

ANTOINE BERNARD: Mr. Prosecutor, let me express my sincere appreciation of this opportunity for a dialogue with you and your Office and to say my emotion when my organisation has been first asking for an international court with its Prosecutor to be created in the early 1950's.

Mr. Prosecutor, prevention cannot and should not be opposed to the fight against impunity. Prevention and justice are two landmark pillars that need to be addressed jointly in the interests of victims and peace.

Prevention. There is a high objective and a high expectation. As the Preamble of this Statute refers to, States Parties are determined to put an end to impunity for the perpetrators of these crimes and thus contribute to the prevention of such crimes, i.e., prevention would mean no crime, no victims, no impunity.

Justice. While the ICC is in a position to react to a State's failure to fight against impunity, its deterrent and preventive powers should not be underestimated. The complementarity principle should be understood to encompass the exercise by the ICC, and in particular the OTP, of many types of actions that will aim at preventing further future violations, in particular when states are incapable or unwilling to do so, such actions including speaking out, advising, or opening preliminary investigations.

Based on the principle of complementarity, the potential of preventive impact of the OTP appears enormous. It is based on the most probable assumption that States Parties will do their best to be seen as

willing and able to prosecute and judge at the national level. One can predict that any suspect, be it state official or head of a multinational company, will do its best so that the local justice system be not disqualified through implementation by the OTP of Article 17 of the Statute.

At this stage, the potential of preventive impact is widely unexplored. It requires a systematic approach and use. We know how much - and this was a long time before the ICC system exists - we did fail to prevent the genocide in Rwanda. However, we NGOs had investigated. We, the United Nations Special Rapporteur on Summary Executions, had investigated and confirmed our conclusions as soon as March and September 1993. Rwanda and the former Yugoslavia situations should be in the everyday mind of the Office of the Prosecutor's staff. It will actually be unacceptable for the ICC to wait for the commission of crimes before taking action. The early detection system to be built in the OTP will be crucial in this regard. Our experience of UN special procedures, namely, confirms the key role of NGOs in this regard since they provide more than 80 per cent of the early detection information in the system. We expect your Office to rely on them as essential elements to contribute to the early detection. They should be trained in this regard, actually.

Now, measuring the preventive impact is not an easy task. Let me take an example. In October 2002, the ICC is already an existing entity. The Central African Republic faces a violent "tentative de coup d'etat" which results, in our view, in the commission of alleged war crimes.

Together with our local partners and members, we decide to send urgently on an investigation mission which concludes that there are numerous evidence of summary executions and rapes including on minor girls. With our local affiliates, we decide to use the newly created ICC as a means notably to deter, prevent the commission of future crimes.

The impact of the public notice that the information was sent to the relevant instances of the ICC has been important and valuable, although very difficult to measure. Indicators in this regard include the behaviour of the belligerents on the battlefield, the immediate reactions and explanation by the leaders in the media, their statements and commitments, the direct testimonies from local NGOs that the situation had calmed down.

Although very difficult, they are ways for the OTP to put, in a systematic way, criteria for measuring and evaluating.

Let me end, Mr. Prosecutor, in 15 seconds by saying that in many ways prevention relates to politics in the noble sense of this word, and we understand your mandate as including challenging this field since your independent status enables you to be above real political consideration that govern the community of states.

Thank you, Mr. Prosecutor.