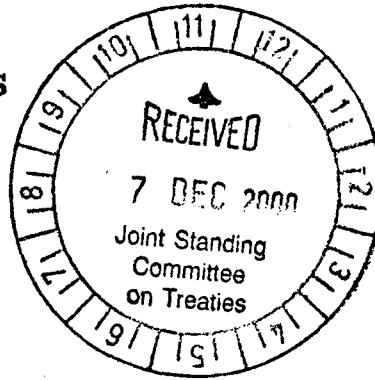




Australian Red Cross

Submission No.25.....



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Mr Bob Morris
Inquiries Secretary
Joint Standing Committee On Treaties
Parliament House
Canberra ACT 2600

December 1 2000

Dear Mr Morris,

I attach the submissions from Australian Red Cross in relation JSCOT inquiry into the ratification of the International Criminal Court Statute by Australia. There are two submissions, one from Australian Red Cross as a whole and the other from the Australian Red Cross National IHL Committee which has a specific interest in this topic.

If you have any questions please contact Dr Helen Durham, National IHL Manager, on ph 03 9345 1845.

Yours sincerely

Hon J J Carlton
Secretary General



**SUBMISSION TO
THE JOINT STANDING COMMITTEE ON TREATIES
IN RELATION TO
THE INTERNATIONAL CRIMINAL COURT**

Australian Red Cross thanks the Joint Standing Committee on Treaties for the opportunity to express its views in relation to Australia's ratification of the Rome Statute for the International Criminal Court (ICC).

The topic under consideration is extremely important to Australian Red Cross. As an organization we have the support of approximately one million Australians, including staff, volunteers, and members. From all over Australia, Red Cross finds that a diverse range of people express interest in and enthusiasm for international justice. Australian Red Cross is tasked with the responsibility of educating the public on international humanitarian law (often called the laws of war) and in the last few years has held over 100 seminars, talks, training sessions and conferences on topics including the International Criminal Court. Well over 40,000 people from all walks of life have attended these events and specifically expressed interest in the creation of a new institution to try those accused of atrocities.

Australian Red Cross workers in the area of IHL education and dissemination find that it is impossible to talk about the laws of war without questions being raised on methods of enforcing this area of law. Once the concept and the Statute of the ICC is explained in a clear

Natural concern that the ICC, when it enters into force, will impact upon national sovereignty needs to pay heed to the principle of complementarity, whereby the jurisdiction of the ICC is intended to come into play only when a State is genuinely unable or unwilling to prosecute individuals over which it has jurisdiction. An exception to this principle is when the Security Council refers a matter to the Court acting under Chapter VII of the Charter of the United Nations.

Australian Red Cross believes that Article 124 represents a great weakness in the ICC statute as it allows States to 'opt out' for a period of seven years of the Court's jurisdiction pertaining to war crimes. The fact that Article 124 is entitled 'Transitional Provision' implies that this matter may be rectified at a later stage and Australian Red Cross hopes that the Australian Government will not take advantage of Article 124. The limited provisions relating to the use of prohibited weapons is another element of the Statute which the ICC will need to amend in the future if it is to be an effective international legal instrument.

In short, Australian Red Cross wishes to emphasise the considerable interest and commitment to the ICC within the general Australian public. The ICC will not impact upon national sovereignty as Australia will have fully formed domestic legislation to allow the prosecution of our own people within this country. As a nation with great pride in our commitment to human rights and the dignity of all, it is in Australia's interest to ratify the ICC.

Australian Red Cross would be pleased to provide further information if requested and also give a detailed oral presentation on any matters mentioned in this submission. Dr Helen Durham National IHL Manager, Professor Tim McCormack Chair of the Australian Red Cross National IHL Committee and The Reverend Professor Michael Tate member of the Australian

Red Cross National IHL Committee would be pleased to appear before the Committee. Dr Durham can be directly contacted on ph 03 9345 1845.

A handwritten signature in black ink, appearing to read 'JJ Carlton'. The signature is fluid and cursive, with the first two letters 'JJ' being particularly prominent and stylized.

Hon JJ Carlton
Secretary General