



PRESS STATEMENT

PGA members worldwide call on the Security Council of the United Nations to refer the situation in Syria to the Prosecutor of the International Criminal Court.

The Hague/New York/Montevideo, 19 May 2014: Since March 2011, the conflict in Syria has reportedly led to the death of more than 150,000 persons, predominantly civilians, the displacement of over 6.5 million people and the flight of more than 2.5 million Syrians from their country. This most serious humanitarian and security situation is characterized by the systematic violation of human rights and the commission of international crimes by both Government forces and pro-Government militia and by some rebel groups, and include extermination, murder, sexual violence, arbitrary detention, enforced disappearances, torture, indiscriminate attacks, pillaging and forced recruitment and the use of children in combat¹.

After more than three years of mass atrocities, the collapse of the peace talks and the apparent lack of an imminent and realistic political “exit” from the crisis, PGA members express their deep concern at the failure of the international community to protect civilians and to put an end to the conflict in Syria and to the tragic state of impunity, as highlighted by the United Nations Commission of Inquiry². In addition, the incapacity of either side to guarantee accountability has provided fertile ground for the radicalization of positions and a seemingly uncontrollable downward spiral of violence. Indeed, restoring peace will be difficult for so long as impunity is not put to an end for those responsible for serious violations of international humanitarian and human rights law and assistance and adequate reparation to victims is not provided.

In this context, PGA underlines the responsibility of the international community, and in particular the UN Security Council to take action by referring the devastating situation of Syria to the Prosecutor of the International Criminal Court (ICC), as a strong message to those bearing responsibility for serious crimes and human rights violations, which could also have the possible deterrent effect at least vis-à-vis the armed groups’ respective leaderships that, as of today, have not deliberately targeted civilian installations. The ICC is indeed the best placed, as an institution created to close the impunity gap, to launch proceedings against those responsible for the aforementioned crimes, in light of the unwillingness and incapacity of the Syrian State to carry out genuine investigations and prosecutions, although it is its primary responsibility. As Syria is not a state party to the ICC, a referral by the UN Security Council on the basis of article 13 (b) of the Rome Statute is necessary to give jurisdiction to the Court to investigate crimes committed that may fall under its jurisdiction.

PGA members worldwide are concerned that any such referral could be vetoed and therefore urge the members of the Security Council to continue the line of previous referrals and that the Permanent Members of the Security Council refrain from using their veto power. Indeed, on two occasions in the past, the Security Council has already referred situations to the ICC: in 2005 for Darfur/Sudan (resolution 1593 (2005)³), and in 2011 for Libya (resolution 1970 (2011)⁴), with a unanimous vote in the latter case.

¹ The Independent International Commission of Inquiry on the Syrian Arab Republic was established on 22 August 2011. Since then it produced seven reports (A/HRC/S-17/2/Add.1, A/HRC/19/69, A/HRC/21/50, A/HRC/22/59, A/HRC/23/58, A/HRC/24/46 and A/HRC/25/65), which are available here <http://www.ohchr.org/EN/HRBodies/HRC/IICISyria/Pages/Documentation.aspx>, last accessed 16 May 2014.

² www.ohchr.org/EN/.../HRC/.../A-HRC-25-65_en.doc

³ <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N05/292/73/PDF/N0529273.pdf?OpenElement>

⁴ [http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970\(2011\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1970(2011))



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PGA further highlights that to ensure full accountability for the crimes committed and to seek to deter the further commission of atrocities, in addition to the crucial work of the ICC, major national and international efforts will be needed, including significant interventions to address the humanitarian emergency and secure humanitarian corridors, as well as to establish a functioning and independent judiciary and a humane penitentiary system.

PGA Members from all regions of the world urge the UN Security Council to immediately refer the situation of Syria to the ICC in order to bring, at least, the promise of justice to the Syrian population, and welcomes the calls to this effect on the Security Council by the UN High Commissioner for Human Rights⁵, civil society organisations⁶ and a group of fifty-eight countries, convened by Switzerland, who are committed to promote accountability in Syria⁷. PGA encourages other States to publicly join those calls for a referral and to urge the Permanent Members of the Council not to invoke their veto power, a prerogative given, it can be usefully recalled, to the victorious powers emerging from World War II precisely to avoid new global conflagrations on the basis of the principles of International Law, starting from those affirmed at Nuremberg as the minimum yardstick of human civilization.

Despite PGA's support to the most recent initiative, led by France, to obtain accountability in Syria through a referral of the situation to the ICC, with the presentation of a draft resolution to the UN Security Council, PGA is concerned that at least some of the language used in the draft Resolution could weaken the work of the ICC in case of a referral. For this reason,, PGA calls on the Security Council to avoid the inclusion of language on purported exemptions of certain nationals from the jurisdiction of the Court: Such a language is clearly outside the scope of the applicable law of the Court, in accordance with Article 21 of the Rome Statute, and does not bind the Judges and any other organ of the Court. In addition, PGA is concerned that language militated against the possibility of financial support from the UN to the ICC may exceed the competencies of the UN Security Council under article 17 of the UN Charter, which mandates the UN General Assembly to decide on budgetary matters pertaining to the Organisation. PGA wishes to acknowledge however, and to welcome, the efforts of Argentina that have led to the inclusion of a very important reference to the need for funding of expenses for the proceedings of the International Criminal Court, notably for the situations referred to the Court by the UN Security Council, as recognized by Resolution 67/295 of the UN General Assembly⁸. Finally, PGA members strongly encourage the Security Council to apply the obligation to cooperate with the Court not only to all parties to the conflict, but also to all UN Member States, as is its prerogative under Chapter VII of the UN Charter, to ensure compliance with its decisions.

Notwithstanding all these specific recommendations, PGA invites all States to support this draft resolution, which contains the essential referral of the Syrian situation to the ICC, and urges the Security Council to adopt it urgently so that justice is brought to the people of Syria without further unconscionable delay.

⁵ Briefing of the High Commission for Human Rights, Navin Pillay, on 8 April to the UN Security Council: <http://www.unmultimedia.org/tv/unifeed/2014/04/un-syria-update-4/>

⁶ PGA joined the call from more than 100 other civil society organisations to the UN Security Council to refer the situation of Syria to the ICC: <http://www.hrw.org/news/2014/05/15/syria-groups-call-icc-referral>

⁷ At the initiative of Switzerland, in January 2013 57 States sent a letter to the UNS Security Council calling for a referral of the Syrian situation to the Prosecutor of the ICC: <http://www.news.admin.ch/NSBSubscriber/message/attachments/29293.pdf>. In addition, Switzerland and a group of 58 States would also be preparing another letter to be promptly sent to the UN Security Council, calling once again for a referral of the situation in Syria.

⁸ http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/67/295



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On behalf of Parliamentarians for Global Action

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About PGA

Parliamentarians for Global Action (PGA) is the largest transnational network of Members of Parliaments from all regions of the world who, in their individual capacity, support the effective operation of the ICC and domestic jurisdictions to end impunity. The PGA network is supported by a small secretariat that facilitates the cooperation and exchange by member MPs to achieve these goals and provides technical assistance regarding legal advice and project management.

Members of PGA have contributed to 76 of the 122 ratifications of, or accession to the Rome Statute to date. PGA is a member of the Steering Committee of the Coalition for the ICC. The PGA Campaign for the Universality and Effectiveness of the Rome Statute system receives support from the European Commission, European Union and the Governments of Liechtenstein, The Netherlands, Switzerland, Estonia and Humanity United. In addition PGA benefits from the core funding from SIDA, DANIDA and Liechtenstein.

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On-line access to PGA ICC Campaign:

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