



ICRC

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**Ninth Assembly of States Parties
to the Statute of the International Criminal Court**

New York, 6 – 10 December 2010

**Statement by the
International Committee of the Red Cross**

Mr. President,

The International Committee of the Red Cross (ICRC) appreciates the opportunity to share some remarks on the achievements of the first Review Conference of the Statute of the International Criminal Court.

Firstly, the ICRC would like to express its satisfaction with the consensus decision of States to amend Article 8 of the Rome Statute. The amendment added to the list of war crimes in non-international armed conflicts the use of expanding bullets, asphyxiating or poisonous gases and poison. For the ICRC, this amendment enhances protection for victims of armed conflict. The ICRC encourages States to take the amendment into consideration when implementing the ICC Statute in their domestic legal systems and stands ready to assist States in this endeavour.

Secondly, the ICRC would like to reiterate the utmost importance that it attaches to the principle of complementarity enshrined in the Rome Statute of the International Criminal Court. It thus welcomed the adoption by consensus at the Kampala Review Conference of a resolution on that matter. The principle of complementarity is based on the primary obligation of States to exercise their criminal jurisdiction over those who have allegedly committed international crimes, while permitting the ICC to fulfill its subsidiary function. This principle is central to the ICRC's approach to the national implementation of the Rome Statute, and more particularly of the war crimes in article 8.

The ICRC observes that several States are seizing the opportunity to carry out a comprehensive review of their obligations under international humanitarian law (IHL) when implementing the crimes of the Rome Statute into their domestic law to comply with the principle of complementarity. We highly encourage this practice of putting the domestic implementation of the ICC Statute in the broader perspective of IHL obligations incumbent on States. We encourage States to consider, in particular, their obligations related to the repression of *all* war crimes and the effective protection of *all* victims of armed conflicts, whatever their nature.

In line with the stocktaking exercise at the Kampala Review conference, such an inclusive or "integrated" approach to domestic implementation of the crimes of the Rome Statute was the focus of the *Third Universal Meeting of National Committees for the Implementation of International Humanitarian Law* organized by the ICRC's Advisory Service in October 2010 in

Geneva. Nearly two hundred public officials representing over one hundred States attended the Meeting. Most were members of the 96 national inter-ministerial committees or similar bodies established worldwide to facilitate the implementation of IHL obligations at the national level. [Representatives from States interested in setting up such mechanisms, international organizations and experts also attended the meeting.]

The event allowed States officials involved in the domestic implementation of IHL to exchange experiences and best practices, and to take stock of available expertise and tools, including the new *Manual on Domestic Implementation of International Humanitarian Law* published by the ICRC. The ICRC was pleased to officially launch this Manual, developed by its Advisory Service, at the Review Conference in Kampala. It draws on many years of experience and cooperation with many States. The Manual includes a chapter dedicated to the implementation of the ICC Statute. It will soon be available in several languages and can already be downloaded from the ICRC website.

Thirdly, the ICRC welcomes the fact that many States chose to make pledges at the Review Conference, and sees these pledges as one of the important outcomes of the Review Conference. States should engage all responsible and influential parties at the national level to achieve the State's commitments. To ensure that pledges are translated into concrete action, we encourage this Assembly of States Parties to establish a structured approach to follow-up on the pledges. The ICRC remains available to share the practical experience it has gained over the years on pledges in the International Conference of the Red Cross and Red Crescent.

Fourthly, the ICRC welcomes the unanimous adoption at the Review Conference of a resolution on the strengthening of the enforcement of sentences. It supports the resolution's aim of broadening States' participation in the enforcement of sentences and of enhancing international cooperation to enable more States to accept sentenced persons. It believes that the qualification of a greater number of States for the enforcement of ICC sentences will contribute to a smoother running of the system in the current, critical phase of the development of international criminal justice.

Mr. President,

Lastly, turning to the functioning of the ICC, the ICRC would like to commend the Court for the important decision it has taken in past years to fund family visits to indigent remand detainees held at The Hague. The ICRC welcomes this policy, for it addresses a

humanitarian aspect of detention, which is most acute for the ICC detainees, who are held in a *sui generis* system. The ICRC has also been able to assess that, without the support of the Court, this possibility granted to all the inmates cannot be sustained in the case of indigent detainees. The ICRC thus calls upon this Assembly of States Parties to give this important matter the consideration it deserves when deliberating on the functioning of the Court.

Thank you, Mr. President.