



INTER-PARLIAMENTARY UNION
112th Assembly and related meetings
Manila, 31 March to 8 April 2005



First Standing Committee -
Peace and International Security

C-I/112/DR-rev
11 February 2005

**THE ROLE OF PARLIAMENTS IN THE ESTABLISHMENT AND FUNCTIONING OF
MECHANISMS TO PROVIDE FOR THE JUDGEMENT AND SENTENCING OF
WAR CRIMES, CRIMES AGAINST HUMANITY, GENOCIDE AND
TERRORISM, WITH A VIEW TO AVOIDING IMPUNITY**

Revised preliminary draft resolution prepared by the co-Rapporteurs
Ms. Houria Bouhired (Algeria)
Mr. Jorge Argüello (Argentina)

The 112th Assembly of the Inter-Parliamentary Union,

- (1) *Deeply concerned* by the fact that in today's world, many regions and whole societies are brutally affected by war crimes, crimes against humanity, genocide and terrorism, all of which are serious crimes of concern to the international community as a whole,
- (2) *Convinced* that there is no justifiable cause for those abhorrent crimes,
- (3) *Considering* that, in keeping with the principles enshrined in the United Nations Charter, international human rights law, international humanitarian law and international criminal law instruments have been developed, and that it is of paramount importance to ensure that their provisions be enforced,
- (4) *Recalling* in this respect the particular importance of ensuring respect for the rights and fundamental freedoms enshrined in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Geneva Conventions for the protection of victims of war of 12 August 1949 and their Additional Protocols, the Convention on the Prevention and Punishment of the Crime of Genocide and other instruments, treaties and agreements ensuring respect for human dignity, as well as the human rights norms of customary international law as reflected by state practice,
- (5) *Considering* that under international law, no statutory limitation shall apply to war crimes, crimes against humanity, genocide and terrorism, and such crimes shall not be subject to amnesty, clemency or pardon, and that this has been confirmed by the judgements of national and international courts,

- (6) *Recalling* the resolutions on peace, security and disarmament adopted by the IPU since 1994,
- (7) *Stressing* the importance of the International Criminal Court (ICC) in preventing and punishing war crimes, genocide and crimes against humanity, and *recalling* in this respect that States party to the Rome Statute of the ICC have a duty to prosecute such crimes themselves or to refer persons suspected of such crimes to the jurisdiction of the ICC, and also that international humanitarian law, as enshrined in the Geneva Conventions for the protection of victims of war of 12 August 1949 and their Additional Protocols, places the obligation on States to search for and try persons alleged to have committed, or have ordered to be committed, grave breaches, regardless of the persons' nationality or where the violations take place,
- (8) *Recognising* that the jurisdiction of the ICC is limited to offences committed on or after 1 July 2002 and that there is a need for mechanisms to address war crimes, crimes against humanity and genocide committed before that date,
- (9) *Considering* the agreements concluded by the States Parties to the Rome Statute with the ICC in order to combat war crimes, crimes against humanity and genocide, as well as the 12 international conventions and protocols relating to terrorism,
- (10) *Concerned* at the lack of dynamics in implementing the necessary mechanisms to support the Rome Statute of the ICC and to support the provisions adopted by the United Nations and other bodies to combat these crimes,
- (11) *Recognising* that political will to speak out against racism, xenophobia and intolerance is an essential element in ending impunity,
- (12) *Concerned* at the fact that the implementation of agreements on the prosecution of war crimes, crimes against humanity, genocide and terrorism has been delayed, set aside, or omitted by States, thus subjecting these agreements to different interpretations and reducing their effectiveness, *alarmed* at the possibility that this may be considered as a permissive attitude towards impunity and *concerned* at the fact that many States have not yet signed or ratified the Rome Statute,
- (13) *Convinced* that parliaments have a primary responsibility, and must play a central role, in the prevention, punishment and avoidance of impunity for war crimes, crimes against humanity, genocide and terrorism, and that a multilateral approach among parliaments is an appropriate way to implement the mechanisms required for the enforcement of judgements and penalties for these abhorrent crimes,
- (14) *Recalling* that each State has the obligation and the duty to prosecute the perpetrators of war crimes, crimes against humanity and crimes of genocide,
- (15) *Recalling* that victims of war crimes, crimes against humanity and genocide have the right to truth, justice and reparation,

1. *Strongly advises* all IPU Member Parliaments to assume, before their States and citizens, the responsibility for implementing and enforcing, through the enactment of national rules, the international agreements that have been concluded to punish and prevent war crimes, crimes against humanity, genocide and terrorism;
2. *Recommends* that through the inter-parliamentary activity of IPU Members, efforts be combined and experiences shared in order to develop the necessary mechanisms to pursue these objectives, and to avoid impunity for those individuals, organisations and totalitarian States that commit war crimes, crimes against humanity, genocide and terrorism;
3. *Urges* Member Parliaments duly to codify, in line with international law, these abhorrent crimes in their domestic criminal law, and to establish the corresponding penalties and mechanisms to avoid impunity;
4. *Encourages* those States which have not yet done so to ratify and accede to the Rome Statute, and to ratify the Agreement on the Privileges and Immunities of the International Criminal Court and *invites* all Member Parliaments to pass domestic legislation in order to allow each country to cooperate with the ICC;
5. *Recommends* that all parliaments, including those of States which have not ratified the Rome Statute, enact rules for the domestic implementation of its provisions;
6. *Recommends* that all parliaments support and cooperate with the ICC and other competent bodies (such as national and international commissions for the investigation of crimes against humanity), and thus strengthen parliamentary action to eradicate war crimes, crimes against humanity, genocide and terrorism;
7. *Recommends* that States specifically address the issue of war crimes, crimes against humanity and genocide committed before the entry into force of the Rome Statute;
8. *Urges* Member Parliaments to reject bilateral agreements that would provide for immunity from prosecution for the nationals of any State;
9. *Recommends* that all parliaments enact legislation to create civil procedures that would provide compensation for war crimes, crimes against humanity, genocide and terrorism offences;
10. *Encourages* parliaments to make the fullest possible use of their competences and roles to achieve these objectives;
11. *Recommends* that parliaments take account of international agreements on these subjects and of the considerations of the United Nations, the ICC and all related international or regional agencies, authorities and bodies;

12. *Invites* parliaments to include in their agendas, as a priority, the activities required to implement all mechanisms which may contribute to the prosecution of war crimes, crimes against humanity, genocide and terrorism, including the strengthening of rule of law mechanisms, so as to avoid impunity for these crimes and to ensure the rights of the victims of such crimes to just reparation;
13. *Invites* the United Nations and parliaments to consider the establishment of a fund for the compensation of victims of crimes of genocide and crimes against humanity.