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***The Importance of the Genocide Convention for the Development of
International Criminal Justice***

Remarks at Event Commemorating the Adoption of the Convention on the Prevention
and Punishment of the Crime of Genocide and the Genocide Victims Day

8 December 2017

United Nations, New York

Excellencies,

Ladies and gentlemen,

I thank the organisers for giving me the opportunity to address this important event. As President of the International Criminal Court, I am honoured to be able to contribute to the promotion of the universal acceptance and implementation of the Convention on the Prevention and Punishment of the Crime of Genocide. The Genocide Convention laid the foundation of modern international criminal justice and is inextricably linked to the Rome Statute of the International Criminal Court.

Adopted in the aftermath of the Second World War, the Genocide Convention built up on the statement famously included in the Nuremberg judgement of 1946 that crimes are committed by persons, not by abstract entities.

Accordingly, the Genocide Convention rightly treated atrocities against certain groups as outright crimes, whether committed in times of peace or time of war. Crimes are committed by individuals, who must be held accountable, regardless of “whether they are constitutionally responsible rulers, public officials or private individuals”.

Most importantly, the Convention expanded the basis for jurisdiction over these crimes, recognising that their punishment could not be left exclusively to national States within the confines of their borders. Perpetrators were to be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Only a few years later, in 1951, the International Court of Justice considered the prohibition of genocide as a peremptory norm of international law. Moreover, the jurisprudence of the ICJ recognised that the principles underlying the Convention are principles which are recognised by civilised nations binding on States, even without any conventional obligation.

And yet, it took almost five more decades, and the end of the Cold war, for the international community to finally apply in practice the Genocide Convention. The establishment of the international *ad hoc* tribunals for former Yugoslavia and Rwanda paved the way for a dramatic acceleration of international criminal justice and a practical enforcement of the norms and principles of the Genocide Convention. The *Akayesu* case and others that followed demonstrated that accountability for this crime had become a reality.

The parallel set up of the International Criminal Court in 1998 consolidated the achievements of international criminal justice. As foreseen by the Genocide Convention, there is now a permanent institution of a general kind that may step in to investigate and prosecute the perpetrators of genocide and other international crimes, when the national systems fail to act. The inclusion of the crime of genocide in the Rome Statute was amongst the earliest agreements during the negotiations of the treaty and the definition of the crime contained therein reproduces verbatim the definition contained in article 2 of the Convention.

The punishment of perpetrators of international crimes was the focus of the Genocide Convention and the *ad hoc* international criminal tribunals. The Rome Statute of the ICC established a new paradigm in which victims are also at the centre of justice efforts. The Rome Statute for the first time allowed victims to participate at all stages of proceedings to present views and concerns and request reparations. These innovative elements are today considered to form an integral part of the international criminal justice system, as subsequent international criminal jurisdictions have also incorporated this possibility.

Ladies and gentlemen,

There is indeed much to celebrate since the adoption of the Genocide Convention in the quest for accountability for the gravest international crimes. However, despite the peremptory nature of the prohibition to commit genocide and the general recognition of the need to prevent and suppress this crime, neither the Genocide Convention nor the Rome Statute have attained universal participation. While they share almost a hundred States Parties in common, more than seventy States have only joined one of the two treaties, and some twenty others have not ratified either of them.

This lack of universality creates gaps where impunity regrettably continues to flourish, leaving victims without protection and without remedy for the harm suffered.

As we are approaching the seventieth anniversary of adoption of the Genocide Convention and the twentieth anniversary of the Rome Statute, the challenge of enforcing the prohibition against genocide and, more globally, mass crimes remains enormous. While there is very broad agreement that egregious atrocities constitute crimes that must be addressed either nationally or internationally, many of them are not addressed at all and many, or even most perpetrators, continue to be left untouched.

Enormous progress has been achieved in international criminal justice in the last three decades. However, it is clear that there is a need for a stronger commitment of the global community to ensure a consistent pattern of accountability, and thus a more effective prevention of genocide and other atrocious crimes.

Thank you very much for your attention.

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