



STATEMENT

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Arusha, The Hague, 10 December 2014

Statement by Justice Hassan B. Jallow Prosecutor UN-ICTR & UN-MICT to the United Nations Security Council 10 December 2014

Mr President, Your Excellencies,

I am pleased to once again report to the Council on the work of the Office of the Prosecutor of the International Criminal Tribunal for Rwanda and the Mechanism for International Criminal Tribunals over the last six months.

This report follows on the heels of a series of events organized by the ICTR in commemoration of the 20th anniversary of its establishment by this Council on 8 November 1994. My office hosted a Colloquium of International Prosecutors on 4 and 5 November 2014 as part of these events with the participation of the prosecutors from the various international and hybrid courts and tribunals and prosecutors from some 20 national jurisdictions as well as representatives of regional courts, academic institutions and civil society organizations. With the imminent closure of the *ad hoc* tribunals, the theme of the Colloquium on the "*Challenges and Prospects of Local Prosecution of International Crimes*", was not fortuitous; it was dictated by the transition at which international criminal justice stands today. It was part of the efforts of the international prosecutors to share lessons and good practices of the past two decades with national prosecutors and to create a forum for consultation between prosecutors dealing with genocide, crimes against humanity and war crime cases at the national level.

The theme of the Colloquium recognized the transition from primacy to the principle of complementarity. A point also underscored by the representative of the Secretary General at the commemoration event, the Under Secretary-General for Legal Affairs and United Nations Legal Counsel, Mr Miguel Serpes de Soares, in his closing statement at the Colloquium.

There is today an increased willingness of local jurisdictions to prosecute international crimes. This is a welcome development as progress in the struggle against impunity requires a very strong partnership between international and local justice mechanisms. At the same time, we need to be conscious of the magnitude of the challenges of this task faced by local jurisdictions in their efforts to prosecute such crimes. Our experience at the ICTR Office of the Prosecutor in working closely with the Government of Rwanda to create the necessary enabling environment, for the ultimately successful transfer of cases to Rwanda for trial, illustrates both the challenges that countries may face as they pick up the baton in the fight against impunity and possible solutions that national jurisdiction can adopt to overcome them. While my office continues to engage national authorities particularly in East Africa and the wider Great Lakes Region in the sharing of good practices and lessons in a variety of areas including the investigation and prosecution of sexual violence and gender based crimes, fugitive tracking, and Rule 11*bis* transfers, we have to contend with the challenges of limited resources and manpower as the ICTR continues to downsize to closure and the much smaller resource base of the Mechanism OTP. The international community must therefore continue to play a leading role in ensuring that national jurisdictions have the requisite human and material resources to engage in this challenging task of prosecuting international crimes. States and international organizations should support national efforts in the acquisition of the requisite skills, training and expertise and the creation of the legal and political framework necessary to enable local jurisdictions discharge their responsibility.

The prosecutors and other participants at the Colloquium unanimously adopted a Resolution emphasizing the importance of accountability for international crimes to enhance justice, peace, security, and the wellbeing of the world. The Resolution also outlines the role that states, individually and collectively, as well as the international community as a whole can play to give concrete effect to the primary responsibility of states to prosecute such crimes.

Mr President, Your Excellencies,

ICTR-OTP

Regarding the work of the Office of the Prosecutor of the ICTR, I am happy to report that much of the workload has been concluded in the past six months. The Appeals Chamber delivered final judgments in several cases: the case of *Augustin Bizimungu* former Chief of Staff of the Rwandan Army whose case was severed from the other Military II accused; the cases of *Edouard Karemera* and *Matthieu Ndirumpatse*, former President and Vice President respectively of the ruling MRND political party in Rwanda; *Callixte Nzabonimana* a former Minister of Youth; and *Ildéphonse Nizeyimana* a former Captain in the Rwandan Army. Their convictions for genocide, war

crimes and crimes against humanity – including mass rape-, were affirmed on appeal. The judgement in the case of *Karemera et al*, as that of *Akayesu*, today stands as a major jurisprudential landmark in ensuring accountability for sexual and gender based violence in situations of conflict.

The case of *Butare*, the only ICTR case still outstanding on appeal with six accused persons has now been rescheduled for hearing in the first quarter of 2015. Consequently, the ICTR OTP Appeals Division having concluded a staff retention exercise has now identified an appropriate level of staff to be retained beyond 31 December 2014 to see the *Butare* appeal through to its end. The retained staff will remain engaged in this case with substantial motion practice, continuing disclosure activities, present the Prosecution's submissions at the appeals hearing and receipt of the Appeal judgment tentatively scheduled for September 2015. They will also continue to assist the Mechanism OTP particularly in respect of archiving and disclosure activities. The rest of the staff of the ICTR OTP, representing 46% of the total office staff strength, have now been given notices for separation from the ICTR on 31 December 2014. I take this opportunity to thank all the separating staff for their service to the OTP, to the ICTR and indeed to the cause of justice and accountability.

In the months ahead of closure, the ICTR OTP will focus on the *Butare* case, the archiving of the remaining records and the completion of its legacy and best practices projects including the writing of the genocide narrative, documenting the experience in the referral of cases to national jurisdictions, and writing the final report of the OTP.

Mechanism OTP

Turning now to the Mechanism, as the ICTR OTP winds down its operations in accordance with the Completion Strategy, the Mechanism OTP's workload has increased. The Mechanism OTP continues to take over functions from the ICTR and ICTY OTPs as mandated by the Mechanism Statute with full complement of staff now at both the Arusha and Hague branches.

Recently, in addition to the Special Assistant to the Prosecutor, a P-4 Investigator has also been recruited for the Kigali sub-office of the Arusha branch in order to intensify efforts on tracking the fugitives including the 3 fugitives earmarked for trial by the Mechanism, namely: *Augustin Bizimana*, *Felicien Kabuga* and *Protais Mpiranya*. Work on the case files of these three fugitives continues in order to ensure trial readiness in the event of an arrest. A vigorous diplomatic and outreach initiative is being pursued by the Mechanism OTP, in collaboration with INTERPOL, the Rwandan National Public Prosecution Authority, and the United States War

Crimes Rewards Program under the State Department's Office for Global Criminal Justice, with the launching, in Kigali in July 2014, of a renewed campaign to disseminate information about the fugitives and incentives for their arrest and to encourage broader public reporting of their activities and movements.

The arrest and trial of these fugitives remains the biggest challenge of and an uppermost priority for the Mechanism and the global community. In this regard, I welcome the recent statement of support by the Council on the occasion of the ICTR's 20th anniversary commemoration calling on all States to cooperate in the arrest of the fugitives.

The hearing in the *Ngirabatware* case, the only Arusha branch appeal case was concluded on 30 June 2014. Judgment in the case is expected on 18 December 2014 and the OTP *ad hoc* appeal team recruited for that case will be disbanded accordingly by 31 January 2015. Due to delays in the rendering of the ICTY trial judgement in the *Vojislav Seselj* case, further recruitment for posts in the advance *ad hoc* team has been put on hold. The Hague branch will commence next year to fill *ad hoc* posts to handle potential appeals in the cases of *Radovan Karadzic* and possibly *Goran Hadzic*.

In September this year, I visited Bosnia and Herzegovina, Croatia and Serbia, where I held meetings with senior State officials, representatives of international organizations, diplomats and prosecutors to discuss the transition of functions from the ICTY to the Mechanism as well as cooperation between the states concerned and the Mechanism. In this regard, I signed Memoranda of Understanding with the War Crimes Prosecutor and the Chief Prosecutors in all three States setting out the framework for continued mutual assistance. I concluded my visit to Bosnia and Herzegovina by paying my respects to Bosnian Muslim, Croat and Serb victims of the war at three memorial sites. My office will continue to be actively engaged with the countries in the former Yugoslavia to assist them meet the international community's expectations to prosecute the numerous persons at all levels, who are responsible for crimes committed in their national territories. Last week, I participated in a meeting of prosecutors from the three countries at Palic in Serbia hosted by the War Crimes Prosecutor of Serbia, which aimed at finding ways of intensifying regional cooperation between their offices and other parties in order to ensure continued accountability for the crimes committed in the region. I am greatly encouraged by the level of cooperation between the region's Prosecutors. I congratulate the Chief Prosecutor of BiH Goran Salihovic and War Crimes Prosecutor of Serbia Vladimir Vukcevic for their recent successful joint operation resulting in the arrest of fourteen persons for war crimes based partly on information provided by the Mechanism OTP. I urge the international community to continue to strongly support the efforts by the Prosecutors in the region.

The Mechanism OTP continues to attend to its other responsibilities such as the servicing of requests for assistance, archiving of evidence and records, monitoring of the cases transferred to national jurisdictions under Rule 11*bis*, the promulgation of policies and guidelines for the effective and efficient discharge of our mandate, and the transition of other functions from the ICTR and ICTY OTP to the Mechanism OTP. During this reporting period, my office has serviced a total of 178 requests, a very considerable increase in the workload of the office, from 13 countries and international organizations, and made 17 submissions before the Chamber in relation to variation of witness protective measures for the purpose of national proceedings. I also continue to receive regular reports from the Monitors of the cases transferred to Rwanda and France which continue to be managed satisfactorily in the respective national jurisdictions.

Mr President, Your Excellencies,

Finally, I wish to thank the members of the Council, the Secretary General and the United Nations Secretariat for your constant support to the ICTR throughout its 20 years of existence. You have done much to bring justice, peace and reconciliation to the people of Rwanda.

I thank you for your attention.