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Eighteen months after assuming office as the chief prosecutor of the often criticised International Criminal Court (ICC), **Fatou Bensouda** (from The Gambia) says she is resolute in ensuring that politics and extraneous considerations have no place, and will play no part, in the decisions she takes. **Mercy Eze** interviewed her.

Q | One-and-a-half years after you took up the mantle as the ICC Chief Prosecutor, what has been the journey so far?

It has been an extremely busy year. As Prosecutor, I have taken into consideration the lessons learned from the Court's first decade of operational experience, and adapted our work to respond to new and emerging strategic realities that we face. On this basis, I have finalised a new strategic plan for the Prosecutor's Office, which sets out my vision for the coming years, highlighting changes in our investigation and prosecution methods in an effort to enhance the quality of the Office's work as we move into the next decade of the Court's existence.

As we move forward with our cases, the Court's proceedings have regrettably been marred by an unprecedented level of witness interference, which is a real threat to achieving justice for victims of crimes under the Court's jurisdiction. My office continues to do all within its power to protect the integrity of its cases.

Four individuals were recently arrested in relation to witness interference in the Bemba case, with Bemba himself also accused of the same crimes. [Bemba is a

former Congolese rebel leader who became a vice president in the country's coalition government and was later accused of war crimes committed by his troops in Central African Republic, and is now standing trial at the ICC for those crimes].

A warrant of arrest has also been issued in relation to yet another case of witness interference, this time in the context of the Kenyan cases being prosecuted by the Office. Witnesses who have the courage to come forward and tell their story deserve our protection and praise. My office will apply the full force of the law to protect witnesses and to ensure that justice runs its course unimpeded by such offences against the administration of justice.

In addition to structural changes, I have implemented [other things] within the Office to enhance the quality of our deliverables, and strengthen coordination and efficiency. On the policy front, we are finalising a gender policy paper with the assistance of my special gender advisor, Brigid Inder, which will place great emphasis on gender crimes in all aspects of our work. The sad reality in the world today is that women and girls continue to bear the brunt of violence in conflicts around the world. I have also made prosecuting crimes against children a priority for the Office.

In 2012, soon after taking office, I appointed Professor Diane Marie Amann as special adviser on children in and affected by armed conflict. Prof Amann is currently working with the Office to produce a comprehensive policy paper on this important issue with the aim of ensuring that our investigations and prosecutions can systematically and most effectively tackle these reprehensible crimes.

Q | What else is new in the corridors of the ICC that you can share with us?

As Prosecutor, I continue to work to make sure such crimes do not go unpunished and through the Court's disciplining effect, hopefully deter the commission of such heinous crimes. In the past year, my office has also adopted a Code of Conduct providing clear guidelines for the staff of the Office to uphold an impeccable standard of professionalism, efficiency, independence and integrity.

These are just a few highlights of key developments in the past year. To be sure, since assuming office in June 2012, we have been most industrious in strengthening the foundations necessary for the Office to deliver with consistent quality and effectiveness in this second decade following the adoption of the Rome Statute, and beyond.

Q | The African Union has not been happy with certain aspects of the ICC's work. How does the AU's position impact on its relationship with the ICC?

The ICC and the African Union share the same values of fighting impunity and promoting the rule of law. The ICC is an independent judicial institution that promotes lasting peace and security through its judicial mandate. Similarly, the "objectives" and "principles" of the Constitutive Act of the AU include the promotion of peace, security and stability and the rejection of impunity. It is therefore not surprising that African states have played an important role in adopting and promoting the ratification of the Rome Statute, the Court's founding treaty.

So far, 34 African states are parties to the Rome Statute; they represent the Court's largest regional group. The first country to ratify the Rome Statute was in fact Senegal in 1999. The Court's first review conference was held in Kampala, Uganda, in 2010, where amongst other things, the Kampala amendments on the crime of aggression were adopted (RC/Res.6).

To date, five African states themselves have asked the ICC to start investigations into their territories. These countries are DR Congo, Uganda, Central African Republic, Côte d'Ivoire, and Mali. We continue to receive good and timely cooperation from many African states.

African officials at the ICC, including myself, have also been playing an important role in the institution, and have been elected with the full support of African states and the African Union. The ICC continues to have strong support from a significant number of African states, well-known African personalities and parliamentarians, African civil society groups, African victims, and generally from the African population.

It also bears stressing that my office is currently conducting several preliminary examinations to determine whether or not reasonable grounds exist to open investigation in six situations outside of Africa. It may be of interest to note that my office has just released its Report on Preliminary Examination Activities (2013), covering the period between 1 November 2012 and 31 October 2013, as well as the Office's updated policy paper on preliminary examinations.

This latter document describes in detail the relevant Rome Statute principles, factors and procedures applied by the Office in the conduct of its preliminary examination activities. Both of these important documents are available on the Court's official website and provide clarity on how my office independently undertakes its crucial work in assessing whether the required legal tests have been met before it determines whether or not to open an investigation in any given case.

To be sure, the ICC is an independent and impartial judicial institution. The Rome Statute, which came into force through its adoption by a significant number of states, many of which were from Africa, offers robust checks and balances to ensure this crucial independence and impartiality, and to guard against any misuse or unfairness in proceedings before the Court.

Together, we should not allow the Court's proceedings to be politicised. We should work to strengthen the Court to ensure that its important mandate and activities are properly and accurately understood. Raising awareness is key to our universal aspirations to collectively put an end to impunity and to deter the commission of mass crimes in the future. The dividends to be acquired through justice and accountability measures are crucial to ensuring peace, stability and prosperity, in Africa and beyond.

I firmly believe that the relationship between the Court and the African Union is critically important and must be further fostered. Along with my office, I have been, and continue to be, committed to strengthening this engagement.

Q | What are the current challenges and those you foresee?

The Court, by virtue of its mandate, will inevitably face challenges. Some of these however can be mitigated. One of the main challenges faced not only by my office but by the Court as a whole is the question of resources. Over the years, the number of preliminary examinations, investigations and prosecutions has increased and yet resources are not matched to respond to this growing demand. There is therefore a real challenge in maintaining and ensuring high quality work without the necessary resources.

This year, I have requested an increase in the budget for the Office of the Prosecutor. Our 2014 budget proposal was correlated to the new strategic plan I mentioned earlier, and I am pleased it was favourably considered by the Assembly of States Parties. To achieve our goals, we simply need the necessary resources to enable us to execute our mandate efficiently and as expected in accordance with the Rome Statute's legal framework.

Another challenge is to receive full and timely cooperation from states. The ICC has no police force or enforcement body of its own and relies on states to implement its decisions and to support its work. Such cooperation is vital in realising the goals of the Court. To give you an example, without the cooperation of states, the recent synchronised arrest of four individuals for offences against the administration of justice in the Bemba case would not have been possible. For it to

be meaningful, cooperation has to be timely and tangible and this is what we ask of states.

And finally, as I have alluded to, I think there is certainly a need to strengthen public awareness of the Court, its mandate and activities. Similarly, there is a further need to shield the Court from politicisation at both the national and international levels. This is a must to counter misperceptions and to build support for the Court's crucial mandate. The Court simply cannot do this alone. Civil society, the media, association of lawyers and states, to name but a few, all have a crucial role to play in this regard.

Q | You talked about the problem of “interference with witnesses”, can you elaborate?

As I mentioned, four arrests have recently been made relating to offences against the administration of justice in the Bemba case. These are offences under Article 70 of the Rome Statute which stipulates that, amongst other things, it is an offence to corruptly influence a witness. Interfering with witnesses is a serious offence as it intentionally perverts the course of justice and proceedings before the Court. It seeks to impede the establishment of the truth in cases where those at trial are accused of some of the gravest crimes listed in the Rome Statute.

We cannot stand idly by and allow these serious offences to undermine the Court's proceedings and credibility. For that reason, my office will continue to investigate any and all interferences with its witnesses so that those responsible will be punished to the fullest extent of the law. The recent arrests in the Bemba case are a testament to our determination to put an end to such unlawful interferences with the administration of justice.

This is not the first case of its kind at the Court. In October 2013, the judges of the Court unsealed a warrant of arrest against Walter Barasa for attempting to corruptly influence witness(es) in the case against William Ruto and Joshua Sang in breach of Article 70.1(c) of the Rome Statute. The scale of witness interference that the Office has seen in the Kenya cases has been unprecedented and needs to be stopped in its tracks.

The challenge we face is that the intimidation and interference goes beyond individual witnesses themselves and extends to pressures on their immediate and extended families, relatives and loved ones. We continue to employ all means at our disposal to address these challenges, including working closely with the Victims and Witnesses Unit in the Registry of the Court.

The Office of the Prosecutor will continue to seek authorisation from the judges for additional protective measures, as needed. We appreciate the sacrifices that witnesses make for the sake of truth. They deserve our utmost respect and admiration for their commitment to the pursuit of justice.

Corruptly influencing witnesses, obstructing or interfering with the attendance or testimony of witnesses, retaliating against witnesses, and interfering with the collection of evidence are all serious offences under the Rome Statute that can carry a maximum penalty of five years imprisonment. My office will not hesitate to pursue and prosecute any persons implicated in this sort of criminal activity. Justice must be allowed to take its course unhindered by outside interference. We will continue to do all we can to keep our witnesses safe.

Q | Of 139 state-party signatories to the ICC statute, about 30 are yet to ratify it. Does this hamper decision-making at the ICC?

I have a clear mandate to apply the law, and any decisions I take will be strictly within the jurisdiction and legal framework as set out in the Rome Statute. As I have stated before, as Prosecutor, I will pursue the mandate the Court's states parties have entrusted to me independently and impartially, as the Rome Statute requires.

My office will continue to act solely upon the evidence and the applicable legal principles, within the framework of the Rome Statute, with sensitivity to the interests of victims and witnesses, fairness toward suspects and accused persons, and respect for our obligations to the international community. In this aim, politics and extraneous considerations have no place and will play no part in the decisions I take. I am most resolute in this regard. To date, 122 countries have pledged allegiance to the goals and mandate of the Court through ratifications. We hope more states join the growing ranks of the Court's states parties.

Q | What is your view (as a Gambian and an international figure) on your country's withdrawal from the Commonwealth?

As Prosecutor, it is not my role to comment on such decisions, which are purely a sovereign prerogative, whether taken by Gambia or any other state. My mandate is to investigate the world's most serious crimes as listed in the Rome Statute, namely: war crimes, crimes against humanity and genocide.

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