



SEVENTH COLLOQUIUM OF PROSECUTORS

ARUSHA, TANZANIA, 4 – 5 NOVEMBER 2014

“LOCAL PROSECUTION OF INTERNATIONAL CRIMES: CHALLENGES AND PROSPECTS”

Welcome Statement by

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Under Secretary-General of the United Nations*

Honourable President of the ICTR,

Honourable Chief Justice of the Republic of Tanzania,

Honourable Judges

Honourable Mayor of the City of Arusha,

Honourable Registrar of the ICTR,

Distinguished Colleagues, National and International Prosecutors

Ladies and gentlemen.



I am delighted to welcome you all to this 7th Colloquium of Prosecutors. The route to this particular Colloquium has taken us full circle to where these gatherings started with the first Colloquium held in Arusha ten years ago in November 2004 and hosted by the Office of The Prosecutor (OTP) of the ICTR.

Together we have journeyed successively through Freetown, Sierra Leone in June 2005, The Hague, The Netherlands in October 2006, Phnom Penh, Cambodia in November 2007, Arusha yet again in November 2008, Kigali, Rwanda in November 2009 and again Freetown, Sierra Leone in May 2011; at each stage providing prosecutors with a forum for extensive consultations and vibrant discussions on the current challenges of international criminal justice.

This year's Colloquium marks a significant landmark in several respects. It is being hosted by the ICTR during the 20th anniversary of the Rwanda genocide of 1994 in respect of which, as judicially noticed by the Appeals Chamber of the ICTR in the case of *Prosecutor vs. Karenema et al.*,



“there is no reasonable basis for anyone to dispute that, during 1994, there was a campaign of mass killing intended to destroy, in whole or at least in very large part, Rwanda’s Tutsi population,-----. That campaign was, to a terrible degree, successful; although exact numbers may never be known, the great majority of Tutsis were murdered, and many others were raped or otherwise harmed”

A few days hence, on the 8th November we shall be marking also the 20th anniversary of the establishment of the ICTR by the UN Security Council with a mandate to prosecute those responsible for serious violations of international humanitarian law during one of the most painful chapters in human history and to bring justice to the victims and survivors of that tragedy.

This year’s Colloquium is unique in bringing the Prosecutors of all the international tribunals – ICTR, MICT, ICTY, ICC, RSCSL, ECCC and STL – together with their national counterparts from some twenty countries in Africa, Europe and the Americas as well as representatives of regional



courts, academic institutions and non-governmental organisations to discuss the critical issue of the challenges and prospects for local prosecution of international crimes. In short, how to overcome the challenges to complementarity and how to make it work well.

Over the past two decades, the ICTR has been part of that global struggle for justice and accountability in a network of tribunals that has seen the tremendous expansion of international jurisprudence, the development of skills and techniques in the management of difficult and challenging aspects of international justice and above all in holding to account hundreds of personalities who might in the past have evaded any legal accountability for their actions. This network of *ad hoc* and hybrid tribunals has contributed significantly to making international criminal justice a necessary, viable and acceptable mechanism for combating impunity, promoting accountability for mass crimes at senior levels and to the maintenance of peace and security.

As it stands, on the verge of closure in 2015, the ICTR having indicted 93 senior figures for genocide, crimes against humanity and war crimes, has now arrested all but 9 of the indictees, the cases of 6 of whom have been transferred to Rwanda and 3 now fall under the jurisdiction of the



Mechanism for International Criminal Tribunals (MICT) the successor tribunal of the ICTR and the ICTY. The first instance trials of those arrested - excluding deaths and indictment withdrawals – have been concluded with 61 convictions for genocide and related crimes and 14 acquittals on trial or appeal. Only the appellate proceedings in the case of Prosecutor vs. Nyiramashuhuko et al (the *Butare case* of six accused) scheduled for hearing in March 2015 stands between the ICTR and closure in late 2015.

I would like to record our great appreciation to all whose support of the tribunal has contributed significantly to the achievements of the court; to the government and people of Rwanda, to the thousands of witnesses who have, despite numerous challenges, testified before this court to enable it arrive at the truth, to our gracious hosts the government and people of Tanzania, to the very many other countries which have collaborated with the tribunal in the tracking and arrest of fugitives, in the provision of evidence, in relocations of vulnerable persons and in many other critical areas; and to all our staff who have over the years diligently executed their duties to ensure the success of the enterprise. The call goes out also to other countries to live up to their legal obligations to arrest and transfer the 9



remaining fugitives to the appropriate jurisdiction for trial. To the fugitives themselves we wish to assure them that the MICT and the international community will not relent but intensify its efforts to secure their arrest and accountability, no matter how long it takes to do so.

The choice of theme of the Colloquium “local prosecution of international Crimes: Challenges and Prospects” as well as the presence of national prosecutors from some 20 countries are not fortuitous. Both have been dictated by the transition at which international criminal justice stands today with the impending closure of the *ad hoc*s and hybrids a few years hence.

The process of international criminal justice must always remain an option for the international community for it has, despite some of its limitations, the distinct advantage of ensuring accountability in cases where local justice is unable or unwilling to act. We must therefore continue to give our full and unreserved support and commitment to the international courts, particularly the ICC created by the Rome Statute. We need also to recognize that much of the success of the past two decades in this area has



been the product of an effective partnership between international and local justice mechanisms; and that the future lies in consolidating and enhancing that partnership. The transition from primacy to the principle of complementarity reflects the primary responsibility of the State for the investigation and prosecution of the international crimes in the context of a partnership with international mechanisms.

The theme of the Colloquium, “Local Prosecution of International Crimes: Challenges and Prospects”, emphasises that primary responsibility for the investigation and prosecution of international crimes now rests with national jurisdictions. This emphasis on the role of national jurisdictions in the prosecution of international crimes is the product of several factors including the impending closure of the *ad hoc* and special tribunals within the next few years, the experience of the tribunals in building up effective partnerships with local jurisdictions for the transfer of cases to national jurisdictions, the shift away from the primacy of international courts and tribunals to the principle of complementarity under the Rome Statute, the establishment of the Residual Mechanism for International Criminal Tribunals (MICT) that makes the referral of cases to national jurisdictions a



priority in the completion of the *ad hoc* tribunals remaining work, the strengths and challenges of international criminal justice as well as the distinct advantages and benefits that local justice can contribute to communities affected by conflict and mass atrocity.

It is therefore necessary at this critical stage of transition in international criminal justice that consideration is devoted to the policies and the practical measures that are required to give concrete reality to this primary obligation of states. This is the major challenge that international criminal justice faces today. The prospects of accountability for mass crimes will suffer if it continues to depend on limited international processes and unable or unwilling local jurisdictions. The expected outcome of this Colloquium will be the identification of such measures in the light of the lessons learned from *inter alia* the work of the tribunals, from the efforts of national jurisdictions to prosecute international crimes and from the implementation of the ICC programme of complementarity.

The experience of the ICTR in the referral of cases to national jurisdictions in Africa and Europe in my view provides some useful lessons for the



empowerment of local jurisdictions to prosecute international crimes. We shall be discussing the ICTR referrals strategy in greater details in the course of the Colloquium.

The Colloquium provides us with a good opportunity not only to consider the theme in the abstract but in practical ways which will enhance the global effort to ensure accountability through legal processes. Amongst other matters we should consider the extent to which local jurisdictions are discharging their responsibility to prosecute international crimes, its impact on justice for victims, accused persons and communities; the challenges – political, legal, financial, practical, etc. – that local jurisdictions face in this endeavour and how these challenges can be addressed; the key lessons that can be learned from the work of the international tribunals and any possible support that such tribunals can provide to local jurisdictions; what can be done by such local jurisdictions themselves and the international community to give concrete effect to this primary responsibility; what they themselves can do to support each other in their common engagement, etc.



We look forward to fruitful discussions and a useful outcome to the Colloquium. I thank you once more for your presence and for your attention.