

## Co-operation with Ugandan partners

The Centre for Justice and Reconciliation has invested in deepening the co-operation with its Ugandan partners through a series of consultations in order to discuss the ICC's strategies and mandate and to bring forward their concerns to the ICC officials.



Discussion with victims of violence at Amuria camp

In May 2004 three Ugandan partners were invited to the Hague to discuss the human rights situation in North Uganda and the implications of the possible start of an investigation by the International Criminal Court. In November 2004 a working visit was paid to partner organisations in Uganda. The CJR team visited religious leaders and partner organisations in Kampala, Gulu and Soroti. Gulu lies in the heart of the conflict area, Soroti is affected to a lesser extent. In Kampala, the conflict is regarded as an issue of the North, and it does not seem to affect the daily life.

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*Dear reader,*

The struggle for justice and reconciliation is a daily one in many countries. People on the ground work in situations of violence and distress. They face the challenge to find a way out and live a dignified, peaceful life. Often, the persecution of perpetrators of the gross violations is not their first and foremost priority. Nevertheless, many do feel that justice should be done one way or another. The work of the International Criminal Court (ICC) may therefore very well have a role complementary to national mechanisms. The Centre for Justice and Reconciliation (CJR) seeks to assist its local contacts with information on the ICC and provide linkage to The Hague, where the ICC (and the CJR) is based. The partners bring forward their hopes and concerns. Well-equipped they are the ones to help the ICC understand and respect the local context.

In this edition of the CJR Newsletter you will find more on our new initiatives in this learning and co-operation process. We hope that this is of interest to you and that we may hear from you!

**Victor Scheffers**  
Executive Director

## Highlights from the ICC

### New referrals by CAR and Ivory Coast

In January and February 2005 the ICC has begun to look into two new situations. First, the Central African Republic referred the situation of crimes within the jurisdiction of the Court committed anywhere on its territory since 1 July 2002, the date of entry into force of the Rome Statute. The CAR has been beset by instability and violence for many years. Second, Ivory Coast accepted the exercise of jurisdiction of the ICC with respect to crimes committed in its territory since the events of 19 September 2002. On that day an uprising of armed groups effectively divided the country in two. Despite a cease-fire agreement on October 2002 hostilities have continued.

The decision whether to initiate an investigation will be taken after a thorough analysis of the situation in both countries. The Prosecutor will seek additional information related to e.g. the interests of justice and the gravity of alleged crimes. This may take several months.

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## Assembly of States Parties

The Assembly of States Parties to the International Criminal Court (ASP) was held from 6-10 September 2004 in The Hague. This was the third ASP, but the first time it was held in The Hague.

Previous sessions took place in New York. CJR was involved in organising several activities surrounding this session, such as a panel on Gender Crimes and Access to Justice and the opening of a multi-media art installation. Furthermore, we monitored the ASP deliberations. A full CJR report of the meeting can be obtained at <http://www.ishr.ch/About%20UN/Reports%20and%20Analysis/ICC-3rdSession.pdf> or by contacting the CJR



Judge President Kirsch and HRH Prince Zeid Al-Hussein, presiding the ASP in September 2004

Secretariat. In 2005 the ASP will take place from 28 November to 3 December in The Hague. The election of the judges will be in New York in 2006.

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### Deliberations about Darfur referral

A United Nations investigative report on crimes committed in Darfur has advised the Security Council to refer this case to the International Criminal Court. The Security Council has the power to do so ex Article 13(b) of the Rome Statute. However, it is doubtful whether the Security Council will take such a step. After all, the United States has veto power in this UN body, and the Bush administration is openly against the ICC. Also, even if the UNSC refers the situation, it remains to be seen if the Sudanese Government will cooperate with the Court. Sudan has not ratified the Rome Treaty.

### ICC meets with NGOs

In December 2004 the Registry and the Office of the Prosecutor (OTP) held consultative meetings with a group of over 30 national and international NGOs. CJR took part in these consultations. At the meetings a range of issues were discussed, particularly on victims, defence and outreach.

### Democratic Republic of Congo

From June 2004 onwards the Prosecutor has been investigating the situation in DRC, especially in Ituri. Both the Prosecutor and the Registry have undertaken several field missions to DRC. A field office in Kinshasa is expected to be established soon. A forward base may be established in Bunia. This will enable the Court to have a permanent base

from which to conduct investigations and to liaise with the Congolese people. On March 15th 2005, the Pre-Trial Chamber of Judges of the ICC occupied with DRC will convene a status conference with the Prosecutor in order to discuss especially issues of protection of victims and witnesses and the preservation of evidence. Arrest warrants are expected to be issued end 2005.

### Latest developments in Uganda

In the last months the peace negotiations in Northern Uganda have gained serious momentum. The mediation of former Uganda State Minister Betty Bigombe has built trust with both the Lord's Resistance Army and the Government. Ceasefires in December 2004 and February 2005 have enabled her to facilitate several confidence building meetings and to discuss mutual and definitive ceasefire drafts. At the time of publication of this Newsletter decisive weeks are lying ahead.

In this situation the ICC's Office of the Prosecutor has conducted its operations very careful and low-key. The question is whether the timing of the Court's activities could undermine rather than reinforce the peace process. The local people in Northern Uganda, the victims of the war, have peace as their priority. The Court therefore has to consider a course of action that reconciles the Court's mandate to achieve accountability with the need to achieve peace.



## The ICC and Gender Crimes

In almost every conflict area sexual violence is practised systematically and reaches epidemic proportions. Women and girls have been victims of rape and sexual assault committed by combatant forces. They have been attacked in their homes, in the fields or as they go about their daily activities. This is not the result of violent male opportunism but rather a weapon of war. Particularly during ethnic conflicts systematic rape is commonly used to destabilise populations and destroy community and family bonds. Current reports from DRC and Darfur in Sudan suggest there is no reason to believe the 'epidemic' is near ending.

In view of this reality gender-based violence is explicitly listed in the Rome Statute of the ICC. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, gender-based persecutions, trafficking and other forms of sexual violence are recognized as war crimes, as crimes against humanity and, in some instances, as genocide. The ICC is thereby mandated to set the highly needed example of fighting the prevailing impunity surrounding these crimes. It has incorporated the legal and procedural framework to do so. Also, the Court has the responsibility to use special measures, protection and support for victims of sexual violence during proceedings and the giving of evidence.

Now that the Court is operational the time for actual implementation of the Rome Statute's gender provisions has come. Within the ICC's Office of the Prosecutor a Gender and Children Unit has been set up, even though the gender crimes are in the mandate of the entire staff. This Unit is now drafting the Policy on Gender Issues. It should provide the guidelines on how to ensure gender equality in investigation, monitoring, evaluation and prosecution. E.g. before interviewing a sexually assaulted victim this request will be properly assessed in terms of protection, physical and psychological well-being. The investigators and other ICC staff by now have received gender sensitive trainings. Local NGOs experienced in trauma-counselling and physical assistance should be consulted for their advise on how to proceed, given also the shame surrounding acts of sexual violence. It is hoped that the ICC can indeed contribute to replacement of the culture of impunity of sexual crimes into a culture of accountability. But that is still a long way to go.

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The CJR team found the main problems to be a lack of knowledge about the ICC, objections of the people against the timing of the investigations, mistrust, and a difference in language between the ICC and the faith based organisations. The ICC speaks the language of lawyers, about justice and punishment. The religious leaders of Uganda speak the language of peace, about reconciliation and forgiveness. These different languages may lead to misunderstandings, and doubts about the position of the other party. It is of vital importance for the ICC to create a better local understanding of the mandate and work of the ICC. The partners see a clear mediating role for the CJR to help "translate" their message to the ICC and vice versa.



In February 2005 CJR again visited Uganda to catch up with the latest developments. Confidential talks were brokered between several contact persons and officials of the ICC. Also, a training workshop was facilitated in Soroti.



## Faith and Ethics Network for the ICC (FENICC)

FENICC is a coalition of religious, ethics and interfaith organisations that examine the moral, ethical and religious values surrounding the ICC. CJR is co-chair of this Network. During the Assembly of States Parties in September the Network successfully hosted a lunch meeting on sexual violence with speakers from the Democratic Republic of Congo and Uganda. The report is available through the CJR Secretariat (see last page). In 2005 several new activities are developed.



Anne Offermans and Jeff Huffines co-chairs of the FENICC

### Conference on Sexual Violence against Women and Children (NY, 9-10 March 2005)

The Faith and Ethics Network for the International Criminal Court will convene its next conference in March on "Sexual violence against women and children in conflict and post-conflict context: The role of the ICC, the UN and faith-based organisations." It will take place during the Commission on the Status of Women (7-11 March) at the United Nations in New York. The Dutch Mission at the UN has kindly agreed to sponsor the conference. Speakers include Ms. Fatou Bensouda, Deputy Prosecutor of the ICC, and Mr. Olara Ottunu, UN Under Secretary General, Special Representative for the Protection of Children in Armed Conflict. Last year, the Faith and Ethics Network hosted a similar event on 'Reconciliation and the Role of the ICC'.

## African Religious Communities and the ICC

All around Africa there are faith-based groups and organisations deeply involved in working for peace, justice and reconciliation. They are active in human rights education and training, monitoring, lobby and advocacy and various reconciliation initiatives. Now that the ICC has started investigations in two African countries (DRC and Uganda) and is 'looking into' the situation in two other ones (Ivory Coast and CAR) it is high time that the faith-based groups focus more on the potentials and pitfalls of the contribution of the ICC.

Therefore, the Faith and Ethics Network for the ICC has embarked on a project called 'African Faith-based Communities Advancing Justice and Reconciliation – in Relation to the International Criminal Court'. Its purpose is (i) to increase the knowledge on the ICC; (ii) to increase the communication and linking on ICC issues; (iii) to stimulate involvement related to the ICC. The Project consists of three phases. From 8-12 May an Expert Group Meeting will be held in Nairobi, Kenya. The experts will help charting the context of transitional justice processes in Africa in which the ICC comes to operate, the mission and developments of the ICC, as well as the potential role of faith-based groups in this respect. The group will draft the framework of a Justice and Reconciliation Manual on the ICC for faith-based communities. This Manual will then be developed by the editorial group. It is expected to launch this Manual in a larger Conference in November 2005.

For more information, please contact Jonneke Naber, [jonneke.naber@justitiaetpax.nl](mailto:jonneke.naber@justitiaetpax.nl).



ICC-CPI/Wim Van Cappellen  
Ms Fatou Bensouda at her Solemn Undertaking as Deputy Prosecutor,  
1 November 2004

## Netherlands NGO Platform for the ICC (NLICC)

On 26 January the CJR, chair of the NLICC, organised a visit to the International Criminal Court. Thirty participants from Netherlands based NGOs took this opportunity to learn more about the Court. Representatives of the three different organs of the ICC (Registry, Office of the Prosecutor and Presidency/Chambers) gave presentations on their work. Specific interest was paid to victims issues including the Victims Trust Fund. The NGOs highly appreciated the willingness of the Court to liaise with the Dutch NGOs and the ample opportunity to ask questions. For more information about the NLICC, please contact Margot Stroeken, [margot.stroeken@justitiaetpax.nl](mailto:margot.stroeken@justitiaetpax.nl)

## More CJR activities

### India

On 13 February 2005 a Special Consultation on the ICC was organised by the Catholic National Justice and Peace Commission of India. CJR staff acted as resource persons. Participants included Core Group members of the national JP Commission, delegates of All India Lawyers Forum for Justice and Peace and the India Coalition for the ICC. An Action Plan for involvement of the Catholic community with the campaign for ratification of the Rome Statute in India was discussed. In 2004 the President of the ICC, Phillippe Kirsch, visited the country to gain support for the ICC.

### Georgia

Good relations with the Georgian Coalition for the ICC will most probably culminate in co-organising a training workshop end of May 2005. On the agenda will be a closed session with experts, a meeting with NGO's and civil society and a lobby programme with the Georgian Foreign Ministry, Government and Parliament. The Georgian Coalition is currently working on building the Caucasus regional NGO Coalition for the ICC.

## WCC Statement on the ICC

Churches in different parts of the world and the World Council of Churches (WCC) have specifically been advocating for the ICC. In Harare, in December 1998, the WCC's Assembly stated: "We welcome the agreement to establish the International Criminal Court, which should help the international community in its enforcement of human rights."

At WCC's latest meeting of its Central Committee (15-22 February 2005) a new statement was adopted. Amongst others the statement calls upon member churches to urge for the universal ratification of the Rome Statute of the ICC. Also, the churches are called upon to cooperate actively with the ICC in those countries where procedures have already started. Furthermore, churches are encouraged to develop training activities to deepen the knowledge of the relevance of the work of the ICC. The statement is accessible through [http://www.oikoumene.org/GEN\\_PUB\\_5\\_Second\\_report\\_o.779.0.html#1576](http://www.oikoumene.org/GEN_PUB_5_Second_report_o.779.0.html#1576)



## International Advisory Council

The Centre for Justice and Reconciliation is supported by an International Advisory Council. Council members are:

- Professor Theo van Boven, Chair, Former UN Special Rapporteur on Torture, first Registrar of the International Criminal Tribunal for the former Yugoslavia and emeritus Professor of International Law.
- David Donat-Cattin, Legal Advisor International Law and Human Rights and European Coordinator of Parliamentarians for Global Action
- Carla Ferstman, Legal Director of Redress
- Guillermo Kerber, Programme Executive International Relations of the World Council of Churches
- Marcie Mersky, Transition Manager for the United Nations Verification Mission in Guatemala

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## Publications

If you wish to order any of the below publications, please send an email to [cjr@justitiaetpax.nl](mailto:cjr@justitiaetpax.nl)

- CJR Policy Plan 2005 - 2006
- CJR Report on the Assembly of States Parties <http://www.ishr.ch/About%20UN/Reports%20and%20Analysis/ICC-3rdSession.pdf>
- 'Sexual Violence and the International Criminal Court', Report of the Lunch-  
eon Meeting of FENICC (September 2004).
- CJR Brochure

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