

JENNIFER SCHENSE: Hello, I'm Jennifer Schense. I'm the legal advisor with the Coalition for the International Criminal Court, speaking today in my personal capacity.

If I might begin with a brief note of congratulations by your unanimous election by the Assembly of States Parties, and also a note of thanks to Morten Bergsmo, who I think has carried the torch of the Office of the Prosecutor since the days of the advance team. And finally, a note of welcome to Silvia Fernandez. It's really wonderful to see you in The Hague.

In addressing the subject of preventive communications, I believe the subject might be better described as proactive communications. The work of the Office of the Prosecutor must be the subject of tremendous attention in its first months and years. It is essential that the Office of the Prosecutor take the lead in presenting itself internationally to establish constructive working relations with all relevant actors and not to leave it to others to define the nature and purpose of its endeavours. For many reasons, it is essential that the OTP recognise, therefore, that a strong communications programme is not a luxury but, rather, a necessity. In fact, it could be argued that a communications policy is as essential as a prosecutorial policy itself.

Of particular importance is the fact that a strong and proactive communications programme will aid the OTP in creating the political space it needs to define and implement its mandate. That mandate is broader than investigations and prosecutions and many will be looking to see how that mandate is defined.

In particular, what role does the ICC play in the context of efforts to facilitate post-conflict reconstruction? How does the provision of technical assistance and expertise in facilitating complementarity contribute to the development of sound national systems

where they may be lacking? What role does the ICC play in helping to establish the historical record of conflicts, and how does that more neutral record contribute to reconciliation?

These are not questions that can be answered from the beginning or even in the Court's early stages of development, but it is important to keep them in mind. The Court's early years will fundamentally and de facto define and delimit how the Court can contribute to post-conflict reconstruction and reconciliation. Choices must be made as deliberately as possible to ensure that the ICC and the OTP play the most constructive role possible in harmony with other actors in the field and with the aim of fulfilling the lofty goals of the Preamble.

A few basic and more practical points follow from these questions of mandate, in particular as are relevant to the OTP's message and the method by which the OTP's message is disseminated. On the question of message, the specific message from the OTP will change as investigations and prosecutions progress. Regardless, these specific messages must always be supported by a continuous and basic explanation of the OTP's basic functions, what it can do and cannot do. The OTP's work will be more successful if there is more strengthened general understanding of how cases come about and, further, how the Court's jurisdictional, political, and financial limits shape the prosecutorial policy.

The OTP must never tire of addressing even the most basic questions about its work from any relevant actors. It can be very easy to make assumptions about what people understand or should understand about the work of the OTP, and perhaps there is even something of a lawyer's or a professional's tendency to interact most thoroughly and easily with those at the same level of expertise. The sharing of basic information and helping to build expertise among relevant actors from the ground up will be a fundamental basis for constructive working relations

and for mutual respect.

The specific messages must clarify prosecutorial policy and, in particular, how the OTP is promoting the legitimate use of the complementarity regime. It must also be clear as to why specific crimes or situations have come to be addressed by the OTP and how the OTP's involvement complements other efforts to address the same situations. This will facilitate integration of the OTP's efforts into legitimate efforts to address the impunity gap through the utilisation of other justice mechanisms. Further, if arguments about the interests of justice are employed by the OTP to justify going forward or not going forward with a case, these parameters must also be clear.

Finally, if the ICC hopes to contribute to the public record, it is important to provide full access to as much documentation on cases as possible from as early as possible through various channels. The big questions about the OTP's mandate cannot be answered, but it is important to pose and encourage their public exploration. The OTP should encourage the organisation of conferences and meetings to facilitate thinking among relevant actors about the role of the ICC in relation to post-conflict reconstruction and reconciliation.

On the question of medium, transparency in the dissemination of information should be a priority, granted much information the OTP receives and utilises is available only on a confidential basis. But if the OTP shares as much information as possible about the development of its policies and of specific investigations and prosecutions and draws the lines of confidentiality clearly, relevant actors will be better informed and partnerships will be greatly strengthened. Partnerships in communications, in fact, will be key, and these must be developed with patience, with an eye toward the long term.

One such partner is the Association of Journalists at the ICC.

The ICC is fortunate to have a core of journalists who have already followed the ICTY for many years and who possess a level of technical understanding of international criminal law which other journalists have not necessarily developed. Encouragement of constructive relations with the AJICC and other interested journalists with an eye toward building further their own understanding of how the OTP works will be essential to ensure that coverage of the work of the OTP is balanced and accurate.

Similar partnerships can be contemplated with other actors. The Coalition comprises nearly 2.000 non-governmental organisations active in over 150 countries. The Coalition secretariat focuses in particular on dissemination of public information, and the channels for that information distribution may also be helpful to the OTP. Further, the Coalition's active national and regional networks will surely be interested to develop relations with the OTP. The Coalition welcomes the creation of the External Relations and Complementarity Unit as well as the Public Information Unit and looks forward to working with both.

In relation to other partners, I would strongly encourage the OTP to develop constructive working relations with all supportive governments regardless of whether they have ratified the Rome Statute. The OTP may find good partners among our diplomatic colleagues in the embassies of The Hague and Brussels as well as the New York missions and capitals. Parliamentarians may also have an interest in the ICC, and their involvement should be encouraged.

In developing partnerships it is important to utilise media appropriate to the partners involved. Again, information that can be made broadly and publicly available should be, but the OTP should also develop more informal and direct channels of communication with partners where this facilitates greater involvement.

To conclude, it is my opinion that the ICC alone cannot address

disinformation and denial of serious crimes of concern. It is only in concert with key partners that such a systematic denial can be confronted.

Thank you.