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Your Excellencies, colleagues, ladies and gentlemen,

I am honoured, and humbled, to have been invited by the Ambassador of the Republic of Rwanda in the Netherlands, Jean Pierre Karabaranga, to address this distinguished audience.

As most of you will know, I recently assumed a new role as President of the International Residual Mechanism for Criminal Tribunals, the successor body of the ICTR and ICTY, after having been a long-serving Judge in all three institutions as well as the final President of the ICTY. Today is the first time that I speak publicly in my new capacity about the Genocide against the Tutsi in Rwanda. I am moved that this opportunity to address you coincides with the 25th commemoration of the genocide, which of course is never an easy topic to speak about or to reflect upon. But even the most painful and unbearable memories are important because they can, and must, inform the future.

What happened in Rwanda in 1994 was a shock to all of humanity. In a mere 100 days, over 800,000 men, women, children, and even infants were massacred in the most barbaric and cruel manner imaginable. The world witnessed one of the most vicious and evil displays of what human beings are capable of doing to each other, and those events still haunt me to this day.

Also deeply shocking was the international community's complete inability – one might more accurately describe it as unwillingness – to take action to end the butchery and bloodshed. Instead, after the genocide had drawn to a close, and with Rwanda facing the near-impossible task of rebuilding itself from the ground up, the Security Council created the International Criminal Tribunal for Rwanda in an effort to restore peace and security, bring the perpetrators to justice, and contribute to national reconciliation within Rwanda.¹

Despite these efforts, not even a year passed before another genocide was committed, this time it was in Srebrenica, an awful destruction of life that took place even though the International Criminal Tribunal for the former Yugoslavia had already been established two years before.

¹ See Security Council resolution 955 (1994); S/RES/955 of 8 November 1994.

As these episodes showed, when it came to being able to prevent or stop the downward spiral of genocidal violence in the 1990s, the international community was utterly paralysed. Its impotency in this respect was clear. Not until 2004 would there be a Special Adviser of the Secretary-General on the Prevention of Genocide, who could focus on assessing when populations are at risk of atrocity crimes and mobilise an effective response. In the meantime, it was left to these two *ad hoc* Tribunals – the ICTR and ICTY – to bring to justice those at the highest level who had perpetrated genocide, crimes against humanity, and war crimes falling under their jurisdiction.

We have come together today to look back at what happened in Rwanda a quarter of a century ago and our varied responses since then. I have been asked to address you on the role of international justice in restoring peace and security, and what lessons we ought to have learned in the past 25 years. In doing so, I will briefly identify five such lessons.

The first lesson is that there can be “no peace without justice”. This is not a novel concept; I am sure you are familiar with it. But I repeat it, because it is of fundamental importance and because it is true. And, like all truth, this principle is eternal. Without justice, there cannot be lasting peace. The justice process, in the form of prosecuting and holding to account those alleged to have committed atrocity crimes, permits the wounds of society to be aired and closed. Over time, it allows them to heal, thereby providing an opportunity for stabilisation and harmony.

You will already be familiar with the success of the two *ad hoc* Tribunals in rendering justice. Between them, they indicted 254 persons, most of whom were convicted and sentenced. When the Tribunals were established, there was no contemporary model to follow. We did not even know whether anyone would be arrested and brought to justice. Yet together, the ICTR and the ICTY, the first tribunals of their kind in the modern age, brought to justice a prime minister and presidents, military and militia leaders, ministers and mayors, priests and propagandists.

But they also did far more. These two Tribunals undertook painstaking and extensive investigations to uncover the truth, in all its misery. Not only did they collect a vast and extraordinary array of evidence, they also provided an opportunity for survivors and other witnesses to tell their stories and, crucially, to be heard. To be listened to. And in discharging their mandates, each Tribunal produced an historical account of what had happened during these terrible, and terrifying, times.

The ICTR cemented the historical reality of what the Rwandese people, and Rwanda as a nation, were forced to endure over 100 horrific days. We know, for example, that during this very week, 25 years ago, the Nyange Church was demolished on the instructions of its priest, killing the masses huddled inside ... that Tutsis seeking refuge at the Mugonero Complex were subjected to genocidal rape and murder ... and that the Interim Government not only replaced the leader of the sole *préfecture* in Rwanda to have resisted large-scale killings up to that point, but also incited killings in Murambi and elsewhere, paving the way for the Genocide against the Tutsi to continue unabated. Thanks to the findings made in cases such as *Seromba*, *Muhimana*, *Nyiramasuhuko et al.*, and *Nzabonimana*,² these facts are now available to all people, and they are recorded for all of posterity.

² See, for example, *The Prosecutor v. Athanase Seromba*, Case No. ICTR-01-66-A, Judgement, 12 March 2008, paras. 164-182; *Mikaeli Muhimana v. The Prosecutor*, Case No. ICTR-95-1B-A, Judgement, 21 May 2007, paras. 148-192; *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-A, Judgement, 14 December 2015, paras. 593, 595, 623, 626-628, 634, 2159, 2165; *The Prosecutor v. Pauline Nyiramasuhuko et al.*, Case No. ICTR-98-42-T, Judgement and Sentence, 24 June 2011, para. 863; *Callixte Nzabonimana v. The Prosecutor*, Case No. ICTR-98-44D-A, Judgement, 29 September 2014, paras. 377, 385-387.

Indeed, the ICTR has provided legal confirmation that this genocide is – and I quote from the Appeals Chamber’s judicial notice decision in the *Karemera et al.* case – “a part of world history, a fact as certain as any other, a classic instance of a ‘fact of common knowledge’”.³ On top of that, this confirmation came from the institution that has been described right here in the Peace Palace as being – and I quote again, this time from Judge Bhandari’s Separate Opinion in the ICJ’s *Genocide* Judgment of 2015 – “the most prolific judicial body to have interpreted and applied the Genocide Convention in the course of human history”.⁴ The Genocide against the Tutsi simply cannot be denied.

That brings me to a second lesson, namely, that no place can be allowed for the denial of terrible crimes such as genocide. Revisionism and denial of such crimes are not accidental, nor are they new. These are well-known and age-old phenomena, which constitute a menace both for Rwanda and the former Yugoslavia, just as they have for other places and peoples throughout history. If not adequately addressed, they can further the suffering caused by the very events being denied. Moreover, they can delay reconciliation by fanning the flames of hatred and division that inherently exist in all post-conflict societies. Quite simply, such behaviour imperils peace and security. We must – the world must – have the courage to condemn those who choose to turn their backs on the truth of history.

Difficult as it may be for those living in the affected communities, the responsibility to tackle this threat lies primarily with both the responsible authorities, be they political or social, and the peoples of the countries concerned. As international judicial institutions, organisations like the ICTR, the ICTY, and the Mechanism are necessarily limited in their functions and also, unfortunately, in their capacity to effect real change on the ground. But I can assure you that the Mechanism will do what it can, within the confines of its mandate and resources, to ensure that its judgements are respected, and to denounce attempts by revisionists and deniers to poison the historical truths established by the ICTR and the ICTY.

In the past, during the annual commemoration in Potočari for the Srebrenica genocide, I have condemned revisionism and denial in the clearest of terms,⁵ and I will also in my present capacity continue my condemnation of those who deny the Genocide against the Tutsi.

I recently travelled to Rwanda where, on the whole, the contributions of the ICTR are recognised and appreciated. But we must likewise recognise that the ICTR’s work was not – and could never be – conducted in a vacuum. Even apart from the cooperation and support that it received from the United Nations, Rwanda, and other key stakeholders, it must be remembered that the ICTR was accompanied by a parallel justice process in Rwanda, where hundreds of thousands of individuals had their cases heard before local *gacaca* courts. For me, this is crucial. Peace and justice can never effectively take hold unless the affected communities and countries are also directly involved in the process. In my view this is a valuable third lesson: namely, that national and local institutions must be strengthened, and that this entails not only concerted support from external actors but also unwavering commitment from within the country. In this regard, we must acknowledge the tremendous efforts made by Rwanda and its government towards forgiveness and reconciliation. Its progress in these respects, quite frankly, has been staggering. And it continues to this day.

³ *Prosecutor v. Édouard Karemera et al.*, Case No. ICTR-98-44-AR73(C), Decision on Prosecutor’s Interlocutory Appeal of Decision on Judicial Notice, 16 June 2006, para. 35.

⁴ *Application of the Convention on the Prevention and Punishment of the Crime of Genocide (Croatia v. Serbia)*, Judgment of 3 February 2015, Separate Opinion of Judge Bhandari, para. 36.

⁵ See, for example, Judge Carmel Agius, President, ICTY, Remarks Delivered at Srebrenica 22nd Commemoration, 11 July 2017, available at <http://www.icty.org/x/file/Press/Statements%20and%20Speeches/President/170711-president-agius-remarks-at-srebrenica-commemoration-en.pdf>.



Our work is not done. And that is a fourth lesson that we have learned together in the past 25 years: when it comes to restoring and maintaining peace and security, our work is never done. For this reason we must remain active, and determined, and dedicated, and somehow retain faith that our commitment is worth it. As I have said on other occasions, there can be no doubt that international criminal justice costs money, and it takes time. But we must be clear: justice is an investment worth making.

As an example of just how long some have had to wait for justice, I am sad to observe that, decades after the genocide, eight fugitives initially indicted by the ICTR remain uncaptured. Their continued evasion of justice is not only a problem in itself, but it also hampers efforts for victims, their families, and for Rwanda as a whole to move forward. While the ICTR's record should be lauded, we recognise that its impact could have been even greater had it succeeded, like the ICTY, in securing the arrest or surrender of all fugitives. This is a situation that the Mechanism is fervently trying to rectify, but we cannot do it alone.

I turn to a final lesson for today, one that we learned well at the ICTR and the ICTY: justice can only be achieved when all stakeholders work together. A partnership is required. From investigations, to arrests, to extraditions, to immunities, to the production of evidence, to enforcement of sentences, the *ad hoc* Tribunals were able to succeed because even when there were differences of opinion, and despite occasions when cooperation was lacking, the Tribunals and the relevant States ultimately worked together in pursuit of a common objective. Further, the Tribunals in the end received the support they needed from the United Nations and the international community. And the Tribunals' successes, in turn, offered models that could be followed at the national level, both in post-conflict societies and elsewhere. Such institution- and capacity-building, while not necessarily part of the core mandate of the Tribunals, nevertheless enhanced their contributions. The most important aspect here, however, is that dialogue and cooperation are necessary ingredients for justice to be achieved and for it to contribute meaningfully to the restoration of peace and security.

The *ad hoc* Tribunals served a different function as well, one that transcended geographical boundaries. The Security Council, thanks to its determination in establishing the two Tribunals, sent out a loud and clear message that perpetrators of atrocity crimes, wherever they are committed, would enjoy impunity no longer. This, in turn, inspired the international community to escape the shackles that had impeded the development of international criminal law and justice. Following in the footsteps of the ICTR and ICTY, in 1998 the Rome Statute of the ICC was adopted, followed by the creation of specialised courts for Sierra Leone, Cambodia, and Lebanon, as well as other justice mechanisms that are operating even now.

It all sounds so positive. But is it? Since the creation of the two Tribunals roughly 25 years ago, and all of those courts and tribunals in their wake, have peace and security in fact been enhanced?

I believe that had we maintained our earlier momentum, and if we still enjoyed the political optimism of the 1990s, when it seemed that the world was united in its call for change and that change was indeed possible, the answer would appear to be easy. But, regrettably, in this new atmosphere of cynicism and mistrust, the world has slowed its push towards the elimination of impunity for atrocity crimes, even as those crimes appear to become more widespread. Recent events in Iraq, Libya, Mali, Myanmar, Syria, and other hotspots around the globe make me wonder if we are any better off now in terms of peace and security than we were before the early 1990s. When perpetrators can commit egregious crimes, egregious violations of international criminal law

without any fear of personal repercussions, this not only impacts justice, it also endangers the world.

I would not be standing before you if I did not believe wholeheartedly in the value of international justice, if I did not believe in the legacy of the two *ad hoc* Tribunals, if I did not believe in the mission of the Mechanism. My belief in our objectives is unwavering, as is my amazement at how far we have come since those terrible days in the 1990s. But there is so much more to be done, by me, by you, and by all of us together.

The ICC, for one, is in desperate need of support in the face of direct challenges to its role and functioning. It must be given the means to operate effectively, bring to justice those who it has indicted, and properly investigate other known crimes under its jurisdiction. Where that is not possible, then other international criminal tribunals and justice mechanisms should be established on an *ad hoc* basis as needed in order to safeguard our progress towards eradicating impunity. For example, while the people of Myanmar and Syria deserve immediate access to justice, until that can be provided it is reassuring that independent mechanisms have in the meantime been set up to collect, consolidate, preserve, and analyse evidence that, in the future, could be used to render justice for the most serious international crimes. This rather creative approach was identified through multilateral cooperation, but we all recognise that it is a second-best solution that should be temporary in nature only, so that justice is delayed no longer.

Otherwise, the international community will continue to project its impotence in the face of crisis, just as it did 25 years ago. And if international institutions are perceived as ineffective when they are needed most, then peace and security will suffer once more. As all of us gathered here today can attest, this is a lesson that humanity cannot afford to ignore again.

I conclude with the following message. When the world community comes together and cooperates, then justice, peace, and security are given an opportunity to take hold, even flourish. But when the world community fails to act, even with death upon its doorstep, then genocide and other atrocity crimes will proliferate unchecked. We are here today in recognition of this truth. Justice is an essential component of any lasting peace, and it demands continued support by us all.