

# 24<sup>th</sup>

## ANNUAL **PARLIAMENTARY FORUM**

DEPARTMENT OF FOREIGN AFFAIRS  
AND INTERNATIONAL TRADE  
**OTTAWA** CANADA  
**NOVEMBER 4-6 2002**

### **A PARLIAMENTARY ASSEMBLY FOR THE INTERNATIONAL CRIMINAL COURT (ICC) AND THE PROMOTION OF THE RULE OF LAW**

A SPECIAL SESSION ON THE RESPONSIBILITY TO  
PROTECT: **THE ROLE OF PARLIAMENTARIANS**

**WITH SUPPORT FROM:**

The European Commission, European Union  
The Department of Foreign Affairs and International Trade (DFAIT), Canada  
Sida- Swedish International Development Agency  
CIDA - Canadian International Development Agency  
The Ministry of Foreign Affairs - The Netherlands  
The Government of Switzerland  
The Ford Foundation



*parliamentarians for global action*

**CONFERENCE REPORT**



## A Dynamic Network of Individual Democratically Elected Legislators

Parliamentarians for Global Action (PGA) was established in 1978-1979 by concerned parliamentarians from around the world to take joint action on global problems which could not be solved by any one government or parliament. While its initial driving force was the critical need for disarmament, Global Action today works on an expanded list of global issues such as fostering democracy, conflict prevention and management, international law and human rights, sustainable development and population.

PGA is an association of over 1350 individual parliamentarians in 105 countries that is action-oriented with specific programmes under the political direction of a 15-member Board. This structure allows Global Action to effectively push policies at the national, regional, and international levels. The leadership also includes a thirty-three member International Council that represents all the regions of the world. PGA works closely with the UN system through the advisory body of the UN Committee for PGA comprising senior UN ambassadors, high-level UN officials, and some leading NGO representatives. Current chair is Ambassador Pierre Schori of Sweden.

With a membership of only elected legislators, PGA's members bring their authority and the mandate of their constituents. Its effectiveness is thus due to members' responsibility toward their constituents.

PGA includes in its membership a concentration of high-level politicians, including Prime

Ministers, Cabinet Ministers, and Chairs of Finance, Foreign Affairs, Population, Health, and Defense Committees. Many of PGA's members have left parliament for higher government posts. Some of our ex-members have served as President of Iceland, President of Botswana, Prime Minister and President of Trinidad & Tobago, and Vice President of the Dominican Republic. Also, as an NGO of parliamentarians, PGA is the parliamentary link with civil society groups. PGA's programmes on peace and democracy, population and development, and international law work in close cooperation with NGOs and leading research institutions in these fields.

PGA has also had an extremely effective track record with inter-governmental agencies such as the UN Secretariat, UNDP, UNFPA, UNICEF, UNIFEM, UNESCO, the World Bank, the Asian Development Bank, and International IDEA. PGA's guiding principle of enabling dialogue among key players from both government and opposition and its close working relationship with members serving on relevant parliamentary committees makes it an invaluable agency for the negotiation and implementation of any successful policy.

Headquartered in New York City, PGA is affiliated to the United Nations as an organization in general consultative status with the Economic and Social Council. The offices of National Group representatives and other leading PGA members serve as liaison links in various countries around the world.



A Parliamentary Assembly for the International Criminal Court (ICC) and the Promotion of the Rule of Law &  
A Special Session on the Responsibility to Protect: The Role of Parliamentarians

## 1 EXECUTIVE SUMMARY

**DAY 1** NOVEMBER 4, 2002

### 5 *Opening Session*

**7 Session I** The Responsibility of States to Protect: discussion of the Report of the International Commission on Intervention and State Sovereignty

**8 Session II** Entry into force of the Rome Statute of the ICC and first Assembly of States Parties - achievements and prospects for the future

**10 Session III** A Parliamentary Assembly for the ICC: Role and Feasibility

**12 Session IV** Status of Worldwide Ratification: identifying and addressing obstacles to ratification and accession

## 15 SEVENTH ANNUAL DEFENDER OF DEMOCRACY AWARDS CEREMONY

**DAY 2** NOVEMBER 5, 2002

**16 Session V** Universal Representation in the ICC System: Legal and Political Implications of Security Council Resolution 1422 and Non-Surrender Bilateral Agreements at US Initiative

**18 Session VI** Obligations of States Parties to cooperate with the ICC and the Duty to Prosecute International Crimes and to Eliminate Safe-Havens for Alleged Perpetrators: Universal Jurisdiction and other Jurisdictional Bases to Fight against Impunity

**20 Session VII** The ICC as a complement to national systems: the need to codify international crimes at the national level

**22 Session VIII** The impact of the ICC on the development of international criminal justice and international human rights law; how can the ICC offer protections to victims (women, children, minorities, etc)

**23 Session IX** Where do we go from here? The contribution of Parliamentarians for Global Action to International Criminal Justice, the Promotion of Human Rights and the Rule of Law; Discussion and Adoption of the Final Document of the Forum

**DAY 3** NOVEMBER 6, 2002

SPECIAL SESSION ON THE RESPONSIBILITY TO PROTECT

### 27 *Opening Session*

**29 Session I** Introduction

**31 Session II** Responsibility to Prevent - Role of Parliamentarians

**33 Session III** Responsibility to Intervene - Role of Parliamentarians

**35 Session IV** Responsibility to Rebuild - Role of Parliamentarians

### 38 *Closing Session*

## 39 PROGRAM

## 44 LIST OF PARTICIPANTS AND OBSERVERS

# EXECUTIVE SUMMARY



(L-R) **Hon. Bill Graham**, Minister of Foreign Affairs (Canada); **Mr. Chico Francisco**, MP (Mozambique); **Mr. Lloyd Axworthy**, Director and CEO, the LIU Centre; **Ms. Brigitta Alqvist**, MP (Sweden); **Senator Khariat Abdul-Razaq** (Nigeria); **Hon. Kenneth Dzirasah**, MP (Ghana), PGA President

## A Parliamentary Assembly for the International Criminal Court (ICC) and the Promotion of the Rule of Law

The 24th Annual Parliamentary Forum of PGA entitled "A Parliamentary Assembly for the ICC and the Promotion of the Rule of Law" has established the first Consultative Assembly of Parliamentarians for the International Criminal Court (ICC). Hon. Bill Graham, Minister of Foreign Affairs (Canada) and the Speakers of the House of Commons and the Senate of Canada opened the Annual Forum. Over 100 parliamentarians from 50 countries representing all regions of the world discussed the most recent developments and pending issues related to the effective operations of the ICC, in particular, the role of parliamentarians in: increasing the number of the States Parties to the Rome Statute; ensuring full cooperation of States with the Court and the enactment of comprehensive national legislation; and defending the integrity of the Rome Statute.

At the Forum, parliamentarians from non-States Parties reported on significant developments and actions that they are undertaking at the national level towards ratification/accession. MPs from Albania, Burundi, Japan, Kenya, Kyrgyzstan, Mozambique, the Philippines, and the Russian Federation expressed their commitment towards overcoming the obstacles that are currently stalling the national ratification processes, and indicated the relevant actions being taken. Moreover, the PGA India National Group and a leading PGA member in the US Congress restated their support and encouraged continued efforts to bring about a new position on the ICC in their respective countries.

MPs from countries that have ratified the

Rome Statute shared the results of their efforts to adopt ICC implementing legislation, thus generating a renewed commitment in this crucial area of lawmaking. The discussions underscored the opportunity that ICC implementing legislation presents in strengthening the rule of law at the national level, a vital component in good governance and in the promotion of democratic values.

On defending the integrity of the Rome Statute, all MPs agreed that the ICC needs renewed support and that parliamentarians have a decisive role to play in upholding the principle of equality of all before the law and opposing any dilution of the Statute, be it through bilateral agreements proposed by the United States or Security Council resolutions that put the integrity of the UN Charter in question.

The Ottawa Plan of Action provides an overview on the deliberations, and reiterates the clear commitment of PGA members and other parliamentarians - including Speakers and Presidents of Committees - to remain engaged in the ICC process through the establishment of a Consultative Assembly of Parliamentarians for the ICC, a platform from which MPs from around the world will be able to support the Court as appropriate.

PGA has been involved in the establishment of the ICC from the very beginning in 1989, when former member H.E. A.N.R. Robinson, then Prime Minister of Trinidad and Tobago, presented a UN General Assembly resolution calling for such a mechanism. The Ottawa Plan of Action ensures that legislators throughout continue to monitor and support the effective functioning of the historic Court in the years to come.



(L-R) **Mr. Fatmir Mediu**, MP (Albania); **Ms. Loretta Ann Rosales**, MP (Philippines); **Mr. Mikhail Grishankov**, MP (Russia); **Senator Alfredo Prada Presa**, Vice-President of the Senate (Spain); **Hon. Amos Wako**, MP, Attorney General & Minister of Justice (Kenya); **Senator Yoshitake Kimata**, (Japan); **M. Martin Sindabizera**, MP (Burundi)

**Minister Bill Graham**, Minister of Foreign Affairs (Canada)





(L-R) Ms. Shazia Rafi, Secretary-General of PGA; H.E. Mr Philippe Kirsch, Canadian Ambassador to Sweden; Mr. Edmond Wellenstein, Director General & Head of the ICC Task Force, Dutch Ministry for Foreign Affairs; Mr. Jean-Jacques Viseur, MP (Belgium); Mr. William Pace, Convenor of the NGO Coalition for the ICC; H.E. Mr. Svend Roed Nielsen, Ambassador of Denmark to Canada on behalf of the EU

### ***PGA SEMINAR ON THE RESPONSIBILITY TO PROTECT: THE ROLE OF PARLIAMENTARIANS***

As part of the 24th Annual Parliamentary Forum, PGA held a Special Session on the Responsibility to Protect on November 6, 2002 in Ottawa, Canada. The meeting served as a follow-up to The Responsibility to Protect report of the International Commission on Intervention and State Sovereignty (ICISS). This was the first large international parliamentary political meeting held to discuss The ICISS Report since its publication. The meeting aimed to raise awareness of parliamentarians on the outcomes of the Report, examining how it redefines the scope of state sovereignty to include the responsibility to protect, intervene and rebuild. Participants examined the implications of the report's recommendations on their own national and regional policies for conflict prevention and peace building.

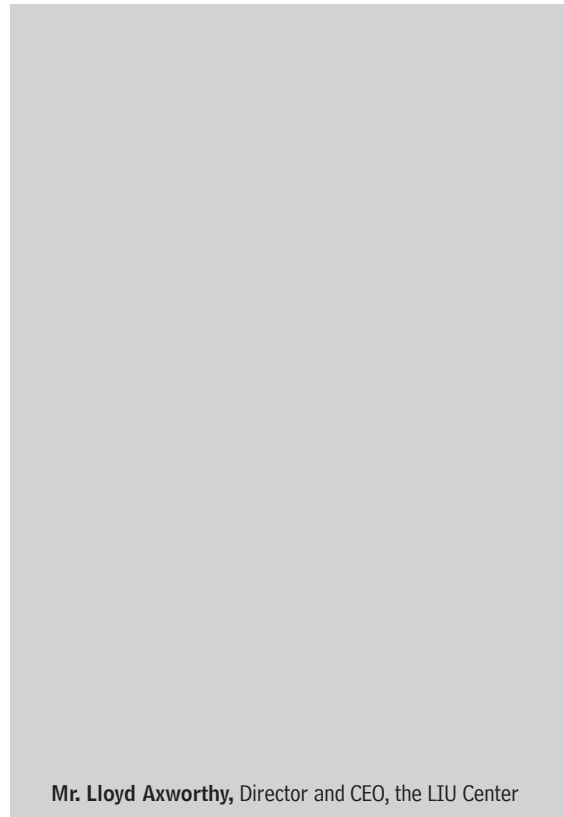
Parliamentarians from Cote d'Ivoire, Zimbabwe, Sierra Leone, and Burundi briefed their colleagues on the situations in their countries and offered their opinions on the ways the international community could assist them in conflict resolution and reconstruction.

The meeting was inaugurated during the Opening Ceremony of the Forum on November 4th, 2002 by Minister Bill Graham, Minister of Foreign Affairs of Canada and Mr. Lloyd Axworthy, Former Foreign Minister of Canada and current Director/CEO of the LIU Center at UBC, Vancouver. A total of 168 participants, including 95 parliamentarians from 50 countries, ambassadors, ministers, members of civil society and representatives of international organizations were in attendance. Min. Graham

along with Ms. Marie Gervais-Vidricaire, Director of Global Issues Bureau of DFAIT and Amb. Paul Heinbecker, Ambassador of Canada to the UN, asserted the continuous commitment of the Canadian government towards implementing the results of the report, the purpose of which as summarized by Min. Graham, "is to find new common ground on the use of military force in response to genocide, ethnic cleansing and other mass atrocities."

In the context of the war on terrorism and its use as a justification for encroaching upon human rights, the Report "began to shift fundamental perspectives from what it endows the State to do, what it gives the State the right to do, to what it obliges government to do," noted Mr. Axworthy. In his view, the report as it "looks at the question of violence and conflict from the perspective of the victim, not the intervener, changes the measurement by which it determined the ground for intervention. If a State or group or agency cannot provide protection or is the author of the crime itself, there is the responsibility of international agencies or the community to respond".

Following an overview of PGA's parliamentary diplomacy work, offered by PGA's President, Hon. Dzirasah, MP (Ghana), H.E. Mr. Paul Heinbecker, Ambassador of Canada to the UN, discussed the Canadian role in taking forward the challenge laid out by Secretary General Kofi Annan to re-examine the failed humanitarian response of the 1990s and find ways of redressing and improving humanitarian intervention.



Mr. Lloyd Axworthy, Director and CEO, the LIU Center







**H.E. Mr. Paul Heinbecker**, Ambassador of Canada to the UN; **Hon. Kenneth Dzirasah**, PGA President, Second Deputy Speaker (Ghana); **Ms. Shazia Rafi**, Secretary-General of PGA

Mr. Ed Mortimer, Chief UN Speechwriter and Director of Communication for the Executive Office of the Secretary General (EOSG), conveyed Secretary-General Kofi Annan's support for this gathering and further expanded the argument by distinguishing two notions of sovereignty, that of the states and that of individuals.

The ensuing discussion emphasized that parliamentarians, as representatives of the people, are well positioned to hold their governments accountable for the protection of their people. The participants were encouraged to stimulate the discussion of the report in their own parliaments with the goal of establishing procedures and mechanisms for prevention and rebuilding. The need to strengthen parliaments' role in policy making for rebuilding phases was presented through the example of the Dutch parliament setting national guidelines for intervention after the atrocities in Srebrenica. Finally, the delegate from Sierra Leone reminded the gathering that if the doctrine of responsibility to protect is to be taken seriously, regional organizations, such as ECOWAS, must also be strengthened.

In discussing the responsibility of the state to prevent, Mr. Coltart, opposition MP from Zimbabwe, gave a thorough presentation on the current crisis in his country, caused by poor governance and mismanagement. He emphasized that the restoration of electoral laws and processes to ensure the preservation of democratic space in Zimbabwe requires urgent measures to prevent grave consequences for the country and the region as a whole. PGA parliamentarians can play an

important role in bringing forth the peaceful reforms in Zimbabwe, concluded Mr. Coltart.

Rep. Dennis Kucinich, D-OH (USA), warned of the threat of war with Iraq, one of the most controversial crises in light of parliamentary involvement. As a House of Representatives leader of the opposition to war in Iraq, he stressed the importance of speaking on moral judgement and without condemnations, and urged MPs from all over the world to make their concerns heard by the US Congress.

The Session on Responsibility to Intervene highlighted the work of PGA parliamentarians in the conflicts in Côte d'Ivoire, Haiti, and Burundi. Mr. Mollé Mollé, Deputy Speaker of the National Assembly of Côte d'Ivoire and part of a three person parliamentary delegation brought by PGA to the conference, briefed participants on the current crisis in his country. Mr. Yves Rocheleau, MP (Bloc Québécois-Canada) who has participated in PGA preventive missions to Côte d'Ivoire, briefed the participants on PGA's past involvement and possible future interventions in the ongoing crisis.

In discussing the State Responsibility to Rebuild, Ms. Sally Armstrong, journalist and UNICEF Representative to Afghanistan warned of the danger of neglecting Afghanistan in its rebuilding phase. Mr. Simon Chesterman, IPA Researcher on Transitional Administration Project, spoke on the lack of coordination among international organizations in humanitarian interventions, as seen in Afghanistan, as a serious problem in bringing peace forward. The positive developments of post-war reconstruction were addressed by Mr. Ibrahima Sorie, MP





**Ms. Elissavet Papademetriou**, MP (Greece); **Mr. Tony Worthington**, MP (UK); **Rep. Dennis Kucinich** (D-OH, USA)

from Sierra Leone.

Overall, the meeting emphasized parliamentarians' ability to influence their governments' policy on protection issues. It equipped them with new tools and concepts to enhance their work in parliamentary diplomacy and strengthen national policy formation and implementation on humanitarian intervention. In the course of the meeting, the participants were able to link their regional and local knowledge and their expertise on conflict prevention, developed as part of PGA's parliamentary peacemaking missions, to the broader framework of state responsibility and its implication on sovereignty to the situation on the ground in zones of conflict.

PGA is currently planning a follow-up Regional Parliamentary Seminar on the Responsibility to Protect in Fall 2003 in Kampala, Uganda. Participants will include parliamentarians from Angola, Burundi, Central African Republic, Democratic Republic of Congo, Ethiopia, Ghana, Kenya, Mozambique, Namibia, Rwanda, Sudan, Tanzania, South Africa, Uganda, Zimbabwe, and Zambia, as well as representatives of local and international NGOs. The analysis presented in Ottawa will be further examined at the regional level on the implication of state responsibility in humanitarian intervention in the conflicts facing sub-Saharan Africa. \*



**Mr. Yves Rocheleau**, MP (Canada); **Mr. Svend J. Robinson**, MP (Canada); **Hon. Mollé Mollé**, Deputy Speaker of the National Assembly (Côte d'Ivoire)



**Prof. Irwin Cotler**, MP (Canada); **Hon. Kenneth Dzirasah**, PGA President, Second Deputy Speaker (Ghana); **Ms. Shazia Rafi**, Secretary-General of PGA

**Hon. Kenneth Dzirasah**, MP (Ghana), PGA President

**Hon. Mr. Peter Milliken**, Speaker of House of Commons (Canada)

**Hon. Mr. Dan Hays**, Speaker of the Senate (Canada)

**Sen. Raynell Andreychuk** (Canada), Convenor, PGA Int. Law & Human Rights Programme

**Dr. Irwin Cotler**, MP (Canada), President of PGA's Canadian National group

## DAY 1 OPENING SESSION

### Opening Address:

**Hon. Mr. Bill Graham**, Minister of Foreign Affairs (Canada): "The State's Responsibility to Protect as the new governing principle of international affairs"

*"This Parliamentary Assembly for the ICC will attempt to identify the responsibility of states to protect the integrity of the Court, the role of parliamentarians in supporting the effective functioning of the ICC among other critical subjects. I do appreciate that there is some measure of controversy over the ICC agenda. This controversy is understandable, particularly when you bring under one roof many independent-minded parliamentarians to discuss topical issues. I look forward to a thought-provoking discussion"*

*Hon. Kenneth Dzirasah,  
PGA President, Second Deputy Speaker  
(Ghana)*

The 24th PGA Annual Parliamentary Forum was opened by Hon. Kenneth Dzirasah, Second Deputy Speaker of the Parliament of Ghana and PGA President, by giving participants a broad overview of PGA's work in the areas of peace and democracy, international law and human rights and sustainable development and population. He welcomed participants to the first Parliamentary Assembly for the ICC and stated that "for the next three days, we shall have the benefit of very well informed discussions on one of the most critical international law and human rights subjects that has engaged the entire international community and which PGA has played a very significant role in nurturing".

Indeed, "prior to the atrocities in Bosnia and Rwanda, PGA members had the vision to re-think the Nuremberg Legacy and believed that a new global order could be installed only on the solid foundations of the rule of law", said Hon. Dzirasah. As early as 1989, A.N.R. Robinson, then a PGA member and Prime Minister of Trinidad and Tobago, presented a resolution at the General Assembly of the United Nations calling for the creation of an international criminal court.

While this first Parliamentary Assembly was an occasion to celebrate the recent entry into force of the Rome Statute on 1 July 2002, parliamentarians were also mindful of the need to protect the integrity of the Rome Statute and support the developments of the ICC. This can be done in a number of ways, namely by promoting the enactment of desirable national legislation to ensure complementarity and cooperation with the Court. There is also a

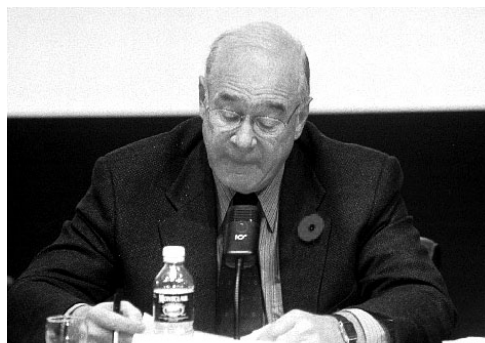
need to universalize participation in the Court. MPs also recognized their important role in contributing to the smooth functioning of the Court system and ensuring that the Trust Fund for Victims be established and well endowed. Finally, efforts to protect the integrity of the Statute against eroding factors such as the renewal of Security Council Resolution 1422 and the signing by State Parties of bilateral impunity agreements must be sustained.

Following Hon. Dzirasah's introduction, welcoming remarks were given by the Speakers of both the House and the Senate of Canada. Hon. Mr. Peter Milliken, Speaker of the House of Commons, and Hon. Mr. Daniel Hays, Speaker of the Senate, both applauded the work of PGA and the dedication of attending parliamentarians.

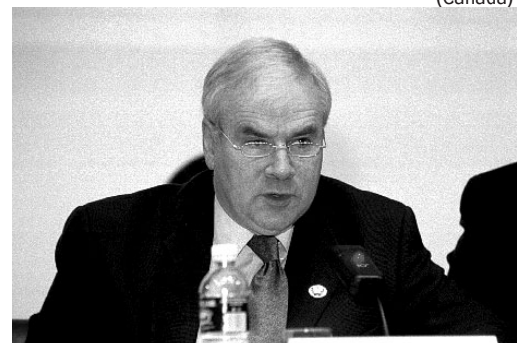
Senator Raynell Andreychuk (Canada), Convenor of the PGA International Law and Human Rights Programme, also welcomed all participants and acknowledged the support of donors and the Canadian Government and Parliament in particular.

Professor Irwin Cotler, MP, President of PGA's Canadian National Group drew participants' attention to the historical significance and importance of the ICC. In particular, he expressed his hope that the Court will "give expression to the anguished plea, of the victims and survivors of killing fields from the Second World War to the present day, of 'Never Again'; that we will see each of ourselves as being the guarantor of each other's destiny; that we will understand in times such as these that '*qui s'accuse, s'accuse*', that whoever remains indifferent

**Mr. Dan Hays**, Speaker of the Senate (Canada)



**Mr. Peter Milliken**, Speaker of House of Commons (Canada)





**Prof. Irwin Cotler OC, MP (Canada),**  
President of PGA's Canadian National group

indicts himself or herself.”

“It is hoped-continued Professor Cotler - that our deliberation will lead to an Action Plan, part of which will be the establishment of a Consultative Parliamentary Assembly for the ICC to promote and protect the independence, fairness and efficiency of the ICC while contributing as well through our deliberation to the development of both a culture of peace and a culture of human rights and accountability.”

#### *The Responsibility of States to Protect*

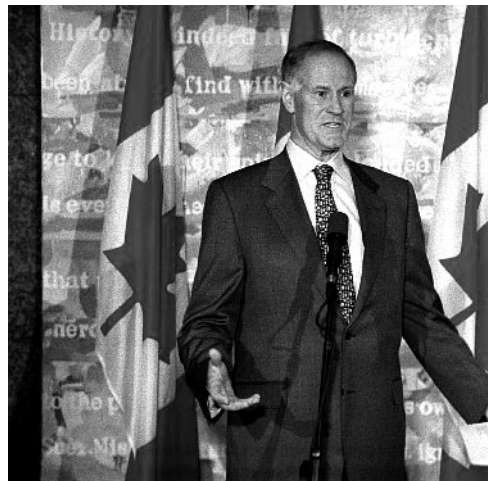
The keynote address of this opening session entitled “The State’s Responsibility to Protect as the new governing principle of international affairs” was delivered by Minister Bill Graham, Foreign Affairs Minister of Canada. His address introduced the discussion to be held during the Special Session of this year’s Forum, the first parliamentary follow-up to the Report of the International Commission on Intervention and State Sovereignty.

Minister Graham explained that the principle of the Responsibility to Protect affirms that state sovereignty involves a responsibility to provide people with justice and protection and that when a nation is unable or unwilling to exercise that responsibility, the community of states must assume responsibility for the collective security. Such a principle needs to be both further understood and further debated. Through discussion in multiple fora, the principles advanced in the report will undergo development and will eventually become a guide for deliberation over intervention in times of crisis.

The importance of building a strong and effective ICC goes hand in hand with the adherence to this principle. Minister Graham echoed previous speakers by stating that parliamentarians have a crucial role to play in supporting and defending the ICC. He is particularly proud of Canada’s leadership role in establishing the Court. Canada is now also taking the lead in promoting the principle of the Responsibility to Protect: “Canada welcomes the Responsibility of States to Protect as an important step forward by the international community. Its purpose is to find new common ground on the use of mil-

itary force in response to genocide, ethnic cleansing and other mass atrocities. Instead of talking about a ‘right of intervention’, the report proposes a new principle: the responsibility to protect. State sovereignty, it asserts, is not only a right but a responsibility, and the essence of this responsibility is human protection.”

There is growing consensus that the UN Security Council bears primary responsibility and authority in responding to humanitarian crises, and therefore there is a need for human rights and humanitarian principles to be more prominent at the Security Council which must live up to its own responsibilities in terms of enforcing such norms. \*



*“From the tide of civil conflict in the 1990s, to the deadly rise of terrorism today, we are living through times in which the protection of individuals has risen to the very top of the security agenda. Whether as victims of war crimes, humanitarian crisis or terrorist attacks, civilians have been pushed to the front lines of modern conflict. It is therefore fitting that this conference focus on a person-centered protection agenda.”*

*Minister Bill Graham,*  
*Minister of Foreign Affairs, Canada*



*“We hope that we come away from this forum with an action plan of where parliamentarians will fit into the accountability mechanisms for the ICC. [...] It is extremely important that the ICC function as a neutral, just and international arena where those who contravene accepted standards by the world are held accountable”.*

*Senator Raynell Andreychuk,*  
*Canada, Convenor of PGA International*  
*Law and Human Rights Programme*



## SESSION I

*Chair:***Ms. Birgitta Alqvist**, MP, Sweden*Presentation:***Mr. Lloyd Axworthy**, Director and CEO, the LIU Center, University of British Columbia*Interventions:***Senator Khariat Abdul-Razaq**, Nigeria**Mr. Chico Francisco**, MP, Mozambique

## The Responsibility of States to Protect: discussion of the Report of the International Commission on Intervention and State Sovereignty



**Mr. Chico Francisco**, MP (Mozambique); **Mr. Lloyd Axworthy**, Director and CEO, the LIU Center, University of British Columbia

**A**s an introduction to the Special Session on the Responsibility to Protect held on the third day of the Forum, PGA had the honor of welcoming one of its former members, Mr. Lloyd Axworthy, Former Foreign Minister of Canada and currently the Director and CEO of the LIU Center at UBC in Vancouver.

In his speech, Mr. Axworthy explained the role of the Commission on Intervention and State Sovereignty (CISS) Responsibility to Protect report that “began to shift fundamental perspectives from what it endows the state to do, what it gives the State the right to do, to what it obliges government to do. It looks at the question of violence and conflict from the perspective of the victim, not the intervener. It changes the measurement by which it determined the ground for intervention. If a State or group or agency cannot provide protection or is the author of the crime itself, there is the responsibility of international agencies or community to respond”. Institutions such as the ICC, he continued, are crucial in defending human rights, and are, therefore, some of the most effective antidotes to violence, conflict and the entrenchment of human rights.

The concept of the Responsibility to Protect can also be extended to environmental security as “if one is responsible for a serious degradation of the environment that affects the health and well-being of your neighbor then that becomes a human security problem in its own way”. In truth, this concept provides a new way for the international community to organize itself.

Senator Khairat Abdul-Razaq (Nigeria), member of PGA International Council, gave an

instructive presentation situating the Responsibility to Protect globally. In her view, there is a risk that ‘stronger nations’ will act only out of self-interest and that certain situations will simply not be prevented. She believes that “stronger nations must be seen to have acted to prevent before they can assert responsibility to react and to intervene in order to protect”, and in fact, the UN, through the Security Council should be the only body to engage in ‘coercive intervention’. Furthermore, she asserted that rebuilding must not be neglected, as derailed plans in this respect can often lead to further need for intervention.

Mr. Chico Francisco, an MP from Mozambique, contextualized the discussion by presenting his own country’s experience of transition to peace in recent years. A few months ago, all stakeholders reiterated their commitment to the peace agreement and all agreed that there were no winners or losers but rather that the peace accord belonged to all people of Mozambique.

With respect to the Commission’s Report, Mr. Francisco’s perspective is that “there is no more absolute sovereignty and the work is becoming more and more interdependent through globalization, regional economic and political integration, and the need for collective defense against terrorism”. As national and international accountability need to receive substantial attention, Mr. Francisco believes that the peace agreement in Mozambique is a step towards this. \*

## SESSION II

*Chair:***Mr. Jean-Jacques Viseur**, MP, Belgium*Interventions:***H.E. Ambassador Philippe Kirsch**, Canadian Ambassador to Sweden**Mr. Edmond Wellenstein**, Director General & Head of the ICC Task Force, Dutch Ministry for Foreign Affairs**H.E. Ambassador Svend Roed Nielsen**, Ambassador of Denmark to Canada on behalf of the EU**Mr. William Pace**, Convenor of the NGO Coalition for the ICC (CICC)

## Entry into force of the Rome Statute of the ICC and first Assembly of States Parties - achievements and prospects for the future

In introducing the first session dealing specifically with the International Criminal Court, Mr. Jean-Jacques Viseur, a member of the parliament of Belgium, said that the road from Rome to The Hague was long but that it had been traveled with much determination, and that little by little everything will be in place to allow the Court to function efficiently.

The first panelist, Ambassador Philippe Kirsch, played a crucial role in Rome and has continued to do so ever since in his capacity of the Chairman of the Preparatory Commission for the ICC. As such, he was particularly well placed to address the Forum on the issue of the entry into force of the Rome Statute. According to him, the ICC promises to be one of the most important international institutions since the creation of the United Nations, an institution that will not only hold perpetrators of the worst crimes accountable but also deter the commission of such crimes in the future.

The Rome Statute entered into force after 60 states had deposited their instruments of ratification. At the time of the PGA Annual Forum, 81 States had already ratified the Statute and many were about to do so, illustrating true international support for the Court. Universality is very important to the success of the Court and efforts must be sustained to ensure the participation of the greatest possible number of State Parties.

Ambassador Kirsch spoke about some of the important features of the Court such as the concept of complementarity, jurisdictional bases for prosecution, and the many safeguards incorporated into the Rome Statute to prevent any frivolous prosecutions or misuse of the Court for

political purposes. These concepts were discussed in greater detail in the context of later panels. Ambassador Kirsch also introduced some of the ways in which parliamentarians can continue to lend their support to the development of the Court. Firstly, challenging work lies ahead in terms of ensuring the truly universal character of the Court. Secondly, the success of the Court will be dependent on the proper cooperation by each country, and parliamentarians have an important role to play in terms of drafting and passing comprehensive implementing legislation at the national level to ensure such cooperation. Finally, as parliamentarians "you can use your positions of responsibility and public profile to promote the ICC to your constituents at home", said Ambassador Kirsch.

The following panelist, Mr. Edmond Wellenstein is the Director General & Head of the ICC Task Force in the Netherlands. He provided parliamentarians with a very clear road map of what has been accomplished since Treaty's entry into force on 1 July 2002 and what still lies ahead in terms of setting up the Court and the role of parliamentarians in that process. Given that the Court acquired its jurisdiction before it even had staff or a budget, it was necessary to put in place an advanced team to help pave the way for the basic functions of the Court. These experts had to set up a variety of systems relating to the legal functions, human resources, finances, building management, public relations, security, and information technology. A generous donation by the host nation enabled operations to begin smoothly until the ASP had approved a formal budget and States Parties had begun making



Delegation of Cambodian parliamentarians to the Forum



(L-R) **H.E. Mr. Philippe Kirsch**, Canadian Ambassador to Sweden; **Mr. Edmond Wellenstein**, Director General & Head of the ICC Task Force, Dutch Ministry for Foreign Affairs; **Mr. Jean-Jacques Viseur**, MP (Belgium); **Mr. William Pace**, Convenor of the NGO Coalition for the ICC; **H.E. Mr. Svend Roed Nielsen**, Ambassador of Denmark to Canada on behalf of the EU



H.E. Mr Svend Roed Nielsen, Ambassador of Denmark to Canada on behalf of the EU

*“The parliamentarians play three important roles: 1) supporting the continued processes of ratification and implementation; 2) playing a role in stimulating applications for staff positions in the Court so as to ensure that it is universal in character; and 3) setting up funds for internships at the Court for people in developing countries”*

*Mr. Edmond Wellenstein, Director General & Head of the ICC Task Force in the Netherlands*

their own contributions. Among the basic functions being performed by the advanced team are the following: receiving, recording, filing and acknowledging letters and witness materials received; providing public information to the public and elaborating an active media strategy; setting up a financial system with rules of procedure, setting up a security system and the detention functions, etc.

Much thought is being given to the future permanent building of the ICC. An architect's competition is being planned and a selection committee will be put in place. The host nation has also been involved in elaborating a headquarters' agreement and is preparing the inauguration of the Court and judges on 11 March 2003. Finally, a system of close cooperation with civil society is also being set up.

H.E. Ambassador Svend Roed Nielsen, Ambassador of Denmark to Canada, addressed the Assembly on behalf of the European Union. He expressed the common understanding that the atrocities of the last century have compelled the international community to move forward in preventing and punishing these crimes.

The Ambassador stressed that “It is imperative to restore the rule of law and end impunity in such cases; it is a matter of justice but it is also a matter of peace and security - the prospect for lasting peace and reconciliation are severely undermined if war criminals remain at large”.

The international community has been helpless in the face of failure of national criminal systems to punish such crimes. The ICC finally provides a mechanism to end impunity: “The EU is convinced that the ICC will serve as a deterrent and as a mechanism of accountability in the years to come”, said Ambassador Nielsen. The high number of ratifications already achieved testifies to the shared commitment to the Court. “The EU will do its

utmost to ensure that the Court has full support from as many countries as possible, and hopefully the threshold of 100 States Parties will be crossed before the 1st of April 2002.”

The European Union has revised its common position to ensure that it is fully in line with the principles of the Statute, it rejects any efforts to undermine the Statute; recognizes that some states harbor fears regarding the ICC and will continue to address these concerns through frank dialogue, stressing the fact that the ICC will be a legitimate juridical institution which will operate in a fair, competent and effective manner. Once this is seen to be the case, states will also see merit in joining the institution. Responding specifically to US efforts in seeking bilateral agreements, Ambassador Nielsen has explained the EU guiding principals that require that, in concluding such agreements, states respect their obligations as party to the Rome Statute. The European Union's approach is one of strong support for the Court, coupled with an understanding of the importance of encouraging the US to re-engage with the ICC.

On behalf of the Coalition of NGOs for the International Criminal Court (CICC), Mr. William Pace, Convenor of the Coalition, addressed the Forum on the important role to be played by civil society in supporting and monitoring the Court. He believes that “the Rome Statute is one of the great achievements of a new diplomacy and is an example of a new vision of security, not simply military security and state security, but also human security”. NGOs and members of parliament continue to have an important contribution to make in areas such as ratification and implementation, the financing of the Court and its auxiliary organs, and the elections of judges and the prosecutor in a transparent manner, free of vote trading. The CICC is particularly dedicated to protecting the integrity of the ICC and will be at the forefront in opposing the bilateral agreements being sought by the US. \*



Mr. Edmond Wellenstein, Director General & Head of the ICC Task Force, Dutch Ministry for Foreign Affairs; Mr. Jean-Jacques Viseur, MP (Belgium)



## SESSION III

## A Parliamentary Assembly for the ICC: Role and Feasibility

In many ways, this session was the *raison d'être* of the Forum: an opportunity for parliamentarians to discuss the creation of a consultative parliamentary assembly for the ICC. The chair, Mr. Gerrit van Oven, MP from The Netherlands, introduced the session by recalling the importance of accompanying the ICC in its early developmental stages, and the current lack of a formal institution through which parliamentarians might accomplish this task.

Hon E.J. Ieung Shing, Attorney General & Minister of Justice & Human Rights of Mauritius, emphasized the unique character of the ICC as an independent and complementary international institution of criminal justice. Its independence, he stressed, is at once its strength and its weakness: on the one hand, it is independent of state control, UN control and control from the Security Council, but on the other hand, it may suffer from its lone existence and lack of peer support.

The ICC will benefit from the creation of a parliamentary assembly, argues Hon. Shing, because it is a justice system in the making and there is a need for an institution to ensure that the democracy of people is not swamped by the autocracy of states. He imagines a parliamentary assembly which will act "as a watchdog and provide the necessary checks and balances to secure its independence and guarantee its continued credible existence".

Hon. Shing sees a first glimpse of the concept of world rule of law in the ICC. However, while the Court will make its contribution it remains up to other institutions to contribute their share: the ASP shall act as the executive body, the Court as the judicial and a potential parliamentary assembly that might later constitute

the ICC's legislative body.

Dip. Felipe Michelini of Uruguay explained that though ratification has so far been the main focus for most MPs interested in the Court, it is crucial to remember the overall objective of the ICC, which is to end impunity. (quote for margin) "As parliamentarians we have the obligation to replace the culture of impunity with a culture of responsibility," he said. "This is a challenge we must embrace with enthusiasm." A parliamentary assembly of the ICC would be a great platform from which to meet present and future challenges.

Mr. Michelini suggested that the assembly could promote support for the Court on three different levels: the national, public opinion and the inter-parliamentary levels. Court's objectives could perhaps include promoting ratification and implementation of the Rome Statute, transparency in the election of judges and the Prosecutor, informing the public and in turn receiving training so that parliamentarians are kept informed of the complicated technicalities of the Court's functions. In terms of the format that such an assembly should take, Mr. Michelini expressed a preference for informal discussions chiefly for practical considerations - the substantive issues to be addressed by MPs are many and to devote time and effort at this critical moment to procedural and organizational matters could be ineffective. For the time being, he suggested, PGA can assume the organizational responsibilities of the informal assembly: "the key at this particular moment is not the form, but continuity," he emphasized.

Professor Irwin Cotler, MP (Canada) clearly set out the objectives of the proposed consultative parliamentary assembly. Such an assembly



Dip. Felipe Michelini, MP (Uruguay); Mr. Gerrit van Oven, MP (The Netherlands)

Mr. Jacques-Yves Henckes, MP (Luxembourg)



Hon E.J. Ieung Shing, MP, Attorney General & Minister of Justice & Human Rights (Mauritius)







**Senator Longin Pastusiak**, President of the Senate (Poland)

*“Members of parliament are most interested and should be in the avantgarde of post-conflict justice, reinforcement of national justice, international cooperation in penal matters to combat transnational criminality, and the reinforcement of international criminal justice in a complementary fashion that takes into account the needs to link together the ICC, ad hoc institutions and national institutions.”*

*Professor Cherif Bassiouni,  
De Paul University of Chicago*



**Mr. David Coltart**, MP, Shadow Justice Minister (Zimbabwe); **Mr. Ignatius Shikwambeni**, MP, Leader of Opposition (Namibia)

could promote the universality of the Court through continued efforts towards ratification as well as the equitable representation of States Parties from all regions, which, according to Prof. Cotler, is a necessary foundation for global justice. Promoting the adoption of implementing legislation is another important goal indispensable to the principle of complementarity. Through education and outreach, parliamentarians can promote national and international awareness and understanding of the historical significance of the ICC as part of a “Culture of Prevention” as well as a “Culture of Accountability”.

Moreover, a parliamentary assembly could help protect the integrity and independence of the ICC. In particular, Professor Cotler submits that a parliamentary assembly would be an ideal venue to oppose attempts by the United States to immunize its nationals from the jurisdiction of the Court. At the same time, the assembly could enhance the capacity of national jurisdictions to cooperate with the Court and ensure that each State Party assumes its responsibility regarding the financial integrity of the ICC. Connected to this is the need to ensure that the Victims Trust Fund be properly established and secured so that victims have a right to redress. An assembly of parliamentarians could also develop a partnership with the CICC to further support the establishment and effective functioning of the Court. Finally, as mentioned earlier by Mr. Wellenstein, a parliamentary assembly could stimulate the establishment of internships to promote universal representation within the organs of the Court.

All of these important functions could be fulfilled by a parliamentary assembly operating under the umbrella of PGA which has the infrastructure to put such an assembly into place, concluded Prof. Cotler.

Professor Cherif Bassiouni gave a stimulating presentation by video-link from De Paul University in Chicago on international criminal justice and the role of parliamentarians in promoting its development. One of the major concerns in the last half century has been the proliferation of conflicts and casualties of the worst crimes known to humanity, and the widespread impunity for their perpetrators due in large part to the lack of political will to bring



**Prof. Irwin Cotler**, MP (Canada); **Hon. Kenneth Dzirasah**, Second Deputy Speaker, MP (Ghana), President of PGA

these persons to justice, commenced Prof. Bassiouni. The ICC, said Prof. Bassiouni, hopes to respond to this need as part of a system of complementarity whereby national institutions are enhanced and, in some cases, rebuilt to ensure their ability to assume their responsibility in the fight against impunity.

Members of parliament have a real stake in this: without law and justice, there would be no democracy and without democracy, there would be no members of parliament.

Once the session was open for discussion, a rich exchange of ideas ensued, addressing questions such as the feasibility of a parliamentary assembly for the ICC and what role it could play if it were to be established. Mr. Jacques-Yves Henckes, MP (Luxembourg), and Mr. Adrian Severin, MP from (Romania) and the President of the OSCE Parliamentary Assembly, warned against the establishment of yet another parliamentary body, given the great number of existing regional and sub-regional assemblies. A second set of concerns revolved around the issue of infringing on the Court’s independence - Senator Longin Pastusiak, President of the Senate of Poland and member of PGA Board asked, “Wouldn’t such a parliamentary assembly violate the classical Montesquieuian notion of separation of powers?” Wouldn’t such a body necessarily politicize what is to be a judicial and apolitical Court?

The panelists, joined by other participants, responded skillfully. On the proliferation of parliamentary bodies, Mr. Micheleni answered that though it is true that there are a great number of parliamentary assemblies throughout the world, none specializes on the Court and its complex Statute. Dip. Margarita Stolbizer, an MP from Argentina similarly emphasized that in the absence of a universal parliamentary body, one with a special focus on the Court was in order. “How are we to follow universal justice without a similarly universal parliamentary body?” the Argentine legislator wondered. Lastly, she suggested that PGA was the ideal organization to lead the initiative in light of its widely international composition and its well-respected work on the ICC.

Mr. Van Oven closed the session, satisfied that the discussions provided participants with useful ideas when considering the adoption of the Plan of Action. \*

*Chair:***Senator Alfredo Prada Presa**, Vice-President of the Senate, Spain*Interventions:***Senator Yoshitake Kimata**, President, Foreign Relations Committee, Japan**Mr. Mikhail Grishankov**, MP, Vice-chair, Committee for Security, Russia**Hon. Amos Wako**, MP, Attorney General & Minister of Justice, Kenya**Mr. Fatmir Mediu**, MP, Albania**Mr. Martin Sindabizera**, MP, Burundi**Ms. Loretta Ann Rosales**, MP, Chair of the Human Rights Committee, Philippines**SESSION IV****Entry into force of the Rome Statute of the ICC and first Assembly of States Parties - achievements and prospects for the future**

**T**he objective of this session was to illustrate and discuss some of the most common obstacles to ratification in countries that are not yet parties to the Statute. Senator Alfredo Prada Presa of Spain chaired the session and began by reminding participants of the important role that parliamentarians can play in the process towards ratification/accession in their respective country.

Senator Yoshitake Kimata from Japan gave an update on the status of accession in his country. Japan has been supportive of the establishment of the ICC. Japan is currently conducting a thorough examination of the articles of the Rome Statute so as to ensure the compatibility between the Statute and Japan's own domestic law. There is also a need to enable the government to fulfill all the obligations in the area of cooperation with the Court. "At this point, says Senator Kimata, there is no provision in Japanese domestic law to enable surrender of persons to an international judicial body." He also added that now that the Rome Statute has entered into force, Japan intends to accelerate its examination of the Statute.

Mr. Mikhail Grishankov, MP and Deputy Chair of Committee for Security in the Duma of the Russian Federation, presented Russia's stance regarding the ICC. The Russian Federation signed the Rome Statute on September 13, 2000. Naturally, ratifying the Statute requires significant revision of national legislature in order to submit to its norms and standards. Russian ministries are therefore conducting research of all legal aspects relating to the potential ratification of the Statute by the Russian Federation.

Russia signed on to the Rome Statute on the premise that a party joining the Court must abstain from actions that might harm its object and aims. Mr. Grishankov closed by assuring the Forum of his commitment to do everything in his power to expedite the ratification of the Rome Statute by the Russian Federation.

Attorney General and Minister of Justice of Kenya, Mr. Amos Wako, delivered a strong statement of support on behalf of his country. The Government of Kenya cast an affirmative vote at the UN Diplomatic Conference on 17 July 1998 and signed the Rome Statute on 11 August 1999. Kenya has been supportive of the ad hoc tribunal for Rwanda and has played an important role in ensuring the participation of thousands of witnesses in Arusha. However, Kenya recognizes that its national legislation is inadequate to ensure proper cooperation and meaningful complementarity with the ICC and it has chosen to address these issues before it ratifies. As countries, there is a need in Kenya to create a legal framework to cooperate with the Court and to strengthen national legal institutions.

A cabinet memo will soon be considered and the necessary legislation is in the final drafting stages, Mr. Wako informed the Forum. Mr. Wako is in full support of a Consultative Assembly of Parliamentarians for the ICC which would support the developments of the ICC at the national level through such action as the adequate allocation of funding, the election of the most competent judges, etc.

Mr. Fatmir Mediu, MP (Albania) followed Mr. Wako with the assessment of the ratification



*"It is my belief that the future of the ICC is contingent on the degree of its independence and its adherence to the letter of the Statute and the norms of international law. Russia does not anticipate signing any bilateral agreements that might weaken the ICC and 'soft treatment' of those countries that have signed such agreements might cause severe consequences."*

*Mr. Mikhail Grishankov  
MP, Vice-chair, Committee for Security, Russia*



**Senator Alfredo Prada Presa**, Vice-President of the Senate (Spain)



**Sen. Yoshitake Kimata**, President of the Security and Diplomacy Committee (Japan); **Sen. Wakako Hironaka**, President of the Committee on Fundamental National Policies (Japan)

process in his country. He has personally been working on the issue in his parliament and has recently attended a high-level meeting that had led to the conclusion that Albania must proceed with the ratification of the Rome Statute. After the Constitutional Court published its decision to support the Court, the Government of Albania decided to submit the bill to Parliament for discussion and review. Ratification is expected in the short term.

It is well known that the US administration is seeking non-surrender bilateral agreements with a number of countries, and Albania is no exception, continued Mr. Mediu. However, until it ratifies the Statute, Albania has decided not to initiate negotiations on such an agreement. As Mr. Mediu explained, Albania is in a difficult position as it seeks further integration in Europe as well as considers its relations with the US as a priority. While Albania understands some of the US's concerns, it is conducting intensive consultations with the European Union member countries on this issue to arrive at a suitable solution.

Mr. Martin Sindabizera, MP (Burundi) spoke of the historical importance of the Rome Statute for his country given that it is situated in a region marked by ongoing conflict in recent years. A permanent parliamentary commission has been set up in Burundi to examine a draft bill against genocide, war crimes and crimes against humanity and the definitions of these crimes were taken from the Rome Statute. However, Burundi has encountered some obstacles on the road to ratification. First, there is a sense that the ICC might be controlled by the more powerful states and

there is a need to make sure that it is a just and equitable Court. Secondly, there is a need to reform domestic legislation to ensure complementarity and cooperation with the Court. Whereas the Rome Statute permits no immunity for heads of states, the Burundian constitution does call for such immunity. A similar constitutional conflict exists with regard to surrendering nationals to the Court as the Constitution states that Burundians cannot be extradited. There is also a fair bit of hesitation due to the current situation of conflict in the region. Nevertheless, Mr. Sindabiezera is of the opinion that "While ratification of the Rome Statute of the ICC raises juridical, political, constitutional, and, in some cases, diplomatic questions, such challenges should not overshadow the universal imperative of an effective fight against impunity for the worst crimes committed against humankind."

In the view of Ms. Loretta Ann Rosales, MP, Chair of the Human Rights Committee in the Philippines, who followed in the discussion, the main obstacle preventing the Philippines to ratify is the US campaign to undermine the ICC. As the result of the efforts of a coalition led by human rights organizations established to urge the government to sign and ratify the Statute after July 1998, The Philippines finally signed the Statute on December 28, 2000.

Recently, the departments of Foreign Affairs and Justice, as well as the Commission on Human Rights endorsed the idea of ratification. Intensive lobby work was conducted at the Senate. Senator Loren Legarda-Leviste, member of the PGA 2002 International Council, proposed Senate Resolution "Urging the immediate



ratification of the Rome Statute of the ICC, in view of our need to protect basic human rights according to international humanitarian law.” The resolution was not acted upon due to lack of executive endorsement. In the House of Representative, Ms. Rosales introduced House Resolution “Urging the Philippine government to support the ratification of the Rome Statute of the ICC as one important step in the furtherance of the promotion of and respect for human rights in the country”.

Currently, the instrument of ratification sits at the Office of the President awaiting his signature and a referral to the Philippine Senate for its concurrence. A major obstacle remains the strong US influence in Philippine affairs and its support for the modernization program of the Philippines’ Armed Forces. There is particular concern for the American Servicemembers Protection Act of 2002 as it prohibits US military assistance to States Parties of the ICC. Meanwhile, the Department of National Defense is considering entering into a bilateral agreement with the US if the Statute is ratified. According to Ms. Rosales, supporters of the Court in the Philippines must: 1) address the general lack of understanding; 2) push the President to exercise political will; 3) raise the ICC as a mechanism in the pursuit of human rights and the implementation of international humanitarian law, internationally and domestically; and 4) raise the ICC as a mechanism that will uphold the rule of law in response to international and domestic terrorism.

In closing, Senator Prada highlighted the political will voiced by the six panelists to push for ratification/accession in their countries. The

ICC is seen as a necessity even in countries that have not yet ratified the Rome Statute and, though it cannot be expected to serve as a panacea, it will greatly reduce the possibility of impunity enjoyed by perpetrators in years past. Looking ahead, the Court is finally a reality, and in Senator Prada’s own words, “a path that cannot be turned back!” \*



**Hon. Amos Wako, MP, Attorney General & Minister of Justice (Kenya)**



**Mr. Fatmir Mediu, MP (Albania), Ms. Loretta Ann Rosales, MP (Philippines)**

*Honorees:*

**H.E. Ambassador Philippe Kirsch**, Ambassador of Canada to the Kingdom of Sweden  
**Mr. Lakhdar Brahimi**, Special Representative of UN Secretary-General for Afghanistan

# 7<sup>TH</sup> ANNUAL DEFENDER OF DEMOCRACY AWARDS DINNER

*Presenters:*

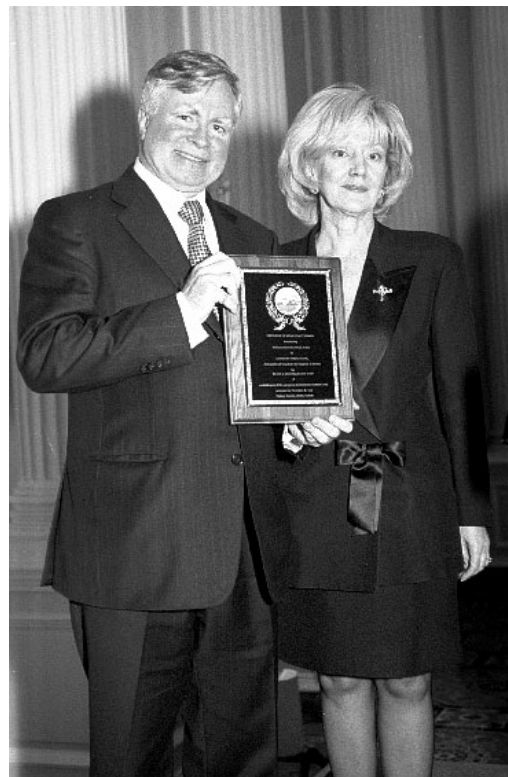
**Senator Raynell Andreychuk** (Canada), Convenor of PGA International Law & Human Rights Programme

**Hon. Kenneth Dzirasah**, MP, Second Deputy Speaker (Ghana), PGA President



**Mr. Lakhdar Brahimi**, Special Representative of the UN Secretary-General to Afghanistan; **Hon. Kenneth Dzirasah**, Second Deputy Speaker, MP (Ghana), President of PGA

**P**arliamentarians for Global Action celebrated its Seventh Defender of Democracy Award dinner on November 4th, 2002. The ceremony, which took place at the Ottawa Chateau Laurier, was hosted by Hon. Kenneth Dzirasah (Ghana), President of PGA, who inaugurated the ceremony with welcoming remarks, followed by the presentation of the first awardee, Amb. Philippe Kirsch, Ambassador of Canada to the Kingdom of Sweden by PGA Executive Committee member and convenor of International Law & Human Rights Programme, Senator Raynell Andreychuk (Canada). Amb. Kirsch was selected to receive the award for his role in promoting the rule of law & the establishment of the permanent International Criminal Court. Since the beginnings of his political career Amb. Kirsch has worked unceasingly within the United Nations system to help promote humanitarian values in international law. He chaired the Committee of the Whole of the Rome Conference, which adopted the Statute of the International Criminal Court, a revolutionary development in international law. In February 1999, Mr. Kirsch was elected chair of the preparatory commission established to develop the instruments necessary for the proper operation of the Court. Aided by Amb.



**H.E. Mr. Philippe Kirsch**, Ambassador of Canada to the Kingdom of Sweden; **Sen. Raynell Andreychuk** (Canada), Convenor of PGA International Law & Human Rights Programme

Kirsch's commitment to the promotion of justice and rule of law after achieving 60 ratifications the Court has finally come into existence in July 2002.

Hon. Dzirasah, Second Deputy Speaker (Ghana) and President of PGA described the extraordinary life journey of the second awardee, Mr. Lakhdar Brahimi, responsible for the humanitarian, human rights and political endeavours of the UN in Afghanistan and former Special UN Peace envoy to Haiti, South Africa, Zaire (now the Democratic Republic of the Congo), Yemen, Liberia, Nigeria and Sudan, Mr. Brahimi is well-known in political and humanitarian world for his contribution to the reform process of the United Nations. His tireless work for and sincere dedication to the cause of peace and the reform of United Nations peace operations highly advanced it in profound ways. \*



## DAY 2 SESSION V

## Universal Representation in the ICC System: Legal and Political Implications of Security Council Resolution 1422 and Non-Surrender Bilateral Agreements at US Initiative

Throughout the first day of the Forum, participants heard many references to the US campaign to undermine the ICC. Therefore, the first session of the second day was included to specifically address these efforts and their implications for the functioning of the Court and the cooperation of individual states.

Professor Errol Mendes, focusing on the non-surrender bilateral agreements, expressed his view that “the section 98 agreements are illegal under international law and are null and void”. He referred to article 90, paragraph 4 of the Rome Statute which states that if a state, not party to the Statute, requests the extradition of a person the requested state shall give priority to the request for surrender to the Court unless it is under an international obligation to extradite the person to the requesting state. This article, more general than the specific provision found at article 98, must govern first and foremost and clearly demonstrate the intention of the legislator.

According to Prof. Mendes, many compromises were reached in Rome to satisfy the US. Among other things, the Security Council was given an important jurisdictional role. Nevertheless, the US left dissatisfied. Today, when the ICC could be counted upon in the fight against terrorism, it is being undermined due to misunderstanding and a failure to believe in any multilateral agreements.

On much the same wavelength, Mr. Richard Dicker of Human Rights Watch sees the new challenge being posed by the US actions as a threat to the legitimacy and credibility of the

ICC. Addressing the Forum, he stated that “parliamentarians have a decisive role to play in defending this Court and all it stands for in the face of this new challenge and, in particular, in defending the principle that the rule of law, if it means anything at all, means that it must apply equally to all regardless of nationality or citizenship.”

According to Richard Dicker, the fact that the Court has been established shows that the rest of the world has outweighed the US and it is hoped that continued support will pull the US out of its ill-conceived opposition. Regarding the impunity agreements, he echoed Prof. Mendes’ view that such agreements are not permitted by the Statute. Understanding the pressure that certain states are under to enter into such agreements, Mr. Dicker urges these states to make sure that any agreement they sign is consistent with the Rome Statute. This can be achieved by limiting their scope to armed forces and closely associated personnel as reflected in the language of article 98, and by ensuring that the US be able and willing to investigate and prosecute those persons being transferred to their jurisdiction, and that, if such is not the case, the ICC maintain an oversight role.

Professor Edward Luck, from Columbia University, gave a balancing perspective on the issue by contextualizing the current US position on the ICC. He pointed to the United States’ continuous unilateral and exclusionary approach vis à vis international law in general. He also drew attention to the growing asymmetry of power in the world today coinciding

*“Parliamentarians have a decisive role to play in defending this Court and all it stands for in the face of this new challenge and, in particular, in defending the principle that the rule of law, if it means anything at all, means that it must apply equally to all regardless of nationality or citizenship.”*

*Mr. Richard Dicker  
Human Rights Watch*

Mr. Richard Dicker, Human Rights Watch; Dr. Maj-Britt Theorin, MEP (Sweden); Prof. Edward Luck, Columbia University



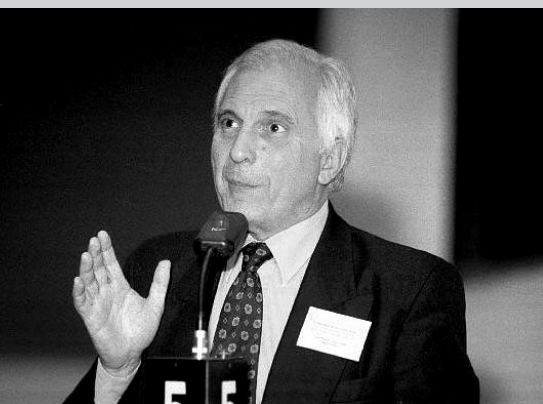




**Prof Errol Mendes**, Professor of International Law, University of Ottawa; **Mr. Richard Dicker**, Human Rights Watch

*“US opposition is proportional to the expansion of international standards. Regarding the ICC specifically the positions for and against the Court are exaggerated in overselling the ICC we create an over-reaction.”*

*Professor Edward Luck,  
Columbia University*



**Sen. Marcelo Lopez Arias** (Argentina)

with unprecedented expansion in international law and standards and in the absence of adequate international institutions to enforce such standards.

Practically speaking, he suggests that efforts in obtaining support for the Court be focused on the skeptical rather than the like-minded states. He sees a danger in isolating and polarizing the US. Though their concerns may not be well-founded, they are, nevertheless, real and must be answered with political accommodation. According to Prof. Luck, it is conceivable that the US might concede to cooperate and that conciliation may be achieved over time. Of course it is also conceivable that the US will influence other countries, that the situation will become further polarized politically, and that the ICC will be weakened and unable to accomplish its work. Much will depend on the positions taken in national capitals around the world, concluded Prof. Luck.

This session stimulated much discussion on the topic. Dip. Margarita Stolbizer, MP from Argentina, spoke of the important role of parliamentarians and the Resolution she proposed in her parliament with respect to bilateral agreements. The representative of Cameroon, Mr. Benjamin Sonke, MP, urged more powerful countries not to give in to US pressure; otherwise, smaller countries will cave as well. Mr. Adrian Severin, MP from Romania, called for the international community's commitment to moral standards and the will to face political realities. Many countries depend upon the US for security and stability and the Security Council must take this reality into consideration. Hon. Amos Wako of Kenya echoed this

view by suggesting that strategies are needed to help developing countries stand up to US pressures. Mr. Dicker supported the view that the European Union must step in and counter some of these pressures but that ultimately, it is up to each parliament and government to negotiate with the US for the respect of the rule of law and international standards. \*

**Ms. Svetlana Smirnova**, MP (Russian Federation); **Mr. Timur Eivasov**, Embassy of Russian Federation to Canada; **Mr. Mikhail Grishankov**, MP (Russian Federation)





*Chair:***Senator Longin Pastusiak**, President of the Senate, Poland*Interventions:***Mr. Jonathan O'Donohue**, Amnesty International, International Secretariat, London**Ms. Fiona McKay**, Lawyers Committee for Human Rights**Senator Alain Destexhe**, Belgium

## SESSION VI

## Obligations of States Parties to cooperate with the ICC and the Duty to Prosecute International Crimes and to Eliminate Safe-Havens for Alleged Perpetrators: Universal Jurisdiction and other Jurisdictional Bases to Fight against Impunity

**S**enator Longin Pastusiak opened the session by recalling the crucial importance of each State's cooperation with the ICC to ensure the success of its mandate. This panel also aimed to examine the loopholes in the ICC system and the importance of universal jurisdiction in the fight against impunity.

Jonathan O'Donohue of Amnesty International praised the work of parliamentarians in the process of establishment of the Court, but remarked that their greatest contribution is needed with regard to implementation of the Rome Statute in domestic legislation. He mentioned that "it is a matter of great concern that out of the 81 States Parties that have ratified the treaty so far (now 87), only a handful have enacted their implementing legislation and certainly not all States Parties have begun the process of examining their national laws to see what changes need to be made to ensure that they implement the Statute properly". This is particularly important now that the Court is in function and that states must exercise complementarity and provide full cooperation. Indeed, the ICC will rely on states to provide information and gather evidence, to transfer any accused to the Court, and to provide facilities for the convicted. States must therefore examine their national laws to make sure that there are no barriers to such cooperation with the Court.

Mr. O'Donohue recommended that parliamentarians take the following steps to promote the implementation of the ICC: 1) parliamentarians should question their Ministers of Justice, Ministers of Foreign Affairs and Prime Ministers

regarding the steps being taken to enact proper legislation at the national level; 2) parliamentary committees should hold hearings on implementation and send their recommendations to the executive branch of their governments, or they might even draft needed legislation themselves; 3) parliamentarians should call for broad consultations with academics and NGOs to ensure their participation; and 4) parliamentarians should call on their governments to share any expertise they may have with other states.

Ms. Fiona McKay of the Lawyers Committee for Human Rights addressed the issue of universal jurisdiction as the third piece in the strategy to eliminate all safe-heavens, along with prosecutions at the national level and prosecutions by international tribunals. She defined universal jurisdiction as "the exercise by one state of criminal jurisdiction over non-nationals for crimes of international concern that are committed elsewhere, i.e. not committed in their own territory." Under international law, states are permitted and at times obliged to exercise universal jurisdiction. Despite the establishment of the Court, there will still be a need for universal jurisdiction since without universal ratification the Court will not have jurisdiction over all crimes. Moreover, the jurisdiction of the Court will not be retroactive and it is expected that the Court will have limited capacities and may have to rely on other competent jurisdictions to share the burden.

Ms. McKay explained that in order to be able to take on cases of universal jurisdiction, a state

*"Belgium would like to see more states taking on universal jurisdiction cases; this battle in the fight against impunity would be more effective if it were collective."*

*Senator Alain Destexhe,  
Belgium*

**Ms. Eva Dunn**, Programme Officer, PGA; **Ms. Fiona McKay**, Lawyers Committee for Human Rights; **Senator Alain Destexhe** (Belgium); **Senator Longin Pastusiak**, President of the Senate (Poland); **Mr. Jonathan O'Donohue**, Amnesty International





**Senator Alain Destexhe** (Belgium); **Senator Longin Pastusiak**, President of the Senate (Poland)

must reform its domestic law to include universal jurisdiction, rather than simply territorial jurisdiction. Moreover, it is important that states not enact 'reverse complementarity' legislation whereby states may automatically transfer to the ICC all cases falling under its jurisdiction; the burden must be shared and complementarity must be exercised by states in order to permit the ICC to function most efficiently. Finally, concluded Ms. McKay, in all international justice mechanisms, parliamentarians should help ensure that there is proper political will to combat impunity.

On this very topic, parliamentarians present had the opportunity to benefit from the extensive knowledge of their colleague from Belgium, Senator Alain Destexhe. Belgium has led the way in recent years in terms of exercising universal jurisdiction. Through legislation passed in 1993 and broadened in 1999, crimes of international concern became offenses under Belgian law and cases can be started there regardless of the nationality of the perpetrator or that of the victim, and regardless of where the crime was committed.

After giving a few examples of the practical applications of this law, Senator Destexhe described some of the challenges encountered by Belgium. One of these is the considerable amount of constraint that the exercise of such jurisdiction can impose on diplomatic relations with other countries. Many countries are in fact resentful of Belgium's exercise of universal jurisdiction. Recently, a case was brought against Belgium by the Democratic Republic of Congo (DRC) at the International Court of Justice (ICJ) where Congo contested Belgium's exercise of jurisdiction arguing that the



accused, the Foreign Minister of the DRC was protected by immunities. The ICJ ruled in favor of the DRC; as a consequence of this judgment, many cases in Belgium had to be dropped.

Senator Destexhe explained that Belgian law has suffered from its own success by attracting politically motivated claims with little foundation in justice. Currently, Belgium is reviewing its law to ensure that it can cooperate with the ICC. They are also considering the possibility of introducing a requirement of connection to Belgium in order for a case to be filed there to avoid 'judicial tourism'.

Senator Destexhe urged his fellow parliamentarians to introduce bills in their own parliaments and hopes that PGA will make this its next campaign. Despite the ICC, universal jurisdiction remains the only hope of justice for many victims of genocide and crimes against humanity.

Some interesting concerns were brought to the attention of the panelists. Among these, Mr. David Coltart, MP from Zimbabwe expressed his concern that it is much more difficult to effectively file a complaint if one is living in the South. For his part, Mr. Roland Wiederkehr, MP from Switzerland, is concerned that taking on universal jurisdiction cases will represent a disproportionate burden on the given country's taxpayers. \*



**Mr. Roland Wiederkehr**, MP (Switzerland)

*Chair:***Mr. Adolf Mwesige**, MP, Chair of the Committee on Legal and Parliamentary Affairs, Uganda*Interventions:***Dip. Antonio Pannunzio**, MP, Brazil**Dip. Margarita Stolbizer**, MP, President, Legislation Committee, Argentina**Mr. M. Masutha**, MP, South Africa**SESSION VII****The ICC as a complement to national systems: the need to codify international crimes at the national level**

**A**s explained by the chair, Mr. Adolf Mwesige from Uganda, the Court's principle of complementarity requires that states themselves prosecute those responsible for Rome Statute crimes. During this session, three members of parliament were invited to present their country's approaches in fulfilling this requirement.

Dip. Antonio Carlos Pannunzio of Brazil briefed parliamentarians present on the Brazilian experience in implementing the Rome Statute. It was not an easy task; "the bill gave rise to fierce debate in the parliament" stated Dip. Pannunzio. Issues of sovereignty related to sentencing and extradition had to be resolved. Given that the Brazilian Constitution prohibits life imprisonment, the need to review the Criminal Code is being studied carefully. There is recognition of the fact that the ICC deals with crimes other than those established in ordinary criminal legislation and that Brazil's constitution does enshrine the principle that Brazil must guide its actions at the international level by the supremacy of human rights.

While there was some concern that the Constitutional prohibition against extradition might prevent the surrender of Brazilian individuals to the ICC, it has been determined that no conflict exists as the ICC is not 'another state' but rather an international institution of which Brazil is a member. Dip. Pannunzio concluded by stating his belief that the ICC provides us with 'a new paradigm for our struggle to achieve full respect for human rights in the world'.

Dip. Margarita Stolbizer, President of the Penal Legislation Committee of the Chamber of

Deputies of Argentina and newly elected President of PGA's International Council, stressed the necessity that states enact implementing legislation that will harmonize the jurisdictions of national courts with that of the ICC.

Ms. Stolbizer presented challenges to implementation and assessed technical features of the definition of crimes in articles 5 through 8 of the Rome Statute that correspond to or expand the contents of various international treaties and conventions, such as the Geneva Conventions, the Genocide Convention and the Convention on Torture. She explained in detail, for instance, how the Rome Statute defines a new category of crimes of sexual violence and how its definition of torture expands that of the Convention on Torture as it no longer requires that the perpetrator be a state agent. But the Rome Statute contains its own shortfalls, which reflect the difficult negotiations at the Rome Conference in trying to reach a consensus. With respect to torture as defined in the Rome Statute, it is stipulated that the crime be committed in "widespread or systematic" fashion, a threshold that is absent in the Convention.

While some states may have undertaken the process of implementation, in most cases, the process is still unfinished and in others, the legislation is not complete. For the complementarity principle to succeed and the Court to function effectively, parliamentarians must push for the adoption of national legislation and work with inter-ministerial committees to complete the task with urgency. Regarding the case of Argentina, an inter-ministerial body



**Ms. Margarita Stolbizer**, MP (Argentina)

*"The Rome Statute must be seen not as a ceiling for definitions of international crimes, but as a common floor"*

*Dip. Margarita Stolbizer,  
MP, President, Legislation  
Committee, Argentina*

**Mr. M. Masutha**, MP (South Africa); **Dip. Antonio Pannunzio**, MP (Brazil); **Mr. Adolf Mwesige**, MP (Uganda)







Mr. M. Masutha, MP (South Africa); Dip. Margarita Stolbizer, MP (Argentina)

was created to draft the legislation and it worked closely with civil society to improve its draft legislation. Ms. Stolbizer hopes the legislation will be brought to parliament in the short term.

The last panelist, Mr. M. Masutha of South Africa, spoke of the ICC Act which was passed in his country earlier this year. “In South Africa, said Mr. Masutha, our horrific first-hand experience of racial oppression under the system of apartheid which endured for nearly half a century has made us resolve to participate in the global effort to promote human rights, democracy and peace even stronger; hence our participation in the implementation of the Rome Statute by way of its incorporation in domestic law.”

The South African implementation law creates a framework to ensure that the Statute is effectively implemented and that everything conforms to the Republic’s obligations in terms of the Statute. It provides for the crimes of genocide, crimes against humanity and war crimes under domestic law and it enables national prosecuting authority to prosecute, and the high court to adjudicate, in cases brought against any person accused of having committed crimes in the Republic and, in certain circumstances, beyond its borders when provided for by the ICC Act. Notably, persons who commit crimes beyond the borders of the Republic are deemed to have committed them in the Republic if they are later found in South Africa or if the crime was committed against South Africans.

If South Africa is unable or unwilling to prosecute, the ICC Act ensures that it will cooper-

ate with the ICC in its investigation and prosecution of persons accused of having committed crimes or offences referred to in the Statute. Specifically, the ICC Act ensures: 1) that the ICC is able to make requests for assistance from South Africa; 2) that mechanisms exist for the surrender of accused persons to the Court; 3) that the Court can sit in the Republic; and 4) that the Republic will be able to enforce any sentence imposed, or order made, by the Court.

During the discussion, Professor Rhonda Copelon emphasized the need to include more expansive definitions in domestic law, especially for crimes such as sexual slavery and rape. National implementation bills should go beyond the requirements of the Rome Statute on these important issues.

Mr. Jacob Oulanyah, MP from Uganda, gave a brief up-date on the situation in Uganda. While he had brought the issue of the ICC to the attention of the executive through parliamentary questions, parliamentarians were only informed very recently of the Government’s decision to ratify the Rome Statute. This Forum stimulated MPs from Uganda to go back to their country and push for the enactment of the implementation bill. \*



## SESSION VIII

*Chair:***Senator Anthony Johnson**, Jamaica*Interventions:***Mr. Bruce Broomhall**, Open Society Institute, Budapest**Professor Rhonda Copelon**, City University of New York Law School; Women Caucus for Gender Justice**Ms. Loretta Ann Rosales**, MP, Chair of the Human Rights Committee, Philippines

## The impact of the ICC on the development of international criminal justice and international human rights law; how can the ICC offer protections to victims (women, children, minorities, etc)

**A**fter summing up the proceedings thus far, Senator Anthony Johnson of Jamaica introduced the members of this final panel. Mr. Bruce Broomhall of the Open Society Institute called upon parliamentarians to play a role in ensuring that the ICC functions properly and efficiently. Through the processes of ratification and implementation there is a need to ensure that the principles of complementarity and cooperation are enshrined in national legislation. Members of parliament also have a role to play in the broader reform of national criminal justice systems in order to eliminate any double standards. In particular, the ICC sets important standards with regard to the protection of women, victims and the rights of the defense.

MPs need to serve as vessels for the dissemination of ICC-related information at the national level, as well serve the role of the watchdog vis à vis their own government to ensure that all aspects of cooperation are being fulfilled. In closing, Mr. Broomhall stated that “the ICC needs your attention and energy. I hope that it repays that attention and energy by lending impetus to your efforts at the national level to promote the progressive development of your justice system.”

Professor Rhonda Copelon of the City University of New York Law School suggested that in adopting and implementing legislation states should look at the entire body of international law, not simply the Rome Statute, and in some cases, they may go further than the standards set by the Rome Statute. The way in which crimes are codified in national laws will influence the way in which the Rome Statute is later interpreted by the Court. It is therefore advisable to avoid some of the more conservative wording in the Statute and thus enable the ICC to adopt a more progressive approach, assessed Prof. Copelon.

On the issue of the protection of witnesses in the context of gender crimes, she continued, the Rome Statute succeeds where many national systems have not. In particular, there is no requirement of corroboration of a victim's testimony and it has become all but inadmissible to

call upon past sexual conduct.

Professor Copelon said a few words regarding the nomination of judges. Clearly, a fair gender representation is needed, as are experts on gender and other crucial issues. This is true as well in the office of the Registry and of the Prosecutor. All staff of the Court must be committed and alert to gender issues that may arise. In terms of the election of judges, it is important that MPs communicate to their governments that vote trading will not be acceptable.

Ms. Loretta Ann Rosales, an MP from the Philippines, spoke about a resolution that was passed there to conduct a study on what measures should be taken to comfort and support women who were victims of slavery in the Second World War. She also spoke of the need to strengthen institutions by imposing mandatory courses on human rights for all law enforcement agencies and government officials and the need to criminalize human rights violations.

During the discussion, Mr. O'Donohue of Amnesty International mentioned the Trust Fund for Victims and families of victims. He stated that it is essential that states provide contributions to ensure that the Court can provide assistance and reparations to victims.

Mr. Ross Robertson, MP from New Zealand, asked the panel what their view was on the continued absence of a definition of the crime of aggression. Mr. Broomhall explained that the crime of aggression had been included pending a definition as a compromise made with the non-aligned states who were in support of its inclusion. The discussion is set to continue at the Assembly of States Parties. Meanwhile, permanent members of the Security Council want to retain control over the crime of aggression; there is therefore a need to find a middle ground. Mr. Broomhall pointed out that the Security Council is mandated to determine the existence of crimes of aggression as the threshold for the use of force, but not for the purpose of rendering justice and, indeed, it would be best to avoid having the Security Council meddle in what is supposed to be an independent Court. \*



**Prof Rhonda Copelon**, City University of New York Law School; Women Caucus for Gender Justice; **Senator Anthony Johnson** (Jamaica); **Mr. Bruce Broomhall**, Open Society Institute; **Ms. Loretta Ann Rosales**, MP (The Philippines)



**Mr. Ross Robertson**, MP (New Zealand)

## Discussion and Adoption of the Final Document of the Forum

### SESSION IX

#### Where do we go from here? The contribution of Parliamentarians for Global Action to International Criminal Justice, the Promotion of Human Rights and the Rule of Law



Mr. Akylbek Japarov, MP (Kyrgyzstan)

Senator A. Raynell Andreychuk of Canada, Convenor of PGA's International Law Program chaired the discussion on the adoption of the Ottawa Plan of Action. Before opening the floor for suggestions and amendments to the draft plan of action, the Chair touched briefly on the many concepts, issues and problems facing the ICC that were covered comprehensively during the first two days of PGA's 24th Annual Forum, among them, world-wide ratification, adoption of implementing legislation, and the protection of the integrity of the Rome Statute. Going through the draft plan of action, Senator Andreychuk suggested that the document was a good point of departure to strengthen and further promote the ICC system.

Overall, the discussion that followed showed consensus on the draft and, in the end, resulted in its adoption. A few changes were incorporated as participants noted concerns about, among other things, training, education and information, parliamentary awareness of ASP deliberations, the universal nature of the ICC system, and equality before the law throughout the world as the only acceptable form of international justice. Senator Andreychuk explained that the Ottawa Plan of Action could not and did not intend to address all concerns, but was confident that its adoption would pave the way for future work on the Court. \*

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

## Ottawa Plan of Action on the International Criminal Court (ICC)

**Considering** that millions of victims of genocide, crimes against humanity and war crimes were denied justice for atrocities suffered in the past century and continue to suffer from several scenarios of conflict or gross human rights violations throughout the world,

**Recognizing** that the impunity of perpetrators of international atrocities has provided a fertile ground for the commission of new horrendous crimes, which should not be left unpunished,

**Recognizing** that impunity for the most serious crimes under international law has been the rule, and justice the exception, notably when the international community decided to establish special (ad hoc) Tribunals to face selected situations (the one in the former Yugoslavia from 1991 to present, and the one in Rwanda of 1994),

**Further recognizing** that among the most numerous and ignored crimes are those committed against women, and welcoming the codification of sexual and gender crimes and related-procedures and structures for the participation, protection and reparations for victims,

**Welcoming**, therefore, the International Criminal Court (ICC) as 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,

**Taking note** with satisfaction that the Rome Statute of the ICC, which entered into force on 1 July 2002, has been ratified or acceded to by 81 States to date and that parliamentarians have taken a leading role in promoting the early entry into force of this historic instrument for international relations and domestic justice,

**Recognizing** the importance of bringing about a fully universal representation of all legal cultures in the ICC system and the necessity to promote awareness and understanding of the Rome Statute in all legislatures of countries that are not yet part of the system,

**Affirming** that the ICC is a milestone in the development of a culture of accountability and human rights, and thus provides a unique opportunity to reinforce democracy and the rule of law,

**Further affirming** that as with any new international institution, the ICC will need continued and strong support from legislators, their constituencies and their countries, as the lack of an independent ICC law enforcement mechanism leaves States with the task of enforcing Court orders and requests addressed to individuals and legal persons,

**Regretting** the efforts of any State to infringe upon the territorial jurisdiction of the ICC, which applies to the territories of sovereign States Parties to the Rome Statute, and to enter into bilateral agreements aimed at exempting their nationals,

**Further regretting** the adoption on 12 July 2002 of Security Council Resolution 1422, which suspends for one year any ICC investigation vis-à-vis UN peacekeepers and UN-authorized multinational forces when an alleged perpetrator of a war crime, a crime against humanity or an act of genocide would be a national of a State non-Party to the ICC Statute, even if the crime was committed in the territory of a State Party that decided to protect its territories & people through the ICC,

**Determined** to defend the integrity of the letter and spirit of the Rome Statute and the UN Charter, and to reject the misconception that peace and justice are irreconcilable,

**Resolved** to continue a global campaign for the ratification/accession and implementation of the Rome Statute that would provide the international community with the necessary means to prevent prosecute and punish international crimes,



The Consultative Assembly of Parliamentarians for the International Criminal Court (ICC) & the Promotion of the Rule of Law, following its deliberations held in Ottawa on 4 and 5 November 2002 under the auspices of Parliamentarians for Global Action (PGA), agrees as follows:

**A. On the Ratification and Effective Implementation of the Rome Statute of the ICC**

- a) To appeal to parliaments and governments of the States that did not yet ratify the Rome Statute to speed up the process of ratification or accession,
- b) To welcome the initiative of PGA to launch a consultative assembly of parliamentarians for the ICC to facilitate discussion and action of parliamentarians from all regions of the world so as to promote and provide support for an independent, fair and effective functioning of the ICC,
- c) To renew or inspire awareness and understanding amongst political leadership in national parliaments on the International Criminal Court (ICC), and to intensify the efforts of the global ratification campaign, and to that end to stimulate the establishment of a fund for education and training on the ICC,
- d) To contribute to the adoption in all States Parties to the Rome Statute of any legislation or administrative measure to effectively implement the Statute in domestic legal systems, including the incorporation of the core crimes under international law and the general principles of international criminal law.

**ACTION:**

- 1. A second session of the consultative assembly of parliamentarians for the International Criminal Court (ICC) shall take place in the year 2003 at a date and venue to be determined through consultations between PGA and interested Parliament(s).
- 2. Members of Parliament from countries that are not yet parties to the ICC Statute shall elaborate country-specific strategies aimed at removing legal and political obstacles to the national ratification/accession process.
- 3. Members of Parliament from countries that are parties to the ICC Statute shall intensify their efforts to assure that full cooperation with the ICC will be possible in their own countries and institutions. To that effect, they shall promote the drafting and enactment as early as possible of comprehensive national implementing legislation.
- 4. Members of Parliament from countries that have implemented the ICC Statute's norms and principles in their domestic legal order shall make their 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 shall be launched to reinforce the legitimate prerogatives of the State under the rule of law.
- 5. Parliamentarians for Global Action will maintain a special channel of assistance for, and communication with, all MPs who will take action on the basis of the Ottawa Plan of Action. In order to do so, up-to-date information on all major developments pertaining to the ICC will be provided, in cooperation with other pro-ICC actors such as the Coalition for the International Criminal Court (CICC).

The Consultative Assembly of Parliamentarians for the ICC further agrees:

**B. On the Integrity, Credibility & Effectiveness of the International Criminal Court**

- a) To uphold the principle of equality of all before the law throughout the world as the only acceptable foundation of the Rome Statute, and to oppose any unilateral, bilateral or multilateral effort by States or by the UN Security Council to limit the Court's jurisdiction, as this would undermine the integrity and credibility of the new institution even before it starts to operate.
- b) To endeavour to ensure that all initiatives to bring peace in conflict-zones where the ICC can already exercise jurisdiction on crimes committed after 1 July 2002 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.
- c) To use our best efforts to pressure governments to provide the financial means to guarantee the highest level of independence and efficiency of the ICC, thus complying with the requirement to pay assessed contributions according to the ICC budget and to generate voluntary contributions for the Trust Fund for victims and their families, as well as to ensure the nomination and election of highly qualified and independent judges and prosecutor.
- d) To foster dialogue between Members of the US Congress and other parliamentarians.

**ACTION: To ensure parliamentary support for a fair, independent and effectively functioning ICC:**

- 1.** Members of Parliament shall avail themselves of the opportunity to question their executives on the status of negotiations with the US Government on its proposal to enter into non-surrender bilateral agreements.
- 2.** In case a bilateral non-surrender agreement has been signed by the Executive, Members of Parliament shall endeavour to request that the legislature be seized with the matter of considering the agreement for ratification or approval, without which the agreement (a treaty that modifies previous laws, including the law on territorial jurisdiction for penal matters and the ICC ratification bill) will not enter into force.
- 3.** Members of Parliament shall take all opportunities to question their Governments on their position towards the renewal of Resolution 1422 (2003), the effects of which will expire on 1 July 2003, and request to develop strategies at the national, regional and international level to prevent the renewal for another year of Resolution 1422.
- 4.** Parliamentarians shall endeavour to foster dialogue, including through official parliamentary channels, to safeguard the integrity and the credibility of the ICC.
- 5.** Members of Parliament shall avail themselves of the opportunity to be informed about the agenda of the Assembly of States Parties.
- 6.** Members of Parliament shall actively communicate with their own citizens in order to stimulate their awareness of international law in general, and the ICC in particular.
- 7.** The PGA Secretariat will organise strategy meetings to assist in the implementation of the Ottawa plan of action.

*Adopted in Ottawa, Canada, on 5 November 2002.*

## DAY 30 OPENING SESSION

## Special Session on the Responsibility to Protect: The Role of Parliamentarians



Mr. Mahendra Prasad, MP (India); Hon. Mr. Justice Edmond Cowan, Speaker of Parliament (Sierra Leone)

*“When a state is unable or unwilling to protect or perpetrates humanitarian crimes, the Commission argues that the international community has the responsibility to intervene, and if necessary by force.”*

*H.E. Mr. Paul Heinbecker,  
Ambassador of Canada to the UN*



Dr. Chico Francisco, MP (Mozambique); Mr. Hamad Rashid Mohammed, MP (Tanzania)

Honourable Kenneth Dzirasah, Second Deputy Speaker of Ghana and President of PGA opened the meeting by welcoming participants and discussing the role of parliamentarians in the Responsibility to Protect. He provided examples of the work of PGA Task Force in prevention, intervention, and rebuilding. Hon. Dzirasah explained that PGA Task Force on Peace and Democracy was created to put in place structures that facilitate rapid deployment of parliamentarians in response to rising conflict in emerging democracies or states facing disintegration. Initiated by strongly worded resolutions condemning the threat to democracy and undemocratic dissolution of parliament, as in the case of PGA interventions in Cote d'Ivoire and Pakistan, PGA undertakes mediation missions, aimed to prevent the collapse of democratic processes in the country in conflict. Hon. Dzirasah emphasized that parliamentarians need to strengthen their capacity to effectively forge political consensus to carry out the recommendations of the report.

Ambassador Paul Heinbecker succeeded Hon. Dzirasah with a keynote address that began with an overview of the origins of the ICISS report. In response to the UN Secretary General's challenge posed to the member states to reconcile the notion of sovereignty and the need for reinforcement of human rights, Canada's Former Foreign Minister Mr. Lloyd Axworthy had launched the Commission on Intervention and State Sovereignty to foster a global political consensus on the issue. The Commission released the Responsibility to Protect Report, which by expanding the notion of sovereignty, redefined its concept as not only a right but a responsibility of a state

to protect its citizens.

Ambassador Heinbecker concluded that the report defines Responsibility to Protect in terms of prevention, reaction and rebuilding, strengthens sovereignty rather than undermining it. States that respect human rights and international humanitarian norms will have stability and accountability, which inherently strengthens their sovereignty.

Rep. Dennis Kucinich (Dem-USA), who joined the Session after winning the congressional elections a day earlier, reflected upon his efforts to review and revise non-conducive to peace US policies, including the proposition to create Department of Peace, the banning of weapons in space and the proposal to create a space treaty, and efforts to defeat the recent resolution authorizing war with Iraq. He asserted that as all the aspects of this world are interconnected, human rights must be protected globally and parliamentarians have the responsibility to challenge the forces of disunity that threaten our claim to common humanity.

“Today, the world faces the threat that the unleashed forces of war and weapons of mass destruction will create chaos, instability and murder of millions of people. The creation of the

Rep. Dennis Kucinich (D-OH, USA)





Mr. Tony Worthington, MP (UK); Mr. Suresh Keswani, former MP (India); Ms. Svetlana Smirnova, MP (Russian Federation)

International Criminal Court (ICC) can enhance our ability to protect our nations and the world, to defend human rights and to prevent war.” Mr. Kucinich expressed his concern regarding the recent action by his government in Yemen against alleged Al Qaeda operatives. He explained that Article 51 of the UN Charter does not sanction unilateral action and Chapter VII sets out a series of steps involving the UN Security Council which determines appropriate collective action to respond to a breach of peace. A preemptive military action against sovereign nations constitutes an attack on the United Nations Charter and vitiates the structure of international order. Rep. Kucinich strongly condemned the use of war as instrument of policy, where civilian infrastructure and the environment are destroyed and where sanctions are being used to destroy access to clean water in Iraq and result in the death of 500,000 Iraqi children.

“Now is the time to make nonviolence an organizing principle within society and establish a culture of peace to create a world where war itself is archaic,” continued Rep. Kucinich. “At such a time the parliamentarians need to become vessels of peace for their communities by assisting in the teaching and sharing of peace.” \*

*“We can recreate the world, bring it back from the edge of destruction, reaffirm our commitment to the rule of law, to the UN Charter, to creating an International Criminal Court, and by affirming all treaties, including those which call for nuclear disarmament, enhancing the structure of international order and affirming human unity. There is still time.”*

*Rep. Kucinich  
(Dem-OH) USA*



*Interventions:*

Ms. Marie Gervais-Vidricaire, Director General, Global Issues Bureau, DFAIT

Mr. Ed Mortimer, Director of Communications &amp; Chief Speechwriter, United Nations Executive Office of Secretary General

## SESSION I

**Presentation by DFAIT on work to date. Role of PGA parliamentarians in the process: legislative and legal mechanisms for regional and international intervention**

Mr. Ross Robertson, MP (New Zealand); Mr. Karl-Goran Biersmark, MP (Sweden)

*“The responsibility to protect is an important step on building global consensus on human protection.”*

*Mr. Ed Mortimer, Director of Communications & Chief Speechwriter in the Executive Office of the UN Secretary-General*

Ms. Gervais-Vidricaire began by thanking PGA secretariat for its work in organizing the seminar and offered an overview of Canadian and, more specifically, the Department of Foreign Affairs and International Trade's (DFAIT) work to promote the Report. She noted that the Commission was first established by Prime Minister Jacques Chretien after the failure of the international community in the tragedies of Rwanda and Srebrenica. Although Canada does not agree with all the aspects of the Report, the objectives of the Commission's work are similar to those of Canada in its work on civilian protection. Although no formal action has been taken in response to Mr. Annan's presentation of the report to the Security Council, Canada's goal in the UN remains focused on linking the work of the Security Council with the notion of responsibility to protect.

Ms. Vidicaire informed the participants that after being circulated to the General Assembly, the development of the Report entered the stage of technical negotiations to pass a resolution on the Responsibility to Protect that will lay out the basis for future measures in humanitarian intervention. In promoting the report, Canada has already commenced collaborating with the Human Security Network in New York, Agence de Francophonie, the Commonwealth, as well as member states and is planning to expand to working with academics, experts, NGOs and parliamentarians worldwide. PGA's 24th Annual Special Session

on the Responsibility to Protect is the first major international conference held in cooperation of civil society with the government of Canada. Ms. Vidricaire invited participants to spread the report through activities on the ground.

Following Ms. Vidicaire, Mr. Ed Mortimer, Director of Communications & Chief Speechwriter in the Executive Office of the UN Secretary-General, conveyed Mr. Annan's support for the work of parliamentarians and his appreciation for PGA's accomplishments. Mr. Mortimer explained that in his 1999 speech, the UN Secretary-General had challenged the General Assembly to focus on the ability of the international community to respond to humanitarian crisis, which he considers critical to the credibility of the international community's capacity to protect civilians from mass-scale atrocities. Mr. Annan's hope in challenging the General Assembly was to inspire widespread debate on protection and dignity of human life. According to Mr. Mortimer, Mr. Annan feels that the commission has responded with particular insight and acuity to the challenge.

Mr. Mortimer noted particular importance of having the discussion of the Responsibility to Protect concept in the framework of PGA's Annual Forum on the International Criminal Court (ICC) as the judicial process is prerequisite in deterring perpetrators and protecting civilians from atrocities. He continued by putting the concept of the Responsibility to Protect in historical perspective as the descendant of the Westphalia Treaty, which aimed to protect peo-

Mr. Ed Mortimer, Director of Communications & Chief Speechwriter, UN Executive Office of Secretary General; Ms. Marie Gervais-Vidricaire, Director General, Global Issues Bureau DFAIT



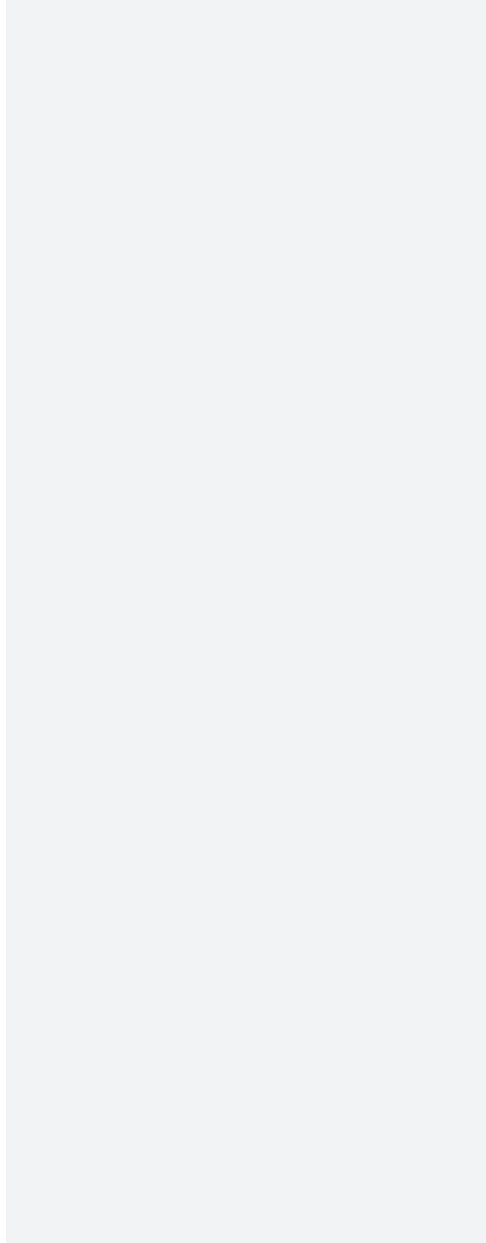


**Mr. Graham Kelly, MP (New Zealand); Mr. Luwellyn Tyrone Landers, MP (South Africa)**

ple from the ravages of war. As eloquently put by Mr. Annan, sovereignty is not a shield behind which states can hide to commit atrocities. “If we stop thinking about the right to intervene and start thinking about responsibility to protect, we are looking at it in a different light but in a way that makes it easier to reach consensus.”

Furthermore, Mr. Mortimer noted that the report presents two, not at all contradictory notions of sovereignty: that of the state and that of an individual. However, lack of political will and a narrow definition of national interests are barriers to sovereignty and the individuals wellbeing. The other two aspects of sovereignty highlighted by the Report and exemplified by the current situation in Afghanistan include the responsibility to intervene and rebuild, concluded Mr. Mortimer.

During the informative discussion that followed the presentations at this session Mr. Van Owen, MP (The Netherlands) urged the members of parliament to initiate the discussion of the Responsibility to Protect in their own parliaments. \*



**Mr. Coskun Cörüz, MP (The Netherlands)**

*Chair:***Mr. Tony Worthington**, MP, United Kingdom*Interventions:***Ms. Elissavet Papademetriou**, MP, Greece**Mr. David Coltart**, MP, Zimbabwe**Mr. Hamad Rashid Mohamed**, MP, Tanzania

## SESSION II

### Responsibility to Prevent - Role of Parliamentarians



**Sen. Martineau Guerrier** (Haiti)

**I**n his opening remarks Mr. Tony Worthington, MP (United Kingdom) set the stage for the discussion with some of his reflections and introduced the first speaker, Ms. Elissavet Papademetriou, MP (Greece), who offered her analysis of the Greek-Turkish Dialogues held under the auspices of PGA.

The historic animosity between Greece and Turkey, explained Ms. Papademetriou, perpetuated by the media on both sides worsened after the 1974 invasion of Cyprus. Neither Greek nor Turkish politicians have exercised their responsibility to prevent the conflict from growing until the two conflicting parties were forced to work collaboratively to relive the effect of two earthquakes in Istanbul and Athens, six months apart. At that time parliamentarians from both sides decided to seize this opportunity and bring politicians to the same table. "We worked with civil society, media, Turkish and Greek women of all spectra including the Turkish Women's Union to make our voices heard and to do something for both of our countries", recollects Ms. Papademetriou.

Subsequently, PGA approached the group and after meeting with PGA members in Stockholm both sides chose to work on a mutually-beneficial project that will ameliorate the environmental situation of the Evros/Meric River situated at the geographical border between the two countries. The activities of the bilateral exchanges, discussed by Ms. Papademetriou at PGA's Workshop on Clean Air and Clean Water held in Johannesburg as a side event to the UN World Summit on Sustainable Development (WSSD) included a

visit of the delegation from the Turkish Institute for Environment to the biotope center in Greece in search of information on the EC standards for protection of the river that Greece has been protecting with the aid from the European Union.

Ms. Papademetriou also expressed her wish that PGA should carry forward the commitments undertaken in Johannesburg by organizing its next meeting to discuss the implementation of the WSSD resolutions and PGA's role in moving forward the process, including placement of the environmental crimes under the jurisdiction of the ICC.

Mr. Rashid Hamad Mohammed, MP Tanzania, who missed the session due to a medical emergency, provided a copy of his presentation, which was made available to the participants. Mr. David Coltart, MP, Zimbabwe, current Shadow Justice Minister for the opposition party Movement for Democratic Change (MDC), a human rights lawyer, began by saying that his 84% victory in the 2000 elections was a sign of maturity of Zimbabwe, where people overcame racial prejudice and marked new path for the future of not just Zimbabwe but Africa as a whole. These statistics demonstrate that Zimbabwe is not a country that is driven by racial strife, as is too often falsely portrayed.

Using the ICISS Report's criteria for the responsibility to protect, Mr. Coltart explained that in analyzing the current situation in Zimbabwe one must first refer to the Responsibility to Prevent, which addresses the root causes of man-made crisis. Putting the discussion in the context of the Responsibility to Prevent parameters, he examined the fragility of the population of

**Ms. Elsa Papademetriou**, MP (Greece); **Mr. Tony Worthington**, MP (UK); **Rep. Dennis Kucinich** (D-OH, USA)





Zimbabwe, exacerbated by one of the highest frequency of AIDS/HIV cases in the world with 30% of adults being infected, where 7 million Zimbabweans facing famine. The famine is further aggravated by the fact that food is being used as a political weapon by the ruling regime. The situation is worsened by a free-fall economy and 500% inflation, a massive brain drain, and high-level corruption.

He also noted that although on the surface Zimbabwe looks like a democratic country with multi-party parliamentary representation, the reality is that in the last two years there has been an unrelenting attempt to crush the opposition. Mr. Coltart himself and many members of his party and their staff have become victims to abductions, life threats, imprisonment, illegal searches and detainments. Furthermore, with parliament hardly sitting and standing orders frequently suspended to allow votes to come through without proper deliberations, the parliamentary process is being subverted. Taking all these factors into consideration, Mr. Coltart concluded that Zimbabwe certainly meets the description of a population under serious harm.

Although, the regime has portrayed the land issue as the root cause of the current crises, the real root causes include bad governance, mismanagement, corruption and an illegitimate government that won an election through a fraudulent process. He proposed that the only way to tackle these issues is to first restore legitimacy through new elections that would conform at the least to SADC election standards. Mr. Coltart stressed that everything possible must be done to restore legitimacy and revamp electoral laws and practices in his country. \*



Mr. David Coltart, MP, Shadow Justice Minister (Zimbabwe)

*“It is the African nations who need to take the lead in addressing the issue. PGA needs to take urgent measures to ensure that Africans take a lead in addressing the problems in Zimbabwe. Urgent prevention measures are needed to prevent grave consequences, not just for Zimbabwe but for the region as a whole.”*

*Mr. David Coltart  
MP, Zimbabwe*

## SESSION III

## Responsibility to Intervene - Role of Parliamentarians



Mr. Yves Rocheleau, MP (Canada); Mr. Svend Robinson, MP (Canada)

*"The lack of attention from the international community to the threats to democracy in Cote d'Ivoire will make the emerging and fragile African democracies vulnerable to dictatorship and violent overthrows."*

Mr. Yves Rocheleau  
MP, Bloc Quebecois, Canada



Dep. Mollé Mollé, Deputy Speaker, National Assembly of Cote d'Ivoire

Mr. Svend Robinson, MP (Canada) started this session by reminding participants that the ICISS report suggests that military intervention is justified only in two broad sets of circumstances: 1) in case of large-scale loss of life, actual or apprehended, with or without genocidal intent, resultant from state action, neglect, its inability to act or due to failed state situation; 2) in case of large scale ethnic cleansing, carried out by killings, forced expulsions, acts of terrorism, or rape. On the basis of his experience leading the 1999 Canadian delegation to East Timor, Mr. Robinson suggested that the discussion needs to focus on possible actions to be undertaken, especially by parliamentarians, in order to prevent the next Rwanda or East Timor from happening.

Mr. Yves Rocheleau, Bloc Quebecois representative in the House of Commons of Canada and an active participant of PGA observer missions to Cote d'Ivoire, then spoke of the dangers to democracy and backtracking in constitutional development that he has observed in Cote d'Ivoire since 18 September 2002. The initial PGA mission to the country visited Cote d'Ivoire in an attempt to find ways to assist in the democratic transition of post-1999 coup d'état nation. Through several missions, PGA was able to assess the different strands of conflicts that fragment the country and its elected leadership. President Laurent Gbagbo had requested that PGA organise a forum on National Reconciliation in which parliamentarians, municipal leaders and other politicians, religious and civil society leaders, representatives of the diplomatic corps, and parliamentarians from neighbouring countries shared their concerns. The President also met with the leaders of the other three main political parties to consolidate the consensus for national unity that resulted in the Conference on National Reconciliation, which eventually led to the August 2002 formation of a Government of National Unity comprising six political parties.

However, the attempted June and July 2002 coup d'état and more importantly the current civil war and the capture of the Northern cities

by rebels not only have destroyed the progress of the past two years, but also threatened the territorial integrity and life of the citizens of Cote d'Ivoire. Mr. Rocheleau emphasized, that in the current situation, the support of the international community towards the legitimately elected government is crucial.

He also expressed his support for the European Union Resolution of October 10, 2002 condemning the uprising, and reiterating EU's support of democratically elected president and the Government of National Unity, while affirming its legitimacy and the unity of the country. Furthermore, Mr. Rocheleau supported EU's Resolution 7, which invited the European Union to intensify cooperation with Cote d'Ivoire and to continue pursuing its development policies, particularly in the North of the country. In the end, he urged the participants to work in the spirit of the recommendations of the EU resolutions to prevent grave humanitarian consequences not only for the country, but for the whole of Africa.

Hon. Mollé Mollé, Deputy Speaker of the National Assembly of Côte d'Ivoire followed Mr. Rocheleau in assessing the crisis in his country. Mr. Mollé Mollé emphasized that Cote d'Ivoire is currently under terrorist attack that requires an adequate state reaction to protect its citizens and seek necessary resources to defend itself. He explained that a dependable legal framework in Cote d'Ivoire and other developing democracies is still limited by the power structures reflected in the country's constitution and thus the sovereignty in developing countries has yet to be consolidated.

Although, it has been well known that the people of Cote d'Ivoire are suffering from famine, lawlessness and murder, international reaction to the crisis has been slow. Thus, he added, in this situation the state itself must seek to use all means to prevent war and conflict, which leaves the issue of the international community's intervention open.

Dep. Mamadou Lamine Thiam, MP (Senegal) offered a case study of Senegalese interventions in conflicts in the neighboring countries. As the first African state with multi-party representa-

tion in the parliament and a signatory to the Rome Statute, Senegal twice participated in restoring the Gambian President to his rightful place after his overthrow by rebel groups. Its third military intervention was in 2000 in Guinea Bissau when Senegalese government aided in the re-establishment of the Guinea Bissau government threatened by the military rebellion. In addition to these, the Senegalese government sent mediators and parliamentarians into Madagascar, resulting in the cease-fire with the rebels.

All these interventions required immediate decisions that could have been slowed by parliamentary inquiries, explained Dep. Thiam. Therefore, the government's decisions were only later explained to the General Assembly of Senegal.

In Burundi, after the assassination of the first democratically elected president along with the President of The National Assembly, several MPs and provincial governors in October 1993, explained Ms. Ndiwokubwayo, MP (Burundi) the country was swept by genocidal massacres that forced many to exile or inhabit multiple refugee camps. The 1994 rebellion against the military opened up the doors to the civil war that claimed over a hundred thousand lives. The crimes against humanity committed during that war are still being reviewed in the Burundian courts.

In response to non-implementation of the peace agreements by the ruling military regime of Burundi in 1998, continued Dep. Ndiwokubwayo, the international community, imposed strict economic sanctions. However, in the end, the embargo has caused more harm than good to the civilian population, as economic measures should only be used against the ruling groups or organizations in conflict and not target and starve the civilians.

The current transitional government has a major role to play in protecting civilian populations. "We ask all the parliamentarians and representatives of international organizations present here to support the efforts by the Burundian government and parliament to put an end to the crisis in our country, which harms citizens everyday," concluded Dep. Ndiwokubwayo.

"Each framework or success shows lessons to be drawn"-- started Dip. Marco Ameglio Samudio, a longstanding member of PGA from Panama.

The role of parliamentarians in internal or international conflicts has not been recognized due to the lack of integration of parliamentarians into the legal and institutional framework for conflict prevention. In the findings of the Report, Canada has requested that such institutional framework defining the possible scope for necessary peace operations be made available. Such analysis, however, needs to be drawn from the interventions in Rwanda and Kosovo context. Needless to say, continued the speaker, serious obstacles such as states sovereignty provide legitimate protection for the government. However, the concept of sovereignty needs to be reassessed within the framework of a globalising and more integrated world with common market and trade agreements.

The principle of sovereignty, concluded Mr. Samudio, can be the single excuse to defend those countries in conflict. "Thus, we need to be vigilant in seeking a more humane world that will bring all realities and values together."

Senator Martineau Guerrier (Haiti) took the floor to offer his comments on the situation in Haiti. First, he noted that he and his colleagues have supported the Rome Statute since 26 Jan 1999. He expressed his wish to have a fair and just International Criminal Court for the sake of the general wellbeing of his country and the entire world. He also described the 2000 electoral controversy resulting in a dismissal of 7 out of 27 municipal senators and the two-year extension for the terms of those reelected, leading to an attempt of coup d'état in Haiti. However, despite this violent history, there is a more positive attitude among the population on the upcoming legislative elections of 2003. Now, Haiti needs to strengthen its democratic institutions, which are still vulnerable, to prevent further economic deterioration and political instability in the country. Senator Guerrier ended his intervention by asking for PGA's support in strengthening democracy and the rule of law in Haiti. \*



*"We must face the challenges of reality. When grave violations exist with respect to the very rights that we speak of and defend, the international community cannot act differently, and must intervene."*

*Dip. Marco Ameglio Samudio  
MP, Panama*



Dep. Norbert Ndiwokubwayo, MP (Burundi); Dep. Lamine Thiam, MP (Senegal)

*"West Africa is one single territory and as we often say: when the neighbor's house is burning, you must offer assistance as you don't know where the fire will go next."*

*Dep. Lamine Thiam  
MP, Senegal*



Ms. Sally Armstrong, Journalist and UNICEF Representative to Afghanistan

Dr. Simon Chesterman, Senior Associate, International Peace Academy

Mr. Ibrahim Sorie, MP, Sierra Leone

Mr. K.B. Krishnamurthy, MP, India

## SESSION IV

## Responsibility to Rebuild - Role of Parliamentarians



Ms. Sally Armstrong, UNICEF Rep to Afghanistan;  
Hon. Mr. Justice Edmond Cowan, Speaker of  
Parliament (Sierra Leone)

*“Afghanistan is like a giant global chess game taking place under the nose of the international community and the citizens of Afghanistan. What is happening on this chess game will profoundly affect the region and probably the whole world.”*

*Ms. Sally Armstrong  
Journalist and UNICEF  
Representative to Afghanistan*

War and conflict cause destruction of infrastructures and societies, suffering and breakdown of economies. This session examined the role parliamentarians can play in post-conflict rebuilding. Hon. Justice Cowan, the Speaker of The Sierra Leonean Parliament opened the session by quoting Kofi Annan’s words “by post-conflict peace building I mean actions to take peace,” and expressed his hope that other nations can experience the peace enjoyed by the people of Sierra Leone. Hon. Cowan introduced the first speaker, Ms. Sally Armstrong, a journalist and a writer who has worked and written extensively on women’s issues.

Citing the theory that if a butterfly flutters towards one side, it will be felt on the other side of the planet, Ms. Armstrong reiterated that what happens in Afghanistan will in some way affect the whole world. The international community made a defacto promise to Afghanistan, saying ‘let us invade your country and we will make it better’. However, given that the Afghani infrastructure is still completely destroyed, rebuilding of the roads will take up to five years and government authority hardly extends beyond the city of Kabul, the question of security precludes many donors from giving promised in Japan grants for country’s rebuilding. Only one third of the promised at Japan summit money has arrived to the aid of country’s reconstruction. In addition to economic destabilization, Afghanistan is still run by warlords and drug-traffickers that leads to waves of further security breaches and violent attacks .

The hard won rights of women are being quickly eroded as women are not allowed to wear bright colors, must cover their hair and cannot speak to foreigners. Those women working for international NGOs must register and girls school are still subject to violent attacks. As a result of unfounded accusations, Dr. Sima Samar, a women’s right activist in Afghanistan, has been dropped from the cabinet without any intervention of the interna-

tional community.

“There is always a honeymoon after a ceasefire. The honeymoon was much longer in Afghanistan, with much joyful expression in the streets, but now it is ending.” The people of Afghanistan are loosing hope. We keep looking at the vanquished as the “other”, an abstraction, people that somehow can handle this better than we could. The international community is using old formulas and political correctness to not do anything. The stakes in this chess games are getting higher by the week. In the meantime, Iraq is looming large and if the past can be trusted, once Iraq breaks, the international community will move its attention away from the civilians of Iraq just like it did with Afghanistan, warned Ms. Armstrong in conclusion of her speech.

Dr. Simon Chesterman, Senior Associate of the International Peace Academy further discussed the responsibility to rebuild and various capacities of the international community, especially focusing on the UN’s role in East Timor, Kosovo and Afghanistan. He commenced by saying that as the UN does not exist beyond its member states, the role of parliamentarians, responsible for formulating the will of their member states is very important.

The UN strategy for Afghanistan is based on the notion of minimizing the potential development dependency of the country by fostering local ownership. However, the security deficit remains an important obstacle that UN cannot solve. The instability in the country is largely a consequence of donor refusal to give the committed sums of money and focusing instead of security issues, soldiers’ compensations and strengthening the military and building prisons on petty little projects.

To provide a theoretical basis for his discussion, Dr. Chesterman posited that the power of the United Nations Security Council (SC) to administer territory and peacekeeping operations is not mentioned in the UN Charter. Here, as in other areas, the Security Council’s practice has been led by theory and the UN Charter served as a



flexible and amenable instrument.

Following the UN's failing operation in Somalia, Bosnia-Herzegovina, and the inaction in the face of genocide in Rwanda, Secretary General Boutros Boutros Ghali issued a conservative supplement to his more optimistic 1992 Agenda for Peace that noted that a definitive feature of these conflicts was the collapse of the state institutions, particularly the police and judiciary. International intervention had to extend beyond military and humanitarian tasks to include the promotion of national reconciliation and re-establishing effective government. Mr. Boutros Ghali cautioned against the UN attempting to establish law and order or imposing state institutions on unwilling combatants. Despite these cautions, by 1990 the UN established an interim administration to govern what was left of Yugoslavia, East Timor, Croatia and Kosovo.

This expansion of the mandates evident in these interim administrations was part of the larger growth in the increased activism by the Security Council throughout 1999, demonstrating a willingness to interpret internal armed conflicts, humanitarian crisis and even disruptions to democracy as threats to international peace and security, justifying the use of military responses.

However, Dr. Chesterman added that since the Security Council is limited by the absence of an independent military capacity, the UN remains beholden to its member states to lead in cases of crisis, which in turn requires member states to determine if their national interests are at stake before they choose to act. In this framework the UN retains only a formal authority and is fully dependent on the willingness of member states to intervene militarily and then demand a UN civilian reconstruction effort, as exemplified by the case of Afghanistan.

Accepted wisdom within the UN suggests that peace operations should be planned in three stages, concluded Dr. Chesterman: 1. A political basis for peace should be determined; 2. A

suitable mandate should be formulated; 3. The resources necessary to complete the mandate should be given to the UN. However, the accepted reality is that this usually happens in reverse order as member states determine what resources they are prepared to commit. "This reality means that the Security Council, the UN and member states themselves learn by doing, if they learn at all, and a political resistance may prevent the development of a policy or institutional framework for future transitional administration," concluded Dr. Chesterman.

A Member of Parliament of Sierra Leone, Mr. Ibrahim Sorie then offered his assessment of the situation in Sierra Leone, a state that has successfully gone through all three stages defined in the Report: protection, intervention and rebuilding. Emerging from a ten-year rebel war brought about following Sierra Leone's role played in ECOWAS's intervention in neighboring Liberia, the country has tasted the bitterness of abductions, genocide, massive human right violation, use of child soldiers and the rape of women. Despite obvious warnings, the government of Sierra Leone had failed to prevent the spillover of the conflict and in 1994 a rebel group sponsored by Liberia, the Revolutionary United Front (RUF) declared war on Sierra Leone, crush the small Sierra Leonean army, causing the state collapse and anarchy in the country.

Under the auspices of Great Britain, the UN prompted the government to negotiate with the rebels and The Lomé Peace Accord was signed. The United Nations Mission in Sierra Leone was deployed to implement the peace agreement and peace has been restored. The first elections held in May 14, 2002 resulted in a landslide victory of President Kabbah and the establishment of compatible and responsible opposition parties in the newly created Parliament. With the help of the UN and the United States, as a part of the peacebuilding process the government has created the Truth and Reconciliation Commission (TRC) and



Mr. K.B. Krishnamurthy, MP (India); Mr. Ibrahim Sorie, MP (Sierra Leone)

*"When lobbying your individual governments on Afghanistan, it is very important for the international community to deploy the International Security Assistance Force (ISAF) outside Kabul and for donor countries to release the money pledged in Japan Conference on Afghanistan."*

*Dr. Simon Chesterman  
Senior Associate, IPA*



Hon. Justice E. Cowan, Speaker of the Parliament (Sierra Leone); Dr. Simon Chesterman, Senior Associate, IPA



**Dep. Saran Deme-Seremé, MP (Burkina Faso);  
Dep. Boubou Koita, MP (Mali)**

the Special Court for Sierra Leone, a partnership between the international and national courts. With the help of The British Department of Foreign and International Development (DFID) a national judiciary system connected to legal libraries and courts in the UK is also being rebuilt.

When bringing the session to an end, Mr. K.B. Krishnamurthy, MP (India) came back to the topic of the International Criminal Court and urged the parliamentarians of various countries to strive to create a Global Jurisdiction to try certain crimes where dispensation of justice is not possible due to constraints of jurisdiction. He noted that the PGA India National Group is making an earnest effort to convey the significance of International Criminal Court to the Government of India. He also noted that the Human Rights Commission, headed by retired judges of the Supreme Court, has done commendable work in India by voicing their concerns whenever human rights were violated.

In turn, the Government of India has taken giant strides in enforcing legal instruments of peace in the sub-continent. He concluded his address by reiterating that it shall be the endeavor of the MP's from India to prevail upon the government to sign the ICC declaration.

In response to the presentations Ms. Catherine Dumait-Harper, Médecins Sans Frontier's (MSF) representative at the UN provided further information on the humanitarian situation in Afghanistan based on MSF's twenty-year presence in the country.

She confirmed Ms. Armstrong's assessment of the disastrous situation of a state experiencing growing resentment towards the international community which distributes the scarce funds to international organizations instead of the Afghani people. There is a trend at the UN headquarters and within the US administration to say that there is normalization in Afghanistan when the situation has not improved. In response to a participant's question on what should be done in Afghanistan, Ms. Armstrong responded that the international community knows what to do, but does not act as it is dependant on non-working formulas. She urged Ambassador Brahimi to accelerate the reconstruction process.

Professor Irwin Cotler thanked Ms. Armstrong for giving a wake up call. He cautioned that a very high price was paid for not getting involved in Afghanistan earlier and there is a danger that the same will happen again. \*

**Ms. Margarita Stolbizer, MP (Argentina); Ms. Loretta Ann Rosales, MP (The Philippines); Mr. Miloslav Zvonar, MP (The Netherlands); Mr. Coskun Cörüz, MP (The Netherlands); Mr. Atanas Paparizov, MP (Bulgaria)**



## CLOSING SESSION

**A**n important discussion took place in these three days on the two most important instruments to protect populations from mass atrocities and to promote human security: namely the ICC and State's Responsibility to Protect," summarized the meeting Professor Cotler. In response to the meeting, Mr. Jean Chrétien, Prime Minister of Canada, had recalled that he too was a PGA member and that he was proud to acknowledge the important role that Canada played in the establishment of the ICC. Prof. Coltart also mentioned that Prime Minister's response to PGA's Annual Forum was not a response made on behalf of the governing party as all the parties in the Canadian Parliament are jointly engaged in promoting this common cause.

“On behalf of all Canadian parliamentarians participating in the Forum and on behalf of PGA Canadian National Group, composed of member parliamentarians from all parties of the House of Commons and the Senate united by PGA's cause, work and goals, specifically that of the integrity and functionality of the ICC and the importance of State Responsibility to Protect. Canadians leave as beneficiaries of your interventions.” He concluded by saying “We pay an enormous price for not being involved, not only in Afghanistan and but anywhere in the world, and for future attitude of non-involvement, I say, ‘qui s’excuse s’accuse’.”

Sen. Anthony Johnson, MP (Jamaica) and Mr. Ross Robertson, MP and Deputy Speaker (New Zealand), led the participants in giving recognition for their untiring service and dedication to two departing PGA board members, Mr. Karl-Göran Biörnsmark, former MP (Sweden), former President and retiring Treasurer of PGA, and Dr. Maj Britt Theorin, MEP (Sweden) and retiring Chair of PGA International Council.

After recollecting their experiences, Mr. Ross Robertson, added that great leaders like Mr. Karl-Göran Biörnsmark and Dr. Maj Britt Theorin represent what we stand for: democracy, rule of law, and justice because they are people of peace.

In the closing remarks, Hon. Kenneth Dzirasah, Deputy Speaker (Ghana) and President of PGA, thanked all the participants for attending this Annual Forum. The Special Session ended with a reception hosted by the Canadian Foreign Minister, Honorable Bill Graham.\*



**Mr. Jacob Oulanyah**, MP (Uganda); **Mr. Adolf Mwesige**, MP (Uganda)



**Mr. Ross Robertson**, MP (New Zealand), Member of PGA Executive Board

# A Parliamentary Assembly for the International Criminal Court (ICC) and the Promotion of the Rule of Law

WITH SUPPORT FROM:  
The European Commission, European Union  
The Department of Foreign Affairs and International Trade (DFAIT), Canada  
Sida- Swedish International Development Agency  
CIDA - Canadian International Development Agency  
The Ministry of Foreign Affairs - The Netherlands  
The Government of Switzerland

VENUE: DEPARTMENT OF FOREIGN AFFAIRS  
AND INTERNATIONAL TRADE  
**OTTAWA CANADA**  
**NOVEMBER 4-6 2002**

## DAY 1

**REGISTRATION**

8.30 - 9.00

## OPENING CEREMONY

9.00 - 10.15

Welcoming Remarks

**Hon. Kenneth Dzirasah**, MP (Ghana), PGA President  
**Hon. Mr. Peter Milliken**, Speaker of House of Commons (Canada)  
**Hon. Mr. Dan Hays**, Speaker of the Senate (Canada)  
**Sen. Raynell Andreychuk** (Canada), Convenor, PGA Int. Law & Human Rights Programme  
**Dr. Irwin Cotler**, OC, MP (Canada), President of PGA's Canadian National group

Opening Address

**Hon. Mr. Bill Graham**, Minister of Foreign Affairs (Canada): "The State's Responsibility to Protect as the new governing principle of international affairs"

**COFFEE BREAK**

10.15 - 10.30

## SESSION I

10.30 - 11.15

CHAIR:

**Ms. Birgitta Alqvist**  
MP, Sweden

PRESENTATION:

**Mr. Lloyd Axworthy**  
Director and CEO, the LIU Center,  
University of British Columbia

INTERVENTIONS:

**Senator Khariat Abdul-Razaq**  
Nigeria

**Mr. Chico Francisco**  
MP, Mozambique

THE RESPONSIBILITY OF STATES TO PROTECT: DISCUSSION OF THE  
REPORT OF THE INTERNATIONAL COMMISSION ON INTERVENTION  
AND STATE SOVEREIGNTY



CHAIR:

**Mr. Jean-Jacques Viseur**  
MP, Belgium

INTERVENTIONS:

**H.E. Ambassador Philippe Kirsch**  
Canadian Ambassador to Sweden

**Mr. Edmond Wellenstein**  
Director General & Head of the ICC Task  
Force, Dutch Ministry for Foreign Affairs

**H.E. Ambassador Svend Roed Nielsen**  
Ambassador of Denmark to Canada on  
behalf of the EU

**Mr. William Pace**  
Convenor of the NGO Coalition for the  
ICC (CICC)

## SESSION II

11.15 - 12.15

### ENTRY INTO FORCE OF THE ROME STATUTE OF THE ICC AND FIRST ASSEMBLY OF STATES PARTIES - ACHIEVEMENTS AND PROSPECTS FOR THE FUTURE

The objective of this session is to bring everyone up-to-date on the developments pertaining to the International Criminal Court and more specifically, the outcome of the first Assembly of States Parties (ASP). Parliamentarians will discuss the issues of concern to them relevant to the debates emerging from the first ASP.

## LUNCH

12.30 - 14.00

CHAIR:

**Mr. Gerrit van Oven**  
MP, The Netherlands

INTERVENTIONS:

**Honorable E.J. Ieung Shing**  
MP, Attorney General & Minister of Justice  
& Human Rights, Mauritius

**Dip. Felipe Michellini**  
MP, Uruguay

**Professor Mr. Cherif Bassiouni**  
De Paul University School of Law; President,  
International Association of Penal Law  
(AIDP, Paris) and Instituto Superiore  
Internazionale di Scienze Criminali (ISISC)  
Via video-link from Chicago at 3:00 PM

DISCUSSION

## SESSION III

14.00 - 16.00

### A PARLIAMENTARY ASSEMBLY FOR THE ICC: ROLE AND FEASIBILITY

**A) The Role of Parliamentarians in supporting the effective functioning of the ICC:**

- (i) the election of judges and the Prosecutor,**
- (ii) financing the Court,**
- (iii) the establishment of a Trust Fund for Victims, and**
- (iv) the adoption of implementing legislation**

**B) The Feasibility of such a Parliamentary Assembly; budgetary implications for national parliaments of financing such an Assembly**

**C) Formation of a Parliamentary Assembly on the ICC**

## COFFEE BREAK

16.00 - 16.15

CHAIR:

**Senator Alfredo Prada Presa**  
Vice-President of the Senate, Spain

INTERVENTIONS:

**Senator Yoshitake Kimata**  
President, Foreign Relations Committee,  
Japan

**Mr. Mikhail Grishankov**  
MP, President, Foreign Affairs Committee,  
Russia

**Hon. Amos Wako**  
MP, Attorney General & Minister of Justice,  
Kenya

**Mr. Fatmir Mediu**  
MP, Albania

**Mr. Martin Sindabizera**  
MP, Burundi

**Ms. Loretta Ann Rosales**  
MP, Chair of the Human Rights Committee,  
Philippines

## SESSION IV

16.15 - 17.45

### STATUS OF WORLDWIDE RATIFICATION: IDENTIFYING AND ADDRESSING OBSTACLES TO RATIFICATION AND ACCESSION

**Chateau Laurier, Ottawa**  
for confirmed participants

20.00  
**7<sup>TH</sup> ANNUAL DEFENDER OF DEMOCRACY AWARDS DINNER**

**DAY 2**

CHAIR:  
**Dr. Maj-Britt Theorin**  
MEP

INTERVENTIONS:  
**Professor Errol Mendes**  
Professor of International Law,  
University of Ottawa  
**Mr. Richard Dicker**  
Human Rights Watch  
**Prof. Edward Luck**  
Columbia University

DISCUSSION

**SESSION V**

9.00 - 10.30

UNIVERSAL REPRESENTATION IN THE ICC SYSTEM: LEGAL AND  
POLITICAL IMPLICATIONS OF SECURITY COUNCIL RESOLUTION 1422  
AND NON-SURRENDER BILATERAL AGREEMENTS AT US INITIATIVE

**COFFEE BREAK**

10.30 - 11.00

CHAIR:  
**Senator Longin Pastusiak**  
President of the Senate, Poland

INTERVENTIONS:  
**Mr. Jonathan O'Donohue**  
Amnesty International, International  
Secretariat, London  
**Ms. Fiona McKay**  
Lawyers Committee for Human Rights  
**Senator Alain Destexhe**  
Belgium

DISCUSSION

**SESSION VI**

11.00 - 13.00

OBLIGATIONS OF STATES PARTIES TO COOPERATE WITH THE ICC AND  
THE DUTY TO PROSECUTE INTERNATIONAL CRIMES AND TO  
ELIMINATE SAFE-HAVENS FOR ALLEGED PERPETRATORS: UNIVERSAL  
JURISDICTION AND OTHER JURISDICTIONAL BASES TO FIGHT  
AGAINST IMPUNITY

**LUNCH**

13.00 - 15.00

CHAIR:  
**Mr. Adolf Mwesige**  
MP, Chair of the Committee on Legal and  
Parliamentary Affairs, Uganda

INTERVENTIONS:  
**Dip. Antonio Pannunzio**  
MP, Brazil  
**Dip. Margarita Stolbizer**  
MP, President, Legislation Committee,  
Argentina  
**Mr. M. Masutha**  
MP, South Africa

DISCUSSION

**SESSION VII**

15.00 - 16.00

THE ICC AS A COMPLEMENT TO NATIONAL SYSTEMS: THE NEED TO  
CODIFY INTERNATIONAL CRIMES AT THE NATIONAL LEVEL

**COFFEE BREAK**

16.00 - 16.15

<p>CHAIR: <b>Senator Anthony Johnson</b> Jamaica</p> <p>INTERVENTIONS: <b>Mr. Bruce Broomhall</b> Open Society Institute, Budapest <b>Professor Rhonda Copelon</b> City University of New York Law School; Women Caucus for Gender Justice <b>Ms. Loretta Ann Rosales</b> MP, Chair of the Human Rights Committee, Philippines</p> <p>DISCUSSION</p>	<b>SESSION VIII</b>	16.15 - 17.00
	THE IMPACT OF THE ICC ON THE DEVELOPMENT OF INTERNATIONAL CRIMINAL JUSTICE AND INTERNATIONAL HUMAN RIGHTS LAW; HOW CAN THE ICC OFFER PROTECTIONS TO VICTIMS (WOMEN, CHILDREN, MINORITIES, ETC)	

<p>CHAIR: <b>Senator Raynell Andreychuk</b> Canada</p> <p>OPEN DISCUSSION</p>	<b>SESSION IX</b>	17.00 - 17.45
	WHERE DO WE GO FROM HERE? THE CONTRIBUTION OF PARLIAMENTARIANS FOR GLOBAL ACTION TO INTERNATIONAL CRIMINAL JUSTICE, THE PROMOTION OF HUMAN RIGHTS AND THE RULE OF LAW	

	<b>CLOSING SESSION</b>	18.00 - 18.30
	DISCUSSION AND ADOPTION OF THE FINAL DOCUMENT OF THE FORUM	

FOR INVITED GUESTS	<b>SPEAKER'S RECEPTION</b>	18.30
	Speaker's Salon, Room 216-N, Center Block, Parliament Hill	

DAY 3

SPECIAL SESSION ON THE RESPONSIBILITY TO PROTECT:  
THE ROLE OF PARLIAMENTARIANS

	<b>OPENING SESSION</b>	9.00 - 10.00
	Welcome address by <b>Hon. Kenneth Dzirasah</b> , Deputy Speaker, Ghana, President, PGA Remarks by <b>H.E. Mr. Paul Heinbecker</b> , Ambassador of Canada to the United Nations <b>Rep. Dennis Kucinich</b> , (D-Ohio) USA	

<p>INTERVENTIONS: <b>Ms. Marie Gervais-Vidricaire</b> Director General, Global Issues Bureau DFAIT <b>Mr. Ed Mortimer</b> Director of Communications &amp; Chief Speechwriter, United Nations Executive Office of Secretary General</p> <p>DISCUSSION</p>	<b>SESSION I</b>	10.00 - 11.00
	INTRODUCTION	
	Presentation by DFAIT on work to date Role of PGA parliamentarians in the process: legislative and legal mechanisms for regional and international intervention	

<b>COFFEE BREAK</b>		11.00 - 11.00
---------------------	--	---------------

## STATE RESPONSIBILITY TO PROTECT: PREVENT, INTERVENE AND REBUILD

CHAIR:

**Mr. Tony Worthington**  
MP, United Kingdom

INTERVENTIONS:

**Ms. Elissavet Papademetrious**  
MP, Greece

**Mr. David Coltart**  
MP, Zimbabwe

**Mr. Hamad Rashid Mohamed**  
MP, Tanzania

DISCUSSION

## SESSION II

11.30 - 13.00

### RESPONSIBILITY TO PREVENT - ROLE OF PARLIAMENTARIANS

Good governance, the rule of law and respect for human rights  
PGA rapid deployment missions  
Inter-parliamentary dialogues through parliamentary bodies  
International/Regional collaborative partners  
Case studies: Azerbaijan/Armenia, Greece/Turkey, Zimbabwe, Tanzania

## PGA BOARD AND COUNCIL WORKING LUNCH

13.00 - 15.00

CHAIR:

**Mr. Svend J. Robinson**  
MP, Canada

INTERVENTIONS:

**Mr. Yves Rocheleau**  
MP, Canada

**Hon. Mollé Mollé**  
Speaker of the National Assembly, Côte d'Ivoire

**Dep. Lamine Thiam**  
Senegal

**Dep. Norbert Ndihekubwayo**  
Burundi

**Dip. Marco Ameglio Samudio**  
Panama

DISCUSSION

## SESSION III

15.00 - 16.00

### RESPONSIBILITY TO INTERVENE - ROLE OF PARLIAMENTARIANS

Authorization of military intervention: role of the legislature  
Policy development: criteria for protecting threatened populations from mass killings, genocide, ethnic-cleansing and war-related deaths - ethical and legal concepts of justice  
Collaborative partners: United Nations and beyond - parliamentary input into reforming peace operations within the United Nations  
Case Studies: Burundi, Côte d'Ivoire, Haiti

CHAIR:

**Hon. Mr. Justice E. Cowan**  
Speaker of Parliament, Sierra Leone

INTERVENTIONS:

**Ms. Sally Armstrong**  
Journalist and UNICEF Representative to Afghanistan

**Dr. Simon Chesterman**  
Senior Associate, International Peace Academy

**Mr. Ibrahim Sorie**  
MP, Sierra Leone

**Mr. K.B. Krishnamurthy**  
MP, India

DISCUSSION

## SESSION IV

16.30 - 18.00

### RESPONSIBILITY TO REBUILD - ROLE OF PARLIAMENTARIANS

Rights and responsibilities of legislators in national reconciliation  
The International Criminal Court and legal instruments in consolidating peace and human rights  
Legislative initiatives by parliaments to promote order and stability  
International collaborative partners: United Nations, National and International Civil Society Organizations  
Case study: East Timor, Afghanistan, Kosovo, Sierra Leone, South Asia

## CLOSING SESSION

18.00 - 18.30

### CLOSING REMARKS

**Hon. Kenneth Dzirasah**, Deputy Speaker, Ghana; President, PGA

## RECEPTION

18.30

Hosted by Canadian Foreign Minister **Hon. Bill Graham**  
9th Floor Dining Room, DFAIT building



# PARTICIPANTS & OBSERVERS

## MEMBERS OF PARLIAMENT

---

### *Albania*

**Mr. Fatmir Mediu**, Member of the Foreign Relations and Constitution & Law Committees. Chair of the European Integration and Stability Pact Committee

### *Algeria*

**Mr. Messaoud Chihoub**, President of the legal affairs and civil liberties Committee  
**Mr. Mohammed Seddiki**

### *Argentina*

**Sen. Marcelo Lopez Arias**, First Vice-President of the Senate. PGA Executive Committee member  
**Ms. Margarita Stolbizer**, President of the Penal Legislation Committee. PGA Int. Council member

### *Belgium*

**Sen. Alain Destexhe**, Author of the Bill on Universal Jurisdiction for Int. Crimes. PGA Int. Council member  
**Ms. Jacqueline Herzet-Govaers**, Vice-President of the Justice Committee  
**Mr. Jean-Jacques Viseur**, Former Minister of Justice

### *Brazil*

**Mr. Antonio Carlos Pannunzio**, Member of the International Relations Committee. PGA Int. Council member

### *Bulgaria*

**Mr. Atanas Paparizov**, PGA Int. Council member

### *Burkina Faso*

**Dep. Saran Deme-Seremé**

### *Burundi*

**Mr. Norbert Ndiwokubwayo**, General Secretary of the Social Affairs Committee  
**Mr. Martin Sindabizera**  
**Senator Jean-Baptiste Manwangari**

### *Cambodia*

**Mr. Monh Saphan**, Chair of the Legislation Commission  
**Princess Norodom Vacheahra**, Chair of the Committee on Foreign Affairs and International Cooperation  
**Mr. Ek Sam Ol**, Vice Chairman of the Commission on Legislation  
**Mr. Ok Socheat**, Secretary General of the Committee on Foreign Affairs and International Cooperation

### *Cameroon*

**Mr. Benjamin Sonke**

### *Canada*

**Senator A. Raynell Andreychuk**, Convenor of the International Law & Human Rights Programme, PGA Executive Committee  
**Ms. Eleni Bakopanos**  
**Senator Gérald Beaudoin**  
**Mr. Stéphane Bergeron**  
**Charles Caccia**  
**Mr. Irwin Cotler**, President of Canadian PGA National Group, PGA International Council  
**Ms. Hedy Fry**  
**Mr. Michel Guimond**  
**Mr. Dan Hays**, Speaker of the Senate  
**Senator Céline Hervieux-Payette**  
**Ms. Francine Lalonde**  
**Mr. Serge Marcil**  
**Mr. Keith Martin**  
**Mr. John McKay**  
**Mr. Peter Milliken**, Speaker of House of Commons  
**Mr. Bernard Patry**  
**Mr. Yves Rocheleau**  
**Ms. Judy Wasylcia-Leis**

### *Côte d'Ivoire*

**Mr. Mollé Mollé**, Vice-President of the Parliament  
**Ms. Koffi Amenan Dikebie**, (opposition)  
**Ms. Kanaté Fofana Namissata**, (opposition)

### *European Parliament - EU*

**Dr. Maj-Britt Theorin** (Sweden), Member of the European Parliament. PGA Int. Council member

### *Ghana*

**Hon. Kenneth Dzirasah**, Deputy Speaker of the Parliament. President of Parliamentarians for Global Action  
**Hon. Theresa Ameley Tagoe**, Deputy Minister for Housing and Works. PGA Executive Committee member

### *Greece*

**Ms. Elissavet Papademetriou**, PGA International Council member

### *Haiti*

**Mr. Berry Joseph**  
**Mr. Martineau Guerrier**, Senator

### *India*

Mr. K.B. Krishnamurthy  
Mr. Mahendra Prasad

### *Jamaica*

Senator Anthony Johnson, Deputy-Convenor, International Law programme, PGA Executive Committee

### *Japan*

Sen. Wakako Hironaka, President of the Committee on Fundamental National Policies. PGA Executive Committee member  
Sen. Yoshitake Kimata, President of the Security and Diplomacy Committee. PGA Int. Council member

### *Kenya*

Hon. Amos Wako, Attorney General and Minister of Justice

### *Kyrgyzstan*

Mr. Akylbek Japarov, Member of the Committee on Law

### *Lithuania*

Mr. Aloyzas Sakalas, Chairman of the Committee on Legal Affairs

### *Luxembourg*

Mr. Jacques-Yves Henckes, MP, Member of the Legal Affairs Committee

### *Mali*

Dep. Boubou Koita, Vice-president of the Foreign Affairs Committee

### *Mauritius*

Honorable E.J. Jeung Shing, Attorney General and Minister of Justice & Human Rights

### *Mexico*

Mr. Jorge Alberto Lara Rivera, President of the Federal District Committee (PAN)  
Mr. Fernando Pérez Noriega  
Ms. Flor Anorve Ocampo  
Mr. Juan Carlos Regin Adame  
Mr. Tomas Torres Mercado, Member of the Justice and Human Rights Committee  
Mr. Juan Manuel Carreras Lopez

### *Mozambique*

Dr. Chico Francisco

### *Namibia*

Mr. Ignatius Shixwameni, Leader of the Opposition

### *Netherlands*

Mr. Gerrit van Oven  
Mr. Coskun Cörüz  
Mr. Miloslav Zvonar

### *New Zealand*

Mr. Ross Robertson, Assistant speaker. PGA Executive Committee member  
Mr. Graham Kelly, Member of the Foreign Affairs and Defense Committees

### *Nigeria*

Senator Khariat Abdul-Razaq, PGA International Council member

### *Panama*

Mr. Marco Ameglio Samudio, Member of the Foreign Relations Committee; PGA Int. Council member

### *Philippines*

Sen. Loren-Legarda Leviste, PGA Int. Council member  
Ms. Loretta Ann Rosales, President of the Human Rights Committee

### *Poland*

Hon. Sen. Longin Pastusiak, President of the Senate. PGA Executive Committee member  
Mr. Marek Jurek, Member of the Foreign Affairs Committee

### *Romania*

Mr. Adrian Severin, President of the OSCE Parliamentary Assembly

### *Russian Federation*

Mr. Mikhail Grishankov, Chair of the Constitutional Affairs and Security Committee  
Ms. Svetlana Smirnova, Deputy Chair of the Committee of the Federation and Regional Policy

### *Sénégal*

Mr. Mamadou Lamine Thiam

### *Sierra Leone*

Hon. Justice Edmond K. Cowan, Speaker of Parliament  
Mr. Ibrahim Sorie, Chair of Committee on Energy and Power  
Ms. Agnes Kobba

### *Slovenia*

Mr. Roman Jakic

### *Spain*

Hon. Sen. Alfredo Prada Presa, First Vice-president of the Senate

### *South Africa*

Mr. M. Masutha, Member of the Justice Committee  
Mr. Luwellyn Tyrone Landers, Member of the Justice Committee

### *Sweden*

Ms. Brigitta Ahlqvist, PGA Int. Council member  
Mr. Karl Goran Biersmark, PGA Executive Committee member and former President

### *Switzerland*

Mr. Roland Wiederkehr

### *Tanzania*

Mr. Hamad Rashid Mohamed, (opposition)

### *Uganda*

Mr. Adolf Mwesige, Chair of the Committee on Legal and Parliamentary Affairs

**Mr. Jacob Oulanyah**, Member of the Committee on Legal and Parliamentary Affairs

*United Kingdom*

**Mr. Tony Worthington**, Member of PGA Int. Council

*United States of America*

**Rep. Dennis Kucinich**, (D-Ohio)

*Uruguay*

**Mr. Felipe Michellini**

*Zimbabwe*

**Mr. David Coltart**, Shadow Justice Minister (opposition)

## EXPERTS

---

**Ms. Sally Armstrong**, Journalist and UNICEF Representative to Afghanistan

**Hon. Mr. Lloyd Axworthy**, Director and CEO, the LIU Center, University of British Columbia

**Professor Mr. Cherif Bassiouni**, De Paul University School of Law; President, International Association of Penal Law (AIDP, Paris) and Instituto Superiore Internazionale di Scienze Criminali (ISISC) Via video-link from Chicago

**Mr. Bruce Broomhall**, Open Society Institute, Budapest

**Dr. Simon Chesterman**, Senior Associate, International Peace Academy

**Professor Rhonda Copelon**, CUNY Law School; Women Caucus for Gender Justice

**Mr. Richard Dicker**, Human Rights Watch

**Ms. Marie Gervais-Vidricaire**, Director General, Global Issues Bureau, DFAIT

**Hon. Mr. Bill Graham**, Minister of Foreign Affairs (Canada)

**H.E. Mr. Paul Heinbecker**, Ambassador of Canada to the United Nations

**H.E. Ambassador Philippe Kirsch**, Canadian Ambassador to Sweden

**Prof. Edward Luck**, Columbia University

**Ms. Fiona McKay**, Lawyers Committee for Human Rights

**Professor Errol Mendes**, Professor of International Law, University of Ottawa

**Mr. Ed Mortimer**, Director of Communications & Chief Speechwriter, United Nations Executive Office of Secretary General

**H.E. Ambassador Svend Roed Nielsen**, Ambassador of Denmark to Canada on behalf of the EU

**Mr. Jonathan O'Donohue**, Amnesty International, International Secretariat, London

**Mr. William Pace**, Convenor of the NGO Coalition for the ICC (CICC)

**Mr. Edmond Wellenstein**, Director General & Head of the ICC Task Force, Dutch Ministry for Foreign Affairs

## OBSERVERS, NGOS REPRESENTATIVES, CANADIAN GOVERNMENT OFFICIALS, EU GOVERNMENT REPRESENTATIVES

---

**Mr. Warren Allmand**, World Federalist of Canada

**Mr. Antonio Jose Almeida**, Senior Programme Assistant, Rights and Democracy

**Ms. Tara Ashtakala**, Independent consultant, World Federalist of Canada

**Mr. Mateo Barney**, Inter-parliamentary Forum of the Americas, FIPA

**Ms. Sarah Berger**, Student, Tuft University Institute for Global Leadership EPIIC

**Hon. Mr. Jean Jacques Blais**, Chairman of the Pearson Peacekeeping Center, Canada

**Mr. Jacob Brandt**, Political Section, Royal Danish Embassy

**Mr. Szilveszter Bus**, Charge d'affaires, Hungarian Embassy

**Mr. Modest Cmoc**, Director, UCC, Ottawa Office

**Ms. Jelena Cukic**, First Secretary, Yugoslavia Embassy

**Mme Guyanne Desforges**, Secrétaire administrative de la section canadienne de l'Assemblée parlementaire de la Francophonie

**Mr. Timur Eivason**, Representative of the Russian Embassy

**Mr. Francisco Ferro**, Minister counselor, Argentine Embassy

**Ms. Michele Franke**, Assistant secretary to the Standing Committee on Justice, Parliament of the Netherlands

**Ms. Geneviève Gasser**, Analyst in governance, peace and security, CIDA, Canada

**Ms. Tanis Gilbert**, Parliamentary assistant to Irwin Cotler, MP, Canada

**Mr. Alberik Goris**, Expert-fonctionnaire du service juridique, Parliament of Belgique

**Ms. Elaine Harvey**, Unitarian University Association and Canadian Unitarian Council

**Mr. Shaukat Hassan**, Senior Policy Analyst, CIDA, Canada

**Mr. Jonathan Hatwell**, First secretary, Delegation of the European Commission to Canada

**Mr. Ahmed A. Kemokai**, Deputy Clerk of Parliament and Secretary to the delegation, Sierra Leone

**Mr. Suresh Keswani**, former MP (I.N.C.), India

**Ms. Sarah Klevan**, Student, Tuft University Institute for Global Leadership EPIIC

**Mr. Jean-Marc Lalonde**, Provincial Member of the Legislative Assembly, Ontario, Canada

**Mr. David Lord**, Coordinator, Canadian Peacebuilding Coordinating Committee

**Mr. Medardo G. Macaraig**, Second Secretary and Consul, Philippine Embassy

**Mr. Akaash Maharaj**, Maharaj organization

**Ms. Janet Marshall**, Director, National Women's Liberal Commission

**Ms. Peggy Mason**, Chair of the Group of 78

**Mr. Cristian Matei**, Counsellor, Romanian Embassy

**Mr. John McManus**, Counsel, Crimes against humanity and war crimes section, Department of Justice

**Mr. Aaron Merkowly-Fhulmsn**, Student, Tuft University Institute for Global Leadership EPIIC

**Mr. Alex Neve**, Secretary General, Amnesty International Canada

**Ms. Valerie Oosterveld**, Legal Officer, United Nations, Human Rights and Humanitarian Law Section, DFAIT, Canada

**Ms. Joyce Patel**, Parliamentary assistant, Canada

**Mr. Mike Perry**, Legal Officer, United Nations, Human Rights and Humanitarian Law Section, DFAIT, Canada

**Mr. Kriwat Phamorabutra**, Second secretary, Royal Thai Embassy  
**Ms. Stephanie Power**, Policy and Outreach Advisor, Responsibility to Protect Unit, DFAIT, Canada

**Justice Paul Reinhardt**, Ontario Court of Justice, Canada

**Mr. Darryl Robinson**, Legal Officer, United Nations, Human Rights and Humanitarian Law Section, DFAIT, Canada

**Mr. Jerril G. Santos**, Minister and Consul General, Philippine Embassy

**Mr. Micea Simion**, Second secretary, Romanian Embassy

**Ms. Sabine Sparwasser**, Canadian Peacebuilding Committee

**Ms. Lindsey Spiegelberg**, Student, Tuft University Institute for Global Leadership EPIIC

**Mr. Lars von Spreckelsen-Syberg**, First secretary, Royal Danish Embassy

**Mr. Peter Stieda**, Parliamentary assistant to Senator Raynell Andreychuk, Canada

**Ms. Jayne Stoyles**, Associate, World Federalist Movement

**Mr. Abderrachid Tabi**, Chef de Cabinet auprès du Président de l'Assemblée Populaire Nationale, Algérie

**Professor Elliot Tepper**, Department of Political Science, Carleton University

**Mr. Dragos Vidrel Tigau**, Charge d'affaires, Romanian Embassy

**Mr. Fergus Watt**, Executive Director, World Federalist of Canada; Convenor, Canadian Network for the ICC

**Mr. Patrick Wittman**, Deputy Director, Humanitarian Affairs, DFAIT, Canada

## PGA STAFF

---

**Ms. Shazia Rafi**, Secretary General

**Mr. David Donat-Cattin**, Senior Programme Officer, International Law and Human Rights, and European Coordinator

**Ms. Marie-Claire Leman**, Programme Officer, International Law and Human Rights

**Ms. Eva Dunn**, Programme Officer, Peace and Democracy

**Ms. Nebiyat Woldemichael**, Project Officer, Peace and Democracy

**Ms. Anna Gekht**, Development Associate

**Mr. Michael Agbeko**, Director of Finance and Administration

**Ms. Fatimé Dam**, Executive Officer



REPORT PREPARED BY: **Ms. Marie Claire Leman**, Program Officer, International Law & Human Rights Program  
**Ms. Nebiyat Woldemichael**, Project Officer, Peace & Democracy Program  
**Ms. Anna Gekht**, Development Associate

RAPPORTEURS: **Ms. Eva Dunn**, Program Officer, Peace & Democracy Program  
**Ms. Nebiyat Woldemichael**, Project Officer, Peace & Democracy Program  
**Dr. David Donat-Cattin**, Senior Programme Officer, International Law & Human Rights Program

DESIGN AND LAYOUT: **YDESIGN** [WWW.YDESIGN.TV](http://WWW.YDESIGN.TV)

PHOTOGRAPHS BY: **Mr. Dennis Drever**

PARLIAMENTARIANS  
*for* GLOBAL ACTION

211 East 43rd Street,  
Suite 1604  
New York, NY 10017  
USA

Tel: 212 687-7755  
Fax: 212 687-8409

---

E-mail: [info@PGAction.org](mailto:info@PGAction.org)  
[www.PGAction.org](http://www.PGAction.org)

---