

CARLA FERSTMAN: Hello.

My name is Carla Ferstman. I'm the Legal Director of the Redress Trust based in London and the equivalent of the Victims Rights Working Group of the CICC. Thank you very much for this opportunity.

The drafters of the ICC Statute and Rules have gone very far in recognising that victims' rights are central to the Court's mandate to deliver justice. They also recognise the special needs of particularly vulnerable groups such as victims of gender and sexual violence, children, the elderly, and the disabled. Meeting the mandate towards victims, which includes victims' protection, both physical and psychological, victims' participation in proceedings and their ability to claim reparations, will be a continual challenge that will require the attention of all organs of the Court, including the Office of the Prosecutor.

The issue of victims' rights continues to be of central importance to civil society groups around the world. With the aim of ensuring that the International Criminal Court took the best from international standard and national practice, a number of NGOs have come together to support strong victims' provisions in the Statute and the Rules of Procedure and Evidence. The Victims' Rights Working Group, working under the umbrella of the CICC, has developed from around ten NGOs to a growing international network.

In December 2002, the group met to consider some of the principal challenges in implementing the victims' mandate of the Court. A policy document with a number of key recommendations was issued, and this will be made available to the Prosecutor as soon as possible.

There are a number of very specific concerns that will be addressed by other intervenors in this session, but on a general note, it must be stressed that there may be a tension because of some of the

goals of the Prosecutor and those victims. Victims will have differing objectives and many different perceptions of what justice means or should mean in an international criminal process. Victims will need to have the forum to bear witness to what has happened, to receive vindication and acknowledgement for their pain and for their loss, and to receive compensation, restitution, and rehabilitation while being protected from further physical and psychological harm.

Honouring and respecting this diversity poses a tremendous challenge to the investigators first coming into contact with victims and to the prosecutors calling on them to testify at trial. Having trained trauma specialists in the OTP's Unit for Victims may well assist in this process. The OTP's Unit for Victims must have sufficient resources in order to accomplish this very important task.

Furthermore, the OTP regulations set out extensive training provisions for the training of OTP staff. It is suggested that training include, in particular, training on how to tackle the range of victims' issues, particularly on vulnerable groups. With respect to a particular situation, more focused training will be required to ensure that all OTP staff are familiar with the particularities of the culture and traditions in a particular situation and how this impacts on victims' rights.

While the independence of the Office of the Prosecutor is without question, there are clearly areas of intersection with other organs, particularly on victims' issues. This is most apparent with the victims and witnesses units and the victims' participation and reparations units of the Registry. Careful consideration will need to be given on how best to ensure coordination. The issue will arise, for instance, in respect to evidence collected by the Office of the Prosecutor that investigators should collect in respect of reparations, which the Registry has the responsibility of tracking. Decisions will need to be taken as to how

best to store this type of evidence which will relate both to the Office of the Prosecutor and to the Registry.

It may also arise in respect of victim participation. Victims may not be aware or may not understand the internal divisions between organs and units of the Court. With this in mind, one can look to draft Regulation 25.2 in the Regulations that have been provided, where it provides for a number of criteria that witnesses should be made aware of. It is suggested that it would be useful also to be included here that witnesses be informed of the possibility to participate and the possibility for reparations in this first process. Similarly, Regulation 26.4, with respect to the checklist with respect to evidence to be collected from witnesses, here it should also include the evidence relating to reparations, particularly in respect of assets.

Finally, to conclude, it is recommended that the OTP integrate victims' concerns into the ethos of the Office, into every aspect of their work. The Victims' Rights Working Group remains committed to working with all organs of the Court including the OTP.

We wish you every success with your important work and look forward to continued collaboration. Thank you.