



**Statement by Richard Dicker
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Program**

Sixth Session of the Assembly of States Parties

December 7, 2007

Distinguished Delegates:

I am Richard Dicker, the Director of Human Rights Watch's International Justice Program. I am grateful for the opportunity to address this sixth session of the International Criminal Court's (ICC) Assembly of States Parties (ASP).

The ICC has made important strides in the past year. It has issued arrest warrants for alleged perpetrators of grave crimes in three country situations. It has opened a fourth investigation in the Central African Republic and has started preparing for its first trial, which will begin in the spring of 2008. Through its field offices in four countries, there has been important progress in enhancing the court's presence on the ground. We have also seen important developments in case law emanating from the pre-trial chambers.

However, at this point in the court's development—with six out of eight publicly issued arrest warrants outstanding—the most urgent and serious challenge facing the ICC is insufficient cooperation and support from states parties, non-states parties, and intergovernmental organizations. While we are seeing a shift in the right direction, this trend must be deepened.

Cooperation, of course, encompasses a broad range of measures. It includes adopting implementing legislation, signing agreements authorizing witness relocation, and allowing those convicted to serve their sentences in national correctional facilities. Much more is required on this front.

But with this Assembly meeting at UN headquarters, I want to focus on a second crucial aspect of cooperation—the political and diplomatic support that the court requires. One

need only look at the arrests warrants issued for Darfur, which the Security Council here had referred to the court on March 31, 2005.

States parties, including those on the Security Council, had been far too quiet on the need for Sudan to surrender ICC suspects. In June, seven days after the prosecutor last briefed the Council on his arrest warrants, the Council was on mission in Khartoum. Yet the Council failed to mention Sudan's binding legal obligation to execute the warrants. During the visit of UN Secretary-General Ban Ki-moon in Khartoum in September 2007, he made no public mention of the warrants.

Khartoum took note of this silence and refused to execute the arrest warrants for Minister for Humanitarian Affairs Ahmed Haroun and Janjaweed leader Ali Kosheib. Indeed, the Sudanese government went a step further and seemed to thumb its nose at the court and the Security Council.

Precisely when the Secretary-General was in Sudan, the Sudanese government had the audacity to announce that Ahmed Haroun was being appointed to co-chair a committee to examine human rights complaints, including in Darfur. One month later, there were credible reports that Ali Kosheib had been released from government custody. After claiming that Kosheib was being prosecuted before a national court for serious crimes committed in Darfur, the Sudanese authorities reportedly let him go, amazingly, for "lack of evidence." The ICC is pressing 50 charges against him.

With the General Debate and Wednesday's Security Council briefing, this Assembly and its states parties are assuming the role envisaged in the Rome Statute and necessitated by the experience of the ad hoc tribunals. This transition marks a significant step. However, such signals must be sent more regularly on a proactive basis and must be strategically targeted to maximize their impact and thus ensure that the ICC has the backing that it needs to succeed.

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On a separate but related point, with active conflicts in virtually every situation where the ICC is working, the relationship between peace and justice is a prominent feature of the landscape of the court's work. It is imperative for the ICC to receive consistent,

unflinching support from states and the UN where it pursues justice in the context of a peace process.

We share the view highlighted by a number of states parties and the UN Secretary-General during the general debate of this ASP to the effect that justice and peace are closely linked. In northern Uganda, for example, the arrest warrants that the court issued for the leaders of the Lord's Resistance Army (LRA) were an important factor in bringing the LRA to the peace talks in Juba. Yet, we have been dismayed to see that some states parties have seemed keen to sideline the ICC or to support approaches that would lead to impunity for LRA leaders.

It is hardly surprising that holding perpetrators to account will generate some tension with efforts to build peace, especially in the short-term. It is precisely at these moments that the UN secretariat and member states must work to advance both objectives. Our experience underscores that justice does not thwart peace. The unsealing of the indictment of former Liberian president Charles Taylor for crimes committed in Sierra Leone—issued while he attended peace talks to end conflict in Liberia—was strongly criticized at the time for potentially jeopardizing the negotiations. Yet, only a couple of months later, a peace agreement on Liberia was concluded as Taylor stepped down from power.

In short, justice cannot and should not be traded away in peace talks like a poker chip.

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Finally, let me note that while states have made significant contributions in creating and financing the ICC, this court will fail without the firm backing of its member states. That is a matter of political will. The surrender of suspects to the International Criminal Tribunal for the Former Yugoslavia and of former Liberian president Charles Taylor to the Special Court for Sierra Leone shows that over time diplomatic pressure can make the difference. Consistent efforts will be needed from your capitals, from the UN Secretariat here in New York, and from UN agencies in the field.

This ASP and future Assembly sessions are important for states parties to promote effective cooperation with the ICC, an institution that your governments created to bring justice for the most serious crimes committed.

The challenge is to translate the momentum generated here over the last week into effective policy and practice. In that spirit:

- We urge you to actively implement the thoughtful recommendations from the working groups in The Hague and NY, under the facilitation of The Netherlands and Denmark, which are contained in their comprehensive report to the Bureau. We agree with the idea of the ASP focal point with a broad mandate outlined in the omnibus resolution so that the focal point will have proper authority. To fully implement the report's recommendations, there will be a need for a focal point based here at UN Headquarters in addition to a focal point based in The Hague.
- Finally, we urge you to attend and actively participate at an informal meeting on cooperation that will be sponsored by Denmark and The Netherlands on Wednesday, December 12.

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The stakes here are high. Much has been done, but for this court to succeed in protecting those at risk from the worst crimes under international law, more is required. For our part, we will do everything that we can to assist your governments and the United Nations to help the court move forward. We hope that you will do the same.

Thank you.