

Asia Speech for General Debate- Jalil Benish

Distinguished members of the Assembly of States Parties of the ICC, Excellencies, ladies and gentlemen:

My name is Jalil Benish of Afghanistan Watch from Kabul, Afghanistan, speaking on behalf of my colleagues in the Coalition for the ICC- Asia-Pacific.

We are witnessing a definite trend towards accountability for the most serious crimes in the Asia Pacific – a region that has seen horrible atrocities being committed in the past and present and yet is one of the most underrepresented before the ICC. Of the six ratifications for 2011, three of them – the Philippines in Southeast Asia, Maldives in South Asia and Vanuatu in the Pacific – are in Asia-Pacific, bringing to a total of 17 the states parties to the ICC from the region. On this occasion, we would also like to commend the government of Malaysia for having completed the necessary steps within the domestic level for accession to the Rome Statute, and call on it promptly deposit its instrument of accession, thus bringing to 18 the total number of states parties in the region.

It is truly inspiring to witness more countries in Asia and the Pacific catching up with the rest of the world in recognizing the important role of the International Criminal Court in pursuing accountability and in ending impunity for the most serious crimes of international concern.

Campaigns for ratifications continue in Indonesia, Nepal, Thailand, Vietnam and Laos and efforts to create further awareness on the ICC and international justice issues continue in China, India, Brunei Darussalam and other parts of the region. Likewise, campaigns for the commission of inquiries for Burma and Sri Lanka continue to gain support as more and more governments respond to civil society's call for justice for victims of human rights violations and end to impunity in these two situations.

Implementation of the Rome Statute remains a major challenge as more states in the region join the ICC. The domestic implementation of the Rome Statute of the ICC will gauge the impact of the ICC in peoples' lives, as this will allow national judicial authorities to carry out investigations for crimes against humanity and war crimes that have been committed in the past decade. Ultimately, this will determine in the long run the relevance of this mechanism for international justice. Implementation is crucial to ensure state cooperation and obligation towards exercise of complementarity. Of the 17 states parties in the Asia-Pacific region, only five states have completed their implementation processes – Korea, Japan, Australia, New Zealand and Samoa. Though a number of states have incorporated major provisions of the Rome Statute into their domestic legislation like in the Philippines, in Indonesia, in Timor Leste, Cambodia and Bangladesh, they have yet to adopt specific cooperation laws and procedures to complete the process.

In Afghanistan, a situation under preliminary investigation at the ICC, the process towards adoption of an implementation law has hardly moved since the country acceded to the Rome Statute in 2003. The conflict situation has worsened, with more crimes being

committed every year thereafter, with more victims suffering and no mechanism of justice available to make perpetrators account for the atrocities committed.

In spite of numerous attempts and lobby activities by the Afghanistan Independent Human Rights Commission and Afghan civil society organizations, the Afghan state has failed to implement its obligations as a state party of the ICC. Most notably, the task of bringing the Afghan legal and justice system in conformity to the requirements and standards of the ICC have been neglected. We appeal to the Afghan government to comply with its obligation as a state party to adopt an implementation law and ratify the Agreement on Privileges and Immunities of the Court (APIC) to allow the Court to do its work within the Afghan territory.

The history of the past nearly ten years have clearly shown that Afghanistan is a country where the urgency and relevance of the ICC is felt more than anywhere else. During this period, human rights violations have continued unabated, a culture of impunity and lack of accountability has been entrenched and the Afghan state has displayed a chronic lack of commitment and political will to hold accountable those responsible for heinous crimes and massive human rights abuses during the past 30 years.

ICC intervention is urgently needed. We thus call on the Office of the Prosecutor to give clear signs of where it is going with its Preliminary Examination, and in general, provide more information on how it is conducting its investigations in Afghanistan. We also call on the ICC to undertake outreach activities which are critical in preparation for the actual investigation.

Much has to be done in a region where conflicts continue to dominate the landscape of peace and justice. We urge the international community to assist governments in the region to move their respective processes forward and to create more spaces where understanding of the Rome Statute can take place and thus allow its citizens to fully participate in the strengthening of democracy and governance and in the development of justice mechanisms.

We have a long way to go but as we did in 2011, we are trying to catch up with the rest of the world in its march for international justice.

Thank you.