



# ICTR NEWSLETTER

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## ICTR staff commemorates 10<sup>th</sup> anniversary of the genocide in Rwanda

April 1994 - April 2004

On 7 April 2004, ten years after the genocide in Rwanda, the staff of the ICTR paid tribute to the victims of the genocide. A Task Force was appointed to organize a commemoration service to mark the 10<sup>th</sup> anniversary of the Rwandan genocide, and a memorial service was held as part of ICTR staff members' observance of the United Nations official day of reflection on the genocide.

The commemoration highlighted the primary mission of ICTR staff members: to contribute to the fight against impunity by bringing to justice those with the greatest responsibility for the 1994 genocide in Rwanda.

The event which took place at the ICTR Headquarters in Arusha, Tanzania, included expressions from ICTR officials, staff, and from local religious institutions. Together, they honoured the memory of the victims of the Rwandan genocide, and of all the ICTR staff members who died while serving the cause of peace through justice.



***Vice-President Vaz and Deputy Registrar Munlo unveil a plaque dedicated to the memory of fellow staff members who died while serving peace through justice***

On behalf of Judge Erik Møse, President of the Tribunal, who was attending the tenth anniversary commemoration of the 1994 genocide in Kigali, Judge Andresia Vaz, Vice-President of the Tribunal, presided over the ICTR's commemoration. She offered her condolences to genocide survivors, asked for prayers for the souls of the victims, and for meditation to reflect on the events ten years ago. She also placed a commemoration wreath at the site of a permanent monument dedicated to Rwandese victims of the 1994 genocide and to deceased ICTR staff members. Participants at the ceremony observed one minute of silence after the placing of the wreath.

The Press & Public Affairs Unit of the ICTR External Relations and Strategic Planning Section also launched a series of initiatives to mark ten years since the genocide. These include a special genocide website and the screening of a short movie dedicated to the victims of the genocide. The site explains the progress of the Tribunal in bringing to justice the genocide perpetrators. It also lists genocide commemoration activities being sponsored by other organizations throughout the world, and the ICTR staff members who died while serving the cause of international justice.

The ICTR commemoration site can be accessed at the following address:

**[www.icttr.org/commemoration/index.asp](http://www.icttr.org/commemoration/index.asp)**

### IN THIS ISSUE

Registrar's Speech for 10 <sup>th</sup> anniversary of the genocide in Rwanda.....	2
Prosecutor's Speech for the 10 <sup>th</sup> anniversary of the genocide in Rwanda.....	4
Tribunal marks 10 <sup>th</sup> anniversary of the genocide in Rwanda.....	6
Status of Cases.....	6
WVSS at ICTR.....	8
Cooperation between ICTR and Rwandan Government and Judiciary.....	9
ICTR Library.....	10
Kamuhanda Judgment.....	10
Cyangugu Judgment.....	11
News Briefs.....	12
Italy Signs Enforcement Agreement.....	12
Niyitegeka Appeal.....	13
Plenary Session.....	13
Sweden Signs Enforcement Agreement.....	13
Czech Republic Contributes to ICTR Trust Fund.....	14
Crown Prince of Norway Visits Arusha.....	14
New Staff.....	14

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## The Failure of the International Community to Prevent and Punish the Genocide of 1994

by **Adama Dieng**, Registrar of the ICTR at the *Session spéciale du Comité des Représentants permanents auprès de l'Union africaine*, Addis Ababa on 7 April 2004.



**The International Community and the Prevention of the Rwandan Genocide**

The first question that comes to mind is: who is 'the international community' that is indicted with this failure? To be clear, by 'international community' we should begin with a look at the players whose jurisdictions were immediately connected to the events in question.

One begins with the UN and its Security Council. That the maintenance of international peace and security is the primary purpose of the UN could not be more evident than to state it as was done, in the very first statement in paragraph 1 of Article 1 of the UN Charter. When peaceful methods prove futile to achieve this objective, the Security Council is empowered to use armed force.

These international legal regimes and systems were in place at the time of the Rwandan genocide, yet the genocide took place. Many eminent efforts have since been made to ascertain why the system failed. One of those efforts was the OAU-appointed International Panel of Eminent Personalities (IPEP). In their report appropriately entitled *Rwanda—The Preventable Genocide*, IPEP observed as follows:

*This tragedy never had to happen. It is of course true that there would have been no genocide had a small group among the Rwandan governing elite not deliberately incited the country's Hutu majority against the Tutsi minority. But this terrible conspiracy only succeeded because certain actors external to Rwanda allowed it to go ahead. Of these, the most important was the United Nations Security Council. Its members could have prevented the genocide from taking place. They failed to do so.*

Again in an effort to point fingers of blame where they properly rest, those who have undertaken an inquiry

into the sources of this failure have seen fit to point the fingers more directly, perhaps out of concern that to point fingers vaguely is to point no finger at all. In this connection, IPEP's report contains the following:

France and the USA are key players within the UN Security Council, both as permanent members and as States that command the greatest geopolitical influence in international affairs. Their active passivity on the Council could of course not permit the best efforts of smaller powers like Nigeria, New Zealand and the Czech Republic whose passionate pleas for preventive action came to nothing.

When addressing the genocide memorial conference in London just two weeks ago, Mr. Kofi Annan, the United Nations Secretary General, admitted bluntly that the international community did not do all it ought to have done to prevent the genocide in Rwanda. On a personal level, Mr. Annan, when revisiting his actions at the head of the Department of Peace Keeping Operations (DPKO), expressed regrets to have not done more to sound the alarm and rally support.

This admission came after Mr. Clinton, the US Former President during his visit to Rwanda in March 1998, Belgians officials, as well as many other stake holders in the international arena, admitted the failure of the international community to protect Rwandan people during the horrendous massacres of nearly a million innocent people in Rwanda over the course of a hundred days.

The round of blame will not be complete without discussing the blame that must rightly be tabled at the foot of the OAU (which has now been succeeded by the AU). As Africans, it is indeed a shameful and abominable state of affairs where it is the case that we watched helpless while our brothers and sisters perished in a genocide, because western powers did not intervene to stop it. This shame and abomination must be acknowledged and it must not detract from the shame that must go to the larger communion of humanity represented by the UN.

This is to say that the answer to the query as to the responsibility of the international community in failing to prevent the Rwandan genocide is unequivocal. Yes the international community failed to prevent the genocide when it could have done so by a greater commitment.

The regrets expressed now or earlier, however sincere they might be, and from whatever level they might come, will not bring back to life the hundreds of thousand of victims, nor will they even alleviate the pain of the genocide survivors.

At this tenth anniversary of the Rwandan genocide, we owe to the victims at least to show them empathy and help them better cope with their difficult lives which still bear the indelible marks of their past



ordeal. In this regard, I have in all forums advocated the establishment of a special fund for the victims of genocide. The African Union should play a leading role in this endeavour. I seize the opportunity of this forum to renew my appeal for this fund for the victims of genocide. The Government of Rwanda has made a great deal of effort to devote 5% of the national budget to the fund for survivors. This effort should be echoed by a greater involvement of the AU in raising funds for the victims and survivors.

Beyond the financial assistance to the victims, the international community must see to it that never again, in any part of the world, genocide or any large scale gross violations of human rights are perpetrated. In this regard, the vigilance we need to observe in Africa must be at all times, given the large number of tensions prevailing in different African regions.

Preventing genocide will require taking seriously its warning signs unlike what happened in Rwanda. Inflammatory speeches, the targeting of a particular group and all the kind must call for a quick and strong response to prevent the worse from occurring.

The international community seems to have already assimilated, to a certain extent, lessons learnt from the Rwandan genocide, although this may go unnoticed. The Nigerian troops and thereafter, the British troops sent to stop the war in Sierra Leone, the French troops sent to the Ivory Coast and most recently to the Ituri region of the DRC, are all signs of a greater sensitivity, willingness and commitment of the international community to prevent or at least limit the scope of gross violations of human rights and to restore order.

This however, should not make us forget the longstanding chaos in Somalia, the partition of Sudan, the still volatile and fragile situation in Ivory Coast and Liberia, just to name a few examples. Since the international community is not a unique, uniform and single-minded entity one could rely upon to prevent genocide and the like, it is vital that the African Union work out realistic mechanisms whereby a clear political foresight sustained by military capabilities will always be ready to act and prevent gross violations of human rights.

This in turn will require that at a national level, people refrain from being selfish and narrow minded. The mandate that citizens give to their political leaders should not only be focused on national considerations. The generosity to include international affairs on the political agenda is the unavoidable price to pay to bring about peace and order for all mankind. A political agenda merely based on national considerations has led to the withdrawal of some of the scarce military forces present in Rwanda and which could have helped to diminish the level of atrocities.

Now we are left with the sole option to cry over the victims and perhaps, to do them some justice by punishing the perpetrators of the genocide. This leads me to the second aspect of the discussion regarding the punishment of the perpetrators of the Rwandan genocide.

### **The International Community and the Punishment of the Perpetrators of the Rwandan Genocide**

In the aftermath of the Rwandan genocide, the new Rwandan authorities requested the international community, through the United Nations Security Council, to set up an international Tribunal in the former Yugoslavia's model, in order to prosecute the perpetrators of the genocide and other gross violations of international humanitarian law. The request was made at a time when most of the Rwandan judicial infrastructure was destroyed, its staff assassinated or having fled the country.

Such a request was also important as it could help dispel the negative impression that the justice to be rendered would be that of the winners against the vanquished. An international tribunal could also better secure the necessary cooperation of states in a context where most of the suspects were on the run and scattered to the four corners of the planet.

The international community answered positively to the Rwandan request, despite some difference of views as to what the process should involve. The UN Security Council set up the ICTR by its resolution 955 of 8 November 1994. Rwanda accepted this institution despite its reservations and promised to fully cooperate with it.

The ICTR has never had the ambition to try all the persons who might possibly be involved in the Rwandan genocide. The number of potential targets would render this ambition unrealistic. Although having primacy over national jurisdictions including Rwanda, ICTR shares its jurisdiction with national jurisdictions (including Rwanda) which may have enacted the relevant provisions to enable them to exercise jurisdiction over the events which occurred in Rwanda in 1994.

ICTR's main ambition is to bring about peace and reconciliation through dispensation of justice. The limitations of time and resources, under which ICTR must operate, have forced it to focus on the most symbolic cases, namely the cases of those alleged to have played a leading role in the genocide, the inspirers.

It is against this background that the effort of the international community should be appraised in order to fairly respond to the question as to whether it has met its duty to punish the perpetrators of the genocide.



Despite the difficulties faced during its infancy, ICTR is a clear illustration that international justice can work and is working indeed. Sixty three persons out of eighty two indicted are in ICTR's custody. More than twenty persons have already been tried. Members of the former Rwandan government including the former prime minister and eight ministers, high ranking military officers, prefects, bourgmestres, and opinion leaders like the stakeholders of the famous Radio Television des Mille Collines (RTLM), face serious criminal charges before ICTR.

This impressive docket was made possible thanks to the active cooperation of more than sixty countries, which have helped to arrest suspects and accused and, which have also assisted in facilitating the travel of hundreds of witnesses, including illegal residents to whom provisional papers have been issued to make possible their travel to Arusha.

The image broadcast over the world, of Jean Kambanda, former chief of the Rwandan government, appearing before the ICTR and eventually convicted for genocide and other serious violations of international humanitarian law, goes beyond Rwanda and sends a strong signal to all leaders (in Africa and elsewhere) who could be tempted to use their power and influence for the perpetration of gross violations of human rights.

ICTR has played an invaluable role in the development of international humanitarian law. It is the first international tribunal to have applied the genocide convention of 1948. The definition of genocide has itself been furthered to include rape as a means by which this horrible crime may be committed. Many landmark decisions have been rendered, the last of which pertains to the role of the media in the context of war. ICTR gave useful guidance as to how to strike the balance between the freedom of speech internationally guaranteed and the abuse of such right leading to direct and public incitement to commit genocide.

Of course, not everything is perfect. Despite its best efforts, ICTR still faces criticisms. While some of these criticisms are misplaced, there are others that are quite legitimate.

Some victims feel that they ought to have a greater place in the international justice. Observers question the expensive cost of this international justice, which spends millions of dollars to bring to justice a handful of accused whereas thousands of survivors are starving. Many more points can be legitimately made. But the question is whether they call into question the relevance of ICTR as a response from the international community to punish the perpetrators of the Rwandan genocide. The answer to this question leads me to a few words of conclusion.

ICTR may not be a perfect tool designed to heal the incurable wounds left by the Rwandan genocide and

to alleviate the pain of disconsolate survivors. However, when history will pass its judgement, ICTR's legacy will be a fair and eloquent response that the international community did not fail to punish the perpetrators of genocide.

Of course, this endeavour will never cover up the failure in the first place to prevent the genocide. But in prosecuting and punishing the perpetrators, irrespective of, or rather because of their high political and social rank, the deterrent function of justice will discourage other leaders in other parts of the world, to make use of genocide to achieve their political goals.

Now that ICTR is contemplating closing its doors in the coming years, other countries and mainly Rwanda, will take over to put the finishing touches to the huge demand of justice still present. The international community will then have the duty to provide a substantial support to Rwanda as a tribute to the victims who will at last rest in peace.

## Statement by Prosecutor Jallow Marking 10 Years Since the Rwandan Genocide



Ten years ago, Rwanda and indeed the world experienced one of its worst humanitarian tragedies. In the space of barely a hundred days from the night of the 6th April 1994, almost a million people – by some accounts over a million people – were brutally killed in an officially planned and premeditated genocide. They were killed for no reason other than that they were different from their assailants.

The international community has responded to this tragedy through the establishment of the International Criminal Tribunal on Rwanda (ICTR) by the UN Security Council Resolution 955 (1994). Its mandate is to render justice to the victims through the prosecutions of those persons responsible for the genocide and other such violations committed between 1st January 1994 and 31st December 1994.

Beginning in early 1995, the Office of the Prosecutor (OTP), of the Tribunal embarked on investigations – some of which continue to-date – and has successfully indicted and prosecuted senior political, military and local authority leaders of the former





Rwandan government. Others include senior members of the church, the media and private persons who were involved in the planning, preparation and implementation of the genocide or who due to the extensive and serious nature of their participation, rank amongst those who bear the greatest responsibility for the atrocities.

At as of present, the ICTR has delivered fifteen judgments involving 21 accused, 3 of who were acquitted and the rest convicted. Of that number, 9 accused persons were sentenced to imprisonment for the remainder of their lives, having been convicted of genocide, crimes against humanity and war crimes. Others have been sentenced to various terms of imprisonment. The trials of 21 other detainees are currently in progress before the Tribunal. They involve 8 ministers, 1 parliamentarian, 2 prefects, 2 senior administrators, 3 bourgmestres, 3 military officers, 1 conseiller and 1 other person. Another 21 accused persons are in custody in Arusha, Tanzania, awaiting commencement of their trials. These were people who occupied positions of leadership in Rwanda. They however betrayed that trust and instead used the authority of their office to inflict untold suffering on the innocent people of Rwanda.

The world commemorates the 10th anniversary of this genocide now against the backdrop of the Completion Strategy of the ICTR. The Security Council by its Resolution 1503 of 27th August 2003 requires the Tribunal to complete its investigations on new indictments by the end of 2004, to complete all trial activities at first instance by the end of 2008 and wind up all work in 2010.

Much work remains to be done by these dates. Indeed, it would appear more than what has been accomplished in the first decade since the genocide. Many indicted persons remain at large and need to be apprehended and transferred to the Tribunal. The investigations into many important targets need to be pursued, concluded and the decisions taken on new indictments.

The Completion Strategy Resolution of the Security Council has enabled the OTP to review its workload and redefine it in the sense of what it believes can be accomplished by the stated deadline, with the focus on the prosecution of those who played a leadership role in the genocide. It has enabled the OTP to review its strategies regarding amongst others, our indictment policy, a more vigorous and effective approach to prosecutions, institutional changes and capacity building. It has finally enabled the OTP to develop a Plan of Action – now in the process of being finalized – outlining the steps and actions that need to be undertaken, by who and within what time frame. We are confident that with adequate support from the UN system and the international community, these measures will set us on the right course for a successful implementation of the Completion Strategy.

As we commemorate the 10th anniversary of the genocide, the OTP pays its deepest respects to all those victims of this sad and tragic chapter in Rwanda's history. We seize the opportunity to renew our commitment to the mandate entrusted to us by the international community through the Statute of the ICTR to investigate and prosecute those persons responsible for the serious violations of international humanitarian law. We shall strive to discharge that mandate to the fullest extent by bringing to account, at the Tribunal or elsewhere, those bearing the greatest responsibility for the genocide. We shall continue to search for such people wherever they may be hiding and bring them to justice.

The discharge of that mandate requires the fullest co-operation of the international community. The continued support and collaboration of the people and government of Rwanda – which has been encouraging – in relation particularly to facilitating access to witnesses and evidence is indispensable to effective prosecution at the Tribunal. The process at Arusha, the seat of the Tribunal, is one in whose success the people of Rwanda have an immense stake. They must continue to help the Tribunal contribute to justice and reconciliation in their country and to let the rule of law prevail internationally.

Some specific aspects of the Completion Strategy rest on effective international co-operation. As required by successive resolutions of the Security Council, all member States should, either hand over to the Tribunal all those persons it seeks to apprehend or take measures to comply on this occasion.

An important element of completion is the plan of the OTP to transfer the cases of some of the detainees currently in Arusha as well as some of those at large, to national jurisdictions including Rwanda, for trial. I appeal to those countries that will shortly be approached in this respect, to accept such cases and thus contribute an important element not only to the process of justice in Rwanda but also in rendering more effective the process of international criminal justice. The rest of the world community should support those states that are willing to accept cases but are constrained by resource difficulties.

The work of the OTP and the Tribunal as a whole is a strong and effective legal response to the genocide. It is meant to provide justice to the victims and in that way, contribute to the process of peace and reconciliation in Rwanda. Equally important however, it is meant to send a message to the rest of the world that there is an end to tolerance of impunity; that people who engage in such reprehensible conduct, particularly those in positions of leadership, will be held to account for their behaviour. In this regard, our work should be of deterrence value.



The problem of human rights violations generally is not adequately dealt with by just a legal response. A broader response that addresses the plight of victims generally, as well as provides measures for early warning and prevention, plays an important role in combating the phenomenon of genocide worldwide. In this respect, the Action Plan for Combating Genocide proclaimed by the Secretary General, His Excellency, Kofi Annan, provides the international community with the opportunity to implement a sustained broadbased response of a preventive nature to the phenomenon which requires the fullest support of all those engaged in the quest for justice. Let us all seize that opportunity and help to prevent the recurrence of such tragedies in any part of the world.

## Tribunal Organises Special Events in Dar es Salaam to Commemorate 10<sup>th</sup> Anniversary of Rwanda Genocide

To mark the day of reflection for the genocide in Rwanda in 1994, the UN International Criminal Tribunal for Rwanda organised three events in Dar es Salaam in collaboration with the UN Information Centre.

The events were a special presentation and exhibition at the Karimjee Hall, formerly the National Parliament building which brought together diplomats, scholars, students, government leaders, politicians and members of the local civic organisations. This took place on 5<sup>th</sup> and 6<sup>th</sup> April 2004.

The events were attended by Madame Patricia Hajabavakiga, the Rwandan Minister of State of Lands and Environment, the Tanzanian Minister for Good Governance Hon. John Masilingi and the Ambassador of Rwanda in Tanzania H.E. Gaspard Nyilinkindi. Mr. John Hendra, the UN Resident Coordinator and Acting UNIC Director represented the United Nations while the ICTR was represented by Mr. Roland Amoussouga, Spokesman for ICTR and Chief, External Relations and Strategic Planning Section.

Following speeches by the officials, and by Mr. Amoussouga who briefed them on the work of the ICTR, Prof. Mwesiga Baregu and Prof. Haroub Othman, from the University of Dar es Salaam presented papers which highlighted the plight of Rwandans in 1994 and how the international community abandoned them in their hour of need.

On 7<sup>th</sup> April 2004 the University of Dar es Salaam hosted an event which was also attended by

diplomats and students of the University. The event included an exhibition, speeches and watching film documentaries of the Rwanda genocide and its aftermath including the work of the Tribunal.

In the evening the event was transferred to the University's Mabibo hostel where about 500 students watched documentary films on the work of the Tribunal and the Rwandan genocide.

## Status of Cases



As of April 2004, the ICTR has handed down fifteen judgements involving twenty-one accused. Another twenty-one accused are on trial. The first trial at the ICTR started in January 1997, following the arrival of the first accused to Arusha in May 1996. The trials conducted during the first mandate of the ICTR (May 1995 – May 1999) led to six judgements involving seven accused persons.

## First Mandate (1995-1999)

Name and Former Title	Judgement
<b>J.-P. Akayesu</b> , Bourgmestre of Taba	2 September 1998
<b>J. Kambanda</b> , Prime Minister	4 September 1998 (guilty plea)
<b>O. Serushago</b> , Businessman, Interahamwe leader	5 February 1999 (guilty plea)
<b>C. Kayishema</b> (Prefect of Kibuye), <b>O. Ruzindana</b> , (Businessman)	21 May 1999 (joinder)
<b>G. Rutaganda</b> , Businessman, 2nd Vice-president of Interahamwe	6 December 1999
<b>A. Musema</b> , Businessman	27 January 2000
<b>Sum first mandate</b>	<b>Six judgements (seven accused)</b>

All cases except one (Ruggiu) were appealed to the ICTR Appeals Chamber. The judgements are now final.

The Akayesu case is the first in which an international tribunal has been called upon to interpret the



definition of genocide as defined in the Convention for the Prevention and Punishment of the Crime of Genocide (1948). The Trial Chamber recalled that genocide means, as described in the Convention, "the act of committing certain crimes, including: the killing of members of the group or causing serious physical or mental harm to members of the group with the intent to destroy, in whole or in part, a national, racial or religious group, as such".

The Chamber also defined the crime of rape. It underscored the fact that rape and sexual violence may constitute genocide in the same way as any other act of serious bodily or mental harm, as long as such acts were committed with the intent to destroy a particular group targeted as such.

The guilty plea and subsequent conviction of Jean Kambanda, former Prime Minister of Rwanda, set a number of precedents. This was the first time that an accused person acknowledged his guilt for the crime of genocide before an international criminal tribunal. It was also the first time that a head of government was convicted for the crime of genocide.

The trials conducted during the second mandate (May 1999 – May 2003) led to nine judgements involving fourteen accused, or a doubling of the judicial production of the Tribunal compared to the first

mandate.

This table shows that in 2003, the ICTR rendered its highest number of judgements in one year, involving eight accused: Elizaphan and Gérard Ntakirutimana, Semanza, Niyitegeka, Kajelijeli, and the judgement in the Media case (three accused). They have been followed by two judgements in early 2004: Kamuhanda and Cyangugu case (three accused).

The judgements delivered so far involve one Prime Minister, three Ministers, one Prefect, four Bourgmestres and several others holding leadership positions during the events in 1994. The Media case is the first judgement since the conviction of Julius Streicher at Nuremberg in which the role of the media has been examined in the context of international criminal justice. The Chamber recalled the important guarantees in international law of the right to freedom of expression but noted that it was "critical to distinguish between the discussion of ethnic consciousness and the promotion of ethnic hatred". The judgement has been appealed.

In addition to these fifteen judgements involving twenty-one accused, seven trials are in progress as of April 2004, involving a total of twenty-one accused. They include eight Ministers, one Parliamentarian, two Prefects, three Bourgmestres, one Councillor, three military officers, and others holding leadership positions.

### Second Mandate (1999 –2003)

Name and Former Title	Judgement
<b>G. Ruggiu</b> , RTLM Journalist	1 June 2000 (guilty plea)
<b>I. Bagilishema</b> , Bourgmestre of Mabanza	7 June 2001
<b>G. Ntakirutimana</b> , Doctor	21 February 2003 (joinder)
<b>E. Ntakirutimana</b> , Pastor	
<b>L. Semanza</b> , Bourgmestre of Bicumbi	15 May 2003
<b>E. Niyitegeka</b> , Minister of Information	15 May 2003
<b>J. Kajelijeli</b> , Bourgmestre of Rukingo	1 December 2003
<b>F. Nahimana</b> , RTLM Director	"Media Case" (joinder) 3 December 2003
<b>H. Ngeze</b> , Kangura Editor	
<b>J.-B. Barayagwiza</b> , Director, Ministry of Foreign Affairs	
<b>J. Kamuhanda</b> , Minister of Culture and Education	22 January 2004
<b>A. Ntagerura</b> , Minister of Transport	"Cyangugu Case" (joinder) 25 February 2004
<b>E. Bagambiki</b> , Prefect of Cyangugu	
<b>S. Imanishimwe</b> , Lieutenant in FAR	
<b>Sum second mandate</b>	<b>Nine judgements (fourteen accused)</b>

### Trials in Progress: Twenty-one Accused in Seven Cases

Name and Former Title	Comments
- <b>P. Nyiramasuhuko</b> (Minister of Family and Women's Affairs), - <b>S. Ntahobali</b> (Interahamwe leader), - <b>S. Nsabimana</b> (Prefect of Butare), - <b>A. Nteziryayo</b> (Prefect of Butare), - <b>J. Kanyabashi</b> (Bourgmestre of Ngoma), - <b>E. Ndayambaje</b> (Bourgmestre of Muganza)	"Butare Case" (joinder). Started in second mandate.
- <b>T. Bagosora</b> (Dir. of Cabinet, Ministry of Defence), - <b>G. Kabiligi</b> (Brigadier-General in FAR), - <b>A. Ntabakuze</b> (FAR Battalion Commander), - <b>A. Nsengiyumva</b> (Lieutenant-Colonel in FAR)	"Military I Case" (joinder). Started in second mandate.
- <b>S. Gacumbitsi</b> , Bourgmestre of Rurumo	Started 28 July 2003.
- <b>E. Ndindabahizi</b> , Minister of Finance	Started 1 September 2003.
- <b>C. Bizimungu</b> , (Minister of Foreign Affairs), - <b>J. Mugenzi</b> (Minister of Health), - <b>J. Bicamumpaka</b> (Minister of Commerce), - <b>P. Mugiraneza</b> (Minister of Civil Service)	"Government Case" (joinder) Started 5 November 2003.
- <b>E. Karemera</b> (President of National Assembly, S-G of MRND), - <b>M. Ndirumapfwe</b> (Minister of Interior, V-P of MRND), - <b>J. Nziroreza</b> (Minister of Education), - <b>A. Rwamakuba</b> (D-G of Ministry of Foreign Affairs, President of MRND)	"Karemera <i>et al.</i> Case" (joinder) Started 27 November 2003.
- <b>M. Muhimana</b> , Councillor	Started 29 March 2004.

Of these twenty-one accused, two cases involving ten accused (Butare; Military) are continuing from the second mandate. The Butare case (six accused) was suspended due to the change in the composition of the Trial Chamber, but resumed on 26 January 2004. Five cases involving eleven accused started during the first ten months of the third mandate (May 2003-May 2007). The trials in Ndindabahizi and Gacumbitsi were completed in less than three months. In Ndindabahizi, thirty-four witnesses were heard during twenty-seven trial days. In Gacumbitsi, thirty-seven witnesses were heard over thirty-two trial days. Judgements in these two cases are expected in the first half of 2004.

At the United Nations Detention Facility in Arusha, twenty-one accused are awaiting the commencement of their trials. Some of these cases will commence in 2004. Fifteen indictees are at large. On 26 February 2004, a former Rwandan military officer Lt. Col. Ephrem Setako was arrested in Amsterdam (Netherlands) at the request of the ICTR Prosecutor. Sixteen other targeted investigations are ongoing. The actual number of persons brought to trial will be less, as some of the indictees and suspects could be dead or may not be found.

## Witness and Victims Support and Protection at ICTR

The Witnesses and Victims Support Section (WVSS), plays a pivotal role in ensuring that trials before the Tribunal run smoothly by providing impartial support and protection services to all witnesses and victims called to testify. The Section, established in 1996, pursuant to the Tribunal's Statute and Rules of Procedure and Evidence, falls under the authority of the Registrar.

The Section is responsible for protecting the privacy and ensuring the security and safety of all witnesses. It is responsible for their smooth and safe movement from their places of residence to the headquarters of the Tribunal in Arusha where they are called to testify.



In the course of judicial proceedings, a Judge or a Trial Chamber can grant special measures before, during and after the trial to protect witnesses of either the Prosecution or the Defence. For this purpose, witnesses must establish before the Judges that they and/or their families are at risk because of their testimony. Special measures ordered by a Trial Chamber usually involve the

concealment of the name and identity of the witness from the public and the media.

It is the duty of the Section to ensure that those measures are implemented. A post-trial witness programme has already assured the relocation of a number of witnesses thought to be particularly at risk. Some of them have been relocated in countries outside Rwanda while others have been relocated within Rwanda.

The Section also has been able to organize, accommodate, and provide multifaceted support and the physical and international protection of witnesses. The intervention of the Section in the host countries of witnesses has made it possible to resolve legal and practical immigration problems with the governments concerned, in cases where witnesses had no appropriate residency document or status, nor identification papers, and could not undertake international travel as a result. The maintenance of anonymity of witnesses and the subsequent follow-up on them after their testimony has encouraged other witnesses to agree to travel to Arusha and more willingly participate in the search for justice at the ICTR.

In spite of the security situation in the countries of residence of some of the witnesses and the complexity of making travel arrangements in the Great Lakes Region, the Witnesses and Victims Support Section has been able to facilitate the travel of around 500 witnesses (Prosecution and Defence) to Arusha from more than 30 African, European and American countries.

Presently the Section consists of two Units: one for Prosecution witnesses and one for Defence witnesses. The duties of the Section are summarised below:

To provide impartial support and protection services to all witnesses and victims who are called to testify before the Tribunal;

To recommend the adoption of protective measures for victims and witnesses;

To ensure that they receive relevant support, including physical and psychological rehabilitation, especially counseling in cases of rape and sexual assaults;

To develop short and long term plans for the protection of witnesses who have testified before the Tribunal and who fear a threat to their life, property or family;

To respond to the Trial Chambers upon consultation in the determination of protective measures for victims and witnesses and;





To request a Judge or a Trial Chamber to order appropriate measures for the privacy and protection of victims and witnesses, provided that the measures are consistent with the rights of the accused.

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## Cooperation between the ICTR and the Rwandan Government and Judiciary

Without international cooperation and the agreement of national governments, the Tribunal's ability to arrest and transfer indicted persons for trial would be difficult, if not impossible. The cooperation of states, particularly Rwanda, is indispensable for access to witnesses and material evidence. While the Office of The Prosecutor, through its tracking team has deployed substantial efforts in the location of fugitives, their apprehension and transfer to the Tribunal rests on the willingness of states to discharge their legal obligations in this respect.

In 2002, the ICTR experienced difficulties over the flow of witnesses from Rwanda. However, the situation has greatly improved and there now is a steady flow of witnesses from Kigali to Arusha. Both the government of Rwanda and the ICTR are making efforts to maintain and develop a harmonious relationship which will make it easier for the Tribunal to contribute to reconciliation within Rwanda.

The Tribunal recently received two groups of ten Rwandan judicial officers, each composed of judges, prosecutors as well as officials from the Ministry of Justice. There is an on-going program for the judiciary and other representatives of Rwandan society to visit the Tribunal. Since 2000, about 40 Rwandan judges from courts all over the country have attended a series of week-long seminars in Arusha. More seminars of this kind are planned.



It is anticipated that the Rwandan judiciary will cooperate even more closely with the ICTR as the two judicial systems hold discussions about the possible transfer of ICTR cases to Rwanda's national courts.

The ICTR also enjoys strong cooperation with the Rwanda government in efforts to inform and educate the Rwandan public about the work and achievements of the Tribunal. The Tribunal's Outreach Program supports Rwandan journalists who

broadcast on a daily basis from Arusha. These journalists are from *Office Rwandais de l'Information* (ORINFOR) and the Ministry of Justice. The ICTR, in collaboration with these two institutions, expects to fill the information gap about the Tribunal in rural Rwandan provinces.

Additionally, groups of up to six Rwandan journalists are regularly brought to the Tribunal by the UN aircraft from Kigali in order to get first-hand information and report directly on important events such as the delivery of judgments, Appeals Chamber sittings and the opening of new trials.

Representatives from ICTR have met recently with Rwandan government information officials to secure access for the Tribunal to the Rwandan government and private media in order to provide more and better news, information, education and specialized outreach programs to target the Rwandan population. Plans are being developed for the Ministry of Information and the Ministry of Justice to enter into agreement with ICTR to secure the media access.

The ICTR public information and documentation center, *Umusanzu mu Bwiyunge*, is another important outreach effort that has been supported by Rwanda. The government of Rwanda donated the building in the heart of Kigali that houses the center.

The ICTR is collaborating with Rwandan academic institutions and is making a special outreach attempt to educate and inform the youth of Rwanda about international justice and the importance of the rule of law and respect for human rights.

As part of that outreach, ICTR has for the last four years been providing annual scholarships to law students at the National University of Rwanda to do research for thesis projects at the Tribunal in Arusha. Several professors from the National University of Rwanda also continue to carry out research at the Tribunal.



Future cooperation in the area of academics will include ICTR staff providing classroom lectures, research training, seminars and legal symposia for law faculty and students in Rwanda.

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## ICTR Library



The Tribunal is a veritable marketplace in which information is the key commodity and communication of that information essential to the judicial process. To facilitate the collection and communication of the results of its work, the ICTR established the Legal and Reference Library in May 1998. The library is part of the Judicial and Legal Services Division and is managed by the Deputy-Registrar.

Its mandate is to provide, assist with and make available to the Trial Chambers, the Registry, the Office of the Prosecutor, Defence Counsel, legal officers and all the staff of the International Criminal Tribunal for Rwanda the information and documentation they require to accomplish their duties.

The main library is housed at the Tribunal in Arusha with a branch in Kigali that serves the Office of the Prosecutor. The Umusanzu Outreach Information and Documentation Centre in Kigali is also part of the ICTR library. The library has 10 members of staff, including 4 in Kigali.

With its current holdings of nearly 6,000 volumes, the ICTR library is rapidly establishing itself as the largest legal reference library in the East Africa sub-region. The holdings include reference books and legal texts on international criminal law, international humanitarian law, international law, international courts, human rights and decisions of international and national courts. Apart from these holdings, there is a significant collection of legal and general yearbooks and reviews, including news journals and magazines.

The ICTR database remains to date the only worldwide database specialized in international criminal law. The library produces a list of recent acquisitions featuring books, official documents and a list of table of contents pages from weekly journals. It also produces the ICTR Quarterly Bibliography, the first produced by an international criminal tribunal. The bibliography is drawn from the ICTR database and is becoming a basic reference tool for those

interested in international criminal law. It is also an essential instrument for the propagation of the Tribunal's jurisprudence and is distributed to more than 500 institutions including libraries, NGOs, embassies, courts, ministries and universities.

The library has produced 2 compact disks containing ICTR basic documents and case law covering the Tribunal's production from 1995 to 2002. The documents on the CDs are in English, French and Kinyarwanda.

More than 100 law journal articles have been written about the Tribunal and the various aspects of its work. In addition to their daily work in the trial chambers, the judges and legal staff of the Tribunal have made substantial contributions to the legal literature about the court and international criminal and humanitarian jurisprudence. ICTR present and past staff have published 79 law journal articles. This includes contributions by previous registrars, prosecutors and presidents of the Tribunal including deceased Judge Laity Kama after who the library's law collection on CD is named.

## Kamuhanda Convicted and Sentenced to Prison for the Rest of his Life

On 22 January 2004 Trial Chamber II of the International Criminal Tribunal for Rwanda found Jean de Dieu Kamuhanda, former Rwandan Minister of Higher Education and Scientific Research, guilty on two counts of genocide and extermination as a crime against humanity. The Tribunal sentenced him to prison for the remainder of his life.

The Trial Chamber, composed of Judges William H. Sekule (United Republic of Tanzania), presiding, Winston Churchill Matanzima Maqutu (Lesotho) and Arlette Ramaroson (Madagascar) found the accused not guilty of five counts in the nine count indictment against him. They included conspiracy to commit genocide, rape as a crime against humanity and other inhumane acts as crimes against humanity, and two counts of violations of the Geneva Conventions and of Additional Protocol II. The Chamber also dismissed two counts of complicity in genocide and murder as a crime against humanity.

In reaching its guilty verdict on two counts, the Trial Chamber found that Mr. Kamuhanda harboured the intent to destroy the Tutsi ethnic group in whole or part and is individually criminally responsible for instigating, ordering, aiding and abetting genocide against Tutsi by virtue of his role in the killing of members of the Tutsi ethnic group in the Gikomero Parish Compound where he ordered Interahamwe



militia, soldiers, and policemen to kill the Tutsis. The judges also found that a large number of Tutsi were exterminated as a direct result of Mr. Kamuhanda's participation by ordering, instigating, aiding and abetting the attack of the Gikomero Parish Compound.

The Trial Chamber noted that Kamuhanda admitted that, between 1 January 1994 and 17 July 1994, widespread or systematic attacks were directed throughout Rwanda against a civilian population with the specific objective of extermination of the Tutsi. However, the accused denied any involvement in the crimes.



The Prosecution had charged that the accused played a role in the massacres committed in Gikomero Parish Compound and Gishaka Catholic Parish, distributed weapons used in those massacres, and was responsible for rape committed during the attack. It added that the accused was also responsible for crimes as a member of the interim government.

The Trial Chamber cleared Kamuhanda of criminal responsibility for the massacre of Tutsi at the Gishaka Catholic Church. Due to inconsistencies and irreconcilable differences in the testimony of Prosecution witnesses, the Chamber did not find beyond a reasonable doubt that the accused participated in the massacres at the Gishaka Catholic Church.

It also found that there was evidence beyond reasonable doubt that Kamuhanda distributed weapons at the respective homes of his two cousins in Gikomero commune. But it cleared the accused of charges that he distributed weapons at other sites, as filed in the indictment.

However it found that the Prosecution did not provide enough evidence to show that Kamuhanda had criminal responsibility in his capacity as Minister in the interim government.

The Trial Chamber also found that there was insufficient evidence to support the Prosecution's allegation that the accused was responsible for rape allegedly committed by assailants at Gikomero Parish compound.

## **Trial Chamber Convicts Imanishimwe but Acquits Ntagerura and Bagambiki**

On 25 February 2004 Trial Chamber III of the International Criminal Tribunal for Rwanda sentenced Samuel Imanishimwe, former military commander in the Rwanda armed forces to 27 years in prison after convicting him on six counts of genocide, crimes against humanity and serious violations of Article 3 Common to the Geneva Conventions and of Additional Protocol II. The Chamber however acquitted André Ntagerura, former Minister of Transport and Communications and Emmanuel Bagambiki, former Prefect of Cyangugu of similar charges. The following day the Trial Chamber ordered their conditional release.

The indictments against the three accused charged them with genocide, crimes against humanity, and serious violations of Article 3 Common to the Geneva Conventions and Additional Protocol II in connection with the massacres and other crimes committed in Cyangugu Prefecture in 1994.

The Trial Chamber composed of judges George Lloyd William (St Kitts and Nevis), presiding, Yakov Ostrovsky (Russia) and Pavel Dolenc (Slovenia) acknowledged the gravity of the crimes charged against the three accused. The Chamber found that soldiers, Interahamwe militia and members of the local population participated in massacres of the civilian Tutsi population and of Hutu political opponents in Cyangugu.

The Chamber found that Imanishimwe, as the commander of Karambo military camp, issued orders to soldiers authorizing the arrest, detention, mistreatment, and execution of civilians. He was also found criminally responsible for extermination and for failing to prevent or to punish his subordinate soldiers' participation in the massacre at the Gashirabowba football field on 12 April 1994.

Acquitting Ntagerura, the Chamber noted that the Prosecutor did not prove beyond a reasonable doubt any of the allegations in the indictment asserting criminal responsibility on his part. It also ruled that there was no credible evidence that Ntagerura expressed public support for the killings or that he acted as supervisor in Cyangugu Prefecture in 1994. As for Bagambiki the Chamber found that the Prosecutor failed to prove the allegations supporting the crime of genocide against him or to convincingly demonstrate that he should be held criminally responsible for the crimes based on his role as a principal perpetrator, an accomplice, or a superior.

The Chamber granted their release based on requirements that Bagambiki and Ntagerura provide the address where they will reside and inform the



Tribunal and the local police nearest their respective residences in case of any change of address; that they report on the first Monday of each month to the local police station nearest to their residence; that they not travel outside their country of residence without written permission of the Tribunal; and that their travel documents be retained by the local police, unless directed otherwise by the Tribunal.

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## News Briefs

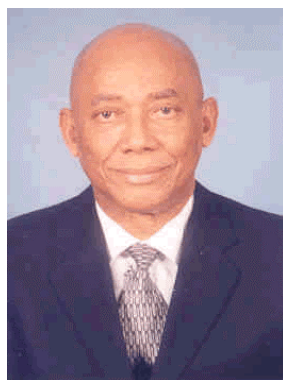
### In March

10<sup>th</sup>: In Freetown, Sierra Leone, on the occasion of the opening ceremony of the courthouse for the Special Court for Sierra Leone (SCSL), the Registrars of the SCSL, Mr. Robin Vincent, of the International Criminal Tribunal for the Former Yugoslavia (ICTY), Mr. Hans Holthuis, and of the International Criminal Tribunal for Rwanda (ICTR), Mr. Adama Dieng took the opportunity to meet in order to select projects for co-operation between the three institutions.

20<sup>th</sup>: During his visit to Tanzania, the President of the Federal Republic of Germany H.E. Johannes Rau met in Arusha with Judge Erik Møse, President of the United Nations International Criminal Tribunal for Rwanda. During the meeting, they discussed among other matters, the possibility of strengthening the support of the Deutsche Welle (German Radio Broadcasting station) in covering ICTR proceedings.

23<sup>rd</sup>: During a ceremony administered by the President of the International Criminal Tribunal for Rwanda, Judge Erik Møse, Judge Emile Francis Short (Ghana) was sworn in as an *ad litem* Judge.

**Judge Short (61) was until his appointment Chairperson of the Commission on Human Rights and Administrative Justice in Ghana for more than ten years. He was previously head of a law firm in Ghana for about 20 years, and is a Barrister-At-Law, Lincoln's Inn, and London (UK). Judge Short holds a Masters Degree in Law (LLM) from the London**



**School of Economics and Political Science, University of London. He has lectured on law in England and in Ghana, and has published extensively.**

29<sup>th</sup>: Before Trial Chamber III of the International Criminal Tribunal for Rwanda, the trial of Mikaeli Muhimana a former councilor of Gishyita sector in

Kibuye Province, started. He is charged with four counts including genocide, complicity in genocide, and rape and murder as crimes against humanity. Muhimana is accused of participating in the massacre of thousands of victims at several locations in Kibuye Province including in area churches. The indictment against Muhimana charges that he personally attacked and killed civilians seeking refuge in Mubuga and Mugonero churches and in the hills of Biseseo.

### In April

8<sup>th</sup>: The Secretary-General of the United Nations Kofi Annan appointed Sir Charles Michael Dennis Byron of Saint Kitts and Nevis as a permanent Judge of the United Nations International Criminal Tribunal for Rwanda

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## Italy Signs Agreement on Enforcement of Sentences



On 17 March 2004 the Government of the Italian Republic and the United Nations signed in Rome an agreement on the enforcement of sentences imposed by the International Criminal Tribunal for Rwanda (ICTR). The agreement was signed on behalf of the Government of the Italian Republic by H.E. Alfredo Mantica, Under Secretary of State, Deputy Minister of Foreign Affairs, and on behalf of the United Nations by Mr. Adama Dieng, Assistant Secretary-General and Registrar of the ICTR.

The signing of this agreement is a very important step which underlines the commitment of the Italian Government in facilitating the discharge and completion of the mandate of the ICTR, and is also the result of the implementation of Italian law no. 181 of 2002 which governs judicial cooperation between the Republic of Italy and the ICTR.

The agreement confirms the long-standing cooperation of Italy with the Tribunal and its respect for the observance of international law. With the agreement, Italy became the fifth country approved to receive convicts under the Tribunal's enforcement of sentences provisions. Mali, Benin, Swaziland and France have already signed agreements on enforcement of sentences. At present, six convicts





including the former Prime Minister of Rwanda, Jean Kambanda, are serving their sentences in Bamako, Mali.

The Registrar, Mr. Adama Dieng, had the opportunity to discuss matters relating to judicial cooperation with Ms. Iole Santelli, Deputy Minister of Justice, Ms. Augusta Iannini, Director of the Penal Affairs Division, and with H.E. Antonio D'Ali, Deputy Minister for Internal Affairs, to further strengthen judicial cooperation between the ICTR and the Italian Republic.

While in Rome to sign the agreement, Registrar Dieng, Senior Trial Attorney Ms. Sylvana Arbia, and Chief of External Relations and Strategic Planning Section, and Spokesperson Mr. Roland Amoussouga also participated in a conference on the contribution of the ICTR to the development of international law and on Italy's support of the ICTR. They were invited by Professor Paolo Benvenuti. The conference was held on 16 March at the University of Rome III (Roma TRE).

## Tribunal Hears Niyitegeka's Appeal



The Appeal case of Eliezer Niyitegeka, former Rwandan Minister of Information was heard in Arusha on 21 and 22 April 2004. On 15 May 2003, he was

convicted by Trial Chamber I of genocide, conspiracy to commit genocide, incitement to commit genocide, and crimes against humanity (murder, extermination, and other inhumane acts). The judgement was upheld on appeal and the Tribunal sentenced him to life imprisonment.

During the hearing before the ICTR Appeals Chamber, the Defence argued that Niyitegeka was convicted on mere allegations. The accused told the Appeals Chamber that the evidence presented against him by Prosecution witnesses were blatant lies. The Prosecution defended the conviction of the accused, arguing that its case was strong and that the Trial Chamber relied on tested witness statements.

The hearing took place before Judges Theodor Meron (USA) presiding, Mohamed Shahabuddeen (Guyana), Florence Mumba (Zambia), Wolfgang Schomburg (Germany), and Inés Monica Weinberg de Roca (Argentina).

## 14th Plenary Session of the Tribunal Meets in Arusha



The 14th Plenary Session of the International Criminal Tribunal for Rwanda adopted several amendments of the Rules of Procedure and Evidence during its meeting in Arusha on 23 and 24 April 2004. The session chaired by the President of the Tribunal, Judge Erik Møse brought together the Judges of the Tribunal's Appeals Chamber, Trial Chambers, the Prosecutor and the Registrar. For the first time, the Association of Defence Lawyers (ADAD) was also represented.

The discussions dealt with the standard and procedures in connection with amendment of indictments; tele- and video-conferencing during Status Conferences; the Prosecution's obligation to disclose exculpatory material to the Defence; and the possibility to transfer cases to national jurisdictions.

## Sweden Signs Agreement on Enforcement of ICTR Sentences



On 27 April 2004 the Swedish Royal Kingdom and the United Nations signed in Arusha an agreement on the enforcement of sentences imposed by the



International Criminal Tribunal for Rwanda (ICTR). The agreement was signed on behalf of Sweden by H.E. Ambassador Carl Henrik Ehrenkrona, Director-General of Legal Affairs in the Ministry of Foreign Affairs, and on behalf of the United Nations by Mr. Adama Dieng, Assistant Secretary-General and Registrar of the ICTR in the presence of Judge Erik Møse, the President of the Tribunal and Hassan Bubacar Jallow, Prosecutor of the ICTR.

The signing of the agreement is a very important step which underlines the commitment of the Swedish Government in facilitating the discharge and completion of the mandate of the ICTR.

The signing of the agreement confirms the long-standing cooperation of Sweden with the Tribunal. With the agreement, Sweden becomes the sixth country approved to receive convicts under the UN Tribunal's enforcement of sentences provisions. Mali, Benin, Swaziland, France and Italy have already signed agreements on enforcement of sentences. At present, six convicts including the former Prime Minister of Rwanda, Jean Kambanda, are serving their sentences in Bamako, Mali.

According to the Statute of the Tribunal, sentences of imprisonment "shall be served in Rwanda or in any of the States on a list of States which have indicated to the Security Council their willingness to accept convicted persons as designated by the ICTR. Such imprisonment shall be in accordance with the applicable law of the State concerned, subject to the supervision of the ICTR".

The ICTR Registrar Mr. Dieng commended the Government and the people of Sweden for their unwavering support and commitment to the work of the Tribunal and its mission of establishing peace through justice in Rwanda.

## Czech Republic Contributes to the ICTR Trust Fund

The Czech Republic has made a contribution of US\$ 10,000 to the ICTR Trust Fund. The grant has already been deposited into the Tribunal's Account of the Trust Fund for Voluntary contributions. The Trust Fund supports and supplements the substantive and operational work programme of the ICTR funding from assessed contributions. The Registrar of the Tribunal Mr. Adama Dieng paid tribute to the Government and the people of the Czech Republic for this important contribution.

## New Staff Member



Mrs. May Iwebendu Nwanze joined ICTR – Arusha on the 4<sup>th</sup> of January 2004, as a Human Resources Officer in the Human Resources and Planning Section. Before her appointment with the Tribunal, she worked as an Associate Recruitment & Classification Officer with UNON – Nairobi.

Prior to her joining the United Nations in August 2001, Mrs. Nwanze had many years of experience with the First Bank of Nigeria Plc in several capacities.

Mrs. Nwanze holds a Masters degree in International Business Administration (MIBA) from the USIU-A, Nairobi.

## Crown Prince of Norway Visits Arusha



As part of a visit by the Crown Prince Haakon Magnus of Norway to Tanzania, the External Relations & Strategic Planning Section set up a display stand at Ngurdoto Lodge to highlight the work of the ICTR. President Møse then met with the Crown Prince at the stand where they discussed the work of the Tribunal.

