



**Internal Summary Report**  
**16th Assembly of States Parties**  
**4-14 December 2017**



The COALITION FOR THE INTERNATIONAL CRIMINAL COURT includes 2,500 non-governmental organizations around the world working in partnership to strengthen international cooperation with the International Criminal Court; ensure that the Court is fair, effective and independent; make justice both visible and universal; and advance stronger national laws that deliver justice to victims of war crimes, crimes against humanity, and genocide.

The Coalition Secretariat would like to thank the donors who have supported and continue to support the Coalition's work: the European Union, the Planethood Foundation, Irish Aid, and the governments of Australia, Austria, Finland, Liechtenstein, Norway, The Netherlands, Switzerland, and a number of committed individuals. The contents of this publication are the sole responsibility of the Coalition for the International Criminal Court and should in no way be taken to reflect the views of the European Union, Irish Aid, or any other donor.

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## CONVENOR'S NOTE

The Coalition for the ICC continues to believe that the Assembly of State Parties (ASP) of the Rome Statute of the International Criminal Court (ICC) remains one of the world's most important intergovernmental oversight bodies for the protection and advancement of international humanitarian and human rights law, indeed for the age-old goal of replacing brute force and war with the just rule of law in international affairs.

Many government statements at the 16<sup>th</sup> session of the ASP commented on the deteriorating support for multilateralism; many recognized the extraordinary and unique status and situation of the Rome Statute, the ICC, and the Assembly in an increasingly chaotic geopolitical environment. In my statements on behalf of the Coalition, I noted the exceptional composition of the ASP – composed virtually of all of the world's small, middle power, and emerging democracies, not including the biggest powers and government groupings that paralyze most progressive reforms for peace in the international legal order.



At the 16<sup>th</sup> session, the Assembly demonstrated that it remains independent and can continue to make history. The consensus decision to activate the jurisdiction of the Court over the Crime of Aggression on 17 July 2018 will be another historic step of the Rome Statute system, a decision that was shamefully opposed by three of the most powerful veto-members of the UN Security Council.

The Assembly held an excellent plenary to introduce the 20<sup>th</sup> anniversary of the Rome Statute, adopted in 1998. Many governments as well as the Coalition made strong commitments to hold stocktaking commemorations throughout 2018. This report also documents the election of six new judges, a new ASP President and Vice-Presidents, the adoption of the budget, sessions on cooperation, approval of war crime amendments, discussions of victim rights, and an Omnibus Resolution affirming some of the most progressive overarching policies of any treaty body.

Complementing the official sessions were scores of government and NGO side events and seminars, and research and campaign launchings, also described in this report. Government representatives tell us that for them these are often the most valuable sessions.

NGOs, governments, ICC, and international organization representatives, realize the enormous challenges, threats, and failures to prevent and end Rome Statute crimes – the worst crimes in international law. However, the tools, laws, and institutions created against all odds on 17 July 1998- the Rome Statute system – remains one of the great hopes for peace in the 21<sup>st</sup> century.

A handwritten signature in black ink that reads "William A. Pace". The signature is written in a cursive, flowing style.

William Pace  
Convenor  
Coalition for the International Criminal Court

## 1. INTRODUCTION

This is an informal report on the 16<sup>th</sup> session of the Assembly of States Parties to the Rome Statute (ASP), which took place from 4-14 December 2017 in New York, United States of America.

The report was prepared by the Coalition for the International Criminal Court (Coalition) secretariat to summarize Coalition initiatives in 2017 as well as discussions within the framework of the ASP Bureau’s working groups—mandated following the 15<sup>th</sup> ASP session to facilitate discussions between States Parties’ delegations, International Criminal Court (ICC) representatives, civil society, and other stakeholders on a number of topics—and the related decisions and developments arising therefrom during the 16<sup>th</sup> session.

Since 1995, the Coalition has led the civil society effort that successfully campaigned for the adoption of the Rome Statute in 1998 and the creation of a permanent international court to hold perpetrators of genocide, war crimes, and crimes against humanity to account. The ICC was established just four years later. On 17 July 2018, 20 years on from the Statute’s adoption, ICC exercise of jurisdiction over the fourth core international crime—the crime of aggression—will come into force.



Since the Court’s establishment, the Coalition has facilitated unprecedented access and participation by global civil society in the ICC process, including its governance by the ASP. At the 2003 ASP session, the Coalition was recognized by States Parties, for its “coordinating and facilitating role” in an ASP resolution. During the 16th session, the States Parties reaffirmed in [another resolution](#) the Coalition’s critical role, while also recalling “*in light of the 20<sup>th</sup> anniversary of the Rome Statute, the long-term and continuing cooperation between the Assembly, State Parties, and non-governmental organizations of civil society.*”

Importantly, the annual ASP session in 2017 proved a pivotal forum for the Coalition and its members to look ahead with States Parties on how efforts within the Rome Statute system of international justice must be tailored in the Statute’s 20<sup>th</sup> anniversary year. The consultative arrangements for NGOs provided opportunities to reinforce defined goals within the Rome Statute system, such as full and effective implementation of the Statute into domestic jurisdictions; burden-sharing to ensure the Court receives cooperation where it is needed;

and a strengthened Statute and legal institution to confront modern challenges in conflict prevention and sustainable peacebuilding, among others.

As in previous years, civil society participating at the 16<sup>th</sup> ASP session coordinated its activities through the Coalition. In resuming its convening role at the 16<sup>th</sup> session, the Coalition facilitated the participation of over 450 participants from almost 150 organizations from all parts of the world in making their opinions and recommendations known to the ICC governing body during the ASP session. This report provides just a small sampling of the diverse civil society perspectives brought into the ICC governing process, primarily through enhanced dialogues taking place in side events arranged in cooperation with NGOs throughout the ASP session.

For more information on the day-to-day developments during the session, a background guide to the ASP session, as well as advocacy tools prepared by Coalition, please visit the Coalition's dedicated [16<sup>th</sup> ASP session webpage](#).

## 2. OPENING SESSION

The 16<sup>th</sup> ASP session opened on Monday 4 December 2017 with a plenary session dedicated to preliminary (and administrative) tasks, several non-judicial elections; and addresses by the ASP President, the United Nations Secretary-General, the ICC President, the ICC Prosecutor, and the Chairman of the Trust Fund for Victims' Board of Directors.

### 16<sup>th</sup> ASP session opens

ASP President **H.E. Mr. Sidiki Kaba (Senegal)** opened the 16<sup>th</sup> ASP session. In his last opening address as ASP President to the ICC member states and other stakeholders in the Rome Statute system, including civil society in attendance, Mr. Kaba painted a broad picture of discussions in the two weeks ahead: around financial support to make ICC investigations; reiterating the role of the ICC as a Court-of-last-resort (complementarity); calling on states to act wisely and to activate the Court's exercise of jurisdiction over the crime of aggression; and noting that crimes continue around the world at an alarming rate, with international security at stake. In his address to the 16<sup>th</sup> ASP session in the year preceding the Rome Statute's 20th anniversary, President Kaba commended the Coalition for the ICC and its Convenor for work since 1995 to make the ICC happen in the first place.

Invited by President Kaba to address the Assembly prior to commencing the official work of the 16<sup>th</sup> ASP session, UN Secretary-General **Mr. António Guterres** pointed out the UN's goals within the Rome Statute system—and in particular the importance of international justice as a tool in its own right to achieve peace, security, and human rights worldwide. The Secretary-General specifically issued an appeal for states to achieve universal ratification of the Rome Statute; highlighted the role of civil society actors in the Rome Statute system; and reminded participants to remain mindful of the complicated nature of the Court's mandates in approaching discussions around the future of this unique institution on the world stage.

### Court and Trust Fund for Victims address Assembly

Steering proceedings, ASP President Kaba led the adoption of the official agenda for the 16<sup>th</sup> session before welcoming representatives of the ICC and the Court's Trust Fund for Victims (TFV) to address the Assembly.

In presenting the activities of the Court in 2017, **Judge Silvia Fernández de Gurmendi** reflected on some of the achievements of the judges during her tenure as ICC President. The ICC President's remarks touched on, among others, developments in 2017 toward the most effective implementation possible of the Court's various mandates under the "One-Court" principle. President Fernández also noted the establishment of the Independent Oversight Mechanism to improve accountability and transparency of the Court's organs, as well as progress made in the development of quantitative and qualitative indicators of the institution's performance.

In her address to the 16<sup>th</sup> Assembly, ICC Prosecutor **Ms. Fatou Bensouda** outlined achievements in the work of the Office of the Prosecutor (OTP) since 2016, from convictions and the issuing of two new arrest warrants, to the opening of the OTP investigation in Burundi prior to the government's withdrawal from the Rome Statute. The ICC Prosecutor laid out the critical decisions before the States Parties at the 16<sup>th</sup> ASP session year as well as their potential to shape the direction of the Court both strategically and administratively: the election of judges; the election of new ASP expert budget committee members; and the decision on a new ASP President and Vice-Presidents, to name a few. Noting that the OTP's activities would be particularly affected by decisions concerning the ICC budget and cooperation, Prosecutor Bensouda called on all stakeholders to stay with the incomparable and evolving institution that is the ICC on its forward path toward accountability and protection under international criminal law.

Presenting work done by the TFV Board of Directors and Secretariat in 2017, TFV Chairman of the Board **Mr. Motoo Nguchi (Japan)** highlighted planned comprehensive assistance throughout Côte d'Ivoire; missions to

Georgia to develop assistance in that situation; and high-level visits by the Court and TFV Board to situation countries to better understand the impact of ICC processes on affected communities. Referring to hundreds of victims waiting for assistance from the TFV, as well as findings of indigence in all of the ICC convictions thus far, the Chairman noted that TFV plans to complement Court-ordered reparations in several cases would not be achieved without bolstered voluntary contributions by States Parties to the TFV in 2018.

### **New ASP President elected**

President Kaba’s successor for the 17<sup>th</sup> through 19<sup>th</sup> ASP sessions—**Judge O-Gon-Kwon (Republic of Korea)**, the consensus candidate among the States Parties for ASP President—also addressed the Assembly following his official election during the opening plenary session.

The ASP President-elect shared an overview of his goals to advance the developing Rome Statute system and its role in the effective enforcement of international justice and sustainable peace. In light of the approaching 20<sup>th</sup> anniversary of the Rome Statute, the incoming ASP President described international criminal justice, including in the form of the ICC process, as a promise to future generations that must be honored. Judge Kwon committed to work closely with all stakeholders, including civil society, to establish an environment in which to promote the commitment of the one-third of the United Nations (UN) members still outside the Rome Statute system.

The opening plenary session also saw the Assembly elect six new members of its 12-member Committee on Budget and Finance, and 16 of the 18 members for the ASP Bureau from 2018 to 2020, and defer elections of the remaining two new Bureau members as well as two new ASP Vice-Presidents until a later date (for more see **Elections** chapter).



### 3. ELECTIONS

At the 16<sup>th</sup> ASP session, a number of important positions in the Rome Statute system were filled: six judicial vacancies; the ASP president, as well as two ASP vice-presidents to coordinate The Hague and New York Working Groups of the ASP Bureau; 18 new State Party members to form said Bureau; and six of twelve members of the Committee on Budget and Finance, an ASP subsidiary body.

#### Election of six new ICC Judges

##### *The Coalition Campaign on the 2017 Judicial Elections*

*As part of its campaign on ICC judicial elections, the Coalition requested that nominated candidates complete a questionnaire, which invited a broad and personal account of the candidate's background, qualifications, experience, and views relating to her or his candidacy. Furthermore, on 18 September 2017, the Coalition organized public panel discussions with all 12 nominated candidates in The Hague. The panels served to introduce the judicial candidates to representatives of states, civil society, and the wider public, and provide an opportunity for greater transparency around their qualifications, experience, and expectations for international justice. Finally, to maximize transparency during the elections process, the Coalition requested by letter that nominating States Parties provide overviews of the national nomination processes used in the selection of each judicial candidate. The Coalition itself did not endorse or oppose individual candidates, but rather advocated for the integrity of the nomination and election processes, including through the strong rejection of reciprocal political agreements ("vote-trading").*

[Read all about the new judges and their visions for international justice on the CICC website:](#)

Over the first three days of the 16<sup>th</sup> ASP session, States Parties elected six new judges to join the 12 remaining in 2018 on the ICC bench. The election followed the Court's regular judicial elections process, which replaces a third of the total 18 judges every three years. The new judges will serve a nine-year term expected to begin in March 2018.

Voting occurred during the ASP session by secret ballot. To be elected, candidates needed to receive a two-thirds' majority of votes from the States Parties present and voting.

Prior to the first round of voting to elect six new judges to the ICC bench for nine-year terms, outgoing ASP Vice-President Sergio Ugalde (Costa Rica) laid out the status of arrears, or outstanding assessed contributions, among the ICC member states. Vice-President Ugalde noted that five of those otherwise ineligible to vote under Rome Statute Article 112(8)—because their level of arrears at the time of the 16<sup>th</sup> ASP session equaled or exceeded the amount of their assessed contributions toward the ICC budget for the preceding two years—had requested special exceptions and would be eligible to vote. Venezuela, Vanuatu, and the Democratic Republic of the Congo (DRC), meanwhile, would remain ineligible having failed to submit requests of their own prior to the first round.

To ensure that the ICC bench represents the principal legal systems of the world, has equitable geographical representation, and a fair representation of male and female judges, ICC judicial elections' procedures impose

minimum voting requirements (MVRs). The MVRs are not a quota system and do not guarantee that each regional group or gender will obtain the number of seats stipulated by the MVRs. Gender and geographic MVRs only apply during the first four rounds of voting, whereas MVRs for Lists A and B apply throughout the voting rounds until all vacancies have been filled. The following MVRs were in place in 2017:

- Five female candidates;
- One candidate from Asia-Pacific;
- One candidate from Africa;
- One candidate from Latin America and the Caribbean;
- One candidate with specific expertise in criminal law and procedure (“List A”); and
- One candidate with specific expertise in international law (“List B”).

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*As five of the six outgoing ICC judges are women, the Coalition for the ICC campaigned to ensure that female candidates were nominated by states to ensure fair gender representation on the ICC bench.*

*We urged states to seek out the very best and most qualified female candidates to uphold this fundamental standard.*

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#### **Round 1**

Voting started on Monday 4 December, with two judicial candidates - **Ms. Tomoko Akane (Japan, List A)** and **Ms. Luz del Carmen Ibáñez Carranza (Peru, List A)** - elected to the ICC bench in the first round of voting, having each been marked on the ballots of over 2/3 of the ICC member states present and voting.

Following the first round, states were left with a MVR for three female candidates, one candidate from Africa and one 'List B' candidate. Furthermore, at that time the DRC requested and was granted an exception regarding its arrears, allowing it to vote moving forward.

#### **Round 2**

During Round Two, the final round of voting on 4 December, no additional candidates received the required majority. The MVRs following round one remained intact heading into the third voting round on 5 December, with the MVRs for gender and geography only applicable through four rounds.

#### **Round 3**

Prior to the third round of voting on day two of ASP 16, Tuesday, 5 December 2017, Mr. Dragomir Vukoje (Bosnia & Herzegovina, List A) withdrew his candidacy. Venezuela was meanwhile granted a special exemption to vote despite its level of arrears. During Round Three, no candidates received the required majority, so the existing minimum voting requirements (MVR) remained intact: three female candidates; one candidate from Africa; and on one 'List B' candidate.

#### **Round 4**

The fourth voting round—the last round where MVRs for gender and geography would apply—featured candidates from Ghana and Uganda in a close race for the next vote, based on previous rounds' ballots. Delegations from both States Parties requested and were granted 15 minutes for a “regional group level consultation.”

Prior to collecting ballots in the fourth round, Vice-President Ugalde announced that Vanuatu had requested and received a special exemption to vote despite its arrears, meaning that all States Parties present would be eligible to vote. Before reading out the results of the fourth ballot, the Vice-President noted that for the first time during the 16<sup>th</sup> session, all 123 States Parties had cast valid ballots.

The result of the fourth voting round was the election of **Ms. Reine Alapini-Gansou (Benin, List B)** and **Ms. Solomy Balungi Bossa (Uganda, List A)**.

#### **Round 5**

Entering the fifth voting round, ICC member states were left with six candidates for two remaining seats, with minimum voting requirements for region and gender discontinued for the remaining voting rounds.

In Round Five, all 123 States Parties once again cast valid ballots. Out of the 123 ICC member states, one abstained. Canada received the highest number of votes totaling 76, followed by Italy receiving 45, Ghana receiving 42, and Croatia receiving 37. The candidates from Lesotho and Uruguay received 22 and 17 votes, respectively. None of the candidates, however, received the required two-thirds majority of 82 votes, meaning the ICC judicial elections would enter a sixth round.

Immediately prior the sixth round, Lesotho and Uruguay withdrew their candidates' nominations—**Ms. Nthomeng Justina Majara (List A)** and **Ms. Ariela Peralta Distéfano (List B)**, respectively—leaving four judicial candidates to fill the remaining two vacant positions.

#### **Round 6**

Round six saw the election of **Ms. Kimberly Prost (Canada, List A)**, who received 92 votes, thus fulfilling the required two-thirds majority of 82 votes. At that time Croatia announced the withdrawal of its candidate, Ms. Zlata Đurđević (List B), leaving only the candidate from Italy, Mr. Rosario Salvatore Aitala (List A), and the candidate from Ghana, Ms. Henrietta Joy Abena Nyarko Mensa-Bonsu (List A), in contention for the final ICC judicial vacancy.

#### **Round 7**

In round seven, Italy's candidate received 77 votes while Ghana's received 45 votes, neither of which fulfilled the required two-thirds majority of 82 votes at the close of voting rounds on 5 December 2017.

#### **Round 8**

Day three of the 16<sup>th</sup> ASP session, Wednesday, 6 December 2017, began with Round Eight of the ICC judicial elections, in which neither of the remaining two candidates received the required two-thirds majority of 82 votes.

#### **Round 9**

Round nine proved to be the final voting round, with **Mr. Rosario Salvatore Aitala (Italy, List A)** receiving 84 votes and thus claiming the sixth and final judicial seat.

### **Election of six members of the CBF**

On 4 December, the Assembly conducted an election to fill six soon-to-be vacant seats on the Committee on Budget and Finance (CBF), which consists of 12 members, nominated and selected by the based on equitable geographic representation within the ASP. This technical expert body is tasked with examining financial, budgetary, and administrative documents submitted by the ICC to the ASP as part of the Court's complicated annual budget review.

Because the recommendations of the CBF are a key tool relied on by States Parties as they decide on the Court's annual budget, the Coalition conducted a limited Elections Campaign consisting of awareness-raising around the dangers that a politically-oriented CBF election poses not only to the integrity of democratic processes within the ASP, such as competitive elections, but also to the independence of the Court's prosecutorial and judicial activities.

At the CBF elections, States Parties needed to take the following distribution of seats into account to ensure equitable geographical representation on the CBF: two candidates from Asia-Pacific; one candidate from Africa; one candidate from Latin America and the Caribbean; one candidate from Eastern Europe; and one candidate from the Western Europe and other States group (WEOG), which includes Canada, Australia, and New Zealand.

Of the eight candidates vying for the six seats at the close of the nomination period on 8 October 2017, Ms. Neelu Shankar (Canada) withdrew her candidacy during the election, while **Ms. Ingrid Eiken Holmgren (Sweden)** took the seat reserved for a WEOG expert. **Ms. Margaret Wambui Ngugi Shava (Kenya)**, **Ms. Mónica Sánchez Izquierdo (Ecuador)**, and **Ms. Elena Sopková (Slovakia)** were meanwhile appointed as consensus candidates from their respective regions.

Of the remaining three candidates from the Asia-Pacific region vying for two seats, the Assembly's Asia-Pacific grouping devised a system to share the two seats between the three candidates: from April 2018 to April 2019, **Mr. Hitoshi Kozaki (Japan)** and **Mr. Fawzi A. Gharaibeh (Jordan)** would occupy the seats; from April 2019 to April 2020, Mr. Kozaki and **Ms. Janet Braganza Abuel (Philippines)**; and from April 2020 to April 2021, Mr. Gharaibeh and Ms. Abuel.

### Election of the ASP president and vice-presidents

With ASP President Sadiki Kaba's (Senegal) three-year term ending on 14 December 2017, the last day of the 16<sup>th</sup> ASP session, **Judge O-Gon Kwon (Republic of Korea)** was appointed by consensus on 4 December to take the helm from Kaba until the conclusion of the 19<sup>th</sup> ASP session in 2020. H.E. Mr. Kwon had been recommended for election on 5 July 2017 after consultation within the Asia-Pacific group of States Parties, which was slated to put forward the next ASP President in 2017 based on geographical grouping rotation. Following his official appointment, the ASP President-elect committed to take the ICC in a direction of greater cooperation from states, universality of the Rome Statute, and continuing collaboration with civil society toward these goals.

The appointment of two new ASP Vice-Presidents, one to coordinate the Bureau working group in The Hague, the other for that in New York, was postponed from 4 December until 14 December, the final day of the 16<sup>th</sup> ASP session. At that time, the Assembly elected **H.E. Mr. Momar Diop**, Ambassador of Senegal to The Netherlands, to serve as ASP Vice-President chairing the The Hague Working Group, and the Ambassador of Slovakia to the United Nations, **H.E. Mr. Michal Mlynár**, as ASP Vice-President chairing the New York Working Group. *(In March 2018, following his appointment as Ambassador to the United States, Mr. Diop resigned his commission as VP of The Hague Working Group. H.E. Mr. Jens-Otto Horslund was subsequently appointed Coordinator of the group.)*

### Election of the ASP Bureau

The 16<sup>th</sup> ASP session included the election of 18 States Parties to join the ASP Bureau. Charged with representing the broader Assembly in the facilitation of working group discussions and the preparation of draft resolutions and reports in the year prior to the annual ASP session, the Bureau is constituted based on the Assembly's geographical groupings, with each grouping identifying its own consensus candidates.

During the opening plenary session on 4 December, States Parties appointed the following states by consensus: **Estonia, Serbia, and Slovenia** from Eastern Europe; **Côte d'Ivoire, The Gambia, Ghana, and Uganda** from Africa; **Palestine and Japan** from Asia-Pacific; and **Australia, Austria, Denmark, France, and The Netherlands** from WEOG.

The group of Latin American and Caribbean States Parties were meanwhile unable to reach consensus during the opening session on the four Bureau members allocated to the region, and deferred completion of the election until 6 December, when one round of voting resulted in the election of **Argentina, Ecuador, Mexico, and Colombia.**

With the three-year term of the ASP Bureau elected at the 13<sup>th</sup> ASP session expiring on 14 December 2017, the newly-elected Bureau assumed responsibilities immediately following the conclusion of the 16<sup>th</sup> session.

## 4. GENERAL DEBATE

The 16<sup>th</sup> ASP session General Debate began on 6 December with a number of high-level government representatives taking the floor to present their states' positions on various issues within the Rome Statute system. The General Debate spanned three days, concluding on 8 December with statements from Observer states, international organizations, and nine civil society organizations, including the Coalition for the ICC.

Prior to the 16<sup>th</sup> session, the Coalition communicated to States Parties the importance of high-level reminders of the central and unique role that the Rome Statute has played and can continue to play in building peaceful and inclusive societies as the ICC founding treaty enters its 20<sup>th</sup> anniversary year. The key positions the Coalition recommended states incorporate in their General Debate statements included:

- High-level political commitment to the ICC and Rome Statute;
- The need to safeguard the integrity of the Rome Statute, including cornerstone principles on the irrelevance of head-of-state authority;
- Commitment to strengthen the ICC's judicial and prosecutorial independence;
- The need for universality of the Rome Statute, as well as for its full implementation into domestic jurisdictions;
- Commitment to enhanced cooperation, including thorough efforts to conclude cooperation agreements with the ICC and to ratify the Agreement on Privileges and Immunities of the ICC ahead of the Rome Statute's 20<sup>th</sup> anniversary;
- Financial commitment to the Rome Statute system, including the ICC budget and voluntary funds;
- The centrality of victims' participation and reparations in the Rome Statute system; and
- Recognition of the Rome Statute system's integral role in conflict prevention and sustainable peacebuilding.

### General Debate: Ministerial-level statements

The General Debate began on 6 December with a number of ministerial-level statements. To start, the Minister of Justice of **Belgium**, Mr. Koen Geens, called for simple activation of the crime of aggression and adoption of the state's proposal to insert four new war crimes into the Rome Statute. Minister Geens also stated the government of Belgium's intention to make a new contribution to the ICC Trust Fund for Victims (TFV) in 2018.

The Attorney General of **Uganda**, Mr. William Byaruhanga, meanwhile referenced his government's positive past engagement and cooperation with the ICC around Lord's Resistance Army indictments while also noting that the domestic accountability mechanism continues to take shape judicially in the form of the International Crimes Division of the High Court of Uganda. In reference to a November 2017 visit by Sudanese President and ICC suspect Omar al-Bashir to Uganda's territory, the Ugandan Attorney General reaffirmed his government's position that a conflict exists between customary law of sovereign immunity and Rome Statute Article 27 on the irrelevance of official capacity, including for Heads of State or Government.

The **South Africa** Minister of Justice and Correctional Services, Mr. Tshililo Michael Masutha, followed by announcing his government's renewed intention to withdraw from the Rome Statute after reversing course on withdrawal earlier in 2017 when South Africa's High Court deemed the withdrawal procedurally unconstitutional. Minister Masutha announced that the government would look to repeal national implementing legislation and had already introduced an international crimes bill to uphold its international commitment in the domestic fight against impunity.

Minister of Justice and Attorney General of **Ghana**, Ms. Gloria Akuffo, in noting the challenge posed by the Court's workload as it carries out the fight against impunity, called on States Parties to advance the principle of

complementarity under the Rome Statute by establishing the necessary competencies and capacity of domestic courts on the African continent.

In reaffirming the intention of the government of the **Democratic Republic of the Congo** to remain a State Party to the Rome Statute, the Congolese Minister of Justice Mr. Alexis Thambwe Mwamba referred to the ASP as a valuable forum to consider complaints leveled against the Court, such as in relation to claims of political bias or one-sided justice.

The South African government's earlier announcement stood in contrast to the statement by the Attorney General and Minister of Justice of **The Gambia**, Mr. Abubacarr Tambadou, who referred to the new government's decision in early 2017 to reverse a 2016 Rome Statute withdrawal notification, adding that the ICC is an evolving institution with potential to achieve greater impact for all victims and that the new Gambian administration would do its part by domesticating obligations as one of the primary bearers of responsibility to investigate and prosecute crimes under the Statute.

Minister of Justice and Human Rights of **Côte d'Ivoire**, Mr. Sansan Kambile, described the trafficking of persons and slavery reportedly taking place in Libya as a shocking reminder of the need for the ICC and expressed the Ivorian president's commitment to cooperation with the ICC as well as equity and social progress through the government's ratification of the Rome Statute in 2015.

Minister of Foreign Affairs and International Relations of **Lesotho**, Mr. Lesego Makgothi, expressed his government's support for the Court's work to strengthen the rule of law, calling the ASP session an opportunity to innovate new ways forward in this regard. Although Minister Makgothi called for the ICC to work to dispel perceptions of bias in its prosecutions, he also noted limitations in the ICC's reach without universal ratification of the Rome Statute, and that African courts need to be better equipped to address impunity under the principle of complementarity.

The Deputy Minister of Foreign Affairs of **Slovenia**, Mr. Andrej Logar, stated his government's regret concerning the withdrawal announcement of the government of South Africa, but reiterated several key priorities ahead for the Assembly: responding to misperceptions that affect the integrity and independence of the Court; providing legal assistance to the Court, for example in the surrender of suspects; and engaging in a more strategic and forward-thinking manner, including in terms of the ICC system's relationship with the UN and the UN Security Council.

Taking the opportunity to link his government's unique support for the Rome Statute ahead of its 20<sup>th</sup> anniversary, the Under-Secretary of State at the Ministry of Foreign Affairs of **Poland**, Mr. Jacek Czaputowicz, recalled the ICC's role as a permanent institution carrying on in the tradition of the Nuremberg trials. In addition to calling for states to activate ICC jurisdiction over the crime of aggression, the Under-Secretary pledged his government's contribution in 2018 as a non-permanent member of the UN Security Council to a strengthened relationship between the ICC and international peace and security.

In his statement, the Deputy Minister of Justice of **Georgia**, Mr. Gocha Lordkipanidze, described the ICC's Georgia investigation, the first into a non-African situation, as especially significant given the country's history of victimization. In calling for sufficient financial resources for the Court, the Deputy Minister highlighted the Court's test in complementing the state's own investigations where obstacles like occupation have frustrated comprehensive domestic accountability. He also urged states to join Georgia as a contributor to the TFV to allow it to carry out its respective mandate for victims of the 2008 war. The Georgian Deputy Minister highlighted assistance from civil society, including the Coalition for the ICC, in its domestic accountability work, such as with respect to public outreach to victims, building trust in the ICC, and engagement with the TFV.

During his statement, the Vice-Minister of the Presidency of **Panama**, Mr. Salvador Sánchez, announced his government's ratification that day of the Kampala Amendments on the crime of aggression, making Panama the

35<sup>th</sup> state to ratify or accept the amendments. The Vice-Minister encouraged other States Parties to do so as well, and highlighted the importance of world leaders and civil society in strengthening legal institutions and protecting global peace and security.

### General Debate: States Parties and observer states

The General Debate continued on 6 December with a number of States Parties' delegations delivering statements at the conclusion of the ministerial-level addresses. Among those was the government of Estonia on behalf of the **European Union** (EU), wherein the EU affirmed unwavering support for the ICC; reiterated its call for the UN Security Council to refer the situation in Syria to the ICC; urged States Parties to support human rights defenders and civil society; and highlighted the 20<sup>th</sup> anniversary of the Rome Statute as an occasion for the international community to bring attention to the ICC and to make a push toward universality of the Statute through ratification campaigns.

The General Debate resumed on 7 December with the government of **The Philippines**, represented by the Presidential Spokesperson, Mr. Harry Roque, addressing the Assembly amid speculation about how the government would respond to a year of reports on alleged extrajudicial killings in the country and combative rhetoric toward the ICC from the Philippines' President. States Parties instead heard an address focusing largely on the Philippines government's interest in the principle of complementarity, or national level prosecutions of core international crimes.

The government of **France** chose to address the mistreatment of migrants in Libya during its statement, highlighting conduct that could amount to crimes against humanity. On a related subject, the government of **Switzerland** pointed out that in meetings of the UN Security Council certain states have voiced their desire to see the ICC pursue relevant crimes against migrants in Libya but as delegations to the ASP have denied the Court an adequate budget to do so. The government of **Costa Rica** noted during its statement that economic sacrifices to ensure international justice are not in vain.

The government of **Canada** noted in its statement that the ICC has made landmark judgments on the most serious criminal acts, and that the Court has grown out of infancy into a well-balanced institution. The government of **Brazil** meanwhile suggested a role for the Court in requesting assurances that the death penalty, prohibited as a punishment under the Rome Statute, is not applied in domestic prosecutions of ICC crimes.

The government of **Botswana** followed up on years of vocal support for the work and mandate of the Court in the African region by highlighting that despite its increasing workload there has been no corresponding increase in resources allocated to the ICC, and by calling on permanent Security Council members to refrain from using veto rights in the referral of atrocity situations to the ICC.

The newest State Party to the Rome Statute, **El Salvador**, recalled its historic accession to the treaty in March 2016 in calling on other states to follow its example, offering to share its own experiences as encouragement. The government of El Salvador also noted that as part of its commitment to strengthening the ICC system, it had in 2017 initiated internal procedures to ratify the Agreement on Privileges and Immunities of the Court.

The General Debate concluded on 8 December, with civil society taking the floor after the remainder of States Parties, observer states, international organizations, and representatives of the legal profession had delivered their statements.

Among remaining States Parties to speak were **Nigeria**, which noted that the ICC is becoming an increasingly relevant global institution for peace and development; and **Tunisia**, one of three States Parties from the Middle East-North Africa region, which referred to international justice as a vehicle to lasting peace.

Observer states Ukraine, China, Iran, and the United States also made statements before the Assembly. The representative from **Ukraine**, which is not yet a State Party but has accepted the jurisdiction of the ICC over



the situation in its territory, noted that the state is working to remove legal obstacles to ratification and implementation of the Rome Statute. Ukraine additionally declared support for activation of the Court's exercise of jurisdiction over the crime of aggression as well as proposed war crimes amendments.

The **United States**, meanwhile, rejected any ICC exercise of jurisdiction over US personnel absent the government's consent or a UN Security Council referral, including in any potential investigation into US troop conduct in Afghanistan, among other alleged crimes.

### General Debate: Civil society interventions



(From left to right: Chino Obiagwu, Nigerian coalition for the ICC; Elizabeth Evenson, Human Rights Watch; Mr. Shawan Jabarin, Al-Haq)

Civil society took the floor at the end of the General Debate, following interventions from intergovernmental organization the International Committee for the Red Cross and the newly-formed ICC Bar Association.

**Coalition for the ICC** Convenor Mr. William R. Pace opened the civil society segment by insisting that the ICC is one of very few alternatives capable of filling gaps that the Security Council has left in global peace and security, reminding that states must be proactive rather than reactive. Both the **Burundian national coalition for the ICC**, which later presented its views during a dedicated side event, and **Kenyans for Peace with Truth and Justice (KPTJ)** underlined the significance of the ICC in upholding human rights and rule of law in domestic jurisdictions.

KPTJ additionally called on the South African government to revisit its decision to pursue withdrawal from the Rome Statute, adding that "*Burundi may have left, but the door for its return is not shut.*" As the **Moroccan Centre for Peace and Law**, hailing from a non-State Party to the Rome Statute, noted in its statement, taking steps to join the global fight against impunity ultimately comes down to political will.

The **American Bar Association** highlighted for the Assembly that commitment to justice goes beyond "*mere statements of principle*" and, where the ICC is concerned, must ensure that the Court is adequately funded and that its judges, officers, and leaders are individuals of the highest professional caliber. The **Nigerian national coalition for the ICC** meanwhile directed its plea for commitment largely to African States Parties, adding a commitment to "*ensure that the purpose of the ICC is well understood among African leaders and the African public.*"

In a statement delivered by **Al-Haq**'s General Director, Mr. Shawan Jabarin, **International Federation for Human Rights** brought attention to, among other issues, human rights defenders who, often at great personal risk because of their support for the ICC, "*tirelessly work for justice both in The Hague and in [their] home countries.*"

In making a case for the ICC as a sound investment in justice, the **Ivorian national coalition for the ICC** reminded that the ICC can overcome the challenges it faces, and in particular in Côte d'Ivoire, through its "*ability to*

### *Complete list of civil society interventions during the General Debate, 16<sup>th</sup> ASP session*

*Coalition for the ICC, statement by Mr. William R. Pace*

[http://www.coalitionfortheicc.org/sites/default/files/cicc\\_documents/Pace%20ASP16%20General%20Debate%20Statement%208%20Dec%202017\\_0.pdf](http://www.coalitionfortheicc.org/sites/default/files/cicc_documents/Pace%20ASP16%20General%20Debate%20Statement%208%20Dec%202017_0.pdf)

*American Bar Association, statement by Mr. Christopher Hale*

[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP16/ASP-16-ABAICC.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-ABAICC.pdf)

*Burundian national coalition for the ICC, delivered by Mr. Lambert Nigarura*

[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP16/ASP-16-BCICC.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-BCICC.pdf)

*Human Rights Watch, statement by Ms. Elizabeth Evenson*

[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP16/ASP-16-HRW.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-HRW.pdf)

*International Federation for Human Rights/ Al-Haq, statement by Mr. Shawan Jabarin*

[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP16/ASP-16-FIDH.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-FIDH.pdf)

*Ivorian national coalition for the ICC, statement by Mr. Ali Ouattara*

[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP16/ASP-16-CIVICC.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-CIVICC.pdf)

*Kenyans for Peace with Truth and Justice, statement by Ms. Stella Ndirangu*

[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP16/ASP-16-KPTJ.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-KPTJ.pdf)

*Nigerian national coalition for the ICC, statement by Mr. Chino Obiagwu*

[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP16/ASP-16-NCICC.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-NCICC.pdf)

*Moroccan Centre for Peace and Law, statement by Mr. Hicham Cherkaoui*

[https://asp.icc-cpi.int/iccdocs/asp\\_docs/ASP16/ASP-16-MCICC.pdf](https://asp.icc-cpi.int/iccdocs/asp_docs/ASP16/ASP-16-MCICC.pdf)

*Human Rights Network-Uganda/ Ugandan national coalition for the ICC, written submission*

[http://www.coalitionfortheicc.org/sites/default/files/cicc\\_documents/HURINET-U%20Statement%20to%20the%20ASP%202017.pdf](http://www.coalitionfortheicc.org/sites/default/files/cicc_documents/HURINET-U%20Statement%20to%20the%20ASP%202017.pdf)

*respond to and manage victims' expectations of justice."* As **Human Rights Watch** noted in its statement, this should be a concern for all States Parties, *"given the profound consequences for the court's ability to deliver on the promise of Rome."*

## **5. 20<sup>TH</sup> ANNIVERSARY OF THE ROME STATUTE**

The Rome Statute was adopted on 17 July 1998, making 2018 a year of celebrations. To begin the year commemorating the Rome Statute's 20<sup>th</sup> anniversary, a special plenary session was held during the 16<sup>th</sup> ASP session for the international community to take stock of achievements to-date, and to consider how to enhance efforts to tackle challenges for the Court going forward. The session was presided over by outgoing ASP Vice Presidents **H.E. Mr. Sergio Ugalde (Costa Rica)** and **H.E. Mr. Sebastiano Cardi (Italy)**.

The Coalition for the ICC encouraged all stakeholders to use the Rome Statute's 20<sup>th</sup> anniversary, and in particular the joint opportunity afforded by the 16<sup>th</sup> ASP session, to initiate steps in planning commemorative events and advancing issues central to the ICC founding treaty, including enhanced cooperation, national implementing legislation, and work towards universality of the Rome Statute.

For its part, the Coalition used the dedicated plenary session to raise awareness of its own commemoration launch event from 15 to 16 February 2018 in The Hague celebrating and honoring the state and international organization leaders, as well as the Coalition members, who helped achieve the historic victory for peace and justice that is the Rome Statute system.

Speaking on behalf of the Coalition for the ICC, Convenor **Mr. William R. Pace** presented 2018 as a unique opportunity to revitalize commitment to the Rome Statute system of international justice, as well as to build new partnerships between civil society, governments, international and regional organizations, the legal profession, academia, youth groups, and the media, among other stakeholders, in the fight against impunity for war crimes, crimes against humanity, and genocide.

Throughout 2018, he stressed, stakeholders should look to create awareness-raising and knowledge-sharing opportunities to foster new like-minded partnerships with not only governments and intergovernmental organizations, but also within the diverse field of civil society working on matters related to international justice, rule of law, and sustainable peacebuilding, among others.

### **Special session on Rome Statute 20<sup>th</sup> Anniversary**

ASP President-elect **Judge O-Gon Kwon (Republic of Korea)** provided opening remarks for the session. In his statement, Judge Kwon noted the importance of enhancing dialogue between stakeholders, for example to eliminate concerns of selective justice, while remaining respectful of the independence and impartiality of the Court. Judge Kwon also committed to work with stakeholders to advance the necessary capacity at domestic levels to address grave international crimes; to accord priority to enhanced cooperation by States Parties; and to focus on States Parties' responsibility to the ICC mission through adequate financing. The ASP President-elect honored the important impact of civil society efforts around these goals, and encouraged all stakeholders to redouble efforts so that ICC can achieve even greater successes in the future.

Serving as keynote speaker, ICC President **Judge Silvia Fernández de Gurmendi** recalled the historic trials in Nuremberg and Tokyo that laid the foundations of international criminal justice. Noting the lack of effective enforcement of international criminal law at the domestic and international levels in the decades since, President Fernández applauded the ambitious steps beginning in 1994 that set the international community on the path to a permanent court for all victims, present and future, and called on States Parties to confirm their will to preserve and build upon the achievements of the last decades. The ICC President noted that efforts from within the Court must continue, but so must initiatives to foster effectiveness from the outside. In closing, the

ICC President presented the 20<sup>th</sup> anniversary of the Rome Statute as a unique occasion to renew the dialogue around the objectives of international justice—including for sustainable peace—in light of the challenges of the 21<sup>st</sup> century.

Following the remarks of the ICC President and ASP President-elect were statements by UN Under-Secretary-General for Legal Affairs and UN Legal Counsel, **Mr. Miguel de Serpa Soares**, Coalition for the ICC Convenor, **Mr. William R. Pace**, and ICC Trust Fund for Victims (TFV) Secretariat Executive Director, **Mr. Pieter de Baan**, the latter of whom highlighted that States Parties made reparative justice a core element of the Rome Statute, and that States Parties must now enable its delivery.

During his presentation, Mr. Pace expressed the Coalition’s hope for the 20<sup>th</sup> anniversary of the Rome Statute to serve as a time for renewed understanding of, and commitment to, the Statute and the ICC as vital tools for establishing the rule of law and peace in the current global order. Mr. Pace outlined the Coalition’s plans for the 20<sup>th</sup> anniversary, beginning with a 15-16 February launch event hosted in The Hague, and invited key international actors and groups to follow suit with a year of commemorative events dedicated to remembrance and reconnection, education and recommitment, stocktaking, and future-planning for the Rome Statute system of international justice.

Following the panel presentations, a number of States Parties delegations took the floor to voice their support for advancing the Rome Statute system on the occasion of the Statute’s 20<sup>th</sup> anniversary: Estonia on behalf of European Union; Norway; Philippines; Slovenia; Finland; Andorra; Mexico; New Zealand; Japan; Canada; Chile; Costa Rica; Senegal; Peru; Uruguay; and the Republic of Korea. Due to time constraints, delegations from Bangladesh, The Netherlands, and Uganda, as well as from the International Committee of the Red Cross and several civil society organizations were unable to speak as scheduled, and were invited to submit their statements in writing.

#### **Side event spotlight: Stocktaking on international justice**

Side events during the 16<sup>th</sup> ASP session served as forums not only to discuss existing actions and challenges for the work of the Court and other actors in the Rome Statute system, but also to highlight broader underlying issues that merit focused responses two decades after the ICC founding treaty’s adoption. The following are just two of the many events that can be looked back at as the start of 20<sup>th</sup> anniversary commemorations (*see the **Side Events** chapter for a complete overview*).

The government of Germany and the International Nuremberg Principles Academy co-organized a panel discussion on 7 December 2017—*From Nuremberg to The Hague and Beyond: Critical Reflections on the State of International Criminal Justice Today*—featuring members of the Academy’s Advisory Council alongside Coalition for the ICC Convenor Mr. William R. Pace. During the event, Advisory Council President and former UN High Commissioner for Human Rights, Ms. Navi Pillay, introduced the Academy’s mission to promote international criminal justice and human rights, and ultimately sustainable peace, through the advancement of knowledge and capacity of those involved in judicial processes for international crimes. The Vice-President of the Council, International Criminal Tribunal for the former Yugoslavia Prosecutor Mr. Serge Brammertz, noted the Academy’s equal focus on knowledge and practice in trainings aimed at capacity-building for domestic jurisdictions, with Council member Mr. David Tolbert, President of International Center for Transitional Justice, highlighting lessons learned from the training of judges involved in the Colombian peace process. To close the panel discussion, Mr. Pace described a key challenge that the Academy must address going forward: that academia and governments today only possess a fraction of the legal expertise on the Rome Statute system that existed at the time of the Court’s establishment 15 years ago.

Also on 7 December, the Coalition together with the Estonian Presidency of the Council of the European Union (EU) and the EU delegation to the UN organized the event, *Global Civil Society and European States: How to*

*advance international justice?"* The panelists discussed a number of topics including the existing hostile environment surrounding international justice, the EU-ICC relationship, and ongoing preliminary examinations of alleged RS crimes in Palestine and Ukraine, as well as investigations into situations in Georgia and Burundi. Ms. Virginie Amato from the Coalition Secretariat; Director of the International Law Division of the Ministry of Foreign Affairs of Estonia, Mr. Peter Pedak; and the Head of Legal Section for the EU Delegation to the UN, Mr. Eric Chaboureau spoke on behalf of the organizers. Panelists included Ms. Nino Tsagareishvili, co-director of Human Rights Center (HRIDC) and Chair of the Georgian national coalition for the ICC; Mr. Roman Romanov from the International Renaissance Foundation (IRF) in Ukraine; Mr. Shawan Jarabin, Director of Al Haq-Palestine; Mr. Lambert Nigarura, President of the Burundian national coalition for the ICC; Mr. Chino Edmund Obiagwu, Chairman of the Nigerian national coalition for the ICC; Ms. Olga Guzman from the Mexican Commission for the Defence and Promotion of Human Rights; and Ms. Angela Mudukuti, International Criminal Justice Lawyer from the Wayamo Foundation.

## 6. CONSULTATIONS PURSUANT TO ARTICLE 97(c) OF THE ROME STATUTE

Rome Statute Article 97 obliges States Parties to consult with the Court if a problem is identified that could potentially impede or prevent the execution of an ICC request, such as a request to arrest and surrender an ICC suspect.

At the 14<sup>th</sup> session of the ASP, the Assembly agreed to consider proposals to develop procedures for the implementation of Article 97. In 2016, the Bureau established a working group, chaired by Ambassador María Teresa Infante Caffi (Chile), to examine the application of Article 97. It reaffirmed the importance of preserving the independence of the Court. During the 15<sup>th</sup> session, the Chairperson of the Working Group requested that States Parties continue to explore all possible means to improve the application of Article 97, all in close consultation with the Court. The Bureau requested that the Working Group report with recommendations at the 16<sup>th</sup> session of the ASP.

During deliberations (meetings held on 19 Jan, 14 Feb, 24 Feb, 23 Oct 2017), States considered issues such as the first point of contact with the Court; a consultations' timeline; and the format for consultation outcomes, paying full attention to the 3 October 2016 proposal by South Africa and by four other States Parties on the implementation of Article 97 of the Rome Statute. Some States supported draft regulations/guidelines, while others wanted more clarification of the questions related to this. States noted they wanted to continue to seek the views of the Court as well, while respecting the judicial independence of the Court.

In February, the Court indicated it would not participate in any drafting exercise with States Parties. This was due to the legal independence of respective roles. The Working Group created an informal drafting group on Article 97 to create a text that would assist in the implementation, focusing on the substantive questions first and the format and legal status of any outcome later on.

The Informal Drafting Group, chaired by Ambassador Sabine Nölke (Canada), met six times throughout 2017 (27 Feb, 16 Mar, 20 Apr, 31 May, 20 June, 8 Sep) as the group considered a paper entitled, "*Chair's Text on Article 97 Consultations.*" The paper contained options for various topics such as, inter alia, initial request for consultations; recipient of request; invitation to a relevant organ or official to participate in consultations; procedures for advising recipients of a request; timelines; having a resolution of the issue form part of the record of proceedings; and procedures for unsuccessful consultations.

A second paper was disseminated in September entitled, "*Understanding with Respect to Article 97(c) Consultations,*" which discussed an understanding for the basis of consensus, based on comments and proposals from delegations and discussions that took place in the meetings of the informal draft group.

On 23 October 2017, the Bureau Working Group considered a draft resolution, "*Draft Resolution on Consultations Pursuant to Article 97 (c) of the Rome Statute of the International Criminal Court.*" Despite concerns raised by some delegations about the use of the term "fundamental principles" and "principles," the text was adopted by consensus.

Both the draft resolution "*Draft resolution on consultations pursuant to article 97 (c) of the Rome Statute of the International Criminal Court*" and the annexed "*Understanding with respect to article 97 (c) consultations*" was put forward for consideration by the Assembly. The Assembly adopted the [annexed "Understanding with respect to article 97 \(c\) consultations"](#) on 14 December.

## 7. COOPERATION

As an absolutely vital part of the international justice system set up by the Rome Statute, and in particular as envisioned under Part IX of the Statute, cooperation must be multi-faceted to enable the effective execution of various ICC functions collectively geared at bringing those most responsible for core international crimes to justice. With no enforcement mechanism of its own, the ICC is dependent on the cooperation it receives from states, regional and international organizations, and other relevant actors.

The 16<sup>th</sup> session of the ASP acknowledged this with a special plenary discussion on cooperation. One segment of the plenary offered a timely look at the future of cooperation 20 years after the Rome Statute’s adoption, with



ASP President-elect Judge O-Gon Kwon; Prosecutor of Paris Mr. Francois Molins; Principal Counsel of the ICC Office of Public Counsel for the Defence Mr. Xavier-Jean Keita; and Coalition for the ICC Convenor Mr. William Pace outlining the cooperation challenges and opportunities ahead. The segment’s open debate meanwhile included a joint statement on behalf of 11 non-governmental organizations (NGOs) lamenting the Assembly’s failures to adequately respond

to past instances of non-cooperation.

Another segment of the special plenary session on cooperation addressed the tailored discussions on financial assets recovery that took place among States Parties over the course of 2017 in The Hague Working Group (HWG) facilitation on cooperation, led by Ambassadors Philippe André Lalliot (France) and Momar Diop (Senegal).

The issue of cooperation around financial assets received special focus in the HWG with the organization of technical workshops and a related high-level political seminar in Paris (20 October 2017). The resulting non-binding *Declaration of Paris*, which is referred to in a number of key outcomes on cooperation from the 16<sup>th</sup> ASP session, offered a concrete basis for discussions and recommendations during the special plenary session on financial assets recovery.

Standing topics—such as advancing awareness of the number of available bilateral cooperation agreements between States Parties and the Court, and work towards a coordinating mechanism for national authorities dealing with cooperation—continued to be addressed by the HWG facilitation in 2017, as well as by [resolutions on cooperation adopted at the 16<sup>th</sup> ASP session](#).

Meanwhile in a separate resolution as noted above, the Assembly adopted an “*Understanding with respect to [Rome Statute] article 97(c) consultations*” related to ICC requests for cooperation directed at States Parties.

### Special plenary session: Financial assets tracking

Cooperation between States Parties and the ICC was, as always, a central topic weaving into the majority of discussions taking place at, and in the lead-up to, the 16<sup>th</sup> session. On 11 December, the discussion around one increasingly relevant objective of cooperation—the recovery of financial assets—was opened to the broader Assembly with a panel presentation during the plenary session on cooperation.

The panel took place a little over a month after the 20 October Paris Seminar, arranged by the ASP Bureau’s cooperation co-facilitators from France and Senegal to garner political support for a non-binding declaration, drafted over the course of 2017 with input from technical consultations, on both States Parties’ and the Court’s objectives within their respective mandates in relation to the tracking, freezing, and recovery of defendants’ assets.

During the panel, the Assembly heard from ICC Prosecutor Ms. Fatou Bensouda, ICC Registrar Mr. Herman von Hebel, outgoing ASP Vice-President H.E. Mr. Sergio Ugalde, and representatives from the Organization of American States and the UN Office on Drugs and Crime (UNODC) on topics ranging from the challenges that the Court faces in conducting financial investigations itself, to the role for inter-agency networks—for example within the UNODC framework—to fill gaps in states’ capacity to conduct such investigations.

The panel emphasized that financial investigations conducted by states, for example with respect to illegal money laundering, is not only vital to making reparations following conviction possible, but may also produce evidence that can be used to identify perpetrators and bolster witness testimonies before the ICC. The Assembly had already identified the tracking, freezing, and recovery of financial assets as one of the current priority recommendations to States Parties on the issue of cooperation.

At the conclusion of the 16<sup>th</sup> ASP session, States Parties reaffirmed this recommendation through language in both the cooperation and omnibus resolutions and mandates. According to these resolutions and mandates, the Assembly of States Parties:

*“Recognizes that effective and expeditious cooperation with regard to the Court’s requests for the identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crime is crucial to the provision of reparations to victims and for potentially addressing the costs of legal aid”* ([ICC-ASP/16/Res.2, O.P.12](#)).

*“Underlines the importance of effective procedures and mechanisms that enable States Parties and other States to cooperate with the Court in relation to the identification, tracing and freezing or seizure of proceeds, property and assets as expeditiously as possible, welcomes the Court’s report and comprehensive presentation on cooperation challenges faced by the Court with respect to financial investigation and calls upon all States Parties to put in place and further improve effective procedures and mechanisms in this regard, with a view to facilitate cooperation between the Court, States Parties, other States and international organizations”* ([ICC-ASP/16/Res.6, O.P.23](#)).

*“Endorses the non-legally binding Declaration of Paris on financial investigation and asset recovery<sup>7</sup> to foster cooperation between the Court, States Parties and relevant agencies and institutions”* ([ICC-ASP/16/Res.6, O.P.24](#)).

*“[Mandates] the Bureau, through its Working Groups, to continue discussions on cooperation on financial investigations and the freezing and seizing of assets as set out in the Declaration of Paris annexed to the resolution on cooperation”* ([ICC-ASP/16/Res.6, Annex I, 3\(d\)](#)).

### **Non-cooperation on the eve of Rome Statute’s 20<sup>th</sup> anniversary**

While civil society groups continued to call during the 16<sup>th</sup> ASP session for the topic of non-cooperation to figure as a standing agenda item at all annual sessions, the government of South Africa used its General Debate statement to announce its renewed intention to withdraw from the Rome Statute. The announcement came months after the government was found non-compliant by ICC Pre-Trial Chamber (PTC) II with respect to its obligation as a State Party to arrest ICC suspect Omar al-Bashir when the Sudanese president visited its territory in 2015.



The Assembly's 14 December adoption of an [“Understanding with respect to article 97\(c\) consultations,”](#) following discussions in 2017 led by Ambassador María Teresa Infante Caffi (Chile) in the Working Group on the implementation of Article 97 and work by a drafting group led by Ambassador Sabine Nölke (Canada), came after the government of South Africa had raised concerns regarding the clarity of the procedure around its response to the 2015 ICC request to arrest and surrender al-Bashir.

Meanwhile, on the day of the special plenary session on cooperation (11 December), ICC PTC-II found that the government of Jordan had failed to comply with an obligation to arrest al-Bashir when he visited its territory for the Arab League Summit in March 2017. In this case, and unlike in the case of the South African government's non-compliance, where PTC-II cited non-action by the ASP and the UN Security Council in declining to refer the matter to either body, PTC-II decided to refer the matter to both.

With legal developments positioning the issue of responses to non-cooperation by States Parties as a live concern, a group of 11 NGOs raised the very same concern in their intervention during the special plenary segment on the future of cooperation with the ICC on the eve of the 20<sup>th</sup> anniversary of the Rome Statute. Stella Ndirangu of Kenyans for Peace with Truth and Justice (KPTJ) delivered a [joint statement](#) on behalf of civil society organizations Al-Haq, Amnesty International, International Federation of Human Rights, International Federation of Human Rights, Human Rights Watch, Institute for Security Studies, International Justice Project, Kenyans for Peace with Truth and Justice, the Moroccan national coalition for the ICC, the Nigerian national coalition for the ICC, No Peace Without Justice, and REDRESS.

*“Without arrests, without cooperation in investigations, justice will be delayed if not denied. We urge states parties to increase their attention to review and consistent implementation of the non-cooperation procedures, including through the important role of the Assembly's Presidency and regional focal points on non-cooperation. We urge states parties and the Assembly's focal points to follow through on their recommendation to hold a plenary session on non-cooperation at the Assembly's annual sessions.*

*“States parties which are members of the UN Security Council should insist on that body's follow-up. Effective enforcement of the court's findings of non-cooperation as well as collective efforts to deter non-cooperation are an essential challenge we urge states parties to take up as they renew their commitment to the ICC at the 20th anniversary of the Rome Statute.”*

#### **Side event spotlight: Immunity arguments and non-cooperation**

While there was no dedicated plenary session on non-cooperation, the topic and ancillary issues, such as the applicability of diplomatic immunities under international law where accountability for atrocity crimes is at stake, were the subject of several side events.

On 8 December, a Wayamo Foundation event on *Immunities under International Law* was co-hosted by the governments of Nigeria, Sierra Leone, and Uganda, while on 11 December, the governments of Norway and The Netherlands, and the Institute for Security Studies (ISS) co-organized the side event, *How the Security Council and ASP can improve States' cooperation with the ICC*. At the latter event, Allan Ngari, senior research at ISS, moderated a panel discussion during which ISS Research Associate Dr. Marx du Plessis, Senior ICC Office of the Prosecutor Trial Lawyer Mr. Julian Nicholls, Oxford Professor of International Law Mr. Dapo Akande, and Ireland Department of Foreign Affairs and Trader Legal Advisor Mr. James Kingston presented on topics ranging from how to ensure cooperation in Security Council resolutions referring situations for ICC investigation, to challenges posed by diplomatic immunity arguments.

## 8. ACTIVATING THE CRIME OF AGGRESSION

The 16<sup>th</sup> ASP session was a forum for all participants in the annual meeting of States Parties to engage in discussions on the effectiveness thus far, and future potential, of the Rome Statute to address the ongoing commission around the world of the most serious crimes of international concern—20 years after the adoption of the ICC’s founding treaty on 17 July 1998.

Whether through negotiations between States Parties toward activation of the Court’s exercise of jurisdiction over the Crime of Aggression, as well as toward the adoption of War Crimes amendments, or in enhanced dialogues during side events on a range of topics, bolstering the effectiveness of the Rome Statute, international and domestic jurisdictions, and actors within the international community in addressing impunity for crimes being committed today was a central theme throughout the 16<sup>th</sup> ASP session.

### The Crime of Aggression: Activation decision

After midnight of 15 December 2017, and after over a year of preparatory discussions in an informal facilitation led by Ms. Nadia Kalb (Austria) within the ASP Bureau’s New York Working Group (NYWG), the ASP voted to activate the ICC’s exercise of jurisdiction over the crime of aggression:

*“Decides to activate the Court’s jurisdiction over the crime of aggression as of 17 July 2018”* ([Res. ICC-ASP/16/Res.5, O.P. 1](#)).

Within the NYWG, a majority of States Parties delegations had espoused an ‘extensive’ view on the impact of an activation decision absent a State Party’s ratification of the Kampala Amendments on the crime of aggression: such a State Party would need to submit an ‘opt-out’ declaration to the ICC Registrar in order to avoid exercise of jurisdiction in the case of a State referral or *proprio motu* (at the request of the ICC Prosecutor) investigation (Rome Statute Article 15 *bis*). Meanwhile a minority of States Parties held the ‘restrictive’ view that such exercise of jurisdiction would require formal ratification of the Amendments. These legal views were once again at odds throughout negotiations on the activation resolution over the course of the 16<sup>th</sup> ASP session.

[In its final resolution](#), in order to achieve activation and through a decision that required a vote for the first time on an ASP resolution, the Assembly appeared to adopt the latter, ‘restrictive’ view. According to States Parties sources, such a compromise became necessary for activation at the 16<sup>th</sup> session with only around 100 of 123 States Parties delegations represented in the room after midnight on 15 December and the two-thirds majority of overall States Parties—82 votes—still needed for an activation decision.

*“Confirms that, in accordance with the Rome Statute, the amendments to the Statute regarding the crime of aggression adopted at the Kampala Review Conference enter into force for those States Parties which have accepted the amendments one year after the deposit of their instruments of ratification or acceptance and that in the case of a State referral or proprio motu investigation the Court shall not exercise its jurisdiction regarding a crime of aggression when committed by a national or on the territory of a State Party that has not ratified or accepted these amendments”* ([Res. ICC-ASP/16/Res.5, O.P. 2](#)).

A compromise option was tabled in an earlier draft of the activation resolution, whereby Article 15 *bis* would not come into force for States Parties whose ‘restrictive’ view was contained in the NYWG facilitation report, or who put such a legal view on record at the time of adopting the activation resolution. While this compromise was not adopted, the final activation resolution draft did note the plurality of legal views raised in the report that emerged from the NYWG.

The final activation resolution also included an operative clause from the ASP Vice-Presidents that maintained the independence of ICC judges in interpreting the Kampala Amendments, the activation resolution, and any

other documents of legal value toward a final determination of whether the Court can exercise jurisdiction over alleged acts of aggression under Article 15 *bis*.

“Reaffirms paragraph 1 of article 40 and paragraph 1 of article 119 of the Rome Statute in relation to the judicial independence of the judges of the Court” ([Res. ICC-ASP/16/Res.5, O.P. 3](#)).

According to States Parties sources, only France and the United Kingdom filed objections to its inclusion as an operative paragraph, and thus no path presented itself for its removal or re-placement as a preamble paragraph.

With the final activation resolution, Rome Statute Article 15 *ter* allows the ICC to exercise jurisdiction over the crime of aggression allegedly committed by nationals or on the territory of non-States Parties in the event of a UN Security Council referral of such a situation to the Court (Article 13(b)).

Based on the final activation resolution as adopted, the Kampala Amendments on the crime of aggression will enter into force on 17 July 2018, the day of the Rome Statute’s 20<sup>th</sup> anniversary.

#### **Side event spotlight: From Nuremberg to New York**

A side event on 11 December related to negotiations between States Parties on the crime of aggression took place during the lunch hour, hosted by the Permanent Mission of the Principality of Liechtenstein to the United Nations. The event, *From Nuremberg to New York: The historic activation of the International Criminal Court's jurisdiction over the crime of aggression in 2017*, provided an open forum in which civil society, academics, and government delegations alike discussed the historical significance and judicial implications of a decision to activate the Court’s exercise of jurisdiction over the fourth core crime included in the Rome Statute in 1998.

Panelists including H.E. Mr. Christian Wenaweser (Permanent Representative of Liechtenstein to the UN), H.E. Mr. Adonia Ayebare (Permanent Representative of Uganda to the UN), Ms. Päivi Kaukoranta (Director General, Legal Service, Finland Ministry of Foreign Affairs), and Mr. Roger Clark (Rutgers Law School Professor and Advisor to Samoa at Rome and Kampala Conferences), highlighted the activation decision as an opportunity to fill a normative gap in the Rome Statute. The panelists also discussed the historic development of the crime of aggression while covering topics such as ‘preemptive war’ and individual participation in the crime of aggression.

## 9. WAR CRIMES AMENDMENTS

On the final day of the 16<sup>th</sup> ASP session (14 December 2017), States Parties adopted three amendments to Article 8 ('War Crimes') of the Rome Statute by consensus. The war crimes amendments came before the Assembly for consideration via the UN Security-General, with whom the government of Belgium had deposited a proposal on four types of war crimes to be added to Article 8 after the ASP Bureau's Working Group on Amendments (WGA), chaired in 2017 by Ambassador May-Elin Stener (Norway), was unable to arrive at a decision to itself table the proposal.

The original four war crimes amendments sought to criminalize the following conduct under the Rome Statute: the use of landmines; the use of microbial, biological or toxins weapons; the use of weapons that injure by fragments undetectable by X-rays; and the use of laser-blinding weapons. According to the [ASP resolution](#) through which States Parties adopted the latter three proposed amendments, such crimes constitute "*serious violations of the laws applicable in international armed conflict and in armed conflict not of an international character*" ([Res. ICC-ASP/16/Res.4, P.P.7](#)).

The Article 8 amendment resolution noted "[...] *that in respect of a State Party which has not accepted the amendment, the Court shall not exercise its jurisdiction regarding the crime covered by the amendment when committed by that State Party's nationals or on its territory*" ([Res. ICC-ASP/16/Res.4, P.P.2](#)).

### **Side event spotlight: A world free of landmines**

The subject matter of the first of the proposed amendments, which fell through during negotiations at the 16<sup>th</sup> session, was the topic of the side event, *A World Free of Landmines*, on 13 December, co-hosted by the governments of Belgium, Canada, and Colombia to mark the 20<sup>th</sup> anniversary of the 'Ottawa Treaty.' During the side event, attendees heard from a high-level expert panel on how the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* has enabled the clearing of landmines—in particular in Colombia and the wider South American region—and the reduction of risks faced by entire communities. Relatedly, Sri Lanka [acceded](#) to the Ottawa Treaty on the day of the side event.

## 10. ICC BUDGET FOR 2018

To fund most of the Court’s activities and major programs, States Parties to the Rome Statute must each pay a yearly contribution proportionate to their gross national incomes. The ICC programme budget covers annual resources allocated to, among others, the Judiciary, the Office of the Prosecutor (OTP), the Registry, the ASP Secretariat, and the Trust Fund for Victims (TFV) Secretariat.

The ICC Registrar coordinates the drafting of the Court’s overall budget request during the year leading up to the autumn session of the ASP’s Committee on Budget and Finance (CBF), a technical expert body tasked with evaluating and making recommendations on the proposed budget for the ASP to consider during its annual session.

In 2017, the Court had proposed a 2018 programme budget of **€147.9 million**, an increase of 4.4% over the budget allocated for 2017. Following its September 2017 session, the CBF had recommended total reductions in the amount of **€3.4 million**, translating to a 2.0% growth in relation to the 2017 budget.

During 2017, States Parties considered budgetary matters within the ASP Bureau’s Working Group on the Budget, facilitated by Ambassador Per Holmström (Sweden). A sub-facilitation on budget management and oversight was led by Ambassador Eduardo Rodríguez (Bolivia) while Ambassador Willys Delvalle (Panama) led discussions on the ICC premises.

When drafting a resolution on the ICC programme budget, the Working Group also proposes ASP decisions to be taken regarding replenishment of the Working Capital Fund, which funds appropriations from the annual budget pending the receipt of assessed State Party contributions; and the Contingency Fund, intended to help meet unforeseen or unavoidable expenses during the annual financial period.

The Working Group on the Budget resumed facilitating negotiations during the 16<sup>th</sup> ASP session, resulting in the adopted *Resolution on the proposed programme budget for 2018, the Working Capital Fund for 2018, the scale of assessment for the apportionment of expenses of the International Criminal Court, financing appropriations for 2018 and the Contingency Fund* (ICC-ASP/16/Res.1).

According to the [16<sup>th</sup> ASP session budget resolution](#), the approved 2018 programme budget—minus the Host State Loan (€3,585,200)—is **€143,846,300**, with the following appropriations for several of the major programmes:

Major programme	Approved 2017 budget (thousands of euros)	Requested 2018 budget (thousands of euros)	Approved 2018 budget (thousands of euros)
I: Judiciary	12,536.0	13,321.6	12,712.0
II: OTP	44,974.2	47,169.8	45,991.8
III: Registry	76,632.6	79,179.1	77,142.5
IV: ASP Secretariat	2,618.8	2,718.2	2,718.2
V: Premises	1,454.9	1,498.5	1,498.5
VI: TFV Secretariat	2,174.5	2,741.5	2,541.5

While the Coalition does not take a position on the specific amount of resources to allocate to the ICC in any given year, it urges States Parties to treat the CBF review and recommendations as the bare minimum approach in their budget discussions during ASP sessions.

The Coalition firmly advocates that States Parties should oppose arbitrarily limiting the Court’s annual budget, which would undermine the ability of the ICC to deliver fair, effective, and even efficient justice. A lack of adequate resources is a severe impediment to the optimal functioning of the Court.

### **Presentations on the ICC budget**

During the plenary presentations on the Court’s 2018 programme budget during the 16<sup>th</sup> ASP session, the ICC Registrar, Mr. Herman von Hebel, presented the 2018 request while the CBF Chair, Mr. Hitoshi Kozaki (Japan), presented the CBF’s recommendations.

During his presentation, the Registrar acknowledged that the ICC is a publicly-funded institution—by States Parties—and that the Court must be accountable for both its resource use and the quality of its justice proceedings. In reflecting on where the Court stood on the eve of the Rome Statute’s 20<sup>th</sup> anniversary, the Registrar highlighted initiatives intended to improve witness protection, engagement between The Hague and situation countries, and evaluation of the Court’s efficient and effective performance.

However, Mr. von Hebel also highlighted the budgetary dimensions of cooperation by States Parties, as well as implications of unforeseeable costs related to new OTP investigations opened and requested in the Burundi and Afghanistan situations respectively. As the Burundian national coalition for the ICC pointed out during its General Debate intervention on the same day, the stakes are immediate, underlining the need for States Parties to honor their cooperation commitments to the new ICC investigation in Burundi, including with respect to resources.

A number of NGOs, including Human Rights Watch and the Ivorian national coalition for the ICC, also used General Debate statements to highlight related concerns—for example that the annual ICC budget-setting process does not appear to adequately take into account the Court’s significant resource needs—and advocacy, such as the idea that investing in justice today will amount to savings in the future with respect to global peace and development costs.

### **Remuneration of ICC Judges**

In recommending a reduced 2018 ICC programme budget—€144.43 million, or €3.46 million less than the Court itself requested—the CBF left the total amount of €732,900 intended to align ICC judges’ salaries with those of other judges in The Hague-based courts and tribunals untouched and for the Assembly to consider during the 16<sup>th</sup> session. According to the budget resolution adopted at the close of the 16<sup>th</sup> session, the Assembly “[considered] the conclusion of the Committee on Budget and Finance that the annual remuneration of judges would have to be considered by the Assembly as a policy matter and would require a procedure to review the salary scheme for judges” ([ICC-ASP/16/Res.1, Section N, P.P.2](#)). As such the final approved 2018 budget did not include the requested increase, with the ASP instead opting for the ASP Bureau to establish a working group in The Hague for States Parties to discuss in 2018 how to proceed in considering a revision of the ICC judges’ salaries. The 2018 discussions would be closed to observers, including civil society.

## 11. VICTIMS IN THE ROME STATUTE SYSTEM

On the eve of the Rome Statute’s 20<sup>th</sup> anniversary year, the 16<sup>th</sup> ASP session served as an occasion for participants to recognize and reemphasize victims’ rights and role within the Rome Statute system of international justice. Statements and discussions throughout the session recalled the mission of the system to deliver justice to victims of grave international crimes. Meanwhile enhanced dialogues during side events allowed critical scrutiny of successes and setbacks thus far for meaningful participation of victims in the ICC process, as well as in domestic and regional systems.

### 20<sup>th</sup> anniversary of victims’ rights

At the close of the 16<sup>th</sup> session, in the resolution on *Strengthening the International Criminal Court and the Assembly of States Parties* (‘Omnibus resolution’), States Parties made specific new references to the unique envisioned advances for victims in the Rome Statute system—in many ways reflecting on the 20<sup>th</sup> anniversary as a relevant moment in the history of the Court to assess progress on cases and investigations with respect to victims’ participation, representation, and reparations:

*“Recalls the fundamental importance of the legal aid system to ensure the fairness of judicial proceedings as well as the right of the defendants and victims to appropriate legal representation;”*

*“Welcomes the issuance of the third edition of the Chambers Practice Manual and encourages the judges to continue their work on practice issues in 2017, including victims participation;”*

*“Recalls Article 75 of the Rome Statute and, in this regard, the reparative justice role of the Court, and notes that assistance and reparations to victims may promote reconciliation and contribute to peace-building” [\(ICC-ASP/16/Res.6, O.P.77, 81, & 95\)](#).*

The Assembly further acknowledged the importance for victims of states’ cooperation with the Court, including toward the fulfilment of its role, *“in international criminal justice by delivering justice to victims and contributing to preventing future crimes for the protection of all” [\(ICC-ASP/16/Res.6, O.P.11&18\)](#).*

### Side event spotlight: Victims’ voices in international justice

On 5 December, the side event entitled, *Victims’ Reflections on Reparative Justice: The Voice and Role of Victims in the Fight against Impunity for Core Crimes under International Law*, was co-organized by Parliamentarians for Global Action and the International Organization for Victims’ Assistance (IOVA) and co-sponsored by the governments of Brazil, Switzerland, and Uruguay, in cooperation with the Victims Rights’ Working Group (VRWG) and the International Justice Project (IJP).

The VRWG, which played a pivotal role in ensuring that key provisions for victims were incorporated into the Rome Statute in 1998 and now works to ensure that victims’ rights are effectively protected and respected in the ICC process, is a network of over 300 civil society groups and experts created under the auspices of the Coalition for the ICC and facilitated by the non-governmental organization, REDRESS. The founders of IJP, which also runs the BashirWatch advocacy campaign and coalition, meanwhile filed the first applications for participation on behalf of victims in the ICC’s UN Security Council-referred Darfur, Sudan investigation.

Other side events similarly focused on victims’ rights in the Rome Statute system: on 6 December REDRESS and Avocats Sans Frontières, under the auspices of the VRWG and with the support of the governments of Finland and the United Kingdom, organized the event, *Legal Representation of Victims at the ICC and Beyond*; and on 7 December the principle of complementarity was at the center of discussions in the event, *Victims of Hissène Habré: The Struggle for Reparations Continues*, co-organized by Africa Legal Aid, Association tchadienne pour la Défense du Droits de l’Homme, Human Rights Watch, and REDRESS.

## **Trust Fund for Victims and reparations**

In addition to participation and effective representation, the Rome Statute established victims' rights to seek and receive reparations, which can be ordered by ICC judges following a conviction and are subsequently administered by the Trust Fund for Victims (TFV). The TFV has a two-fold mandate: (i) to implement such reparations; and (ii) to provide physical, psychological, and material support to victims and their families, including while criminal proceedings are ongoing ("general assistance"). Both mandates require voluntary contributions for adequate financing. Following a year in which TFV reparations implementation plans took shape in three cases, and foreseeing further reparations in the near future, States Parties adopted new language in their Omnibus resolution by which the Assembly:

*"Notes the significant growth in the activities of the Trust Fund, to include four on- going reparations proceedings as well as the expansion of assistance programmes to more situations before the Court;"*

*"Invites States Parties to respond to requests of the Trust Fund for Victims for earmarked contributions for the purposes of funding specific reparations awards, as well as of replenishing and strengthening the Trust Fund's general reparations reserve, and expresses its appreciation to those that have already done so;"*

*"Invites States Parties to consider making earmarked voluntary contributions to the Trust Fund to the benefit of victims of sexual and gender-based violence, and expresses its appreciation to those that have already done so;"*  
and

*"Notes the intention of the Trust Fund for Victims to raise €30 million in voluntary contributions and private donations by 2020, in order to implement reparations orders and assistance mandates to the benefit of victims in cases and situations before the Court" [\(ICC-ASP/16/Res.6, O.P. 99 &102-103\).](#)*

### **Side event spotlight: Making reparations a reality**

On 6 December 2017, the TFV and the governments of Finland, Ireland, and Uruguay co-organized the event, *Reparative justice for victims, making reparations a reality*, to take stock of the TFV's implementation of the Court's reparative justice mandate, as well as to generate financial, political, and moral support for the TFV's work. Governments and members of civil society attending the event heard from TFV Executive Director, Pieter de Baan, as well as from general assistance-implementing partner in northern Uganda, the Center for Victims of Torture. The event also allowed participants to hear perspectives on reparative justice from the TFV Board of Directors, and for governments to engage with the TFV and implementing partners on how to translate reparations and general assistance from a legal tenet to a tangible reality for victims.

During the event, the government of Finland announced a new €800,000 ear-marked donation for victims of sexual and gender-based crimes, while Ireland described plans to raise the visibility and awareness of the TFV and its activities in northern Uganda.



## 12. THE 'OMNIBUS RESOLUTION'

On 14 December, the final day of the 16<sup>th</sup> ASP session, the Assembly took a number of important decisions that stand to impact the reach and effectiveness of the Rome Statute system of justice in its 20<sup>th</sup> anniversary year. In adopting the ['Omnibus' resolution](#), a document created in an effort to strengthen the Court and the ASP, the 123 ICC member states resolved to act upon a number of important issues facing the Rome Statute system, including universality, cooperation, the Secretariat of the ASP, legal aid, victims, the ASP working methods, and participation in the ASP, among others.

The 123 States Parties present at the 16<sup>th</sup> ASP session resolved to advance **victims' rights**, stressing the "*central importance that the Rome Statute accords to the rights and needs of victims, in particular their right to participate in judicial proceedings and to claim reparations, and emphasizes the importance of informing and involving victims and affected communities in order to give effect to the unique mandate of the Court towards victims.*"

Furthermore, the Assembly adopted mandates encouraging the TFV Board of Directors and Secretariat to address funding and visibility, two of the most pressing issues for the Fund.

On **legal aid**, benefiting both victims and defendants involved in the ICC process, States Parties addressed one key concern raised by non-governmental organizations—including within the framework of the Victims' Rights Working Group: consulting on the ICC legal aid system review process. The Assembly negotiated language in its Omnibus resolution mandates that would for the time-being avoid reaffirming a zero nominal growth policy on the initiative that stands to impact the efficacy of the Court's delivery of justice with respect to both victims' and defendants' rights.

On **universality**, the Assembly invited non-ICC member states to ratify the Rome Statute and called on existing ICC member states to "*intensify their efforts to promote*" the Rome Statute system. International and regional organizations as well as civil society were called upon to join the fight for universality as well. The **withdrawal** of Burundi from the Statute on 27 October 2017 was noted in this section with regret.

On the **relationship with the United Nations**, the Security Council was called upon to further strengthen its relationship with the Court by "*providing effective follow up of situations referred by the Council to the Court*" including financial support and further "*institutionalizing Council cooperation with and support for the Court.*"

Relating to **participation in the ASP**, the Assembly, recalling the upcoming 20<sup>th</sup> anniversary of the Rome Statute, recognized the "*long-term and continuing cooperation between the Assembly, States Parties, and non-governmental organizations of civil society,*" specifically referring to the Coalition's coordinating and facilitating role.

The dates for the next Assembly of States Parties session are included in the omnibus resolution, and set for 5 to 12 December 2018 in The Hague, The Netherlands.

## 13. SIDE EVENTS

Numerous events that took place during the 16<sup>th</sup> ASP session, the majority of which were co-organized between governments and non-governmental organizations, provided opportunities for enhanced dialogue around developments, obstacles, and future prospects within or related to situations under investigation or preliminary examination by the ICC Office of the Prosecutor (OTP).

While civil society used strategic meetings coordinated by the Coalition for the ICC to discuss, among other situational developments, the ICC Prosecutor's 20 November request for judicial authorization to open a formal investigation into the situation in Afghanistan, under preliminary examination since 2006, the OTP itself offered updates on situations through the launch of its [Report on Preliminary Examination Activities \(2017\)](#) during the 16<sup>th</sup> session and the Prosecutor's 12 December statement to the UN Security Council on Darfur, Sudan.

The following summaries offer a glimpse of just a few of the many events that made the 16<sup>th</sup> ASP session an important forum to ensure all actors in international justice are fully informed and engaged heading into the Rome Statute's 20<sup>th</sup> anniversary year.

### Georgia

On 4 December the government of Georgia organized an event to discuss the main issues and the key challenges confronting the ICC investigation in Georgia. The Deputy Minister of Justice of Georgia, Mr. Gocha Lordkipanidze, delivered a presentation during the event, entitled, *Situation in Georgia: Progress and Challenges of Investigation*. The event addressed the ICC Prosecutor's 2015 *proprio motu* request for authorization of an investigation in Georgia and the January 2016 Pre-Trial Chamber decision authorizing the investigation. The event also considered the alleged crimes—crimes against humanity and war crimes committed in the context of an international armed conflict in 2008—as well as public outreach activities for affected communities.

### Côte d'Ivoire

One side event on 6 December considered *The Challenge of Effective Cooperation: The Case of Côte d'Ivoire*. The event was co-hosted by Trust Africa, Observatoire Ivoirien des Droits de l'Homme, and American Jewish World Service. During the event, panelists from the ICC Office of the Prosecutor, (OTP), the African Union (AU), and the Ivorian legal profession—an Ivorian defense lawyer representing ICC suspect Simone Gbagbo in domestic proceedings—reflected on cooperation received from the Ivorian government, the OTP's investigative process in Côte d'Ivoire, the ICC-AU relationship following moves by the ICC to investigate heads-of-state, and application of the principle of complementarity.

### Libya

Lawyers for Justice in Libya (LFJL) and the Mission of the Netherlands to the UN meanwhile co-hosted the side event, *The Importance of Deterrence and the ICC's Role in Current Violations*. Mr. Alex Whiting, Harvard Law School Professor of Practice, moderated a panel that included ICC Deputy Prosecutor Mr. James Stewart addressing the Court's challenges in the Libya investigation, such as a lack of resources; Professor Jennifer Trahan, Associate Clinical Professor at the Center for Global Affairs of New York University, highlighting the challenges of non-execution of arrest warrants and the need for meaningful sanctions for non-cooperation; Ms. Fleur Ravensbergen, Assistant Director at the Dialogue Advisory Group, describing work on facilitating political dialogue to reduce violence in conflict situations; and Ms. Elham Saudi, Director of Lawyers for Justice in Libya, addressing the Court's investigations, alleged crimes against migrants, and the ICC's relationship with people in Libya, including civil society.

## **Burundi**

On 8 December the Coalition for the International Criminal Court, The Netherlands, the Burundian national Coalition for the ICC, the “Justice for Burundi” Collective of Lawyers of Plaintiffs, and the International Federation for Human Rights organized the side event, *Burundi in the aftermath of the opening of an ICC investigation*. Moderated by the Coalition’s Director of Programs, Ms. Kirsten Meersschaert, panelists, including Burundian national coalition President Mr. Lambert Nigarura and “Justice for Burundi” General Coordinator Mr. Armel Niyongere, considered the history of the situation in Burundi, victims’ desire for justice, the activities of the OTP, and the potential role for the international community in improving cooperation with the Court during the investigation given the reported absence of independent mechanisms and cooperation by Burundian authorities.

## **Mali**

The side event, *Cinq ans après la crise de 2012: quelles avancées dans la lutte contre l’impunité au Mali*, was co-hosted by the government of Canada, Association malienne des droits de l’Homme (AMDH), the Malian national coalition for the ICC, the International Federation of Human Rights (FIDH), and Lawyers Without Borders (ASF) Canada. The event began with the OTP’s Mr. Amadi Ba presenting on procedural and material aspects of the concluded ICC *Al-Mahdi* case—which had resulted in a conviction and sentence for intentional destruction of cultural property as a war crime—as well as the ongoing OTP investigation into the situation in Mali since 2012, including with respect to alleged sexual and gender-based crimes and crimes against children and peacekeepers. Panelists from FIDH and ASF-Canada discussed challenges to effective domestic justice mechanisms, while Ms. Mama Koité, president of the Malian coalition, addressed the need to support civil society efforts to assist the government in its fight against impunity as well as in relation to victims’ access to general assistance from the Trust Fund for Victims.

## **Darfur – Prosecutor Report to the UNSC**

Also on 12 December, the ICC Prosecutor presented her 26<sup>th</sup> report to the UN Security Council on the situation in Darfur, Sudan, which had been referred to the Court in March 2005 (Resolution 1593). In her statement, the Prosecutor noted the Council’s consistent failure to act when suspect Omar al-Bashir has traveled to the territories of States Parties, qualifying arguments proffered by such states regarding a lack of legal clarity around the obligation to execute the arrest warrant against the Sudanese president as without basis in light of ICC and domestic jurisprudence on the matter. Al-Bashir is charged with alleged genocide, war crimes, and crimes against humanity. In addition to calling on the Council to respond to a trend of cooperation failures that damage the Court’s reputation and disrespect the Council’s own referral resolution, the Prosecutor urged the Council and UN to make arrangements to financially support the OTP investigation, noting that the OTP will continue to carry out its mandate to deliver justice to victims of past as well as ongoing alleged crimes, including unlawful killings, forced displacement, and sexual and gender-based crimes.

## **OTP Preliminary Examination Report**

The OTP launched its [Report on Preliminary Examination Activities \(2017\)](#) on 8 December at an event co-hosted by the governments of Finland, Niger, Norway, Peru, Senegal, Slovenia, and Switzerland and the ICC OTP. Drawing a large attendance from both civil society and states delegations at the 16<sup>th</sup> ASP session, the event featured presentations from the ICC Prosecutor, Ms. Fatou Bensouda, as well as the OTP Head of Situation Analysis Section, Mr. Emeric Rogier, on the status of OTP preliminary examinations. Noteworthy developments were shared regarding situations in Burundi (formal investigation authorized by ICC judges); Afghanistan (formal investigation requested by ICC Prosecutor); and the Registered Vessels of Comoros, Greece, and Cambodia (decision not to proceed with an investigation following reconsideration of an earlier similar decision).

The Prosecutor and Mr. Rogier touched upon various aspects of other preliminary examinations as well, including: alleged crimes against children in Nigeria; ongoing alleged crimes in Ukraine and Palestine; early

engagement with stakeholders in Gabon; domestic proceedings in Guinea; the OTP’s engagement with the transitional justice process in Colombia; and developments in the United Kingdom’s domestic efforts around accountability for alleged abuses in Iraq. Meanwhile civil society and government attendees at the *Report* launch were able to pose questions on topics ranging from the subject matter of the preliminary examinations to the process behind the report’s preparation.

### **Ukraine**

In the side event, *The Role of the ICC in Promoting Accountability for Grave Crimes Committed in Ukraine*, co-hosted by the Permanent Mission of the Netherlands to the UN, the International Renaissance Foundation, International Partnership for Human Rights (IPHR), the Regional Centre for Human Rights, the Ukrainian Helsinki Human Rights Union, Crimea-SOS, and Truth Hounds, panelists discussed, among other topics, alleged ongoing war crimes related to, among others, forcible civilian transfers, detainee abuse, and seizure of property since the Russian occupation of Crimea in 2014; NGO submissions documenting grave human rights violations; loss of evidence; cooperation by Ukrainian authorities; and obstacles to domestic proceedings.

### **Palestine**

In the side event, *Situation of Palestine: A test for the ICC*, co-hosted by the State of Palestine, Al Haq, Center for Constitutional Rights (CCR), and International Federation for Human Rights (FIDH), Ms. Karine Bonneau, director of the FIDH International Justice Desk, moderated a panel discussion on topics connected to the OTP preliminary examination into alleged Rome Statute crimes committed in the occupied Palestinian territory, including East Jerusalem, since June 2014. Panelist Ms. Yasmeen Zuaiter, a legal advisor at the Palestinian Ministry of Foreign Affairs, presented on the high risks for those cooperating with the ICC in the preliminary examination. CCR Legal Advisor Ms. Katherine Gallagher detailed crimes related to the attacks on Gaza and its ongoing closure, while Al-Haq Senior Advisor Mr. Wesam Ahmad presented on the context of Israeli settlements and the urgent need for justice three years after the opening of the preliminary examination.

### **Colombia**

The latest developments in the implementation of the peace accord with regards to the Special Jurisdiction for Peace in Colombia—and how this figures into the assessment of the ICC preliminary examination open since 2004 into alleged war crimes committed since November 2009 and alleged crimes against humanity committed since November 2002—were the basis for discussions at a 12 December side event entitled, *Challenges of the Colombian Peace Process: Guaranteeing victims’ rights under the Special Jurisdiction for Peace*. The side event was co-hosted by the government of Canada, Comisión Colombiana de Juristas, Corporación Humanas, and Lawyers Without Borders Canada. Panelists covered topics including victims’ participation under the Special Jurisdiction, the need for special units to investigate sexual and gender-based crimes, and how the ICC preliminary examination impacts implementation of the Special Jurisdiction.

### **Philippines**

Help Not Handcuffs and Students for Sensible Drug Policy held an event on, *The Need for International Criminal Court Intervention in Extrajudicial Killings for Drug Offences*, in relation to alleged crimes against humanity in the Philippines. On 8 February 2018, the ICC Prosecutor announced a preliminary examination into alleged Rome Statute crimes committed since 1 July 2016 on the territory of State Party the Philippines in the context of the government’s “war on drugs” campaign.

## **Gender Justice**

Day four of the 16<sup>th</sup> ASP session also saw the global launch of the *Gender Justice Legacy Wall*, a project designed by Women's Initiatives for Gender Justice (WIGJ). The launch was co-organized by WIGJ and the governments of New Zealand, Switzerland, and the United Kingdom.

For the 12 December side event, *How to improve gender equality in the ICC Staff*, co-organized by the Coalition for the ICC, the GQUAL Campaign, and the government of Estonia, the Coalition's Deputy Executive Director Ms. Jelena Pia-Comella moderated a panel discussion and summarized the panel's conclusion that much still needs to be done to advance gender balance in all international bodies, including at the ICC. During the panel discussion, ICC Registrar Mr. Herman von Hebel shared recent efforts to enhance gender representation at the ICC, especially in higher level staff, while Chef de Cabinet to the ICC President and ICC Judge-elect Ms. Kim Prost presented one such new effort: the setting up of an ICC Focal Point for Women, initiated by ICC President Fernández and intended for launch in early 2018.

Coordinator of the GQUAL Campaign Ms. Viviana Krsticevic—the Executive Director of the Center for Justice and International Law—meanwhile set out the broader context of the issue of female underrepresentation in international judicial bodies and invited the audience to explore and use the many resources developed by GQUAL, such as statistics on representation of all 84 international bodies that GQUAL monitors, to advance the discussion on all levels. President of the Mali national coalition for the ICC and TFV Board Member Ms. Mama Koité Doumbia contextualized the cultural issues at the very core of gender inequality by sharing anecdotes from her personal life.

## **Crimes against humanity**

The governments of Chile, Germany, Jordan, the Republic of Korea, and Sierra Leone along with the International Law Commission (ILC) co-hosted an event on 11 December to discuss *Progress in Drafting a Convention on the Prevention and Punishment of Crimes against Humanity*. Professor Sean Murphy (George Washington University Law School) moderated the event and introduced the project since 2014 to develop a dedicated international law treaty around crimes against humanity, highlighting that war crimes are covered by the 1949 Geneva Conventions, and genocide by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Professor Murphy noted a George Washington University study of national laws finding that 50% of states lack national laws on crimes against humanity, including one third of States Parties to the Rome Statute.

Following an overview from Professors Charles Jalloh (Florida International University Law Faculty) and Claus Kress (University of Cologne), including on the draft's substantive scope and the process before the ILC, Mr. Solomon Sacco (Deputy Director, Law and Policy Programme, Amnesty International) highlighted positive references in the draft convention to the Rome Statute; to rights of victims and witnesses; to the principle of *aut dedere aut judicare* ("either extradite or prosecute"); and to provisions on command responsibility, among others. Among concerns, Mr. Sacco encouraged improvement of clauses on protection of victims and mutual legal assistance; inclusion of updated definitions of gender; and prohibition of amnesties and reservations.

Professor Leila Sadat (Washington University School of Law) and new ASP President Judge O-Gon Kwon (Republic of Korea) also made remarks on how the draft convention can enhance complementarity within the Rome Statute system of international justice.

## **Sexual and gender-based crimes**

On 6 December, Amnesty International, Human Rights Watch, MADRE, and Women's Initiatives for Gender Justice (WIGJ), together with the government of Switzerland, organized the side event, *An examination of gender*

*justice crimes and current conflicts (Central African Republic and Iraq) and reflections on progress over the past 15 years.* The event also featured the launch of WIGJ's new publication "[The Compendium](#)," an overview of relevant cases and situations before the ICC.

Justice for sexual and gender-based crimes (SGBC) under the Rome Statute, including *Accountability for Sexual and Gender-Based Violence as a Method of Warfare*—was addressed in a 12 December side event co-organized by Darfur Women Action Group and the governments of Switzerland and Costa Rica.

Another event on 12 December, co-hosted by the governments of the United Kingdom, Norway, and the Centre for International Law Research and Policy dealt with SGBC in specific conflict situations. During the event—*Accountability for Sexual and Gender-Based Violence Crimes: Central African Republic, Colombia, Democratic Republic of Congo, and Iraq*—panelists addressed a range of topics touching on the special measures needed to effectively combat SGBC, from the involvement of states where such crimes occur in international investigative efforts, to domestic capacity-building.

Sexual and gender-based crimes under international law - on which the Rome Statute has included landmark provisions since its adoption in 1998; and on which the ICC continues to contribute jurisprudence - were also the focus of a side event on *Prosecuting Sexual and Gender-Based Violence at the Special Court for Sierra Leone*, co-hosted on 13 December by the governments of Canada and Sierra Leone, UN Women, Western University, and the Canadian Partnership for International Justice.

### **Cooperation**

The governments of Argentina, Belgium, Mongolia, The Netherlands, Senegal, and Slovenia presented their mutual legal assistance (MLA) initiative on 7 December in the event, *Towards a new Multilateral Treaty for Mutual Legal Assistance and Extradition for Domestic Prosecution of the Most Serious International Crimes*.

The Netherlands and the Institute for Security Studies (ISS) co-organized the side event, *How the Security Council and ASP can improve States' cooperation with the ICC*. During the event Mr. Allan Ngari, senior researcher at ISS, moderated a panel discussion during which ISS Research Associate Dr. Marx du Plessis, Senior ICC Office of the Prosecutor Trial Lawyer Mr. Julian Nicholls, Oxford Professor of International Law Mr. Dapo Akande, and Ireland Department of Foreign Affairs and Trader Legal Advisor Mr. James Kingston presented on topics ranging from how to ensure cooperation in Security Council resolutions referring situations for ICC investigation, to challenges posed by diplomatic immunity arguments.

### **Complementarity: Domestic, regional, and hybrid jurisdictions**

On 6 December, the governments of Belgium and Senegal held an event on *Fighting impunity for the most serious crimes – Strengthening the central role of National Jurisdictions*. Parliamentarians for Global Action meanwhile joined with the Permanent UN missions of Denmark and Germany to organize the event, *Universality of the Rome Statute within the broader Human Rights Agenda - The Role of Parliamentarians*, during which panelists addressed the potential of the Rome Statute to protect human rights through its universal ratification and the full implementation of its provisions around accountability for core crimes into domestic legislation.

On 7 December, the governments of Switzerland, The Netherlands, Norway, Finland, the United Kingdom, and Germany co-hosted a side event entitled, *Weaving the Strands: Domestic, Regional, Hybrid and ICC Justice*, during which speakers, including former United States Ambassador-at-Large for War Crimes Mr. Stephen Rapp and former United Nations High Commissioner for Human Rights Ms. Navi Pillay highlighted the ICC and Rome Statute as contributors to several domestic and regional jurisdictions' improved capacity to themselves pursue justice where preexisting laws could account for the most serious crimes. Open Society Justice Initiative, together with the government of Liechtenstein, later closed the day with the event, *Options for Justice: Designing Accountability Mechanisms for Grave Crimes*.

The government of the Democratic Republic of Congo and the Open Society Initiative for Southern Africa (OSISA) co-hosted an event on December 8 to launch the study, *“Congolese Jurisprudence under International Criminal Law: An Analysis of Congolese Military Court Decisions Applying the Rome Statute,”* by University of Goma Professor Jaques B. Mbokani. The event featured a discussion around the study, which reviews 30 decisions in which Congolese judges directly applied the Rome Statute’s provisions to cases of war crimes and crimes against humanity, and which offers recommendations for the DRC judicial system.

Human Rights Watch, International Federation for Human Rights, and the governments of The Netherlands and Botswana co-organized an event on *The ICC as a Catalyst for National Justice: Lessons from Côte d’Ivoire for the Central African Republic*.

### **Victims’ participation, representation, and reparations**

On 5 December, the side event, *Victims’ Reflections on Reparative Justice: The Voice and Role of Victims in the Fight against Impunity for Core Crimes under International Law*, was co-organized by Parliamentarians for Global Action and the International Organization for Victims’ Assistance (IOVA) and co-sponsored by the governments of Brazil, Switzerland, and Uruguay, in cooperation with the Victims Rights’ Working Group (VRWG) and the International Justice Project (IJP).

Activist Ms. Macarena Gelman spoke during the side event as a representative of Uruguay’s Working Group on Truth and Justice, which gathers information on past crimes while monitoring trial and reparations proceedings related to atrocities committed during the country’s decade-long dictatorship in the 1970s and 80s. Herself born to a victim of kidnapping, Ms. Gelman described victims as living proof of grave crimes committed and key to the fight against impunity, noting that governments and international organizations face uphill challenges in delivering justice if they do not meaningfully incorporate victims’ perspectives into proceedings, including through the work of NGOs.

Among the voices on the panel during the side event was Mohamed, a displaced survivor of alleged genocide in Darfur, Sudan, currently working with IJP. . Mohamed, who referred to the ICC as the only existing hope for justice in the Darfur situation, lamented the lack of cooperation among State Parties to the Rome Statute in executing the only ICC arrest warrant to date—against Sudanese President Omar al-Bashir—including genocide charges, and expressed puzzlement at the similar lack of an effective response to this non-cooperation.

Another speaker during the event was Mr. Joseph Manoba, a legal representative of victims in the *Dominic Ongwen* case arising from the ICC’s investigation of a state conflict with the Lord’s Resistance Army (LRA) in northern Uganda. Mr. Manoba provided an overview of LRA victims’ relationship with the Court, noting that over the years, victims have begun to develop trust in the ICC, but that deadlines around victims’ participation have created perceptions of unfairness among affected communities while a lack of awareness of the Trust Fund for Victims (TFV) assistance programs deprives victims from meaningfully enjoying its benefits.

Other speakers during the side event included Dr. Yael Danieli, an expert in reparative justice; Mr. Motoo Noguchi, the Chairman of the TFV Board of Directors; and the UN Migration Agency’s Western Balkans Coordinator Mr. Peter van der Auweraert.

Legal representation in the Rome Statute system was the subject of the 6 December side event, *Legal Representation of Victims at the ICC and Beyond*, organized by REDRESS and Avocats Sans Frontières, under the auspices of the VRWG and with the support of the governments of Finland and the United Kingdom.

### **Reparations and the Trust Fund for Victims**

On 6 December 2017, the TFV and the governments of Finland, Ireland, and Uruguay co-organized the event, *Reparative justice for victims, making reparations a reality*, to take stock of the TFV’s implementation of the

Court's reparative justice mandate, as well as to generate financial, political, and moral support for the TFV's work. Governments and members of civil society attending the event heard from TFV Executive Director, Pieter de Baan, as well as from general assistance-implementing partner in northern Uganda, the Center for Victims of Torture. The event also allowed participants to hear perspectives on reparative justice from the TFV Board of Directors, and for governments to engage with the TFV and implementing partners on how to translate reparations and general assistance from a legal tenet to a tangible reality for victims.

During the event, the government of Finland announced a new €800,000 ear-marked donation for victims of sexual and gender-based crimes, while Ireland described plans to raise the visibility and awareness of the TFV and its activities in northern Uganda.

Reparations in the Rome Statute system more broadly were the subject of the 7 December side event, *Victims of Hissène Habré: The Struggle for Reparations Continues*, co-organized by Africa Legal Aid, Association tchadienne pour la Défense du Droits de l'Homme, Human Rights Watch, and REDRESS.

### **Legal profession**

On 4 December, the governments of Finland and Uganda, together with Justice Rapid Response, organized a side event on *Professionalization of the investigation of international crimes: Yesterday, Today and Tomorrow*.

The 8 December side event, *ICCBA, an invaluable partner of the ICC*, co-hosted by the governments of France, Senegal, and the United Kingdom, highlighted the ICC Bar Association, newly established in 2017.

### **Role of the media**

Stocktaking for journalists and members of the media was the subject of the side event, *Sharing Experience from a Francophone West African Journalist Training on ICJ*, co-hosted by Senegal, the Netherlands, and Trust Africa on 11 December.

### **Lessons learned in international justice**

On 4 December, the side event, *ICTY Commemoration: Reflections on 24 Years of Fighting Impunity Through International Court and Tribunals*, reflected on the contributions that the International Criminal Tribunal for the former Yugoslavia (ICTY) has made to the development of international criminal law. The ICTY closed its doors at the end of 2017. The event, which included a panel discussion with the ICTY Principals (President, Prosecutor, and Registrar), featured remarks from 20<sup>th</sup> anniversary plenary session speaker Mr. Miguel de Serpa Soares, the UN Under-Secretary-General for Legal Affairs and UN Legal Counsel. Mr. Stephen Mathias, UN Assistant Secretary-General for Legal Affairs, moderated the event.

Lessons from the Rome Statute system were considered on 13 December at the side event, *Towards the Creation of a Latin American and Caribbean Criminal Court against Transnational Organized Crime*. The initiative for a "Corte Penal Latinoamericana y del Caribe contra el Crimen Transnacional Organizado" (COPLA) as well as ongoing civil society efforts geared at the COPLA's establishment were among the topics covered in the side event co-hosted by Democracia Global of Argentina, the World Federalist Movement, and the mission of Argentina to the UN. Argentina's permanent representative to the UN Mr. Martín García Moritán, Director of Democracia Global and Coordinator of the COPLA campaign Ms. Camila López Badra, and Coordinator of the Group of Legal Experts for COPLA Mr. Christian Cao presented the initiative, while Americas Coordinator of the Coalition for the ICC Ms. Michelle Reyes reflected on lessons learned from the drafting and adoption of the Rome Statute—with a view to maximize the potential of the process toward the establishment of a court dedicated to ending impunity for transnational crimes affecting the region.



## **Full schedule of side events during 16<sup>th</sup> ASP session**

### **Monday 4 December**

*Situation in Georgia: Progress and Challenges of Investigation*

-Hosted by Georgia

*The professionalization of the investigation of international crimes: Yesterday, Today and Tomorrow- Discussion and Presentation of the Annual Report of Justice Rapid Response*

-Co-hosted by Finland, Uganda and Justice Rapid Response

*International Criminal Tribunal for the former Yugoslavia Commemoration: Reflections on 24 Years of Fighting Impunity Through International Courts and Tribunals*

-Co-hosted by Italy, Uruguay, & The Netherlands

*Launch of Human Rights in International Justice Project (Amnesty International)*

-Hosted by Amnesty International

*Lunch Reception with Presidents of the Assembly of States Parties and International Criminal Court, and with the International Criminal Court Prosecutor*

-Co-hosted by Coalition for the International Criminal Court, Senegal, and South Korea

### **Tuesday 5 December**

*Victims' Reflections on Reparative Justice - The voice and role of victims on the fight against impunity for core crimes under International Law*

-Co-hosted by Brazil, Switzerland, Uruguay, Parliamentarians for Global Action and International Organization for Victims Assistance

*NGO meeting with Prosecutor Bensouda*

-Hosted by the Coalition for the International Criminal Court

### **Wednesday 6 December**

*Peace in the Democratic Republic of the Congo: MONUSCO from a Multi-stakeholder Perspective*

-Co-hosted by World Federation of United Nations Associations, United Nations Association of Sweden and United Nations Association of the DRC.

*The Challenge of Effective Cooperation: The Case of Côte d'Ivoire*

-Co-hosted by Trust Africa, Observatoire Ivoirien des Droits de l'Homme, and American Jewish World Service

*Fighting impunity for most serious crimes – Strengthening the central role of National Jurisdictions*

-Co-hosted by Belgium and Senegal

*Universality of the Rome Statute within the broader Human Rights Agenda - The Role of Parliamentarians*

-Co-hosted by Denmark, Germany and Parliamentarians for Global Action

*Making reparations a reality - the experience of the Trust Fund for Victims*

-Co-hosted by Finland, Ireland, Uruguay and the Trust Fund for Victims

*"An examination of gender justice crimes and current conflicts (Central African Republic & Iraq) and reflections on progress over the past 15 years" and launch of 'The Compendium' - a new publication by the Women's Initiatives for Gender Justice.*

-Co-hosted by Amnesty International/ Human Rights Watch/ MADRE/ Women's Initiatives for Gender Justice

*Legal Representation of Victims at the International Criminal Court and Beyond*

-Co-hosted by Finland, the United Kingdom, Avocats Sans Frontières, REDRESS, and the Victims' Rights Working Group

*The Importance of Deterrence and the International Criminal Court's Role in Current Violations*

-Co-hosted by The Netherlands and Lawyers for Justice in Libya

*Climate Ecocide: A Crime of Our Time*

-Co-hosted by Institute of Environmental Security and Ecological Defence Integrity

*Trust Fund for Victims Board of Directors Reception featuring an exhibition on the Trust Fund for Victims programmes in the Democratic Republic of the Congo and Uganda*

-Co-hosted by the Netherlands and the Trust Fund for Victims

**Thursday 7 December**

*The Need for International Criminal Court Intervention in Extrajudicial Killings for Drug Offenses*

-Co-hosted by Help Not Handcuffs and Students for Sensible Drug Policy

*Augmented Funding for the International Criminal Court*

-Co-hosted by Centre for International Human Rights, Northwestern Pritzker School of Law

*Victims of Hissène Habré: The struggle for reparations continues*

-Co-hosted by Africa Legal Aid, Association Tchadienne pour la Defense du Droits de l'Homme, Human Rights Watch and Redress

*Global Civil Society & European States: How to Advance International Justice?*

-Co-hosted by Coalition for the International Criminal Court with Estonian Presidency of the Council of the European Union, the Delegation of the European Union to the United Nations

*International Nuremberg Principles Academy*

-Co-hosted by Germany and the International Nuremberg Principles Academy

*Weaving the Strands-Domestic, Regional, Hybrid and International Criminal Court Justice*

-Co-hosted by Switzerland, the Netherlands, Norway, Finland, the United Kingdom, and Germany

*Open Society Justice Initiative Reception: Designing accountability mechanisms for grave crimes*

-Co-hosted by Liechtenstein and Open Society Justice Initiative

*Global Launch of the Gender Justice Legacy Wall*

-Co-hosted by New Zealand, Switzerland, United Kingdom and Women's Initiatives for Gender Justice

**Friday 8 December**

*Launch of study: "Congolese Jurisprudence under International Criminal Law: An Analysis of Congolese Military Court Decisions Applying the Rome Statute"*

-Co-hosted by Democratic Republic of the Congo and the Open Society Initiative for Southern Africa

*Launch of the Office of the Prosecutor Report on Preliminary Examination Activities (2017)*

-Co-hosted by Finland, Niger, Norway, Peru, Senegal, Slovenia, Switzerland and Office of the Prosecutor

*International Criminal Court Bar Association side event*

-Co-hosted by International Criminal Court Bar Association, France, Senegal, the United Kingdom

*Burundi in the aftermath of the opening of an International Criminal Court investigation*

-Co-hosted by Coalition for the International Criminal Court, The Netherlands, the Burundian national coalition for the International Criminal Court, the “Justice for Burundi” Collective of Lawyers of Plaintiffs, and the International Federation for Human Rights

**Monday 11 December**

*Role of the International Criminal Court in promoting accountability for grave crimes committed in Ukraine*

-Co-hosted by The Netherlands, International Renaissance Foundation, International Partnership for Human Rights, Regional Centre for Human Rights, Ukrainian Helsinki Human Rights Union, Crimea-SOS, Truth Hounds

*How the Security Council and Assembly of States Parties can improve States’ cooperation with the International Criminal Court*

-Co-hosted by Ireland, Norway and International Security Studies

*Progress in Drafting a Convention on the Prevention and Punishment of Crimes against Humanity*

-Co-hosted by Chile, Germany, Jordan, the Republic of Korea, Sierra Leone and International Law Commission

*Cinq ans après la crise de 2012: quelles avancées dans la lutte contre l’impunité au Mali?*

-Co-hosted by Canada, Association Malienne des droits de l’Homme, Coalition Malienne pour la Cour pénale internationale, Fédération internationale des ligues de droits de l’Homme, and Lawyers Without Borders Canada

*The Situation of Palestine : A test for the International Criminal Court*

-Co-hosted by the State of Palestine, Al Haq, Center for Constitutional Rights, and International Federation for Human Rights

*Film Screening: Sharing Experience from a Francophone West African Journalist Training on International Criminal Justice*

-Co-hosted by the Embassy of Senegal, Embassy of the Netherlands, TrustAfrica

*The International Criminal Court and Africa: Panel Debate and Interactive Discussion*

-Co-hosted by Center for International Law and Policy in Africa, the Cleen Foundation, and Coalition for the International Criminal Court

**Tuesday 12 December**

*How to improve gender equality in the International Criminal Court staff*

-Co-hosted by Coalition for the International Criminal Court, GQUAL Campaign, Estonia

*Briefing of the International Criminal Court Prosecutor Plenary*

-United Nations Security Council

*Challenges of the Colombian Peace Process: Guaranteeing victims’ rights under the Special Jurisdiction for Peace*

-Co-hosted by Canada, Comisión Colombiana de Juristas, Corporación Humanas and Lawyers Without Borders Canada

*Accountability for Sexual and Gender-Based Violence Crimes: Central African Republic, Colombia, Democratic Republic of Congo and Iraq*

-Co-hosted by United Kingdom, Norway and Centre for International Law Research and Policy

*The International Criminal Court as a Catalyst for National Justice: Lessons from Cote d’Ivoire for the Central African Republic*

-Co-hosted by Human Rights Watch, International Federation for Human Rights, Human Rights Watch, Kingdom of the Netherlands and Botswana

*Accountability for Sexual and Gender based Violence as a method of warfare*

-Co-hosted by Switzerland, Costa Rica, and Darfur Women Action

*West Papua: Forensic Mapping and Ecocide: Exhibition opening & tour (Part-2 included panel session)*

-Co-hosted by the Republic of Vanuatu and Institute of Environmental Security

**Wednesday 13 December**

*Prosecuting Sexual and Gender-Based Violence at the Special Court for Sierra Leone*

-Co-sponsored by Canada, Sierra Leone, UN Women, and the Canadian Partnership for International Justice

*Towards Creation of a Latin American and Caribbean Criminal Court Against Transnational Organized Crime*

-Co-hosted by Democracia Global of Argentina, World Federalist Movement, and Argentina