

MACARTHUR

A newsletter from The John D. and Catherine T. MacArthur Foundation

'05.2

SUMMER 2005
VOLUME 2

International Justice: An Emerging Global System

2
President's Message

4
Building a strong
international
criminal court

8
Responsibility
to protect:
Redefining
sovereignty

10
Security Council
Report

An emerging global system

Cover: A wall of photographs in Kigali, Rwanda, memorializes the victims of the 1994 genocide.

The daily headlines tell stories of suffering and human rights abuse from Sudan and the Congo in Africa, to Nepal and Uzbekistan in Asia, to Iraq and Egypt in the Middle East. In the United States, we have been disappointed to learn of the abuses committed by American soldiers in U.S.-run prisons at Abu Ghraib and troubled by the government's "extraordinary rendition" of suspected terrorists to countries where torture is known to be common. It is tempting to conclude that little has been done to advance human rights around the world.

But there is compelling evidence to the contrary. A powerful set of norms for the protection of human rights has evolved, the legal architecture in many countries is improving, new international institutions are taking root, and a robust network of NGOs is bringing cases to those institutions and to public view in record numbers.

Human rights has always been an area of major interest for the MacArthur Foundation. In fact, the Foundation's very first grant in 1978 was to Amnesty International. Since then, we have made nearly 600 grants worth almost \$120 million. Our annual expenditure is now about \$17 million, with a third going to international organizations that provide infrastructure to the field, a third to local NGOs in Russia, Mexico, and Nigeria, and a third to advance norms and institutions that are building an international system of justice.

This newsletter illustrates some of the work MacArthur is supporting.

A global portfolio

The Foundation's early work helped build the infrastructure for the field of human rights with support for U.S.-based groups like Human Rights Watch, the Lawyers Committee for Human Rights (now Human Rights First), and Physicians for Human Rights. That portfolio has broadened to include organizations beyond the United States, including the Federation Internationale des Lignes des Droits de l'Homme, the Institute for Human Rights and Development in Africa, and the Asia Pacific Forum of National Human Rights

Institutions. These institutions and others make up the backbone of the human rights movement: They undertake careful research and monitoring to expose problems and propose specific remedies rooted in law and reality. Thanks to their work over the past 25 years, the language of human rights is all around us — present every day in the news, a force to be reckoned with in diplomacy, international finance, the conduct of military campaigns, and domestic politics.

These international groups are important, but the work of local organizations deeply embedded in traditions of their own countries is equally vital. MacArthur is supporting about 100 local groups in three countries undergoing a transition to democracy: Nigeria, Russia, and Mexico.

Three central themes describe MacArthur's work in these countries: 1) curbing police abuse; 2) strengthening the system of independent human rights ombudsmen; and 3) enabling citizens to seek remedies from regional human rights courts. Featured in these pages are the Center for Law Enforcement in Nigeria (CLEEN), the Nizhnii Novgorod Committee Against Torture in Russia, and Sin Fronteras in Mexico, each of them striving to bring laws and practices in their countries into accord with their own constitutions and international norms.

Those norms are expressed in the legal architecture for the worldwide protection of human rights put in place over the past half-century: the Universal Declaration of Human Rights, the Convention on Genocide, the International Covenant on Civil and Political Rights, the Convention Against Torture, and others. Together, these instruments create the basis for robust international, regional, and national action.

Creating a framework for accountability

The challenge now is to close the gap between the promise of universal human rights this system of treaties and covenants has nurtured and the reality of the daily lives of millions that falls far short of our highest aspirations. Energetic nongovernmental organizations exposing abuse and working to reform bad practices is one way forward; creating an effective system of

international criminal justice is another.

Early on, the human rights movement focused on political dissidents in the former Soviet Union and its satellite countries and on the abuses by military regimes in Latin America. However, the largest number of deaths and crimes against humanity emanate from civil wars, interstate conflicts, and the complete breakdown of order in failed states. A decade ago, the genocide in Rwanda and the ethnic cleansing in Bosnia shocked the world. Special UN tribunals to deal with the perpetrators are still under way. But the creation of after-the-fact tribunals does not send a message certain that those who commit gross human rights abuses in the future will be held accountable. The new International Criminal Court does.

The ICC is the most important new international institution since the founding of the United Nations. The Court has jurisdiction over the worst human rights abuses committed after July 1, 2002 — genocide, war crimes, and crimes against humanity — if national justice systems fail to act. It is the first permanent, treaty-based, criminal court with international jurisdiction, established to promote the rule of law and to ensure that individuals who commit the gravest crimes against humanity are punished. Already, countries around the world are reforming their own laws and bringing them into compliance with international standards, strengthening national legal systems and complementing the work of human rights groups.

MacArthur has been involved with the Court since the 1998 Conference in Rome that forged the treaty establishing it. We helped the Coalition for the International Criminal Court and others organize civil society groups in support of the Court's creation. Those efforts contributed to a speedy ratification of the treaty by the requisite 60 nations (to date, 99 countries have ratified).

The Court began operations in April 2002, but 2005 will be a critical year in its early history. The ICC is currently investigating its first two cases: the atrocities in Northern Uganda committed by the Lord's Resistance Army and systematic acts of murder and mutilation by warring groups

Right: The 1998 Conference in Rome, which established the International Criminal Court.



in the Democratic Republic of Congo. The UN Security Council's referral of the conflict in Darfur brings a third important case to the Court's chambers.

Essential to the successful prosecution of these early cases will be the effective functioning of the Court's Unit on Victims and Witnesses, which encourages people to tell their stories and offers them protection. Through its support for groups such as *Avocats sans Frontières*, the International Center for Transitional Justice, REDRESS, and Physicians for Human Rights, MacArthur is helping to facilitate the participation of victims and witnesses in Court proceedings.

By holding the architects of massive crimes accountable, the Court will deter future Pol Pots and Pinochets. Although no indictments have been made in either Uganda or the DRC, the ICC's investigations have already brought greater pressure to end these conflicts and focused international attention on the abuses.

Beyond deterrence

We hope that the growing number of examples of individual accountability will have a deterrent effect on crimes against humanity over time. But there will always be instances where national governments are unable or unwilling to protect its citizens. In those circumstances, what is the international community's responsibility to prevent future Rwandas and Darfurs?

MacArthur was privileged to support a distinguished commission organized by the Canadian government in 2000 to examine this question. Chaired by Gareth Evans and Mohamed Sahnoun, the International Commission on State Sovereignty and Humanitarian Intervention produced a report that establishes a new paradigm for international action, *The Responsibility to Protect*.

The report laid the intellectual foundation for changing assumptions about the world's obligations. It articulated a primary duty for the international community: to prevent these crises, using evidence of egregious human rights abuses as an early warning signal. A patient set of non-military steps was identified — fact-finding missions, international appeals, political and economic sanctions, arms embargoes,

seizure of assets — giving the world community options it must explore before reacting with appropriate military means.

The core ideas of the commission are gaining traction. They have a prominent place in the advice of the Secretary General's High Level Panel on UN Reform. The panel endorsed the commission's central recommendation: that the UN Security Council has the responsibility to avert Rwanda-like tragedies and to protect civilian populations. In March of this year, Secretary General Kofi Annan embraced *The Responsibility to Protect* in his ambitious call for change at the United Nations, "In Larger Freedom."

The UN's role

The distance between theory and action can be hard to bridge. Much is expected of the United Nations, and many interests need to be weighed as the UN chooses its issues and its means of intervention. The Secretary General has articulated standards of transparency for the work of the UN and its agencies. To help it achieve those standards, MacArthur, Rockefeller, and Hewlett have joined with the governments of Canada and Norway to establish a new organization, Security Council Report (SCR). SCR will report on the work of the Council, including future agenda items. It will also offer research and analytical briefings to Council members thought to be of particular utility to those with elected seats.

Although serious human rights abuses persist in many places, the direction of history is clear: There is a worldwide movement to prevent those abuses and bring perpetrators to justice. The stories you are about to read are a source of optimism about the future, and give us confidence that MacArthur's quarter century of support has been a good investment.

An International Criminal Court is poised to make its first indictments. Regional human rights courts in Europe, Latin America, and Africa are taking on cases that will change local behavior. A new paradigm articulating the international community's responsibility to protect people from gross abuses is gaining traction. And a robust network of NGOs is working together to assure that major human rights abuses do not go unnoticed anywhere in the world.

The legal and institutional architecture is in place and growing; what is needed is the will to use them promptly and completely. The world showed compassion and determination this year in the wake of a natural disaster in Asia. Those same basic decent instincts should apply to human-induced catastrophes as well.

Jonathan F. Fanton
President

Building a strong international criminal court

In early March, Jonathan Fanton, the President of the MacArthur Foundation, met with the Chief Prosecutor of the International Criminal Court, Luis Moreno-Ocampo, for a special discussion for this newsletter about the challenges of creating the world's first International Criminal Court.

As an early supporter of civil society groups that advocated for the ICC, MacArthur funded a variety of activities leading up to the completion of the Rome Treaty in 1998 that created the Court, and is currently supporting efforts now under way to gather evidence and prepare for the Court's first cases in Uganda, the Democratic Republic of Congo, and Darfur.

MacArthur
Foundation
International
Justice





Left: Jonathan Fanton with Luis Moreno-Ocampo.

Lower Left: UN Secretary General Kofi Annan addresses the opening of the International Criminal Court.

In April 2003, Mr. Ocampo was unanimously elected Chief Prosecutor by the Assembly of States Parties to the Rome Statute. The Prosecutor's office is responsible for investigating and prosecuting individuals accused of crimes falling under the Court's jurisdiction: genocide, war crimes, and crimes against humanity. Since his appointment, he has begun investigations into crimes committed in Northern Uganda, the Democratic Republic of Congo, and Darfur. These cases and the precedents they set will be important in establishing the Court's credibility and in laying the foundation for new jurisprudence that could deter future human rights violations.

This interview was conducted before the UN Security Council referred the case of Darfur to the Court. We asked the Prosecutor to add comments about Darfur to the interview, where relevant.

JF: Welcome, Mr. Ocampo, and thank you for joining us for this conversation. Let's first talk about the Court's jurisdiction and the type of cases the Court can take up.

LO: Cases can be initiated by any state party to the Rome Treaty or by the Prosecutor when the crime has been committed by a national or in the territory of a state party to the Rome Treaty. The United Nations Security Council can also refer a case to the Court, as they did with Darfur.

Let me say that it is important to emphasize the fact that the Court represents a huge first step toward a permanent international criminal justice system. For the first time in history we have judges from all five continents sitting on a permanent court with the power to apply universally accepted criminal law.

As you know, during the 20th century we learned the hard way about the world's worst crimes — genocide, crimes against humanity, and war crimes — but we also learned about the importance of prosecuting them. After the Second World War, four countries joined together to set up the Nuremberg trials to try those accused of war crimes. And, in the latter half of the century, the

international community responded to catastrophes in Rwanda and Yugoslavia by creating independent tribunals to try the crimes committed there. In all of these cases, justice was necessary for those societies to feel they could move forward. Now we have a permanent Court that can deal with the world's worst crimes and worst criminals, and we can work toward greater peace through justice.

JF: What is the relationship of the Court to nations?

LO: The ICC is an international institution pursuing global justice, but it operates within the framework of the nation-state. We are not a super-court — the main responsibility lies in the hands of national governments.

JF: But there is still a lot of misunderstanding in the United States about the Court. The U.S. government opposes the Court, arguing that it might assert jurisdiction over U.S. servicemen engaged in peacekeeping missions, for example. Perhaps you could talk to us about the doctrine of complementarity written into the Rome Treaty and how it works.

LO: To protect the sovereignty of signatory states, there is a doctrine of complementarity worked into the Rome Statute. It says that the ICC will conduct investigations and try cases *only* when the states cannot or will not investigate or prosecute crimes that fall under the Court's jurisdiction. This means that countries with functioning legal systems, like the United States, will be responsible for responding to charges of genocide or crimes against humanity made against any of their citizens, and those cases will be tried within their national legal systems. According to the doctrine of complementarity, U.S. servicemen, for example, would never be tried by the ICC.

JF: People are sometimes confused about whether the Court is independent

or a creature of the United Nations, and about its relationship to the special tribunals for Yugoslavia and Rwanda.

LO: The Security Council set up the tribunals for Yugoslavia and Rwanda to try cases of genocide, war crimes, and crimes against humanity committed during specific times of war in those countries. The ICC is set up to try similar types of crimes, but it is a permanent, independent court with international jurisdiction. We are not part of the UN system, but the Security Council can refer a case to us, as it did in the case of Darfur. And the idea for the Court has its beginnings at the UN. Conversations about the Court first began after World War II and the Nuremberg trials, but the politics of the Cold War dampened interest. After the genocides in Yugoslavia and Rwanda, the international community once again became interested in the idea, and the UN organized a series of meetings to discuss the Court. This process led to the creation of the Rome Statute in 1998, which called for the creation of an independent international criminal court. Today, 99 countries have ratified the treaty.

JF: You are starting a new institution; I believe it is the most important new institution since the founding of the UN itself. This is a great opportunity but also a great burden of history. What has been your approach to determining the first cases, getting started, building a solid early record for the Court?

LO: For me, it was very important to make it clear that we are an international court that works within the system of nation-states. In selecting the first cases, I also wanted to send a signal that we will focus on the world's worst atrocities. In the Democratic Republic of Congo, for example, more than three million people have been killed in a civil war that has been raging for nearly a decade. I could have used *(continued on next page)*



my *proprio motu* power (to intervene), but instead, at the 2003 Assembly of State Parties meeting, I urged the national authorities to cooperate with us. The Congo government did refer the case to us, and the Court’s investigative teams are now working in the country without government interference. In Uganda, it was a similar situation — the government asked us to open the case.

The situation in Darfur is different in that the Security Council, not a government, referred the case. Working in a country without government cooperation raises many challenges, but they are not insurmountable.

The next challenge for us will be to prove that we can carry out good investigations in a short amount of time, gather solid evidence against those who bear the greatest responsibility, and arrest people for the trials.

JF: For the cases you just referred to, I think people would be interested in how the process works. You gather some evidence; there is a referral; you do more gathering of evidence; you then present the case to the judges who have to decide . . . How does this work?

LO: We receive communications from NGOs and individuals from around the world with detailed reports of crimes committed. In the case of Darfur, the UN Commission of Inquiry has supplied information. We also gather information ourselves, through the media and other reports.

When we are interested in a case or when one is referred to us, we analyze the admissibility and the gravity of the case to determine if it can be pursued. If it is based on a referral, we inform the other state parties that we are opening an investigation, and if another state has already begun work on the same case, we will refer it to them. If no other state is pursuing the case, we begin our investigation with teams working in the

country. When the investigations have collected enough information for indictments, we request an arrest warrant.

JF: Of course the arresting can be a challenge since you don’t have your own army.

LO: The arrests are a challenge for the international community. We have this Court with no police and no army. But, state parties are under an obligation to cooperate with the Court, including cooperating on arrests.

JF: Now, I know that you can’t discuss the particulars of any one case. But maybe in general you can comment on how the work of the Court might intersect with a peace process, and how the international court works with local courts or with traditional forms of justice.

LO: It is important to understand that our investigations may be going on during attempts to negotiate peace. We are learning how to work in this environment and how to support and promote the idea of peace through justice. I was talking with someone from the UN, and he said to me, “Look, normally the world solves conflict through war; the UN has been trying to promote the idea of peace through negotiations, and now the Court is creating a third option — peace through justice.”

We realize that we are entering into territory with no rules. Throughout history, the nation-state has been the best model for controlling violence. But we have come to realize that this model is not enough. Crime has become transnational. The twin towers is a good example, the bombings in Madrid is another — two crimes against humanity committed by terrorists, and on territory in the U.S. and Europe.

International crime is *international* crime and law enforcement agents are *national* or *regional*. That is why we need to develop a global system of justice.

JF: In February, Richard Goldstone and I were in Nigeria, where Justice Goldstone delivered a distinguished MacArthur lecture on the topic of international justice. He spoke movingly about the International Criminal Court and the work you are doing. In the discussion period — to an audience of professors, students, lawyers, people working in the justice ministry — the question arose whether the Court always had to try its cases in The Hague, and Justice Goldstone replied that the Rome Treaty allows the Court to sit outside of The Hague. There was a lot of interest in having the Court try a case in Africa, as a way of bringing the reality of the Court close to where some of the crimes are being committed. Would you ever consider that?

LO: Yes, it’s a possibility. We want to be a truly international court that respects different traditions for pursuing justice. We would consider carrying out trials in other countries, but also I like the idea of inviting people who have alternative mechanisms for justice to The Hague to share their knowledge with us.

JF: I think people would be interested in your own background. Could you give us two or three highlights that you would say prepared you for the awesome responsibility of being the first Chief Prosecutor of the Court.

LO: In 1985, I was asked to be the Assistant Prosecutor on the trial against Argentina’s Junta leaders. It was a huge trial, 700 cases carried out in six months. We presented samples of crimes committed to a panel of six judges — proving individual crimes. In ’85 we thought, “Oh no, we cannot prosecute crimes against humanity.” We just wanted to show how operations were planned and connect these operations to individual commanders to show their

crimes. We convicted commanders for individual killings, torture, kidnapping. Those cases changed my mind completely—usually criminal lawyers think the police are the good guys, that the criminals are a small group of bad guys, and society supports the police. But in this case it was backwards—the police and the army were the killers.

I remained in that job as prosecutor for seven years. I was involved in military rebellion cases, in guerilla cases, and in large corruption cases. At the end I left the office in '92, after the last military rebellion case. I said, "OK, the transition to democracy is over, it is time to do something different."

JF: Let's fast forward five years. Suppose that we are having this conversation again. What would you like to be able to say about what you've accomplished with the early cases as the first Prosecutor, and what do you think are the biggest obstacles to overcome?

LO: I think in five years we will be able to show two to three well-investigated cases. I am also hoping that the cases will help improve the situation on the ground for those who were most affected by the atrocities. In Uganda and Congo, most of the soldiers are kids, so even if we stop the crimes, there is a generation of young people—who grew up with war—who will need an education and employment; they will need opportunity. The future will be about learning to maximize the impact of the cases and helping to prevent further crimes. But just as important, it will also mean helping to improve the quality of government in the countries as well as the institutions—education, for example—that can help provide opportunity to the coming generations.

JF: Let me close with a personal note. I was having dinner the night before last with my 90-year-old father, who worked on the prosecution staff for military

proceedings in Dachau after World War II. In talking about his experience, I asked him, "Having been a pioneer in international justice, what do you think about the International Criminal Court?" He said "I support it and I think it is a good idea."

LO: Ha ha... Good for your father!

JF: We applaud you for the good work you have done so far in carrying out the awesome responsibilities of the ICC's first Chief Prosecutor. Thank you.

LO: Thank you, Jonathan. ■

In addition to his position as President of the MacArthur Foundation, Mr. Fanton also served as the chair of the Human Rights Watch board from 1998–2003.

Court takes on first cases

When the International Criminal Court was established three years ago, its president, Philippe Kirsch, said, "For the very first time in history, victims of the most heinous crimes known to humanity have been granted access to an international criminal court to participate directly in the proceedings and to give evidence on their own behalf."

Since then, the Court has become involved in five cases, four at the request of the governments of those countries and one a referral from the United Nations Security Council. The Court has opened formal investigations into situations

in three regions—Northern Uganda, the Democratic Republic of Congo, and the Darfur region in Sudan—and is making inquiries into situations in the Central African Republic and the Ivory Coast.

Northern Uganda

In the first case brought before the Court, in December 2003, Ugandan President Yoweri Museveni asked ICC Chief Prosecutor Luis Moreno-Ocampo (*see interview*) to investigate atrocities committed by the Lord's Resistance Army, a brutal group in Northern Uganda that has abducted 20,000 children,

forcibly conscribed them into the group, and sexually enslaved many of them. Rebels are known to chop off the lips and ears of those who resist them. An estimated 100,000 lives have been lost in this conflict. In addition, Museveni has told the Court he will not stand in the way of an investigation of atrocities committed by government forces, the Ugandan People's Defense Force (UDF). The Court has almost finished its investigation and is preparing to issue indictments.

Democratic Republic of Congo

In the Democratic Republic of Congo, on April 19, 2004,

president Joseph Kabila asked the Court to investigate human rights violations in the Ituri (eastern) province, a bloodstained region whose population has been subject to what *The New York Times* calls "an amalgam of rebel insurgencies, tribal rivalries, competition for resources and just plain butchery without a cause." The investigation has since been expanded, at Kabila's request, to include all crimes committed throughout the country, where fighting has taken 3.8 million lives since 1998.

(continued on back page)

Responsibility to protect: Redefining sovereignty



MacArthur
Foundation
International
Justice

This September, the United Nations will convene a “Millennium+5 Summit” to evaluate progress on the Millennium Declaration adopted by member nations in 2000. Among the items on the agenda: a new paradigm for humanitarian intervention presented in a report by the same name, the “responsibility to protect.”

As laid out in the 2001 report of the International Commission on Intervention and State Sovereignty, “responsibility to protect” provides a much-needed framework for addressing the questions raised by the humanitarian crises in Rwanda, Kosovo, Somalia, and elsewhere throughout the 1990s: When, if ever, should intervention occur? Who has the right to intervene? How should intervention be followed up? According to the report, “Sovereign states have a responsibility to protect their own citizens from avoidable catastrophe — from mass murder and rape, from starvation —

but when they are unwilling or unable to do so, that responsibility must be borne by the broader community of states.”

“We want no more Rwandas,” says Gareth Evans, co-chair of the commission. “It was clear the international community lacks a coherent response to conscience-shocking events. We attempted to find a new consensus, a new way forward. Now we have a sense of an emerging international norm evolving in front of our eyes.”

The momentum builds

With the end of the Cold War, the international community’s attention was refocused on the plight of millions of people displaced and persecuted by intra-state conflicts in Somalia, Rwanda, Bosnia, and elsewhere. This awareness dovetailed with Kofi Annan’s push to reform and reinvigorate the UN — in fact, the Secretary-General made the issue of humanitarian intervention a pillar of UN reform in his Millennium address to the

General Assembly. “If humanitarian intervention is, indeed, an unacceptable assault on sovereignty,” Annan said, “how should we respond to a Rwanda, to a Srebrenica — to gross and systematic violations of human rights that affect every precept of our common humanity?”

His charge was taken up by the Canadian government, which has long been considered a leader in mobilizing mid-size and smaller nations for human rights initiatives, including the International Criminal Court, the Treaty to Ban Land Mines, and the Protocol on child soldiers. Lloyd Axworthy, who was then serving as the Canadian foreign minister, undertook developing and administering the commission.

Axworthy realized early on that the commission’s effectiveness would require an unprecedented amount of global discussion, documentation, and analysis. “The work on land mines was seen as a kind of bible for these efforts, but the

Left: Mourners at a mass funeral for Srebrenica victims in 2003.

Lower Right: A Ugandan woman stands by the remains of a house destroyed by the Lord's Resistance Army, which has been at war with the government for 19 years.

commission would have to far exceed it — we had to go to the very heart of issues of state sovereignty.” Doing so, said Axworthy, required resources far beyond what the Canadian government could provide.

With the support of MacArthur and other funders, the commission held roundtable discussions with more than 200 people from governments, inter-governmental and nongovernmental institutions, and academia and research — in Beijing, Cairo, Geneva, London, Maputo, New Delhi, New York, Ottawa, Paris, St. Petersburg, Santiago, and Washington, D.C. “These worldwide and genuine consultations were crucial features to reaching common ground,” says commission member Ramesh Thakur, senior vice-rector for the UN University’s Peace and Governance Program. “Without the support of the American foundations, these meetings would not have happened or would have been substantially reduced in scale.” Similarly, foundation support was essential for the supplementary research volume which has provided intellectual gravitas and traction to the main report.

A new framework

The commission’s charge was far-reaching: to look at the legal, moral, operational, and political implications of humanitarian intervention. Four imperatives emerged from its discussions:

- The terms of the debate had to be re-cast. “We had always talked about intervention from the perspective of those doing the intervening,” says Evans. “We had to shift the perspective to that of civilians.”
- A new definition of sovereignty was needed, moving away from its historic implications — “No one can touch our patch,” as Evans puts it. “We had to define sovereignty in terms of responsibility and limits.”

- Possible responses in the face of atrocities had to encompass more than military action. The report sets forth a whole continuum of responses, including preventing crimes against humanity and rebuilding in the aftermath of civil conflict.

- Military action must meet carefully defined criteria, an issue most pressing to smaller nations in the developing world who fear their sovereignty could be threatened by powerful nations in the North. “Third-world governments are likely to find that the report contains all the safeguards they need with respect to threshold causes, precautionary principles, lawful authorization, and operational doctrine,” says Thakur.

The power of language and ideas

Secretary-General Annan has enthusiastically endorsed the work incorporating it into his own report, *In Larger Freedom*, which sets forth the highest priorities for the September 2005 summit. Evans, Axworthy, and Thakur remain cautious about its prospects this fall at the UN summit.

To those who would dismiss the concept of “responsibility to protect” as mere semantics, Evans offers as a counter-example the impact of another term, “sustainable development.” “The whole environmental debate was turned around when it was articulated this way,” he says. “It became a way to find common

ground — or at least it created a level table across which debates could take place.”

Thakur agrees. “Language is not neutral, but can contain powerful codes about right and wrong behavior. The most substantial and enduring contribution of “responsibility to protect” will be to have made the normative breakthrough, reframing the deeply divisive and inherently confrontational language of humanitarian intervention.”

“Moving an idea to an action to a standard to a practice is never easy,” says Axworthy, who is now president and vice chancellor of the University of Winnipeg. “But it’s now becoming a part of the vocabulary, and that in itself is a step forward. I don’t view the September summit in win-or-lose terms. It’s another stage you work on.”

The Iraq War, the war on terrorism, lack of media coverage, and an instinctive resistance in the developing world to even engage in the themes of “responsibility to protect” present obstacles, admits Thakur. “And in Darfur, we seem to be dishonoring, yet again, the pledge of ‘Never Again’. But there is in fact a surprising sympathy and receptivity among those who have read the report to its main thrusts and recommendations. The effort may stumble, but because the problem it tries to address is an enduring one, its main message will remain relevant.” ■

“Language is not neutral, but can contain powerful codes about right and wrong behavior.”



For the Security Council, a new tool for information and transparency

During a three-month period in 1994, up to one million people were killed in Rwanda in a horrific political campaign that failed to attract international outrage or action until it was far too late. At the time the genocide began, the United Nations Security Council — which has primary responsibility for maintaining international peace and security — was preoccupied with desperate situations in Bosnia and Somalia, as well as with crises ranging from Iraq to North Korea to Haiti, says Colin Keating, who at the time served on the Council as New Zealand's UN Ambassador. With little credible information about Rwanda to work with — and with representatives of the genocidal regime

actually sitting among the Council's ten non-permanent member states — the Council was led to believe the conflict was “a small civil war rather than the smoldering volcano that it really was,” Keating says.

“Rwanda was one of the most remote and unknown countries in the world,” notes Keating. “Very few members of the Council even had an embassy there, so the possibility of getting first-hand information was very slight. Plus, there was tight control of Rwandan media by local authorities, who were sowing their own propaganda agenda. Finally, within the closed doors of the Council itself, representatives of the genocide regime were able to frustrate all kinds of progress.”

Keating emphasizes that the availability of information was only a small part of the overall failure of the international community in the context of the Rwanda genocide. However, the tragedy does illustrate graphically how insufficient or inaccurate information can contribute to the Security Council's inadequate response to international crises and crimes against humanity. This problem was top-of-mind in 2002 when a group of international funders — the governments of Canada and Norway and the MacArthur and Rockefeller foundations — began to look for ways to ensure that substantive and objective information about both situations on the ground and inside the Council is

MacArthur
Foundation
International
Justice



Right: Escalating violence in Colombia by both paramilitary and guerrilla groups has caught the attention of the international community.

Lower Left: UN troops arrive in the Congo, 2003.

Below: The Security Council votes to impose an arms embargo on the Ivory Coast, 2004.



more readily available to Council members, to the UN Secretariat, the media, NGOs, and the public. The result is a new 501(c)3 organization, Security Council Report, which will publish up-to-date information about the Council's agendas, provide bulletins on breaking news, and make available background information and analytical reports on specific threats to human security. Information will be regularly disseminated to UN member states and the public, through a Web site, print publications, e-mail bulletins, events, and other mechanisms.

Increasing transparency

Colin Keating is the *Report's* founding executive director. Working from a New York office within walking distance of the UN, he and a full-time staff of four, plus graduate student researchers from Columbia University and City University of New York, will work in consultation with governments and NGOs to gather and analyze relevant information. The *Report* is being produced with the assistance of Columbia University's Center on International Organization and, in the future, in collaboration with a global consortium of research universities. It is expected to be available in the fall of 2005.

A governing board that includes a representative of Columbia University and of the initial donors — the governments of Canada and Norway and the MacArthur, Rockefeller, and Hewlett foundations —

provides guidance and oversight. MacArthur President Jonathan Fanton is chair. It is expected that as the *Report* becomes fully operational, board membership will increase and donor representatives will gradually rotate off the board.

"A report like this is something whose time has come," says Kishore Mahbubani, former ambassador from Singapore to the UN. "When the Security Council functions well, it has a huge potential to make a difference and save millions of lives. Yet there is a big misunderstanding about this institution and how it works, no mechanism at all to follow Council activities, and very little transparency. The *Report* will keep members informed, the Secretary-General informed, and the media and public informed, and will act as a spur to help the Council act quickly and effectively."

The UN's most powerful body, the Security Council has five permanent members — China, France, Russia, the United Kingdom, and the United States — plus ten elected members who serve two-year terms. The presidency of the Council rotates monthly, moving alphabetically by country. The elected members have long complained about having insufficient information about the inner workings of the Council and its many complex subsidiary bodies, which they feel prevents them from full and constructive participation in the Council. In addition, there are 191 member states in the

United Nations, including many that are too small to follow the varied activities of the Council on a day-to-day basis, yet whose actions or inactions may affect their security and the larger international political climate in major ways.

"A big problem is that so many members of the Security Council come to the issues totally new [five new nonpermanent members enter the Council each year]," says Keating. "Aside from the Security Council members, there are 176 additional members of the UN, so despite a reasonable rotation of service, even large countries like Canada can only expect to serve every 15 or 20 years. As a result, resources of professional knowledge and expertise are limited, and there is a continuity problem for most of the members."

The Council's ability to stay well informed and to inform others has become vastly more difficult since 1990, when the Council dramatically increased its activity, says Edward Luck, professor of Practice in International and Public Affairs at Columbia University and director of the Center on International Organization at the School of International and Public Affairs. He points out that the Council, which once met periodically when a crisis was brought before it, now meets in nearly continuous session, dispatching military operations, imposing economic sanctions, mandating arms inspections, and deploying human rights and

(continued on next page)

A new publication for Security Council members will replace hallway conversations and word-of-mouth reports with credible, reliable information.





Left: A refugee camp in Sudan.

election monitors. The Council's 18 subsidiary bodies, including a series of counter-terrorism and sanctions committees, have no written records and only report orally from time to time to the Council as a whole.

"During the Cold War, a reporting initiative like this would have been a pretty sleepy enterprise," says Edward Luck. "But since 9/11 in particular, the Council has been hyperactive. It holds endless meetings, has a huge and ambitious agenda, and deals with highly technical issues, from weapons of mass destruction and nuclear issues to arms embargoes and diplomatic sanctions. For example, up until the end of the Cold War, the Council had basically not been involved in the business of imposing sanctions; it had only done so two times before then. But in 1993 alone, the Council passed more Charter 7 resolutions [actions that all members of the UN are legally bound to carry out] than in the first 44 years of its existence. The Security Council is now a real hotbed of political activity internationally. Not even someone who really loves this kind of work can keep up with it."

The *Report* will replace hallway conversations and word-of-mouth reports with credible, reliable, and accessible information, says Allan Rock, Canada's

ambassador to the United Nations.

"When I arrived at the UN in 2004, I was struck by the old-fashioned ways we had to get information from the Security Council," he says. "You literally had to send someone to buttonhole a friend who knew someone on the Council to find out what was on the agenda for the next day. Information was handed down in a hit-or-miss process, and sometimes it got changed in the transition. This is the 21st century—and this is the senior body in the world with the power to send troops into battle and intervene in crises; we knew we had to do better than that.

"First and foremost, we want the *Report* to set a new standard for the transmission of information, providing a single, dedicated, independent place where Council members can find out what is going on. And second, let's not underestimate its importance to the broader public and to NGOs doing terribly important work in these countries in conflict."

The power of information

The *Report* will be a great benefit to NGOs focused on international human rights, says Len Rubenstein, executive director of Physicians for Human Rights. "As an advocacy organization, information is our stock in trade," he says. "Right now, even very basic information about the Security Council has to be obtained through our own private channels. We are large enough to have someone at the UN who helps us gather information, but many smaller NGOs simply

don't have the resources to do that. The *Report* will fill a very significant gap, enabling a much broader set of organizations—including those in countries where conflicts are taking place—to receive information and to provide it. The *Report* will also provide a conduit to assure that information from NGOs reaches all security council members. For example, if we know the *Report* will be conducting an analysis of civilians in Darfur, all NGOs with relevant information can contribute in a coherent way."

The *Report* will not take positions on the substance of resolutions before the Council, but it will keep a searching and perhaps a critical eye on the information underlying Council decisions as well as track the Council's performance, Keating says.

"Our goal is not to take sides on any issue, but to ensure that objective information is equally available to everyone who needs a better understanding of how the Council works. Some of the criticism of the Council's inability to act quickly grows out of lack of knowledge of what is possible. The United Nations is simply a collection of member states. All of them cannot be expected to be knowledgeable about every international problem on any given day. So, the amount and clarity of the information brought before them is extremely important. If there had been something like the *Security Council Report* during the Rwanda crisis, so much more information about what was going on would have been available to us and to the media, and the Council might have proceeded differently." ■

Nuremberg's legacy: Milestones in international justice

1946

• Nuremberg International Military Tribunal tries and convicts Nazi war criminals



1948

• In response to the ethnic cleansing of the Jews during World War II, the UN General Assembly adopts the Convention on the Prevention and Punishment of the Crime of Genocide and the Universal Declaration of Human Rights

1948

• International Law Commission established to begin exploring the possibility of an International Criminal Court

1959

• The European Court of Human Rights becomes operational

1979

• Inter-American Court of Human Rights becomes operational

Nizhnii Novgorod Committee Against Torture: Challenging impunity

In September of 1998, a young student named Aleksei Mikheev jumped from the third story of a police station in the Russian city of Nizhnii Novgorod, paralyzing himself from the waist down. This happened after ten days of reported torture by the police who used electric shock to force a confession from him for a murder that never happened (according to reports, the murder victim showed up later that day alive and completely unharmed). Since then, Mikheev has been working with Russian human rights groups to seek justice for the torture and permanent paralysis he suffered. After two unsuccessful attempts to prosecute the police within the Russian system, in November 2001 an application was lodged with the European Court of Human Rights alleging that Aleksei Mikheev's rights under the European Convention on Human Rights were violated. A judgment is expected in the coming months.

Challenging impunity

"There is a climate of impunity in Russia when it comes to police torture. State officials can often avoid punishment because of their position," said Igor Kalyapin, the head of Committee Against Torture, a Russian human rights organization based in the central Russian city of Nizhnii Novgorod that has presented testimony before the European Court on behalf of Mikheev. "The fact that Mr. Mikheev's claim was recognized as admissible by the European Court will affect public opinion greatly," said Kalyapin. He hopes the case

will help his organization raise awareness of police torture as a major problem in Russia.

The dissolution of the Soviet Union in 1991 and subsequent democratic reforms opened the door for a small but burgeoning civil society in Russia. The Committee, set up in 1997, was the first nongovernmental organization to specialize in the monitoring of police torture in the country. It has a staff of 16 that investigate claims, provide legal advice and medical rehabilitation for victims, and help prepare claims for international bodies when the Russian system is not adequate. It is one of a group of nearly 20 Russian human rights organizations in 13 regions across Russia supported by MacArthur. In addition to police reform and the reduction of police torture, the human rights program in Russia funds organizations to monitor human rights abuses, seek appropriate resolution of specific cases, disseminate information about human rights issues to a national and international audience, and work toward systematic improvement in the implementation of human rights laws. Select Moscow-based groups also receive support to organize Russia-wide monitoring projects, act as legal and information resources, and provide training opportunities for the regional groups.

Changing the system

"The police violate human rights everywhere in the world, but in Russia I would call it a true catastrophe," says Kalyapin. "It is tolerated by society, and cases are nearly

impossible to bring to trial." Kalyapin adds that the police are a self-contained entity that operates without public oversight. In fact, he says the structures that are supposed to provide checks and balances to the system — the prosecutor's office and the courts — are usually effectively on the side of the police. "Everyone can agree that torture exists in Russia. It's just that most can't imagine that cases could be brought to trial and criminals punished."

Over the last four years, the Committee has received 302 claims of torture, with only ten resulting in a conviction. Currently, they are working on 36 cases in the Nizhnii Novgorod region and on 53 others in collaboration with other organizations.

One of the biggest obstacles to combatting the problem of police torture in Russia is the lack of evidence. "There is no reliable data about the scale of the problem," says Kalyapin. "There are considerable and sometime diametrical differences in the estimation of its scale."

The Committee began work last year to document the prevalence of police torture across the country. Findings will be used to strengthen the work of the Committee's anti-torture network, provide evidence for a nationwide campaign against torture, and help the Committee and other human rights groups work to change the law enforcement system into one that is answerable to the public it serves.

Russian translation provided by Sadovskaya Olga A. of the Committee Against Torture. ■

1987

The Africa Commission on Human and Peoples' Rights becomes operational



1989

Fall of the Berlin Wall



1990

War in the former Yugoslavia

1993

Security Council establishes a temporary ad hoc tribunal for Bosnia-Herzegovina



1994

War in Rwanda. Security Council establishes a second ad hoc tribunal for Rwanda

Sin Fronteras: Protecting migrant and refugee rights

Every year, hundreds of thousands of refugees and migrants enter Mexico. Many seek to escape civil war, political violence, and repression in some Central and South American countries. Others — such as Guatemalan coffee growers trekking across the southern border into Chiapas — look for temporary work. As immigration policies in the U.S. and Europe have become more restrictive, Mexico also has begun to absorb growing numbers of people from Africa, Asia, and the Middle East. Although most migrants hope to cross the northern border into the United States, many remain in Mexico for extended periods of time.

“Migrant and refugee movements are like water: They always find a way to get through,” says Fabienne Venet, director of Sin Fronteras, a Mexican organization focused on strengthening human rights protection for migrants and refugees in Mexico. “And Mexico, being the last country you get to before the U.S., is like the neck of the bottle where the water gathers before it moves on.”

Until recently, Mexico had a laissez-faire approach toward migrants, Venet says. But growing numbers of people in transit and a rising wave of violence — including several cases of extreme brutality at the borders — have forced the issue into the spotlight. Although migrants in Mexico are vulnerable to human rights abuses, including extortion, robbery, assault, and sexual abuse, most of these violations go unreported, making it difficult to gather

systematic information. Even when cases are reported, victims have limited access to justice. Undocumented and legal migrants are often detained without due process, and the executive branch of government has broad power to expel foreigners at will.

A human rights perspective

With support from the MacArthur Foundation, Sin Fronteras works to incorporate a human rights perspective into Mexican and regional migration policy and legislation. Established in 1995 to provide social and legal help to asylum seekers and refugees, the organization has become an anchor of human rights inquiry, advocacy, and implementation in Mexico. “We may be members of NAFTA and the global community, but we continue to be a country with very high levels of poverty and a fragile system of social security,” Venet says. “Migrants face many difficulties here, and our immigration legislation is not adequate by international standards or even based on a policy of what Mexico needs for its own migrant labor force.” Sin Fronteras is among ten human rights organizations in Mexico that receive MacArthur support to monitor and document violations of human rights and, when appropriate, seek redress for those violations in domestic courts and international tribunals such as the Inter-American Court. MacArthur also makes grants to help professionalize Mexico’s human rights ombuds system and for efforts to improve policing.

Broadening the agenda

In one of its major achievements, Sin Fronteras campaigned for ratification of the Convention on the Rights of Migrant Workers and their Families, which requires the Mexican government to report to the UN High Commissioner for Refugees on its steps to comply with the convention. Now Sin Fronteras is embracing a broad agenda to continue engaging the government and civil society in dialogue about migrants’ rights; generating data to inform policy and legislative processes; following up on treatment of people held at detention centers; and intervening in cases of individuals in detention prior to deportation. It also will create mechanisms for lawyers and law students to offer their services to migrants, provide technical training for immigration officials, and collaborate in national and international networks of NGOs and with the UN Human Rights Commission.

Sin Fronteras has many international connections, especially with countries that participate in the Regional Conference on Migration (Canada, the U.S., Mexico, Belize, Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, Panama, and the Dominican Republic), which Mexico convened for the first time in 1996. “The issue of migrants and refugees is fundamentally international,” Venet says, “and the lives of migrants in Mexico are influenced by policies and practices of governments outside of Mexico. We named our group ‘Sin Fronteras’ because our work can’t be limited by borders.” ■

MacArthur
Foundation
International
Justice

1994

• Nearly 45 years after work on ICC first begins, the International Law Commission presents a final draft statute on the ICC to the United Nations General Assembly

1996–1998

• General Assembly convenes six Preparatory Commission meetings to continue to draft the ICC Statute

June–July 1998

• 160 countries meet for the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court (Rome, Italy)

October 1998

• Police in the United Kingdom arrest General Pinochet, Chile’s president from 1973–1990, who was accused of murder and kidnapping

February 1999

• Senegal becomes the first state party to ratify the Rome Statute



CLEEN Foundation: Creating a partnership with police

Since its transition to a democratically elected government in 1999, Nigeria has been making inroads into the difficult task of reforming a police force weakened by years of military dictatorship. Even more challenging: the effort to reclaim the trust of a citizenry accustomed to living with frequent petty extortions by police and other more egregious violations of human rights.

“The biggest change in the past five years is that the police are willing to admit the problems and to work with us to solve them,” says Innocent Chukwuma, executive director of the CLEEN Foundation, a Nigerian human rights organization with a track record of constructive engagement with the police. “The previous regime always saw civil society as out to uncover what they were hiding. But our approach is less about finger pointing and more about finding solutions and improving the public perception of police.” CLEEN is one of a number of organizations in Nigeria supported by MacArthur to help strengthen the accountability of police, improve relations between the police and the public, and call attention to policing as a critical issue in justice sector reform. Policing is one focus of MacArthur’s human rights grantmaking in Nigeria, which also includes support to build up select national human rights organizations and facilitate linkages with international counterparts, and to strengthen the country’s legal architecture through support of activities to improve the constitution and national laws.

Tools for accountability

With MacArthur support, CLEEN is collaborating with the Nigeria Police Force to enhance police partnership with and accountability to the public. In an effort to encourage citizens to report their clashes with the police — and to spur the police to document and act on cases of abuse — CLEEN mobilized Nigeria’s national police leadership to revive the Police Public Complaint Bureaus, a network of administrative centers at each of the country’s 36 police commands that form the main infrastructure for monitoring police conduct. (The Bureaus had been inactive following military intervention in government, but have been revived since Nigeria’s democratic elections.) CLEEN supplied computers, software, telephone lines, technical support, and posters and billboards with phone numbers and e-mail addresses — all of which made it easier for the public to protest incidences of mistreatment. As a result, in the states of Lagos, Rivers, and Kano, the number of complaints against police has nearly tripled since 2002 and more than 120 officers have been dismissed for misconduct.

The MacArthur Foundation is now supporting CLEEN’s efforts to modernize the police force, whose policies were established during colonial days. “The Nigerian Police Act was established in 1943, before the founding of the United Nations, so it does not include all the human rights advances of the past

50 years,” Chukwuma says. “So even if a policeman is willing to abide by the laws as they are written, he can’t help but violate international law.” Efforts also are under way to streamline internal accountability mechanisms, track police officials who receive unusually high numbers of citizens’ complaints, and build awareness of and confidence in the Police Public Complaint Bureaus. CLEEN is also working to restart a publicly available Police Annual Report that will track police activities, including statistics on crime and data on police officers punished for various acts of misconduct and those rewarded for good conduct.

Public attitudes toward police are beginning to change. “Not every e-mail to police is a complaint — some are now expressions of commendation,” Chukwuma says. In a recent crime victimization survey conducted in Lagos metropolis by CLEEN in 2004, “seventy-three percent of respondents said they felt crime was dropping, which is the number-one thing people consider in assessing the work of the police. And 58 percent said the police are doing a good job; that has room for improvement, but it’s much higher than it once was.”

A worldwide reform network

Another significant change: NGOs across Nigeria — once unwilling to engage with police for fear they would be perceived as collaborating with them in

(continued on back page)

April 11, 2002
• The Rome Statute comes into force with the simultaneous ratification of seven countries

July 1, 2002
• ICC jurisdiction commences

February 2003
• 18 judges elected by the Assembly of States Parties

April 2003
• Chief Prosecutor elected by Assembly of States Parties

January 2004
• Uganda case referred to ICC



© ICC-CPI/Wim Van Cappellen

Benetech: Using technology to improve human rights

In 2002 Patrick Ball, an American sociologist and the current director of the human rights program at Benetech, presented testimony in The Hague as part of the war crimes trial of Slobodan Milosevic. Ball, then at the American Association for the Advancement of Science, had spent three years compiling and analyzing data about migration and killing patterns in Kosovo. Through techniques developed by demographers to adjust censuses, Ball was able to provide evidence that killings and mass migration from Kosovo villages had happened before NATO dropped their bombs, disproving Milosevic's claim that NATO was responsible for the violence. "The pattern of death and refugee movement was so regular that it suggested it was organized," says Ball. "The spikes (in deaths and refugee migration) also didn't correspond to NATO bombings. Coupled with testimony from refugees, this evidence agrees with the prosecutor's allegation that the Yugoslav government was most likely responsible for the crimes."

Defensible evidence

Ball and his colleagues at Benetech, a non-profit venture based in Palo Alto, California, are breaking new ground in the use of technology for social good. Ball directs the Human Rights Data Analysis Group, a Benetech initiative that employs information management techniques and advanced statistical analysis to generate objective, scientifically based evidence of large-scale human rights abuses. Unlike individual testimony, in which there can be conflicting claims about what

happened, Ball says that his group is able to provide evidence that is often more defensible because it is based in patterns across thousands of testimonies, instead of only a few.

Working with human rights organizations, the Human Rights Data Analysis Group designs and builds information management solutions and conducts statistical analysis. This includes developing database software, data collection strategies, and statistical techniques to measure human rights atrocities. Over the years, the Analysis Group's experience has been used by seven truth commissions, as well as by international criminal tribunals, and nongovernmental human rights organizations around the world.

Working around the world

In Guatemala, Ball's group helped the UN-sponsored Commission for Historical Clarification (the truth commission) investigate claims of genocide against the Mayan population during the country's 36-year war. "Using demographic technologies, we were able to estimate the total number of people killed by the army — as well as the number of indigenous versus non-indigenous deaths — to provide evidence of genocide," says Ball.

Similarly, in East Timor, Ball and his colleagues are assisting the Commission for Reception, Truth and Reconciliation uncover evidence about human rights abuses committed during the occupied period of 1974–1999. To calculate previously undocumented annual mortality rates during these years, Benetech researchers are comparing three datasets: individual testimony; a census of more than 319,000 graves in all the public

cemeteries in East Timor; and a retrospective mortality survey of 1,396 households.

Safeguarding information

Two Benetech software tools — Martus and Analyzer — have been developed to securely collect, store, and analyze individual accounts of abuse. Martus, which means "witness" in Greek, is an easy-to-use data encryption technology that helps human rights organizations safeguard sensitive data, including field notes, testimony, and investigation reports. Once data is collected, Analyzer helps human rights workers examine information gathered from disparate sources — including medical records, newspapers articles, witness testimonies, letters, and others — to determine "who did what to whom." It helps identify perpetrators and victims by mapping individual accounts of abuse and identifying overlapping reports. All Benetech software is free and open source.

In the largest installation of Martus to date, Benetech has most recently partnered with NGOs in Columbia to catalogue individual testimony from those affected by the country's 38-year civil war. Using Analyzer and other techniques developed by his team, Ball and his colleagues will help assess the scope and magnitude of the human rights problem, with the hope of uncovering evidence about those responsible for the crimes.

"The failure of information flow has contributed to terrible chapters in history," says Ball. "But technology has the potential to make the world a better place. It can help us see more clearly what we already know and help uncover what we don't." ■

MacArthur
Foundation
International
Justice

April 2004

• Congo case referred to ICC



June 2004

• Formal investigation in Congo announced

July 2004

• Formal investigation in Uganda announced

March 2005

• UN Security Council refers Darfur to ICC



May 2005

• Formal investigation in Sudan announced

Grants in the fields of Human Rights and International Justice

The following are representative of the Foundation's human rights and international justice grantmaking from January 2002-June 2005. For a list of recent grants, please visit the Foundation's Web site at www.macfound.org.

Human Rights and International Justice

ALTUS, *The Hague, Netherlands*
\$700,000 in support of the Altus Global Alliance.

AMERICAN BAR ASSOCIATION FUND FOR JUSTICE AND EDUCATION, *Chicago, Illinois*
\$250,000 in support of capacity building and institutional strengthening of the Rwandan judiciary and the Gacaca courts.

AMERICAN SOCIETY OF INTERNATIONAL LAW, *Washington, D.C.*
\$300,000 in support of a project entitled "International Law Within Nations: Fostering a Multilevel Approach to Rights and Governance."

ASIA PACIFIC FORUM OF NATIONAL HUMAN RIGHTS INSTITUTIONS, *Sydney, NSW Australia*
\$250,000 in support of the Advisory Council of Jurists.

BENETECH, *Palo Alto, California*
\$800,000 in support of using science and technology to promote human rights.

CANADIAN DEPARTMENT OF FOREIGN AFFAIRS AND INTERNATIONAL TRADE, *Ottawa, Ontario, Canada*
\$300,000 in support of regional meetings in Africa on the Responsibility to Protect.

COLUMBIA UNIVERSITY IN THE CITY OF NEW YORK, SCHOOL OF INTERNATIONAL AND PUBLIC AFFAIRS, *New York, New York*
\$1,500,000 in support of reporting on the UN Security Council.

GLOBAL POLICY FORUM, *New York, New York*
\$225,000 for strengthening NGO dialogue with the United Nations Security Council.

GLOBAL RIGHTS, *Washington, D.C.*
\$400,000 for general support.

HUMAN RIGHTS FIRST, *New York, New York*
\$1,200,000 in support of general operations.

HUMAN RIGHTS WATCH, *New York, New York*
\$3,500,000 for general support and special initiatives.

INSTITUTE FOR HUMAN RIGHTS AND DEVELOPMENT IN AFRICA, *Banjul, Gambia*
\$395,000 in support of its project to develop litigation for the African Court on Human and Peoples' Rights.

INTERNATIONAL BAR ASSOCIATION, *London, United Kingdom*
\$530,000 for an Evaluation and Educational program on the International Criminal Court.

INTERNATIONAL CENTER FOR TRANSITIONAL JUSTICE, *New York, New York*
\$440,000 in support of a program to strengthen the work of the International Criminal Court.

INTERNATIONAL CRISIS GROUP, *Washington, D.C.*
\$1,000,000 in general support of field research and policy prescription in imminent or ongoing conflict situations.

INTERNATIONAL FEDERATION FOR HUMAN RIGHTS, *Paris, France*
\$465,000 in support of activities that facilitate victims and human rights NGO's interaction and cooperation with the International Criminal Court.

INTERNATIONAL PEACE ACADEMY, *New York, New York*
\$250,000 for research on operationalizing "The Responsibility to Protect" in the UN system.

INTERNATIONAL RESCUE COMMITTEE, INC., *New York, New York*
\$225,000 in support of emergency response to humanitarian crises around the world.

NEW YORK UNIVERSITY CENTER ON INTERNATIONAL COOPERATION, *New York, New York*
\$378,000 in support of the Project on International Courts and Tribunals.

PHYSICIANS FOR HUMAN RIGHTS, *Boston, Massachusetts*
\$850,000 in support of general operations.

REFUGEES INTERNATIONAL, *Washington, D.C.*
\$225,000 in support of the Conflict Resolution and Prevention program.

STICHTING INSTITUTE FOR INTERNATIONAL CRIMINAL INVESTIGATIONS FOUNDATION, *The Hague, Netherlands*
\$250,000 in support of training and coordination.

WORLD FEDERALIST MOVEMENT—INSTITUTE FOR GLOBAL POLICY, *New York, New York*
\$240,000 in support of information dissemination and exchange on the Responsibility to Protect.

WORLD FEDERALIST MOVEMENT - INSTITUTE FOR GLOBAL POLICY, *New York, New York*
\$1,350,000 for general support.

Mexico

ACADEMIA MEXICANA DE DERECHOS HUMANOS, *Mexico City, Mexico*
\$210,000 in support of producing human rights reports in eight Mexican states.

CENTRO DE DERECHOS HUMANOS DE LA MONTANA, TLACHINOLLAN, A.C., TLAPA DE COMONFORT, *Guerrero, Mexico*
\$320,000 for the defense of the human rights of the indigenous people of the Mountain and Costa Chica regions of Guerrero.

CENTRO DE DERECHOS HUMANOS MIGUEL AGUSTIN PRO JUAREZ, *Mexico City, Mexico*
\$270,000 to document and monitor human rights in Mexico.

FEDERAL DISTRICT HUMAN RIGHTS COMMISSION, *Mexico City, Mexico*
\$260,000 to build capacity and networking among human rights ombudsmen in Mexico.

FUNDAR, CENTRO DE ANÁLISIS E INVESTIGACIÓN, *Mexico City, Mexico*
\$450,000 in support of strengthening public human rights commissions.

INSTITUTO PARA LA SEGURIDAD Y LA DEMOCRACIA A.C., *Mexico City, Mexico*
\$320,000 in support of building models for police accountability and civil society capacity building.

INSTITUTO TECNOLÓGICO AUTÓNOMO DE MEXICO, NORTH AMERICAN PUBLIC POLICY STUDIES PROGRAM, *Mexico City, Mexico*
\$280,000 for work to improve the performance of the national ombudsman system through monitoring and evaluation.

RED NACIONAL DE ORGANISMOS CIVILES DE DERECHOS HUMANOS "TODOS LOS DERECHOS PARA TODOS," *Mexico City, Mexico*
\$340,000 in support of improving human rights in 20 Mexican states.

SIN FRONTERAS I.A.P., *Mexico City, Mexico*
\$300,000 in support of activities to strengthen human rights protection for migrants and refugees in Mexico.

UNITED NATIONS, OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, *Geneva, Switzerland*
\$250,000 in support of technical cooperation with the government of Mexico to strengthen human rights.

UNIVERSIDAD IBERO, *Mexico City, Mexico*
\$300,000 for support of the human rights program.

Grants in the fields of Human Rights and International Justice

Nigeria

ACADEMIC ASSOCIATES PEACEWORKS, *Abuja, FCT, Nigeria*
\$300,000 in support of partnerships and improved communication among communities, oil companies, and government in the Niger Delta.

CENTRE FOR LAW ENFORCEMENT EDUCATION, *Ikeja, Lagos State, Nigeria*
\$475,000 in support of enhancing police accountability in Nigeria.

CIVIL LIBERTIES ORGANIZATION, ORGANISATION POUR LES LIBERTES CITOYENNES, *Ikeja, Lagos State, Nigeria*
\$230,000 in support of gathering, analyzing, and publishing information on human rights violations in Nigeria.

CLEEN FOUNDATION, *Ikeja, Lagos State, Nigeria*
\$330,000 for the conduct and use of a national crime victimization survey.

FEDERAL MINISTRY OF JUSTICE, *Abuja, FCT, Nigeria*
\$200,000 in support of modernizing the administration of the criminal justice system.

GENDER AND DEVELOPMENT ACTION, *Lagos, Nigeria*
\$30,000 for technical support in the National Conference on Political Reforms in Nigeria.

INSTITUTE OF HUMAN RIGHTS AND HUMANITARIAN LAW, *Port Harcourt, Rivers State, Nigeria*
\$200,000 in support of strengthening participatory monitoring of resource flows in the Niger Delta Region.

LEGAL DEFENCE AND ASSISTANCE PROJECT, *Anthony Village, Lagos State, Nigeria*
\$350,000 in support of a project to train state prosecutors as a means of improving the administration of criminal justice in Nigeria.

LEGAL RESEARCH INITIATIVE, *Abuja, FCT, Nigeria*
\$240,000 to domesticate the United Nations Convention on Torture and Other Cruel, Inhuman, Degrading Treatment or Punishment.

MOVEMENT FOR THE SURVIVAL OF THE OGONI PEOPLE, *Port Harcourt, Nigeria*
\$100,000 for participatory monitoring of local government resources in Rivers State.

NATIONAL HUMAN RIGHTS COMMISSION, *Abuja, FCT, Nigeria*
\$300,000 in support of the implementation of the National Action Plan for the Promotion and Protection of Human Rights in Nigeria.

NIGERIA POLICE FORCE, *Abuja, FCT, Nigeria*
\$300,000 for enhancing collaboration between civil society and police in Nigeria.

Russia

ALL RUSSIAN PUBLIC MOVEMENT FOR HUMAN RIGHTS, *Moscow, Russia*
\$300,000 in support of activities facilitating coordination among Russian human rights organizations.

CENTER FOR THE SUPPORT OF DEMOCRATIC YOUTH INITIATIVES, *Perm, Russia*
\$210,000 in support of activities to promote the rights of young men of conscript age.

CENTRAL-BLACKSOIL CENTER FOR PROTECTION OF MEDIA RIGHTS, *Voronezh, Russia*
\$225,000 in support of activities to protect media rights in Central Russia.

CHARITABLE FOUNDATION IN SUPPORT OF CIVIL SOCIETY INITIATIVES "FULCRUM," *Moscow, Russia*
\$240,000 in support of a regranting program to promote human rights activities in 13 selected priority regions in the Russian Federation.

CONSORTIUM OF WOMEN'S NON-GOVERNMENTAL ASSOCIATIONS, *Moscow, Russia*
\$225,000 in support of activities to protect women's rights in Russia.

DOS'E NA TSENZURU, *Moscow, Russia*
\$240,000 in support of a human rights journal, a special quarterly publication devoted to human rights violations by law enforcement personnel.

GLASNOST DEFENSE FOUNDATION, *Moscow, Russia*
\$315,000 to monitor violations of mass media rights in the Russian Federation.

INDEPENDENT COUNCIL OF LEGAL EXPERTISE, *Moscow, Russia*
\$450,000 in support of activities to facilitate court reform and improve mechanisms for the protection of human rights in Russia.

JURIX, *Moscow, Russia*
\$200,000 in support of activities to promote the institution of human rights ombudsmen in the Russian Federation.

LONDON METROPOLITAN UNIVERSITY European Human Rights Advocacy Centre, *London, United Kingdom*
\$300,000 in support of activities to promote access to the European Court of Human Rights in the Russian Federation

MOSCOW CENTER FOR GENDER STUDIES, *Moscow, Russia*
\$225,000 in support of activities to promote women's human rights and gender equality in Russia.

MOSCOW HELSINKI GROUP, *Moscow, Russia*
\$750,000 in support of a long-term strategy to reinforce the human rights movement in Russia.

NIZHNII NOVGOROD REGIONAL NON-GOVERNMENTAL ORGANIZATION "COMMITTEE AGAINST TORTURE," *Novgorod, Russia*
\$270,000 in support of research to establish the scale of the incidence of police torture in Russia, the monitoring and pursuit of cases of alleged torture, and inhumane treatment by Russian law enforcement agencies.

PERM CIVIC CHAMBER, *Perm, Russia*
\$200,000 in support of activities to promote the human rights community in the Russian Federation.

PERM REGIONAL HUMAN RIGHTS CENTER, *Perm, Russia*
\$225,000 in support of activities to combat torture by law enforcement agencies.

SARATOV LEGAL REFORM PROJECT, *Saratov, Russia*
\$450,000 in support of a project on legal science, practice, and education in Russia.

ST. PETERSBURG CENTER OF HUMANITIES AND POLITICAL STUDIES "STRATEGY," *St. Petersburg, Russia*
\$425,000 in support of a training and technical assistance program for human rights ombudsmen in the Russian regions.

Director's Message

The Human Rights and International Justice program area has three primary components: supporting human rights organizations with an international or regional reach; assisting local groups in selected countries; and furthering the development of an international system of justice. The architecture for that system — human rights treaties and law and justice mechanisms such as the regional human rights courts and the newly instituted International Criminal Court — is now largely in place. Using the mechanisms to realize more fully the rights enshrined in the laws and treaties is the future task.

A key to the implementation of international justice standards lies in the capacity of human rights organizations, large and small, to hold countries accountable to their constitutions and international agreements, to monitor the practice of international institutions and non-state actors, and to help insert human rights in national and international policy. This includes efforts by both international human rights organizations and the burgeoning number of committed local groups in the north and south that are making human rights universal by applying international human rights standards to problems in their countries. In the years ahead, human rights advocates will face difficult challenges as international treaties are rethought in the wake of September 11, as repressive states are joined by non-state actors as the chief perpetrators of human rights abuse, and as poverty intrudes on the enjoyment of basic rights. How to confront these challenges and show that progress is being made will be the objective of a new generation of human rights advocates.

In this newsletter, you have seen a sampling — in Russia, Mexico, Nigeria, and the United States — of organizations that, with Foundation support, are helping to advance human rights in their country and globally. Of course there are many other examples we did not include — activists and advocates around the world who are using human rights laws and standards to make a difference in people's daily lives, invigorating new institutions like the International Criminal Court, and promoting new international norms like the responsibility to protect. We are confident that they will continue to move closer to their goals, and we look forward to seeing their numbers grow.

Mary Page
Director
Global Challenges

About this newsletter

Each issue of the MacArthur newsletter will highlight one area of the Foundation's grantmaking. Areas selected will reflect the Foundation's overall approach to identifying and carrying out activities to address specific problems. More information about the Foundation and its grantmaking can be found online at www.macfound.org.

In its grantmaking, the John D. and Catherine T. MacArthur Foundation develops and follows a set of strategic, nonpartisan priorities related to a selected problem, holding itself accountable for results, over time. This requires defining problems and approaches, and continuously refining strategies as conditions and opportunities change. The Foundation reaches out to individuals and organizations it perceives to be the most promising and effective, and provides support over a sufficiently long period of time.

About the Foundation

The MacArthur Foundation is a private, independent philanthropic institution that makes grants through four programs. The Program on Global Security and Sustainability supports organizations engaged in international issues, including peace and security, conservation and sustainable development, population and reproductive health, and human rights. To aid in this grantmaking, the Foundation maintains offices in India, Mexico, Nigeria, and Russia. The Program on Human and Community Development supports organizations working primarily on national issues, including community development, regional policy, housing, public education, juvenile justice, and mental health policy. The General Program supports public interest media and the production of independent documentary films. The MacArthur Fellows Program awards five-year, unrestricted fellowships to individuals across all ages and fields who show exceptional merit and the promise of continued creative work. With assets of about \$4.5 billion, the Foundation makes grants totaling approximately \$180 million each year.

Darfur

On March 31, 2005, the UN Security Council referred the situation in Darfur, the western region of the Sudan, to the Court. In this area scarred by war crimes, crimes against humanity, and ethnic cleansing, some 200,000 people have died and almost two million people have been forced from their homes in the past two years. Most have become virtual prisoners in camps and towns because of ongoing attacks, rape, looting, and assault by government-backed militias. To date, the Sudanese government in Khartoum has shown no signs of willingness to cooperate with the ICC, although Sudan, as a UN member-state, is obligated to adhere to the terms of the Security Council resolution.

The MacArthur Foundation funds a number of international NGOs at work in the countries undergoing ICC investigation. Grantees include Human Rights Watch, Physicians for

Human Rights, CARE, International Rescue Committee, REDRESS Trust, Refugees International, and International Center for Transitional Justice. In support of the Court, these organizations gather data, provide technical expertise and legal analysis, and assist in the extremely complex process of submitting a case and preparing for a trial.

“It’s easy to lose sight of the formidable difficulties the Court will have in doing its work,” says Richard Dicker, director of Human Rights Watch’s International Justice Program. “The scale of the crimes that the Chief Prosecutor is mandated to investigate, the inaccessibility of some of the communities most scarred by the crimes, and the limitations on the Chief Prosecutor’s authority and power make this one of the most difficult jobs in the world. We need to be optimistic but sober-minded about what is possible and constructively critical about the Court so we can make it as effective as possible.” ■

violating people’s rights — are now working with CLEEN in the Network on Police Reforms in Nigeria. CLEEN also is a member of Altus, a group of six organizations across five continents that works to increase the capacity of NGOs to improve rights-based policing, bolster the administration of justice in countries around the globe, and advance practical understanding of the reform of justice systems.

“Many experiences here are replicable in other countries,” Chukwuma says. “In Africa, for example, all the former British colonies have a centralized police force and use the same police act, and very few have changed since independence because the governments in power have been dictatorships. Now that this is changing, we can work together to develop strategies for effective policing and protection of human rights.” ■



International Justice: An Emerging Global System

'05.2

MacArthur
Foundation

Visit the Foundation's Web site, www.macfound.org, for an electronic version of this newsletter and more information about MacArthur efforts related to international justice.

The John D. and Catherine T.
MacArthur Foundation

140 South Dearborn Street
Suite 1200
Chicago, Illinois 60603 USA

PRESORTED
FIRST-CLASS MAIL
U.S. POSTAGE PAID
CHICAGO IL
PERMIT NO. 8732