

11th Assembly of States Parties to the International Criminal Court

Discussions on Complementarity

Monday 19 November 2012

Statement by Brigitte Suhr, Director of Regional Programs of the Coalition for the International Criminal Court

On behalf of the Coalition for the ICC, I would first like to express our full support for this dedicated session on complementarity during the Assembly of States Parties and thank President Intelmann, the Bureau and the Assembly for their decision in this matter. Our hope is that it will become a regular feature of future ASP sessions as recommended in the Omnibus resolution.

The contributions of Ms. Helen Clark of the UNDP and other stakeholders to the discussions are of utmost importance for ensuring a coherent and unified approach to strengthening the capacity of national systems to address Rome Statute crimes. In that respect, we welcome this opportunity to contribute to these substantive discussions on this crucial issue of ensuring the fulfillment of the principle of complementarity.

This tenth anniversary of the entry into force of the Rome Statute of the International Criminal Court has provided the occasion for measured reflection on the achievements of the Rome Statute system to date. Among many other milestones, as of today, 121 states have committed to ending impunity, and more than half of these have made the tenets of the Rome Statute their own by implementing the treaty into national legislation. The Court's first trial resulted in the first guilty verdict for the crimes of enlisting and conscripting child soldiers in an international criminal tribunal and was also significant as the first instance of victims' full participation in an international criminal trial.

However, this anniversary is also an opportunity for states, regional and international organizations, and civil society to reflect on what they have contributed to the Rome Statute system over the last ten years and how we all can promote international justice in the future.

In that respect, I would like to give a few examples of civil society's contribution to the principle of complementarity.

The Coalition for the ICC has welcomed a holistic approach to complementarity that encompasses building political will, building capacity, enacting full implementing legislation, ensuring skilled and informed lawyers and judges, and building an independent judiciary able to operate irrespective of a political climate that may be antagonistic to its endeavors. Many of our members around the world have been committed to justice for graves crimes long before the Rome Statute existed and heartily welcomed the Rome Statute as a means to reinforce their fight against impunity at the national, regional, and international levels.

The Rome Statute established that, "*it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes.*" First and foremost, states need to make sure they

have the legal framework in place to meet this duty. Civil society has pushed for full and effective **implementation of the Rome Statute** since its adoption. NGOs monitor and contribute towards the development of adequate and effective national legislation on Rome Statute crimes and general principles of law, including victims' rights and fair trial principles, as well as legislation to enable robust cooperation with the ICC. Today, nearly 70 states have partially or fully implemented the Rome Statute, but many more still need to take this essential step.

However, this commitment to ensuring domestic legal systems are up to the task is no easy feat; implementing the principle of complementarity is an ambitious task that requires resources and tools often not available to those states emerging from conflict and other turmoil. Even where national jurisdictions are willing to exercise their primary duty to end impunity, they often lack the legal, technical, infrastructural, or financial capacity to do so.

Civil society works to address these lacunae by undertaking projects that **promote awareness** of the Rome Statute system among key government officials, members of the armed forces, parliamentarians, the media, and other stakeholders, and endeavors to **build political will** to seek justice for grave international crimes, and redress for victims of those crimes.

Civil society groups are also expert actors in efforts to **strengthen technical capacity** to carry out fair and credible investigations and prosecutions using new or existing legislation, including organizing high-level seminars across different regions (including in situations under investigation or preliminary examinations by the ICC).

Collaborative work with bar associations, public prosecutors, and national judges is undertaken to ensure that members of the **judiciary** are prepared to prosecute the gravest crimes, and with **police and military forces** regarding investigations as well as cooperation with the ICC (for example, in the execution of arrest warrants).

NGOs have also been involved in **litigation** efforts at the domestic and international levels for prosecution of grave international crimes.

The ways in which civil society engage in the Rome Statute system are numerous. However, in order for the principle of complementarity to successfully contribute to the end of impunity, a comprehensive and, above all, *joint* effort by states – including their national judiciary, law enforcement and security sectors, and development agencies –, regional and international organizations, and civil society is necessary.

The Coalition welcomes the important steps that have already been taken by the Assembly focal points for complementarity, the ASP Secretariat, individual States Parties, international and regional organizations, and civil society, and looks forward to additional efforts in the coming years that will help see discussions increasingly translated into the practical measures and political will necessary for national investigations and prosecutions of ICC crimes in order to guarantee that the most heinous crimes will not remain unpunished.

Thank you for your attention.