



The Peace and Justice Initiative

Towards Universal Implementation of the ICC Statute

Intervention for 10th Session of International Criminal Court Assembly of States Parties, 12-21 December 2011, New York

Honourable Assembly, the Peace and Justice Initiative would first like to thank the Assembly of States Parties and the Secretariat for organising this 10th Session of the ASP.

The Peace and Justice Initiative applauds the achievements of the Court thus far and welcomes the States Parties' acknowledgement that much work remains, particularly on the domestic front. The Peace and Justice Initiative emphasizes that adopting domestic implementing legislation is critical for achieving accountability, through fair trials, for core international crimes and is fundamental to the principle of complementarity. In order to successfully carry out domestic investigations and fair trials for war crimes, crimes against humanity, genocide and eventually aggression, States Parties must ensure that domestic officials, including investigators, prosecutors, judges, and defence counsel are trained and equipped to carry out their important work.

Accordingly, the Peace and Justice Initiative RECOMMENDS that:

1. States should expedite the adoption of domestic legislation implementing the provisions of the Rome Statute.
2. Pending adoption of such legislation, States should review existing laws to ensure they are ready to arrest and try persons suspected of core international crimes (or surrender them if necessary).
3. In drafting implementing legislation, States should ensure that domestic temporal jurisdiction to try the core international crimes of genocide, crimes against humanity and war crimes is given from 1991 at the latest. Such retrospective temporal jurisdiction is compatible with the principle of legality, as by this time there is no doubt that individual criminal responsibility attached to such crimes at customary international law. The conventional commencement date - when the implementing Act comes into force, potentially creates impunity for the most serious crimes of concern to the international community.
4. States should ensure that specialist investigators, prosecutors, judges and defence counsel receive practical training on all aspects of a core international crimes case, including the elements of the offences, modes of liability including superior responsibility, and procedural issues.

5. States should maintain and publicise statistics on the number of investigations and prosecutions carried out under domestic implementing legislation.

The Peace and Justice Initiative further CALLS on the Assembly of States Parties to ensure that States Parties take effective measures to implement the Rome Statute in their domestic legislation, and in particular CALLS on the Assembly of States Parties:

1. To request periodic reports by the States Parties on the steps they have taken to give full effect of the provisions of the Rome Statute in their domestic law, including steps taken to amend existing legislation and steps taken to raise the capacity of judges, prosecutors and investigators to apply the provisions of the Rome Statute domestically;
2. To make these reports publicly available;
3. To establish a mechanism for the review of the States Parties' periodic reports and for monitoring of the States Parties' progress towards domestic implementation of the Rome Statute.

Through these actions, the States Parties and the Assembly of States Parties can contribute to an effective and comprehensive global justice system.

Thank you for your attention.

About Peace and Justice Initiative:

The Peace and Justice Initiative is a network of international criminal law professionals. Our aim is to encourage the national adoption and effective use of laws under which crimes against humanity, genocide, war crimes and eventually aggression can be prosecuted in domestic courts. Our ultimate goal is universal national implementation of the Rome Statute of the International Criminal Court (ICC). To achieve our aims, we assist in enhancing the capacity of national jurisdictions to investigate and conduct fair trials of serious crimes of international concern.

The Peace and Justice Initiative has just published a Position Paper on the issue of the appropriate temporal jurisdiction over core international crimes in implementing legislation. The Position Paper is available on request.

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