

Working Group on the Fight against Impunity in Africa:  
Promoting Accountability Mechanisms and the Effective Implementation  
of the Rome Statute

3-4 July 2019

National Assembly of the Republic of The Gambia, Banjul

## Banjul Plan of Action Toward an End to Impunity in Africa

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*We*, in our capacities as elected representatives of African states, gathered today at the occasion of the Working Group on the Fight against Impunity, held in Banjul (The Gambia), on 3-4 July 2019;

*Expressing* our gratitude to the National Assembly of the Gambia and its staff for welcoming us so warmly and for hosting this important regional event;

Observing that serious human rights violations and crimes under international law affect millions of human beings across the world, and most of our communities;

*Recognizing* that impunity for perpetrators of the most serious crimes included in the Rome Statute poses a global threat to peace, justice, and the rule of law, and increases the likelihood of committing of new atrocities;

*Underscoring* the importance of the Rome Statute system in the fight against impunity, including establishing a common legal framework for investigations, prosecutions, and judicial cooperation, and providing a court of last resort, the International Criminal Court (ICC);


*Acknowledging* our responsibility as legislators and representatives of our respective people to use our prerogatives to protect human rights and pursue all legal avenues to hold those who commit mass atrocities accountable;

*Agree to exercise our legislative, political, and institutional prerogatives to achieve the following national and regional commitments to act to advance the fight against impunity and to support our regional neighbours in their efforts by:*

• **Pursuing truth, justice, and reparations as essential rights of victims of international crimes, including:**

1. *Exploring* with parliamentary colleagues the relevance and potential value of truth commissions or commissions of inquiry as a forum for victims to raise their voices and grievances and contribute to a factual record, especially of long-past atrocities that may prove difficult to investigate; and

2. *Calling* on our respective governments to take measures to provide redress for victims of serious human rights violations.



• **Strengthening our domestic criminal justice systems' capacities to investigate and prosecute international crimes by:**

3. *Advocating* for the full implementation of the Rome Statute, as an effective tool to strengthen our respective domestic legal systems to ensure our courts are equipped to investigate and prosecute international crimes;

4. *Amending* the legal framework as necessary to include provisions that further reduce the scope of impunity, such as the criminal responsibility of corporations or universal jurisdiction;

5. *Ensuring* domestic mechanisms are established or bolstered to effectively and efficiently investigate and prosecute international crimes, potentially including the creation of special units, divisions, courts, and/or tribunals; and

6. *Advancing* judicial cooperation on investigation and prosecution of mass atrocities, including by encouraging the negotiation of regional or multilateral treaties on mutual legal assistance.

• **Advocating for the universality and strengthening of the Rome Statute system by: 7. Impressing upon our respective governments the need to ratify the Rome Statute and all its amendments, so our people may fall under the jurisdiction of the ICC and take part in its functioning;**

8. *Demanding* from our governments that they fully cooperate with and enter into cooperation agreements with the ICC to ensure that the Court is empowered to pursue effective investigations and prosecutions; and

9. *Calling* on our governments to take full stock of their membership in the Rome Statute system and take active part in managing and monitoring of the Court's activities via the Assembly of States Parties, including ensuring the Court is given an adequate budget and reformed to improve its efficiency.

• **Using our legislative prerogatives to strengthen regional and international structures to prevent the commission of and guarantee a rapid response to serious human rights violations, through: 10. Ensuring that our States take steps to effectively implement decisions issued by regional human rights bodies and courts, including by promoting legislation on direct execution of regional courts' decisions;**

11. *Urging* the African Union to consider changes to the African human rights protection system so that it effectively roots out impunity rather than entrench it in Africa in accordance with the AU's founding principles;

12. *Mobilising* our governments to support reforms to ensure the proposed African Court of Justice and Human and Peoples' Rights is respectful the principle of complementarity, juridically sound, and in consonance with international criminal law and justice standards;

13. *Mobilising* our regional parliaments to take a more pro-active role in protecting human rights standards across the region and sub-regions, as well as taking a strong stance in favour of international criminal justice; and

14. *Insisting* that our respective governments continuously call upon the United Nations, and in particular the Security Council, to address all occurrences of mass atrocities with the same seriousness, including when necessary by referring the situation to the ICC.

**In keeping with PGA's name and action-driven approach, we commit to supporting each other in our respective efforts and more specifically to:**

### **In Cameroon:**

- i. Using* our prerogatives to ensure that the security forces do not respond disproportionately to the current crises and that those, on all sides, who may have committed human rights abuses are held accountable by the criminal justice system;
- ii. Opening* a review in committee of the provisions of the Criminal Code, including on the basis of a legal analysis of the existing framework that PGA's Secretariat may provide, with the objective of ensuring all crimes under international law are adequately criminalised, thus allowing domestic courts to investigate and prosecute them;
- iii. Advocating* to the government to ratify the Rome Statute, including by dispelling any misconception or misunderstanding about the ICC's mandate;
- iv. Urging* the government to promptly ratify the International Convention for the protection of all Persons from Enforced Disappearances; and
- v. Calling* on the government to make the declaration so the African Court of Human and Peoples' Rights may hear cases submitted by individuals and non-governmental organisations.

### **In Cape Verde:**

- i. Adopting* a bill modifying the Criminal Code and Criminal Procedural Code to improve the provisions fully implementing the Rome Statute in domestic law, including on the basis of a legal analysis of the existing framework that PGA's Secretariat may provide;
- ii. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;
- iii. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons;
- iv. Urging* the government to promptly ratify the International Convention for the protection of all Persons from Enforced Disappearances; and
- v. Calling* on the government to ratify the Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights and make the declaration so the Court may hear cases submitted by individuals and non-governmental organisations.

### **In the Central-African Republic (CAR):**

- i. Continuing* the implementation of the Bangui Plan of Action, adopted in October 2018, after PGA's Technical Seminar on Strengthening the Legal Framework of the Fight against Impunity;
- ii. Supporting* and monitoring the installation of the Truth, Justice, Reparations and Reconciliation Commission and its future activities, so it is inclusive of all stakeholders while respecting the right of victims to justice;
- iii. Engaging* in discussions with all relevant stakeholders, including the government and the international community, on the relevancy of a specific body tasked with providing reparations to victims of serious human rights violations;

*iv. Pursuing* the adoption of the bills modifying the Criminal Code and Criminal Procedural Code to improve the provisions implementing the Rome Statute in domestic law;

*v. Supporting* the work of the Special Criminal Court, unimpeded and independently;

*vi. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;

*vii. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons; and

*viii. Calling* on the government to ratify the Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights and make the declaration so the Court may hear cases submitted by individuals and non-governmental organisations.

#### **In Cote d'Ivoire:**

*i. Supporting* and monitoring the progress made by ongoing investigations and criminal cases into serious human rights violations and calling on all parties to be equally investigated and prosecuted;

*ii. Mobilising* our colleagues on the drafting and adoption of a bill on cooperation with the ICC, including with PGA's Secretariat's technical assistance;

*iii. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;

*iv. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons; and

*v. Urging* the government to promptly ratify the International Convention for the protection of all Persons from Enforced Disappearances.

#### **In the Democratic Republic of Congo (DRC):**

*i. Mobilising* our colleagues in Parliament towards the creation of a commission of inquiry into past human rights abuses to set a historical record and provide a basis for reparations;

*ii. Monitoring* that the current attacks led by armed groups and militias are adequately addressed both by security forces, without committing violations of the human rights, and by the criminal justice system, especially when they amount to crimes of international law;

*iii. Mobilising* our colleagues in Parliament, during the budgetary session, so that the judiciary is allocated enough resources to be able to effectively investigate and prosecute grave human rights violations and international crimes, and provide reparations;

*iv. Supporting* and monitoring the progress made by ongoing investigations and criminal cases into serious human rights violations and calling on all parties to be equally investigated and prosecuted;

*v. Introduce* private member's bills authorising the government to ratify and implementing all amendments to the Rome Statute, including that on the crime of aggression;

*vi. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons;

*vii. Supporting* bills or introducing private member's bills on the ratification of the International Convention for the protection of all Persons from Enforced Disappearances; and

*viii. Supporting* bills or introducing private member's bills on the ratification of the Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights and calling on the government to make the declaration so the Court may hear cases submitted by individuals and non-governmental organisations.

#### **In the Gambia:**

*i. Supporting* the work conducted independently by the Truth, Reconciliation and Reparations Commission to investigate past human rights abuses and create a historical record;

*ii. Collaborating* with the Attorney General's office on the drafting and adoption of a bill that would fully implement the Rome Statute into domestic law and create the legal framework for cooperating with the ICC, including with PGA's Secretariat's technical assistance;

*iii. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;

*iv. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons; and

*v. Calling* on the government to make the declaration so the African Court of Human and Peoples' Rights may hear cases submitted by individuals and non-governmental organisations.

#### **In Guinea:**

*i. Supporting* and monitoring the progress made by ongoing investigations and criminal cases into serious human rights violations, notably those related to the 28 September 2009 post-electoral violence, and calling on all parties to be equally investigated and prosecuted;

*ii. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;

*iii. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons;

*iv. Urging* the government to promptly ratify the International Convention for the protection of all Persons from Enforced Disappearances; and

*v. Calling* on the government to ratify the Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights and make the declaration so the Court may hear cases submitted by individuals and non-governmental organisations.

#### **In Kenya:**

- i. Fully supporting the debate, and adoption of the Reparations Bill recently introduced to Parliament by Hon. Gladys Shollei;*
- ii. Supporting and monitoring the independent work of the International and Organised Crimes Division and its progress in investigating and prosecuting cases;*
- iii. Conducting a review of the domestic legal framework regarding the prosecution of international crimes to identify any gaps and introducing bills to address those, including regarding the liability of legal persons and universal jurisdiction;*
- iv. Engaging the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;*
- v. Calling on the government to fully cooperate with the ICC, including by executing arrest warrants, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons;*
- vi. Urging the government to promptly ratify the International Convention for the protection of all Persons from Enforced Disappearances; and*
- vii. Calling on the government to make the declaration so the African Court of Human and Peoples' Rights may hear cases submitted by individuals and non-governmental organisations.*

#### **In Malawi:**

- i. Adopting a bill modifying the Criminal Code and Criminal Procedural Code to improve the provisions fully implementing the Rome Statute in domestic law, including on the basis of a legal analysis of the existing framework already provided by PGA's Secretariat;*
- ii. Engaging the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression; and*
- iii. Calling on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons.*

#### **In Mali:**

- i. Supporting the work conducted independently by the Truth, Justice and Reconciliation Commission to investigate past human rights abuses and create a historical record;*
- ii. Monitoring that the current attacks led by armed groups are adequately addressed both by security forces, without committing violations of the human rights, and by the criminal justice system, especially when they amount to crimes of international law;*
- iii. Supporting and monitoring the progress made by ongoing investigations and criminal cases into serious human rights violations and calling on all parties to be equally investigated and prosecuted;*
- iv. Pursuing the adoption of a bill modifying the Criminal Code and Criminal Procedural Code to improve the provisions implementing the Rome Statute in domestic law, including on the basis of a legal analysis of the existing framework already provided by PGA's Secretariat;*



*v. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression; and

*vi. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons.

#### **In Morocco:**

*i. Supporting* the implementation of the recommendations made by the Equity and Reconciliation Commission;

*ii. Finalising* the adoption of a bill incorporating international crimes into the Criminal Code, thus allowing domestic courts to investigate and prosecute them;

*iii. Opening* in committee a review of the provisions of the Criminal Code, including with PGA's Secretariat's technical assistance, with the objective of fully implementing the Rome Statute, including principles;

*iv. Encouraging* the government to ratify the Rome Statute, including by dispelling any misconception or misunderstanding about the ICC's mandate; and

*viii. Urging* the government to ratify the African Charter on Human and Peoples' Rights and the Protocol on the establishment of the African Court on Human and Peoples' Rights, as well as to make the declaration so the Court may hear cases submitted by individuals and non-governmental organisations.

#### **In Niger:**

*i. Ensuring* that the current attacks led by armed groups are adequately addressed both by security forces, without committing violations of the human rights, and by the criminal justice system, especially when they amount to crimes of international law;

*ii. Pursuing* the adoption of a bill modifying the Criminal Code and Criminal Procedural Code to improve the provisions implementing the Rome Statute in domestic law, including on the basis of a legal analysis of the existing framework already provided by PGA's Secretariat;

*iii. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;

*iv. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons; and

*v. Calling* on the government to make the declaration so the African Court of Human and Peoples' Rights may hear cases submitted by individuals and non-governmental organisations.

#### **In Nigeria:**

*i. Calling* on the government and the judiciary to seriously address the rampant sexual and gender-based violence, including by raising awareness on the issue and by effectively investigating and prosecuting cases;

*ii. Monitoring* that the current attacks led by armed groups are adequately addressed both by security forces, without committing violations of the human rights, and by the criminal justice system, especially when they amount to crimes of international law;

*iii. Calling* on the government to set up independent investigation mechanisms to prove allegations of serious human rights violations;

*iv. Adopting* a bill modifying the Criminal Code and Criminal Procedural Code to improve the provisions fully implementing the Rome Statute in domestic law, including on the basis of a legal analysis that may be provided by PGA's Secretariat;

*v. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;

*vi. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons; and

*vii. Calling* on the government to make the declaration so the African Court of Human and Peoples' Rights may hear cases submitted by individuals and non-governmental organisations.

#### **In Sierra Leone:**

*i. Adopting* a bill modifying the Criminal Code and Criminal Procedural Code to improve the provisions fully implementing the Rome Statute in domestic law, including on the basis of a legal analysis that may be provided by PGA's Secretariat;

*ii. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;

*iii. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons;

*iv. Urging* the government to promptly ratify the International Convention for the protection of all Persons from Enforced Disappearances; and

*v. Calling* on the government to ratify the Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights and make the declaration so the Court may hear cases submitted by individuals and non-governmental organisations.


#### **In Tanzania:**

*i. Adopting* a bill modifying the Criminal Code and Criminal Procedural Code to improve the provisions fully implementing the Rome Statute in domestic law, including on the basis of a legal analysis that may be provided by PGA's Secretariat;

*ii. Engaging* the government towards the ratification and implementation of all amendments to the Rome Statute, including that on the crime of aggression;

*iii. Calling* on the government to fully cooperate with the ICC, and to consider negotiating bilateral cooperation agreements with the Court on the execution of sentences, relocation of witnesses and victims, interim release and release of persons; and





*iv. Urging* the government to promptly ratify the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT) and the International Convention for the protection of all Persons from Enforced Disappearances.

**In Togo:**

*i. Opening* in committee a review of the provisions of the Criminal Code, including on the basis of a legal analysis of the existing framework that PGA's Secretariat may provide, with the objective of ensuring all crimes under international law are adequately criminalised, thus allowing domestic courts to investigate and prosecute them;

*ii. Encouraging* the government to ratify the Rome Statute, including by dispelling any misconception or misunderstanding about the ICC's mandate; and

*iii. Calling* on the government to make the declaration so the African Court of Human and Peoples' Rights may hear cases submitted by individuals and non-governmental organisations.

**In Zimbabwe:**

*i. Opening* in committee a review of the provisions of the Criminal Code, including on the basis of a legal analysis of the existing framework that PGA's Secretariat may provide, with the objective of ensuring all crimes under international law are adequately criminalised, thus allowing domestic courts to investigate and prosecute them;

*ii. Encouraging* the government to ratify the Rome Statute, including by dispelling any misconception or misunderstanding about the ICC's mandate;

*iii. Urging* the government to promptly ratify the Convention against Torture and other cruel, inhuman or degrading treatment or punishment (CAT) and the International Convention for the protection of all Persons from Enforced Disappearances; and

*iv. Calling* on the government to ratify the Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights and make the declaration so the Court may hear cases submitted by individuals and non-governmental organisations.