

RABAT PLAN OF ACTION ON THE PREVENTION OF ATROCITIES, THE RULE OF LAW AND THE INTERNATIONAL CRIMINAL COURT

Chamber of Representatives, Rabat, Morocco, 5 December 2014

We, the Members of Parliamentarians for Global Action (PGA) participating in the 8th Consultative Assembly of Parliamentarians for the International Criminal Court (ICC) & the Rule of Law, following the deliberations held in the Moroccan Parliament in Rabat, on 4 and 5 December 2014, on the occasion of the 36th Annual Forum of PGA:

Express sincere appreciation to the Organizing Committee of PGA's Consultative Assembly for the successful organization of this 8th session for the first time in an Arab country and that is not a State Party to the Rome Statute;

Recall that Parliamentarians for Global Action is an action-driven and results-oriented group of over 1100 Parliamentarians from 142 countries representing all regions of the world;

Remembering the importance for the international community to benefit from the existence and operation of a permanent, independent and effective Court to punish, thus prevent the most serious crimes under international law, genocide, crimes against humanity, war crimes and the crime of aggression;

Observing also the vital deterrent effect, real and potential, that the International Criminal Court has, by virtue of its jurisdiction and very existence, on the commission of war crimes, crimes against humanity and genocide;

Recognising that victims have the right to access to justice, know the truth and have it publicly acknowledged, participate in proceedings, obtain appropriate reparations, be treated with dignity and respect, and receive guarantees from relevant authorities and parties of non-repetition of these atrocities;

Recognizing that, the international community continues to be confronted with grave human rights abuses and serious violations of human rights and international humanitarian law in different regions of the world, as well as with the breakdown and failure of the Rule of Law within several national frameworks;

Recognizing also that continuing inertia, inaction or delayed response by the international community and certain national governments in seeking to address this tragic reality is inexcusable and, in addition, is a serious indictment of humanity itself;

Observing that impunity for perpetrators of atrocities only serves to increase the likelihood of the commission of new, equally horrific crimes and may indeed lead to the re-escalation of violence resulting in the recurrence of internal or international armed conflicts;

Welcoming the work conducted by the International Criminal Court in its first twelve years protecting, in particular, African victims of the most serious international crimes, and reminding the necessity of expanding this protection to victims in other regions of the world;

Acknowledging the vital role that can be played by us, Parliamentarians, in different ways, to increase the universality and effectiveness of the ICC, to seek to solidify and consolidate the cause of international justice and the establishment, or re-establishment, as the case may be, of the Rule of Law;

Agree to use our legislative and political prerogatives to advance the following objectives:

(I) Achieving the Universal Ratification of the Rome Statute

Recognising that the universal ratification of the Rome Statute is crucial to the application of the principle of equality before the law, and for the effective deterrence of the most serious crimes under international law;

Applauding the fact that 122 States have, to date, ratified, or acceded to, the Rome Statute, but concerned since the 7th session of the Consultative Assembly of Parliamentarians for the ICC and the Rule of Law held in Rome, Italy in December 2012, only one State has acceded to the Rome Statute;

Regretting in particular, that some regions are still largely under-represented, such Asia, the Commonwealth of Independent States (CIS) and the Middle East and North Africa; but recognizing the continued meaningful engagement of MPs from these regions;

Welcoming the pledges towards ratification/accession made by our colleague parliamentarians from Cameroon, El Salvador, [Indonesia], Iraq, Jamaica, Lebanon, Malaysia, [Mauritania], Morocco, Nepal, [Oman], [Pakistan], Togo and Yemen and expecting to promptly receive their news on concrete progress;

We resolve:

1. To vigorously engage with our colleagues from all political affiliations and with civil society to achieve national and multi-partisan consensus to remove the barriers towards ratification, and to ensure our governments to proceed to the prompt ratification of, or accession to, the Rome Statute of the ICC;
2. To intensify our efforts to ensure that universality of the Rome Statute is mainstreamed as an objective in all available mechanisms of inter-parliamentary relations, as well as in programmes of action designed by Governments and International and Regional Organizations to promote human rights, the rule of law, justice, peace, democracy, sustainable development and multilateral cooperation.
3. Request our government to promote the ratification of the Rome Statute through bilateral contacts and multilateral venues, such as the high-level debate at the UN General Assembly, the Universal Periodic Review at the UN Human Rights Council, and in regional organisations.

(II) Ensuring full cooperation with the International Criminal Court

Reaffirming that States Parties to the Rome Statute have a duty to cooperate fully with the Court and, in particular, to implement legislation aimed at enabling the ICC to operate effectively, and ensure political will for state authorities to abide to their obligations of cooperation, as provided by Part 9 of the Rome Statute;

Condemning that 11 individuals publicly sought by the ICC for the commission of genocide, crimes against humanity and war crimes against populations in the Democratic Republic of the Congo, Côte d'Ivoire, Darfur, Libya and Uganda remain at large;

Welcoming the progress in the field of domestic legislation on cooperation since the VII session of the Consultative Assembly that took place in Rome in 2012, especially those where PGA members are active such as in Costa Rica, Cote d'Ivoire, Democratic Republic of Congo and Mali and recent ratification to the APIC by Peru¹ and Senegal;

Regretting however that 71 states parties are pending to adopt legislation on cooperation with the ICC, that 48 are pending to ratify or accede to the APIC, and that there are a limited number of agreements on relocation of witnesses, 1 interim release agreement signed with Belgium and 8 enforcement of sentences agreement;

¹ 23 October 2014, Peruvian Parliament approve the ratification of the APIC, which should promptly be promulgated by the President and deposited at the UN.

We resolve:

5. To promote, in each of our countries and all over the world, the adoption of implementing legislation on cooperation with the Court, thereby giving domestic judicial authorities a greater role in cooperation and thus ultimately depoliticizing the execution of arrest warrants;
6. To ensure that our government and parliament ratify or accede to the Agreement of Privileges and Immunities of the Court (APIC), conclude specialized cooperation agreements with the Court, and that adequate legislation exists to ensure its full respect;
7. To galvanise political support and resources to collaborate with other governments and international organisations to achieve effective arrest and surrender strategies of each and all persons sought by the ICC;
8. To continuously call for the unconditional respect, and implementation of, the decisions and orders of the ICC, and call on our governments to ensure that, in its foreign and economic relations, non-essential contacts are severed with individuals subject to an arrest warrant by the ICC, and that, in the context of humanitarian aid or peace talks, our governments avoid supporting the diversion of funds or aid for the benefit of persons sought by the ICC;
9. To ensure that our governments and the United Nations in cases of referrals by the UN Security Council provide the ICC with the financial resources needed to conduct its operations;
10. To encourage our Governments to pledge funds for the Trust Fund for Victims, thereby signalling that the ICC is not only delivering retributive and preventative justice, but also restorative justice;
11. To respond forcefully and systematically when situations arise that undermines the Court, such as visits of indicted persons to States Parties, or inappropriate contacts by United Nations officials.

III) *Promoting fair and effective Domestic Prosecutions*

Recalling that all States – including those that are not yet Parties to the Rome Statute – have a duty to prosecute or extradite suspected perpetrators of international crimes and protect the rights of victims, so that the principle of ‘no impunity’ is given full and complete effect in each judicial system;

Recalling that the International Criminal Court has been established with complementary jurisdiction to that of states, and that exercise of jurisdiction by the ICC over specific cases does not preclude domestic action for related cases of the same situation;

Recognizing further the overarching imperative to protect people from violations of basic human rights norms, to seek justice and reparations for the victims and to put an end to impunity as essential prerequisites for the establishment of lasting peace, and to address of the root causes of conflicts;

Recognizing that gender justice principles incorporated in the Rome Statute must be utilized not only in the implementation of substantive and procedural norms relating to international crimes, but should also inspire the modification of other laws, as appropriate, in order to ensure the highest possible level of protection for victims of such crimes;

Noting with concern the absence of multilateral frameworks to ensure effective inter-state cooperation and mutual legal assistance for states wishing to conduct domestic prosecutions on genocide, crimes against humanity or war crimes;

Welcoming the progress in the field of legislation for domestic prosecutions since the Consultative Assembly that took place in Italy in 2012, in particular those led by PGA members and the progress in the debate of the ICC bill in the Democratic Republic of Congo;

We agree:

13. To ensure the preparation and adoption of legislation that incorporates the definitions of the crimes and general principles under the Rome Statute, and that address gender-related crimes and crimes of a sexual nature in the Rome Statute of the ICC;

14. To promote national efforts to investigate and prosecute international crimes under the Rule of Law through, inter alia, the strengthening of the independence and capacity of the judiciary, the police and prosecutors to conduct effective investigations, and the creation of protection-programmes for victims and witnesses;

15. Promote the negotiation of a multilateral treaty on mutual legal assistance and inter-state cooperation to ensure that any state conducting prosecutions of ICC crimes receives the necessary support to ensure fair and effective prosecutions;

16. To strengthen the reparatory or restorative element of the Rome Statute system of International and domestic criminal justice through the elaboration and adoption of appropriate frameworks at the national level in consultation with victims, starting with law-reforms designed to ensure domestic implementation of the rights of victims as defined under international law, and appropriate financial allocations in the national budget for the benefit of victims (i.e. reparations programmes);

17. To ensure that the conditions of detention of suspects and convicted persons are in line with international human rights standards, that the punishment of Rome Statute crimes do not carry the imposition of the death penalty, and that individuals convicted for international crimes participate in genuine programmes of re-integration into society;

(IV) Ensuring the effective Prevention of the most serious crimes

Observing that impunity for perpetrators of international atrocities only serves to increase the likelihood of the commission of new, equally horrific crimes and may indeed lead to the re-escalation of violence resulting in the re-occurrence of internal or international armed conflicts;

Noting the importance of the dissemination of the preliminary investigations of the ICC to effectively trigger action to prevent ICC crimes;

Underscoring that the principle of equality of all before the law is the foundation of the Rome Statute system and that there should, therefore, be no double standards in the application of the law, including in the selection of situations and cases;

Observing also the vital deterrent effect, real and potential, that the International Criminal Court has, by virtue of its jurisdiction and very existence, on the commission of genocide, crimes against humanity, war crimes and the crime of aggression;

We resolve:

18. To continuously call upon the United Nations Security Council to refer to the ICC the gravest situations that do not fall under the automatic jurisdiction of the ICC (e.g. crimes against humanity, acts of genocide and patterns of war crimes allegedly committed in the territories of States not Parties to the Rome Statute), including currently the situation in Syria;

19. That in peace-talks and negotiations on situations where crimes under the Rome Statute to ensure mechanisms to fight impunity for those perpetrators bearing the highest responsibility;

20. To improve the dissemination of the Rome Statute at the national and local levels (a) through the inclusion of the Rome Statute in military and public service, as well as schools and university curricula, and of the principles of the rule of law in civic education programmes; and, (b) through the use of the web and multimedia, and national or transnational public and social media to disseminate developments at the ICC and correct misinformation about the Rome Statute, as well as to generate improved awareness of the importance of the gender related provisions of the Rome Statute itself;

(V) Ensuring respect to international humanitarian law and the prohibition on the use of force in the UN Charter through the 2010 Kampala Amendments to the Rome Statute

Welcoming the decision of the States Parties to the Rome Statute of having adopted the first amendments to the Rome Statute in Kampala, Uganda in June 2010, which reduces the gap in the protection during armed conflicts not of an international character, and provides for the first time a mechanism of prevention of the commission of the crime of aggression;

Celebrating the first ratifications to both Kampala Amendments by Liechtenstein, Samoa and Trinidad and Tobago, and the recent unanimous adoption of the Kampala Amendments by the Costa Rican Legislative Assembly;

Recalling the urgency of ensuring 30 ratifications before the end of 2016, to ensure an activation of the jurisdiction of the ICC over the crime of aggression in 2017;

We resolve:

21. To intensify efforts to ensure the ratification of the Kampala Amendments, especially on the crime of aggression, to achieve 30 ratifications before 2016;

22. To promote that new ratifications of the Rome Statute consider the 2010 version, which includes the Kampala Amendments;

23. To engage in dialogue with our governments to ensure a positive decision to activate the jurisdiction over the crime of aggression in 2017 at the ASP;

24. To use our political prerogatives to mobilize support to prevent the illegal use of force and the widest protection of civilians and armed forces during armed conflict, especially through the domestic implementation of the definitions of the Kampala amendments;

25. To, individually or collectively, submit for consideration of the Nobel Peace Prize committee the results of the Kampala Review Conference and of those individuals that have relentlessly fought to proscribe the illegal use of force among nations;

26. To continue our engagement to ensure filling the gaps in the crimes covered by the Rome Statute, as reflected by customary international law;

(VI) Maintaining a political constituency in favour of the rule of law and the prevention of the most serious international crimes Appreciating the support provided to the PGA ICC Campaign by the European Commission (EU), and the Governments of Liechtenstein, The Netherlands, Switzerland, Estonia and by Humanity United and Mac Arthur Foundation, as well as the core support by the Governments of Denmark and Sweden, and the in-kind contributions of numerous parliaments;

Recognising the invaluable forum provided for by PGA's Consultative Assembly of Parliamentarians on the Rule of Law and the ICC;

Recalling the inter-relationship between the objectives of PGA under its three programmes on International Law and Human Rights, Peace and Democracy, and Gender, Equality and Population;

Noting the centrality of the protection of due process and fair trial for the rights of the defense and of victims in the ICC architecture and recognizing the role of the legal professions in protecting human rights;

We resolve:

28. To resist forcefully any attempts or initiatives by any government that has the effect of undermining the purposes and the integrity of the Rome Statute of the ICC;
29. To support the efforts towards the establishment of an independent, representative body of Counsels with effective functions to guarantee discipline, training, legal aid and access to the ICC to representatives of the defense and of victims;
30. To keep the PGA Secretariat informed on a periodic basis of the aforementioned different initiatives and activities that we take, and ensure the PGA Secretariat disseminates, where appropriate, through social and public media, the activities of the network;
31. To report back on the nature and results of our initiatives and activities during the IX PGA Consultative Assembly of Parliamentarians on the ICC and the Rule of Law to take place in 2016;
32. To provide to the PGA Secretariat suggestions to strengthen the format, content and priorities of future sessions of the Consultative Assembly; and
33. To invite PGA members to present offers to host the IX session in 2016 at a venue and date to be subsequently determined taking into account the ongoing need for further understanding about the ICC in countries where it is investigating and to ensure the universal ratification of the Rome Statute.