



Parliamentarians for Global Action

Consultative Assembly of Parliamentarians for the International Criminal Court (ICC) and the Rule of Law

New York, United Nations
September 12-13, 2003

FINAL DOCUMENT OF THE II SESSION

New York Declaration on Parliamentary Action in support of the International Criminal Court (ICC)

Whereas:

Crimes of genocide, crimes against humanity and war crimes committed after 1 July 2002 in the territories of or by nationals of the 92 States Parties to the Rome Statute of the ICC fall under the complementary jurisdiction of the International Criminal Court.

The International Criminal Court (ICC) is aimed not only at prosecuting and punishing these crimes, but also at preventing the planning and commission of such crimes in the future.

States Parties to the ICC Statute have a duty to fully cooperate with the Court and implement legislation aimed at empowering their national judicial system to investigate and bring to justice perpetrators of international crimes.

All States have a duty to prosecute or extradite suspected perpetrators of international crimes.

The Prosecutor of the ICC has analyzed more than 400 communications submitted to him by individuals and organisations, and concluded that the situation in the Eastern region of the Democratic Republic of the Congo (Ituri) shall be closely scrutinized by his office, thereby commencing the first actions of operation under the ICC.

Impunity of perpetrators of international atrocities provides a fertile ground for the commission of new horrendous crimes and leads to the escalation of internal or international armed conflicts,

The ICC is the first permanent international institution in the history of human-kind to exercise jurisdiction against alleged perpetrators of international crimes and provide justice for victims when States fail to do so.

The principle of equality of all before the law is the only acceptable foundation of the ICC, and any bilateral or multilateral effort by States or by the UN Security Council to limit the effectiveness of the Court's jurisdiction undermines the integrity and credibility of the new institution.

WE, MEMBERS OF THE CONSULTATIVE ASSEMBLY OF PARLIAMENTARIANS FOR THE INTERNATIONAL CRIMINAL COURT (ICC) & THE PROMOTION OF THE RULE OF LAW, FOLLOWING ITS DELIBERATIONS HELD AT THE UNITED NATIONS ON 12 AND 13 SEPTEMBER 2003 UNDER THE AUSPICES OF PARLIAMENTARIANS FOR GLOBAL ACTION (PGA), AGREE AS FOLLOWS:

1. On the Ratification and Effective Implementation of the Rome Statute of the ICC

- a) As Parliamentarians, we undertake the commitment to raise awareness and understanding amongst political leadership in national and regional parliaments on the International Criminal Court (ICC), and to intensify the efforts of the global ratification campaign in order to bring about the largest possible representation of all regions of the world into the “ICC system”.
- b) As Parliamentarians from countries that are not yet parties to the ICC Statute, we shall undertake to elaborate country-specific strategies aimed at removing legal and political obstacles to the national ratification/accession process and - on such bases - undertake any appropriate legislative or political initiative that could contribute to the ratification or accession.
- c) As Parliamentarians from countries that are parties to the ICC Statute, we shall intensify our efforts to assure that full cooperation with the ICC will be possible in our own countries and institutions. To that effect, we shall promote the drafting and enactment as early as possible of comprehensive national implementing legislation and/or any administrative or budgetary measures that would facilitate the effective and independent operations of the Court, including allocating adequate resources for the benefit of victims of crimes under the Rome Statute through budgetary appropriations in the ICC Trust Fund for Victims.
- d) As Parliamentarians from countries that are parties to the ICC Statute, we shall appeal to our Governments to sign the *Agreement on Privileges and Immunities of the ICC (APIIC)* adopted by the ICC Assembly of States Parties, and to transmit it with urgency to Parliament for consideration and approval, if required under the national legal order. The ratification and entry into force of the Agreement is an essential step towards the full effectiveness of the Court’s operation.
- e) As Parliamentarians from countries that have implemented the ICC Statute in their domestic legal order, we shall make our best effort to ensure that the application of the law will not lead to double standards and that the higher standards of protection of human rights, including the rights of victims, will apply. To that effect, *law reform processes* on crucial issues such as the rights of women and children and the domestic criminalisation of international offences shall be launched to reinforce the legitimate prerogatives of the State under *the rule of law*.
- f) As Parliamentarians, with the assistance and support of PGA, we undertake the commitment to promote ICC ratification within the work of regional organizations, especially those that include parliamentary fora or assemblies.

2. On the Integrity, Effectiveness and Independence of the International Criminal Court

WE, MEMBERS OF THE *CONSULTATIVE ASSEMBLY OF PARLIAMENTARIANS FOR THE ICC & THE RULE OF LAW* FURTHER AGREE THAT:

- a) Parliamentarians shall make their best efforts to ensure that States respect, and protect the integrity of, the Rome Statute in the course of their bilateral and multilateral relations with Non States Parties.
- b) Parliamentarians undertake the firm commitment to foster dialogue with legislators and officials from other countries that have not yet joined the ICC system.
- c) Parliamentarians shall avail themselves of the opportunity to question their executives on the status of negotiations with one State on its proposal to enter into **bilateral non-surrender agreements**.

D) In case of countries that have not signed a bilateral non-surrender agreement, Parliamentarians shall support the consolidation of the national position safeguarding the ICC Statute’s integrity and the sovereign

right of the State to exercise its criminal jurisdiction, either utilising its national Courts or the ICC, to bring to justice any perpetrator of crimes under international law, regardless of nationality or official status.

II) In case a *bilateral non-surrender agreement has been signed by the Executive*, Parliamentarians shall request that the legislature is seized with the matter of considering the agreement for ratification, without which the agreement¹ will not enter into force. Parliamentarians shall consider all available options to amend the agreement in compliance with the “no impunity principle” and other provisions of the Rome Statute or to oppose its ratification.

III) In case a *State suspends assistance programmes to States that refuse to sign or ratify a bilateral non-surrender agreement*, Parliamentarians undertake the commitment to promote mechanisms or strategies to compensate or recognize these law-abiding States.

IV) In case a *bilateral non-surrender agreement has been signed and ratified*, Parliamentarians shall endeavour to enter into a constructive dialogue with all parties concerned and, if possible, facilitate a review of the agreement in compliance with the principle of “no-impunity”.

- d) Parliamentarians shall take all opportunities to question their Governments on their position towards the renewal of Resolution 1487 (2003), the effects of which will expire on 1 July 2004, and request that strategies be developed at the international and regional levels to prevent the renewal for another year of Resolution 1487, which has been viewed by an overwhelming majority of UN Member States, by NGOs’ and scholarly experts as well as by the UN Secretary General as unnecessary and transitional in nature.
- e) Parliamentarians shall avail themselves of the opportunity to be informed about the agenda of the Assembly of States Parties.
- f) Parliamentarians shall actively communicate with citizens of their own countries in order to stimulate their awareness of international law in general, and the ICC in particular, as well as threats and ‘sanctions’ imposed against states that refuse to compromise the integrity of the ICC Statute.
- g) Parliamentarians shall make their best efforts to ensure that all initiatives to bring peace in conflict-zones will be compatible with the provisions of the ICC Statute and not prejudice the full access to international justice and to reparations for the victims (as in the case of Cote d’Ivoire, in which Parliament rejected an amnesty for perpetrators of crimes against humanity and war crimes).

3. On the Convening of the Consultative Assembly of Parliamentarians for the ICC & the Rule of Law

- a) As Parliamentarians, we welcome the initiative of PGA to convene the *Consultative Assembly of Parliamentarians for the ICC & the Rule of Law* to facilitate discussion and action of parliamentarians from all regions of the world so as to promote and provide support for a more universal and independent, fair & effective functioning of the ICC.
- b) As Parliamentarians, we undertake to establish *informal* relations with the various organs of the ICC *through PGA* to ensure information on the developments in the ICC, including the relevant contributions of our respective governments towards the Court’s progress.

¹ A bilateral non-surrender agreement, in its present form, is a treaty that modifies previous laws, including the law on territorial jurisdiction for penal matters and the ICC ratification bill.

- c) Parliamentarians for Global Action shall undertake to prepare an “ICC package/kit of materials” for use by PGA members and other concerned MPs in their initiatives in support of the ICC in their respective countries. The kit may become an education tool for Parliamentarians and citizens-at-large to foster acceptance and understanding of the ICC and promote its growth.
- d) As Members of PGA, we request PGA a “feasibility analysis” for a realistic ongoing *Consultative Assembly of Parliamentarians* is prepared and submitted for discussion at the next assembly’s session.
- e) A third session of the *Consultative Assembly of Parliamentarians for the ICC & the Rule of Law* shall take place in the year 2004 at a date and venue to be determined through consultations between PGA and interested Parliament(s).

Done in New York on 13 September 2003.

Acknowledgement

The “Consultative Assembly of Parliamentarians for the ICC & the Rule of Law” has been made possible by the individual and collective mobilisation of Members of Parliaments who convened in New York, United Nations, under the auspices of Parliamentarians for Global Action and with the indispensable support of the European Commission (EU), the Government of Canada (DEAIT), the Government of the Netherlands, the Government of Switzerland and the Ford Foundation, as well as the Permanent Mission of Sweden to the UN.