

2006
Number 5 • Year 3
English Edition

sur

international journal
on human rights

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SUR - INTERNATIONAL JOURNAL ON HUMAN RIGHTS is a biannual journal published in English, Portuguese and Spanish by Sur - Human Rights University Network. It is available on the Internet at <<http://www.surjournal.org>>

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PRESENTATION



This fifth issue of Sur – International Journal on Human Rights examines a broad spectrum of issues. First, two international human rights protection bodies are studied: (i) the recently created UN Human Rights Council and the main obstacles it faces (Duran), and (ii) the International Criminal Court, or more specifically the role of the frequently neglected parties in criminal cases – the victims – in this Court (González). Indigenous issues are tackled once again, this time focusing specifically on the protection of the right to cultural identity in the Inter-American System (Chiriboga). Another paper makes a critical analysis of post-conflict justice in Sub-Saharan Africa, questioning the models imposed by foreign nations (Bosire). Finally, three topics are addressed relating to human security: (i) democratic policing in the Commonwealth Pacific (Prasad), (ii) the democratization of public security in Brazil (Cano), and (iii) the impact of the Bush administration on the international doctrine of states sovereignty (Farer).

We would like to thank the following professors and partners for their contribution in the selection of articles for this issue: Alejandro Garro, Christophe Heyns, Emilio García Méndez, Fiona Macaulay, Flavia Piovesan, Florian Hoffmann, Helena Olea, Jeremy Sarkin, Josephine Bourgois, Juan Salgado, Julia Marton-Lefevre, Julieta Rossi, Katherine Fleet, Kwame Karikari and Roberto Garreton.

Created in 2004 to promote debate on human rights and dialogue across the southern hemisphere among activists, professors and staff of government agencies, Sur – International Journal on Human Rights is published by Sur – Human Rights University Network, an initiative of Conectas Human Rights (a Brazil-based international non-governmental organization).

Besides being available online at www.surjournal.org, approximately 12,000 copies of the journal have been printed between 2004 and 2006 and distributed free of charge in three languages – Portuguese, Spanish and English – in over 100 countries. The critical debate has, therefore, already enjoyed an encouraging start. Aiming to move away from a homogeneous view of human rights in the global south, the journal addresses issues that reflect the diversity of the conflicts and challenges related to the protection of human rights in the Southern Hemisphere nations. This diversity of the debate stems from the diversity of the geographical, historical and cultural context in which these rights are (or are not) upheld.

Our intention is to continue to broaden this debate. As an illustration, of the approximately 100 countries that receive the journal, the following have already submitted contributions in the form of articles: South Africa, Germany, Argentina, Brazil, Colombia, Egypt, Ecuador, United States, Hungary, India, Mexico, Namibia, Nigeria, Kenya and United Kingdom. We have also received contributions from the staff of intergovernmental agencies, such as the United Nations and the Organization of American States. In order to elicit responses to the calls for papers already submitted, and to develop an even richer dialogue, we hope to receive articles primarily from all the nations where the journal is read. Therefore, we are calling for contributions particularly from the following countries that are still missing: Albania, Algeria, Angola, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Bolivia, Bosnia and Herzegovina, Burundi, Cameroon, Chile, China, Costa Rica, Croatia, Congo, Denmark, El Salvador, Ethiopia, Philippines, Finland, France, Gambia, Ghana, Greece, Guatemala, Guinea-Bissau, Iceland, Israel, Italy, Kyrgyzstan, Laos, Liberia, Macedonia, Malawi, Malaysia, Mozambique, Montenegro, Morocco, Nepal, Nicaragua, Niger, Norway, Netherlands, Palestine, Panama, Pakistan, Paraguay, Peru, Poland, Porto Rico, Portugal, Dominican Republic, Romania, Russia, Rwanda, Serbia, Sierra Leone, Sudan, Sri Lanka, Swaziland, Sweden, Tanzania, Thailand, Trinidad and Tobago, Turkey, Uganda, Uruguay, Uzbekistan, Vanuatu, Venezuela, Vietnam, Zambia and Zimbabwe.

Herewith we renew our request for a wider and more meaningful debate.

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The opinions expressed in this paper are the exclusive responsibility of the author and do not necessarily reflect the views of the CICC.

ABSTRACT

The International Criminal Court (ICC) offers an innovative and complex system of justice that takes into account the rights of victims. Although these rights may not be absolute, since they are subject to the guarantees of a fair and impartial trial, the Court recognizes victims as legitimate parties in its proceedings. Nevertheless, this system represents a sizable challenge that the Court has already faced in its early investigations and at the outset of its first case. Throughout this paper, I shall explain the role of victims in the ICC's criminal justice system, their rights established in the Statute and other regulations governing the proceedings of the Court, as well as the Court's interpretations of them in its first rulings. Furthermore, I shall clarify the framework established by the Court to fulfill this important mandate.

Original in Spanish. Translated by Barney Whiteoak.

KEYWORDS

International Criminal Court – Victims – Rights of Victims – Right to Participation – Right to Protection – Right to Reparations



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THE ROLE OF VICTIMS IN INTERNATIONAL CRIMINAL COURT PROCEEDINGS: THEIR RIGHTS AND THE FIRST RULINGS OF THE COURT

Paulina Vega González

To everyone's surprise, even the most ardent of optimists, the International Criminal Court (hereinafter referred to as "ICC" or "Court") is now a reality. Less than eight years since the adoption of the Statute of the International Criminal Court¹ (hereinafter referred to as "Rome Statute" or "Statute"), it has embarked on its first investigations and its first case.² Given this situation, it is necessary to address one of the more innovative aspects of this nascent international criminal justice system: the rights of victims in the proceedings of the Court. Therefore, the chief objective of this paper is to give the reader a general overview of the role of victims and the interpretation of the Court in its first rulings.

Recognition of the rights of victims is one of the greatest advances made by the international criminal justice system. These rights represent a novel development and also a significant challenge that the Court has already faced in its early hearings. However, little has been written about the topic,³ even though as each day goes by its importance is recognized more by both ICC employees and scholars in the field of international criminal law.

For the purpose of clearly spelling out the role of victims in the ICC criminal justice system, I first propose to identify which rights are established in the Statute and the other regulations governing the proceedings of the Court, as well as the Court's interpretation of them in its first rulings. I shall then move on to address the framework adopted by the Court to fulfill its important mandate towards victims of the gravest crimes against humanity.

See the notes to this text as from page 37.

Including the rights of victims: a novel development and a challenge for the International Criminal Court

The inclusion of the rights of victims in the Statute is an innovative development for international criminal justice, since unlike what we might think about the criminal courts that preceded the ICC, namely the Nuremberg and Tokyo military tribunals and the ad hoc tribunals for the former Yugoslavia and for Rwanda, there is no precedent, either in their statutes, in practice or in case law, relating to the inclusion of victims' rights to the likes of which we find in the Rome Statute. In these tribunals, the victims were not considered a legitimate and independent part of the proceedings, which is why they were not granted their own space and their participation was limited to testifying as witnesses.

Therefore, prior to the adoption of the Rome Statute, or even the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, discussions on the inclusion of participation by victims in proceedings were part of a heated debate among delegates during negotiations to draft the Statute.⁴ This is due to the fact that the role of victims in criminal proceedings was not fully understood by all the delegations of participating States; and as such there was no real certainty about what kind of agreement would finally be reached by the States upon approval of the Rome Statute.

For some nations, such as France, Argentina, Colombia and Guatemala, the role of victims in ICC proceedings was easier to grasp, since their national legislation, to a greater or lesser degree, allows victims to appear in criminal proceedings as "civil parties" or "civil plaintiffs" and, as such, they play an independent role instead of being represented by the Prosecutor. This is why these countries were better able to understand the demands of civil society organizations,⁵ which insisted that an independent role for victims be recognized in ICC proceedings.

However, if the rights of victims in the criminal process is a relatively unexplored subject in Latin American countries, even though they share the same Roman-Germanic legal system, or civil law, for nations that use the Anglo-Saxon legal system, or common law, this concept is totally alien.

The Statute strikes a balance between these existing legal systems, establishing a mixed system for its proceedings, in which we can find some elements deriving from civil law and others that are derived from the Anglo-Saxon system. This mix has resulted in an innovative system of justice that recognizes the importance of the victims in the struggle against impunity and that grants them an independent role. This recognition is enshrined in the Preamble to the Statute, where States Parties are said to be mindful that

“during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity”. Nevertheless, the exercise of this role and these rights is still limited by the rights of the defense and the guarantees of a fair and impartial trial, as we shall see in more detail in the sections that follow.

The rights of victims can be found scattered throughout the various pieces of legislation that govern the proceedings of the Court, namely: the Statute, which establishes the principal rights; the Rules of Procedure and Evidence;⁶ the Regulations of the Court;⁷ and the Regulations of the Registry of the Court.⁸ These instruments contain more than 115 provisions that make reference to victims,⁹ a number that can only reflect the sheer complexity of this system that dictates precisely how the rights assured them can be exercised, and how the Court, through its various organs, is organized to fulfill the important mandate attributed to it towards victims in criminal cases.¹⁰

The rights of victims

As I have already mentioned, it is the Rome Statute that establishes the rights of victims. Nevertheless, before embarking on an analysis of these rights, it is first important to clarify the Court’s concept of a victim so we can understand who is considered to be entitled to these rights. Rule 85 defines victims as follows:

For the purposes of the Statute and the Rules of Procedure and Evidence:

- “*Victims*” means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court;
- *Victims may include organizations or institutions that have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes.*

This rule makes little headway in its definition of the characteristics the sustained harm should present or whether the person needs necessarily to have been affected directly or indirectly.¹¹ However, from its wording we can conclude that, in principle, any person can be recognized by the Court as a victim if they are considered to have sustained some harm as a consequence of the commission of the crime of genocide, a crime against humanity or a war crime, in accordance with the definition given in the Statute, if this crime falls under the jurisdiction of the Court *ratione personae, loci* or *ratione temporis* and if the Court is shown that the harm suffered is the result of the aforesaid conducts.

The rights of victims can be classified into three main categories: (1) the right to participation, (2) the right to protection and (3) the right to

reparations. From these rights, which we shall call “primary”, are derived “subsidiary” rights, which will be explained in the sections ahead. Nevertheless, as we have already seen, these rights are not absolute, since to assure a fair and impartial trial in which the legal rights and guarantees of the accused are respected, the Court is vested with the authority to decide how the rights of victims can be best exercised, that is, in a way that does nothing to jeopardize a fair and impartial trial. In other words, the exercise of these rights is conditional on the decisions of the judges, who in each case will need to ensure on the one hand that the trial is fair and impartial and on the other that the rights of the victims are exercised.

It is vital to recognize the obligation of the Court to strike this necessary balance between the rights of the accused and the rights of the victims. The Court should, therefore, permit and facilitate the exercise of victims’ rights in an effective manner or justify why restrictions have been placed on the exercise of these rights.¹²

What follows is an explanation of the primary rights categories, after which I shall analyze the interpretation of the rights of victims made in the first ever ruling of the Court’s Pre-Trial Chamber I in the case of the Democratic Republic of Congo.¹³ This is considered to be the first judicial precedent on the rights of victims in the ICC.

Right to participation

The right of victims to participate in the proceedings of the Court is the primary right granted by the Statute and its basis is found in article 68 (3), which establishes:

Where the personal interests of the victims are affected, the Court shall permit their views and concerns to be presented and considered at stages of the proceedings determined to be appropriate and in a manner which is not prejudicial to or inconsistent with the rights of the accused and a fair and impartial trial. Such views and concerns may be presented by the legal representatives of the victims where the Court considers it appropriate, in accordance with the Rules of Procedure and Evidence.

The text of this provision presents the various elements that need to be considered to understand the scope of this right. These elements will be analyzed in the light of rules 89 to 93 and the various provisions of the Regulations of the Registry.

First, victims have the right to present their opinions and concerns and have them considered when their personal interests are affected by a given act

of the Court. To exercise this right, victims must submit a written application to the Registrar of the Court, in accordance with rule 89 (1), in which they must express their intention to exercise the right to participation and give the reasons why they consider that they should be recognized as victims in a given situation or case.

For the purposes of facilitating the exercise of this right of victims, the Registry has developed standard applications forms for submitting requests to participate.¹⁴ These forms should be distributed by the Registry in places where the Court conducts its investigations and, to the extent possible, be made available in the language spoken by the victims,¹⁵ who should preferably use the forms provided and assure that they give all the information requested on it by the Court.¹⁶ The Registry should assist victims to properly complete the forms and provide education and training for this purpose to the victims, the people who work with the victims or groups of victims at the location of the crime.¹⁷

The applications to participate should also, to the extent possible, be submitted at the start of the stage of proceedings in which they wish to participate, and be in one of the Court's working languages, that is, English or French. These applications will be transmitted by the Registry to the relevant Chamber together with a report on all the applications that were received, for the purposes of facilitating the decision of the Chamber.¹⁸ It is this Chamber that will decide whether the applicants qualify as victims in accordance with rule 85.

To facilitate the decision of the Chamber, the Registry may request additional information to that already presented on the application form, in accordance with regulation 86 (4).¹⁹ The request for additional information may also come from the Chamber to help it make its decision.

Once the Court has these applications at its disposal, it will determine who qualifies as victims (and, therefore, who will be allowed to participate in the proceedings) and also the appropriate manner of this participation, in accordance with rule 89.²⁰

When can victims exercise this right?

The right to participation may be exercised during any of the stages of the Court's proceedings, namely: the investigation, conducted exclusively by the Office of the Prosecutor; the process, that begins with the identification of the suspect and the request for a detention order, or with the presentation of the accused before the Court for a hearing to confirm the charges, a stage that includes the appeal; and finally the reparations, should this stage be held separately, following the pronouncement of the conviction.

In all these stages, there are provisions making explicit reference to the rights of victims. For instance, in the investigation stage, victims may deliver information to the Prosecutor to initiate investigations *proprio motu*, in accordance with article 15 (3); they may also present observations to the Pre-Trial Chamber when the Prosecutor submits an authorization request for an investigation. In the process or trial stage as such, victims may submit their observations, in accordance with article 19 (3),²¹ should the jurisdiction of the Court or the admissibility of the case be challenged. Finally, in the reparations stage, victims may, in accordance with article 82 (4), appeal an order for reparations.

In the face of this, we can expect there to be different groups of victims in the different stages of the Court's proceedings, since situations are analyzed in which crimes were presumably committed that fall within the jurisdiction of the Court and from which the suspects will at some point have to be singled out to finally convict those found guilty of the wrongdoing. This raises the possibility that, to begin with, in the investigation stage, there will be a first group of victims, the "victims of the situation". In the second stage, the group will be narrowed down to those who claim to be "victims of the facts" charged against the suspect of the crimes submitted by the Prosecutor for trial. Finally, a third group, the "victims of the convicted person", will be those who can establish that they have suffered harm caused by the facts for which the accused was convicted.

This was the complex situation the Court faced in its first rulings, one that will eventually cast doubt, sooner or later, over what kind of justice the Court can dispense to victims that do not fall into the final group. The situation would be exacerbated if the public knew that the Prosecutor will only focus on the trials and investigations of those people who had a greater degree of responsibility in the crimes. This will prompt a scarce number of trials in which we can expect there to be a large number of victims.

Nevertheless, returning to the subject of exercising the right to participation, victims should, to the extent possible, submit their participation applications before the start of the stage of proceedings in which they wish to express their observations. To make sure they do this, the Court should publicize the start of the investigation or the Court proceedings, particularly in places frequented by the victims, and as such assure that they file their participation applications at the right time.

Once the application has been filed, the relevant Chamber will decide whether the information provided by the applicants satisfies the necessary requirements listed in rule 85 concerning the situation or the case to which their application refers. The Court shall then decide, should it recognize the status awarded the victim, on the form of participation and whether the

victim's legal representative should act on their behalf. The decision of the Chamber will be communicated to all parties and may later be modified in accordance with rule 91 (1).

All applications by victims are to be conveyed to the Prosecution and the Defense. Nevertheless, victims may request that certain information be kept secret to protect their safety, while the relevant Chamber will decide whether the request is justified and on the appropriate measures to be taken.

Legal representation

Legal representation is closely linked to the right to participation, since this right should be exercised on certain procedural occasions by legal representatives.²² Consequently, a subsidiary right to participation is the right of the victim to freely choose legal counsel.²³ These representatives must meet certain requirements to be acceptable to the Court, such as having at least 10 year's experience.²⁴ The same qualifications are also required of the counsel for the defense, in line with rules 22 and 90 (6) of the Rules of Procedure and Evidence.

The same consideration is provided for the assistants to counsel, for the purposes of enabling the person closest to the victims to be part of their legal representation before the Court.²⁵ Therefore, anybody who matches the established requirements should fill out the respective forms, providing all the relevant information, and request their authorization as a representative from the Registry of the Court, explaining their preference to represent the victims, the accused, or both.²⁶

Additionally, the Court anticipated that the number of victims in each situation will be high and, in order to safeguard the integrity of the trial and to expedite the proceedings, but without jeopardizing the participation, it created the figure of a common legal representative for victims.²⁷ We can expect this modality to be widely used in proceedings, particularly in the trial stage, when the need for the victims or groups of victims to choose a common representative can be established by the Court in conjunction with its decision on their application to participate in the proceedings.²⁸

The court plays an active role concerning the legal representation of victims. While not as extensive as its role with the legal representation of the defense, it is obliged to assist victims exercise their rights. In doing so, the Registry of the Court should help with the choice of a legal representative,²⁹ particularly when the victims or groups of victims are unable to freely choose a common representative. Consequently, the Registrar should always consider the views of the victims at all times.³⁰

The implications for victims of the high costs of participating in the

proceedings of the Court are well known. By and large, victims participating in international tribunals receive assistance from organizations that also have only limited financing for this task. In light of this fact, the Court has taken provisions, albeit in only a limited way and in accordance with regulations 83 and 84 (Regulations of the Court) and rule 90 (5) (Rules of Procedure and Evidence), to provide financial assistance to victims to cover the expenses arising from legal representation. Victims must be informed about the possibility of receiving free legal assistance,³¹ the scope of which shall be determined by the Registry in consultation with the relevant Chamber. To access this assistance, the Registrar has prepared an application form to determine the means of the applicant and the victim, so it can decide whether or not to provide either full or partial payment of legal assistance. This decision may be reviewed by the Presidency if requested by the victim.³²

Notification and publicity of proceedings

Another subsidiary right to participation is the right to notification. Once victims are recognized as such by the Court, in a situation or a case, either directly or through their legal representatives, they have the right to be notified and informed of, among other matters: the progress of the proceedings;³³ the decisions of the relevant Chambers; the dates of the hearings; and the filing of appeals by the parties.

Both the publicity for the proceedings and the notification for the victims are fundamental to assure that they can exercise their right to participation. This importance is recognized, for example, in regulation 87 of the Regulations of the Court, which establishes the explicit obligation of the Prosecutor to notify victims, in accordance with rule 50 (1) and rule 92 (2) (Rules of Procedure and Evidence). It is worth pointing out that this obligation also results from the right of victims to request the Prosecutor to initiate investigations *proprio motu*. As such, victims have the explicit right to be notified of the decisions taken by the Prosecutor.³⁴ In the same way as the Office of the Prosecutor, in accordance with article 15 of the Rome Statute, the Registry may assist with this notification, when so requested by the Office of the Prosecutor.³⁵

Furthermore, the obligation to notify and provide adequate publicity to the proceedings of the Court results generically from rules 92 (8) and 96 (1) (Rules of Procedure and Evidence). This obligation of the Court is outlined in detail in the Regulations of the Registry,³⁶ which once again recognizes the importance of the information being accessible to the victims to ensure they may exercise their rights.

Finally, it is also important whilst on the subject of the right to

participation to mention the power vested in judges to reject a participation application if they consider that the person does not satisfy the necessary requirements to qualify as a victim before the Court. This provision is accompanied by the right of the victim to file a new application at a later stage, in accordance with rule 89 (2) (Rules of Procedure and Evidence), and, similarly, the right to withdraw an application for participation, should they so wish, at any time.³⁷

Right to protection

The right to protection is another important right of victims before the Court. It is based on article 68 (1) and article 43 (6) of the Rome Statute. This right, just like the right to participation, is regulated by the Rules of Procedure and Evidence³⁸ and several provisions of the Regulations of the Court and Regulations of the Registry.

According to article 68 (1) of the Statute, these measures are designed to protect “the safety, physical and psychological well-being, dignity and privacy of victims”. As such, there are two key approaches to the right to protection: general preventative measures on the one hand and direct or concrete measures on the other. The former need to be adopted by all organs of the Court to reduce the risks that inevitably arise from a victim’s involvement with the Court, either as a consequence of the investigations or due to a victim exercising one of their rights or testifying as a witness. Meanwhile, the latter measures are to be taken on a case-by-case basis, when a real risk is identified that requires special attention.

The general preventative measures are applied at two different instances, since they must be implemented both at the seat of the Court and also in the various places where it conducts its activities. Although the Court as an institution is responsible for their implementation, it is primarily the job of the Registry³⁹ to adopt measures, such as the necessary provisions in the territories where an investigation is taking place.⁴⁰ The Registry is also responsible for a victim support program that should include, among other things, psychological support, social assistance and advice whenever and wherever the victim is engaged with the Court.⁴¹

Besides the support program, the confidentiality afforded all communications between the victims and the Court, primarily when submitting their applications,⁴² is another of the general measures that the Court has established to assure the victims’ right to safety. It is important to mention that while these applications must be disclosed to the Prosecution and the Defense in the interests of a fair trial, in accordance with rule 87 (2) (b) (Rules of Procedure and Evidence), access to the information they contain

may be restricted by the Court to protect the safety of the victims should the Court determine that such a risk exists.⁴³ To guarantee this confidentiality, the Court may request the Registry to use pseudonyms, facial or voice distortion, videoconferences or to withhold certain information from the public, among other provisions.⁴⁴

The responsibility for the right to protection lies with all the organs of the Court. In some cases, there are specific provisions that require certain organs to take particular steps or to refrain from taking them if they jeopardize the safety of victims. One example of this is the choice of how to inform the victims,⁴⁵ since all the necessary precautions need to be taken to avoid the risks that could arise as a result of their participation in the proceedings of the Court.

Moving on to the individual or personalized protection measures the Court may order, these seem to be reserved exclusively for victims who actually appear before the Court, either by exercising one of their rights or if they are called to testify as witnesses. This is established in the Regulations of the Registry,⁴⁶ which states that the Prosecutor or the legal representative should complete the proper forms requesting the provision of assistance services and inclusion in the protection program maintained by the Registry.⁴⁷ Some of the services offered by this program are: relocation, accompanying support persons and the refunding of extraordinary expenses, among others.⁴⁸

The relocation of victims⁴⁹ is the better known of these individual measures. Nevertheless, we should only expect it to be applied on rare occasions, not as a general protection measure, due to budget and logistical constraints. Concerning the accompanying support persons provided for by the Court, their purpose is to enable victims to approach the Court with more confidence and exercise their rights or testify in its proceedings. The accompanying support person must be authorized by the Registry observing a number of criteria concerning the circumstances of the victim, and objective factors, such as the age of the victim or the existence of some special need.⁵⁰ When determining the suitability of the accompanying person to provide support, the Registry should not pass judgment on whether the person actually requesting the support qualifies as a victim, since the evaluation should ideally be more general and less rigorous. Additionally, when victims come forward at the behest of the Court, the Registry will be responsible for providing the necessary logistical arrangements, such as transport and accommodation,⁵¹ for the purpose of assuring, to the extent possible, their safety.

Furthermore, the Registry has the obligation to maintain a secure electronic database with information on witnesses and victims who appear before the Court and persons at risk, so as to continue their protection.⁵² As

such, the Registry plays an active role in the adoption of protective measures to assure the safety and physical and psychological well-being of victims.⁵³

The right to request reparations

Another of the primary rights of victims in the Court is to claim reparations for the harm sustained as a result of crimes that fall within the jurisdiction of the Court. This right is independent from the right to participation. Therefore, victims or groups of victims who do not wish to participate in Court proceedings, or who did not do so due to lack of information or any other reason, may still exercise their right to request reparations. This right is grounded in article 75 of the Rome Statute.

Just like the right to participation, the right to request reparations is set out in the Rules of Procedure and Evidence⁵⁴ and in the Regulations of the Court and of the Registry. As such, victims wishing to request reparations should do so in writing and preferably using the standard forms developed by the Registry specifically for this purpose, in line with regulation 88 of the Regulations of the Court. Using these forms, victims are required to provide information on the harm sustained, the type of reparations requested and, when possible, the identity of the accused and witnesses, if they are known, among other details. In this process, the Registrar plays an active role to assure that this right is exercised, which is why it can lend assistance obtaining any additional information necessary to justify the decision of the Court and, moreover, help victims complete their requests. The Court, based upon these requests, upon the request of the Prosecutor or on its own motion under exceptional circumstances, may determine in its ruling the scope and extent of the harm sustained by the victims while also explaining the basis for its decision.

According to article 75 (1) of the Rome Statute, the Court will establish principles relating to reparations, which will include restitution, compensation and rehabilitation. The Court, to back up its rulings and develop its reparation principles, is expected to draw on existing international standards on the subject, such as the *Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law*,⁵⁵ as well as the rulings and case law established by international human rights systems.

This means the Court may order the convicted person to make reparations for the harm caused from his or her own assets, while it may also use the Trust Fund for the benefit of victims and their families to cover the reparations. It may award reparations on an individualized basis, a collective basis or, when appropriate, a combination of both, depending on the specifics of the case in hand.⁵⁶

The Court's first interpretations on the rights of victims

In the investigation initiated by the Prosecutor on 23 June 2004 relating to the situation in the Democratic Republic of Congo (hereinafter referred to as "DRC"), a group of six victims individually submitted their application for participation in the proceedings. The Court's decision on these applications gives us its first interpretation of the extent of victims' rights, particularly the right to participation and some of the provisions outlined in previous sections.

What follows is a rundown of the most important aspects of this decision by the Pre-Trial Chamber I (hereinafter referred to as "Chamber" or "PTC I"), which was charged with analyzing the situation in the DRC.⁵⁷ It is worth noting that, before this decision, the Chamber had already handed down other rulings in which it interpreted other provisions related to the rights of victims, namely: it decided on the application of protective measures for victims;⁵⁸ requested additional information;⁵⁹ ordered the calling of a hearing,⁶⁰ among other things.

The decision of the PTC I involved three key questions: (1) whether the right to participation for victims in the proceedings of the Court, in accordance with ICC regulations, includes the investigation stage; (2) if it does permit the participation of victims in the investigation stage, what form should this participation take; and (3) whether the six applicants meet the criteria for being considered victims in the proceedings of the Court.⁶¹

To answer the first question, the PTC I examined the claim made by the legal representative of the victims, submitted together with their applications for participation and emphasizing that these had been presented based on article 68 (3) of the Rome Statute. It also considered the memorandum of the Office of the Prosecutor, which challenged the applicability of this article in the investigation stage, claiming that the proceedings to which the article refers do not include this stage; that the participation of victims during the investigation stage is inappropriate; that the applicants had failed to show that their personal interests had been affected.⁶² The Chamber also considered the arguments of the ad hoc defense counsel.

Concerning the first question, the Chamber examined the text of article 68 (3) of the Rome Statute in both English and French, the Court's two working languages, and concluded that the term "proceedings" does not exclude the stage of investigation and, therefore, that this article gives victims a general right of access to the Court at this stage.⁶³ The Chamber also recognized the independent role granted victims to present their interests and it drew on rulings handed down by regional human rights tribunals to illustrate the importance of the role of victims in criminal proceedings for claiming their rights.⁶⁴

Therefore, the Chamber decided that article 68 of the Statute is also applicable to the stage of investigation⁶⁵ and that the participation of victims does not *per se* jeopardize the appearance of integrity and objectivity of the investigation.⁶⁶ It indicated that what could eventually jeopardize this integrity is the form of the victim's participation, which is why the Chamber determined that it will take such measures that are necessary, whenever victims' rights are exercised, to preserve the integrity of the proceedings. Among these measures, the Chamber appointed an ad hoc counsel for the DRC situation to represent the interests of the defense⁶⁷ during this stage, and also decided to restrict the access of victims to all non-public documents contained in the record.⁶⁸

On the second matter – whether the applicants had shown that their personal interests had been affected at the stage of investigation – the Chamber considered that the interests of victims are affected in general at this stage, since this is when they clarify the constitutive facts of crimes that fall within the jurisdiction of the Court and identify the alleged perpetrators. As such, the participation of the applicants can serve both these purposes and also, in due course, to request reparations for the harm suffered.⁶⁹ Nevertheless, the Chamber also recognized the distinction between situations and cases, which is why in the investigation stage, applicants need to meet the definition of victims set out in rule 85 (Rules of Procedure and Evidence) only in relation to the situation in question. In the trial stage, however, in which the cases are better defined, applicants need to meet the definition established in the same rule, but in relation to the specific cases.⁷⁰ Therefore, the decision of the Chamber is only effective for the investigation stage in relation to the situation in the DRC. This confirms what was mentioned at the beginning of the paper about the possibility of their being different groups of victims, with numbers declining as the proceedings progress.

Added to this, the Chamber interpreted that the status of victim may be awarded to applicants in the stage of investigation if a single instance of harm is definitively proven⁷¹ and there are “grounds to believe” that the alleged harm was caused by the commission of any crime within the jurisdiction of the Court.⁷²

On the subject of the standard forms prepared by the Registry to request participation in the proceedings, the Chamber decided that their use is not compulsory and that applications may be submitted by an organization that has the consent of the victim.⁷³ Therefore, after analyzing each of the victims' applications, the Chamber decided that the applicants ought to be recognized as victims in the stage of investigation, that their participation ought to be permitted during this stage and it also dictated the manner of this participation: victims were permitted to present their views and concerns, file documents and request the Chamber to adopt specific measures.

It is important to mention that, on 23 January 2006, the Office of the Prosecutor requested authorization from the Chamber to appeal this decision before the Appeals Chamber, since it considered the interpretation of the Chamber on the rights of victims to be incorrect.⁷⁴ In response to this request, the representative of the victims presented its own observations that were conveyed to both the Office of the Prosecutor and to the ad hoc defense counsel. All these submissions were analyzed by the PTC I, which in its decision rejected the request of the Prosecutor.⁷⁵ Finally, with the start of the trial of Mr. Thomas Lubanga Dylo, a case deriving from the situation in the DRC, three victims presented requests to be recognized as such in this case,⁷⁶ although this decision of the Chamber, on the date this article was completed, was still pending.⁷⁷ In its decision, the Chamber will have to determine whether the victims authorized to participate in the stage of investigation now meet the criteria of rule 85 (Rules of Procedure and Evidence) for the case in question.

The framework of the Court to fulfill its mandate towards victims

The Court organized its structure in such a way as to fulfill its mandate towards victims that is derived from the various provisions already examined in the previous sections. The Court, independent of the actions taken by each of its organs to respond to their obligations *vis-à-vis* victims, created a specific structure under its Registry, since this is the body primarily responsible for facilitating and lending assistance to victims who wish to exercise their rights. Therefore, this section will address primarily the structure of the Registry and, in a similar vein, the creation of independent organs that are linked to this mandate of the Court.

The Registry has two principal offices to address this mandate: the Victims and Witnesses Unit (VWU) and the Victims Participation and Reparations Section (VPRS). What follows is an explanation of the tasks attributed to each of them.

The Victims and Witnesses Unit

The Victims and Witnesses Unit (hereinafter referred to as “Unit”) is provided for in article 43 (6) of the Statute. Its main function is to ensure the security of victims and witnesses, and all other persons who may be at risk on account of the testimony given by the witnesses. This protection, as we have already seen, begins with the Court promoting and adopting institutional policies to assure the physical and psychological well-being of victims, and it also includes

specific measures to reduce the potential risks victims face as a consequence of appearing before the Court.

The Unit has the responsibility, moreover, to recommend that all organs of the Court in contact with victims adopt the necessary measures to guarantee their right to protection,⁷⁸ as well as to prevent the contact of victims and witnesses with the Court from being in itself a traumatic experience. As such, it gives special consideration to victims of crimes of sexual violence and to minors who appear before the Court.⁷⁹

Furthermore, to the extent possible, the Unit coordinates its activities with the functions of the Office of the Prosecutor to help ensure that victims who appear before the Court are treated with dignity and the suffering they have experienced is taken into consideration.

Finally, this Unit is responsible for implementing the protection measures and programs mentioned in the section on the right to protection, and it should make recommendations to the Registrar on the adoption of certain measures based on an examination of the risk. For this reason, it may present observations, upon request by the relevant Chamber, that provide insight to help clarify the situation of risk in which victims find themselves on account of their involvement with the Court.⁸⁰

The Victims Participation and Reparations Section

The Victims Participation and Reparations Section (hereinafter referred to as “Section”) was created based on regulation 86 (9) of the Regulations of the Court for the purpose of helping victims fully exercise their rights to participation and to request reparations. Therefore, it is responsible for providing the necessary assistance to victims in all stages of proceedings.

To fulfill this duty, the Section has developed informative material and a guidance booklet to help victims exercise their rights; it has prepared standard forms to apply for participation and reparations; and it is responsible for holding training and awareness-raising seminars for victims and their representatives, particularly in places where the Court is intervening. Consequently, it aims to help victims make an informed use of their rights and understand their scope; contribute towards a better understanding of the mandate of the Court; and, at the same time, prevent victims from entertaining false expectations about what the Court can do for them.

The Section is responsible for processing the applications that are received, conveying the information they contain to the relevant Chamber and compiling the report already referred to in the section on participation.

It is also responsible for helping victims choose common legal representatives, which, once again, has already been referred to in this paper. Finally, the Section may, upon request, present its observations to the Chamber on any matter that will help the Court decide on the applications of victims.

*The Trust Fund for the benefit of
victims and their families*

States Parties decided to establish in the Rome Statute a Trust Fund (hereinafter referred to as “Fund” or “Trust Fund”) for the benefit of victims of crimes within the jurisdiction of the Court and their families to help the Court perform its reparatory function. The Fund was instituted by article 79 of the Statute, which establishes its independence in relation to the Court. The Fund, created by the Assembly of States Parties to the Rome Statute (hereinafter referred to as “Assembly” or “ASP”) on 9 September 2002,⁸¹ may obtain its funds from three sources, namely: (1) the seized assets of the accused/convicted persons, collected through fines and forfeitures; (2) reparation orders; and (3) the voluntary contributions from States or institutions, organizations and individuals.⁸²

The Assembly approved recently, on 3 December 2005, the Regulations of the Fund,⁸³ which govern the mandate for providing reparation and assistance for victims. This Fund has a Board of Directors formed by five individuals of high moral character that, on an honorary basis, are responsible for handling the money and for the smooth running of the Fund. Moreover, the Assembly established a secretariat to oversee the daily workload of collecting funds and preparing proposals for activities and projects that will serve to comply with the reparation orders of the Court or that may be adopted with the use of the voluntary contributions for assistance to victims, inasmuch as the regulations permit.

Although this Fund is an independent organ that complements the work of the Court, States Parties established, in the regulations, an operating procedure that respects the autonomy of this organ but subjects it to the decisions of the respective Chambers at different junctures, before it can carry out its activities assisting victims.

At this point in time, we do not yet know the scope that the members of the Board of Directors will give the activities of the Fund in their interpretation of its mandate, nor the point of view that the Court will adopt on this function. It should be remembered that the Fund was established for the benefit of victims of crimes within the jurisdiction of the Court and their families. We can, therefore, anticipate that a broad

interpretation of its mandate would allow it to cover victims of the situation and become part of the question on how to address the problem of different groups of victims. Nevertheless, a more restrictive interpretation would presume that the Fund should only benefit the victims of the person convicted by the Court, with all the admonition that this type of interpretation would imply.

The Office of Public Counsel for Victims

The Regulations of the Court provide for the creation of an Office of Public Counsel for Victims.⁸⁴ This office is independent from the Registry of the Court⁸⁵ and its duty is to provide support and assistance to victims and their legal representatives when appearing before the Court. The services provided by the Office include specialized legal advice and research, and appearing before a Chamber in respect to specific issues, all for the purpose of ensuring that victims exercise their rights before the Court

The Office is expected to facilitate the work of victims' legal representatives in proceedings before the Court, when victims are recognized as such in a situation or a case. The Office is responsible for maintaining the list of counsel and assistants authorized to act before the Court, a list that should be made available to victims, as expressed in previous sections. The members of this Office may even assume the representation that is covered by the Court through financial assistance, which is referred to in the section on legal representation.

In other words, the main function of the Office is to bridge the gap between the victims and their representatives and the Court, since the latter's location in the city of The Hague implies a natural distance from the victims of situations and cases that are under investigation. For these reasons, employees of the Office are even expected to attend the hearings and conduct the defense or the presentation of the observations and interests of the victims.

Finally, it is worth mentioning that, on an operational level, the different organs of the Court, through different facilities, units or sections, meet in working groups to resolve issues related to victims and to coordinate, to the extent possible, their actions at the location of the crime and inside the Court. This practice is of utmost importance, since in theory it should improve the liaison between the Office of the Prosecutor and the Registry, as these are the two organs that will establish the initial contact with victims, as a result of the investigation or the publicity and training measures at the location of the crime. From this first contact, the Court should conduct itself with the necessary sensitivity and in such a way that its actions do not add to the risks of victims.

Conclusions

The International Criminal Court offers an innovative and complex system of justice that considers victims' rights and regards victims as an autonomous part of the proceedings. While these rights may not be absolute, since they are subject to the guarantees of a fair and impartial trial, they should be considered a breakthrough in the international criminal justice system proposed by the Court. This breakthrough presents a new challenge for the Court, which should be managed in such a way as to legitimize its actions.

To deliver all these rights and permit victims to exercise them, the Court, through its various organs, needs to take the necessary steps to ensure they are upheld. Therefore, the Court undertakes, to the extent possible, the task of helping victims understand the importance of their role in securing justice. This will only be achieved by launching a publicity and awareness-raising campaign that enables victims to understand the jurisdiction of the Court, its mandate and its limitations, one that emphasizes that this system of justice recognizes and guarantees their rights. The Court should also understand the needs of the victims so it can respond to them and raise their confidence in international justice as a useful tool in the processes of reconciliation and peace, one that can help in the difficult task of reconstructing the social fabric affected by heinous crimes.

In this vein, the first rulings of the Court have set precedents that by and large meet the expectations placed upon it concerning the exercise of victims' rights. And we can expect these judicial precedents to become enriched as the proceedings progress and the Court deliberates on other cases. Civil society organizations, meeting in the form of the Victims' Rights Working Group, will lend continuity to all victim-related subjects in the ICC and they still lobby for the Court to adopt the measures necessary to live up to the responsibility entrusted to it towards victims.⁸⁶

Furthermore, the Court has sparked debate over the need for national legislations that have not already done so to consider including the rights of victims in their criminal procedures independently, as well as taking the necessary steps to ensure they are exercised, and as such not let the Court be the only place where victims can have their rights recognized and respected.

NOTES

- 1.** UN, Doc. A/CONF.183/9, adopted on 17 July 1998 and entering into force 1 June 2002.
- 2.** The Court is currently conducting investigations on situations in Uganda, Darfur (in Sudan) and the Democratic Republic of Congo. Investigations into the latter situation have led to the first case, No. 01/04-01/06, "The Prosecutor v. Thomas Lubanga Dyilo". For more information, go to the official ICC website, <www.icc-cpi.int>, accessed on September 12, 2006.
- 3.** One of the few articles written in Spanish on the topic is penned by Gilbert Bitti and Gabriela Gonzalez, "La participación de las víctimas ante la Corte Penal Internacional", in José Guevara and Tarciso Del Maso, *La Corte Penal Internacional: una visión Iberoamericana*, Mexico, Editorial Porrúa, 2005, pp. 669-684.
- 4.** To consult the texts of the preparatory work of the Conference of Plenipotentiaries and post-Conference developments, go to <<http://www.un.org/spanish/law/icc/>>, accessed on September 12, 2006.
- 5.** Various civil society organizations, primarily those in the area of human rights, have lent continuity to the negotiations that led up to and followed the adoption of the Rome Statute. The Coalition for the International Criminal Court coordinated the efforts of these organizations and nowadays they continue working to ensure that the ICC is a fair, effective and independent institution. For more information on the work of the Coalition, go to <www.iccn.org>, accessed on September 12, 2006.
- 6.** International Criminal Court, Doc. ICC-ASP/1/3 (Part II-A), adopted by the Assembly of States Parties on September 9, 2002.
- 7.** International Criminal Court, Doc. ICC-BD/01-01-04, adopted by the International Criminal Court on 26 May 2004 and modified (ICC-BD/01-01-04/Rev.01-05) on 9 March 2005.
- 8.** International Criminal Court, Doc. ICC-BD/03-01-06, adopted by the International Criminal Court on 6 March 2006. This document was only available, on the date this paper was published, in English and French. The translation of these regulations in the Spanish version of this paper was done by the author and should not be considered an official translation.
- 9.** Some of the provisions that make explicit reference to the victims are: Statute articles: 15 (3), 19 (3), 68 (3), 64, 65 (4), 82 (4), 43 (6), 75 (3), 79, 82, 76 (3), 57 (3) (e) and 93 (1) (k); rules: 16, 49, 50, 59, 81 (3), 85, 87 (2), 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 101 (1), 107, 119 (3), 131 (2), 132 (1), 143, 144 (1), 148, 150, 151 (2), 156 (2), 217, 218 (4), 219, 221, 223 and 224; regulations: 2, 21, 24, 32, 38, 39, 41, 42, 50, 54 (o), 56, 79, 80, 81, 82, 83, 85, 86, 87, 88, 101, 116 and 117; regulations: 2, 18, 21 (2), 28 (2), 36 (3), 43 (3), 47, 51 (d), 64 (4), 65 (4), 79 (2), 80, 81 (1), 82, 83, 84, 88 (1), 89, 90 (1), 91, 92, 93, 94, 95, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 109, 110, 112, 113, 114, 115, 116, 118, 122 (2) (d) and 163 (3); however, many other provisions in these pieces of legislation also apply *mutatis mutandis*.
- 10.** The texts of these instruments may be consulted on the website of the Court <http://www.icc-cpi.int/about/Official_Journal.html>, accessed on September 12, 2006, in its official and working languages. For the purposes of this paper, "articles" refers to the provisions contained in the

Rome Statute; "rules" to the provisions contained in the Rules of Procedure and Evidence; "regulations" to the provisions of the Regulations of the Court; and "regulations" to the provisions of the Regulations of the Registry.

11. The precedent for this definition was the *Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*, adopted by General Assembly resolution 40/34 of 29 November 1985, and which defined victims as: "persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power. 2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization": <http://193.194.138.190/spanish/html/menu3/b/h_comp49_sp.htm>, accessed on September 12, 2006.

12. "[...] the 'victims' guaranteed right of access to the Court entails a positive obligation for the Court to enable them to exercise that right concretely and effectively. [...]", International Criminal Court, ICC-01/04-101-tEN-Corr, par. 71. Available at: <www.icc-cpi.int/library/cases/ICC-01-04-101_tEnglish-Corr.pdf>, accessed on September 14, 2006.

13. International Criminal Court, Doc. ICC-01/04-101-tEN-Corr.

14. In the Spanish version of the Regulations of the Court, these standard forms are called "modelos-tipo".

15. International Criminal Court, Regulations of the Registry, Doc. ICC-BD/03-01-06, regulation 104.

16. According to regulation 86 (2), the information to be provided by the applicant includes: general information about the victim, a description of the harm suffered, a description of the incident, the reasons why they consider their personal interests were affected, the stage of the proceedings in which they wish to participate and whether they have legal representation, among others.

17. International Criminal Court, Regulations of the Registry, Doc ICC-BD/03-01-06, regulation 105.

18. Ibid, regulation 109.

19. Ibid, regulations 107(3) and (4).

20. The status as a victim recognized by the Court refers only to the proceedings of the Court and in no way affects a person's status as a victim in a different jurisdiction, such as on a national level or as recognized by a different international body.

21. Some Spanish-speaking authors have labeled the rights to participation contained in articles 15 (3) and 19 (3) as "specific rights", in contrast to the "general right" granted by article 68 (3). Rome Statute, Gilbert Bitti and Gabriela Gonzalez, op. cit., page 673.

22. See as an example rule 91 (2), International Criminal Court, Rules of Procedure and Evidence, Doc. ICC-ASP/1/3 (part II-A), which establishes that "2. A legal representative of a victim shall be entitled to attend and participate in the proceedings in accordance with the terms of the ruling of the Chamber and any modification thereof given under rules 89 and 90. International Criminal Court, Rules of Procedure and Evidence, Doc. ICC-ASP/1/3 (part II-A). This shall include participation in hearings unless, in the circumstances of the case, the Chamber concerned is of the view that the representative's intervention should be confined to written observations or submissions. The Prosecutor and the defense shall be allowed to reply to any oral or written observation by the legal representative for victims".

23. International Criminal Court, Rules of Procedure and Evidence, Doc. ICC-ASP/1/3 (part II-A), rule 90 (1).

24. Idem, Regulations of the Court, Doc. ICC-BD/01-01-04/Rev.01-05, regulation 67.

25 Ibid., regulation 68.

26. Ibid., regulations 69, 70, 71, 72 and 73. International Criminal Court, Regulations of the Registry Doc. ICC-BD/03-01-06, regulation 122.

27. International Criminal Court, Rules of Procedure and Evidence Doc. ICC-ASP/1/3, rule 90 (1).

28. Idem, Regulations of the Court Doc. ICC-BD/01-01-04/Rev.01-05, regulations 79 and 80.

29. Idem, Regulations of the Registry Doc. ICC-BD/03-01-06, regulation 112.

30. Idem, Regulations of the Court Doc. ICC-BD/01-01-04/Rev.01-05, regulation 79 (2) and (3).

31. Ibid., regulations 83, 84 and 85.

32. International Criminal Court, Regulations of the Registry Doc. ICC-BD/03-01-06, regulation 113.

33. Idem, Rules of Procedure and Evidence Doc. ICC-ASP/1/3 rule 16 (1) and IDEM, Regulations of the Registry Doc. ICC-BD/03-01-06, regulations 102 and 103.

34. This obligation to notify the victims is bound by article 53 (1) and (2) and article 15 (3), which regulate the powers of the Prosecutor (International Criminal Court, Rome Statute, Doc. A/CONF.183/9).

35. International Criminal Court, Regulations of the Registry, Doc. ICC-BD/03-01-06, regulation 102.

36. Ibid., regulation 103.

37. Ibid., regulation 101.

38. International Criminal Court, Rules of Procedure and Evidence Doc. ICC-ASP/1/3, rules 17, 18, 87 and 88.

39. Idem, Regulations of the Registry Doc. ICC-BD/03-01-06, regulations 79 to 96.

- 40.** Ibid., regulation 93.
- 41.** Ibid., regulations 83 and 89.
- 42.** Ibid., regulation 97.
- 43.** Ibid., regulation 99.
- 44.** Ibid., regulation 94.
- 45.** International Criminal Court, Rules of Procedure and Evidence, Doc. ICC-ASP/1/3, rule 50.
- 46.** Idem, Regulations of the Registry, Doc. ICC-BD/03-01-06, regulation 80 (1).
- 47.** Ibid., regulation 96.
- 48.** Ibid., regulation 80.
- 49.** International Criminal Court, Rules of Procedure and Evidence, Doc. ICC-ASP/1/, rule 16.
- 50.** International Criminal Court, Regulations of the Registry, Doc. ICC-BD/03-01-06, regulation 91.
- 51.** Ibid., regulations 81 and 82, respectively.
- 52.** Ibid., regulation 88.
- 53.** Ibid., regulation 100.
- 54.** International Criminal Court, Rules of Procedure and Evidence Doc. ICC-ASP/1/, rules 94 and following.
- 55** UN General Assembly, Resolution Doc. 60/147. Resolution approved by the UN General Assembly on 16 December 2005.
- 56.** International Criminal Court, Rules of Procedure and Evidence Doc. ICC-ASP/1/3, rule 97.
- 57.** International Criminal Court, ICC-01/04-101-tEN-Corr. The public version of the decision of the Pre-Trial Chamber I, of 17 January 2006, is available in English and French only, at the previously stated electronic address: *Op. cit* 12.
- 58.** Idem, ICC-01/04-73. Available at: <www.icc-cpi.int/library/cases/ICC-01-04-73_English.pdf>, accessed on September 14, 2006.
- 59.** Idem, ICC-01/04-101-tEN-Corr, par. 4.
- 60.** Ibid., par. 8.
- 61.** Ibid., par. 22.
- 62.** Ibid., par. 25.
- 63.** Ibid., par. 46.
- 64.** Ibid., par. 51 and 53.
- 65.** Ibid., par. 54.

- 66.** Ibid., par. 57.
- 67.** Ibid., par. 70.
- 68.** Ibid., par. 76.
- 69.** Ibid., par. 63.
- 70.** Ibid., par. 66.
- 71.** “[...] Pre-Trial Chamber I considers, moreover that the determination of a single instance of harm suffered is sufficient, at this stage, to establish the status of victim.” Ibid., par. 82.
- 72.** “[...] at the situation stage, the status of victim may be accorded only to applicants in respect of whom it has ‘grounds to believe’ that they meet the criteria set forth in rule 85 (a) of the Rules.” Ibid., par. 99.
- 73.** Ibid., par. 102, 104 and 105.
- 74.** International Criminal Court, ICC-01/04-103. Available at: <www.icc-cpi.int/cases/RDC/s0104/s0104_docOTP.html> and <www.icc-cpi.int/updates4.html>, accessed on September 14, 2006.
- 75.** Idem, ICC-01/04-135. Available at: <www.icc-cpi.int/library/cases/ICC-01-04-135_tEnglish.pdf> and <www.icc-cpi.int/cases/RDC/s0104/s0104_doc.html>, accessed on September 14, 2006.
- 76.** Idem, ICC-01/04-144-Conf-Exp-tEN, ICC-01/04-145-Conf-Exp-tEN and ICC-01/04-146-Conf-Exp-tEN, respectively. Available at: <www.icc-cpi.int/library/cases/ICC-01-04-01-06-319_tEnglish.pdf> and <www.icc-cpi.int/library/cases/ICC-01-04-151_English.pdf>, accessed on September 14, 2006.
- 77.** All the decisions related to the situation in the DRC and to the proceedings of cases deriving from it may be consulted on the ICC website: <http://www.icc-cpi.int/cases/current_situations/DRC.html>, accessed on September 14, 2006.
- 78.** International Criminal Court, Rome Statute Doc. A/CONF.183/9, article 68 (4).
- 79.** Idem, Rules of Procedure and Evidence Doc. ICC-ASP/1/3, rules 17 and 18.
- 80.** International Criminal Court, ICC-01/04-101-tEN-Corr, par. 12.
- 81.** International Criminal Court, Resolution ICC-ASP/1/Res. 6.
- 82.** Idem, Rules of Procedure and Evidence, Doc. ICC-ASP/1/3, Rule 98.
- 83.** International Criminal Court, Resolution ICC-ASP/4/Res. 3.
- 84.** International Criminal Court, Regulations of the Court, ICC-BD/01-01-04/Rev.01-05, regulation 81.
- 85.** Idem, Regulations of the Registry, Doc. ICC-BD/03-01-06, regulation 115.
- 86.** For more information, go to <www.vrwg.org>, accessed on September 12, 2006.