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ICC-INDIA: THE INDIAN CAMPAIGN ON INTERNATIONAL CRIMINAL COURT

PRESS STATEMENT, 2 January 2003

INDIA JOINS THE UNITED STATES IN ITS WAR AGAINST THE ICC

At a time when eighty-seven countries around the world have shown their support for establishing the International Criminal Court (ICC), India has moved a giant step backwards. On 26th December 2002, it entered into an agreement with the United States not to extradite each other's nationals to "any international tribunal without the other country's express consent." The agreement has been signed at the initiative of the United States and gives a tremendous boost to the US efforts at sabotaging the establishment of the Court.

On 10th July 2002, India was the only country to enthusiastically support an American resolution in an open debate in the Security Council at the United Nations aimed at exempting its peacekeepers from the jurisdiction of the ICC. The debate ended with the Security Council passing a resolution that exempts all peacekeepers from the jurisdiction of the ICC for a renewable period of one year. With peacekeepers already exempt, one is left to question India's motive to enter into such an agreement as expressed by the Indian Foreign Office spokesman - that India has concerns relating "to its Army personnel involved in international peacekeeping operations."

The anti-ICC efforts of the US government have invited sharp criticism from the international community. The European Union has denounced the American "impunity agreements" as inconsistent with international law. Despite the arm-twisting tactics used over last two years, the United States has managed to secure such agreements from only sixteen countries. However, the agreement with India is its major victory as all other agreements have been with small and economically developing countries.

Human rights defenders from India advocating for the ICC reacted strongly against the agreement. Vahida Nainar, a lawyer and activist involved in a larger effort to integrate gender concerns in the ICC for the past four years said, "The agreement marks an unprecedented shift away from India's emphasis on justice, human rights and rule of law in global politics. It is deplorable to watch India wear the imaginary garb of a superpower and align itself with the US interests."

"ICC-India", which initiated the Indian campaign on ICC two years ago, today finds growing support from the Indian human rights movement towards ratification of the ICC Treaty. Mihir Desai, Executive Director of India Centre for Human Rights and Law, Mumbai, said: "India's ratification of the ICC Treaty is a way of creating an international obligation for criminal acts committed by persons within the country." Henri Tiphagne, Executive Director of People's Watch – Tamilnadu, comments: "The urgent need for a

campaign on the ICC in India arises from the need for accountability, justice and rule of law.”

The recent International Initiative for Justice in Gujarat has demanded in its interim report that India accedes to the Rome Treaty of the ICC and simultaneously introduces its provisions in domestic law. Ms. Nainar continued, “Seen in the context of the genocidal pogrom unleashed against the minorities in Gujarat since February this year, the agreement is an effort to avoid applicability of international jurisdiction for the most heinous crimes, one of the fundamental principles of customary international law, over its nationals, particularly those with political clout and patronage.”