

## **WOMEN AND THE INTERNATIONAL CRIMINAL COURT**

The International Criminal Court will be the world's first permanent international tribunal to try individuals for genocide, war crimes and crimes against humanity. Sixty ratifications were required to bring the Rome Statute, the treaty creating the court, into force. On 11 April 2002, this milestone was reached when 10 countries simultaneously deposited their ratifications bringing the total number to 66. As a result of this historic event, the Rome Statute entered into force on 1 July 2002 at which time the jurisdiction of the future Court became effective. The creation of this court will be a historic occasion generally and especially for women as the Rome Statute has dramatically raised the standard for responding to crimes against women that have long been overlooked.

### **Crimes of Sexual and Gender Violence**

The Rome Statute explicitly recognizes rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization and sexual violence as war crimes and crimes against humanity. Trafficking is encompassed within the crime against humanity of enslavement. Also, for the first time, gender-based persecution is included as a crime against humanity. The codification of these crimes in the Statute is significant as prior humanitarian law has afforded trivial treatment to such grave violence.

### **Victims and Witnesses in the Justice Process**

The statute provides for the creation of a Victim and Witness Unit within the Court's registry to provide protective measures, security arrangement, counseling and other appropriate assistance for witnesses, victims and others at risk on account of their testimony. Furthermore, this Unit must include staff with expertise in trauma, including trauma related to crimes of sexual violence.

A separate provision on the protection of victims and witnesses requires the Court to take appropriate measures, including proceedings in camera or allowing the presentation of evidence by electronic means, to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses, taking into account such factors as age, gender, health, and the nature of the crime, particularly where the crime involves sexual or gender violence.

The same provision permits the views and concerns of victims to be presented and considered at appropriate stages of the proceedings.

The statute also includes a provision enabling the Court to award reparations to, or in respect of, victims, including restitution, compensation and rehabilitation, upon request or on its own motion.

## **Women and Experts on the Court**

The statute requires that "fair representation of female and male judges" be taken into account in the selection process, as well as fair representation of females and males in the selection of staff in the Office of the Prosecutor and in all other organs of the Court.

The statute requires that in the selection of judges, prosecutors and other staff, legal expertise on violence against women or children must be taken into account. The Prosecutor is required to appoint advisers with legal expertise on specific issues including sexual and gender violence. He or she can refer cases to the ICC *proprio motu*, acting on NGO information. This is doubly important for victims of crimes of a sexual nature since it allows for Women's NGOs to provide information to the Prosecutor which might not be forthcoming if left to the women victims because of the shame attached to these crimes.