

I first want to express my appreciation to our hosts, the University, the Institute, NPWJ, and the government of Malta. HG Wells in one of his famous remarks commented that the history of civilization is a race between education and disaster. It is in this context that conferences like this one are so important - which bring together experts and leaders of civil society, academia, government and media to appraise and assist in the historic process now proceeding to establish a permanent world tribunal holding individuals responsible for violations of the most heinous crimes against humankind.

If we - progressive members of the above-mentioned sectors - succeed in our quest to have the ICC statute adopted in Rome during the next year, the ICC will be the last major international organization established during the twentieth century - the most war-ridden and bloody century in all history.

I must say I speak today under two hats - as Convenor of the international NGO Coalition for the Establishment of an International Criminal Court (CICC), and as Executive Director of the World Federalist Movement (WFM) - Institute for Global Policy, a small international movement begun in 1947 to promote peace and democratic rule of law in international affairs.

The Coalition was begun in early 1995. WFM had been asked by Amnesty to convene a meeting of NGOs at the UN in New York to discuss the upcoming UN meetings to discuss the draft ICC statute prepared by the International Law Commission. At the conclusion of that meeting, attended by some thirty NGOs, it was agreed to form a coalition for which WFM was asked to serve as the secretariat and I as convenor.

The major international NGOs did not want to organize a new formal or legal entity, requiring the adoption of statutes and by-laws, creation of a legal governing board, etc., in part because the representatives believed it could take years to secure their organizations' governing boards approval to participate. WFM has

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been very honored to have this role and responsibility. We have an informal Steering Committee, on which NPWJ serves, consisting of the most active members of the Coalition who have representation at the UN Headquarters where the ICC negotiations have taken place. The Steering Committee assures that WFM has the guidance and support of its members in carrying out its mandate.

To belong to the Coalition, an NGO must request membership and support, in principle, the establishment of an independent, fair and effective ICC. The Coalition itself does not take positions, a requirement that Human Rights Watch and others insisted upon at the beginning, one which allows groups to be able to join without lengthy internal consultations, and which allows the maximum independence of the Coalition's members and working groups.

Because this policy is confusing to some, especially academicians who are not expert on the workings of NGOs and intergovernmental bodies, I want to mention two other reasons why the CICC does not take positions as a coalition.

First, as a corollary to their independence, NGOs often simply do not have the same positions on all issues. In a matter so complicated with legal, technical, and political considerations, differences in opinions cannot be avoided. For example, NGOs from civil and common law backgrounds could be expected to disagree on the best formulation for merging the two legal systems into a fair and harmonious new world legal system.

Second, by remaining "neutral" the Coalition gives those governments and UN officers the greatest ability to argue for the **principles** supporting the participation of non-state experts in this historic process and negotiation. If the Coalition itself took positions against and campaigned in opposition to those of a particular government or governments, it would be very difficult to oppose those government's efforts to exclude the NGOs from the negotiating process. Thus, by remaining "neutral", the Coalition actually increases the political space and strengthens the capacity of all NGOs to argue their positions.

Our members, however, do take strong positions on many issues. And our members often join in "sign-on" statements on particular issues.

The Coalition now comprises literally hundreds of NGOs from all regions of the world and sectors of society. Relatively small groups like mine benefit enormously from being associated with leaders like Adama Dieng of the ICJ who join us in our common efforts at the negotiations. NGOs like the ICJ have expertise and focus on the

key issues which often serve as the basis for the positions of progressive governments. I can say with some confidence, that perhaps until very recently, virtually no government or NGO, except WFM on behalf of the Coalition, had anyone working on the ICC full time. Indeed, many government's legal advisors are so overloaded with a multiplicity of commitments, they truly appreciate the comprehensive, non-nationalistic, expert papers prepared by NGOs.

Without the in-depth treatment of issues by non-state experts, including academicians, the basis of reasoning and debate in the negotiations would be substantially narrowed.

One of the main purposes and roles of the Coalition is to foster and disseminate these expert documents and position papers, providing NGOs and governments alike, with not only the up-to date information on developments, but access to the best thinking on issues.

Throughout the last two years of negotiation, the Coalition organizes meetings with national and regional delegations to the ICC preparatory committees (prepcoms). The Coalition meets in advance to discuss how to conduct the meetings, discussing what are the most important issues to raise with a government, and often orchestrating our presentations and questions to achieve maximum logic and effect.

Supplementing the general meetings of the Coalition, which include between 50-100 NGOs, are meetings of the working groups and caucuses, such as the women's caucus, the caucus of NGOs working on victims issues, and the religious groups working group. Further, the Coalition has helped form national networks, such as the ones in Canada, the USA and Italy. Since our initial meeting, CICC members have approached the ICC process as one with multiple stages: from the ad hoc discussions of the International Law Commission draft Statute to formal Preparatory Committee meetings (prepcoms), from the prepcoms to the treaty conference, from the treaty conference to ratification, and finally organization of the Court.

The Coalition, recognizing the importance and inter-linkages between the ad hoc tribunals (ICTY-ICTR) has strongly supported those processes and efforts to integrate the expertise, best aspects of the tribunals, their statutes and jurisprudence into the ICC negotiations and drafting.

The Coalition, with the support of its members, foundations, private individuals, and progressive governments also reaches out to involve experts from the least developed countries and to form national and regional networks throughout the world.

And the Coalition, in addition to holding briefings for the international press at the UN during each prepcom, is now attempting to develop a more comprehensive international strategy for promotion of awareness of this historic negotiation amongst the world press and media, targeting key national capitals.

The statement by one important government delegation representative, that the NGO Coalition was the “largest and most powerful delegation” in the negotiations is surely an overstatement, but that we are a major “player” in the process cannot be denied. Our attendance and consultative offerings are taken seriously. The NGO involvement in the ICC negotiations is building upon the recent practice of NGOs becoming involved in international intergovernmental negotiations from the beginning, literally from the adoption of procedural resolutions, following closely every step and paragraph of the ‘drafting’ process. It is important to note that the CICC and NGOs are not seeking a negotiating role, but a consultative role at the negotiations.

NGOs now monitor and compare the public statements of governments in national capitals with their statements at the negotiations. As a result of the formal decision by governments taken in plenary in February 1997 to allow NGOs to attend not only the plenaries but also the working groups, NGOs are able to follow the vicissitudes of the international negotiating process much more intimately than in the past. Of course, NGOs are excluded from many of the closed informal meetings between governments. But, the days of total exclusion from international treaty processes, wherein NGOs could only stand outside like expectant fathers waiting to hear what has been delivered by governments, is past.

Academicians at this conference should know that the ICC process is much further along than you can ascertain from the official documents. With all due respect, the negotiations are far beyond theoretical, academic stage now. Intellectual and idealistic “shoulds and whys” are irrelevant, replaced by the hard “cans” and “hows” of political engineering.

In this respect, the Coalition is often working closely with the largest of the negotiating blocs, the so-called “like-minded” group of countries which represents officially some 38 nations, but some, like Trinidad and Tobago, itself represents 13 **caricom** (caribbean) countries. The Coalition, through its members, is deeply involved in discussing different proposals and strategies with the progressive governments.

We will be in Rome, attending and lobbying the governments

throughout the treaty meeting. NGOs do not really represent but reflect the broad sectors and voices of global civil society. Whether the world community will successfully negotiate the establishment of this new world court will largely be determined by whether the leaders of the world's governments are listening only to those voices of nationalism and self-interest, or to those voices calling for the replacement of the rule of brute force with the rule of just law. We represent these latter voices.