

COALITION FOR THE INTERNATIONAL CRIMINAL COURT

Asia-Pacific Regional Strategy Meeting

10-12 April 2019

Ancasa Hotel, Kuala Lumpur, Malaysia

PLAN OF ACTION

Civil society organizations participating in the Coalition's 2019 Asia-Pacific Regional Strategy Meeting adopted the following *Plan of Action* for building support for the international justice system, pledging to:

- **Advocate for accession/ratification and implementation of the Rome Statute of the International Criminal Court and the Agreement on Privileges and Immunities of the Court (APIC), as well as for strengthened cooperation with the International Criminal Court (ICC)** by developing strategies locally and regionally;
- Continue to be **active on the ICC after achieving Rome Statute accession/ratification** by closely advocating, monitoring, and assisting government authorities with domestic **implementation** of the Statute; ensuring the **application** of Rome Statute provisions and standards by national judicial actors; using Rome Statute provisions in **documentation efforts** for the purpose of accountability for Rome Statute crimes; following **ASP issues**; encouraging **state representation at the ASP**; ensuring national support for and **cooperation with the Court**;
- Continue to **build relationships with national authorities responsible for ICC issues** to urge them to make the ICC a priority or advocate for the creation of such authorities where they do not exist, and work to involve other authorities in the aim of mainstreaming the ICC across relevant departments. Encourage the appointment of **national ICC Focal Points** in each state, particularly in States Parties to the Rome Statute;
- Call on national authorities to **establish clear guidelines for the search, selection, and nomination of individuals to elected positions at the ICC**, including ICC judges and the ICC Prosecutor. Ensure that states nominate only highly-qualified individuals whose experience and expertise meet the criteria established by the Rome Statute, with a particular focus on gender and children's rights, and on experience in dealing with complex criminal cases;
- Include ICC issues in **broader national and regional civil society campaigns** for human rights, the rule of law, development, and democratization;
- **Disseminate information widely** in order to raise awareness and counter misinformation on ICC-related issues among state officials, members of parliament, the media, and the general public (ideally translated into local languages);

- **Encourage key civil society organizations and individuals** (including human rights, humanitarian, development, and other organizations, as well as legal practitioners and bar associations) not yet active on ICC issues, to get involved, to **become a member of the Coalition for the International Criminal Court**, and where relevant, to join the national coalitions for the ICC. Consider establishing a **national coalition for the ICC**, or a national network of NGOs working on ICC / international justice.
- **Work towards building capacity of all stakeholders** - government officials, parliamentarians, civil society, and the media—to advocate for, and support, international justice.
- **Engage with the media** at the national level to build awareness and more accurate and complete coverage of national and international ICC developments.
- Work to strengthen the effective and independent fulfillment of the Court’s mandate and impact in relation to **victims and affected communities**.

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RECOMMENDATIONS

Civil society organizations participating in the Coalition's 2019 Asia-Pacific Regional Strategy Meeting issued the following *Recommendations* to relevant stakeholders to build support for the International Criminal Court and the international justice system.

To the national authorities of Asia-Pacific States¹

- Continue to **provide political and diplomatic support to the International Criminal Court (ICC)**, both bilaterally and within different multilateral venues across the region. **Take a strong stand against all political efforts and actions aimed at delegitimizing and weakening the ICC;**
- Take all necessary steps to **ratify or accede to the Rome Statute of the International Criminal Court** without delay, if not yet party;²
- Consider **ratifying the Kampala amendments** on the crime of aggression, as well as the amendments to Article 8 of the Rome Statute;
- Fully implement the Rome Statute by **aligning national legislation with all Rome Statute obligations**, including by incorporating provisions to allow for the investigation and prosecution of genocide, crimes against humanity, war crimes, and the crime of aggression at the national level, incorporating Rome Statute principles within domestic legislation, and allow for full and effective cooperation with the International Criminal Court (ICC);

¹States in the AP Region: Afghanistan, Australia, Bangladesh, Bhutan, Brunei Darussalam, Cambodia, China, Cook Islands, Democratic People's Republic of Korea, Fiji, India, Indonesia, Japan, Kiribati, Korea (Republic of), Lao People's Democratic Republic, Malaysia, Maldives, Marshall Islands, Micronesia (Federated States of), Mongolia, Myanmar (Burma), Nauru, Nepal, New Zealand, Niue, Pakistan, Palau, Papua New Guinea, Philippines, Samoa, Singapore, Solomon Islands, Sri Lanka, Timor Leste, Thailand, Tonga, Tuvalu, Vanuatu, Vietnam.

² Non State Parties in the AP Region: Bhutan, Brunei Darussalam, China, Democratic People's Republic of Korea, India, Indonesia, Kiribati, Lao People's Democratic Republic, Malaysia, Micronesia (Federated States of), Myanmar (Burma), Nepal, Niue, Pakistan, Palau, Papua New Guinea, Philippines, Singapore, Solomon Islands, Sri Lanka, Thailand, Tonga, Tuvalu, Vietnam.

- Share good practices and lessons learned on implementation, and consider **model / framework laws** that can assist on this task. Domestic legislation should include strong provisions that criminalize **sexual and gender-based crimes**, as well as provisions which recognize the **rights of victims to participate** in judicial proceedings; the rights of victims to **reparations** – following the principles and standards established by international law; the **protection of victims and their families, witnesses, human rights defenders, judicial actors**, and all stakeholders invested in proceedings related to the investigation and prosecution of crimes under international law; and the **protection of fair trial rights and the rights of the accused**;
- Ratify or accede to the **Agreement on Privileges and Immunities of the ICC (APIC)** allowing the ICC to function in an independent and unconditional manner;
- **Involve civil society representatives** from the very beginning and at all stages of the national ICC ratification and implementation processes;
- Take all the necessary measures to ensure **full and effective cooperation with the ICC**, including through the adoption of domestic legislation on cooperation, and the signing of **Cooperation Agreements with the ICC**, particularly on witness relocation, interim release, relocation of acquitted persons, and enforcement of sentences;
- Take all actions necessary to **comply with ICC requests for assistance and cooperation** at all stages (preliminary examination, investigation, arrest and surrender, protection of victims and witnesses, interim release, enforcement of sentences) as relevant, 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;
- Contribute to the different funds established by the ICC, including the **Trust Fund for Victims**;
- Consider contributing to **national funds for victims**, when available, as well as establishing such funds;
- Ensure the right to a proper **defence for suspects of crimes under the Rome Statute**, including state assigned defence, along with the respect of due process of law;
- **Provide the ICC with the resources necessary** to fulfil its judicial mandate and deliver justice in a robust, fair, effective, and meaningful manner and to reject proposals that would undermine its ability to deliver justice and to respond to new situations;
- Establish **national mechanisms for the nomination of highly-qualified individuals** to elected positions at the ICC, through processes that are **merit-based and transparent** and which allow for the **participation of civil society**. **Such individuals should fully meet the criteria outlined in the Rome Statute**. In particular, States Parties should look ahead to the **election of the next ICC Prosecutor**, to be held in 2020, and establish at their earliest convenience a transparent **national process for the selection and evaluation of candidates**; consider nominations which would increase the representation of women, vulnerable and underrepresented groups at the ICC; and ensure that all prospective judges meet the requirements set out by the Rome Statute, have experience in dealing with complex criminal

cases, and are fully aware of the salary and benefits regime at the ICC at the time of their nomination;

- Support **capacity-building efforts on international criminal justice and the ICC**, including the training of prosecutors, lawyers and judges, as well as of military and police officials, and any other relevant authority support the inclusion of ICC and international justice coursework in university curricula; and support the training of government officials and ministry-level representatives on international criminal justice issues;
- Take all the necessary measures to allow for genuine and effective **domestic investigations and prosecutions of crimes under international law**, including of those bearing the greatest responsibility. These measures should be as transparent as possible, ensure the access of victims and civil society, respect the independence of national prosecutors and judges, and they should address all obstacles, including judicial and of other nature, that impede such proceedings;
- Provide psychosocial, economic, and reparative **support to victims** across the Asia-Pacific region;
- Actively participate, at the highest level of government, in ICC-related events and in sessions of the **Assembly of States Parties (ASP)** to the ICC, and contribute expertise to ASP discussions; and,
- Reinforce, support, and **cooperate with the different national and international mechanisms established in the region** to tackle impunity for crimes under international law, including Commissions of Inquiry and Fact-finding Missions.

To the governments of The Philippines and Malaysia

- To the Philippines: Reconsider withdrawal from the Rome Statute;
- To Malaysia: Reconsider acceding, once again, to the Rome Statute, following the withdrawal of its accession document.

To the governments of Afghanistan, Bangladesh, Myanmar, and The Philippines

- **Fully cooperate with the ICC Office of the Prosecutor (OTP)** in the **context of the Preliminary Examinations** currently ongoing, and provide all information requested by the OTP, including the current state of national proceedings relevant to the Court.

To Regional Organizations in Asia-Pacific, and other international organizations working in the region

- In the framework and in the limits of their respective mandates, **provide technical support** and expertise to member states interested in moving forward **with ratification and implementation** of the Rome Statute, cooperation with the Court, or enhancement of national prosecutions, in close cooperation with government authorities, national parliaments, civil society organizations, other regional organisations, and other interested actors;
- Organise, on a regular basis, meeting to **discuss progress on ratification and implementation** in the region to allow States to exchange experiences and best practices, and encourage member countries to provide regular updates on their respective status;
- Consider **including ICC issues within working agendas**, and, in this regard, consider the adoption of concrete initiatives to promote the universality of the Rome Statute among member states, through, *inter alia*, the adoption of a Resolution or Declaration calling on the promotion of the ICC and the ratification and implementation of the Rome Statute by member states; as well as consider the organization of regular working sessions on the ICC;
- Organise **trainings of prosecutors, lawyers, and judges on the ICC, as well as military and police officials, and any other relevant authority**, and involve national civil society groups as much as possible in ICC-related initiatives at the national and regional level.
- **Step up diplomatic support for the Court** and promote the fight against impunity in all political dialogues and meetings with member states;
- **Continue supporting ICC-related initiatives by global and local civil society groups in the region.**
- **To the United Nations:** Consider strengthening the **gender representation** within the **International Impartial and Independent Mechanism (IIIM) for Myanmar**

To the International Criminal Court (ICC)

- Ensure that **communications, outreach, and universality efforts** continue to focus on the Asia-Pacific region, to shore up supportive States Parties and to encourage States not yet party to undertake positive engagement with the Rome Statute system;
- Strengthen efforts in **increasing understanding of the Court's mandate** in the Asia-Pacific, particularly in those countries where ICC Preliminary Examinations are ongoing (Afghanistan, Myanmar/Bangladesh, and The Philippines), and to **increase its presence and visibility in the region.**
- In light of the decision of the Pre-Trial Chamber I on 6 September 2018 regarding the ICC's 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, the Office of the Prosecutor should **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.**

- Consider opening a **Preliminary Examination into the situation in Bangladesh** on the question of enforced disappearances.
- Enforce the rights of **protection of victims and their families, witnesses, human rights defenders, judicial actors**, and all stakeholders invested in proceedings related to the investigation and prosecution of crimes under international law.
- **Increase the representation of Asia-Pacific nationals** among ICC personnel, including increased **numbers of women** in all hierarchical levels.
- Promote the respect of Rome Statute provision establishing the **prohibition for judges to engage in executive or political functions concurrently to their mandate at the Court, or in other activities which are likely to affect their judicial independence** and interfere with their judicial functions.
- Adopt rigorous measures to **prevent conflicts of interests** amongst officers of the Court;

To the International community

- **Cooperate fully on the Preliminary Examinations** in Afghanistan, Myanmar/Bangladesh, and The Philippines.
- **Consider the creation of International Mechanisms** to examine the human rights situation of countries in the region, raise awareness on alleged abuses and violations, and support judicial institution building and law enforcement efforts, in particular for countries unable or unwilling to carry out investigations and prosecutions.

SIGNATORIES

Asia-Pacific Region Strategy Meeting Recommendations

1. Biraj Patnaik, **Amnesty International South Asia**
2. Debbie Stothard, **ALTSEAN-Burma** (Alternative ASEAN Network on Burma)
3. Md Ashrafuzzaman, **Asian Legal Resource Centre (ALRC)**, Hong Kong
4. Michael Y. Liu, **Chinese Initiative on International Law**
5. Casimiro dos Santos, **Judicial System Monitoring Programme (JSMP)**, Timor-Leste
6. Yati Andriyani, **KontraS** (The Commission for Disappeared and Victims of Violence), Indonesia
7. Dr. Indira Shrestha, **Informal Sector Service Centre (INSEC)**, Nepal
8. Usha Kulasegaran, **Malaysia National Coalition for the ICC**, Malaysia
9. Adilur Rahman Khan, **Odhikar**, Bangladesh
10. **Philippines National Coalition for the ICC**
11. Anees Jillani, **The Society for the Protection of the Rights of the Child (SPARC)**, Pakistan
12. Gawin Chutima, **Union for Civil Liberty (UCL)**, Thailand
13. Alix Vuillemin, **Women's Initiatives for Gender Justice (WIGJ)**
14. Braema Mathiapparanam, **Working Group for ASEAN Human Rights Mechanism (MARUAH)**, Singapore
15. Tadashi Inuzuka, **World Federalist Movement Japan**

The Coalition for the ICC does not take a position on cases, investigations, or preliminary examinations at the International Criminal Court.