



# ICTR NEWSLETTER

June 2005



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United Nations International Criminal Tribunal for Rwanda

## ICTR President, Judge Erik Møse and Prosecutor, Justice Hassan B. Jallow Address The United Nations Security Council



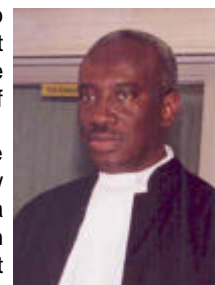
importance of the ICTR in establishing the guilt and innocence of alleged leaders in 1994 who would probably not have been brought before a court had it not been for the ICTR. We appreciate the co-operation of Member States to transfer them to Arusha.

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### Statement by Justice Hassan B. Jallow Prosecutor of the ICTR to the UN Security Council , 13 June 2005

Mr. President, Your Excellencies,

I am pleased to report progress at the ICTR, in the implementation of the Completion Strategy of the Tribunal. You now have before you a revised Completion Strategy document as at 23<sup>rd</sup> May



2005. The focus and the Strategies of completion remain the same. As time unfolds however the statistics have been, and will continue to be, adjusted accordingly.

The end of 2004 marked a significant stage in the implementation of the Completion Strategy. In accordance with the terms of the Completion Strategy endorsed by the Security Council in its Resolution 1503 of 27<sup>th</sup> August 2003, we were able to conclude all the remaining investigations into the genocide by 31<sup>st</sup> December 2004. Until then sixteen targets had been under investigation. We have furthermore concluded the evaluation of the evidence available on these cases. I have, based on the evidence and on the law, determined that indictments should be filed in respect of eight of the accused persons who had been under investigation. The indictments have accordingly been filed by last week for confirmation, ahead of the original

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### Address by Judge Erik Møse, President of the ICTR, to the UN Security Council, 13 June 2005

Mr President, Excellencies, Ladies and Gentlemen,

It is a great honour to address the distinguished members of the Security Council. You have received the updated version of the ICTR Completion Strategy, dated 23 May 2005. It includes the development during the last six months, in conformity with Security Council Resolution 1534 (2004). In this oral intervention I will briefly highlight the most important aspects.



The number of accused in completed and on-going cases is now fifty. They include one Prime Minister, eleven Government Ministers, four Prefects, seven bourgmestres and many other high-ranking personalities. This illustrates the



## The Second Colloquium of Prosecutors of International Tribunals held in Freetown Sierra Leone



The Second Colloquium of Prosecutors of International Tribunals was held in Freetown Sierra Leone on the 24th and 25th of June 2005. It was hosted by Mr. David Crane, the Prosecutor of the Special Court for Sierra Leone (SCSL).

The ICTR was represented by its Prosecutor Mr. Justice Hassan B. Jallow, the Chief of Prosecutions, Mr. Stephen Rapp, the Chief of Information & Evidence Support Service (IESS) Ms. Maria Warren, and Commander of Investigations, Mr. Alfred Kwende. The International Criminal Court (ICC) was represented by its Prosecutor, Mr. Luis Moreno-Ocampo, the Deputy Prosecutor, Ms. Fatou Bensouda, Gloria Atiba Davis and Yves Sorokobi. The ICTY was represented by its Deputy Prosecutor Mr. David Tolbert. David Crane, the SCSL Prosecutor led a delegation comprising his designated successor, Mr. Desmond de Silva, QC, Mr. Luc Cote, Chief of Prosecutions, Gilbert Morissette and Alan White. A number of NGOs, including Amnesty International, the Open Society Institute (OSI) and academic institutions attended as observers.

The First Colloquium of Prosecutors was held at the ICTR, Arusha in November 2004 to discuss the challenges and lessons learnt in the investigation and prosecution of international crimes. At the Freetown Colloquium, the Prosecutors discussed a wide range of issues all of which have a common thread of identifying the challenges and the best ways of overcoming them in the discharge of their mandate. Among the issues discussed were the experience of the SCSL in dealing with the phenomena of child soldiers, forced marriages, immunity and amnesty.

The Prosecutor of the ICTR facilitated the discussion on the standardisation of best practices in investigation and prosecution. As a result, the Colloquium identified a number of steps in the process of investigation and prosecution in which significant experience has been gathered by the ad hoc tribunals for an effort to be made to formulate best practices out of such

experience. The topics included evidence management, witness and protection management, gender crimes, operating procedures, tracking and arrests, speeding up trials, etc. The Prosecutors have each been allocated a specific task to take up the lead in the best practice formulation. An international best practice committee has been set up to oversee the whole process. The committee comprises ICTR Prosecutor and Chief of Prosecutions, the ICC Prosecutor and his Special Assistant, the SCSL Prosecutor designate and Chief of Prosecutions and the Deputy Prosecutor of the ICTY. The Committee is to submit for the approval of the Prosecutors a plan of action by the end of August 2005.

The Prosecutors also discussed political strategies towards non-cooperating States, especially regarding arrests as well as the residual aspects of the completion of work of the tribunals.

In their final statement, the Prosecutors stressed the need for member States to discharge their obligations of cooperation. The Prosecutors recalled:

“Fundamentally, the tribunals cannot succeed without the firm commitment of sovereign States to discharge their legal and treaty obligations. Treaties such as the Geneva Conventions and the Rome Statute of the International Criminal Court and other international agreements and conventions need to be complied with. State cooperation with international criminal tribunals is one of the pillars upon which the future development of international law depends.”

The Prosecutors accepted the joint invitation of the ICTY and ICC to hold the next colloquium at The Hague in the Spring/Summer of 2006.

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## ICTR Judicial Activities

### • Rwamakuba Trial Starts in His Absence

On 9 June 2005, the International Criminal Tribunal for Rwanda (ICTR) began the trial of *André Rwamakuba*, Minister of Primary and Secondary Education in the Interim Government during the 1994 Rwanda genocide. He was also a member of the Mouvement Démocratique Républicain (MDR). *Rwamakuba* refused to attend the proceedings but the presiding judge ordered the trial to continue despite his absence.

An amended indictment charges *Rwamakuba* with: genocide or alternatively, complicity in genocide, and crimes against humanity (murder, extermination). In his further initial appearance on 21 March 2005, *Rwamakuba* pleaded again not guilty to all the charges.

ICTR Prosecutor, Hassan Jallow, made an opening statement before Trial Chamber III outlining the historical context for the crimes with which *Rwamakuba* is charged. Trial Attorney Dior Fall said the Prosecution would present evidence that the



accused conspired with other government officials in developing a plan to remain in power by exterminating the civilian Tutsi population and members of the Hutu opposition. In executing the plan, *Rwamakuba* allegedly organized, ordered and participated in the massacres of the Tutsi population and of moderate Hutu.

In April and May 1994 *Rwamakuba*, a physician, allegedly checked the identities of patients at the National University hospital in Butare and ordered the selected Tutsi patients to be forced into vehicles and taken away. Those people were never seen again. *Rwamakuba* also allegedly led massacres on the hospital premises. According to his indictment,

*Rwamakuba* struck wounded patients with clubs and allowed the militiamen accompanying him to kill women and disembowel those who were pregnant.

*Rwamakuba* was arrested on 21 October 1998 in Windhoek, Namibia and transferred to the UN Detention Facility in Arusha two days later.

Trial Chamber III is composed by Judge Charles Michael Dennis Byron (Saint Kitts and Nevis), presiding, Judge Karin Hökberg (Sweden), and Judge Gberdao Gustave Kam (Burkina Faso).

*Rwamakuba* is represented by David Hopper (United Kingdom).

### JUDICIAL DECISIONS FOR THE ICTR BETWEEN 1 AND 30 JUNE 2005

Date Created	Case Name	Record Number	Chamber	Title
01/06/2005	Rwamakuba	ICTR-98-44C-0033	TC 3	DECISION ON MOTION FOR AN ORDER FOR TEMPORARY TRANSFER OF DETAINED WITNESS GIN
01/06/2005	[Military I] Bagosora et al.	ICTR-98-41-2190/1	TC 1	DECISION ON MOTION TO HARMONIZE AND AMEND WITNESS PROTECTION ORDERS
01/06/2005	[Military I] Bagosora et al.	ICTR-98-41-2189/1	TC 1	DECISION ON MOTION TO HARMONIZE AND AMEND WITNESS PROTECTION ORDERS
01/06/2005	Rukundo	ICTR-01-70-0148	TC 3	DECISION RELATIVE A LA REQUETE DE LA DEFENSE AUX FINS DE FIXATION DE LA DATE D'OUVERTURE DU PROCES OU, A DEFAUT, DU TRANSFERT DE L'AFFAIRE DEVANT UNE JURIDICTION NATIONALE
02/06/2005	Muhimana	ICTR-95-1B-0207/1	AC	DECISION ON MOTION FOR EXTENSION OF TIME FOR FILING OF NOTICE OF APPEAL
03/06/2005	Rwamakuba	ICTR-98-44C-0039	TC 3	DECISION ON DEFENCE MOTION FOR STAY OF PROCEEDINGS
03/06/2005	[Kanyarukiga]	ICTR-02-78-0022	TC 1	DECISION ON PROSECUTION MOTION FOR PROTECTIVE MEASURES
07/06/2005	Ntahobali	ICTR-97-21-0756	TC 2	THE PRESIDENT'S DECISION ON THE APPEAL FILED AGAINST THE REGISTRAR'S REFUSAL TO PERMIT A CONFIDENTIAL INTERVIEW WITH GEORGES RUTAGANDA
07/06/2005	Muhimana	ICTR-95-1B-0207/2	AC	DECISION RELATIVE A LA REQUETE AUX FINS DU REPORT DU DÉLAI DE DÉPÔT DE L'ACTE D'APPEL
08/06/2005	[Military I] Bagosora et al.	ICTR-98-41-2192	TC 1	DECISION ON DISCLOSURE OF PROSECUTION DATA BASE AND MAP
08/06/2005	Seromba	ICTR-01-66-0191	TC 3	DECISION RELATIVE A LA REQUETE DU PROCUREUR AUX FINS DE SANCTIONS
09/06/2005	Ndindiliyimana et al.	ICTR-00-56-0473	TC 2	DECISION ON SAGAHUTU'S REQUEST FOR CERTIFICATION TO APPEAL THE DECISION DATED 13 MAY 2005 DISMISSING APPLICANT'S REQUEAST FOR EXCLUSION OF WITNESSES LMC, DX, BB, GS, AND GFO
10/06/2005	Nyiramasuhuko et Ntahobali	ICTR-97-21-0757/1	TC 2	DECISION DE RETRAIT DE LA COMMISSION D'OFFICE DE MAITRE DUCAN MWANYUMBA A TITRE DE CONSEIL PRINCIPAL DE M. ARSENE SHALOM NTAHOBALI
10/06/2005	Bikindi	ICTR-01-72-0089	TC 3	ORDER ON THE COMPLIANCE WITH THE DECISION GRANTING LEAVE TO AMENDED THE INDICTMENT AND TO FILE IT



Date Created	Case Name	Record Number	Chamber	Title
13/06/2005	Ndindiliyimana et al.	ICTR-00-56-0474	TC 2	DECISION ON BIZIMUNGU'S MOTION FOR CERTIFICATION OF APPEAL FROM THE TC'S ORAL DECISION OF 10 MAY 2005
15/06/2005	Nyiramasuhuko et al.	ICTR-98-42-1403	TC 2	DECISION ON NYIRAMASUHUKO'S STRICTLY CONFIDENTIAL EX-PARTE UNDER SEAL MOTION FOR ADDITIONAL PROTECTIVE MEASURES FOR DEFENCE WITNESS BK
15/06/2005	Nyiramasuhuko Et Ntahobali	ICTR-97-21-0757/2	TC 2	DECISION TO WITHDRAW THE ASSIGNMENT OF Mr. MWANYUMBA AS LEAD COUNSEL FOR Mr. ARSENE SHALOM NTAHOBALI
17/06/2005	Nyiramasuhuko, et al.	ICTR-98-42-1404	TC 2	DECISION ON NYIRAMASUHUKO'S STRICTLY CONFIDENTIAL EX-PARTE UNDERSEAL-MOTION FOR ADDITIONAL PROTECTIVE MEASURES FOR DEFENCE WITNESS WBNM
20/06/2005	Karemera et al.	ICTR-98-44-1810	TC 3	DECISION GRANTING EXTENSION OF TIME TO FILE PRE-TRIAL BRIEF
20/06/2005	Niyitegeka	ICTR-96-14-0181	AC	DECISION ON NIYITEGEKA'S URGENT REQUEST FOR LEGAL ASSISTANCE
21/06/2005	[Military I] Bagosora et al.	ICTR-98-41-2129/2	TC 1	DECISION RELATIVE AU REPORT DE LA PRESENTATION DES MOYENS DE DEFENSE DE L'ACCUSE KABILIGI
21/06/2005	Nzabirinda	ICTR-01-77-0062	TC 2	DECISION DE RETRAIT DE LA COMMISSION D'OFFICE DE MAITRE JOSEPH SAINTE-LUCE A TITRE DE CONSEIL PRINCIPAL DE M. JOSEPH NZABIRINDA
23/06/2005	Simba	ICTR-01-76-0353	TC 1	DECISION ON THE ADMISSION OF CERTAIN EXHIBITS
24/06/2005	Bizimungu et al.	ICTR-99-50-0933	TC 2	DECISION ON THE DEFENCE MOTION FOR THE CHAMBER TO VISIT SITES IN RWANDA
24/06/2005	Kabuga	ICTR-98-44B-0005	TC 3	DECISION ON THE AMENDED INDICTMENT
24/06/2005	Muvunyi	ICTR-00-55A-0096	TC 2	DECISION ON THE PROSECUTOR'S NOTICE OF THE FILING OF A SCHEDULE OF PARTICULARS TO THE INDICTMENT PURSUANT TO THE DIRECTIVE OF THE TC
27/06/2005	Bizimungu et al.	ICTR-99-50-0936	TC 2	DECISION ON JEROME BICAMUMPAKA'S MOTION FOR PROTECTION OF DEFENCE WITNESSES
27/06/2005	Bizimungu et al.	ICTR-99-50-0935	TC 2	DECISION ON CASIMIR BIZIMUNGU'S MOTION FOR PROTECTION OF DEFENCE WITNESSES
27/06/2005	Bizimungu et al.	ICTR-99-50-0934	TC 2	DECISION ON JUSTIN MUGENZI'S CONFIDENTIAL MOTION FOR PROTECTION ON DEFENCE WITNESSES
28/06/2005	Nahimana et al.	ICTR-99-52-1390	AC	DECISION ON PROSECUTION'S URGENT MOTION FOR EXTENSION OF TIME TO FILE RESULTS OF INVESTIGATION INTO THE NEW EVIDENCE OF WITNESS EB
28/06/2005	Kabuga	ICTR-98-44B-0008	TC 3	DECISION SUR LA REQUETE DU PROCUREUR EN PROROGATION DE DELAI POUR SE CONFORMER A LA DECISION DU 24 JUIN 2005 RELATIVE A L'ACTE D'ACCUSATION AMENDE
28/06/2005	Ndindabahizi	ICTR-01-71-0220	AC	DECISION ON "REQUETE URGENTE AUX FINS DE PROROGATION DE DELAI POUR LE DEPOT DE LA REPLIQUE DE L'APPELANT"
30/06/2005	Ndindiliyimana et al.	ICTR-00-56-0481	TC 2	DECISION ON BIZIMUNGU'S REQUEST FOR CERTIFICATION TO APPEAL THE ORAL DECISION DATED 8 JUNE 2005





• **Judicial Calendar for the Month of June/ July 2005**

**Trial Chamber 1**

*Bagosora et al.*: 11 April to 15 July , Judge Møse, Presiding, Reddy & Egorov

**Trial Chamber II**

*Nyiramasuhuko et al.*: 1 March to 15 July, Judge Sekule, Presiding, Ramaroson & Bossa  
*Bizimungu et al.*: 1 March to 3 June, Judge Khan, Presiding, Muthoga & Short

**Trial Chamber III**

*Rwamakuba*: 9 June to 15 July, Judge Byron Presiding, Hökborg & Kam

• **Programme of Judicial Recess**

**Trial Chamber I**

Monday 1 August 2005 to 28 August 2005

**Trial Chamber II**

*Butare*: 18 July 2005 to 14 August 2005  
*Government II*: 11 July 2005 to 10 August 2005  
*Military II and Muvunyi*: 1 August 2005 to 31 August 2005

**Trial Chamber III**

18 July to 15 August 2005

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**Diplomatic Outreach**

• **ICTR President and Prosecutor Meet U.S. Secretary of State**

On 15 June 2005 the ICTR President, Judge Erik Møse, and the ICTR Prosecutor, Hassan B. Jallow, met with U. S. Secretary of State Condoleezza Rice. The ICTY President and Prosecutor also participated in the meeting with Secretary Rice at the U.S. State Department in Washington.



The Secretary of State expressed the full support and appreciation of the United States for the work of the Tribunals. The ICTR representatives reported on the

high number of trials currently in progress in Arusha and emphasized the need for sufficient resources to implement the ICTR's Completion Strategy. They also requested American cooperation on several matters where the Tribunal needs the assistance of national governments to accomplish its mission.

While in Washington, the ICTR President and Prosecutor also held meetings with members of the United States Senate and House of Representatives, as well as other U.S. government officials, including the Ambassador-at-Large for War Crimes Issues, Pierre Richard Prosper.

Prior to coming to Washington, the ICTR President and Prosecutor appeared before the United Nations Security Council in New York on Monday, 13 June, to make their bi-annual presentation on the accomplishments of the ICTR. They reported on the progress made the last six months and stated that the Tribunal remains on track to complete all of its trials by the end of 2008 as projected in its Completion Strategy.

• **ICTR/ICTY Joint Delegation Meets in New York with UN Senior Officials and Delegates of the Fifth and Sixth Committees of the UN General Assembly and the Group of 77 and China**

From 27 June to 1 July 2005, a joint delegation headed by Mr. Adama Dieng, ICTR Registrar and Mr. Hans Holthuis, ICTY Registrar, undertook an official mission to the United Nations Headquarters in New York. The ICTR delegation was composed of Mr. Majola, Deputy Prosecutor, Ms. Michelle Lee, Chief of the Division of Administrative Support Services (DASS), Mr. Roland Amoussouga, Chief of External Relations and Strategic Planning and Spokesperson. The ICTY delegation comprised of Mr. Jorge Benito (Budget Officer) and Mr. Kevin St. Louis (CAO)

The main objective of the mission was to keep all the senior officials and delegates of the fifth and sixth committees of the General Assembly and the Group of 77 and China abreast of the current achievements of the ad-hoc Tribunals within the framework of their completion strategy with a view of enlisting their active political and financial support. The delegation also discussed numerous matters of interest to the United Nations such as Archiving and Legacy issues and other pending administrative and legal issues with the various senior UN Officials.

It is to be noted that the visit to the UN Headquarters in New York of a joint ICTR/ICTY delegation was the first of its kind, which was appreciated and showed the strength of the existing bilateral cooperation between the ICTR and the ICTY.

The joint delegation held a very fruitful meeting with Mr. Burnham, the newly appointed Under-Secretary-General for Management, who expressed his admiration and satisfaction for the greatest single justice the two ad-hoc Tribunals are delivering in the



face of the earth in the last 50. The delegation briefed the Under-Secretary-General for Management on the challenges facing both Tribunals in this critical phase of their completion strategy, which would require adequate resources and the strengthening of the spirit of cooperation with key departments at the UN Headquarters, so as to enable operational flexibility and the establishment of a rapid and efficient internal system of justice regarding the settlement of disputes. They also discussed about archives and legacy issues, which, in the view of the two Registrars, should be made accessible during and after the existence of the Tribunals to the populations of their respective regions where conflicts have arisen. Mr. promised to soon visit Arusha and The Hague where he could meet with the staff. He reassured the Registrars about his commitment to ensure that they are provided with all necessary assistance in the discharge of their respective functions.

The joint delegation proceeded to the Offices of the High Commissioner for Australia where a general meeting was convened with over 30 representatives of the Diplomatic Missions (accredited to the United Nations) of the Most Developed Countries of the Western World. The Registrars provided the gathering with relevant information and data regarding their respective key figures relating to staff, indicted persons, accused persons under detention, judgments so far rendered, trial proceedings and other operational and strategic challenges involving inter alia,:

- Development of common best practices in the area of management and servicing of the court and prosecutorial and investigative practices management;
- Efficient use of the ad-litem Judges;
- Capacity and confidence building process in the less developed countries where cases could eventually be transferred to;
- ICTR difficulty in getting states to accept transfer of cases to their national jurisdictions;
- Referral of ICTY cases to the Special War Crimes Chamber in Sarajevo,
- Management of the Legal Aid for indigent accused persons;
- Policy on staff retention during the completion strategy;
- Legacy issues and residual mechanism to be established as part of the completion strategy in order to deal with future handling of the Tribunals' residual matters beyond 2010;
- Replenishment of the depleted ICTR Trust Fund for Voluntary Contributions;
- Inter-Tribunals Cooperation among the UN sponsored ad-hoc Tribunals including cooperation with the International Criminal Court;
- Lack of funding for the implementation and strengthening of the ICTR Outreach programme;
- Status and settlement of acquitted persons;
- Advantages and disadvantages of holding joint or multiple accused persons trials and experience of each of these Tribunals in handling such cases;
- Difficult financial situation of the Tribunals, which requires continuous commitment from member

States for timely and full payment of their contributions.

The Diplomatic representatives showed vivid and strong interest to the work of the ad-hoc Tribunals. They exchanged views on the strategic responses of the Tribunals to some of these challenges and on a number of other issues. They were satisfied with the briefing of the Registrars and other members of the joint delegation. Towards the end of the day, the delegation paid a courtesy call on Mr. Lamin Sise, Director of the Executive Office of the Secretary General (EOSG).

The joint delegation held a meeting with 15 Diplomatic representatives of the Group 77 and China. The discussions covered a similar range of issues as raised during the earlier meeting with the other Group of Representatives of the Developed Countries.

While expressing appreciation for the briefing given by the Registrars and commending their proactive approach through the joint visit of the two delegations to New York prior to the review of their budgetary submissions, members of the Group 77 and China recorded their strong interest in seeking clarifications on the following issues:

- Whether the completion strategy has been adequately factored in the proposed biennium budgetary submissions;
- Operational aspects of the existing cooperation between the two ad-hoc Tribunals;
- The origin and applicability of the concept of zero growth to the budgetary submissions for the next biennium;
- The current efforts for achieving greater efficiency;
- The vacancy rate in the recruitment process;
- The current status the ICTR Outreach Programme, which was to be strengthened as per the Security Council Resolution in 2004 and why the Outreach Programme was not being considered as core activities of the Tribunals?
- The long term policy on enforcement of sentences;
- The legacy and residual mechanism before and after 2010;
- The status of cooperation between the ICTR and the African Union;
- The Staffing and financial requirements to enable successful completion strategy to be implemented.

The Delegation promised to follow up on these matters by making available to the members all relevant information in reply to their interesting queries, which could not be fully addressed for lack of time.

The Delegation met with Ms. Rosemary McCreery, the Outgoing Assistant- Secretaryfor Human Resources Management, and conveyed its appreciation for her invaluable support to the work of the two Tribunals during her tenure.

The delegation held extensive and fruitful discussions respectively with Mr. Warren, Assistant-Secretary General and UN Controller and Mr. Ralph Zacklin, Assistant-Secretary General for Legal Affairs.



The discussions with the UN Controller centered on the following issues:

The archiving and legacy challenges in the context of the completion strategy, which shall be addressed in compliance with the UN Rules and Regulations. These matters shall also take into account the regional context of the respective Tribunals;

The residual functions and long term legacy issues entailing among other things, the management of enforcement of sentences (as raised in one of the General Assembly Resolutions in 2002 concerning the long term financial implications of the ICTR sentences), the Tribunals' liabilities, the outstanding appeals/claims, the disposal of assets etc..;

The strategy for Retention of staff of the Tribunals and measures or incentives, the status of the Tribunals' staff vis-à-vis the UN secretariat, staff training, the issue of lack of job-security in the context of the completion strategy as recommended by the General Assembly in its observations pertaining to the Tribunals' staffing situation made in its review of the financing of the Tribunals at its fifty-ninth session;

During their meetings with Mr. Ralph Zacklin, Assistant-Secretary general for Legal Affairs and Mr. Nicolas Michel, Under-Secretary-General for Legal Affairs and UN Legal Counsel, the Registrars stressed the need for the UN to take a proactive approach by ensuring that residual mechanism be established and the archiving and legacy be thoroughly addressed as soon as possible. They agreed that a brainstorming be organized to study the political, administrative and legal aspect of all those issues as outlined in preceding paragraphs.

Mr. Zacklin and Mr. Michel were very grateful to the two Registrars for having taken a common approach and initiative for bringing these matters to the forefront of the UN agenda as part of the completion strategy. He further elaborated on the most suitable process that might yield concrete results and identify the steps forward.

The Registrars emphasized the importance for their respective regions to get access to the Tribunals' archives while noting the need to ensure that the integrity of the UN digital records would not suffer from any such access. They discussed other issues in relation to the legal status and practical situation of fugitives who might succeed in evading arrest at the time of closure of business of the Tribunals.

The Registrars also informed the Legal Counsel of the willingness expressed by a number of donors, academic institutions, NGOs, and International Organizations such as the African Union, and member States like Australia and the Netherlands to assist the UN with funding towards implementation of projects dealing with dissemination of digital archives of the Tribunal.

The Netherlands is in support of the establishment of a memorial of international justice at The Hague while the Australian Government is ready to finance the acquisition of adequate software to enable implementation of project involving transfer of ICTR digital archives to the African Union. The political dimension of the commitment of the African Union to serve as a depository of ICTR digital archives is a very important expression of support to the work of the Tribunal and its interest to ensure that the lessons learned and the legacy of the ICTR in the African continent do not get lost after the closure of the ICTR. The African Union has already agreed to sign in a near future a memorandum of understanding with the UNICTR to that effect.

The Legal Counsel expressed his support and promised to ensure that any further discussion on the Rule of Law shall also include the legacy issues of the ad-hoc Tribunals, and should highlight the link between justice and reconciliation. He went on to pledge his full support to the two Tribunals.

During the period of mission, the ICTR Registrar also attended numerous informal meetings with some key Ambassadors, diplomats, members of the UN Board of Auditors, the ACABQ, representatives of other UN agencies based in New York, such as the United Nations Office on Drugs and Crime (Ms. Simone Monasebian, a former ICTR staff) and the Office of the UN High Commissioner for Human Rights and other important VIPs as part of the ICTR ongoing diplomatic outreach efforts through a vigorous sensitization campaign aimed at enlisting support from various stakeholders.

The ICTR Registrar completed his mission to the UN Headquarters with a briefing to the New York Press Corps as Special Guest of the UN Spokesperson during the Noon Briefing session held on 1 July 2005. Mr. Dieng also gave interviews in French and English to the United Nations Radio Station to be broadcast worldwide and in which he elaborated on the challenges and achievements of the ICTR by highlighting the historical contributions of the ICTR to the development of the international criminal justice, the process of national reconciliation in Rwanda, the maintenance of peace in the region of the Great, the promotion of the respect of human rights and in the replacement of the existing culture of impunity with one of accountability in the African Continent.

Mr. Dieng also met with Ms. Barbara Dixon, Acting Director of the Office of Internal Oversight Services (OIOS) to review pending matters relating to the assignments currently performed by the OIOS staff at the ICTR Headquarters in Arusha.

Mr. Dieng was received in audience by Mr. Mark Malloch Brown, a former Administrator of the UN Development Programme (UNDP) who was appointed Chief of Staff by the Secretary-General on 3 January 2005, in replacement of Mr. Iqbal Riza, who retired after some 25 years of UN services.



It is worth stating as part of the concluding remarks that the mission to New York of the joint ICTR/ICTY Delegation was extremely fruitful and very much appreciated.

The visit of the joint delegation had shown to the diplomatic community in New York and the decision makers as well as the key actors in the United Nations Organization that there is excellent bilateral cooperation between the two Tribunals at all levels and that a high sense of unity, common purpose and action coupled with commitment to meet the completion strategy challenges, is prevailing among the leaderships of both Tribunals at this critical juncture of the completion strategy. It is also noted that these attributes have constituted for some time now the hallmark of the leaderships of the two Tribunals.

It is highly expected that this joint diplomatic outreach effort shall be pursued and sustained in the future to enable that the legitimate institutional interests of the ICTR and the ICTY and those of their staff are given due consideration during the next critical review process in New York of their budgetary requirements for the next biennium in the context of their completion strategy.

#### • **ICTR President, Prosecutor and Registrar brief Friends of the ICTR in Arusha**

On 1 June 2005, the Friends of the ICTR composed of the Heads or Representatives of the following Diplomatic missions in Dar-es-Salaam; the United Kingdom, Belgium, Canada, France, Norway, the Netherlands, and Germany met in Arusha with the President, the Prosecutor, the Registrar and other senior officials of the ICTR to review the progress of the ICTR and to exchange views on the current challenges facing the Tribunal.



In February 2005, the Registrar Mr. Adama Dieng, met in Dar-es-Salaam with the Friends of the ICTR. They agreed that the relationship between the Friends and ICTR, which was informal at the beginning, be more structured. As a result, they decided to hold quarterly meetings alternatively in Dar-es-Salaam and Arusha with a formal agenda.

The first quarterly meeting that took place on the 1st June 2005 provided the opportunity to the ICTR Heads of organ, i.e, the President, the Prosecutor and the Registrar to share with the Friends of the ICTR the content of the updated completion strategy paper of the Tribunal. They also informed the Friends that the cooperation between the three Heads of organ is excellent and that the completion strategy is on track.

The Friends of the ICTR were fully briefed on the overall key components of the proposed ICTR assessed budget for the next Biennium 2006-2007 in relation to non-post and post requirements as well as the cost of successful discharge of the ICTR mandate as part of its completion strategy. A wide range of other strategic and operational issues of mutual interest were extensively discussed and included matters relating to the following:

- The ICTR legacy, residual mechanism to deal with issues arising out of the completion and post completion strategy;
- The retention of staff during the completion phase;
- The transfer of cases to national jurisdictions;
- The external relocation and protection of witnesses;
- The ongoing prosecution of sexual violence crimes;
- The judicial capacity building process in African countries willing to accept to receive cases from the ICTR;
- The inter-Tribunals cooperation and liaison with the International Criminal Court;
- The replenishment of the ICTR Trust Funds for Voluntary contributions;
- The status and resettlement of acquitted persons.

The Friends of the ICTR expressed appreciation for the ICTR achievements and its focus on the completion strategy. They also thanked the ICTR Heads of organ for their upbeat message and substantive briefing. They further exchanged strategic views with the ICTR Heads of organ on ways and means for enlisting the support of the international community at this critical juncture. They promised to assist the ICTR in securing all necessary assistance from their respective Governments in support of the ICTR completion strategy. They were delighted to note that the newly built fourth courtroom, funded by the United Kingdom and Norway, is currently being fully used. The next meeting will be held in Dar-es-Salaam.

#### • **UN Ombudsman Visit the ICTR**

H.E. Mrs. Patricia Durrant, the United Nations Ombudsman and Ms. Nora Galer, the Director of the Office the Ombudsman in New York paid a four - day official visit to the United Nations International Criminal Tribunal for Rwanda in Arusha, Tanzania from Monday 6 June to Thursday 9 June 2005.

During the visit the UN Ombudsman met with senior officials of the Tribunal including the President Judge Erik Møse, the Registrar Mr. Adama Dieng and the Prosecutor Mr. Hassan Bubacar Jallow.

Mrs. Durrant held meetings with individual staff members by confidential appointments apart from





addressing staff of the Tribunal in Arusha and by video link those in Kigali, Rwanda and The Hague, The Netherlands. She also held talks with the President of the Tribunal Staff Association Mr. Hudson Mbunya.

In her speech the Ombudsman called upon staff to uphold the UN core and managerial competencies. She also promised that her office was always ready in assisting staff members in their work.



Mrs. Patricia Durrant and Ms. Nora Galer seen here with the Registrar, Mr. Adama Dieng

• **Other Visitors to the ICTR during the Month of June 2005**

On 9 June, the ICTR received H.E. Mr. Emmanuel Jenni, Ambassador of Switzerland to Tanzania. H.E. Mr. Jenni obtained first-hand information on the work of the Tribunal, including its on-going completion strategy. He also attended one of the ongoing court sessions. Mr. Jenni expressed his desire to revisit the Tribunal in order to tour its Detention Facility. During his visit the Ambassador held talks with the Prosecutor, the Registrar and the Chief of External Relations and Strategic Planning Section.

During the month of June, ICTR also hosted research and law students from various universities and tourists who also had an interest in understanding the work of the Tribunal.

Their programme included viewing the film *“Justice Today, Peace Tomorrow”* and *“For the Victims”*, getting a briefing from the Public Affairs office, a question and answer session and a guided tour of the Tribunal.

Below is a comprehensive list of visitors to the Tribunal:

- 1 June 2005: Friends of the ICTR -
  - H.E. Dr. Andrew Pocock, British High Commissioner
  - H.E. Jorunn Maehlum, Ambassador of Norway
  - H.E. Dr. Andrew Mcalister, High Commissioner of Canada
  - H.E. Emmanuelle d’Achon, Ambassador of France
  - H.E. Peter Maddens, Ambassador of the Kingdom of Belgium

Mr. Vincent Van Zist, Charge d’Affaires, Embassy of the Netherlands  
Mr. Peter Zingraf, Deputy Head of Mission, Embassy of Germany

6-9 June 2005: Ms. Nora Galer, Director Ombudsman’s office and Ms. Patricia Durrant

9 June 2005: H.E. Mr. Emmanuel Jenni, Switzerland Ambassador to Tanzania

13 June 2005: Dr. Augustine Brannigan & Mr. Nicholas Jones, Researchers, University of Calgary

15 June-1 July 2005: Mr. Linclon Ajuku, Fellow Jeannette Watson, NY.

26 June-Aug 2005: Ms. Jonneke Johanna Koomen, PHD Candidate, University of Minnesota

28 June 2005: Ms. Amy Jenkins, Carolyn Evans & Group, Cross Cultural Solutions

30 June 2005: Judge Douglas P. Woodlock, USA District Court, District of Massachusetts, Boston-USA

30 June 2005: Mr. David Hedman, Ms. Helen Sabaya & Group, Serengeti Select Safaris

30 June-1 July 2005: Prof. Linda Carter, McGeorge School of Law

30 June-1 July 2005: Prof. Omar Dayani & Mr. Chad Couchot, McGeorge School of Law

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**Media Outreach**

- **ICTR Spokesperson speaks to Rwandan Newspaper “The New Times” on ICTR Completion Strategy**

**The Tribunal is Proposing to Handover an Additional 10 Files to Rwanda—Amoussouga**

The International Criminal Tribunal for Rwanda (ICTR) was set up after the 1994 Genocide, to try suspects responsible for the killing of over one million Rwandans. According to its schedule, the ICTR is supposed to conclude its work by 2008. The New Times Reporter Nasra Bishumba, in a mailed interview, sought the ICTR spokesman Ronald Amoussouga and asked him questions on a wide range of the Tribunal's schedule and activities. Below are excerpts:



**Q. We are looking at three years to the end of the ICTR mandate. How have you prepared for it?**

: *ICTR is preparing well its closure as per its completion strategy. We are mindful of the fact that the clock is ticking. The end of 2004 marked a significant*



stage in the implementation of the Completion Strategy. In accordance with the terms of the Completion Strategy endorsed by the Security Council in its Resolution 1503 of 27th August 2003, we were able to conclude all the remaining investigations into the genocide by 31st December 2004. Until then sixteen targets had been under investigation.

have furthermore concluded the evaluation of the evidence available on these cases. Based on the evidence and on the law, it can be determined that indictments should be filed in respect of eight of the accused persons who had been under investigation. The indictments have accordingly been filed by the first week of June for confirmation, ahead of the original deadline of end of October 2005. The remaining eight files have been closed for lack of prima facie evidence to support any charges.

remain fairly committed to the Completion Strategy and optimistic that with the continued provision of the necessary resources, the deadlines for the conclusion of trials at first instance by end of 2008 and the conclusion of appeals by the end of 2010 can be attained. We shall continue to strive relentlessly to that end.

**Q. For several years now, the witnesses at the ICTR have been harassed and sometimes killed. How have you handled this? Should we expect no more deaths?**

: ICTR has in place a very effective programme that caters for protection and support of witnesses who are called to testify or who have already testified before the Tribunal in Arusha. The programme relies heavily and to a great extent on the degree of cooperation that member States provide to ensure adequate protection for these witnesses. Unfortunately, ICTR is not competent and does neither have the resources nor the mandatory competence to take and implement by itself protective measures in the countries of residence of these witnesses. Only the concerned member States could act effectively in this regard.

is quite fortunate to enjoy such cooperation from all the member States that are requested to assist in this endeavor. Any threats or harassment against witnesses are subject to investigations in cooperation with the concerned State for adequate protective measures to be taken and implemented. ICTR has assisted over 1000 witnesses in its 8 years of effective operations. We are working very hard to minimize the risks and the threats against witnesses regardless of their countries of residence. Therefore, we should all continue doing so.

is not only the duty of ICTR alone but rather a collective responsibility that lies on all of us, including the UN member States, the Media and all ordinary citizens.

**Q. You recently announced the transfer of some case files to Rwanda. Where have the preparations reached? When should we expect the first files to be flown in?**

: The strategy of referral of cases to national jurisdictions endorsed by the Security Council in its Resolution No. 1503 (2003) began implementation in February this year when the ICTR handed over 15 files to the Prosecutor General of Rwanda. These relate to accused persons who had been under investigation by the OTP but in respect of whom no indictments will be filed at the Tribunal. The Tribunal is proposing to handover an additional 10 files to the Rwandan authorities shortly. These files form part of the 41 cases which under the Completion Strategy had been earmarked for transfer by referral or handing over of files to national jurisdictions. With the new indictments, this total will now rise to 45 cases.

substantial number of the remaining cases for referral relate to indicted persons, either at large or in custody in the UNDF, Arusha. Referral of such cases to a national jurisdiction will, upon application by the Prosecutor, be decided by the Trial Chambers. All referrals of indicted persons will be based on whether the accused will have the benefit of a fair trial and whether the accused will not be subjected to the death penalty in the country of referral.

**Q. Is there some kind of support the UN is going to provide to these particular suspects or the prisons and courts where they will be held and tried?**

: As regards the Enforcement of sentences in Rwanda, an Agreement will soon be signed, which would spell out the terms and conditions under which these sentences will be carried out. These terms and conditions are not yet in the public domain. As respect assistance to Rwandan Courts, a series of initiatives within the framework of the cooperation between ICTR and Rwanda is being implemented, whose main objective is to contribute to the capacity building process in Rwanda. These are ongoing activities that are being implemented. However, it is worth noting also that the International community and other bilateral donors have also been involved in supporting the Rwandan Government in rehabilitating its judiciary sector. Those are complementary efforts on the part of the international community as a whole and the UN.

**Q. Are there particular demands the UN has made before these cases are transferred to Rwanda?**

: As the Prosecutor reported to the Security Council in November 2004, not many countries have demonstrated a willingness to take on cases of transfer from the Tribunal. Rwanda continues to be the country primarily interested. In his discussions with the Rwandan authorities, he has pointed out to them the measures which need to be taken by them in respect of fair trial procedures and the exclusion of the death penalty as a precondition for any applications to be made by the Prosecutor to the Trial Chambers. The ICTR awaits such measures.

**Q. Has there been any progress so far on the government's side of the deal?**



*: You may kindly wish to ask this particular question to the Representative of the Government. You will be pleased to note that from our side, we are enjoying good cooperation from the Government of Rwanda, which makes our operations possible in both Rwanda and, to a great extent in Arusha.*

**Q. Could you please take us through the cases you have on your files? How many have you prosecuted, pending and those that are being investigated?**

*: The number of the accused on trial has now peaked at 25 persons. It is expected to remain so until sometime in 2006 when the major multiple accused cases are expected to be concluded. The Prosecution has already closed its case in the Military I (four accused) Butare (six accused) and expects to close its case in the Government II (four accused) in June 2005. The first two cases are already in defence phase. We have also concluded the presentation of the Prosecution case in SEROMBA and the defence is expected to open soon. In SIMBA, both parties have closed their cases. We expect to close the Prosecution case in MUVUNYI in early July 2005. The RWAMAKUBA case commenced last week. The Government I case, (now comprising three accused), which, admittedly has had a chequered history, is scheduled to commence in early September and is thereafter expected to proceed without unnecessary interruptions. Judgement has been delivered in MUHIMANA. The OTP negotiated and concluded a guilty plea agreement with RUTAGANIRA, the first in many years, leading to his conviction. The Prosecutor continues to be open to such negotiations and discussions are in progress with others.*

**Q. Who are the 'biggest fish' remaining to be caught?**

*: Kindly note that most of the ICTR indictments are not made public for obvious reasons, but, for ease of reference, you wish to consult and read the Security Council Resolution 1503 adopted in August 2003, in which some names had been mentioned as biggest fish.*

**Q. The ICTR last year had a funding gap of more than US \$50 million, has the court been able to get that money?**

*: ICTR is being funded through regular Assessed Budgetary resources, which are made of contributions of Member States as per established regulations.*

*shortfalls are duly addressed through appropriate mechanisms, which ensure continuous operations of the Tribunal.*

**Q. Where does your relationship with Rwanda stand now after years of wrangles?**

*: As I stated earlier, ICTR is enjoying good cooperation from Rwanda.*

**Q. Chief Prosecutor Jallow had promised that the court will have completed investigations by the end of 2004, did that happen?**

*: The end of 2004 marked a significant stage in the implementation of the Completion Strategy. In accordance with the terms of the Completion Strategy endorsed by the Security Council in its Resolution 1503 of 27th August 2003, we were able to conclude all the remaining investigations into the genocide by 31<sup>st</sup> December 2004. Until then sixteen targets had been under investigation. We have furthermore concluded the evaluation of the evidence available on these cases. Based on the evidence and on the law, it can be determined that indictments should be filed in respect of eight of the accused persons who had been under investigation. The indictments have accordingly been filed by the first week of June for confirmation, ahead of the original deadline of end of October 2005. The remaining eight files have been closed for lack of prima facie evidence to support any charges.*

*conclusion of investigations and the filing of these indictments, I must point out, relate only to charges of genocide and do not include the allegations against the RPF. Work continues in respect of those allegations.*

*conclusion of investigations will lead to a progressive downsizing of the strength of the OTP Investigations Division in Kigali and to a redeployment of personnel from that office to other organs of the Tribunal in order to reinforce their capacity. However some investigative capacity will need to be retained at the Kigali Office, albeit in declining numbers until 2010 in order to provide for trial preparation, trial support, appeal support, tracking and apprehension of fugitives as well as management of informants and sensitive witnesses.*

**Q. What happens if the ICTR has not completed all the cases by 2008?**

*: ICTR remains firmly committed to live up to the expectations of the international community and to ensure that its work is duly completed with the timeframe set up by the Security Council as per its completion strategy. In the event however that it does not, the Security Council would be advised accordingly for a timely decision to be made as regards the disposal of such cases.*

*remain fairly committed to the Completion Strategy and optimistic that with the continued provision of the necessary resources, the deadlines for the conclusion of trials at first instance by end of 2008 and the conclusion of appeals by the end of 2010 can be attained.*

*continue however, to emphasize the need for the fullest international support and cooperation particularly in respect of tracking and apprehension of fugitives, in the referral of cases, and the relocation and protection of witnesses whose testimony has been crucial to the success of the Tribunal but who often face continuing threats to themselves and their families because of their courage.*

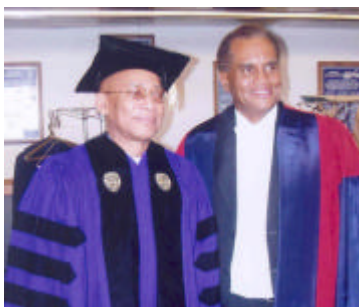




## Other News

- **ICTR Judge, Emile Francis Short Honored with Honorary Doctor of Law Degree by American University**

On 17 June 2005 the Northwestern University in Chicago, Illinois, USA, presented a Judge of the United Nations International Criminal Tribunal, Emile Francis Short (Ghana), with an Honorary Degree of Doctor of Law in recognition of his leadership role in Africa's struggle for human rights.



Judge Emile F. Short (left) with Professor Richard Joseph, (right)

The presentation was done at a colourful ceremony marking the University's 147th annual commencement. Judge Short was presented by Professor Richard Joseph, the University's Director of Program of African Studies and Professor of Political Science.

His citation reads: *"A leader in Africa's struggle for human rights, Emile Francis Short has headed Ghana's Commission on Human Rights and Administrative Justice (CHRAJ) since its establishment in 1993. After receiving his law degree with honors from the University of London and a master's in law from the London School of Economics and Political Science, Short headed a legal firm in Ghana from 1974 to 1993, in addition to teaching law at Ghana's University of Cape Coast.*

*"Under his leadership the CHRAJ has battled government corruption, mediated disputes between citizens and government, and promoted human rights including gender equality, freedom of expression, and prisoners' rights. Short success in Ghana has brought him increasing international attention; he has served as president of the African Ombudsman Centre, a judge of the International Criminal Tribunal for Rwanda, and a human rights consultant for other African nations.*

- **ICTR Assistant Trial Attorney Resigns Over Allegations of Prior Criminal Misconduct in his Home Country, South Africa**

On 13 June 2005, the Office of the Prosecutor issued the following statement: "In 2003, Mr. Bongani Dyani, a former Public Prosecutor from South Africa applied for the position of Assistant Trial Attorney in the Office of The Prosecutor at the ICTR. After completing the required documentation and following the established recruitment procedure, Mr. Dyani was offered an initial appointment for one year as Assistant Trial Attorney with the ICTR.

On 3 March 2004, Mr. Dyani traveled from Johannesburg, South Africa, via Nairobi, using his national passport issued to him in January 2004 (valid through 27 January 2014) by the Department of Home Affairs of the Republic of South Africa to take up his assignment with the ICTR in Arusha. Mr. Dyani was formerly employed by the National Prosecuting Authority of the Republic of South Africa as a Public Prosecutor stationed at Zwelitsha, a magisterial district in the Province of the Eastern Cape.

On Wednesday 25 May 2005, the Office of the Prosecutor received a letter from the Deputy National Director of the National Prosecuting Authority of the Republic of South Africa, drawing the attention of the ICTR to the fact that in the year 2001, the Director of Public Prosecutions of the Republic of South Africa under whose direct control and supervision Mr. Dyani fell, had instituted criminal proceedings against Mr. Dyani (and his co-accused who has since died) in the Regional Court in East London in the Province of the Eastern Cape. The charges preferred against Mr. Dyani are attempted murder and robbery with aggravating circumstances. Because of the seriousness of these allegations, Mr. Dyani's delegation to prosecute was withdrawn by the Director of Public Prosecutions pending the outcome of the criminal prosecution. In the face of the allegations, and after the withdrawal of his delegation to prosecute, Mr. Dyani resigned from the National Prosecuting Authority as a Public Prosecutor.

As soon as the ICTR Office of the Prosecutor (OTP) learned of those allegations on 25 May 2005, the Senior Management of the OTP reacted promptly. The Prosecutor immediately launched an investigation and Mr. Dyani was called in on Thursday, 26 May 2005 and questioned about the allegations. Mr. Dyani was specifically asked to state whether the allegations were true and to explain why he had not disclosed them in his application for the vacancy in 2003. Mr. Dyani was asked to provide a written response by Monday, 30 May 2005. He failed to provide any response. Between 26 and 30 May 2005, the Office of the Prosecutor was also made aware through the Google website of a South African newspaper report that contains similar allegations of criminal conduct against Mr. Dyani.

Until the receipt of the letter from South Africa, the Office of the Prosecutor was not aware of the allegations of criminal behaviour and criminal proceedings pending against him in South Africa. At the time of his recruitment late in 2003, Mr. Dyani had declared to the Tribunal in writing that he had neither been arrested nor charged, nor convicted of any crime. He had also failed to disclose that his authority as a prosecutor in South Africa had been withdrawn.

On the morning of 01 June 2005, Mr. Dyani was spotted by one ICTR staff member at a local hotel as he was boarding a shuttle bus to Nairobi. Mr. Dyani thereupon gave the staff member a sealed envelope addressed to the Chief of Prosecutions, containing his resignation letter, and requested the staff member to deliver it to him. The staff member duly delivered the





letter that morning. By the time the letter reached Senior Management in the Office of the Prosecutor, Mr. Dyani had effectively left the Tribunal, and was already out of Arusha, on his way out of the country. Mr. Dyani was called on his mobile phone and urged to come back. He was reminded that he needed to serve notice and to properly check out from the Tribunal as per the UN rules and regulations. Mr. Dyani refused to return and stated that it was too late to come back as he had made up his mind to leave the country immediately.

Mr. Dyani informed the Office of the Prosecutor of his departure at a time when he was almost outside the country. He did not give the Tribunal an opportunity to find out more about the events that took place prior to him coming to the Tribunal as well as his motives for falsifying his application documents at the time of recruitment.

Without giving to the Tribunal a statutory notice of resignation related to his intent to leave Tanzania, Mr. Dyani has breached the UN rules and regulations. The separation actions from the United Nations are subject to certain procedures and necessitate compliance on the part of the staff members to follow the process. Mr. Dyani decided to breach the regulations.

The Office of the Prosecutor and the Senior Management of the ICTR expect their prosecutors and staff members to be persons of highest integrity whose conduct is beyond reproach. Mr. Dyani obtained employment at the Office of the Prosecutor by lying and falsifying information he supplied during the recruitment process. The ICTR strongly condemns such conduct and will continue to ensure strict application of the UN rules and regulations that may lead to termination of service should a staff member be found guilty.

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## News from Kigali

### • ICTR Deputy Registrar in Rwanda

#### ICTR Deputy Registrar Mr. Munlo meets with the Staff in Kigali



The Deputy Registrar of the International Criminal Tribunal for Rwanda, Mr. Lovemore Green Munlo, on Tuesday June 21, 2005 held a general meeting with the Tribunal's staff in Kigali at the Rotunda Main Hall. He was in Rwanda on a 5-day official visit.

Mr Munlo, who was representing the Registrar at this meeting, briefed the participants on the on-going current issues, especially the preparation and presentation of the Budget to New York.

The ICTR senior official outlined the completion strategy;

*"The tribunal's strategy is to ensure that all trials are over by 2008. As you are aware 25 detainees have already been tried, and in the next 2 years we intend to try 27 more, so you can imagine the challenge that lies ahead of us",* the Deputy registrar said.

He mentioned that increasing support would be required from, among others, the Witness Support and Language Sections where there is need for more translators and interpreters. Another vital challenge concerns the legacy issues (residual matters in winding up the Tribunal) that would have to be resolved as part of the completion strategy, especially the archiving and final destination of court records and judicial decisions, jurisprudence and how to deal with it, transfer of cases to the national jurisdictions, etc.

*"The challenge is big but we shall deal with it. For example we are to discuss with other sister Tribunals and courts like the ICTY and the Special Court for Sierra Leone to see how all these legacy issues can be resolved, indeed while in New York, the Registrar will meet the Prosecutor of the ICTY,"* he pointed out.

He also reminded the staff about the Registrar's key address made earlier concerning the behavior and discipline of the Tribunal's workers.

*"You should always be disciplined and respect our hosts. Those who deal with witnesses must not influence them and interfere with the judicial process,"* Mr Munlo emphasized.

He thanked the Staff Members for the hard work they are doing and said that the issues raised by the Staff Association would be taken into consideration and be forwarded to the Registrar and Prosecutor for analysis.

The Deputy Registrar also met with the Rwandan Government authorities where the two parties discussed matters of mutual interest and witness protection issues. In addition, he also met DFID (Department of International Development) senior officials to discuss possible areas of cooperation in supporting the Tribunal's activities.

#### Mr. Munlo meets with officials of the DFID

The mission was undertaken on the instructions of the Registrar who had initially planned to go to Kigali as part of his regular missions he periodically undertakes to brief members of staff regarding current issues and developments taking place within the Tribunal and to discuss issues of mutual interest with the Rwandan authorities. The Registrar could not undertake this trip as there were pressing issues relating to the discussion of the ICTR 2006-2007 budget in New York. He therefore delegated this task to the Deputy Registrar, Mr. Lovemore Munlo SC who went to Kigali with the Gender Adviser, Ms. Elsie Effange-Mbella. The mission lasted for four days.

The Deputy Registrar met with the New Rwandan Minister of Health, Honourable Jean-Damascene Ntawukuriyayo. The purpose of the meeting was to



brief the Minister on the ICTR Medical Support Programme for ICTR witnesses and to discuss opportunities for the reinforcement of this programme. The Deputy Registrar also met the new office holders of the Staff Association and briefed them on current development taking place within the Tribunal and afterwards he met all members of staff in Kigali for the same purpose. Thirdly, the Deputy Registrar paid a courtesy call on the Head of Office of the British Department for International Development DFID, Mr. Colin Kirk as a follow up to the ongoing discussions initiated since April 2004 on the possibility of DFID funding the ICTR project on improved access to Anti-Retroviral Therapy (ART) and psychological counseling for witnesses with HIV/AIDS. The Deputy Registrar also made a field trip which took him to Butare and Kibuye where the ICTR has witnesses movement operations relating to some cases which are in progress.

Ms. Elsie Effange-Mbella, Gender Adviser, Office of the Registrar who coordinates the Medical Support Programme for Witnesses in collaboration with the Witnesses and Victims Support Section (WVSS) and the ICTR Medical Health Unit under the direct supervision of the Registrar accompanied him on the mission.

Ms. Effange-Mbella had meetings with relevant NGO's and Government partners relating to the preparations for a trauma management seminar which is anticipated to be convened in early October by ICTR in Kigali.

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## News from the ICTR, The Hague

### • Activities of the Appeals Chamber

In June, the Appeals Chamber continued deliberations in the Kamuhanda case with judgement expected in the fall of 2005. The Chamber also continued preparations for the hearings on the merits of the Cyanguu and Gacumbitsi appeals. It rendered four decisions, including a decision on a request for legal assistance in the Niyitegeka review case. The Appeals Chamber is seized of five appeals from judgement (Nahimana et al., Kamuhanda, Ntagerura et al., Gacumbitsi, Ndindabahizi) and one request for review (Niyitegeka). Additionally, an appeal in the Muhimana case is expected to be filed within thirty days of the translation of the trial judgement.

### • Inter-Tribunal Co-operation and ICTR Operations Process Review

Mr. Moussa Sané, Chief, Travel & Traffic Services, Arusha, was on mission in The Hague from 13 to 14. He met with Mr. Holthuis, Registrar, ICTY, and Judges as well as his various counterparts of the ICTY in order to identify and discuss travel related best practices covering Judges, staff and witnesses, etc.

He also held a series of working sessions with the staff of the ICTR Appeals Chamber Support Unit in The Hague within the framework of the policy of



strengthening operational communications with the relevant Sections/Units at Headquarters in Arusha. This is part of an operational process review aimed at

streamlining operations at The Hague. A series of objectives and plan of action were designed and agreed upon.

### • Co-operation with Universities and Research Centres

In a bid to further the awareness of the Tribunal's activities and its jurisprudence in the service of international criminal and humanitarian law as well as to improve its internship and exchange activities, the ACSU is boosting its co-operation with Universities and Research Centres.

- At the invitation of the University of Amsterdam Ms. Laetitia Husson Associate Legal Officer, in her capacity as Internship Programme Co-ordinator, represented the Appeals Chamber Support Unit on 10 at a presentation of the results of research conducted by former interns at the ICC and ICTY. It also provided an opportunity to enhance ties between the Tribunal and the University of Amsterdam, in particular with its Bureau des Stages, which provides the ICTR Appeals Chamber with several interns.

- At the invitation of the Faculty of Law of the University of Lausanne, Switzerland, Koffi Kumelio A. Afandé, Legal Officer, OIC Appeals Chamber Support Unit in The Hague, gave a lecture on the "Review of Sentences" in the framework of his yearly lecture at that University since 1999. His previous lectures have included "Expediting Proceedings before the ICTR" as well as «Legal and Judicial Co-operation between the ICTR and States in the Execution of Arrest Warrants». A delegation of two Professors and their assistants from that University will be visiting the ACSU in Their September 2005 for a joint review of the internship and exchange programme with the University of Lausanne.

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### Eight ICTR Staff Members Awarded With LPE Certificates

On 21 June 2005, the Chief of Human Resources and Planning Section Mr. Esono Anguesomo, on behalf of the Registrar and the Chief of Administration, awarded Language Proficiency Examination (LPE) certificates to eight staff members of the Tribunal who successfully passed the January session of the proficiency examination.

The United Nations language proficiency examination is the official test of a staff member's knowledge of a language and may be taken both by participants who have completed the last level of a language course



and by staff members who have achieved proficiency from outside sources. There are two sessions of the language proficiency examination scheduled in 2005: First session: 11 and 12 January 2005, Second session: 17 and 18 May 2005.

While thanking the staff members, the Chief of Human Resources and Planning Section also noted that the level of LPE registrations at the Tribunal had increased as compared to previous years. He underscored the commitment of the management of the Tribunal in training and career development of its staff particularly in view of the completion of the work of the Tribunal. Indeed, while quoting Mr. Adama Dieng, the Registrar of the Tribunal, Mr. Esono said, "The management of the Tribunal supports career development of staff at all levels. It is through training that staff members will strengthen their knowledge of the core values, further develop organizational core and managerial competencies, and build the substantive and technical skills required to realize organizational objectives." ICTR Training Policy and Guidelines, 2005, pg i .

Also present during the occasion was Mr. Jovenales Njuguna the Officer-In-Charge of the Training Unit and Nina Mgeni, a Training Assistant.

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**ICTR President's Address to the Security Council**  
*... continued from p. 1*

Since the meeting in the Security Council last November, two single-accused judgements have been delivered, thereby bringing the total number of accused having received judgement from twenty-three to twenty-five. The Muhimana judgement of April this year is a significant contribution to the ICTR's jurisprudence on sexual offences. The Rutaganira judgement, rendered in March, was the fourth time an accused at the ICTR pleaded guilty. As you know, the number of guilty pleas at the ICTR is low compared to the ICTY. It will be interesting to see whether the number will increase further.

In addition to these twenty-five persons, trials involving twenty-five accused are in progress. Five of these trials are voluminous multi-accused cases. As mentioned in our Completion Strategy, three of them have now reached an advanced stage. In the Butare trial, involving six accused, the Defence case commenced on 31 January 2005 and is proceeding well. The Military I case (four accused) faced some unforeseen problems, because the assignment of Lead Counsel for one of the Accused was withdrawn. This could have had far-reaching consequences for the progress of the trial. Fortunately a solution was found which made it possible to commence the Defence case in April 2005.

The trial is now progressing well. In the Government trial, which involves four Government Ministers, the Chamber is presently hearing the last Prosecution witness. The Defence case is therefore approaching.

Our strategy is to prioritize the completion of these three important multi-accused trials involving a total of fourteen accused. We estimate that they will be completed in 2006.

The other two multi-accused cases are at an earlier stage. The Military II trial, which involves four accused, commenced in September 2004 and is progressing steadily. With respect to the Karemera et al. case, you will recall that the Appeals Chamber decided that the trial of these four accused should start de novo before a different Trial Chamber. The new Chamber decided to sever one of the accused, Rwamakuba, from the other three accused. His trial, which is now one of our four single accused cases, recommenced on 9 June 2005. The Prosecution case is expected to conclude in a few weeks time. The trial of the remaining three accused in Karemera et al. will commence de novo in September this year. Let me add that the Karemera et al. and Rwamakuba trials will be twin-tracked and prioritized so as to make up for lost time.

The other three single-accused cases are all approaching the end. The Simba trial is virtually completed, with closing arguments in early July. The Defence case in Seromba has been delayed because of unforeseen problems in the Defence team but is expected to commence soon. Finally, the Prosecution case in the Muvunyi trial will be completed in a few weeks. Scheduling of new single-accused trials in the second half of 2005 is under way.

In order to ensure maximum judicial output, it is important to find the right balance between the steady progress of the multi-accused trials and the completion of single-accused cases. This is not an easy task, in particular because the multi-accused trials require a lot of time in court. Our November 2004 Completion Strategy mentioned that it would facilitate our work if a fourth courtroom could be constructed, based on voluntary contributions. Following contributions from the Governments of Norway and the United Kingdom, and the required approval at United Nations Headquarters, the construction of the courtroom was completed in record time, only four weeks. The costs were about half of the constructions costs of any of the first three courtrooms.

The fourth courtroom was inaugurated in the morning of 1 March 2005 and was already in use in the afternoon of the same day. It is an important element of our Completion Strategy. With nine trials and only three courtrooms, the cases were slowed down. The solution was to sit in morning and afternoon shifts. Each shift allows for about four hours efficient time in the courtroom, whereas a full day session allows a Chamber to sit for about six hours. This had, in particular, an impact on our multi-accused trials, which require a lot of time in the courtroom. The construction of the fourth courtroom has facilitated their steady progress.





In addition to the fifty accused whose trials have been completed or are in progress, you will recall that sixteen detainees are awaiting trial in the Detention Facility in Arusha. No new detainee has arrived since the November 2004 Completion Strategy was considered by the Security Council. The trials of these accused will commence as soon as courtroom space allows; two of them in the second half of 2005.

In his oral presentation, the Prosecutor will deal with the issue of transfer of trials. He will also comment on the fourteen indictees at large, and the investigations of sixteen persons, which resulted in requests for confirmation of indictments of eight persons. I want to commend the Prosecutor for having completed this task four months ahead of the schedule indicated in our November 2004 Completion Strategy. The Chambers are presently considering these requests. Let me also emphasize that States must cooperate in order to transfer indictees at large to Arusha.

Mr President, the overview given above shows that there is steady progress in Arusha. This week sixteen accused are being transported to and from the courtroom every day. The number will increase to twenty next week. All four courtrooms are being used to maximum capacity. The activities at the ICTR are at an all-time high. There have been some unforeseen problems but we have addressed them. I am therefore in the position to confirm that the ICTR is on schedule to complete its trials by the end of 2008.

This being said, it is essential that the necessary resources are made available to allow us to complete our task. For instance, the negative effects of the recruitment freeze last year illustrated the importance of States paying their contributions to the ICTR budget.

The Completion Strategy of the Appeals Chamber is discussed briefly in para. 8 of our report. It is premature to go into details at this stage. Let me simply say that the Presidents of the two Tribunals are in contact about this issue.

I should seize this opportunity to reiterate that the work of the Co-ordination Council, composed of the President, Prosecutor and Registrar, continues to be very useful. It is also important to state that the contribution of the Defence teams to the work of the Tribunal is highly appreciated.

The Tribunal continues to appreciate the co-operation of the Rwandan authorities. There is still a steady flow of witnesses from Kigali to Arusha. It is essential that both parties, the Prosecution and the Defence, receive the necessary assistance in terms of witnesses and documents from Rwanda. This contributes to the integrity and efficiency of the proceedings in Arusha.

There are, from time to time, allegations concerning intimidation of Prosecution or Defence witnesses. Such allegations are taken very seriously by the Tribunal and are subject to investigations in order to get to the truth of the matter.

Mr President, these are the most important aspects of the progress made since November 2004. The report

provides further details. Comments or questions by the distinguished members of the Security Council will be highly appreciated.

Thank you.

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#### **ICTR Prosecutor Addresses the Security Council**

*... continued from p. 1*

deadline of end of October 2005. The remaining eight files have been closed for lack of prima facie evidence to support any charges.

The conclusion of investigations and the filing of these indictments, I must point out, relate only to charges of genocide and do not include the allegations against the RPF. Work continues in respect of those allegations.

The conclusion of investigations will lead to a progressive downsizing of the strength of the OTP Investigations Division in Kigali and to a redeployment of personnel from that office to other organs of the Tribunal in order to reinforce their capacity. However some investigative capacity will need to be retained at the Kigali Office, albeit in declining numbers until 2010 in order to provide for trial preparation, trial support, appeal support, tracking and apprehension of fugitives as well as management of informants and sensitive witnesses.

The focus of the Prosecution in the months that lie ahead will be the courtroom prosecution of the cases of the 25 accused that are currently on trial, the preparation of the cases of the 16 remaining detainees and the final group of persons indicted for genocide in order to ensure their trial readiness; the implementation of a more effective tracking and apprehension strategy for fugitives and the commencement of referral proceedings in respect of indictees to national jurisdictions for prosecution.

The number of accused on trial has now peaked at 25 persons. It is expected to remain so until sometime in 2006 when the major multiple accused cases are expected to be concluded. The Prosecution has already closed its case in the Military I (four accused) Butare (six accused) and expects to close its case in the Government II (four accused) in June 2005. The first two cases are already in defence phase. We have also concluded the presentation of the Prosecution case in SEROMBA and the defence is expected to open soon. In SIMBA, both parties have closed their cases. We expect to close the Prosecution case in MUVUNYI in early July 2005. The RWAMAKUBA case commenced last week. The Government I case, (now comprising three accused), which, I must admit has had a chequered history, is scheduled to commence in early September and is thereafter expected to proceed without unnecessary interruptions. Judgement has been delivered in MUHIMANA. The OTP negotiated and concluded a guilty plea agreement with RUTAGANIRA, the first in many years, leading to his conviction. The Prosecutor continues to be open to such negotiations and discussions are in progress with others.





My office also proposes to ensure that by early next year, the cases of the remaining detainees and other indictees are ready for trial. All the steps necessary to ensure trial readiness will be taken so that when judicial time and space – in the trial chambers – is available, some of the cases can commence. For the remainder of 2005, the OTP is ready to commence trial in respect of cases against five accused persons, three of which i.e. ZIGIRANYIRAZO, MPAMBARA and BIKINDI have already been scheduled for trial this year.

The ensuing year is thus anticipated to be the busiest in the life of the Tribunal with the largest number of accused ever on trial. I believe we have adequate capacity at the OTP to handle this workload with the lifting of the freeze on recruitment and with appropriate redeployment of staff from the Kigali office.

The tracking and apprehension of the 14 fugitives continues to rank as a high priority. The organisation and strategies of the Tracking Unit has been the subject of review as a result of which three measures have been taken. The capacity of the Unit has been increased with additional staff. The Unit has also now adopted a strategy of ensuring a greater physical presence of its members in the field than at headquarters in Arusha and Kigali. Contact with the political and law enforcement authorities have been initiated with the countries in which the fugitives are suspected to be taking refuge. I myself undertook missions earlier this year to five such African countries where I was able to engage in high level consultations with the political leadership. I received assurances of cooperation with the ICTR in all the countries concerned. Each of these countries has agreed to establish a joint mechanism with the OTP Tracking team through which they can collaborate in tracking the fugitives. The creation of these joint mechanisms is in progress. I have also had the opportunity to hold useful discussions with the MONUC as well as the African Union on modalities of collaboration in this respect.

The strategy of referral of cases to national jurisdictions endorsed by the Security Council in its Resolution No. 1503 (2003) began implementation in February this year when I handed over 15 files to the Prosecutor General of Rwanda. These relate to accused persons who had been under investigation by the OTP but in respect of whom no indictments will be filed at the Tribunal. I propose to handover an additional 10 files to the Rwandan authorities shortly. These files form part of the 41 cases which under the Completion Strategy had been earmarked for transfer by referral or handing over of files to national jurisdictions. With the new indictments, this total will now rise to 45 cases.

A substantial number of the remaining cases for referral relate to indicted persons, either at large or in custody in the UNDF, Arusha. Referral of such cases to a national jurisdiction will, upon application by the Prosecutor, be decided by the Trial Chambers. All referrals of indicted persons will be based on whether

the accused will have the benefit of a fair trial and whether the accused will not be subjected to the death penalty in the country of referral.

As I reported to the Security Council in November 2004, not many countries have demonstrated a willingness to take on cases on transfer from the Tribunal. Rwanda continues to be the country primarily interested. In my discussions with the Rwandan authorities, I have pointed out to them the measures which need to be taken by them in respect of fair trial procedures and the exclusion of the death penalty as a precondition for any applications to be made by the Prosecutor to the Trial Chambers. I await such measures.

Three European countries have also expressed in principle an interest in taking on some of our cases. Six cases are respectively under consideration by these jurisdictions and I expect a decision shortly from the authorities there as to whether they will accept the cases. One file that was transferred by my office in 2004 has resulted in the indictment and arrest of the accused in Europe. His trial is expected to commence shortly.

Altogether, I propose in the next few months to submit referral applications to the Trial Chambers in respect of some of the remaining 13 indictees. In the event that for any reason – whether due to reluctance of states to accept the cases or inability to secure referral orders from the Trial Chambers – referral becomes impossible, these cases will then have to be prosecuted at the Tribunal. That would be an additional workload, to be accomplished by the end of 2008.

We remain fairly committed to the Completion Strategy and optimistic that with the continued provision of the necessary resources, the deadlines for the conclusion of trials at first instance by end of 2008 and the conclusion of appeals by the end of 2010 can be attained. We shall continue to strive relentlessly to that end. All the three organs of the Tribunal under the leadership of the Coordination Council and its President, Judge Erik Møse are determined to reach that goal. We look forward to a sympathetic consideration of our budget proposals for the biennium 2006-2007.

We continue however, to emphasize the need for the fullest international support and cooperation particularly in respect of tracking and apprehension of fugitives, in the referral of cases, and the relocation and protection of witnesses whose testimony has been crucial to the success of the Tribunal but who often face continuing threats to themselves and their families because of their courage.

Rwanda, as the state with the primary jurisdiction over these genocide cases and the one demonstrating so far, the greatest interest in referrals has indicated it will require resources to enhance the capacity of its legal and penitentiary system to handle such cases. In Resolution 1503, the Security Council, noting that the:



“Strengthening of national judicial systems is crucially important to the rule of law in general, and to the implementation of the ICTY and ICTR Completion Strategies, in particular” called on “the international community to assist national jurisdictions, as part of the Completion Strategy, in improving their capacity to prosecute cases transferred from the ICTY and the ICTR”.

The international community should now fulfil those expectations to eligible and willing states so that the strategy of transfer of cases can become a reality.

Relations between Rwanda and the OTP and the Tribunal as a whole, continues to be very good with support in the facilitation of access to witnesses and evidence.

I would like to seize this opportunity to thank the Security Council, the UN Secretariat and member states which continue to actively support the Tribunal towards the successful implementation and completion of its mandate.

I thank you.

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