



**FORUM BETWEEN OFFICES OF THE  
PROSECUTORS OF UN AD HOC CRIMINAL TRIBUNALS  
AND NATIONAL PROSECUTING AUTHORITIES  
(NPA Forum)**

*Arusha, 26 – 28 November 2008*

**BRIEFING PAPER**

The struggle against impunity requires a strong partnership between international and national jurisdictions in the investigation and prosecution of international crimes.

The international jurisdictions represented by the UN *ad hoc* tribunals and the permanent International Criminal Court (ICC) cannot investigate and prosecute all perpetrators of mass atrocity. At best they can only focus on those who play a leading role in the commission of such crimes.

National courts on the other hand exercise concurrent jurisdiction with the *ad hoc* tribunals over such offences but enjoy complimentary jurisdiction with the ICC under the Rome Statute, and thus bear primary responsibility for the investigation and prosecution of such crimes.

In the process of investigating and prosecuting international crimes over more than a decade, the *ad hoc* Tribunals have relied on the extensive cooperation of national authorities in gathering evidence and intelligence, the location of witnesses, and the apprehension of fugitives. Similarly, national authorities investigating, prosecuting or attempting to extradite fugitives have increasingly sought the assistance of the *ad hoc* Tribunals for evidence or guidance, given their extensive resource base concerning the crimes in issue.

As the *ad hoc* Tribunals complete their respective mandates prosecution of the remainder of cases can only be dealt with by national courts through the referral of indictments by the *ad hoc* Tribunals or the assumption of jurisdiction over other suspects resident within their territories.

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For national jurisdictions to discharge their obligations under international law to prosecute or extradite perpetrators of international crimes, they will need to build on the achievements and resources of the *ad hoc* Tribunals and foster closer cooperation among their respective National Prosecuting Authorities (NPAs).

The *ad hoc* Tribunals have gathered a considerable volume of evidentiary material, developed best practices in the investigation and prosecution of international crimes and created a large corpus of jurisprudence that should be of immense value and remain accessible to NPAs after the closure of the Tribunals.

Recent experience of the ICTR-Office of the Prosecutor (OTP) in cooperating with NPAs reveals:

- a substantial increase in requests for mutual legal assistance from NPAs seeking to investigate, prosecute or extradite suspects resident within their territories;
- insufficient information and knowledge about the availability of or the modalities for accessing the evidentiary and other resources of the Tribunal; and,
- in some cases, institutional, legislative or capacity constraints in the prosecution or extradition of fugitives.

This Forum provides an opportunity of bringing together key stakeholders in international criminal justice to address these challenges, exchange ideas, experiences and best practices and to explore the role of NPAs and civil society after the closure of the *ad hoc* Tribunals to ensure that no impunity gap is created by reason of such closure.

The attached programme is indicative of the thematic structure of the roundtable discussion, the expected outputs of which are as follows:-

- Identification of best practices in mutual legal assistance for international crimes;
- Identification of national limitations in the prosecution of international crimes;
- Identifying the role of civil society closing the impunity gap;

- Identification of networking mechanisms and strategies to promote closer and continued cooperation in the prosecution of international crimes;
- Identifying modalities of continued access to ICTR Resources;
- Developing a roadmap for the implementation of recommendations.

The outputs of this Forum will feed into the agenda of the annual International Prosecutors' Colloquium planned for early 2009, which will, among other issues, be addressing legacy and other policy considerations arising from the impending closure of the *ad hoc* Tribunals.

Participation in the Forum is drawn from international and regional courts and tribunals, NPAs, regional mutual legal assistance organizations and select NGOs involved in human rights and international criminal justice. Participation in the deliberations of Panels 1 through 6 of the Forum will be limited.

This Forum is organized by the Office of the Prosecutor of the ICTR with a generous grant from the **John D & Catherine T McArthur Foundation**, which includes limited support for some NPA delegates and NGOs. Delegates not otherwise sponsored are expected to meet all the costs of their travel and accommodation. An Information Sheet and Registration Form have been distributed and are also available on the following weblink: [http://www.ictr.org/ENGLISH/international\\_cooperation/index.html](http://www.ictr.org/ENGLISH/international_cooperation/index.html). Participants are encouraged to register on-line in good time.