

ORGANIZATION OF AMERICAN STATES



Remarks

Ambassador Albert R. Ramdin

Assistant Secretary General

Conference of the National Assembly of the Republic of Suriname

on

International Justice and Security:

The Role of the International Criminal Court

Paramaribo – Suriname

6 June 2008

Your Excellency Ronald Runaldo Venetiaan, President of the Republic of Suriname,
Your Excellency Slamet Paul Somohardjo, Chairman of the National Assembly,
Your Excellency Ramdien Sardjoe, Vice-President of the Republic of Suriname,
Honorable Members of the Judiciary,
Honorable Members of the National Assembly and other representative bodies,
Excellencies Members of the Council of Ministers,
Honorable Judge Rene Blattmann, Vice-President of the International Criminal Court,
Senator Bassey Ewa-Henshaw, President of Parliamentarians for Global Action,

Honorable Ruth J. Wijdenbosch, Chair of the Foreign Affairs Committee of the National Assembly and Member of the Executive Committee of Parliamentarians for Global Action,
Senator Maria Christina Percival of Argentina,
Distinguished Members of Legislative Bodies from abroad,
Members of the State Council,
Members of the Youth Parliament and Youth Ambassadors,
Members of the Corps Diplomatique,
Representatives of International and Regional Organizations,
Representatives from the Private Sector,
Representatives of the Trade Unions,
Members of the Media,
Ladies and Gentlemen,

I want to start by expressing my gratitude to Mr. Slamet Paul Somohardjo, President of the National Assembly of the Republic of Suriname and Mrs. Ruth J. Wijdenbosch, Member of the Executive Committee of Parliamentarians for Global Action, for organizing this seminar and for having invited me to participate in this event.

I feel pleased and honored to be here, in Paramaribo, taking part in this ***Regional Parliamentary Seminar on International Justice and Security and the Role of the International Criminal Court.***

I am particularly pleased to observe the interest that the legislative bodies in our region have in this matter since they have a very important role to play in the passing of legislation implementing the norms and regulations of the Rome Statute.

The OAS, as the natural and principal political forum in the Western Hemisphere in matters of democracy, rule of law, human rights, humanitarian law and hemispheric security, is pleased to be able to be a part of the discussion on this important topic.

The OAS General Assembly has noted with concern the continuation in some parts of the world of persistent violations of international humanitarian law and international human rights law and has reaffirmed that all states have the primary duty to investigate, prosecute and punish those violations so as to prevent their recurrences and avoid the impunity of the perpetrators of those crimes.

The International Criminal Court was created under the Rome Statute adopted in Rome, on July 17, 1998, and is in effect since July 1, 2002. Article 2 of the Rome Statute, established the purpose of the Court as a permanent institution that has the power to exercise its jurisdiction over persons for the most serious crimes of international concern, and is complementary to national criminal jurisdictions.

By March 14, 2008 the Rome Statute had been signed by 139 States and ratified by 106. There are 23 member States of the OAS that are parties to the Rome Statute and 11 that are not: Suriname, Bahamas, Chile, El Salvador, Guatemala, Grenada, Haiti, Jamaica, Nicaragua, St Lucia and the United States of America.

I am pleased to learn that efforts are underway in Suriname and other countries in the Caribbean to consider the possibility of becoming a State Party to the Statute. In our view, this will continue enhancing the adoption of common positions and the establishment of dialogue mechanisms in our region and sub-regions to promote the role and purpose of the Court. And maybe the ICC can benefit also from experiences in the establishment and management of the Caribbean Court of Justice

I have to highlight that the big number of countries in Latin America and the Caribbean that have ratified the Statute of the Court has been paramount to the adoption by the OAS General Assembly of several resolutions regarding the promotion of the International Criminal Court, recognizing that the adoption of the Statute is a milestone in efforts to combat impunity and that the Court is a component of the international criminal

justice system and an effective instrument for consolidating justice, security and peace. In 1999, the Inter-American Commission on Human Rights had already released a report underlining the importance of the ICC.

Under the mandates of the various General Assembly resolutions that have been passed in the past few years, the Permanent Council, through its Committee for Juridical and Political Affairs, has organized in 2005, 2006, 2007 and 2008, four working sessions on ***“the appropriate measures that States should take to cooperate with the International Criminal Court in the investigation, prosecution, and punishment of the perpetrators of war crimes, crimes against humanity, genocide, and crimes against the administration of justice of the International Criminal Court.”***

I believe that the working sessions have provided an extraordinary opportunity for the exchange of ideas among experts on the issue. The working sessions have gathered panels composed of Judges as well as representatives from the Office of the Prosecutor of the International Criminal Court, representatives from the International Committee of the Red Cross, members from well-known civil society organizations, and experts as well as representatives from various member States. I would like to encourage countries in the Hemisphere, and especially countries in the Caribbean, to continue participating in those working sessions as a way to find a space to share experiences and best practices in the cooperation with the International Criminal Court.

Among the main themes, raised during the working sessions, we may underline the obligation to cooperate with the Court, the treatment of victims under the Rome Statute, the implementation of the Rome Statute within national legislations and the Agreement on Privileges and Immunities. Moreover, every session has provided an opportunity for a representative from the Court or the Office of the Prosecutor to present an up-to-date report on the activities of the Court and the investigations underway.

Indeed, the role of the victims under the Rome Statute is one of paramount importance. Article 68 (1) of the Rome Statute states: ***“The Court shall take appropriate measures to protect the safety, physical and psychological well-being, dignity and privacy of victims and witnesses.”***

In this context, the rights of the victims to participate in the trial and eventually to obtain reparations will be a tremendous challenge for the whole international community including member States of the OAS which can support the work of the ICC by providing protection to victims and witnesses for a duration of time to be established on a case by case basis.

Approaching the sixth anniversary of the entry into force of the Rome Statute, there is a need for political support. Such political support can be achieved in our Hemisphere by an active role of the OAS by persuading the authorities of affected countries, when necessary and where appropriate, to cooperate with the ICC in the protection of victims and witnesses, and to respect and implement ICC decisions. In the words of the Prosecutor ***“silence is undermining us; but any expression of support is helping us”***.

The General Assembly has also generated some mandates relating to the ICC to the Inter-American Juridical Committee, the advisory body on juridical matters of the OAS. The first one was the preparation of a questionnaire ***“to be presented to OAS member States on the extent to which their laws enable them to cooperate with the International Criminal Court”*** and the submission of a report on the results of the questionnaire to the Permanent Council of the Organization.

Seventeen states responded to the questionnaire. Since the document was drafted in order to allow States parties and non parties to respond, 11 responses came from parties to the Rome Statute and 6 from non-parties. The Inter-American Juridical Committee’s questionnaire asked for information on whether national legislations had enacted crimes provided in the Rome Statute; whether States had procedures applicable to all forms of

cooperation, juridical assistance and execution of sentences, or in the case of non State parties, if there had been any impediment of a legal nature to cooperate with the International Criminal Court; whether there was any inconsistency in the Statute of Rome with their Constitutions; and whether other legal questions could affect compliance with the obligations provided for in the Rome Statute. As part of its conclusions, the Rapporteur, Dr. Mauricio Herdocia pointed out the strong interest by OAS member States in the theme; underlined that most States had included in their legislation the crime of genocide and a smaller number of States had included war crimes, and that crimes against humanity had the lowest number of provisions in the national legislations of the States which seemed to indicate a more complex problem in the process of adapting their legislation. It was also indicated that in the case of war crimes and crimes against humanity, some of the definitions given by the States were often scattered in their laws and did not necessarily covered the wide range of the Rome Statute. It concluded as well that a large part of the States parties to the Rome Statute had regulations to implement cooperation with the Court and a minority of States parties had processes underway to form the corresponding legislation at different states of progress. All these conclusions, in my view, can constitute an important contribution for the evaluation on how States in the Hemisphere have been so far implementing the Rome Statute.

The second mandate for the Committee was in response to the report presented in 2006 by the Inter-American Juridical Committee based on the answers given to the first questionnaire, requesting the Committee to prepare a ***“document of recommendations to the member States of the Organization on how to strengthen cooperation with the International Criminal Court, as well as on progress made in that regard”***.

In March 2007, the Rapporteur, Dr. Mauricio Herdocia, released his report which included up-to-date information on the progress made by OAS member States regarding the cooperation with the Court and a set of recommendations in this regard addressed to OAS member States. The report requested States not Party to the Rome Statute to consider its ratification or adoption, as the case may be. For the States party to the Statute the report

provided some measures –including those of a legislative nature-, modalities and mechanisms to ensure the existence of procedures applicable to full cooperation with the Court regarding the investigation and prosecution of crimes under its competence, and in general, compliance with the obligations stated in the Statute of Rome. The report also provided some suggestion to those States contemplating the ratification or accession to the Agreement on Privileges and Immunities (APIC) of the International Criminal Court.

Furthermore, the Rapporteur recommended all member States of the OAS to intensify the exchange of information within the hemisphere; to strengthen the participation in regional and universal forums for discussion of the ICC, including –*inter alia*- the work meetings of the Committee on Juridical and Political Affairs of the OAS and the Assembly of States Parties of the ICC; and, to continue addressing the issue of the ICC within the scope of the regular sessions of the General Assembly of the OAS, the sub-regional integration processes and the national agendas. Finally, he considered important to adopt a cooperation agreement between the OAS and the International Criminal Court with the designation of a focus point and to build a web site with the relevant and pertinent information provided by the States.

The most recent mandate to the Inter-American Juridical Committee was the preparation of a “*model law on cooperation between States and the International Criminal Court, taking into account the Hemisphere’s different legal systems*”.

To this end, during the March 2008 session of the Committee the Rapporteur presented a “*Guide to the General Principles and Agendas for the Cooperation of States with the International Criminal Court*”. This is a very important document that the OAS provides for those countries, both from the common law or the civil law system, who may wish to have some guidelines to implement legislation regarding cooperation with the Court, and we are committed to provide technical assistance in this matter when required by countries.

As requested by the General Assembly in its resolution of 2007 and as suggested by the Rapporteur of the Inter-American Juridical Committee in 2007, the General Secretariat is in consultation with the Office of the Prosecutor of the Court in order to sign a draft cooperation agreement. In April this year, the Secretary General met at the OAS headquarters with the Prosecutor of the International Criminal Court, Mr. Luis Moreno-Ocampo, to analyze ways to start negotiations on this agreement. Under the proposed agreement, both the General Secretariat and the Court may develop a cooperation arrangement in the areas of the promotion and dissemination of international criminal law; the reinforcement of the legal and institutional framework in the investigation, prosecution and punishment of the perpetrators of war crimes, crimes against humanity, genocide, and crimes against the administration of justice; studies on model law; technical advice for the drafting and adoption of Inter-American instruments to enhance the protection against violations of international humanitarian law and international human rights law; and the sponsorship of conferences, seminars, and other meetings on topics of common interest. In this regards the Secretary General of the OAS has designated the Department of International Law as the point of contact with the International Criminal Court. And I am pleased to inform you that one of the legal specialists, Mr. Dante Negro, of this department is present at this seminar to provide you further details on the initiatives and actions from the OAS.

The agreement will also be an important instrument to facilitate the dissemination of information on the International Criminal Court to OAS member States that request it, within the framework of the Declaration of Panama on the Inter-American Contribution to the Development and Codification of International Law adopted by the General Assembly in June 1996, and the Inter-American Program for the Development of International Law, adopted in June 1997.

I would like to express my satisfaction, as did the General Assembly of the OAS by the forthcoming beginning of trials in cases related to the situation in the Democratic Republic of the Congo which mark the beginning of a new phase for the Court. As the

proceedings in the Democratic Republic of Congo show us, the abuse of children as soldiers is a serious crime that should be prosecuted and punished.

In closing, I also want to commit myself personally and the OAS as an institution in promoting among OAS member states their active involvement in the work of the Assembly of States Parties to be held in 2009 and to encourage them and cooperate with them in adapting or amending their domestic law, as necessary, with a view to the full and effective implementation of the Statute. In this regard, it would be very useful for us to have countries identify a principal point of contact with which our focal point within the Secretariat can start exchanging information. We have a lot of work ahead of us, especially in the Caribbean countries. We support the ongoing efforts, we will support you with the challenges ahead, and we congratulate you for organizing this Seminar.

Over the past years many important achievements have been accomplished. There is still a long road to go, and before I finish, I want to underline the importance of effective cooperation from the states and from international and regional organizations, and of support from civil society to the effective functioning of the International Criminal Court, and as an OAS resolution has been doing for the past few years, I wish to appeal to those countries that have not already done so to consider acceding to the Rome Statute and to urge those States that are already party to promote and respect its intent and its purpose in order to preserve its effectiveness and integrity, and in so doing contribute to peace, justice, stability and prosperity in the world.

I thank you kindly for your attention.

-0-0-0-0-0-0-