INTRODUCTION

This is the final report of the American NGO Coalition for the International Criminal Court (AMICC) on the 2015 session of the Assembly of States Parties of the International Criminal Court. – ASP 14. It is drawn almost entirely from the excellent reporting of AMICC’s delegation.

This report is not comprehensive. It rather concentrates on issues and events at ASP 14 which are priorities for AMICC because they are important to advocacy for the International Criminal Court (ICC) in the United States. The ASP itself adopted a final report and as well several NGOs in the United States will publish extensive reports on ASP 14. Since in this report there is consequently no continuous narrative about the session, the discussions of AMICC’s priority issues and events are arranged alphabetically.

The Assembly, similar to such bodies in other international organizations, is the governing and legislative body through which the States Parties, or national members of the Court which have signed the Rome Statute, its founding treaty, carry out the responsibilities the Statute has given them. In the ASP they exercise oversight, approve budgets, elect judges and other senior Court officials and monitor the performance and efficiency of the Court. Under the Statute, the Assembly is not to interfere in the independence of the judges or of the Prosecutor.

The Assembly has only one permanent standing committee that reports directly to the Assembly, the Committee on Budget and Finance (CBF). The ASP’s other subordinate bodies are Working Groups in New York and The Hague, each with an agenda of issues in the Assembly’s mandate. These Working Groups do not report directly to the Assembly, but rather to its officers and their staff, known collectively as the “Bureau.” Specialized subgroups headed by “facilitators” report to a Working Group. This arrangement reflects the organizational structure of the negotiations to create the Rome Statute. Many observers believe that in consequence since the CBF is the sole standing committee and because all ICC matters have some relevance to the budget, the CBF considers and in its reports pronounces, on substantive issues (e.g. victims’ participation in trials) that are not primarily in its mandate.

As ASP 14 began, it was evident that two overhanging issues were whether the budget would be adequate to the legitimate needs of the Court and whether Kenya and allied African countries would prevail in an effort to get the Assembly to interfere in the trial of Kenya’s Vice President William Ruto and in the possible reinstatement of the trial of its President, Uhuru Kenyatta. Both issues are major AMICC priorities and were in fact preoccupations of ASP 14 as this report describes. This report covers the Kenya issue at some length because it also raises questions about whether the ASP is functional. However, all the other matters covered here had important implications for the ICC’s future and for our work in the United States.

The future of the ICC was an important topic generally discussed throughout the meeting. What were seen as main challenges to the future of the Court for the next four to five years were the need for actions to enhance the efficiency of the court, and for universality. The frequently mentioned central issue about universality was recruiting more state parties to the Rome Statute. Speakers emphasized that it is important to the Court’s viability and legitimacy that its membership include almost all nations. They called on the ICC to increase its efforts to grow its membership with the assistance of NGOs.

As ASP 14 ended, many participants and the Court looked forward to the imminent move of the ICC into its permanent premises. This in fact occurred on December 14. As described below, this Assembly
session raised the threat that the Court might not have the resources to make full use of the new courtrooms and offices.

BAR ASSOCIATION

The question of establishing a bar association at the Court and how it should operate is a priority issue for AMICC. If from an American perspective it is not independent enough or cannot adequately support lawyers at the Court in determining their interests and pursuing them at the Court, US opponents of the Court will raise claims of unfairness and lack of due process.

Services for and practical support to lawyers practicing at the Court are the responsibility of the Registry. These lawyers are almost entirely defense counsel and counsel for victims. The Registry’s responsibilities include managing the admission of lawyers to practice at the Court and maintaining a roster of those admitted who are then called “enrolled counsel”. At ASP 14 the Registry announced the completion of a far-reaching reform plan. Called “ReVision,” this plan created a thorough overhaul and restructuring of units and functions within the Registry.

In implementing ReVision, the Registry has proposed a bar association for enrolled counsel. To create the association’s constitution, the Registry convened a Drafting Committee of enrolled counsel who have represented victims or the defense. Of its 10 members, two are American. Using a text previously circulated by its chairman on his own, the Committee agreed on a draft constitution for the ICC Bar Association (ICCBA). This was submitted to, and approved with slight changes by, a widely attended Consultative Conference in March, 2015. This draft therefore has substantial standing.

It draws heavily on models from the tribunals for Sierra Leone, Rwanda and Yugoslavia. It also appears to be patterned on bar associations in civil law countries. In those countries, the important bar associations are usually part of the court system and lawyers wishing to practice must belong to the relevant one. By contrast, in common law countries, although a lawyer must be admitted to the bar of the court where s/he will practice, the important association is a private and voluntary one. Almost all lawyers in its area choose to belong to it for practical reasons.

ReVision would call for the combination of the Registry’s Counsel Support Section, Office of Public Counsel for the Defense (OPCD), Victims Participation and Reparation Section and Office of Public Counsel for Victims. All of these are now separate within the Registry. It would like to create one office only for victims and another only for the defense. The latter would be the proposed bar association’s anchor in the ICC and its primary support there. However, the Registry must have the approval of the judges because they adopted Regulation 77 which locates OPCD in the Registry for administrative purposes only and otherwise makes it and its staff “wholly independent”. As this is written, the judges are yet to decide. If they do not approve the combination of offices, the OPCD would support the bar association. Meanwhile the bar association cannot be finally implemented. Accordingly, the ASP 14 omnibus resolution simply acknowledged and praised the proposal and the actions taken on it so far.

AMICC is concerned that some aspects of the proposed constitution could indeed raise charges by US opponents of the Court that the ICBAA would impair due process and the independence of counsel. The draft constitution makes membership in the ICBAA mandatory for lawyers practicing at the Court. Although the constitution refers to the ICCBA as “an independent body of counsel before the ICC”, and
repeatedly refers to its independence, AMICC is aware that a number of American observers are alarmed by the large role for the ICC in the ICCBA for which the constitution calls and by its ambiguity about whether ICC lawyers could use the ICCBA to determine their interests and defend them against actions the ICC may take. However, AMICC recognizes that most American lawyers interested in the Court will value the training, disciplining and professional development for which the constitution provides.

During ASP 14, the Registry convened a panel presentation to win future support for the ICCBA constitution. In the presentation, panelists emphasized that membership in the ICCBA would be mandatory, that in order to have leverage and official recognition within the ICC, there must be “one official association” working from within the Court and that it would “not be a trade union.” The last statement again raises concern that the association will not be a venue for lawyers to cooperate in furthering their interests, especially when they believe that the ICC does not recognize or respect them. AMICC delegates at this event reported that the panel seemed bent simply on garnering support for the constitution and dodged or was unresponsive to questions about the role and support of defense counsel in the ICCBA.

BUDGET

The Court asked ASP 14 for a 2016 budget of euros 153,320,000 or $ 164,052,400 at the rate of exchange at the time of the session, an increase of 17.3% over the 2015 budget. The Assembly accepted the CBF’s recommendation of euros 139,960,000 or $ 149,750,000. This is a 7.3% increase of euros 9,290,000 or $ 9,940,300. The CBF took the Court’s estimates of its workload, asserted the unpredictability of the workload and reduced the estimates. In the absence of any other standing committees of the ASP, the CBF was not obliged to discuss its workload estimates with any ASP subordinate body specializing in the work of any of the various components of the ICC.

There are several separate approaches to budgeting among the ICC’s States Parties. Some call for “zero-based budgeting” which requires no increase in the total amount of the budget. Because of inflation, this means a small but real reduction in the purchasing power of the budget. Then, there is a dispute between proponents of “demand-based budgeting” and supporters of “resource-based budgeting”. The former believe that the Court should be able as far as possible to take all cases which meet its standards for admissibility; the latter insist that the Court must accept a financial “envelope” limiting the extent of its work. The vigor of ASP budget debates is incited by the familiar phenomenon that small amounts are easier to discuss and disagree over than very large ones.

This issue is an AMICC priority. The Coalition shares with many NGOs and a number of governments the concern that tightly restricted budgets will make it impossible for the Court seriously to carry out its responsibilities and mandate under the Rome Statute. This will include obvious underperformance by the Chambers and Prosecutor. During the session the President, the Registrar and the Prosecutor all repeatedly told the Assembly that they would not be able to meet their full responsibilities with the inadequate funds the reduced budget will provide. The Prosecutor was particularly straightforward in describing the smaller number of cases and preliminary examinations to which her office will be reduced.
These statements together portrayed the special situation of the ICC, as compared to other international organizations, in trying to cope with reduced budgets. Almost all other international organizations have many distinct programs to serve their extensive mandates. They can save money by suspending or cutting back some of these programs without seriously damaging their central purpose and their legitimacy. By contrast the ICC only does one thing: develop and try cases. All elements of the Court serve this single function. If they are underfunded, the ICC will not do what is expected of it; it will not be able to take cases that it clearly should.

COMPLEMENTARITY

“Complementarity” is an essential component of the work of the Court. A neologism created in the Rome Statute, it means deference to domestic courts: The Court is supposed to be the last resort in a “comprehensive system of international justice, where the duty on States Parties to investigate and prosecute international crimes is clearly reinforced”. The ICC is a court that works to deal with international crimes that national courts cannot adequately handle or are simply unwilling to take up.

During the ASP14 meeting, James Goldston from Open Society Justice Initiative noted that national proceedings should be encouraged: the “ICC helps capacity building through national level activities, but no one factor explained national accountability.” The issue particularly discussed about complementarity was the African Union’s move to establish a regional court apparently in large part to prevent human rights cases from Africa from being presented before the ICC. With AMICC’s strong interests in securing the Court as an establishment necessary for international justice, it sees this move by the AU, if it succeeds, as posing a real threat to the viability of the Court.

COOPERATION, ENFORCEMENT

The ASP and the Court frequently use “cooperation” to cover both collaboration between the ICC and States Parties on programs such as training and support to the development of domestic courts, as well as enforcement of court orders and warrants. AMICC has an interest in both meanings as providing evidence of the Court’s overall effectiveness, but is particularly concerned with enforcement. US opponents of the Court cite the ICC’s difficulties with enforcement, particularly the failure of States Parties to enforce arrest warrants, as showing that the Court is ineffectual and not worthwhile.

The discussion of collaboration covered regional training programs as well as those in The Hague, witness protection and relocation, legislation to bring the Rome Statute into national legal systems and information sharing. Government delegations generally praised these activities. ICC representatives were proud of their achievements in them, but emphasized that these were seriously hampered and might well not be sustained because of underfunding. This particularly applied to protection and relocation services for the much larger numbers of witnesses expected in 2016.

During ASP 14 there was a three hour special panel presentation on cooperation in a dedicated plenary session. The results of this, mostly concerned with enforcement, were almost entirely included in eight paragraphs in the omnibus resolution as well as in a separate resolution on cooperation. The Prosecutor

---

1 Coalition for the ICC, “Homepage,” accessed 17 December 2015
and the Registrar especially criticized the currently unexecuted thirteen arrest warrants and called for bilateral agreements between the ICC and individual States Parties to enhance enforcement. They and other participants vigorously decried the failure of the UN Security Council, especially through the vetoes of its permanent members, to use its mandatory powers to require countries to carry out ICC arrest warrants.

Overall, the ASP 14 discussion of enforcement featured very straight talk by the Registry and the Prosecutor, and understanding and good words by several States Parties. There was general agreement on the damage to the Court from non-enforcement, but almost no discussion or suggestions about why countries fail to enforce and what might be done to deal with their reasons for this failure.

**COURT REFORM AND THE JUDICIAL PROCESS**

AMICC has to confront claims from ICC critics in the United States that the ICC’s trials are both inefficient and neglectful of due process. Much of the reform or strategy plans of the Prosecutor and the Registry are directly or indirectly aimed at improving the ICC’s performance as a court. They seek to make the conduct of trials and associated activities (the judicial process) more efficient and quicker, while at the same time respecting and implementing better the rights of defendants and victims in trials so as to achieve due process fully. The statement and reports of both offices made these objectives and efforts clear in detail. They also explained how efficiency and speed in courts can be hard to reconcile with preserving and furthering due process.

In her statement and report to the Assembly, the Court’s President, Silvia Fernandez de Gurmendi, recognized this problem and described the work of the judges themselves to deal with it. They have been developing performance indicators, compiling lessons learned and examining issues of practice in trials and hearings. This has resulted in among other documents, an evolving strategic plan and a Pre-Trial Practice Manual with an annex on lessons learned.

**CRIME OF AGGRESSION; UNITED STATES MAIN STATEMENT TO THE ASP PLENARY**

AMICC has no position on the crime of aggression, since its members’ views about the crime differ. However, the Coalition follows closely developments on the effort to bring the crime into the jurisdiction of the Court since it is one of the major problems that the United States government has with the ICC. Concern over the crime of aggression is spread across the Obama administration and expressed by many American international law experts and lawyers, who otherwise support the Court.

At ASP14 there was a debate on the crime of aggression and a side event with a panel discussion. The leader of the United States observer delegation was Jane Stromseth, interim head of the State Department’s Office of Global Criminal Justice. Her general statement to the Assembly’s plenary session was almost entirely devoted to praise for the ICC’s work on several specific cases. She called for enforcement of ICC arrest warrants in certain situations such as Sudan. She affirmed that “The United States has expressed its support for each of the investigations and prosecutions now under way before the Court.” He only objection to developments at the Court was about the crime of aggression.
In this statement and others to side events and informally, the United States raised these concerns: 1) Would the ICC’s jurisdiction over aggression extend to countries that belong to the Court but do not ratify the amendments that would bring the crime into the Rome Statute? 2) The definition of aggression remains unclear. 3) Would the crime apply to military actions taken without Security Council authorization? 4) The crime may raise the question of peace versus justice in a particularly acute way. 5) Will it chill efforts at humanitarian intervention? 6) Finally, jurisdiction over the Crime will require the Court first to determine that a state has committed an act of aggression. This determination is likely to embroil the Court in difficult political questions.

The United States wants all interested states to discuss carefully these and other issues before the ASP confronts in 2017 the decision whether to activate ICC jurisdiction over aggression.

**GENDER CRIMES**

There was frequent general discussion in this ASP session of gender-based crimes. In her report to the session, the Prosecutor noted that she is seeking information on investigations and prosecution of sexual/gender-based crimes. The goal in this regard, is to systematically include charges of gender-based/sexual crimes in cases where they are apparent. She emphasized that gender-based crimes need to be taken seriously as violations of international human rights laws and therefore must be charged whenever evidence suggests such crimes have occurred. Many groups and individuals in the United States are attracted to the Court because of its emphasis on prosecuting gender-based crimes. This gives AMICC a good opportunity to build general support for the ICC.

**KENYA**

A main issue at this year’s meeting was the Kenya situation. It was important in itself and took up a good deal of time. this is an especially high priority for AMICC because of the impact on the independence of the Prosecutor and judges if the ASP were to give them instructions about the conduct of a trial already underway. Such a restriction on the independence of the judiciary would support the charge of inadequate due process that AMICC opponents raise.

In 2012, the ASP amended Rule of Evidence and Procedure 68 to strengthen its prohibition on suborning or threatening witnesses. Kenya claimed that the Prosecutor has applied rule 68 witnesses in the Ruto case despite the ban in the rule on its retroactive use. Kenya’s argument is that the Ruto case was begun well before the adoption of Rule 68 in its present form. The Prosecutor believes that since the trial in the case continues now, current Rule 68 may be applied. Kenya’s Cabinet Secretary, Minister of Foreign Affairs & International Trade, Ambassador. (Dr.) Amina C. Mohamed, said in the session that Kenya’s concerns revolve around the Court’s emerging inconsistent and unfounded jurisprudence on evidentiary thresholds, complementarity, confidentiality and re-characterization of charges. He said that “if this Court purports to be an independent and impartial dispenser of global justice, its current disposition will and must be challenged.” Further she stated, “The Office of the Prosecutor’s pursuit of evidence ought not to be conducted in a manner that undermines the universality of the Rome Statute, and the implied equality of States under the rule of law.” This statement refers both to Rule 68 and also to rulings in the Trial Chamber and to appeals decisions most of which Kenya lost.
Kenya fielded a delegation of 89 persons, mostly members of parliament brought to noisily applaud statements by the country’s chief representatives. The representatives threatened Kenyan withdrawal from the ICC if the issue of Rule 68 were not adequately addressed. They argued that Kenya could justifiably leave the ICC because it entered into the Rome Statute under a mistaken understanding of how it would work. The Kenyan objectives were essentially to get the ASP to order the OTP and the Trial Chamber not to apply Rule 68 in its current form. Rule 68 now states:

“When the Pre-Trial chamber has not taken measures under article 56, the Trial Chamber may, in accordance with article 69, paragraph 2, allow the introduction of previously recorded audio or video testimony of a witness, or the transcript or other documented evidence of such testimony, provided that:

(a) If the witness who gave the previously recorded testimony is not present before the Trial Chamber, both the Prosecutor and the defense had the opportunity to examine the witness during the recording; or

(b) If the witness who gave the previously recorded testimony is present before the Trial Chamber, he or she does not object to the submission of the previously recorded testimony and the Prosecutor, the defense and the Chamber have the opportunity to examine the witness during the proceedings.”

[The Pre-Trial chamber may take necessary measures when] “----- the failure of the person [e.g. witness] to attend or to give evidence has been materially influenced by improper influences including threats, intimidation or coercion inter alia to the physical, psychological, economic or other interests of the person.”

The Kenyan delegation also called for an “ad hoc mechanism to audit the conduct of the organs of the Court in relation to” rule 68. Kenya’s call for a mechanism to oversee the OTP and Trial Chamber is a significant effort to limit the independence of the Court in a way that would severely damage it. Though the delegation stated “Kenya is here, at this Assembly, to be constructive, to be engaging and to debate and promote issues and matters that are seminal to the strengthening of the Rome Statute”, had it achieved its objectives, the credibility and legitimacy of the Court would have been fundamentally compromised.

The Minister of Foreign Affairs for Ethiopia sided with Kenya, stating that he believed that if Kenya did not qualify for Article 16 (deferral of a case by the UN Security Council) or complementarity, then no other state would. He also called into question the Court’s handling of African nations: “ICC is no longer a court for all, but only to deal with Africa in the most rigid way.”

The delegation of Finland stressed that the ASP must ensure that discussions at the ASP do not interfere with the independence and integrity of the Court. Cathy Adams, the legal director to the UK Foreign and Commonwealth Office rejected the Kenyan allegation of systemic abuse, but noted that it was necessary for the prosecutor to follow proper procedures when allegations are made.

Prosecutor Bensouda asserted that Kenya’s action serves as nothing more than unnecessary noise and a distraction to the Court, the Prosecutor’s Office, and the Assembly. She stated that it was not the duty of the Assembly to interpret rules and it was an inappropriate forum for Kenya to raise that issue.

Further in the debate, Human Rights Watch and Kenyans for Peace with Truth and Justice spoke. Both agreed about the necessity of the Court maintaining its independence. The Human Rights Watch representative stated the Court should not have to defend itself from political intrusion. Kenyans for Peace with Truth and Justice said that the Assembly should reject the Kenyan delegation’s request and that witness interference is a serious problem that would undermine the Court.

In the end, the ASP referred the issue to the Bureau. The Bureau came up with language for the ASP final report that reflected Kenya’s concerns. However, the report is an account of the events of ASP14 and does not bind ICC members or the Court to any action. While Kenya sought to get its way with threats of withdrawal, the ASP Bureau stood firm on protecting the independence of the prosecutors and judges. However, one consequence of the Kenya episode at the Assembly was widespread dissatisfaction with Kenya’s behavior. This might deter other such attempts in the future.

**OMNIBUS RESOLUTION**

In the earliest meetings of the ASP there was an effort to have all items considered in a session covered in a single (“omnibus”) resolution. Although there is still an omnibus resolution for most items in a session, other resolutions began to appear. In ASP 14 there was a resolution on the budget and another amending the Rome Statute to delete a provision permitting new States Parties to opt out of the Court’s jurisdiction over war crimes.

Most of the paragraphs in the ASP 14 omnibus resolution on issues important to AMICC welcome the work of the Court on a particular item and urge the ICC to intensify that work. The main exception to this is the issue of victims which is covered in three paragraphs and in references in other sections such as the one on the Court’s deference to national courts ("complementarity"). The high priority the Rome Statute gives to the treatment of victims and the Court’s implementation of that mandate is important to many of AMICC organizational and individual supporters. It also attracts positive interest for the Court among Americans who otherwise would be indifferent to it. The omnibus resolution recounts the rights of victims at the Court, asks for statistical and other information about the participation of victims in Court activities and asks the Court to continue to develop principles and procedures about reparations.

**PALESTINE AND ISRAEL**

AMICC is very aware that the Prosecutor’s consideration of prosecutions of Palestinian and Israeli individuals addresses a very hot issue in American politics and is now drawing unfavorable attention to the Court in the United States. This is facilitated by ignorance in the US about the ICC’s mandate and procedures. In particular, there are claims that the ICC is showing political bias because, since the OTP made its own decision that Palestine was a state able to refer a situation to the Court, the Prosecutor therefore will only investigate and prosecute Israelis. Reversing these attitudes is at the center of AMICC’s mandate.

The Prosecutor addressed both claims in her report to the ASP on preliminary examinations. She emphasized that the UN Secretary General made the decision about Palestinian statehood, basing it on actions by the General Assembly. (There was general agreement about this among delegations, although
Canada and the United States observer delegation emphasized that they do not accept that Palestine is a state). The report also explained in detail that the Statute requires the Prosecutor to investigate all parties in a situation referred to her and that she is doing just that in the preliminary investigation of the Israel-Palestine situation she is conducting now.

In a plenary debate, representatives of Palestine promised to cooperate fully with the Court, but feared based on past experience that Israel will not. They said that the ICC’s actions on Israel would be a test of its own political will and credibility. The Court should act without double standards and quickly. The situation in Gaza had forced Palestine to come to the Court.

An official of the Office of the Prosecutor (OTP) confirmed that the Prosecutor will preserve her independence in accordance with the Statute. Although the OTP is inevitably accused of taking sides, it will remain impartial and will look at allegations by both sides. The OTP is not yet seeking witnesses, but is collecting information and making contacts. It is concerned about retaliation against witnesses and informants.

The omnibus resolution did not refer to Palestine by name. However, under its item on the Universality of the Rome Statute, it welcomed “… the State that has become a party to the Rome Statute of the international Criminal Court since the thirteenth session of the Assembly…”

PRELIMINARY EXAMINATIONS

The Assembly gave considerable attention to the issue of preliminary examinations which is especially relevant both to the Court’s work on the Palestine/Israel situation and to African complaints about the ICC. Preliminary examinations can arise from “a.) a decision of the Prosecutor, taking into consideration any information on crimes under the jurisdiction of the Court, including information sent by individuals or groups, States, intergovernmental or non-governmental organisations; b.) a referral from a State party or the Security Council; or c.) a declaration pursuant to article 12(3) by a State which is not a Party to the Statute.” The OTP is currently conducting preliminary examinations in eight countries (Palestine, Ukraine, Iraq, Afghanistan, Colombia, Georgia, Guinea, and Nigeria).

Cathy Adams, legal director to the UK Foreign and Commonwealth Office noted that the UK was in full support of the examination in Iraq and would continue to support the OTP in the reopening of preliminary examinations of allegations concerning UK forces in Iraq. Emeric Rogier, of the OTP, stated that the office had a quiet process underway on the South Ossetia issue. He stated that while the OTP has an open door policy with its members, it did not feel it necessary to constantly publicize its progress on the examination.

Concerning Ukraine, four speakers from Ukrainian civil society were present. Each spoke about accountability for crimes committed in Ukraine. Specifically they focused on Crimea, and Donbass where alleged war crimes and destruction of civil property are taking place, as well as attacks on civilian populations and unlawful imprisonment, torture and degrading treatment. With Ukraine’s expectation to ratify the Rome Statute in the coming weeks, NGOs hope that the ratification will have a positive impact on domestic legislation. Ukrainian NGOs are pleased with the OTP preliminary examinations in their country because it is their belief that domestic investigations are severely lacking.
A debate on Syria deplored that with a veto by Russia and China of a Security Council referral of the conflict to the ICC, and the lack of ICC jurisdiction, the Syria situation is at a standstill. NGOs noted their frustration with this ICC inability to deal with the overwhelming evidence regarding torture, abuse, murder, and crimes against humanity by the current Syrian regime.

VICTIMS

The treatment of victims was an issue of significant concern for the ASP. Chief Prosecutor Fatou Bensouda stated that the hopes and expectations of victims of atrocity crimes must weigh heavily on our collective consciences. There was an agreement by many parties, including the Czech delegation, of the importance of reparations to victims. The omnibus resolution outlined that in its section on Victims and affected communities:

“70. Reiterates that victims’ rights to present and have considered their views and concerns at stages of the proceedings determined to be appropriate by the Court where their personal interests are affected, and to protection of their safety, physical and psychological well-being, dignity and privacy, under Article 68 of the Rome Statute. 71. Stresses the central importance that the Rome Statute accords to the rights and needs of the victims, in particular their right to participate in judicial proceedings and to claim reparations, and emphasizes the importance of informing and involving victims and affected communities in order to give effect to the unique mandate of the court towards victims. Requests the Court to make available to the Assembly appropriate statistics in relation to victims admitted to participate in proceedings before the Court when these are publicly submitted to the respective Chambers in the context of the judicial proceedings. 71. Requests the Court to continue to establish principles relating to reparations in accordance with article 75, paragraph 1, of the Rome Statute as a priority in the context of its judicial proceedings;”

The Czech Republic said that it is dedicated to contributing to the Trust Fund for Victims. It believes the TFV and reparations to be an indispensable part of providing justice.

An important aspect of reparations noted by representatives from civil society in Kenya is what form they should take. They noted that not every victim wants reparation by a payment of money.

With the Court’s decreasing budget, the importance of priorities was noted by Deputy Prosecutor James. In a statement to the ASP, he stated that the Court needed to establish a set of priorities and delay particular activities, due unfortunately to limitations in the budget. However he did go on to say that victims are suffering and need justice. Along with victim’s needing justice, it was clear the victims also need to understand the process towards justice. This includes informing them about reparations and the implications of their participation with the Court. With the court having an interest to serve victims, the issue of victims is one that is not only relevant but integral to the functioning of the Court.

Chinoye Alma Otunoye and John Washburn wrote this report

---

3 ICC-ASP/14/Res.4, “Strengthening the International Criminal Court and the Assembly of State Parties.”
AMICC Delegation
Prof. Linda Carter, Head of Delegation
Enid Adler, Esq.
Guled Ibrahim
Michelke Johnson
Sarah Kanbar
Megan Manion
Alexander McKay
Alexandra Sanchez
Sarah Schmidt