

PARLIAMENTARIANS FOR GLOBAL ACTION  
AT THE PARLIAMENTARY ASSOCIATION OF THE COMMONWEALTH:

**A WORLD-WIDE CAMPAIGN TO BRING ABOUT THE EARLY  
OPERATIONS OF THE INTERNATIONAL CRIMINAL COURT**

*POSITION PAPER*

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*To all delegates at the Meeting of the  
PARLIAMENTARY ASSOCIATION OF THE COMMONWEALTH  
Port of Spain (Trinidad & Tobago), 13 October 1999*

The goal of this paper is to introduce you to the “Parliamentary Campaign for the Rule of Law and Social Justice” of the Parliamentarians for Global Action (PGA), a network of about 1300 members of parliament democratically elected in 99 [100?] countries of the world.

The first and most important goal of PGA International Law and Human Rights Programme is the effective and prompt functioning of the permanent International Criminal Court (ICC), established by the “Rome Statute of the ICC”, which 120 States adopted at the end of the UN Diplomatic Conference held in Rome from 15 June to 17 July, 1998.

Indeed, the creation of the first Penal Tribunal in the history of human-kind that will exercise a general and permanent jurisdiction over the most serious crimes of concern to the international community as a whole will be effectively achieved only if, at least, 60 States will ratify the Statute of the Court. Once such a critical number of States’ Parties to the Court will be reached, the goal of a renewed international society based on the rule of law and the respect for all human rights will be closer to reality than today, a time in which the high expectations of individuals and constituencies are often confronted with the atrocities of bloody conflicts and the impunity of those committing such atrocities.

Therefore, in order to break the circle of impunity for crimes against humanity, genocide and war crimes, PGA is mobilising its entire network to generate and increase parliamentary and public support towards the ratification by States of the ICC Statute.

In this respect, our organisation is promoting the following initiatives:

- *first*, the formation of a Steering Committee of Parliamentary Organisations, in which - if you so wish – a delegate from the “Parliamentary Assembly of the Commonwealth” can be present and exercise such leadership as it suits to your very important institution;
- *second*, a co-ordinated Calendar of Parliamentary Events, aimed at involving National decision-makers in the process of adhering to the Court’s Statute and properly implementing the Statute into domestic legal orders;
- *third*, a project on Technical Assistance on ICC Implementation at the National levels in a mutually agreed set of selected countries.

At today, only four States have ratified the ICC Statute. Remarkably, one of them is a member of the Commonwealth, Trinidad & Tobago, the very same country that under the *leadership* of its current President, Honourable Robinson, proposed the establishment of an ICC an essential item for the agenda of the United Nations General Assembly already 10 years ago, in 1989, when President Robinson acted as the first Convenor of the International Law Programme of PGA, a leadership inside and outside our organisation that we will never forget.

In addition to Trinidad and Tobago, the other ratifiers are Senegal, San Marino and Italy, the first EU State that will be very soon followed by France. However, and notwithstanding these limited figures, the perspective of at least 60 ratification within a reasonable time-frame is closer than it may look like at first sight.

First of all, 85 States signed the ICC Statute, thus undertaking a political commitment towards its entry into force through their ratification.

Secondly, looking more specifically within the Commonwealth beyond the excellent example of Trinidad & Tobago, other leading countries - such as Australia, Canada, Ghana, South Africa and the other members of the Southern African Development Community (SADC) and, last but not least, the United Kingdom - have made serious

convened the first regional meeting in the world entirely devoted to the immediate ratification and implementation of the ICC Statute<sup>1</sup>. Indeed, ratification from South Africa and other SADC States is expected between the last month of this year and the end of the year 2000.

Other sub-regional groups, such as the EU, declared in block that they intend to complete ratification by the end of the year 2000. Several individual States undertook the same commitment, and fostered a common position towards early ratification in international bodies such as: the Council of Europe, the Francophonie Summit, the CARICOM.

Yet, a most advanced process of international co-ordination to promote immediate ratification of the ICC is the one that we will have the privilege to witness here, at this meeting of the Commonwealth, thanks to the excellent possibility that you have to adopt a recommendation to be sent to the “Commonwealth Summit” scheduled from 12 to 15 November 1999 in Durban, South Africa.

There is no time to loose. The essential role of parliamentarians in interpreting *without borders* the best values of our societies and the needs of our citizens must re-affirmed as strongest as possible, starting with the support for the rule of law through the prompt coming into being of the International Criminal Court. There is no doubt that, without straight-forward political choices in the area of international justice and law enforcement, the phenomenon of globalisation will remain only economic and will not benefit our peoples in the crucial contexts of justice and human rights. A response to the quest of justice coming from all corners of the planet must be, therefore, carefully conceived and openly declared, here, in Port of Spain.

“Enough is enough!”. We already said that, and will continue to do so.

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Cf. “SADC Conference on the Ratification of the Statute of the International Criminal Court”, *done* at Pretoria, 5-9 July 1999, in which delegates from 12 States deeply analysed all the provisions the Rome Statute of the International Criminal Court (*done* at Rome on 17 July 1998, cf. UN Doc. A/CONF.183/9) in light of the preparation of National enabling legislation(s). In particular, the Conference adopted instruments to be adopted in the SADC region, which they may prove to be

Our impotent observation of thousand and thousand women, men and children that are daily loosing their life and dignity under the reign of terror, war and impunity must come to an end.

The international community of States – meaning each and every of our States – shall start now, as a *minimum*, to take advantage of the first new institution which is available, the permanent International Criminal Court, an institution designed to enhance international co-operation in fighting against international crimes and, by doing so, to contribute to their prevention.

There are compelling reasons in favour of the Court, and they are compelling even if a minority of very powerful States not supporting this Court still exists, as far as those States consider the ICC as so impartial and independent that it could *one day* interfere with their “global” military strategies.

Having stated that, it is our profound conviction that such reluctant or negative attitude *vis-à-vis* the Court will be progressively overturned in the next years, especially when the wave of ratifications will be so high that every opposition by single States will inexorably become isolated, unsustainable and not-founded on any justifiable or legitimate ground.

Upon this delicate background, it seems appropriate to quote a recent speech at the UN of Ambassador Philippe Kirsch (Canada), who served brilliantly as Chairperson of the Committee of the Whole at the ICC Rome Conference and presides, now, the UN Preparatory Commission for the Court:

“[...] As we embark on the future work to try to make the Court as fair as effective as possible, it will be essential to recall that the fundamental objective of the creation of an independent Court was the protection of the victims. The development of the modalities of application of its Statute should not result in protecting, albeit inadvertently, the perpetrators of the truly horrifying crimes that are defined in its Statute: genocide, crimes against humanity, war crimes. It should not result either in

those interests may clearly conflict with the interests of the victims. In the context of the ICC, the victims themselves should remain the absolute priority of the international community, and this should be never forgotten.”

It is thanks to the essential contribution of you, the Commonwealth States, that the Rome Statute will be “able” to create the first international criminal regime of jurisdiction in which the rights of victims will be *fully recognised*, and in which an independent Prosecutor will be able to initiate proceedings under the supervision of an impartial Chamber of highly qualified judges.

In addition, all international standards on the rights of the accused to a fair trial, as well as an advanced model of co-operation of States with the requests of the Court are also upheld in the Rome Statute of the ICC.

Many other features are extremely positive in that international document negotiated in Rome, even if – as every treaty subject to agreement and compromise – this is not the perfect Statute for a perfect Court.

However, “the best is always the enemy of the good”, and what we have in our hands is more than enough for a very important and positive start.

Thus, on behalf of Parliamentarians for Global Action, we express the strongest and unconditional support of our institution to any recommendation that your Parliamentary Association will decide to submit to the “Commonwealth Meeting of the Heads of State”, so that a “*prompt and effective initiative to support immediate ratification and implementation of the ICC Statute*” will be launched and will join the efforts of our organisation to mobilise parliamentarians world-wide, set up a “Calendar of ICC Events” and provide technical assistance on implementing legislation.

We fully agree with your last statement supporting the Court<sup>2</sup>, and we say “Yes!” once again to the immediate ratification of the Statute of the International Criminal

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Court. Our voice will be multiplied in Parliamentary Chambers in which PGA members from the majority parties and the opposition groups will try – all together – to build upon the necessary consent for expeditious completion of the legislative procedures in each and every world democracy.

If we all unite our efforts and energies, our objective can be surely achieved, on the understanding that **“only an effective and operational permanent Court can make a difference in the day-to-day struggle for the affirmation of justice and human rights”**.

*Port of Spain, 13 October 1999*

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