

MARIEKE WIERDA: Good morning.

My name is Marieke Wierda, and I'm with the International Centre for Transitional Justice in New York. And I want to thank you very much for giving us the opportunity to attend and to give a statement.

I wish to address today in particular the circumstances of countries in transition and how complementarity may apply to two countries, again, which were previously either in the group of conflict or dictatorship but which are now in transition to democracy.

We believe this raises particular considerations for complementarity as in such circumstances prosecutions are more than a means of just retribution, but are also a way of restoring the relationship between citizen and state, and to rebuild and reestablish trust in the public institutions which have failed, such as courts. We therefore strongly endorse and support the view of complementarity taken in the draft policy paper, with its emphasis on domestic prosecutions when these are undertaken in good faith.

The crimes in the Statute, by definition, of course, involve a large number of perpetrators and victims. The circumstances giving rise to these crimes are of immense complexity, and they also call for comprehensive responses. Again, in transitional context we've often viewed a wide range of responses to these types of crimes, including prosecutions but also including truth-seeking mechanisms, reparations programmes, vettings of public officials, institutional reform, or a combination of all of these.

In Sierra Leone, for instance, we see, of course, a hybrid tribunal which prosecutes those who bear the greatest responsibility for acts carried out during the war, but simultaneously there is a truth and reconciliation commission which hears from victims and perpetrators and which may also recommend reparations, and these function in the

complementarity relationship.

So the adequacy of these mechanisms, in isolation or combined, is what the Prosecutor will be mandated to assess in deciding whether to proceed with an investigation under Article 53. In determining what is in the interests of justice, we would ask that the Office of the Prosecutor consider the totality of the justice mechanisms which are operating in any particular context. Although it is unlikely that a transitional justice policy without prosecutions would be considered adequate, this possibility should not be entirely dismissed. It may, for instance, be that a country may currently only be able to sustain a commission of inquiry or a truth commission, but that these will make possible a domestic prosecution in the future.

The Prosecutor is therefore entitled to reevaluate the efficacy of the justice policy over time, and his active monitoring may in itself, of course, give further incentive to domestic initiatives. Again, we are encouraged very much by the draft policy paper which I think envisages such a role for the Prosecutor.

Finally, we welcome very much the creation of the Unit of Victims within the Office of the Prosecutor to assist with victims during investigations and in relation to reparations. At the same time we would urge that the involvement of victims not simply be restricted to the role laid out for them in the Statute, but that they be considered very central to the very formation of a prosecutorial strategy. In this way prosecutions will be strategic as well as being satisfying to those whom the Court was created to serve.

We congratulate you very much on your appointment and thank you very much for this opportunity.