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Civil Society Calls For State Support for the ICC

The Hague

Government representatives from 123 countries are convening in The Hague today for the annual meeting of State Parties to the International Criminal Court (“ICC”). Civil society groups join the ICC Prosecutor in calling on States to support the Court’s operations, particularly in the face of increasing resistance from countries subject to ICC investigations. States must fulfil their responsibility to protect their populations from grave crimes by upholding the system of international justice, including by supporting local groups engaged in advocacy on accountability and documentation of ICC crimes.

At a panel entitled “Civil Society and the ICC: Local Perspectives on Fact-Finding” hosted by The Philippines and the Open Society Justice Initiative, civil society representatives from seven countries reported on a global series of consultations conducted over the course of 2015 which sought to identify the types of support that these groups most need. Across each region, NGOs highlighted the reality that the ICC is entirely dependent on the voluntary cooperation of national agencies. When States don’t cooperate, local NGOs struggle to fill the accountability gap with minimal assistance, particularly with respect to protection and funding. Additionally, civil society representatives called on States to facilitate local access to new technology, whilst desisting from using of new technology against civil society. NGOs also emphasized that States must support the full and meaningful engagement of victim communities in ICC proceedings.

The Asia-Pacific region has the highest number of subnational conflicts in the world, but a low number of ratifications of the Rome Statute of the ICC. Civil society groups from the region stressed that joining the ICC goes hand in hand with security, defense, and deterring acts of aggression. Becky Lozada of the Philippines Coalition for the International Criminal Court stated that “States must remember that the ICC goes beyond mere prosecutions, it also plays a key role in safeguarding populations against mass atrocities. It is essential that the needs of victims to remain in the heart of international justice.” Panhavuth Long with Cambodia Justice Initiative stated that “ICC is not a ‘civilization’ mission but is an independent and impartial court of law. Thus the ICC should ensure that there is equality before the law regardless of the region or resources constraints. Further, accountability can only be successful when States can show they act in good faith by providing full and firm cooperation with ICC. We are appealing to State Parties to cooperate with ICC fully. States must provide full support to NGOs and must not impede fact-finding on alleged gross human right violations.”

The Africa region has the highest level of interaction with the ICC given that all the Court’s currently active cases originate from the African continent. Civil society highlighted the diverse objectives behind local documentation and the need to respect that civil society is independent from both the ICC and from States. Beatrice Okero of CSO Network in Kenya stated that “information from victims must be protected by States and all involved. Any standards on protection must be motivated by empowering and protecting victim’s rights”. Lino Ogora Owor of the Foundation for Justice and Development Initiatives (FJDI) in Uganda supported these statements, adding “there is need to nurture and maintain a

respectful relationship between the ICC and CSOs; the ICC should view CSOs as partners and not foes when intervening in local situations. The ICC should also view CSOs as stakeholders in the process of gathering evidence and promoting victim participation. CSOs are without doubt closest to victims and conflict affected communities because in most situations where the ICC has intervened, CSOs have already interacted with, and documented stories of, victims and conflict affected communities which is important both for purposes of evidence and promoting victim participation.”Tatiana Viviane Bangue of Femme-Homme-Action Plus (FHAP) in the Central African Republic indicated “civil society are crying out for justice for the people affected, including proper reconciliation, reparations, and reintegration programs. States must support these outcomes, including from the ICC.”

With respect to the request to open an investigation in Georgia, local groups supporting victims indicated the importance of States in facilitating the initial engagement of the ICC, including sharing information and outreach on the ICC for victim groups. Nika Jeiranashvili of the Open Society Georgia Foundation stated: “[i]t is time for the States to face a new reality that investigation may be opened regarding Georgia and to start planning their cooperation with the Court and victims groups. Upcoming ICC processes are new for both countries involved and there is a need for capacity building at local level. Public debates and proactive information sharing must be facilitated to educate general public on the issue. States should provide assistance to victims groups in documentation process and must ensure adequate protection and participation before the Court.”

The Latin America region pioneered in human rights litigation, however civil society representatives emphasized that the State must provide more support to local groups conducting efforts to implement international criminal law. Many NGOs mistrust their respective States and claim that the legal system is sometimes used to avoid justice or to target organizations that act in the support of accountability. Nancy Valdez of Guatemalan Forensic Anthropology Foundation stated that it is crucial for States to acknowledge “the importance of documenting human rights violations and provide support to the victims and their families. National justice systems must complement the ICC proceedings through conducting objective national investigations.” Araceli M. Olivos at CENTROPRODH in Mexico stated “[i]n Mexico we are living the gravest human rights crisis. The generalized commission of crimes under the international law, such as torture and enforced disappearances, along with the collusion between political power and crime organizations, threatens the population every day in a State with 98 to 99 percent of impunity. We need State’s to support international justice.”

For the Middle East and North Africa region, civil society actors have been at the forefront of fact-finding efforts relating to grave crimes across the region, particularly in the context of limited national resources to conduct investigations into potential Rome Statute crimes. States must accept that the ICC is obligated to investigate all actors engaged in conflict whenever there is reason to believe that crimes have been committed, and cooperation with the ICC must continue regardless of the status of the prosecutor’s investigations. Shawan Jabarin with Al-Haq stated, “States need to fully support the Court with a view of ensuring that it is capable of fulfilling its admirable purpose of ensuring an end to impunity for the most heinous crimes, regardless of the political context in which the crimes are committed”. Thomas Ebbs of Lawyers for Justice in Libya stated “[i]t is vital that States provide the necessary financial support and encouragement to the ICC in order to support civil society fact-finding. In Libya, despite repeated statements from the Office of the Prosecutor that it suspects crimes within its mandate are ongoing, the ICC lacks presence on the ground in the country for security and financial reasons. Despite this lack of access, there has been almost no effort to encourage national civil society to document these crimes, risking the chance of justice ever being delivered for the victims of such atrocities.”

These civil society representatives affirm the importance of positive collaboration with State actors committed to supporting international justice. The annual ASP meeting is an important opportunity to ensure that States providing meaningful support to the ICC, and to ensure that victims concerns remain at the center of discussions.

Background: The ICC is the world's first permanent international court to have jurisdiction over war crimes, crimes against humanity, and genocide. Central to the Court's mandate is the principle of complementarity, which holds that the Court will only intervene if national legal systems are unable or unwilling to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes.

There are currently nine active investigations before the ICC: the Central African Republic; Democratic Republic of Congo; Darfur, Sudan; Kenya; Libya; Uganda; Côte d'Ivoire and Mali. A prosecution request to open an investigation in Georgia is pending. The ICC has publicly issued 33 arrest warrants and nine summonses to appear. Three trials are ongoing. There have been two convictions and one acquittal. Seven preliminary examinations are currently ongoing, including into situations in Afghanistan, Colombia, Guinea, Palestine, Iraq, Nigeria and Ukraine. The Office of the Prosecutor has concluded preliminary examinations relating to Honduras, Venezuela, Palestine, the Republic of Korea and the Comoros referral, declining in each case to open an investigation.

WHO WE ARE: *This statement is released by the panelists at the ICC Assembly of State Parties side-session panel entitled "Civil Society and the ICC: Local Perspectives on Fact-Finding" hosted by The Philippines and the Open Society Justice Initiative. These panelists joined other civil society representatives in regional consultations in the Asia-Pacific region in Philippines in March, Africa in Senegal and Benin in June, Latin America in Costa Rica in September, Middle East in June and November, and Eastern Europe in October.*

Tatiana Viviane Bangué is the Director of Femme-Homme-Action Plus (FHAP) in the Central African Republic. Ms. Bangué is an expert in responding to the needs of victims in conflict, particularly in the Central African Republic. The Central African Republic investigation opened in 2007.

Thomas Ebbs is the Programs Officer for Lawyers for Justice in Libya. He also heads up LFJL's women's rights program, which carries out a series of innovative projects in order to address various gender concerns in Libya. The Libya investigation opened in 2011.

NikaJeuranashvili joined Open Society Georgia Foundation in April, 2011. He, in concert with the Foundation's management, plans, implements, and administers activities of Human Rights and Criminal Justice direction. The OTP announced that they are made a request to open an investigation in October 2015.

Shawan Jabarin is the Director of Al-Haq in Palestine. He leads work monitoring and documenting human-rights violations by all parties to the Israeli-Palestinian conflict. The OTP announced the opening of a preliminary examination in January 2015. (Unable to attend panel).

Panhavuth Long is a consultant for Cambodia Justice Initiative. Mr. Long is a specialist on transitional justice, including the UN Khmer Rouge Tribunal. An Article 15 submission was made to the OTP on Cambodia in 2013.

Araceli M. Olivos is a coordinator of the defense at CENTROPRODH in Mexico. Ms. Olivos is experienced in the area of litigation for human rights violations in Mexico. Although there have been no formal statements from the ICC on Mexico, various Article 15 submissions have been made to the OTP related to the current human rights crisis.

Beatrice Atieno Okero is a team leader at CSO Network in Kenya. Ms. Okero is an expert in responding to the needs of victims in conflict, particularly in Kenya. Kenya investigation opened in 2010.

Lino Ogora Owor is Executive Director at the Foundation for Justice and Development Initiatives (FJDI) in Uganda. Mr. Ogora Owor is an expert in the area of international justice and has good knowledge of the International Criminal Court's operations. Uganda investigation opened in 2004, and the first arrest was made of the accused Ongwen in January 2015.

Nancy Valdez is a Transitional Justice Project coordinator at the Guatemalan Forensic Anthropology Foundation which investigates human rights violations and identified missing persons during the Guatemalan dirty war. Ms Valdez is part of the organization since 1993, working on truth-seeking, justice, reparation, non-repetition, and responding to requests from survivors and relatives of victims.