

Regional Strategy Meeting for the Americas
Coalition for the International Criminal Court
FINAL RECOMMENDATIONS
Lima, Peru, 30 September – 1 October 2018

On 30 September and 1 October 2018, civil society representatives and Coalition members from across the Americas met in Lima, Peru, for the Fourth Regional Strategy Meeting for the Americas, organized by the Coalition for the International Criminal Court. During the two-day retreat, participants discussed a number of issues relevant to the region, including, inter alia, the current state and impact of the ICC's Preliminary Examinations in the region, as well as other situations of gross human rights violations; the ongoing or pending processes of ratification and implementation of the Rome Statute; the visibility of the International Criminal Court in Latin America; and, in general, the current state of justice in the region, including measures that have been adopted or are still pending – at a local, regional or international level – in order to address grave situations of impunity that still plague the continent. The meeting brought together civil society representatives from across the Americas, including Brazil, Canada, Colombia, Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Peru, Venezuela and the United States of America; regional and global NGOs such as Avocats sans frontières Canada, Case Matrix Network (CMN) and Due Process of Law Foundation (DPLF); the International Secretariat for the Coalition for the International Criminal Court (CICC); and the following Coalition Steering Committee Members: Amnesty International (AI); Asociación Pro Derechos Humanos Peru (APRODEH), International Federation for Human Rights (FIDH), Human Rights Watch (HRW), Parliamentarians for Global Action (PGA), and Women's Initiative for Gender Justice (WIGJ).

Following the meeting, participants issued the following recommendations:

To the states from the region

- Continue to **provide political and diplomatic support to the International Criminal Court (ICC)**, both bilaterally and within different multilateral venues across the region. To this aim, maximize the momentum provided by the **20th anniversary of the adoption of the Rome Statute** to reaffirm the values and principles enshrined in the treaty – as well as the importance of the ICC as such – and **take a strong stand against all efforts and actions aimed at delegitimizing and weakening the ICC**.
- Call on The Bahamas, Jamaica, Haiti, Nicaragua and the United States of America to **ratify the Rome Statute** of the International Criminal Court (ICC), and consolidate the regional support for the ICC.
- **Fully implement the Rome Statute within domestic legislation**, including all **crimes and principles** of international criminal law contained in the Statute, as well as **provisions on cooperation** with the ICC. Encourage states to share good practices and lessons learnt on implementation, and resort to **model laws / framework laws** that can assist on this task. Domestic legislations should also include strong provisions that criminalize **sexual and gender based crimes**, as well as provisions which recognize the **rights of victims to participate** in judicial and civil proceedings; the rights of victims to **reparations** – following the principles and standards established by International Law –; and the **protection of victims, witnesses, human rights defenders, judicial actors**, and all stakeholders invested in proceedings related to the investigation and prosecution of crimes under international law.
- **Ratify the Agreement on Privileges and Immunities of the Court (APIC)**, including states that are not parties to the Rome Statute.
- **Ratify the Kampala amendments** on the crime of aggression, as well as the amendments to article 8 of the Rome Statute.
- Take all the necessary measures to ensure **full cooperation with the ICC**, including through the adoption of domestic legislation on cooperation and the signing of **Cooperation Agreements with the ICC**; and all actions necessary to **comply with cooperation requests** issued by the ICC, as enshrined in the Rome Statute, including through the establishment of national protocols that allow for inter-ministerial coordination, as well as for the

appointment of **domestic focal points** when required. Consider contributing to the different funds established by the ICC, including the **Trust Fund for Victims**.

- Take all the necessary measures to allow for **domestic investigations and prosecutions of crimes under international law**, in an effort to tackle the **region's high indexes of impunity** for such crimes. These measures should respect the independence of national prosecutors and judges, and should address all obstacles, including judicial and of other nature, that impede such proceedings.
- Reinforce and support the different national and **international mechanisms established in the region to tackle impunity for crimes under international law**.
- Support the need for the adoption of an **ICC budget** that can allow the Court to work efficiently and effectively; reject all efforts to adopt a Zero-Growth budget.
- **Promote the work and mandate of the ICC** both internally and across the region, with the aim of contributing to the dissemination of international criminal law, as well as **increasing the geographic representation** of Latin American and Caribbean nationals within the ICC.
- Establish **national mechanisms for the nomination of highly qualified individuals** to the different elected positions at the ICC, through processes that are **merit-based, transparent** and which allow for the **participation of civil society**. In particular, State Parties should take into consideration the **election of the next ICC Prosecutor**, to be held in 2020, and establish at their earliest convenience a transparent process for the selection and evaluation of candidates. Moreover, said nominations must seek to **increase the representation of women** at the ICC, particularly considering that currently all of the leadership positions at the Court with the exception of one are held by men.
- **Promote and provide the necessary support to civil society organizations** that work in promoting the work of the ICC; documenting or litigating crimes under international law; providing assistance to victims; and/or developing any related activities, can carry out their mandate in an independent, effective and secure manner.
- Recognizing the unprecedented and recent decision of six states in the Americas to conduct the **first inter-state referral to the ICC (concerning the situation in Venezuela)**, we call on these states to take concrete steps to provide the Prosecutor and her office with the necessary **support that will enable her to carry out her mandate** in an effective, impartial

and independent manner. We also call on these states, and all states in the region, to take **concrete measures to tackle the grave humanitarian crisis in Venezuela.**

- We urge the countries of **Colombia and Venezuela to fully cooperate with the OTP** in the **context of the Preliminary Examinations** in these countries, and provide all information requested by the OTP, including the current state of national proceedings relevant to the Court.
- We call on the **newly elected Congress and Government of Mexico to refer the situation concerning crimes perpetrated in the last 20 years to the ICC**, and we urge its authorities to adopt legislation on cooperation with the Court. Furthermore, we call on national authorities to take the necessary measures so as to **ensure the investigation and prosecution of crimes under International Law** that are being perpetrated in Mexico, particularly in light of the **principle of complementarity** enshrined in the Rome Statute.
- We call on all states in the region to take the necessary means to put an end to the repression in **Nicaragua**, and fight against impunity for the grave human rights violations carried out since 18 April 2018.
- We encourage states to consider submitting to the International Law Commission and to the Special Rapporteur Sean Murphy their input on the **proposed Convention on the Prevention and Punishment of Crimes Against Humanity**, before the 1 December 2018 deadline. To that effect, we ask states to reinforce their commitment to the fight against impunity, and to promote the protection of truth, justice, reparation and guarantees of non-repetition with regards to crimes against humanity. Furthermore, we call on states to maximize the opportunity provided by this new treaty to improve the standards of certain provisions contained in the Rome Statute, while not diluting any of the general principles of law contained in the Rome Statute, starting with Article 27.

To the International Criminal Court

- Strongly urge the Prosecutor of the ICC and her office to **increase their presence and visibility in the region**, including in those **countries with ICC Preliminary Examinations**.
- In light of the recent decision of the Pre-Trial Chamber I on 6 September 2018 regarding jurisdiction over the alleged deportation of the Rohingya people from Myanmar to

Bangladesh, and, similarly, of its decision on 13 July 2018 on public information for victims regarding the Preliminary Examination in Palestine, we call on the Office of the Prosecutor to **increase its mechanisms for information and awareness-raising** among victims, civil society, and the general public in countries under Preliminary Examination, including information on the progress of such examinations.

- Pursuant to article 15 of the Rome Statute, and the Prosecutor's obligation to analyze all information forwarded to her office concerning alleged crimes under the Statute, we call on her office to publicly announce her decision to open a **Preliminary Examination in Mexico**, and provide all updates of the examination in an effective, impartial and prompt manner. Encourage the Prosecutor to continue her **Preliminary Examination in Colombia**, to personally conduct a further mission to the country, and to continue to meet with civil society representatives so as to ensure that their voices and opinions are heard. With that aim, we encourage the Prosecutor to consider issuing a new intermediary report on Colombia, focusing on the developments of the Preliminary Examination.
- Acknowledging the opening of a **Preliminary Examination in Venezuela**, we urge the Prosecutor and her office to provide frequent updates on the status of her analysis, with the aim of addressing the numerous expectations surrounding this examination.
- We call on the ICC to **increase the representation of Latin American and Caribbean nationals** among its personnel, including increased **numbers of women** in all hierarchical levels.
- We note with concern that, to this day, **no convictions on sexual and gender based crimes** have been handed down. We therefore call on the OTP to revamp its efforts in conducting **effective investigations on gender and sexual based crimes**.

To the Organization of American States

- Continue to **support and promote the work and mandate of the ICC**, including, *inter alia*, through its biennial Resolutions on the Promotion of the ICC, as well as its biennial Working Sessions on the ICC.

- **Provide support to states in the region with regards to the full implementation of the Rome Statute** within domestic legislations, as well as provisions on cooperation with the ICC.
- Acknowledging its efforts to address mass atrocities in the region, we call on the OAS to **move forward with its proposal of appointing an advisor on crimes under international law**. This person should be someone with renowned experience in the field of international criminal law, and a person of high moral character, impartiality and integrity.
- We call on the **OAS to include the strengthening of cooperation mechanisms with the ICC**, as well as the strengthening of mechanisms for investigation and prosecution of crimes under international law, within the mandate of the Department of Legal Cooperation at the Secretariat for Legal Affairs.

Adopted in Lima, Peru, on 1 October 2018

Acceso a la Justicia (Venezuela)

Asociación Pro Derechos Humanos – APRODEH (Peru)

Avocats sans frontières Canada (Canada)

Centro de Estudios de Guatemala (Guatemala)

Centro de Investigación y Promoción de los Derechos Humanos- CIPRODEH (Honduras)

Centro Nicaragüense de los Derechos Humanos – CENIDH (Nicaragua)

Comisión Colombiana de Juristas (Colombia)

Comisión de Derechos Humanos – COMISEDH (Peru)

Comisión de Derechos Humanos de El Salvador – CDHES (El Salvador)

Comisión Mexicana de Defensa y Promoción de los Derechos Humanos, A.C. (Mexico)

Coordinadora Nacional de Derechos Humanos (Peru)

Corporación HUMANAS (Colombia)

International Federation for Human Rights – FIDH

Due Process of Law Foundation / Fundación para el Debido Proceso – DPLF (Washington D.C., USA)

Parliamentarians for Global Action– PGA

Programa Venezolano de Educación - Acción en Derechos Humanos – PROVEA (Venezuela)

Women's Initiatives for Gender Justice – WIGJ

Participants:

The following organizations also participated at the meeting. However, due to issues relating to their mandate, they are not in a position to adhere to all recommendations. Notwithstanding, they welcome the opportunity to highlight key issues of common interest included in several of the recommendations:

Amnesty International

Case Matrix Network

Coalition for the International Criminal Court (International Secretariat)

Human Rights Watch