



Ref.: ASA 20/016/2003

Mr Atal Behari Vajpayee
Prime Minister
Office of the Prime Minister
152, South Block
New Delhi 110 001
India

17 July 2003

Dear Prime Minister,

Today, International Justice Day, the fifth anniversary of the adoption of the Rome Statute of the International Criminal Court (Rome Statute), Amnesty International is launching a campaign for universal ratification of the Rome Statute. I am writing to urge your government to join in this effort.

As of 1 July 2003, 90 states, approximately half of the states of the international community have ratified the Rome Statute. Reaching such a threshold in five years is a testament to the will of the international community to ensure that it will not stand aside and let the fabric of humanity be torn asunder by those who commit genocide, crimes against humanity and war crimes.

Those states that have ratified the Rome Statute have committed themselves to a new system of international justice in which their national courts have the primary obligation to investigate and prosecute people accused of crimes under international law. However, if states are unwilling or unable to genuinely investigate and prosecute these crimes the International Criminal Court (ICC) can do so. Such a system, if universally supported, would ensure an end to the horrific trend repeated throughout the last century where people were allowed to plan and commit these crimes knowing they would not be held accountable for their heinous acts.

Amnesty International is working to ensure that all states ratify the Rome Statute so that it has the widest possible jurisdiction. Universal ratification will ensure that there are no more safe havens for those who commit the worst crimes under international law.

Accordingly, I am writing to urge your government to join the international effort to establish this new system of international justice by ratifying the Rome Statute as soon as possible. Amnesty International's members in India are already undertaking initiatives to support India's ratification of the Rome Statute. By becoming a state party to the Rome Statute, India will be able to fully participate in the negotiations of the Assembly of States Parties, including the ability to propose new crimes for inclusion in the Rome Statute at a possible Review Conference in 2009.

All states that ratify the Rome Statute will need to enact new legislation or amend existing legislation to ensure that their national courts can effectively investigate and prosecute persons suspected of the crimes defined in the Rome Statute and that they can cooperate fully with the Court. Such legislation should, if possible, be enacted by the time the Rome Statute enters into force for your country (60-90 days following ratification). States should begin work on drafting implementing legislation at the same time as they start the process of ratification. By doing so, states parties will be

in a position to fulfil their international responsibilities when the Rome Statute enters into force for their state.

To assist states with reviewing their legislation in order to prepare national legislation, Amnesty International has prepared *International Criminal Court: Checklist for effective implementing legislation* (IOR 40/011/2000) May 2000, which I enclose for your information. We urge your government to conduct broad consultation with civil society groups in India and internationally when preparing your country's implementing legislation. We would be happy to assist by commenting on any draft legislation that is prepared.

Furthermore, in September 2002, the Assembly of States Parties adopted an Agreement on Privileges and Immunities of the Court, which provides important privileges and immunities for Court staff not covered by any other treaty. The Agreement is open for signature until 30 June 2004. We hope that India will sign the Agreement as soon as possible and to take measures to ensure that it ratifies the Agreement and implements it into national law before the Rome Statute enters into force for India, so that the International Criminal Court can operate effectively throughout the world.

Finally, as you are aware the Court is the object of a worldwide campaign by the United States of America (USA) to weaken it and to obtain impunity from international justice for United States (US) nationals accused of genocide, crimes against humanity and war crimes. Amnesty International was disappointed to learn that India signed an agreement committing not to surrender US nationals to the Court late last year, in a highly secretive process. These agreements violate the Rome Statute and other international law, by seeking to give impunity from international justice for the perpetrators of the worst crimes in the world. We hope that your government will cooperate with any request from the International Criminal Court, regardless of the nationality of the suspect, and withdraw from this agreement with the USA.

Amnesty International, along with the vast majority of members of civil society and states, believe that US fears that the Court could be used to bring politically motivated prosecutions against US nationals are wholly unfounded. The Rome Statute contains extensive safeguards and fair trial guarantees to ensure that such a situation could not arise. Amnesty International is confident that the International Criminal Court will, through its practice, convince the USA to reconsider its position and to eventually ratify the Rome Statute. The more states that ratify the Rome Statute in the coming years, the more likely the USA will reconsider its position in the foreseeable future.

The inauguration of the 18 judges, the Prosecutor and the Registrar of the new International Criminal Court this year, permitting it to become fully operational in the near future, is a momentous step forward in the fight to end impunity for the worst crimes known to humanity. I urge you to take the steps outlined in this letter to further strengthen the Court and contribute to making international justice a reality.

Yours sincerely,

Irene Khan
Secretary General