



**ACTU Submission to the  
Joint Standing Committee on  
Treaties Inquiry into the 1998 Statute for  
an International Criminal Court**

April 2001

1. The Australian Council of Trade Unions (ACTU) strongly supports the ratification of the Statute of International Criminal Court (ICC).
2. The Australian Government has played a leading role in the development of the Statute and we believe it should be among the first of the sixty countries to ratify.
3. The entry into force of the Rome Statute is of direct and immediate concern to union organisations not only in Australia but around the world.
4. Our concerns fall into three categories:

#### 4.1 Forced labour

- (i) As has abundantly been demonstrated by the ILO Commission of Inquiry, established under Article 26 of the ILO Constitution to examine the compliance by Burma with the ILO's Forced labour Convention (No.29), the extent and brutality of forced labour, as imposed today on the civilian population by the military authorities, is in law and in practice tantamount to slavery and , to that extent, constitutes a crime of international law. Indeed slavery is specifically prohibited under Article 8, paragraph 7 of the Rome Statute of the International Criminal Court.
- (ii) The ILO has also stressed on this occasion that those who impose, condone or tolerate the imposition of forced labour are liable to see their individual legal responsibility questioned by a court of law.
- (iii) Several recent armed conflicts, whether of a national or international nature, have led to further examples of forced labour being imposed on a large or systematic scale. In many instances it has been accompanied by the most brutal treatment of victims, including, amongst other torture, mutilation, rape, extra-judicial or arbitrary executions and/or disappearances. The individual criminal responsibility of those ordering, tolerating or committing such acts therefore also needs to be questioned

by a judicial body. The recent past or even, sometimes, the present situation in Sierra Leone, Liberia and Angola are examples, especially in view of the gravest possible crimes against humanity committed against unarmed civilians, especially workers, in each of these countries.

#### 4.2 War Crimes

- (i) The international union community also has a mandate and a specific responsibility for taking preventive or remedial action concerning war crimes. This is particularly relevant to the recent Balkans wars – especially in the context of the 1999 Kosovo conflict – and the humanitarian disaster which took place in East Timor following the independence referendum held there under United Nations auspices in August 1999. Indeed, the International Confederation of Trade Unions (ICTU) to which the ACTU is affiliated has forcefully denounced the massacres, torture, rape and other violence inflicted upon the Timorese population at the hands of militias controlled by Indonesia's armed forces and have repeatedly lent their support to efforts by the international community aimed at bringing those responsible to justice.

#### 4.3 Crime Against Humanity

- (i) As enshrined in the Rome Statute, the targeted physical elimination or repression of a selected population or of any part thereof constitutes a crime against humanity. This reasoning was strictly applied by the ICTU's lawyers when they lodged a class action (“Dépôt the plainte avec constitution de partie civile”) against Augusto Pinochet in a Brussels Court in November 1998. More precisely the ICTU held that the September 1973 military coup which brought Pinochet to power was in fact intended at the physical elimination of Chile's trade unionists and that the murder, torture or disappearance of over three hundred trade union members, activists and leaders could hence only be qualified as a crime against humanity. This action was supported by the ACTU.

- (ii) More recently, the systematic killing of Colombia's trade unionists, whether by drug traffickers, left wing guerrillas, right wing paramilitary death squads or the armed forces which protect them has also been described as a crime against humanity. In this context, the ILO Committee on Freedom of Association has repeatedly denounced the "climate of total Impunity" enjoyed by the authors of these murders, clearly pointing at the individual responsibility of their intellectual and material authors.
- 5. It is in that context that the ACTU is joining with the international union movement in supporting the rapid ratification of the Rome Statute and believes that the Australian Government, as one of the leading developers of the Statute should be among some of the first governments to ratify.