



CHECK AGAINST DELIVERY

## **Statement by Human Rights Watch to the General Debate of the International Criminal Court's Tenth Assembly of States Parties**

December 14, 2011

Your Excellencies,

Thank you for the opportunity to address this tenth session of the Assembly of States Parties.

The Assembly session is a critical moment each year for states parties to help equip the International Criminal Court (ICC) to meet the many challenges it faces. This session takes place in the context of significant recent developments for the court's work – the detention of and unresolved uncertainty surrounding Saif al-Islam Gaddafi, the recent transfer of former Ivorian President Laurent Gbagbo to The Hague, and the request for an arrest warrant for Sudan's Minister of Defense. As you know, this Assembly session also anticipates by some months the tenth anniversary of the entry into force of the Rome Statute. In these ten years, court officials have made steady progress in the difficult task of transforming the aspirations of the Rome treaty into reality. The court's workload has never been greater.

The unanimous referral by the United Nations (UN) Security Council of the situation in Libya and the Article 12(3) declaration by the new government of Côte d'Ivoire have also lifted the profile of the ICC on the world stage to a new level. "The Hague" has increasingly come to symbolize the last best hope of victims for justice.

In this context it is worth recalling the terms of Security Council Resolution 1970, which requires the Libyan authorities to cooperate fully with the ICC. This includes surrendering Saif al-Islam Gaddafi to the court. Should the authorities in Tripoli wish to try him domestically for crimes in the ICC's arrest warrant, they can challenge – through a legal submission – the court's jurisdiction over the case. The Libyan authorities will have to show that they are genuinely able and willing to prosecute the case in fair and credible

## Ensuring adequate resources for the effective implementation of the ICC's mandate

The court's efforts to deliver meaningful justice risk being undercut by the severe financial constraints many states parties are facing due to the persistent global economic crisis. We appreciate the pressure economic difficulties are placing on national budgets, but, with all respect, opposition to reasonable growth in the court's budget is ill-conceived. A demand for "zero nominal growth" in the International Criminal Court's budget is incompatible with the court's increasing workload and the effective implementation of its mandate.

The court has moved from four situations (2009) to five situation (2010) to seven situations (2011) in a short period of time. The strain on the court's resources is evident. For example, to cope simultaneously with two cases against three defendants each in the Kenya situation, the pre-trial chamber required additional resources from the contingency fund. Citing resource constraints, the Victim Participation and Reparations Section has been unable to process applications received for victim participation.

In addition, budgetary pressure appears to be fraying the understanding hammered out as the court first became operational about the importance of key court activities—like outreach—to deliver meaningfully on the court's mandate in affected communities. Insisting that certain activities—like investigations and prosecutions—are core, while others—outreach and field presence—are not, misses the point that these activities are interrelated. Outreach ensures that justice is not only done, but seen to be done among affected communities and affords victims notice of their rights under the Rome Statute. And, by increasing understanding of the ICC's work in a situation country, outreach also creates improved conditions for cooperation and witness and victim protection.

These are lessons learned from the International Criminal Court's first years and from the experience of the ad hoc international criminal tribunals. Indeed, at a conference last month in The Hague conducted by the International Criminal Tribunal for the former Yugoslavia (ICTY), several former tribunal presidents cited the ICTY's lack of an outreach program for its first seven years as a major shortcoming.

It is, of course, legitimate to ask whether there are efficiency gains—including, but not exclusively, gains that result in cost savings—that could be made in the court's proceedings and structure. Identification of these gains, however, requires considered assessment. Important reviews are underway, including through the Assembly's Study Group on Governance and the Committee on Budget and Finance. These reviews should be pushed forward, with the court at the lead, but cuts to the court's proposed budget that

Working Group on cooperation in order to work towards the establishment of a Working Group at the eleventh session.

Finally, the Assembly should put in place a self-reporting framework to follow-up on pledges made at Kampala and to provide an opportunity for new pledges to be made. Pledges at Kampala provided a helpful target to move forward internal decision-making processes. The court would undoubtedly benefit from enhancing the practice of pledging and from the increased implementation of pledges of concrete assistance.

Thank you.