



**Statement by Justice Hassan B. Jallow
Prosecutor UN-ICTR & UN-MICT to the
United Nations Security Council
*12th June 2013***

Mr. President,

Your Excellencies,

I am greatly honoured to brief you once more on the progress of the Completion Strategy of the ICTR and to present to you the second report on the work of the Office of the Prosecutor (OTP) of the Mechanism for International Criminal Tribunals.

OTP-ICTR

Our focus at the OTP-ICTR has for the past six months been on the prosecution and completion of appeals, referral of cases to national jurisdictions, preparation of OTP records for archiving and hand over to the Residual Mechanism, the completion of legacy, residual and closure issues as well as providing support to the OTP Arusha Branch of the Mechanism. This focus will, with the exception of referrals of cases to national jurisdictions, continue for the months ahead. The past six months have also seen the OTP ICTR and OTP ICTY spending significant time attending to the commencement of the Hague Branch of the Mechanism due to be launched on 1st July 2013.



The appellate workload of the ICTR-OTP continues to be very heavy, following the conclusion of the trial phase of ICTR cases in December 2012. Since the beginning of this year, the OTP has argued and finalized the hearing of 10 prosecution and defence appeals in connection with the *Ndahimana v. The Prosecutor* and *Ndindiliyimana et al (3) v. The Prosecutor* cases, which were heard in the May 2013 session of the Appeals Chamber conducted in Arusha, Tanzania. The cases are now pending final judgement by the Appeals Chamber.

Briefing and oral argument are ongoing in respect of 13 other appeals in four remaining cases before the ICTR Appeals Chamber. With the exception of the *Butare* case, which comprises seven defence and prosecution appeals, judgements in all of these pending cases are scheduled to be delivered before the end of December 2014. Thus, absent any changes in the judicial calendar, all but one of the ICTR's remaining appeals will be completed within the time frame of the ICTR Completion Strategy as set by the Council.

Last month, the Appeals Chamber also affirmed the referral of *Bernard Munyagishari* - a detainee to Rwanda for trial. This in effect concludes the ICTR work on the referrals programme. My office has now secured the referral of a total of eight cases to Rwanda and two cases to France for trial. As a result of these referrals and the completion of all trials in the first instance, the ICTR-OTP has no further trial or fugitive related workload. The tracking and arrest of the three top-level fugitives i.e. *Felicien*



Kabuga, Protais Mpiranya and Augustin Bizimana, and the monitoring of referred cases is now being managed by the Mechanism.

The preparation of the records of the OTP for archiving by the Residual Mechanism has progressed well during the past few months. The preservation of files which involves cleaning, re-housing into acid free boxes and scanning of OTP documents has been completed in respect of 56 cases representing 414 linear metres of records. Similar work is in progress in respect of 22 cases involving 250 linear metres of documents and is due to commence in respect of other OTP documents. The entire OTP audio collection of 2681 cassettes has now been completely digitized. The digitization of OTP video tapes has not yet commenced. ICTR records that are ready for archiving continue to be prepared for handover to the Mechanism as its Archives Unit builds up its capacity to receive these records. The remaining ICTR records will be handed over to the Mechanism when they are no longer required as working records by the OTP-ICTR.

In addition to the archiving of records, work continues on a number of other important legacy projects on which the OTP ICTR has been working and which we plan to conclude before the expiry of the tribunal's mandate. We note that with the launch of the joint international ad hoc Prosecutors' Compendium of Lessons Learnt on the investigations and prosecution of international crimes in November 2012 at the Annual Conference of the International Association of Prosecutors, there is renewed interest in the legacy of the international tribunals by academics, human rights practitioners, lawyers



and national judicial as well as prosecuting authorities. The OTP-ICTR has also concluded the preparation of a Best Practices Manual on Tracking and Arrest of Fugitives. The document will be available to national and international prosecutors in due course. Work on the Best Practices Manual on the Investigation and Prosecution of Sexual Violence is scheduled for completion this year and is ongoing on other subjects such as the documentation of the genocide on the basis of adjudicated facts and the lessons from the referral of cases with particular regard for their relevance to the principle of complementarity in international criminal justice.

We expect, over the next year until the closure of the tribunal, to be actively engaged with a number of these initiatives aimed at promoting best practices in the fight against impunity especially at the national levels. The ICTR-OTP's legacy products are aimed at recording the challenges and responses to the investigation and prosecution of these difficult cases and assisting national and international prosecuting authorities in managing the range of challenges as the front line in ensuring accountability for international crimes. Along with the support provided by the ICTR-OTP to national prosecuting authorities in their efforts to investigate and prosecute genocide suspects within their jurisdictions, I am pleased to note that the interest in the work of the ICTR and its potential impact at the national level is increasing. This is indeed a good sign for the legacy of international justice and the global fight against impunity. We hope that member states will deepen this impact through national programs and appropriate legislative measures.



OTP-Residual Mechanism

Mr. President, Your Excellencies, allow me now to turn to the operations of the Residual Mechanism. I am pleased to report that all the core staff as well as the *ad hoc* staff necessary to conduct one upcoming appeal are already in place at the ICTR Branch of the Mechanism in Arusha. Recruitment of staff and other logistical and administrative arrangements are in progress for the establishment of The Hague Branch of the Mechanism effective from the beginning of next month. We expect some of the core staff of the OTP to be in place in time for the commencement of the Branch on 1st July 2013. The support and cooperation of the Registrar and the OTP of the ICTY has been very helpful in this respect.

The OTP of the Arusha Branch of the Mechanism continues to track the three top fugitives namely *Felicien Kabuga*, *Protais Mpiranya* and *Augustin Bizimana*. In this regard, the Mechanism is in the process of launching a number of new initiatives aimed at increasing public interest and participation in tracking to supplement the efforts of the OTP and of the national and regional law enforcement authorities. We shall continue our contacts with Kenya, Zimbabwe and other states in the Great Lakes region in respect of the tracking of the three top-level fugitives and urge the Council to request all states to cooperate with the Mechanism in this regard.

At the Arusha Branch of the Mechanism, my office has attended to 26 requests for assistance from seven member states in the past six months in support of on-going



national investigations or prosecutions. These figures are in keeping with the increasing trend of ongoing investigations within national jurisdictions against those suspected to have participated in the Rwandan genocide. These national efforts will contribute significantly to closing any gaps in the struggle against impunity for mass atrocities.

The monitoring by my office of cases transferred to national jurisdictions continues. The two cases of *Wenceslas Munyeshyaka* and *Laurent Bucyibaruta* referred to France are progressing in that jurisdiction. The *Jean Uwinkindi* case referred to Rwanda is before the Kigali High Court for trial. Preliminary proceedings are in progress and subject to determination of applications made by the accused in the case, the subsequent trial proceedings are anticipated to be completed expeditiously. With the recent confirmation of the referral by the ICTR Appeals Chamber of *Bernard Munyaguishari* to Rwanda for trial, I will be appointing a monitor to also observe the proceedings in this case.

Whilst the transfer of cases to national jurisdictions has facilitated the early conclusion of the work of the ICTR, its work will only really be done when all of its fugitives have been arrested and brought to justice, whether at the Residual Mechanism or in national courts. The Residual Mechanism is committed, as mandated, to support and supplement Rwandan efforts at tracking the six fugitives whose cases have been transferred to Rwanda.. The cooperation of all member states is critical for this struggle against impunity and for accountability for these heinous crimes. Mr. President, I would



urge the Security Council to request all member states once again to support the Residual Mechanism and Rwanda in the tracking and arrest of these fugitives from international criminal justice.

I thank you for your attention.