



**Statement by Richard Dicker, Director of the International Justice Program, Human Rights Watch**

**June 1, 2010  
Review Conference of the International Criminal Court**

Mr. President, Excellencies, Ladies and Gentlemen,

In July 1998, we witnessed the beginning of a new era in the protection of human rights. The adoption of the Rome Statute, and its subsequent quick entry into force, signaled the promise of a break with impunity for the worst violations of international criminal law.

Twelve years later, gathered here in Kampala to discuss amendments to the statute and to take stock, the growing ICC community has an exceptional opportunity to affirm the importance of a collective commitment to bring those responsible for mass atrocity to account.

This affirmation is needed now more than ever. While the ICC has made progress in its first investigations and trials, in too many places crimes that shock the world's conscience continue.

The ICC has faced challenges in its early years. Many reflect the difficult landscape on which the court operates. Its arrest warrants have not met with the strong political and practical support necessary to see their execution. Limits on the reach of international justice, a perception of double standards in its application, and the cost and length of proceedings have tested the commitment of even the court's strongest supporters, while providing succor to its critics.

Relief from cycles of violence and high expectations for justice among affected communities demand a renewed and strengthened commitment.

We believe the opportunity for that renewal must be seized here in Kampala.

The review conference's location in Africa has yielded important opportunities for states parties to forge stronger connections with the court's work, which is focused presently on this continent. The conference's location here in Uganda also provides a useful moment to reaffirm that the primary obligation to prosecute serious international crimes lies with national authorities and that crimes committed by both sides to the conflict in northern Uganda should be prosecuted in accordance with international standards, whether before the ICC or national courts.

We welcome your statements over the past two days and the expected adoption of a high-level declaration, a Kampala Declaration. This declaration will send the message to perpetrators of mass atrocities that they will be held to account for their crimes. We also look forward to the adoption next week of resolutions on cooperation, complementarity, and impact on victims and affected communities.

Strong statements on behalf of the ICC's mission are an essential component of providing this court with the support so critical to carry out its work. Such statements are especially important from African states parties given efforts by some leaders from non-states parties in North Africa to try to paint the whole of the continent as opposed to the ICC in the wake of the warrant for President Omar al-Bashir of Sudan.

But, resolutions and declarations must be translated into action, and challenges facing the ICC and the emerging system of international justice must be addressed if advances in the fight against impunity are to occur.

We welcome the active preparation by many states parties for the stocktaking exercise and the sustained dedication of the facilitators and focal points to make this exercise a success.

In the next days of debate, we look to you for substantive discussions of key challenges and the identification of critical next steps. A commitment to take these steps after the review conference will be important to energize the practice of international justice in the coming years and attract new supporters.

We have listened to the impressive set of pledges of increased practical and political support to the court. These are very welcome. But implementation of these pledges will be vital. We look to you to determine how best to monitor implementation and to make pledging a regular feature of future Assembly sessions.

To realize the principle of complementarity in practice and to limit the reach of impunity, we look to you to provide increased international assistance specific to bolstering national capacity for the prosecution of ICC crimes. This must include diplomatic pressure to see that necessary reforms are undertaken and credible national prosecutions instituted.

We look to you for political and practical support for the execution of the court's arrest warrants. States parties and other supporters of the ICC must call on the United Nations Security Council to act on the court's finding of non-cooperation in the Darfur, Sudan situation and provide critical backing. We also look to the international community for an arrest strategy for leaders of the Lord's Resistance Army that prioritizes civilian protection and ends their reign of terror in eastern Congo, Central African Republic, and southern Sudan.

We look to you not only for affirmations that justice is an important end in its own right and a crucial component of lasting peace, but also for a commitment to see through in practice difficult decisions that prioritize both peace and justice. Existing challenges—claims that the liberty of Bosco Ntaganda and the denial of justice to victims is the price to be paid for an illusory peace—and those on the horizon—the temptation to overlook the arrest warrant for President Omar al-Bashir as the referendum on secession for southern Sudan nears—will require your firm, principled response.

On the crime of aggression, recalling a reference to Human Rights Watch in an earlier intervention by a non-state party, I will accurately set forth the elements of our approach to the matter of the complicated crime of aggression and its operationalization as articulated in our report *Making Kampala Count*.

There are three elements.

One, we urge states parties to oppose any external filter as a requirement for the court's exercise of jurisdiction, including the Security Council, the General Assembly, and the International Court of Justice. These would undercut the ICC's judicial independence.

Two, from our close observation of the court in situation countries over the last several years we have concerns about the impact of the crime of aggression on the perception of the court's mission and mandate, a mission and mandate that is presently not well understood. We believe these concerns require consideration.

Three, finally, we urge states parties to make their decision exclusively on the merits and discount the importuning of non-states parties and their predictions of non-support. This important decision needs to be taken independently of external political pressure.

Mr. President I want to conclude by stating that the review conference caps the first phase of the ICC's development but we believe it must also mark a beginning. Your discussion here can re-invigorate the fight against impunity. Your actions after Kampala can make significant strides in both strengthening the ICC and expanding the reach of justice through national prosecutions. This will bring the aspirations of the Rome statute closer to realization.