

Statement to the Security Council by Under-Secretary-General and Special Adviser to the Secretary-General on the Prevention of Genocide, Alice Wairimu Nderitu, on ‘Incitement to Violence Leading to Atrocity Crimes’

21 June 2022

I would like to thank the President of the Security Council, Ambassador, Ferit Hoxha, and other Council Members for inviting me to brief on the topic of ‘Incitement to Violence Leading to Atrocity Crimes.’

My mandate, as Special Adviser to the Secretary-General on the Prevention of Genocide, is to act as a catalyst to raise awareness on the causes and dynamics of genocide, to alert relevant actors through early warning where there is a risk of genocide, and to advocate and mobilize for appropriate action. In addition, since 2019, my Office serves as focal point within the UN system for the implementation of the UN Strategy and Plan of Action on Hate Speech which integrates this priority into the work of whole United Nations system, including at the country level, all its agencies, funds, and programmes, as a key element to advance all relevant UN agendas. This is done in full respect to the essential right of freedom of expression as provided under international human rights law.

This week, we commemorated the first *ever International Day for Countering Hate Speech*, June 18th, 2022. My office and the Permanent Mission of the Kingdom of Morocco, the driving force behind resolution 75/309 which established this international day, also co-sponsored a side event at the Trusteeship Council on the ‘Role of education to address the root causes of hate speech and advance inclusion, non-discrimination, and peace’ on June 17th, 2022.

The *International Day for Countering Hate Speech* was officially marked through a High-Level informal meeting of the General Assembly, convened by the President of the General Assembly yesterday, June 20th, 2022.

Mr. President,

We all know from history the devastating impact that incitement to discrimination, hostility or violence, hateful and divisive narratives can have in generating hatred and in incitement to violence. We saw it in the lead up to the Holocaust, in Rwanda in 1994 and in Bosnia Herin 1995.

My Office also works with tech and social media companies so that they adequately fulfil their responsibilities in addressing hate speech on their platforms and align their policies with international human rights standards, strengthen their commitment to put the protection of human lives at the forefront. My Office has developed guidance and policy including on addressing and countering COVID-19 related hate speech and in the last few months, Holocaust and genocide denial as hate speech and gender-based hate speech.

Mr. President,

The *Convention on the Prevention and Punishment of the Crime of Genocide*, adopted on 9 December 1948, emerged out of the shadows of the Holocaust.

The International Convention on Civil and Political Rights says Advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law and the direct and public incitement to genocide is a crime prohibited under international law. These also represent indicators of risk and potential triggers for the commission of atrocity crimes in the *Framework of Analysis for Atrocity Crimes*, the methodology my office uses for analysis.

Indeed, the 1948 *Convention on the Prevention and Punishment of the Crime of Genocide*, specifically identifies as punishable offences, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and complicity in genocide.

The prevention of genocide, crimes against humanity and war crimes is a legal obligation for States under International law.

Mr. President,

United Nations intergovernmental organs have held meetings and adopted several decisions since the start of the conflict in Ukraine. The Secretary-General has visited the region and called for a cessation of hostilities, remained fully engaged with key actors, including the Governments of the Russian Federation and Ukraine, reiterating the message that there is no alternative to diplomacy.

I have advocated, publicly and privately, in my engagement with a range of Member States, for the need to reinforce prevention and accountability efforts. In a statement dated 18th March 2022, I acknowledged the 16th of March 2022 Order by the International Court of Justice (ICJ) indicating provisional measures in the case concerning *Allegations of Genocide under the Convention on the Prevention and Punishment of the Crime of Genocide*. I echoed the Court's pronouncement that State parties must implement their obligations to prevent and punish the crime of genocide in good faith and act only within the limits permitted by international law and in conformity with the spirit and aims of the United Nations. The Court spoke and it is imperative that the provisional measures it indicated are implemented in full and without delay to prevent further loss of life. I also called for the cessation of hostilities and the protection of civilians.

I echoed concerns by other senior United Nations officials at the heightened risks of sexual violence, especially trafficking in persons, significantly impacting women and children. I acknowledged the important role of regional and international efforts to address the ongoing humanitarian crisis, with millions of people displaced. I also stressed the importance for all States to adhere to international human rights and international humanitarian law obligations and principles.

Mr. President,

Before the start of the current conflict this year, my Office had already been working closely with the UN Country Team in Ukraine, supporting inter-communal dialogue efforts. I encourage the prioritization of accountability as well as the continuation of such inter-communal efforts.

On April 14th, I reiterated, my strong concern at the continued deterioration of the situation in Ukraine, with continued loss of life and intensification of the suffering, called on all in a position of influence and those who can effect real change on the ground to redouble their efforts to contribute to the restoration of peace. I called on religious leaders to use their influence to support efforts to solve the ongoing conflict, not to inflame it further. I reminded them, as I reminded other actors, that advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence is prohibited under international law.

Mr. President,

Pursuant to its resolution 49/1, the Human Rights Council established the independent international commission of inquiry, which complements the important work of the human rights monitoring mission of the Office of the High Commissioner for Human Rights in Ukraine. The Commission is mandated to, among other things, investigate all alleged violations and abuses of human rights and violations of international humanitarian law and to establish the facts, circumstances, and root causes of any such violations and abuses; and to collect, consolidate and analyze evidence of such violations and abuses, including their gender dimension, in view of any future legal proceedings. At the same time, the Office of the United Nations High Commissioner for Human Rights continues to document civilian casualties and the impact of hostilities, monitor freedom of movement, and receive and report on allegations of human rights violations. Added to these, the 34th special session of the Human Rights Council in May 2022, was devoted to Ukraine and called *inter alia* for the cessation of hostilities. The Prosecutor of the International Criminal Court has also announced his decision to open an investigation into the Situation in Ukraine.

Mr. President,

Serious allegations have been raised, including indication of the possible commission of genocide and war crimes. The determination of the commission of the crime of genocide can only be made by a court of competent jurisdiction. My Office does not carry out criminal investigations on specific incidents, present or past. Without judicial or quasi-judicial powers my office does not determine whether specific situations, either ongoing or from the past, legally qualify as the international crimes of genocide, crimes against humanity and war crimes.

In my role as Special Adviser on the Prevention of Genocide, my main responsibility is prevention, not adjudication. Yet, serious allegations of commission of international crimes, in themselves, constitute indicators of risk of commission of such crimes. For this reason, I cannot but reiterate my call to put an end to this war, to ensure the protection of civilians and to accelerate diplomatic efforts to make both possible. Prevention focuses on the future, and on the past too, and the outpouring of hostility in response to this war means we must work harder to protect everyone.

Mr President,

War is a problem created by humans that humans have the capacity to solve. History has produced individuals and collective bodies who ended wars.

Many people believe in the United Nations, and envision a world where peace, justice and nonviolent relations prevail. We need the Membership of the Security Council and concerned parties to articulate an inclusive vision, propose a roadmap towards ending this war, a roadmap that considers that peace is itself a process that is not indifferent to injustice.

Ending this and other wars requires sustained actions, bridging generational divides, countering divisive rhetoric and offline and online hate speech, addressing human rights violations, impacting directly on livelihoods and quality of life.

To conclude, Mr. President, as Secretary-General Antonio Guterres has noted there only can be a diplomatic solution to the conflict. That solution is possible with commitment on the part of everyone. With every continued delay, Mr. President, the escalation of human suffering continues.

Thank you.