



STATEMENT

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PRESIDENT

Arusha, The Hague, 13 October 2015

Address to the UN General Assembly

**Judge Theodor Meron
President, International Criminal Tribunal for the former
Yugoslavia
President, Mechanism for International Criminal Tribunals**

13 October 2015

Mr. President, Excellencies, Ladies and Gentlemen:

It is my privilege to appear before the General Assembly, and to do so under the Presidency of Denmark, in my dual capacity as President of the Mechanism for International Criminal Tribunals and the International Criminal Tribunal for the former Yugoslavia.

Before I turn to specifics about the Mechanism and the Tribunal, I take great pleasure in congratulating you, Mr. President, on Denmark's assumption of the General Assembly Presidency and I wish you every success during your term. I am also extremely grateful for the efforts of the Security Council's Informal Working Group on International Tribunals, throughout the last year. Additionally, it is an honour to acknowledge the enormous assistance both institutions I lead receive from the Office of Legal Affairs and the Legal Counsel, Mr. Miguel de Serpa Soares, as well as the Assistant Secretary-General for Legal Affairs, Mr. Stephen Mathias. Their steadfast support for international justice efforts and institutions are crucial to the success of our work.

Last, but certainly not least, I would like to acknowledge that today marks the final annual report by the President of the Rwanda tribunal. President Joensen has led that institution over these last years with great competence and integrity. It has been an honour and a privilege to serve along with him.

I was also very grateful for his kind remarks today. I also salute all past and present Principals, Judges, staff members, and other stakeholders of the ICTR for their remarkable achievements. It is an honour to continue their work through the Mechanism.

In my remarks today, I will focus on the highlights of the past year at the Mechanism and the ICTY, identifying both successes and continuing challenges. A more detailed review of these matters is provided in the written reports submitted on behalf of each of the two institutions I represent.

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I will first turn to the work of the Mechanism.

The past year has underscored once again that the Mechanism stands at the forefront of international justice, demonstrating day in and day out that it is possible—with appropriate organization, infrastructure, and leadership—to build on the lessons of the first modern international courts and operate efficiently and cost-effectively.

For example, in December last year, I presided over the first appeal judgement of the Mechanism, in the case of *Augustin Ngirabatware v. The Prosecutor*. The judgement was delivered without any delays, despite the complex nature of the case, an ambitious schedule, and the fact that all Judges were working on it, for no additional remuneration, in addition to their judicial responsibilities at the ICTR and ICTY. Based on our experience with this case, in addition to the other complex judicial work the Mechanism is already handling, I am confident that we can replicate this success in future trials and appeals, significantly reducing costs by paying Judges only for the time they spend on a case, and reducing the time trials and appeals take by increasing the efficiency of judicial processes.

I am also pleased to report that the Mechanism will, by the end of the year, have assumed responsibility for all continuing ICTR functions. Over the next months, final administrative responsibilities, including security and building management, will be turned over, on schedule, to Mechanism control. We also continue to make great progress in transferring, and preparing for the

transfer of, relevant ICTY functions, a process that will be completed with that Tribunal's closure in 2017.

This transfer of responsibilities is a tremendously complex process, and one we could not have achieved without the close cooperation of Judge Vagn Joensen, President of the ICTR, as well as the Prosecutors, the Registrars, Judges, and staff of the ICTR and ICTY. The Mechanism is grateful for their crucial assistance and cooperation.

We are also extremely grateful to States that have concluded or are considering entering into enforcement of sentences agreements with the Mechanism. The Mechanism relies on the support of individual Member States to ensure that sentences passed down by the ICTR, the ICTY, and the Mechanism itself are carried out, and the assistance of Member States in this regard is invaluable.

As the transfer of remaining functions continues seamlessly and on-schedule, the Mechanism is also focused on three additional challenges over the next year.

The first of these challenges involves the construction of a new home for the Mechanism in Arusha. Progress continues to be made in constructing the premises, and this new facility will ensure that the Mechanism can operate in Arusha with necessary security protections, a functioning courtroom, and appropriate areas for archive preservation. In July of this year, we held a modest ceremony to unveil the cornerstone for the new building, and were honoured by the attendance of the President of Tanzania, His Excellency Jakaya Mrisho Kikwete. President Kikwete's presence underscored the large-scale support that Tanzania has generously provided to the Mechanism over the years.

The second major challenge we face is the apprehension of the last remaining individuals indicted by the ICTR who are currently fugitives from justice. Mr. President, Excellencies: The ICTY set an important precedent by accounting for all of the individuals it indicted, a remarkable achievement. It is crucial that we ensure that the same holds true when it comes to ICTR-indicted individuals as well. I have full trust in the considerable work that the Prosecutor of the Mechanism is undertaking to apprehend these last fugitives from justice, and call upon all Member States to cooperate however they can with the Prosecutor's efforts.

The third major challenge facing the Mechanism involves the relocation of certain individuals indicted by the ICTR, who have been subsequently acquitted or released but who are unable to return, or are afraid of returning, to their country of citizenship. The Mechanism assumed responsibility for the relocation of these individuals at the beginning of this year, and has adopted a strategic plan to both guide efforts to relocate them and reduce associated costs. The resettlement of these individuals is a crucial challenge for international justice, and I would urge all representatives here today to liaise with the Mechanism on potential relocation opportunities.

Naturally, even while addressing the specific challenges I have outlined, and doing so in the most efficient and cost-effective manner, the Mechanism continues to focus on adopting best practices across a range of areas. To that end, the Judges of the Mechanism recently adopted a judicial code spelling out the ethical responsibilities of Judges and the high standards to which we hold ourselves. We are also engaging with our local, regional, and national communities. For example, I recently secured outside funding to allow us to provide training and support to Tanzanian law students and Judges, thereby helping to share the Mechanism's resources and expertise with our host State's legal community.

I will end my remarks on the specific activities of the Mechanism by reiterating how grateful the Judges, my fellow Principals, the staff, and I are for the support of the international community, especially our host States, Tanzania and The Netherlands. As we attempt to fulfil our mandate in the best way possible, the support of the United Nations and its members forms the essential foundation to all our efforts.

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Mr. President, Excellencies: I will now turn to the ICTY.

I can report that the Tribunal continues to make significant progress in completing the last of its trials and appeals. This year we have already delivered two major judgements: in the very large *Popović et al.* case, involving six appellants, and in the complex *Tolimir* appeal. One more appeal

judgment—in the *Stanišić and Simatović* case—is expected by the end of this year. Only four trials and two appeals will be ongoing as of the beginning of 2016, with two trials completed by the first quarter of the new year, one additional trial and one appeal completed during the remainder of 2016, and the two last cases completed before the end of 2017. Accordingly, the ICTY is expected to complete its operations in about two years.

As the Tribunal completes its remaining judicial work, it is rapidly downsizing and certain essential functions being transferred to the Mechanism in accordance with the mandate of the Security Council. The Tribunal is committed to completing its work as quickly and efficiently as possible.

Of course, this continued downsizing, as I have previously noted, inevitably has a negative effect on staff morale, as employees of the Tribunal understand that their jobs may soon cease to exist and seek other professional opportunities. In circumstances like these, individuals' understandable search for security can lead—and, indeed, has already led—to the departure of key drafting team members. Such attrition has already caused delays to case completion. It has been a top priority for me as President to take every possible step to address this risk.

I have been active in liaising with the Registrar and with OHRM to obtain waivers to regulations that may constrain optimum recruitment and retention.

In addition, I am in close contact with the presiding Judges of all trials and appeals, and have instructed the Registrar to supply all the resources they require in order to fully staff their cases, and also to provide for promotion opportunities that may prevent staff attrition. The Registrar has agreed to meet any request for resources from presiding Judges; adopting this approach will significantly reduce the risk of delays to projected judgement delivery dates.

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Mr. President, Excellencies: My remarks today are the last time I will appear before this Assembly as President of the ICTY. I have been deeply honoured to serve in this position between 2003 and 2005, and again between 2011 and November of this year, having been elected and reelected by my

fellow Judges. On a more personal level, having lived through the Second World War and witnessed some of its horrors first-hand as a child, it has been a particular privilege to help guide the first of the modern era's international criminal tribunals.

I am well aware that in recent times, international courts, including the ICTY, the ICTR, and the ICC, have been the subject of significant criticism. Some of these reproaches can be explained as an inevitable by-product of the tribunals' mandate to try cases of extraordinary dimensions, assessing the evidence before them and individual criminal responsibility—without regard to how these verdicts impact on particular political agendas or align with popular sentiment. However, other criticisms—about matters such as the slowness of judicial proceedings and the significant costs of trials conducted at the international level—can often be quite fair.

It is partly because of these latter critiques, and the need to address them in a substantive way, that I am so delighted and honoured to still serve as President of the Mechanism. As I noted earlier, I believe that this institution is already setting an influential and important example of best practices by preserving and carrying forward the manifest strengths of the existing international criminal tribunals while reducing costs and increasing efficiency.

But even as we dedicate our efforts at the Mechanism to finding new ways to improve our work and our productivity, and to serving as a new and vital model for international justice, we must not let such efforts lead us to forget the ways in which the pioneers of the new age of modern international criminal tribunals, with all of their admitted flaws, have transformed our understandings of, and responses to, grave crimes.

As the first of the modern generation of international tribunals, the ICTY and ICTR stand as inspirational examples of the international community's commitment to ending impunity and promoting the rule of law. Through their significant *corpus* of substantive and procedural judgements and decisions, the Tribunals have played a preeminent role in broadening knowledge of, and compliance with, customary international law, including, notably, with respect to prohibitions on sexual assault, protections applicable in non-international armed conflicts, and jurisprudence on genocide and crimes against humanity.

In addition, by accounting for every single individual it indicted, the ICTY has struck a blow against impunity that is difficult to equal, its example serving as a stern warning to those who would hope to escape the consequences of their actions. And by giving rise to broader justice efforts, both national and international, the Tribunals have forever altered the global community's response to future conflicts, as well as those present and past, and increased protections afforded to the most vulnerable populations affected by conflict.

In celebrating these achievements, much credit is due to the Judges, United Nations staff, and attorneys who have worked tirelessly at and with the Tribunals to deliver on and exceed their initial promise. But this credit is, and must be, shared with all members of the United Nations. The material, political, and many other types of assistance provided by your States have been essential to the success of international criminal tribunals, and will remain crucial to efforts to make these courts even more impactful and efficient in years to come. I cannot underscore enough that without the partnership of the governments represented in this Assembly, none of the accomplishments I have discussed today would have been possible.

Of course, there is still a long path to travel until respect for the rule of law is universal and the concept of impunity is relegated to history. But the ICTY, the ICTR, and their fellow courts have ushered in a new era of international law in just the past two decades alone; a new era of accountability that would have been almost impossible to imagine even thirty years ago, far less in the dark days of the Second World War. And I am confident that, with your support, international criminal tribunals such as the Mechanism can build upon these achievements in the years to come, serving as harbingers of a world reflecting the highest aspirations of our United Nations.

Thank you.

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