



ICTR Newsletter

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ICTR President Vagn Joensen and Tribunal and MICT Prosecutor Hassan Bubacar Jallow Address UN Security Council

On 3 June 2015, Judge Vagn Joensen, the President of the ICTR and Justice Hassan Bubacar Jallow, Prosecutor of the Tribunal and the Mechanism for International Criminal Tribunals (MICT) addressed the United Nations Security Council in New York during which they presented reports on the completion strategy of the Tribunal. Below are excerpts of their statements to the august body;

Excerpt of the statement presented by the President Judge Vagn Joensen;

First, I will provide an update on the progress of the judicial work. I am happy to report that the Appeals Chamber has now completed its work with respect to all appeals from ICTR trial judgements, with the exception of one case, the *Nyiramasuhuko et al.* or “*Butare*” case concerning six persons. Following the oral hearings which took place in April 2015, the *Butare* case is now in its final

stage, judgement drafting. As previously reported, the scope and complexity of the appeals in the *Butare* case combined with continued departures of experienced staff and the need to rule on voluminous pre-appeal litigation prior to the oral hearings has plagued the appeal team and caused considerable strain on their workload. Nonetheless, the delivery of the *Butare* Appeal judgement remains projected for later this year, and more precisely, we expect the judgement to be delivered in the fourth

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President Joensen Attends High Level Meetings in Russia

From 27 to 30 May 2015, ICTR President Judge Vagn Joensen, together with ICTY Vice-President Judge Carmel Agius and other Judges of the IC-TY, attended three events in St. Petersburg, Russia. These events included: (1) The 5th St. Petersburg International Legal Forum; (2) The 11th Martens Readings on International Humanitarian Law and (3) a Retreat between judges from the ICTR/ICTY and Russian Judges as well as other legal scholars.

The events provided a unique platform for discussing current legal issues and promoted ideas related to modernising laws amidst social and economic changes worldwide. Those attending the Forum included high ranking government officials from Russia and other countries as well as leading academic experts in the fields of law, economics, business and international relations.

President Joensen moderated a Martens Readings panel on International Humanitarian

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President Vagn Joensen addressing one of the meetings in Russia

(Continued from page 1) Excerpt of the statement

President Vagn Joensen



quarter of 2015. The formal closure of the Tribunal is still expected to occur before the end of 2015 following the rendering of the judgement. I commend the judges and all of their support staff for the tremendous work they continue to do to ensure that the extremely large and complex *Butare* appeal is completed as projected.

I would also like to note that in December 2014, in light of the projected timeline for the completion of the *Butare* appeal and considering the current Judges' involvement in cases before the International Criminal Tribunal for the former Yugoslavia ("ICTY"), I requested that the Secretary-General convey my request for the extension of the terms of office of the ICTR judges to this Council. On behalf of the Tribunal and my fellow judges, please allow me to express our gratitude for the support shown by Member States in Security Council Resolution 2194 (2014) which granted the requested extensions.

As I have done in the past, I would now like to briefly update the Council on the issue of reparations for victims. As previously reported to this Council, the International Organisation for Migration has completed and submitted a draft Assessment Study to the Government of Rwanda on the issue of reparations and possible ways forward. Once the report is finalised, which should occur in the coming months, it shall be transmitted to relevant stakeholders and follow-up activities will be planned. I would like to take this opportunity to renew my praise for the efforts being undertaken to ensure that this project continues to move forward.

I now return to the very troubling issue of relocat-

ing the acquitted and convicted released persons still residing in Arusha. The issue of relocation remains a daunting one and the challenges that the ICTR has faced with relocating these persons, some of which have been residing in a UN safe house for over a decade, have been brought to this Council's attention on numerous occasions. As the ICTR makes preparations to close its doors it is only appropriate that it passes this important duty onto the Mechanism, which assumed responsibility for relocation and care of the acquitted and released persons in Arusha on 1 January 2015. However, until its closure the ICTR remains committed to providing any support and assistance that the Mechanism requests. In this regard, we once again call for the urgent assistance of the Security Council to find a sustainable solution to this issue.

I next turn to the transition to the Mechanism for International Criminal Tribunals (MICT). I am proud to report that the Mechanism's reliance on the ICTR for administrative and other services



UN Security Council in session

has been significantly reduced, and the Mechanism continues to assume responsibilities pursuant to Security Council Resolution 1966 (2010) and in line with the Transitional Arrangements. The monitoring of all ICTR cases referred to national jurisdictions is now fully the responsibility of the Mechanism, however, the ICTR continues to assist the Mechanism by providing interim monitors in the French cases.

I would also like to draw the attention of the

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Council to several cases of contempt/false testimony before the Tribunal. In May 2015, as part of an exhaustive review of judicial work being transitioned to the Mechanism, it was determined that there are, in fact, four cases of contempt/false testimony before the Tribunal. These indictments were confirmed prior to 1 July 2012 and according to the Transitional Arrangements Annexed to Resolution 1966 (2010) remain the responsibility of the ICTR. Considering that all of the suspects remain at large and that even if the trials were to commence today the ICTR would likely be unable to complete them prior to closure, I have assigned benches to review the indictments and ascertain whether any action is necessary prior to closure of the ICTR in order to preserve the possibility of these cases being prosecuted by the Mechanism.

With respect to the Tribunal's archives, the ICTR remains devoted to ensuring that records are prepared in a manner that will facilitate their effective management after being transferred to the

Mechanism. I am pleased to report that as of 5 May 2015, the Tribunal has transferred to the Mechanism more than 1,700 linear meters of records comprising more than 75% of physical records anticipated for transfer. Judicial records relating to the *Butare* case have been separated for transfer following the appeal judgement, while all other records have been transferred or are scheduled for transfer before the Tribunal closes. Despite the challenges presented by the volume and nature of the records and downsizing of human resources, the Tribunal is hopeful that the preparation and transfer of its records will be completed on time.

Most recently, a workshop on the best practices and lessons learnt in Chambers was held at the International Criminal Court ("ICC"), where representatives from the Special Tribunal for Lebanon, the ICC, the ICTR, the ICTY, and the Mechanism engaged in discussions on the technical aspects of providing legal assistance to the judiciary during the pre-trial, trial, and appellate phas-

Excerpt of the Statement presented by Justice Hassan Bubacar Jallow to the UN Security Council.



Justice Hassan Bubacar Jallow

The ICTR has now reached a milestone in the march to completion and closure. In 2015, the Office of the Prosecutor presented its oral arguments in the case of the *Prosecutor v. Nyiramasuhuko* and five others, otherwise known as the *Butare* case. This is the last appeal and the last case of the ICTR and the oral hearing which took place in April is significant in bringing to a close a very important chapter in the life of the Tribunal and the mandate of the Office of the Prosecu-

tor. We expect that the request of this Council that all cases at the ICTR be completed by end of 2015 will be fulfilled by delivery of the final judgement in the *Butare* case before the end of 2015. I would like in this regard to thank all the staff of the OTP ICTR, indeed of the whole Tribunal who have for several years devoted their time and talent and energies to the execution of the ICTR mandate and generally to the cause of international justice.

Accordingly, a sizeable number of appeal staff, including some members of the *Butare* appeal team, secretarial, language and administrative staff, who have worked tirelessly over the years in the appeals division of the ICTR-OTP were separated from the Tribunal in May 2015 following the conclusion of the oral hearing in the *Butare* case. A small number of staff has been retained in the OTP Appeals Division in order to complete outstanding pre- and post-appeal proceedings in the *Butare* case as well as other ongoing closure and legacy-related activities. The Council will recall that earlier on, with the conclusion of trials and the establishment of the

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MICT Arusha Branch, the investigations and trial divisions of the OTP had been abolished.

The ICTR Office of the Prosecutor continues to make progress in other areas such as archiving, disclosures, and legacy projects. In the past six months since November 2014, 1100 boxes of material linked to active cases, particularly in respect of the three MICT fugitives, Felicien Kabuga, Protais Mpiranya and Augustin Bizimana, have been cleaned, processed, classified and transferred to the MICT-OTP. A significant amount of material in closed cases has already been handed over to the MICT Registry and this process will continue to the end of 2015. However, staff separation and attrition continue to hamper efforts towards a timely completion of the remaining OTP archiving work and current staff have been consistently urged to double their efforts. Notwithstanding, we shall continue to work towards concluding the remaining archiving work of the OTP by the end of 2015.

The completion of legacy and best practices projects including the writing of the genocide narrative based on facts judicially established by the Tribunal, remains on course for conclusion by the end of the year. In January 2015, the OTP ICTR completed and published in the ICTR and MICT websites, its report on the Tribunal's experience in the referral of cases to national jurisdictions, highlighting the challenges of empowering national jurisdictions to discharge their primary responsibility to investigate and prosecute international crimes and how some of these challenges can be addressed. We believe that the ICTR experience carries useful lessons for the implementation of the principle of complementarity, the bedrock of international criminal justice.

Mechanism OTP

The Office of The Prosecutor, continues to take over functions from the ICTR and ICTY OTPs as mandated by the Mechanism Statute. A few months ago in April, during the period of remembrance of the 1994 Rwandan genocide, I visited Rwanda and met with various Rwandan Government officials and discussed various issues of mutual interest particularly in respect of the tracking fugitives and the management of the cases referred by the ICTR to Rwanda for trial.

The Mechanism Office of the Prosecutor continues to intensify efforts on tracking the three top fugitives earmarked for trial by the Mechanism. We remain fully committed to their arrest and trial before the Mechanism. We continue to work closely with our partners in the Government of Rwanda, particularly the National Public Prosecution Authority, INTERPOL, and the United States War Crimes Rewards Program under the State Department's Office for Global Criminal Justice. The OTP Investigations Section has been strengthened with new and additional staff, fresh initiatives have been taken and new working methods put in place to locate the fugitives and bring them to justice. I must stress however, that these internal measures need to be supported by the full cooperation of all states, particularly of those where indictees are suspected to reside, if the tracking efforts are to be successful.

With regard to judicial activities, judgment in the *Ngirabatware* appeal case, the only Arusha branch appeal case, was delivered on 18 December 2014 with his convictions for genocide affirmed by the Appeals Chamber. Following the delivery of judgment in this case, the staff members of the *ad hoc* appeals team which was handling the appeal on behalf of the Office of the Prosecutor have now separated from the Mechanism in accordance with the policy to keep the staff size of the MICT at a low level. Meanwhile, the core staff, with assistance from ICTR-OTP appeal staff, continues to deal with post-appeal review litigation arising from requests filed by persons convicted by the ICTR.

The Office also continues to make preparations, including the creation of rosters, for fast recruitment of staff in order to handle the trials of the three MICT fugitives for the Arusha branch.

The Office continues to provide assistance to national authorities and international organizations in the investigation and prosecution of crimes committed in Rwanda and the states of former Yugoslavia. In the past six months, the Mechanism Office of the Prosecutor has serviced a total of 208 requests for assistance from 10 countries and international organizations. As countries increasingly take over the functions of investigating and prosecuting the crimes, we anticipate an increase in the number of such requests for assistance from states and institutes.

(Continued from page 1) President Joensen Attends

Law and sat on a panel which discussed the compatibility and interaction of international and national criminal justice. The panel on international and national criminal justice was co-hosted by the St. Petersburg International Legal Forum and Martens Readings on International Humanitarian Law and was moderated by ICTR Appeals Chamber Judge Bakhtiyar Tuzmukhamedov.

During his address, President Joensen provided an overview on the evolution of the ICTR as well as how it has influenced and been influenced by the changing face of international and national criminal justice. After speaking shortly on the ICTR's mandate, President Joensen emphasised the importance of international cooperation and demonstrated how the ICTR relied on other States and national jurisdictions during pre-trial (e.g. tracking, arrest and transfer of those indicted by the ICTR), trial proceedings (witnesses traveling from around the world to testify before the Tribunal), and post-trial activities, including the enforcement of ICTR sentences. The President further noted the ICTR's strides to assist and empower national jurisdictions through outreach and capacity building programmes initiated by the Tribunal over the past two decades. President Joensen concluded his



President Vagn Joensen moderating one of the meetings

remarks by discussing the legacy of the ICTR and its impact on international law. In his conclusion, he noted the Tribunal's role in the development of jurisprudence concerning sexual and gender-based violence on an international scale as well as the significance of Rule 11bis of the ICTR Rules of Procedure and Evidence which has allowed the transfer of cases from the ICTR to the national jurisdictions of Rwanda and France.

such an important discourse and thanked those who had been involved in its organisation.

ICTR Donates Armored Vehicle to Tanzania Prison Services

The ICTR on 13 May 2015 donated an armoured vehicle to the Tanzania Prison Services for use in its security operations.

At a short ceremony held at the ICTR head office at the AICC, the Tribunal's Director of the Division of Administrative Support Services Dr. Sarah Kilemi handed the keys and documents of the vehicle to the Prison's Senior Assistant Commissioner, Mr. Hamis Nkubasi.

Dr. Kilemi stated that the donation was one way of thanking the Prison Services and the Government of Tanzania for the unwavering support to the mission of the ICTR during its 20 years of operations. She added that this was important particularly at this stage when the Tribunal was on the verge of closing down.

On his part Mr. Nkubasi thanked the ICTR for the timely donation adding that this was the second armoured car the Tribunal was donating to the Prisons. The other car is currently in Dar es Salaam. A third armoured car was donated to the

Prime Minister's office in Arusha a few months ago .



The ICTR Chief of the Division of Administrative Support Services Dr. Sarah Kilemi (third left) handing over the keys of the armoured vehicle to the Tanzania Prison's Senior Assistant Commissioner Mr. Hamis Nkubasi. Looking on are senior officials of the Tribunal and the Prisons department

Prosecutor Jallow Appointed by UN Secretary-General to Panel Investigating UN Response to Allegations of Sexual Abuse in Central African Republic

The United Nations Secretary-General Ban Ki-moon has appointed a panel to investigate the response of the United Nations to allegations of sexual abuse surrounding a deployment of foreign military forces in the Central African Republic (CAR). The three-member panel includes the ICTR and MICT Prosecutor Justice Hassan Bubacar Jallow. Other members are Marie Deschamps of Canada; and Yasmin Louise Sooka of South Africa.

A statement issued on 22 June 2015, stated that the Secretary-General remains “deeply concerned” by the allegations of sexual exploitation and abuse of children committed by foreign military forces not under UN command, as well as the Organization’s own response to the allegations.

It added that the panel will aim to review both the allegations and the UN response and any shortcomings in existing procedures covering serious crimes by the Organization and related personnel, host State forces and non-State actors that it may become aware of during its review.

The panel will also conduct its work independently and will receive unrestricted access to all UN

records and full access to staff members and other UN personnel, the statement added.

“The UN will make its best efforts to facilitate the access of the panel to non-UN personnel,” the spokesperson’s state



Justice Hassan Bubacar Jallow

ment continued. “In addition to those that the panel may reach out to, any person who wishes to provide information relevant to the External Independent Review is encouraged to contact the panel directly through an external email address that will be announced shortly.”

Prosecutor Jallow Delivers Keynote Speech on Multilateral Treaty for Mutual Legal Assistance for International Crimes at the Netherlands Ministry of Foreign Affairs

At the invitation of the Ministry of Foreign Affairs of the Kingdom of The Netherlands in The Hague, Justice Hassan B. Jallow, Prosecutor of the ICTR and the MICT, gave a keynote speech, on 23 June 2015, at a strategic meeting of supporting States for an international convention on mutual legal assistance for international crimes.

Speaking on the theme “Towards a Multilateral Treaty for Mutual Legal Assistance for international crimes” in The Hague, Prosecutor Jallow expressed his strong support for and the utility of such an international convention stating that it can “*provide a universal framework for a multilateral approach to cooperation and assistance leading to harmonized domestic legislation, streamlining of policies and procedures, and a uniformity of approach to international cooperation and legal assistance*”. Prosecutor Jallow remarked that the international community must now embark on a serious effort to make this convention a reality especially because as the ad hoc international criminal tribunals and the hybrid

courts complete their respective mandates, the primary responsibility of prosecuting international crimes now



Justice Hassan Bubacar Jallow

rests on national jurisdictions.

Among other things, Prosecutor Jallow stated that an international convention on mutual legal assistance for international crimes can encourage States to create in their respective national jurisdictions specialized international crimes units dedicated exclusively to the investigation and prosecution of international crimes and which can also serve as focal points for their counterparts in other States.

ICTR Expected to Close Down in this Year

The ICTR is primed to close down during this year, 2015, after twenty one years of prosecuting persons who played leading roles in the 1994 genocide against the Tutsi in Rwanda, during which Hutu and others who opposed the genocide were also killed, which claimed the lives of around one million innocent civilians.

Only one major case remains for the Tribunal to complete after which it will close permanently. In the *Butare* case, involving 6 accused persons

pletion of its mandate.

It is expected that about an additional 159 international staff members will be separated during 2015, around the same time that the ICTR is expected to shut down at the end of the year. These dates have been given to both the UN General Assembly and the Security Council.

Regarding what will happen to the functions and activities that will outlive the ICTR, the UN Se-



An ICTR trial in session in one of the courtrooms

among whom is Pauline Nyiramasuhuko, the only woman that the ICTR has tried for genocide, the Appeals Chamber held oral arguments in Arusha between 14 April – 22 April 2015 and the judgement is expected to be delivered later in the year.

In preparation for its closure, the Tribunal separated 117 staff members between October and December 2014 out of the 414 who were on board at the beginning of 2014. The number consisted of 91 international and 26 local staff members. This is part of an ongoing process of implementing the ICTR Completion Strategy, in accordance with the UN Security Council Resolution 1966 of 22 December 2010, and represents the largest number of staff who have been downsized by the Tribunal and signifies the near com-

pleteness of its mandate. The Security Council established the Mechanism in its Resolution 1966 (2010), to take over the remaining functions of the Tribunal and that of its sister Tribunal, the ICTY. The Mechanism has already taken over some of the ongoing functions of the ICTR, including the enforcement of sentences of those convicted and sentenced by the Tribunal, the tracking, arrest and prosecution of the three fugitives earmarked for trial at the Mechanism, and the care and protection of witnesses.

The Appeals Chamber Hears Oral Arguments in the Nyiramasuhuko et al. Case

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judges Fausto Pocar, presiding, Liu Daqun, Carmel Agius, Khalida Rachid Khan, and Bakhtiyar Tuzmukhamedov heard, in April 2015, the oral arguments in the appeals lodged by Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Joseph Kanyabashi, Élie Ndayambaje, and the Prosecution against the Judgement pronounced by Trial Chamber II on 24 June 2011 and filed in writing on 14 July 2011. The hearing of these seven appeals took place from Tuesday, 14 April 2015 through Wednesday, 22 April 2015.

The Trial Chamber found Nyiramasuhuko, Ntahobali, Nsabimana, Kanyabashi, and Ndayambaje guilty of genocide, crimes against humanity (extermination, persecution, and, for Nyiramasuhuko and Ntahobali only, rape), and



Elie Ndayambaje (left), Sylvain Nsabimana (right)

serious violations of Article 3 common to the Geneva Conventions and of Additional Protocol II (violence to life and, for Nyiramasuhuko and Ntahobali only, outrage upon personal dignity) for crimes committed in Butare Prefecture from April into June 1994. Nyiramasuhuko was also found guilty of conspiracy to commit genocide and Nteziryayo, Kanyabashi, and Ndayambaje were found guilty of direct and public incitement to commit genocide in relation to public addresses made in April, May, and June 1994 in Butare Prefecture. The Trial Chamber sentenced Nyiramasuhuko, Ntahobali, and Ndayambaje to life imprisonment, Nsabimana to 25 years of imprisonment, Nteziryayo to 30 years of imprisonment, and Kanyabashi to 35 years of imprisonment.

Nyiramasuhuko, Ntahobali, Nsabimana, Nteziryayo, Kanyabashi, and Ndayambaje contend that

the Trial Chamber committed a number of errors of law and fact and request the Appeals Chamber to stay the proceedings, overturn their convictions, or reduce their sentences. The Prosecution submits that the Trial Chamber erred in not finding Kanyabashi responsible in relation to the speech he gave at the swearing-in ceremony of Nsabimana as the new prefect of Butare held on 19 April 1994. It requests that Kanyabashi be convicted of genocide and direct and public incitement to commit genocide on this basis and that the Appeals Chamber impose a life sentence or increase his sentence.

At the time of the relevant events, Nyiramasuhuko was Minister of Family and Women's Development in the Interim Government of Rwanda, Ntahobali was a student and part-time manager of Hotel Ihuliro, Nsabimana served as prefect of Butare from 19 April 1994 until 17 June 1994, Nteziryayo was Director of Communal Police Matters in the Ministry of Interior and Communal Development until 17 June 1994 when he was appointed prefect of Butare, Kanyabashi was *bourgmestre* of Ngoma Commune in Butare Prefecture, and Ndayambaje served as *bourgmestre* of Muganza Commune from 18 June 1994.

The *Nyiramasuhuko et al.* case is the last case pending before the International Criminal Tribunal for Rwanda.



Pauline Nyiramasuhuko (top left), Arsene Ntahobali (top right), Alphonse Nteziryayo (bottom left), and Joseph Kanyabashi; (bottom right)



ICTR Prosecutor Releases Best Practices Manual on Referral of International Criminal Cases to National Jurisdictions

On 11 February 2015, ICTR Prosecutor Hassan Bubacar Jallow released a **best practices manual on the referral of international criminal cases to national jurisdictions for trial**. The manual documents the ICTR Office of the Prosecutor's (OTP) experience in securing the referral of ten genocide indictments to national jurisdictions for trial. Since the ICTR's establishment on 8 November 1994, the OTP has referred two indictments to France and eight indictments to Rwanda.

The referral of these indictments marked an important milestone in the ICTR's completion strategy. Without the referral of these indictments, the ICTR's work would have been incomplete and a gap in impunity could have resulted. By referring these indictments to national jurisdictions for trial, the OTP also gave practical effect to the principle of complementarity. Under that principle, national authorities, not international courts or tribunals, bear primary responsibility for investigating and prosecuting international crimes.

The OTP's success in securing the referral of its indictments could not have been achieved without substantial outreach and capacity-building efforts and the cooperation of partners such as Rwanda, the European Union, Canada, and the United States of America. Together with its partners, the ICTR contributed to a host of legal reforms and infrastructure improvements at the

national level that were necessary to secure the fair trial rights of the accused.

The OTP also developed new strategies to demonstrate how fair trial rights could be honored in practice. Many of those strategies could assist the courts or tribunals in assessing national capacity, as well as provide a basis for national jurisdictions to undertake their own assessment of compliance with internationally-recognized standards.

This manual documents those best practices and lessons learned. It is part of a broader strategy the OTP has undertaken to preserve the ICTR's legacy for future use. It is our hope that this manual will assist other international and national courts to build on the ICTR's achievements and empower national authorities to discharge their primary responsibility to investigate and prosecute international crimes in a manner consistent with international standards.

Activity of the Appeals Chamber: January to June 2015

During the period from January through June 2015, the Appeals Chamber was seized of the last remaining case before the Tribunal: the *Nyiramasuhuko et al./Butare* case. The Trial Judgement in this case appeal was rendered on 24 June 2011 and issued in writing on 14 July 2011. The notices of appeal of the seven parties were filed between September 2011 and April 2012 and the briefing was completed in October 2013. The Appeals Chamber heard the appeals in this case

in Arusha from 14 through 22 April 2015 and deliberations and judgement drafting are in progress. In addition, during this period, the Appeals Chamber issued decisions on 18 motions.

To date, the Appeals Chamber has delivered 44 Appeal Judgements, concluding the appellate proceedings in respect of 55 persons.

Tribunal Participates in the 2015 UN Genocide Week Events in Dar es Salaam



Dr. Kilemi participates in the candle lighting ceremony during the genocide memorial event in Dar es Salaam. On her right is the UN Resident Coordinator and UNDP Resident Representative in Tanzania, Mr. Alvaro Rodriguez

The Tribunal like in the previous 7 years, on 3 - 8 April this year participated in the Genocide Commemoration week in Dar es Salaam. The commemoration was part of the events marking the International Day of Reflection on the Genocide in Rwanda which falls on 7 April. Every year, since 2004, on or around that date, the United Nations organizes the Rwanda Genocide commemorative events at its Headquarters in New York and at United Nations offices around the world.

The ICTR delegation was led by Dr. Sarah Kilemi, the Chief of Division of Administrative Support Services. It included Mr. Danford Mpu-milwa, Associate Information Officer and the Driver Mr. Moses Mhando.

The events marking the week in Dar es Salaam, which were jointly organized by the Tanzania Government, the Rwanda High Commission and the UN office in Tanzania, began on Saturday 4 April and ended on Wednesday 8 April 2014. The final day being set aside for a big gathering, bringing together diplomats, scholars, Government officials, journalists and members of the public, at the Mlimani International Conference Centre at which official events marking the day took place. These included an ICTR exhibition,

prayers, candle lighting and speeches. Ms. Kilemi addressed the participants and commended them of the legacy of the ICTR and the completion strategy being implemented by the Tribunal.

In appreciation of the fact that this was going to be the last such event the ICTR in which would be participating before its closure the Tribunal decided to organize a three-day exhibition of its work at the National Museum exhibition hall, which was later transferred to the Mlimani Conference Centre final event. It also organized media events which included interviews by the print and electronic media to further raise awareness on the work of the ICTR, the achievements registered and challenges faced.

With the assistance of the UNIC office in Dar es Salaam and the Youth for the United Nations chapter in Tanzania, the ICTR exhibition at the National Museum successfully took place on Sunday 5 April – Tuesday 7 April 2015. Hundreds of visitors including members of the public, journalists, students, Rwandese nationals residing in Dar es Salaam and tourists visited the exhibition. They were all briefed on the work of the ICTR and handed some leaflets, Brochures and other literature on the work of the ICTR. The Swahili version leaflet which describes in brief

the work of the ICTR proved to be very popular among members of the public.

The second exhibition was held at the Mlimani Conference Centre, during the final and peak day of the commemorations, on Wednesday 8 April 2015. The event was graced by hundreds of members of the diplomatic community, journalists, Rwandans residing in Dar es Salaam, senior Government and Non-Governmental officers.

All the participants including the Guest of Honour, Dr. Harrison Mwakyembe, the Tanzania Minister for East African Community and Regional Affairs, toured the ICTR exhibition, the only exhibition at the event. It was gratifying to see how enthusiastic the visitors were on wanting to know more about the work of the Tribunal.

Excerpts from the remarks presented by Dr. Sarah Kilemi, ICTR Chief of Administrative Support Services, during the Genocide Commemoration event in Dar es Salaam

For the last 21 years the World Community, through the ICTR and other Organizations has expended considerable energy and resources to bring to account those who played a leading role in the genocide of 1994. We at the ICTR remain committed to that mandate and renew our resolve to ensure that the accountability of those responsible for this tragedy is realized.

From the ICTR'S experience of the Rwanda genocide it is clear that legal responses to actions of impunity are absolutely necessary. Unfortunately they do not adequately address all concerns, in particular the root causes of crimes against humanity. This is where preventive and restorative justice becomes crucial. Our first duty is, there-

fore, to strive to prevent the occurrence of such tragedies.

Following its creation the Tribunal began by initiating investigations to find out what already happened in Rwanda in 1994 and who did what in relation to the commission of crimes of genocide, crimes against humanity and war crimes. This process culminated with the indictment of a total of 93 individuals. These are persons who the Prosecutor, in his judgment supported by evidence gathered, believed played a leading role in the commission of those crimes in Rwanda. A total of 83 persons were physically arrested and brought to Arusha to face prosecution. The only remaining caseload of the ICTR Appeals Chamber consists of one case which has six persons, commonly known as the *Butare* case, of which judgment is expected to be delivered before end of 2015.



Dr. Kilemi addressing the participants at the Genocide memorial event in Dar es Salaam

Excellencies, Ladies and Gentlemen

The Tribunal has set several precedents with regard to international criminal law. The ICTR impressive case law constitutes a true judicial and jurisprudential legacy for the Whole world and in particular for the African continent. Through its first judgment rendered on 2 September 1998, in the case of *Prosecutor v. Jean-Paul Akayesu* (Case No. ICTR-96-4-T), the ICTR became the first International Tribunal to interpret the definition of genocide as set forth in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. The Akayesu jurisprudence is a particularly important source for both the definition and application of the legal ingredients for the criminal offence of genocide. This case also set out very important legal doctrines and tests for assessing components of genocide crimes. The

Akayesu judgment was also groundbreaking for its finding that rape may constitute an act of genocide. Indeed, the Trial Chamber held in Akayesu Case that rape and sexual assault constitute acts of genocide insofar as they were committed with the intent to destroy, in whole or in part, a targeted group. Since that decision, the Tribunal has convicted at least four other persons accused of rape as genocide.

The ICTR was also the first International Tribunal, since the International Military Tribunal in Nuremberg (1946) to hand down a judgment against a head of government. The Former Prime Minister of Rwanda, Jean Kambanda, was convicted for genocide and sentenced to life in prison, thus reaffirming the principle that no individual enjoys impunity for such crimes on account of their official position. The Kambanda case was also the first judgment where a head of government



those who use the media

A section of the participants at the Dar es Salaam genocide memorial event

pleaded guilty to genocide. Likewise, in the “Media Case”, the Tribunal set the principle that those who use the media for inciting the public to commit genocide can be punished for their communication which amounts to hate speech and persecution as a crime against humanity. This is the first contemporary judgment to examine the role of the media in inciting the public to commit crimes. This important case addresses the boundary between the rights to freedom of expression as guaranteed under international law and incitement to genocide. The chamber noted that it was critical to distinguish between discussions of ethnic consciousness and promotion of ethnic hatred. The Media Case also set a legal precedence for determining conspiracy to commit genocide. The Tribunal established that through personal collaboration as well as interaction among institutions within their control, the convicts were guilty of conspiracy to commit

genocide.

Also, the ICTR Appeals Chamber on 16 June 2006 issued a decision that the Trial Chambers must take **judicial notice** that between 6 April and 17 July 1994 there was genocide in Rwanda against the Tutsi ethnic group. The decision was delivered by the Appeals Chamber on the Prosecutor's Appeal on Judicial Notice in the trial of *Prosecutor v. Karemera, Ngirumpatse and Nziirorera, ICTR-98-44-AR73 (C)*. Judicial notice of the genocide means that the fact of the 1994 genocide in Rwanda is to be taken as established beyond any dispute and does not require any further proof. Therefore, the Prosecutor no longer had to provide evidence and prove the occurrence of genocide in each case but instead can focus on the personal involvement of the accused persons.

Excellencies, Ladies and Gentlemen

Another ICTR major judicial achievement is found in the body of its case law, which has endorsed the application of the doctrine of command responsibility to the civilian leadership. Through the application of this doctrine, military commanders and civilian leaders are equally held personally responsible for human rights violations and other international crimes committed by their subordinates, if as superiors they knew, or should have known about commission of the violations and did nothing to prevent them or punish the perpetrators after commission of the crimes.

No matter how we look at it, it is a fact that ICTR has played a central role as a stabilising instrument, which has made major and lasting contributions to the establishment of international justice, peace and reconciliation that currently prevail in the region through the following:

- Accumulation of indisputable historical records, which include testimony of witnesses, victims, the accused, documentary evidence, video recordings and audio recordings.
- Establishment of a judicially verified record of the crime of genocide and its causes which can support reconciliation and peace building.
- Significance along with its sister Tribunal – the International Criminal Tribunal for the former Yugoslavia (ICTY) - as modern pioneers of a credible international criminal justice system,

which has contributed greatly to the development of substantive international criminal law and procedure.

- 21 years of actual judicial work have produced a substantial body of jurisprudence, including the definitions of elements of the crime of genocide, crimes against humanity, war crimes, as well as forms of responsibility, such as superior responsibility;
- Transformation of various international resolutions, treaties and conventions emanating from the United Nations, into practical and effective tools to be used by the international criminal justice system in its efforts to end mass atrocities;

Contribution in fostering national compliance with international obligation in human rights sphere such as its constructive engagement in Rwanda, which led Rwanda to receive case transfers from the ICTR. These developments have put the spotlight on other countries that need to adopt domestic legislation to enable them to implement the human rights treaties, conventions and decisions to which they are parties.

Excellencies, Ladies and Gentlemen

During the period of its operation, the Tribunal has faced several challenges including;

Tracking and arresting the remaining nine fugitives and securing the cooperation of Member States.

Relocating persons who have been acquitted or released after completion of sentence. Of the 14 acquitted persons, the ICTR has successfully relocated 6. However, in spite of protracted negotiations with some Member States, as well as with the United Nations High Commission for Refugees (UNHCR), the ICTR has not yet been able to find countries that are willing to accept any of the remaining 8 acquitted persons. Consequently, the acquitted persons named above are still in Tanzania under the care of the ICTR along with three persons who were convicted, but have served their sentences. The Statute of the ICTR and various Security Council Resolutions that deal with the matter do not place any express obligation on Member States to assist the Tribunal in the relocation of acquitted persons and released convicts. The relocation concern has now become extremely urgent, with the closure of the Tribunal at the end of 2015.



Students at the ICTR Exhibition at the Milimani International Conference Centre during the genocide memorial event in Dar es Salaam



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