THE INTERNATIONAL CRIMINAL COURT AND UN REFORM

This month, world leaders will come together in New York for the High-Level Plenary Meeting of the General Assembly to review progress since the Millennium Declaration, adopted by all Member States in 2000. The Secretary-General’s report “In Larger Freedom: towards development, security and human rights for all” proposes an agenda and action plan for this summit, in order to continue the momentum toward the broad protection of civilians.

In presenting his report “In Larger Freedom” to the General Assembly in March 2005, UN Secretary-General Kofi Annan urged:

“In particular, I ask [states] to embrace the principle of the “Responsibility to Protect”, as a basis for collective action against genocide, ethnic cleansing and crimes against humanity – recognising that this responsibility lies first and foremost with each individual state, but also that, if national authorities are unable or unwilling to protect their citizens, the responsibility then shifts to the international community; and that, in the last resort, the United Nations Security Council may take enforcement action according to the Charter.”

To meet these objectives, the Secretary-General calls on all states to ratify and implement all treaties related to the protection of civilians, including the Rome Statute of the International Criminal Court (ICC), as well as to take steps to strengthen cooperation with the ICC and other international or mixed war crimes tribunals.

Furthermore, the UN Secretary General’s High Level Panel - composed of blue ribbon officials from around the globe - published its eagerly awaited report on meeting the world’s new and evolving security threats. The report, which mentions the ICC on a number of occasions, has been viewed as a positive step towards a “more comprehensive system of collective security: one that tackles both new and old threats, and addresses the security concerns of all States - rich and poor, weak and strong,” UN Secretary-General Kofi Annan, noted.

The specific references to the International Criminal Court in both the Secretary-General’s report as well as the High-Level Panel report are noted below. The full text of these reports can be found at: http://www.un.org/largerfreedom/ and http://www.un.org/secureworld/ respectively.

In larger freedom: towards development, security and human rights for all
Report of the Secretary-General

Rule of Law
138. Justice is a vital component of the rule of law. Enormous progress has been made with the establishment of the International Criminal Court, the continuing work of the two ad hoc tribunals for the former Yugoslavia and Rwanda, and the creation of a mixed tribunal in Sierra Leone and hopefully soon in Cambodia as well. Other important initiatives include commissions of experts and inquiry, such as those set up for Darfur, Timor-Leste and Côte d’Ivoire. Yet impunity continues to overshadow advances made in international humanitarian law, with tragic consequences in the form of flagrant and widespread human rights abuses continuing to this day. To increase avenues of redress for the victims of atrocities and deter further horrors, I encourage Member States to cooperate fully with the International Criminal Court and other international or mixed war crimes tribunals, and to surrender accused persons to them upon request. [emphasis added]
A More Secure World: Our Shared Responsibility
Report of the Secretary-General’s High-Level Panel on Threats, Challenges, and Change

IV. Conflict between and within States

C. Meeting the challenge of prevention
1. Better international regulatory frameworks and norms.
89. The role of the United Nations in preventing wars can be strengthened by giving more attention to developing international regimes and norms to govern some of the sources and accelerators of conflict. […]

90. In the area of legal mechanisms, there have been few more important recent developments than the Rome Statute creating the International Criminal Court. In cases of mounting conflict, early indication by the Security Council that it is carefully monitoring the conflict in question and that it is willing to use its powers under the Rome Statute might deter parties from committing crimes against humanity and violating the laws of war. The Security Council should stand ready to use the authority it has under the Rome Statute to refer cases to the International Criminal Court. [emphasis added]

VI. Terrorism

B. Meeting the Challenge of Prevention
4. Defining Terrorism
158. Since 1945, an ever stronger set of norms and laws - including the Charter of the United Nations, the Geneva Conventions and the Rome Statute for the International Criminal Court - has regulated and constrained States’ decisions to use force and their conduct in war - for example in the requirement to distinguish between combatants and civilians, to use force proportionally and to live up to basic humanitarian principles. Violations of these obligations should continue to be met with widespread condemnation and war crimes should be prosecuted. [emphasis added]

XII. Protecting Civilians

233. All combatants must abide by the provisions of the Geneva Conventions. All Member States should sign, ratify and act on all treaties relating to the protection of civilians, such as the Genocide Convention, the Geneva Conventions, the Rome Statute of the International Criminal Court and all refugee conventions. [emphasis added]

Annex I – Summary of Recommendations
Part two

Collective security and the challenge of prevention
Conflict between and within States
12. The Security Council should stand ready to use the authority it has under the Rome Statute to refer cases of suspected war crimes and crimes against humanity to the International Criminal Court. (90) [emphasis added]