

**Statement of Under Secretary-General Adama Dieng, United Nations
Special Adviser on the Prevention of Genocide**

at

**The African Union Peace and Security Council Session on Justice, Peace
and Reconciliation. 20th October 2017, Addis Ababa**

Chairperson,

Excellencies,

Distinguished Guests,

Ladies and gentlemen

Firstly, let me express my gratitude to the Chairperson of the Africa Union Peace and Security Council His Excellency Ambassador Dieudonne Ndabarushimana for extending the invitation to me to participate in this AU Peace and Security Council important session on peace, justice and reconciliation in Africa. I make this contribution not only as the United Nations Special Adviser on the Prevention of Genocide and other Atrocities but also as someone who has been deeply involved in the course of justice and human rights course on the continent. I had the privilege to be the head of the International Criminal Tribunal for Rwanda (ICTR) and participated in the processes leading to the adoption of the African Charter on Human and Peoples' Rights establishing both the Commission and the Court.

Mr. Chairperson,

From the onset, let me state that the African Union has one of the most advanced normative frameworks to advance peace, justice and

reconciliation as clearly outlined in the concept note of this meeting. The African Court of Justice and Human Rights including its additional protocol that covers international crimes far and beyond those in the ambit of the International Criminal Court is a clear indication of Africa's struggle to end impunity for serious crimes while working tirelessly through its peace and security architecture to maintain peace. The organization has an advanced early warning system that includes a provision to intervene in situations where there is a risk for genocide, war crimes and crimes against humanity. through the African standby force. These norms define the centrality of sustaining peace, justice and reconciliation on the continent.

I have always argued that peace and justice are like identical twins joined at the hip. It is difficult to separate them and achieve sustainable peace in post conflict situations. A credible peace process is one that pays attention to the whole spectrum of justice and reconciliation. Those who have committed serious crimes of genocide, war crimes and crimes against humanity must be held to account. Amnesties should not be a scapegoat to condone impunity for such serious crimes. But this criminal accountability must also be accompanied with truth seeking which is very important to victims. It is only when truth has been established that actual healing can take place and the victims given a chance to forgive or seek reparations. When truth and healing is in place then we can embark on a credible reconciliation process.

Ladies and Gentlemen,

Whereas African Union has these advanced normative frameworks for peace, justice and reconciliation, the reality is that the continent still continues to experience deadly conflicts that are claiming thousands of lives. We have seen peace agreements signed in places like Burundi, the Central African Republic, Democratic Republic of Congo, South Sudan and Sudan among others, yet the cycle of conflicts has not been completely broken. The big question then becomes how to actually apply this advanced African Union normative frameworks of peace and security and human rights to break the cycle of conflicts, obtain justice for victims and build sustainable peace on the continent.

The primary responsibility to ensure peace and justice lies with individual member states, who are signatories to these African Union norms. African states must not only adhere to the norms they have signed on but should also respect them. It is only when these states are unable or unwilling that regional mechanisms – like the African Union and the RECs should kick in but still based on the principle of subsidiarity. We have a few examples to illustrate this.

In Central African Republic, the crimes committed since the conflict broke out constitute atrocity crimes that fall within the jurisdiction of the ICC. The sub-region ECCAS through MICOPAX and the African Union through MISCA were the first responders to stop the atrocities being committed. The international community only came in later to support these regional

initiatives. The Government of CAR recognizing the essence of justice in achieving peace cooperated, with the ICC and the international community to establish a Special Criminal Court to prosecute those who have committed these serious crimes. Last week, I was in Bangui and held meetings with President Faustin Toudera and other senior officials in which I emphasized to them that they should not use amnesty to subvert justice that they have committed to pursue. We should all work to support CAR in its pursuit of peace, justice and reconciliation.

In South Sudan, it is slightly a different story. When the conflict broke out in South Sudan in 2013, the parties to the conflict committed atrocities and obviously they were non committal to ending the conflict that is raging on up to day nor willing to investigate and hold to account the perpetrators. When the African Union established the Commission of Inquiry, many were skeptical on whether it will be credible and achieve desired expectations. My Office committed to support the COI and I am glad that its findings informed the crafting of the Peace Agreement that included the establishment of the African Union Hybrid Court for South Sudan. I know there is a lot of frustration, especially among the victims of the atrocities being committed in South Sudan, but we should remain steadfast in supporting this process in every way for it to succeed. If we fail, it will be almost impossible to achieve sustainable peace, justice and reconciliation in South Sudan.

But I also have some positive examples where Africa has effectively navigated peace, justice and reconciliation.

It is gratifying to note that the ECOWAS Community Court of Justice, while building on the legacy of ICTR, reaffirmed the state obligation to punish past war crimes and crimes against humanity. The trial of Hissein Habré, the former President of Chad, exemplified the crucial role this Court played in compelling Sénégal to fulfill its historic obligations to take concrete measures to put Habré on trial. The Court specifically noted that ‘the Court shares the noble objectives contained in the mandate of the African Union and translating into practice the adherence of this exalted organisation to end impunity for violations of grave human rights violations and to protect the rights of victims’. The unflinching commitment of the Court to reaffirm the principles of international law is something worth applauding for all those keen to peace and ending impunity in Africa.

While we would expect domestic judicial institutions to effectively complement the work of international and regional judicial institutions, the reality on the ground demonstrates that local judicial systems are inadequate to sufficiently respond to the demand for justice that they are supposed to satisfy. We see justice systems that have been denied appropriate training and financial resources; justice systems whose officers have been bribed, harassed, intimidated and sometimes even killed; justice systems that have been de facto stripped of their very *raison d’être*. It is these varied and complex challenges facing judicial institutions in most African countries that have partly contributed to elusive peace, justice and

reconciliation in many post-conflict situations on the continent. When serious violations are taking place, there should be no room for complacency and this seems to be understood today. Words should be backed with actual action.

While I have laid emphasis on the importance of Africa taking its commitments seriously as a full participant in making and implementing international law, I would like to conclude by reminding all of us here that this obligation should equally extend to nurturing and supporting regional institutions created to further peace, justice and human rights in Africa. It is only through empowering these institutions, submitting to their jurisdiction, respecting and carrying out their decisions that they can meaningfully contribute to the articulation of their founding ideals.

It is only through linking peace processes to justice and reconciliation; strengthening national judiciaries; full operationalization of the African Union peace and security architecture, including the provisions on prevention and punishment of atrocity crimes; empowering institutions like the African Court of Human and Peoples' Rights, and other sub-regional courts like the Hybrid Court for South Sudan that will demonstrate the commitment of Africa to achieving sustainable peace, justice, equality and respect of international human rights values.

Thank you.

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