mechanisms that are available to the Prosecutor. Indeed articles 12, 13, 14 and 15 of the Statute distinguish the trigger mechanisms by the origin of the referral (ie. States Parties, Security Council of the United Nations or any source). Nowhere can one find in the Statute an obligation or even an incentive on the Prosecutor to prioritize or prefer one mechanism over another. FIDH recalls that given the universal and permanent nature of the ICC, contrary to the *ad hoc* international tribunals, States negotiated actively to achieve independence of the Prosecutor, particularly by giving him the unprecedented power to open investigations on its own initiative. This power is a historic revolution, a very important new mechanism in the hands of the Prosecutor. The *proprio motu* power is essential for the independence of the prosecutorial strategy, but it is also a unique tool for victims of war crimes, crimes against humanity and genocide to seek a judicial remedy. Article 15 created a space of hope, a forum, a direct path of communication between victims and the ICC to refer their sufferings and seek justice in cases where national courts have been governed by impunity.

The OTP Report of its three years of work indicate clearly that voluntary State Parties referrals have been given a degree of greater importance in the decision to open an investigation over article 15 referrals:

“While *proprio motu* power is a critical aspect of the Office's independence, the Prosecutor adopted the policy of inviting and welcoming voluntary referrals by territorial states as a first step in triggering the jurisdiction of the Court.”

Meanwhile, the report indicates that:

“Through to the end of June 2006, the Office received 1918 communications from individuals or groups in at least 107 different countries. (...) Of the approximately 20% of communications warranting further analysis, 10 situations have been subjected to intensive analysis. Of these, three proceeded to investigation (the DRC, Northern Uganda, and Darfur), two were dismissed (Venezuela and Iraq), and five analyses are on-going”.

The Report does not get into any details about the process and status of nearly 190 communications that appear to be in the “approximately 20 % of communications warranting further analysis”.

FIDH believes that it is crucially important to balance your prosecutorial discretion and independence with the right of those who have sent communications to learn the status of their referrals. FIDH encourages the OTP in the near future to be more transparent in the examination of article 15 communications.

Letting the senders of the communication know the status of their complaints would on the one hand contribute to the outreach obligation of the Court as it would clarify the reasons and motivations underlying the choices of the OTP in refusing or accepting article 15 communications and as a multiplier effect would contribute to the understanding of the jurisdiction of the Court and the policy of the OTP.

By doing so the OTP would clearly avoid to widen the so called “expectation gap” that may exist in victim's communities vis-à-vis the Court.

It would also on the other hand allow victims to judicially challenge a decision of the OTP not to investigate and to do so by using legal rather than political grounds.

Over the years, the silence of the OTP with respect to the status of article 15 communications may be perceived as if the ICC, as a whole, was indifferent to the alleged crimes referred in those communications. In the case of the Central African Republic, victims have been awaiting a decision of the OTP for more than three years.

FIDH believes that the OTP would gain credit by establishing a transparent process of the examination of article 15 communications and by deciding on guidelines, such as those that may exist at the national level, that would include for example the right of victims to learn the status of their cases without undue delay.

I would like to make a few follow-up points. On the topic of maximizing the impact of the Court's activities, the report makes the important point that even monitoring a situation and the announcement of an investigation could have a deterrent effect.

FIDH believes that there may be a difference between the objectives you underline and the practice of the Court in the last few years. FIDH suggests that the Court and in particular the OTP needs to conduct higher-profile and more public announcements in order to avoid that situations that are under analysis remain unknown both by public, the press and even by the alleged perpetrators. Unless the OTP makes public announcements, the media cannot denounce the situations investigated. I would like to stress that this was particularly true in the case of the letter to the president of Colombia. The letter you sent, when made public had a very significant impact. Unfortunately it should have been followed up in a public way.

Finally, FIDH recalls that the ICC is the only Court today where victims have the right to request participation and reparation. The Office should aim at implementing those enshrined historic rights and improve the ways it interacts with victims in order to reinforce the legitimacy of the Prosecutor's actions.

ANNEXE II

FIDH public documents on the ICC issued since the fourth session of the ASP

Reports, statements and papers

- ♦ **The International Criminal Court and Sudan: access to justice and victims' rights**, March 2006, available in English (<http://www.fidh.org/IMG/pdf/SudanICC441-EN.pdf>) and Arabic (http://www.fidh.org/IMG/pdf/CPI_Soudan.pdf)
- ♦ **Implementation of the Rome Statute in Cambodian Law**, April 2006, available in English (<http://www.fidh.org/IMG/pdf/cambodge443angformatword.pdf>) and French (<http://www.fidh.org/IMG/pdf/cambodgekh443F.pdf>)
- ♦ **Round Table on the Ratification and Implementation of the Statute of the International Criminal Court in Bahrain**, July 2006, available in English (<http://www.fidh.org/IMG/pdf/BahrainICC451en.pdf>) and Arabic (<http://www.fidh.org/IMG/pdf/BahrainICC451ar.pdf>)
- ♦ **Round Table on the Ratification and Implementation of the International Criminal Court in Yemen**, August 2006, available in English (<http://www.fidh.org/IMG/pdf/YemenICC453-2.pdf>) and Arabic (http://www.fidh.org/IMG/pdf/CPI_Yemen.pdf)
- ♦ **FIDH Statement on the Prosecutorial Strategy of the Office of the Prosecutor of the International Criminal Court**, The Hague, 26 September 2006, available in English (http://www.fidh.org/IMG/pdf/FIDH_Strategy_OTP_EN.pdf) and French (http://www.fidh.org/IMG/pdf/FIDH_Strategie_BdP_FR.pdf)
- ♦ **FIDH Statement on the Prosecutorial Strategy of the Office of the Prosecutor of the International Criminal Court**, New York, 18 October 2006 in New York, available in English (http://www.fidh.org/IMG/pdf/FIDH_Strategy_OTP_NY.pdf)
- ♦ **Central African Republic: “Forgotten, stigmatised: double suffering of victims of international crimes”**, October 2006, available in French (<http://www.fidh.org/IMG/pdf/RCA457-2006.pdf>), soon available in English
- ♦ **Recommendations on Consultation with Victims**, paper submitted to the Board of Directors of the Trust Fund at its Third Annual meeting, November 2006, available in English (http://www.fidh.org/IMG/pdf/FIDH_Paper_VTF_Nov06_FINAL.pdf), soon available in French
- ♦ **Report of the FIDH Legal Action Group: FIDH support to the participation of Congolese victims before the International Criminal Court**, November 2006, soon available on-line in both English and French

Press Releases

- ♦ **Announcement of the Yemeni Parliament to put the ratification of the Statute of the International Criminal Court (ICC) on the agenda of its next session**, 20 January 2006
- ♦ **First victims recognised by the International Criminal Court**, 20 January 2006
- ♦ **The International Criminal Court issues the first arrest warrant in its investigation in the Democratic Republic of Congo**, 20 March 2006

- ♦ **Peace and Justice in Darfur: Victims' Rights hijacked**, 3 April 2006
- ♦ **The *Cour de Cassation* confirms the incapacity of the national justice system to investigate and prosecute serious crimes. The Prosecutor of the International Criminal Court must open an investigation into the situation in the Central African Republic**, 13 April 2006
- ♦ **Civil Society Urges the Cambodian Government to fully implement the Statute of the International Criminal Court**, 12 May 2006
- ♦ **Justice in Côte d'Ivoire: the ICC Prosecutor should take action after Côte d'Ivoire recognized the ICC jurisdiction**, 9 June 2006
- ♦ **Concern about the temporary suspension of the investigation in respect of other crimes in the case against Thomas Lubanga, Joint Letter to the Prosecutor of the International Criminal Court** (signed by Avocats sans frontières, Center for Justice and Reconciliation, Coalition Nationale pour la Cour Pénale Internationale – DRC, FIDH, Human Rights Watch, International Center for Transitional Justice, REDRESS and Women's Initiative for Gender Justice), 31 July 2006
- ♦ **Opening of the confirmation of charges hearing against Thomas Lubanga Dyilo: Hope of a first trial**, 9 November 2006

FIDH represents 141 Human Rights organisations

141 organisations

Albania -Albanian Human Rights Group	Colombia -Comite Permanente por la Defensa de los Derechos Humanos	Humanos de Guatemala	l'Homme	l'Homme
Algeria -Ligue algérienne de défense des droits de l'Homme	Colombia -Corporación Colectiva de Abogados Jose Alvear Restrepo	Guinea -Organisation guinéenne pour la défense des droits de l'Homme	Malta -Malta Association of Human Rights	Scotland -Scottish Human Rights Centre
Algeria -Ligue algérienne des droits de l'Homme	Colombia -Instituto Latinoamericano de Servicios Legales Alternativos	Guinea Bissau -Liga Guineense dos Direitos do Homen	Mauritania -Association mauritanienne des droits de l'Homme	Senegal -Organisation nationale des droits de l'Homme
Argentina -Centro de Estudios Legales y Sociales	Congo Brazzaville -Observatoire congolais des droits de l'Homme	Iran -Centre des défenseurs des droits de l'Homme en Iran	Mexico -Liga Mexicana por la Defensa de los Derechos Humanos	Senegal -Rencontre africaine pour la défense des droits de l'Homme
Argentina -Comite de Accion Juridica	Croatia -Civic Committee for Human Rights	Iran (France) -Ligue de défense des droits de l'Homme en Iran	Mexico -Comisión Mexicana de Defensa y Promoción de los Derechos Humanos	Serbia -Center for Peace and Democracy Development
Argentina -Liga Argentina por los Derechos del Hombre	Czech Republic -Human Rights League	Iraq -Iraqi Network for Human Rights Culture and Development (United Kingdom)	Moldova -League for the Defence of Human Rights	South Africa -Human Rights Committee of South Africa
Austria -Österreichische Liga für Menschenrechte	Cuba -Comisión Cubana de Derechos Humanos y Reconciliación	Ireland -Irish Council for Civil Liberties	Morocco -Association marocaine des droits humains	Spain -Asociación Pro Derechos Humanos
Azerbaijan -Human Rights Center of Azerbaijan	Democratic Republic of Congo -Ligue des Électeurs	Israel -Adalah	Morocco -Organisation marocaine des droits humains	Spain -Federación de Asociaciones de Defensa y Promoción de los Derechos Humanos
Bahrain -Bahrain Human Rights Society	Democratic Republic of Congo -Association africaine des droits de l'Homme	Israel -Association for Civil Rights in Israel	Mozambique -Liga Mocancicana Dos Direitos Humanos	Sudan -Sudan Organisation Against Torture (United Kingdom)
Bangladesh -Odhikar	Democratic Republic of Congo -Lotus	Israel -B'tselem	Netherlands -Liga Voor de Rechten Van de Mens	Sudan -Sudan Human Rights Organization (United Kingdom)
Belarus -Human Rights Center Viasna	Djibouti -Ligue djiboutienne des droits humains	Italy -Liga Italiana Dei Diritti Dell'uomo	New Caledonia -Ligue des droits de l'Homme de Nouvelle-Calédonie	Switzerland -Ligue suisse des droits de l'Homme
Belgium -Liga Voor Menschenrechten	Ecuador -Centro de Derechos Economicos y Sociales	Italy -Unione Forense Per la Tutela Dei Diritti Dell'uomo	Nicaragua -Centro Nicaraguense de Derechos Humanos	Syria -Comité pour la défense des droits de l'Homme en Syrie
Belgium -Ligue des droits de l'Homme	Ecuador -Comisión Ecuemenica de Derechos Humanos	Ivory Coast -Ligue ivoirienne des droits de l'Homme	Niger -Association nigérienne pour la défense des droits de l'Homme	Tanzania -The Legal & Human Rights Centre
Benin -Ligue pour la défense des droits de l'Homme au Bénin	Ecuador -Fundación Regional de Asesoría en Derechos Humanos	Jordan -Amman Center for Human Rights Studies	Nigeria -Civil Liberties Organisation	Thailand -Union for Civil Liberty
Bhutan -People's Forum for Human Rights in Bhutan (Nepal)	Egypt -Egyptian Organization for Human Rights	Jordan -Jordan Society for Human Rights	Northern Ireland -Committee On The Administration of Justice	Togo -Ligue togolaise des droits de l'Homme
Bolivia -Asamblea Permanente de los Derechos Humanos de Bolivia	Egypt -Human Rights Association for the Assistance of Prisoners	Kenya -Kenya Human Rights Commission	Pakistan -Human Rights Commission of Pakistan	Tunisia -Conseil national pour les libertés en Tunisie
Brazil -Centro de Justicia Global	El Salvador -Comisión de Derechos Humanos de El Salvador	Kosovo -Conseil pour la défense des droits de l'Homme et des libertés	Palestine -Al Haq	Tunisia -Ligue tunisienne des droits de l'Homme
Brazil -Movimento Nacional de Direitos Humanos	Ethiopia -Ethiopian Human Rights Council	Kyrgyzstan -Kyrgyz Committee for Human Rights	Palestine -Palestinian Centre for Human Rights	Turkey -Human Rights Foundation of Turkey
Burkina Faso -Mouvement burkinabé des droits de l'Homme & des peuples	European Union -FIDH AE	Laos -Mouvement lao pour les droits de l'Homme (France)	Peru -Asociación Pro Derechos Humanos	Turkey -Insan Haklari Dernegi / Ankara Diyarbakir
Burundi -Ligue burundaise des droits de l'Homme	Finland -Finnish League for Human Rights	Latvia -Latvian Human Rights Committee	Peru -Centro de Asesoría Laboral	Turkey -Insan Haklari Dernegi / Diyarbakir
Cambodia -Cambodian Human Rights and Development Association	France -Ligue des droits de l'Homme et du citoyen	Lebanon -Association libanaise des droits de l'Homme	Philippines -Philippine Alliance of Human Rights Advocates	Uganda -Foundation for Human Rights Initiative
Cambodia -Ligue cambodgienne de défense des droits de l'Homme	French Polynesia -Ligue polynésienne des droits humains	Lebanon -Foundation for Human and Humanitarian Rights in Lebanon	Portugal -Civitas	United Kingdom -Liberty
Cameroon -Maison des droits de l'Homme	Georgia -Human Rights Information and Documentation Center	Lebanon -Palestinian Human Rights Organization	Romania -Ligue pour la défense des droits de l'Homme	United States -Center for Constitutional Rights
Cameroon -Ligue camerounaise des droits de l'Homme (France)	Germany -Internationale Liga für Menschenrechte	Liberia -Liberia Watch for Human Rights	Russia -Citizen's Watch	Uzbekistan -Legal Aid Society
Canada -Ligue des droits et des libertés du Québec	Greece -Ligue hellénique des droits de l'Homme	Libya -Libyan League for Human Rights (Switzerland)	Russia -Moscow Research Center for Human Rights	Vietnam -Comité Vietnam pour la défense des droits de l'Homme (France)
Central African Republic -Ligue centrafricaine des droits de l'Homme	Guatemala -Centro Para la Accion Legal en Derechos Humanos	Lithuania -Lithuanian Human Rights Association	Rwanda -Association pour la défense des droits des personnes et libertés publiques	Yemen -Human Rights Information and Training Center
Chad -Association tchadienne pour la promotion et la défense des droits de l'Homme	Guatemala -Comisión de Derechos	Malaysia -Suaram	Rwanda -Collectif des ligues pour la défense des droits de l'Homme au Rwanda	Yemen -Sisters' Arabic Forum for Human Rights
Chad -Ligue tchadienne des droits de l'Homme		Mali -Association malienne des droits de	Rwanda -Ligue rwandaise pour la promotion et la défense des droits de	Zimbabwe -Zimbabwe Human Rights Association Zimrights

The International Federation for Human Rights (FIDH) is an international non-governmental organisation dedicated to the world-wide defence of human rights as defined by the Universal Declaration of Human Rights of 1948. Founded in 1922, the FIDH has 141 national affiliates in all regions. To date, the FIDH has undertaken more than a thousand international fact-finding, judicial, mediation or training missions in over one hundred countries.

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