

Workshop on

INDIA AND THE INTERNATIONAL CRIMINAL COURT

27th November 2006, Patiala

REPORT

A workshop titled “India and the International Criminal Court” was held on the 27th of November 2006 at Patiala, Punjab. The workshop was co-organized by the ICC- India campaign, a project of Women’s Research & Action Group (WRAG), Mumbai and the Rajiv Gandhi National University of Law (RGNUL), Patiala. The objectives of the half-day workshop were to understand the concept, fundamentals and the working of the ICC. It also aimed to explore the specific relevance of the ICC for human rights issues occurring within India. The participants of the workshop included the faculty of institutions from Amritsar, Patiala and Chandigarh and about eighty students.

Dr. Gurjeet Singh, Vice- Chancellor, RGNUL conducted the first session where he talked about the ‘History and Formation of the ICC’. Dr. Gurjeet, who recently wrote a book on the framework and the history of the ICC, explained the history of the ICC quoting the events during the Nuremberg, Rwanda and Yugoslav tribunals and outlined the principles that emerged as a result of these incidents. He talked about the structure of the International Criminal Court, its functioning and its role of maintaining peace in the world today. He also explained the difference between ICC and International Court of Justice. He concluded by drawing a comparison of the myths and realities of the ICC

The next presentation was made by **Ms. Pouruchisti Wadia**, consultant ICC- India Campaign, on the ‘Fundamentals of the ICC’. She highlighted aspects relating to principles underlying the ICC, such as individual criminal responsibility, complementarity, inherent jurisdiction, command and superior responsibility, non-retroactivity, no immunity and non-imposition of death penalty. She also elaborated on the crimes that the ICC would prosecute, persons whom the ICC can prosecute and the trigger mechanisms for cases to be taken to the ICC.

Following this, **Ms. Saumya Uma**, Coordinator, ICC- India Campaign, spoke about ‘India and the International Criminal Court’. She started by giving the participants a visual tour of the ICC which included pictures of the court, the prosecutors, the president and the judges. She elaborated on the Indian government’s engagement with the ICC, its concerns and arguments against the ICC and the campaign’s responses to the concerns raised. She also countered the official proclamation of India about its great human rights record, and highlighted several instances of mass crimes within India – including caste-based violence, religion-based violence and state violence to crush voices of dissent – for which the legal machinery has failed to make the perpetrators accountable. She discussed the role of ICC in making a dent at this prevailing climate of impunity by acting as a deterrent. She further pointed out the lacunae in substantive, procedural and evidentiary law in India that contribute to an absence of justice in situations of mass crimes, and the potential of using the ICC to strengthen the domestic legal machinery through law reform. Saumya further talked about ways in which India would benefit if it

acceded to the ICC Statute. She concluded her presentation by outlining the work of ICC-India since its inception in the year 2000.

The last speaker was **Aditya Swarup**, a student of the NALSAR University of Law, Hyderabad, who talked about 'Students' Role in the ICC- India Campaign'. He highlighted the potential for students' contribution to the ICC- India campaign through law research and information dissemination. The campaign has always been open to student participation, and interested students with potential have had an opportunity to make presentations in the workshops conducted by ICC-India, he said. He announced that a newsletter of ICC-India would be commenced in January 2007, which would include articles on ICC and India, updates on the situations presently handled by the ICC, announcements and reports of ICC-India's events and related issues. Students could contribute articles to this newsletter, he said. He proposed the commencement of a students' group within the ICC-India campaign in order to take the campaign's objectives forward within the students' community. This would facilitate initiating discussion forums, study circles, research projects, debates and other such activities on the ICC within educational institutions, he opined.

The discussions that followed focused on the relevance of the ICC in India, the legal foundation for the ICC, its implementation mechanisms, facilities for detention and imprisonment of convicted persons, drawbacks of the ICC and aspects of the ICC that had the potential for further improvement. Queries were raised about who and how "unwillingness to prosecute" would be determined, as this formed the crux of the ICC entertaining a particular case. Students were also keen to know about the internship program of ICC-India, which was explained. The workshop ended with a vote of thanks from Professor G.I.S. Sandhu, the Director-cum-Registrar of RGNUL and the distribution of certificates to participants.

Prepared by ICC-India, 7 December 2006

For feedback and responses, please write to iccindiacampaign@gmail.com

For those who wish to join 'Students for ICC-India', please write to studentsiccindia@gmail.com