



ICTR NEWSLETTER

April 2005



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United Nations International Criminal Tribunal for Rwanda

ICTR Football and Volley-Ball Teams Win Trophies at the 33rd UN Inter-Agency Games (UNIAG 2005)

This year's UN Inter-agency games were held in the beautiful Greek Island of Crete from 21 to 25 April 2005. The municipality of Hersonissos, referred to as the "tourist ambassador" of Greece, was the central venue for the games and all related activities.

20 UN organisations/agencies, comprising a total of 1500 participants from all over the world, were represented in the 13-sport event.

The Games are held each year and include the following fixed disciplines: Athletics (men and women), Bridge, Basketball, Chess, Darts, Football, Golf, Pétanque, Table-tennis (men and women), Lawn Tennis, Volleyball (men and women).

The UN Inter-Agency Games, a brain child of a few UN staff members, was first launched 33 years ago as a social activity aimed at boosting overall staff morale, well being, and bring together the UN family of varying cultures and backgrounds. It has successfully scored in improving human relations, creating friendship links through staff knowing and appreciating each other as members of one global UN family.

This year, the ICTR participated in Football, Volleyball (women), Lawn Tennis and Pétanque. The participants put up an excellent performance earning the Tribunal two trophies.



The Volleyball Team, from left to right: Adniew Bekelech, Judith Nduku, Esther Boswell, Beatrice Akatch, Serita, Gorety Omala and Olive Syamazi

The ICTR Women Volleyball team composed of the following staff members Ms. Beatrice Akatch-Arusha (Captain), Ms. Gorretty Omala (Kigali), Ms. Bekelech Adinew (Kigali), Ms. Judith Nduku (Kigali), Ms. Esther Boswell (Kigali), Ms. Olive Syamazi (Kigali), Ms. Serita (UNHQNY), Ms. Mary-Joy (UNICEF-Geneva) won the third place trophy. Altogether 32 ICTR players, organisers and supporters from Arusha and Kigali participated in the Games.



The Kigali Football team won the champion trophy against DPKO Brindisi (Italy) by scoring 7 goals to nil. The team was composed of: Adama Niane (Player, Trainer), Rawane Diallo (Captain), Boneza Jean-Pierre, Gatarayiha Marcel, Mugabo Olivier, Jean Baptiste Higiroy, Mupenzi Leon, Twaha Munyentwari, Bizimana Abdellatif, Nshizirungu Hubert, and coached by a team of three staff members namely, Mr. Roland Amoussouga, Mr. Djiby Diop and Mr. Saidou Guindo.



Abdulkadir Sheikh, Mary Jane Akello and Irene Ojila, the ICTR UNIAG Organising Committee and all the participants take this opportunity to congratulate and thank all the players and supporters for these achievements. Above all, they wish to highly commend the Registrar, Mr. Adama Dieng, the Deputy Registrar, Mr. Lovemore Munlo, the Chief of DASS, Ms. Michelle Lee, the Prosecutor, Mr. Bubacar Jallow, the Deputy Prosecutor, Mr. Bongani Majola and the entire ICTR management and staff, for the strong moral and financial support given to the participants.



The 34th UNIAG will be organised in Rome, Italy by the Rome based UN Agencies, under the overall umbrella of the Food and Agriculture Organization (FAO).

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Judicial Proceedings

• Defence in 'Military I' Trial Begins

The Defence of four former senior military officers of the Rwandan Armed Forces began on 11 April 2005 before the International Criminal Tribunal for Rwanda (ICTR).



Bagosora, Kabiligi, Nsengiyumwa and Ntabakuze

The accused, Colonel *Theoneste Bagosora*, former Director of Cabinet in the Rwanda Ministry of Defence; Brigadier General *Gratien Kabiligi*, former Chief of Military Operations in the Rwandan Armed Forces; Lieutenant Colonel *Anatole Nsengiyumva*, former Commander of Gisenyi; and Major *Aloys Ntabakuze*, former Commander of Kanombe Paramilitary Battalion in Kigali are charged with genocide, crimes against humanity, and serious violations of the Geneva Conventions and Additional Protocol II.

On that day Defence counsel for three of the accused (*Bagosora*, *Ntabakuze* and *Nsengiyumva*) made opening remarks in the trial, known as the "Military I" case which began on 2 April 2002. *Kabiligi's* Defence counsel requested a four month delay to present his client's case since he was newly appointed following the withdrawal of the previous counsel on 25 January 2005 for misconduct.

Bagosora's Defence team said there was no evidence produced by the prosecution to prove that the accused is guilty of genocide. Counsel Raphael Constant expressed frustration about not being able to get witnesses from Rwanda to testify for his client. According to Constant, witnesses from Rwanda are afraid to appear in the case, despite the protection and support offered to them by the Tribunal. His plan was to call some 80 witnesses including experts.

The Defence for *Ntabakuze* stated that it would bring evidence to absolve the accused of the crimes he is charged with. The Defence for *Nsengiyumva* submitted that it will not only prove the innocence of the accused but also prove that he was known more for saving people during the genocide by keeping in his house many Tutsis who were under threat.

The case is before Trial Chamber I composed of judges Erik Møse of Norway, (presiding), Jai Ram Reddy of Fiji and Sergei Alekseevich Egorov of Russia.

The prosecution closed its case on 14 October 2004, having presented 82 witnesses.

Bagosora's Defence team is led by Raphael Constant

of France. *Kabiligi's* lead counsel was Paul Skolnik of Canada. Professor Erlinder of the U.S. led *Ntabakuze's* team and *Nsengiyumva's* Defence was led by Kennedy Ogetto of Kenya.

• Mika Muhimana Sentenced to Imprisonment for the Remainder of his Life

Mika Muhimana was sentenced to imprisonment for the remainder of his life having been convicted unanimously for genocide and crimes against humanity by Trial Chamber III, composed of judge Khalida Rachid Khan (Pakistan), presiding, judge Lee Gacuiga Muthogal (Kenya) and judge Emile Francis Short (Ghana). *Muhimana*, the former municipal councilor of the Gishyita sector, was found guilty on one count of genocide and on two counts of crimes against humanity (rape and murder). The judges dismissed the charge of complicity in genocide against the accused as an alternative to that of the charge of genocide.



Muhimana, born 1961, was appointed councilor of the Gishyita sector in 1990. He was arrested on 8 November 1999 in Dar es Salaam and transferred to the UN Detention Facility in Arusha that same day.

The Prosecutor alleged that *Muhimana* was involved in the mobilization of armed attackers and the distribution of guns and grenades between April and June 1994. He also allegedly lured Tutsi civilians out of their hidings with the promise of medication. Instead of distributing the medication he brought armed attackers who killed over 2000 Tutsis. *Muhimana* allegedly encouraged and personally participated in the raping of many Tutsi women, in particular at the Mugonero complex and in the hills of Biseseero.

In his defense *Muhimana* put emphasis on his alibi, stating that he did not leave his house between 8 and 16 April, when many of the alleged crimes occurred, mourning the death of his son. The Chamber has considered the alibi, but found that the alibi did not preclude the possibility that he could also have been present at other places where he participated in the crimes. The Chamber also declared the testimonies of witnesses about the participation of *Muhimana* in brutal attacks of Tutsi civilians reliable and credible. The Chamber found these attacks were systematically directed against the Tutsi group and because of the sheer scale of the massacres came to the conclusion that the massacres were intended to destroy the Tutsi group in whole or in part. The Chamber declared therefore *Mika Muhimana* guilty of genocide.

With regard to the crimes against humanity the Chamber found *Muhimana* guilty on both counts. The Chamber found *Muhimana* criminally liable for committing and abetting the rapes, as part of a widespread and systematic attack against the Tutsi population. The Chamber found *Muhimana* guilty of murdering several Tutsis, including a pregnant woman who he cut with a machete from her breasts down to



her genitals and removed her baby who cried for some time before dying..

This cruel conduct of *Muhimana* was just one of the many aggravating circumstances that lead the Chamber to impose the maximum sentence on *Mika Muhimana*.

Muhimana's trial started on 29 March 2004. After hearing 52 witnesses in 34 days of trial the Tribunal reached its verdict on 28 April 2005. The conviction of *Muhimana* brings the number of accused whose trials have been completed to 25. The Tribunal has found 22 guilty and had acquitted three.

JUDICIAL DECISIONS OF THE ICTR BETWEEN 1 APRIL AND 30 APRIL 2005

Date Created	Case Name	Record Number	Chamber	Title
01/04/2005	Bizimungu et al.	ICTR-00-56-0447	TC 2	DECISION ON BIZIMUNGU'S URGENT MOTION PURSUANT TO RULE 73 TO DENY THE PROSECUTOR'S OBJECTION RAISED DURING THE 3 MARCH 2005 HEARING
05/04/2005	Ndindabahizi	ICTR-01-71-0212	AC	DECISION ON "REQUETE URGENTE AUX FINS DE PROROGATION DE DELAI POUR LE DEPOT DU MEMOIRE EN APPEL"
07/04/2005	Nyiramasuhuko et al.	ICTR-98-42-1375/2	TC 2	DECISION RELATIVE AUX REQUETES DE LA DEFENSE AUX FINS D'ACQUITTEMENT EN VERTU DE L'ARTICLE 98 BIS
07/04/2005	Semanza	ICTR-97-20-1464	AC	DECISION ON LAURENT SEMANZA'S MOTION FOR THE ADMISSION OF ADDITIONAL EVIDENCE
07/04/2005	Ndindiliyimana et al.	ICTR-00-56-0449	TC 2	DECISION ON BIZIMUNGU'S URGENT MOTION REQUESTING AN ADJOURNMENT AND REVIEW OF THE PROTECTIVE MEASURES GRANTED TO PROSECUTION WITNESSES
07/04/2005	Ndindiliyimana et al.	ICTR-00-56-0448	TC 2	DECISION ON NDINDILYIMANA'S REQUEST FOR CERTIFICATION OF APPEAL FROM THE DECISION DATED 24 SEPTEMBER 2004 DISMISSING APPLICANT'S REQUEST FOR TRANSFER OF HIS TRIAL TO A NATIONAL JURISDICTION
08/04/2005	Renzaho	ICTR-97-31-0092	TC 2	DECISION SUR LA REQUETE EN EXCEPTION PREJUDICIELLE POUR VICES DE FORME DE L'ACTE D'ACCUSATION
08/04/2005	Ndindabahizi	ICTR-01-71-0213	AC	DECISION RELATIVE A LA REQUETE URGENTE AUX FINS DE PROROGATION DE DELAI POUR LE DEPOT DU MEMOIRE EN APPEL
11/04/2005	Karempera et al.	ICTR-98-44-1143/2	TC 3	DECISION ON MOTIONS BY KAREMERA AND NZIRORERA TO DISMISS THE INDICTMENT FOR PROCEDURAL AND FORMAL DEFECTS
11/04/2005	Karempera et al.	ICTR-98-44-1143/1		DECISION ON MOTIONS BY KAREMERA AND NZIRORERA TO DISMISS THE INDICTMENT FOR PROCEDURAL AND FORMAL DEFECTS
11/04/2005	Nyiramasuhuko et al.	ICTR-98-42-1399	TC 2	DECISION ON THE PROSECUTOR'S MOTION FOR THE EXCLUSION OF THE PROPOSED EXPERT REPORT AND EVIDENCE OF EDMOND BABIN
12/04/2005	Karempera et al.	ICTR-98-44-1739	TC 3	DECISION ON MOTION TO DISMISS AMENDED INDICTMENT FOR VIOLATION OF ARTICLE 12 QUATER OF THE STATUTE
13/04/2005	Bagambiki et al.	ICTR-99-46-1698	AC	DECISION RELATIVE A LA REQUETE DE SAMUEL IMANISHIMWE AUX FINS DE SUSPENSION DU DELAI DE DEPOT DU MEMOIRE EN REPLIQUE
13/04/2005	Nyiramasuhuko et al.	ICTR-98-42-1394/2	TC 2	DECISION RELATIVE A LA REQUETE DU PROCUREUR AUX FINS D'EXAMINER, A TITRE DE RECIPROCITE, LES DOCUMENTS ET OBJETS DES ACCUSES CONFORMEMENT A L'ARTICLE 67 C) DU REGLEMENT DE PROCEDURE ET DE PREUVE



Date Created	Case Name	Record Number	Chamber	Title
13/04/2005	Seromba	ICTR-01-66-0179	TC 3	DECISION RELATIVE A LA REQUETE DU PROCUREUR AUX FINS DE COMMUNICATION DES DECLARATIONS DES TEMOINS DE LA DEFENSE
14/04/2005	Nyiramasuhuko, et al.	ICTR-98-42-1401	TC 2	DECISION ON NYIRAMASUHUKO'S MOTION FOR CERTIFICATION TO APPEAL THE DECISION ON NYIRAMASUHUKO'S STRICTLY CONFIDENTIAL EX-PARTE UNDER SEAL MOTION FOR ADDITIONAL PROTECTIVE MEASURES FOR SOME DEFENCE WITNESSES (...) WITNESS BK.
14/04/2005	Nyiramasuhuko et al.	ICTR-98-42-1400	TC 2	DECISION ON PROSECUTOR'S URGENT MOTION FOR RECONSIDERATION OR CERTIFICATION TO APPEAL TRIAL CHAMBER II'S DECISION ON NYIRAMASUHUKO STRICTLY CONFIDENTIAL EX-PARTE UNDER SEAL MOTION FOR ADDITIONAL PROTECTIVE MEASURES FOR SOME (..)
14/04/2005	Ndindabahizi	ICTR-01-71-0214	AC	DECISION ON THE ADMISSION OF ADDITIONAL EVIDENCE
15/04/2005	Karemera et al.	ICTR-98-44-1750	TC 3	DECISION RELATIVE A LA REQUETE DU PROCUREUR EN PROLONGATION DE DELAI POUR LE DEPOT DE TRADUCTIONS DE DECLARATIONS DE TEMOINS
18/04/2005	Nyiramasuhuko, Ntahobali	ICTR-97-21-0740	TC 2	DECISION ON THE APPEAL OF THE REGISTRAR'S DECISION OF 13 APRIL 2005 WITH REGARD TO MR EDMOND BABIN
19/04/2005	Kamuhanda	ICTR-99-54A-0571	AC	DECISION ON JEAN DE DIEU KAMUHANDA'S MOTION FOR AN EXTENSION OF TIME
19/04/2005	Karemera et al.	ICTR-98-44-1752	TC 3	DECISION ON PROSECUTION MOTION FOR SANCTIONS AGAINST COUNSEL FOR NZIRORERA FOR VIOLATION OF WITNESS PROTECTION ORDER AND FOR AN INJUNCTION AGAINST FURTHER VIOLATIONS
19/04/2005	Karemera et al.	ICTR-98-44-1751	TC 3	DECISION ON JOSEPH NZIRORERA'S MOTION FOR A REQUEST FOR GOVERNMENTAL COOPERATION
21/04/2005	[Military I] Bagosora et al.	ICTR-98-41-2129	TC 1	DECISION ON POSTPONEMENT OF DEFENCE OF ACCUSED KABILIGI
21/04/2005	Gatete	ICTR-00-61-0035	TC 1	DECISION ON THE PROSECUTION'S REQUEST FOR LEAVE TO FILE AN AMENDED INDICTMENT
25/04/2005	Nahimana et al.	ICTR-99-52-0810	AC	DECISION ON "APPELLANT HASSAN NGEZE'S MOTION FOR LEAVE TO PERMIT HIS DEFENCE COUNSEL TO COMMUNICATE WITH HIM DURING AFTERNOON FRIDAY, SATURDAY, SUNDAY AND PUBLIC HOLIDAYS"
25/04/2005	[Military I] Bagosora et al.	ICTR-98-41-2136	TC 1	DECISION ON PROSECUTION MOTION FOR SANCTIONS
26/04/2005	Karemera et al.	ICTR-98-44-1756	TC 3	CORRIGENDUM TO DECISION ON THE PROSECUTION MOTION FOR SANCTIONS AGAINST COUNSEL FOR NZIRORERA FOR VIOLATION OF WITNESS PROTECTION ORDER AND FOR AN INJUNCTION AGAINST FURTHER VIOLATIONS
26/04/2005	[Military I] Bagosora et al.	ICTR-98-41-2140	TC 1	DECISION ON MOTION REQUESTING SUBPOENAS TO COMPEL THE ATTENDANCE OF DEFENCE WITNESSES DK32, DK39, DK51, DK52, DK311, AND DM 24
26/04/2005	[Military I] Bagosora et al.	ICTR-98-41-2139	TC 1	DECISION ON MODALITIES FOR EXAMINATION OF DEFENCE WITNESSES
27/04/2005	Nahimana et al.	ICTR-99-52-1001	AC	DECISION CONCERNING APPELLANT HASSAN NGEZE'S EXTREMELY URGENT MOTION FOR THE EXTENSION OF TIME
27/04/2005	Muvunyi	ICTR-00-55A-0076	AC	ORDER OF THE PRESIDING JUDGE TO REASSIGN JUDGES



News from The Hague

• Activities of the Appeals Chamber

Following the issuance of an Order dated 29 March 2005, the Appeals Chamber Support Unit in The Hague organised and co-ordinated a Status Conference by video-link in the *Nahimana et al.* case on 1 April 2005.

During April, the Appeals Chamber has received a new interlocutory appeal filed in the *Muvunyi* case and has rendered ten pre-appeal orders and decisions. In addition to this interlocutory appeal and to a request for review in the *Niyitegeka* case, the Appeals Chamber is seized of appeals from Judgement in seven cases (*Semanza*, *Kajelijeli*, *Media*, *Kamuhanda*, *Cyangugu*, *Gacumbitsi*, and *Ndindabahizi*). The Chamber is finalizing Appeals Judgements in the *Semanza* and *Kajelijeli* cases for delivery during the May sitting of the Chamber in Arusha. The *Semanza* Appeal Judgement will be delivered on 20 May and the *Kajelijeli* Appeal Judgement will be delivered on 23 May. During the session in Arusha, the Appeals Chamber will also hold hearings for additional evidence in the *Kamuhanda* case on 18 May and will hear the parties' submissions on the appeal on 19 May.

• New Co-ordinator of the Chambers Support Sub-Unit

Further to the correspondence of the ICTR Registrar, Mr. Adama Dieng dated 15 April 2005, Mr. Roman Boed, Legal Officer of the Chamber Support Sub-Unit within the Appeals Chamber Support Unit at The Hague, has assumed duties as Co-ordinator for the said Sub-Unit. Mr. Boed takes over from Mr. Jamie Williamson, who has left the Tribunal to join the ICRC, after nine years of good and loyal services at the ICTR, where he served respectively in the Trial Chambers, the Registrar's immediate office and the Appeals Chamber at The Hague.

• Ms. Laetitia Husson, Jury Member of the International "Concours Pictet"

Ms Laetitia Husson, Associate Legal Officer attended the international Jean-Pictet Competition as Jury member in Collonges-la-Rouge in France from 2 to 9 April 2005. The Jean-Pictet Competition is organised every year since 1989 for the French-speaking session, 2000 for the English-speaking session, and aims at improving the knowledge of international humanitarian law of students from universities of law and military schools through role plays and simulations of moot courts. In her capacity as Jury member, Ms. Laetitia contributed to increasing the awareness of the Tribunal's activities as well as its jurisprudence in the edification of international criminal law.

Inter-Tribunal Co-operation and ICTR-Internal Co-operation

Visits:

10 to 12 April 2005 - **Mr. Adama Dieng**, the Registrar, **Mr. Mandiaye Niang**, his Special Assistant

10 to 15 April 2005 - **Mr. Jean-Pelé Fomété**, Chief, Court Management Section

24 to 29 April 2005 - **Mr. Daouda Niang**, Chief, Language Services Section



The Registrar and the other colleagues met with their various counterparts of the ICTY in order to identify and discuss the best practices in their respective areas of operation for reciprocal and mutual exchange of their respective technical and human resources experiences.

They also held series of working sessions with the colleagues of the ICTR, Appeals Chamber Support Unit in The Hague within the framework of the policy of strengthening the operational communication with the relevant Sections/Units at the Headquarters in Arusha. This is part of the process of reviewing the approaches that can assist in streamlining in a more coordinated manner the operations at The Hague. A series of objectives and plan of action was designed and agreed upon.

Diplomatic Outreach

ICTR Registrar Mr. Adama Dieng visited several European countries from 10 to 21 April 2005 where he urged senior government officials and international organization representatives to cooperate with the Tribunal, to finance ICTR projects and to reinforce the academic and legal capacities of Rwanda.



Mr. Dieng discussed with Mrs. Louise Arbour, the High Commissioner for Human Rights, the role that UNHCHR could play in observing the conditions of imprisonment of convicts sentenced by the ICTR. He also discussed the possibility that UNHCHR could carry out the residual activities of the ICTR after the end of its mandate.



UNHCHR agreed to continue facilitating access of Tribunal officers to refugee camps for finding and transporting witnesses to testify in Arusha. Mr. Dieng also explored with UNHCHR the fate of those acquitted by the ICTR and who do not find a host country to accept them.

Following talks with the General Administrator of the Intergovernmental Agency of Francophonie (AIF), the organization pledged 97,000 Euros (\$USD 125, 000) for translation software and training of ICTR interpreters.

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Visit of the UN Assistant Secretary General for Legal Affairs

Ralph Zacklin, the United Nations Assistant Secretary-General for Legal Affairs, made an official visit to the ICTR in Arusha from 10th - 12th April 2005, at the end of which he expressed satisfaction with the achievements of the Tribunal.



Addressing members of the press, Zacklin said the work of the Tribunal had accelerated considerably and now was going at full speed. He noted that notwithstanding the initial teething problems which had affected the Tribunal, the ICTR presently seemed to be functioning well and had very good leadership in all its three major organs.

During the visit, Mr. Zacklin also addressed ICTR staff in Arusha and through video-link for those in Kigali on the Evolution of International Criminal Justice towards International Rule of Law. Zacklin was on a 5day mission to the ICTR from UN headquarters in New York. He met with senior Tribunal officials including the President, the Prosecutor and the Registrar on pending legal matters.

Mr. Zacklin was one of those who pioneered the idea of having the headquarters of the Tribunal brought to Arusha and was instrumental in drafting various reports on the genocide in Rwanda.

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UNICTR Conference and Protocol Services Unit

• Visitors to the ICTR During April 2005

1 April 2005: School for International Training (SIT) led by Ms. Charlotte O'Neal.

4 April 1005: American Guests of Leopard Tours led by Mr. Deo Nicholas.

5 April 2005: African Inland Church (AIC) Cornerstone School, Eldoret, KENYA.

7-11 April 2005: Mr. Ralph Zachlin, ASG for Legal Affairs to the UNICTR

27 April 2005: Eastern and Southern African Mangement Institute (ESAMI), Arusha led by Maj (RTD) Eddy Waithaka of the Kenyan National Assembly.

27-28 April 2005: Glendon College, York University Visit led by Professor Micheal Barutciski.

20-29 April 2005: University of Pretoria Field Trip Visit to Rwanda – LLM in Human Rights and Democratization in Africa.

29 April-6 May 2005: Mr. Jozef Bockaert, Advisor and Second in Command, Legal Service of the Federal Public Service of the Ministry of Foreign Affairs of Belgium.

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ICTR Attendance at Boston Conference - The ICTR: Ten Years After

Professor Alex Obote-Odora, on behalf of the ICTR Chief Prosecutor Mr. Justice Hassan Jallow, represented the Office of the Prosecutor (OTP) at a conference on the theme *The ICTR: Ten Years After*, sponsored by the Centre for International Law and Policy New England School of Law, Boston, USA. On 3 April 2005, Professor Obote-Odora was a guest speaker at a dinner organised for the conference guest speakers. The guest speakers included all invited speakers, New England School of Law Faculty Professors, as well as other Boston-area international law faculty staffs. Professor Obote-Odora's presentation focused on current ICTR jurisprudence on Rape and Sexual Violence.

On 4 April 2005, Professor John Cerone opened the session, introduced President of the ICTR Judge Erik Møse, and called upon him to deliver the key note address. President Mose presented an excellent keynote address in which he outlined the achievements and challenges of the ICTR and summarised the salient points on the completion strategy. Hon. Judge Møse presentation was very well received. The conference discussion was divided into three groups: Panel I on the theme: Jurisprudential Contributions of the ICTR. Prof. Tawia Ansah was the moderator. Members of the panel were Dr. Kelly Askin, Open Society Institute, Prof. Diane Orentlicher, Washington College of Law, American University and Jamie Williamson, Legal Officer ICTR. Panel II



deliberated on the theme: Fulfilling the Mandate of the Tribunal. The moderator was Mr. Larry Johnson, Chef de Cabinet, ICTY. Members of the Panel were Judge Emmanuel O. Ayoola, President of the Special Court of Sierra Leone, Mr. Benoit Henry, Defence Counsel, ICTR and Dr. Jean-Marie Kamatali, former Dean, Law School, University of Kigali; and Panel III on the theme: The Gender Jurisprudence of the ICTR. Prof. Barbara Stark was the moderator. Members of the Panel were Prof. Mark Drumbl of Washington and Lee University School of Law, Ms. Binaifer Nowrojee, Harvard Law School, Professor Alex Obote-Odora, Special Assistant to the Prosecutor, ICTR and Ms. Valerie Oosterveld, Legal Officer, United Nations, Human Rights and Economic Law Division.

• **Excerpt from “Rape and Sexual Violence in International Law: ICTR Contribution”**

by Dr. Alex Obote-Odora (Special Assistant to the Prosecutor)

1. Introduction

Rape and sexual violence, are crimes that have been commonly committed by combatants and non-combatants throughout the history of warfare. However, the crimes have not been traditionally prosecuted as a war crime. During the 1994 Rwanda Crisis, rape and sexual violence were used as a weapon of war. Rape and sexual violence were also used to implement the policy of genocide. The genocidal intent was manifested by, among other acts, the separation of Tutsi women from Hutu women before commencing rape and sexual assault and later killing the victims.

The 1994 Rwandan Genocide had devastating effects on the female population of Rwanda. Rape and sexual violence were massive and systematic during the Rwanda crisis. In addressing these violations of international humanitarian law in Rwanda, the Office of the Prosecutor (OTP) adopted a policy to prosecute rape and sexual violence alongside other crimes stipulated in the ICTR Statute.

In adopting the said prosecution policy, the OTP brought to an end the longstanding traditional stance in international criminal law prosecutions of not indicting rape and sexual violence. OTP indicts these persons for acts they individually committed, and/or for acts committed by their subordinates. When contrasted to the Nuremberg and the Tokyo trials, the ICTR contribution in the prosecution of rape and sexual violence stands up clearly for all to see, and hopefully, appreciate.

The very first conviction for rape and sexual violence by the ICTR is the Akayesu case. Akayesu made history by becoming the first person convicted by an international court for rape and sexual violence that constituted genocide under the 1948 Genocide Convention. Legal scholars concur that in the Akayesu judgement, the ICTR took the first step in breaking down the international legal community's ambivalence toward rape and sexual violence under international

law. This watershed judgement added significantly to the development of international criminal law and active participation in the investigation process by female investigators.

The OTP faces the continuing challenges of adequate investigations to support the charges, the reluctance of witnesses to give statements to investigators or to come to testify before the ICTR in Arusha. Consequently, some scholars and human rights activists tend to see the progress made by the ICTR as a glass half-empty rather than half-full. The OTP therefore strives to maintain the ICTR's legitimacy, to protect women's human rights and build on the jurisprudence condemning rape as a weapon of war and genocide.

The OTP recognizes that rape and sexual violence are serious crimes and further that prosecuting these crimes is only the first step toward the creation of an international legal system to deter future impunity. It is in this context that the paper assesses the past performance of the ICTR with an eye to improving the effectiveness of future prosecutions of rape as a weapon of war.

2. Rape and Sexual Violence During The 1994 Rwandan Crisis

During three-months in 1994, from April to July, over 800,000 Rwandan men, women and children were killed. During the whole slaughter, widespread sexual violence was perpetrated against Tutsi and some Hutu women and girls. This sexual violence included rape, mutilation and humiliation. These crimes were sanctioned and encouraged by Rwandan senior military and government officials.

The “Hutu power” propaganda machine propagated ethnic and gender stereotypes well before the 1994 Genocide. The Hutu Ten Commandments published in Kangura [no. 6 of 1990], the “Hutu power” propaganda magazine, among other things, described Tutsi women as condescending, seductresses and inaccessible to Hut men. When women of any group are identified as “sexual temptresses” they, by definition, become sexual objects. Therefore, retaliatory acts against women of the targeted group are often sexual in nature with no legal redress. The depiction of Tutsi women through the propaganda significantly contributed to the attitudes toward Tutsi women as objects to be dominated, humiliated, dehumanized and destroyed.

One cannot equate the death toll with the number of women who were victims of rape and sexual violence. Sex-based crimes are not easily identified, because these crimes inflict physical and psychological wounds, which women can conceal avoiding further emotional anguish, ostracization, and retaliation from perpetrators who may live nearby. Reports that estimate the number of women who were raped indicate that rape was the rule and its absence the exception. These statistical projections yield a number ranging from 250,000 and 500,000 women raped. However, these numbers do not account for the



women whose injuries prevent them from conceiving a child and the number of women who experienced multiple rapes and gang rapes. Nor do the numbers account for unmarried women who either self-aborted or committed infanticide, who were mutilated by having breasts cut off, farm implements brutally inserted in their genitals, or who were murdered after they are raped. Rape is referred to as a "living death" and viewed as worse than death. Many of the victims now suffer from HIV/AIDS.

** With thanks to Ms. Roberta Baldini, Assistant Trial Attorney and Ms. Kentaro Kanyomozi, Case Manager both of Cyanguu OTP Trial Team for the research conducted in the preparation of this paper.*

Installation of the newly elected executive committee of Kigali Staff Association



The New Executive Committee of Kigali Staff Association headed by Ruci Nailati, the Administrative and Logistics Assistant, Umusanzu Centre, was installed on 14/4/2005. The ceremony took place at the Rotunda Hall at the ICTR's Office in Kigali and was attended by members of the staff in Kigali.

In his short address to the members of the Association, the out going President, Mr Mohamed Ayat, welcomed the new executive committee and wished them success in carrying out their duties and responsibilities. He thanked the administration and all the members of the association for their support during his term of office. He appreciated the way the

administration has been attending to the problems of the association members and solving them where possible.

He was happy to note that the new executive committee had brought in big number of women compared to the previous committee.

"I am happy that the new committee has a big number of women compared to ours. This is a big step in gender equality and I have confidence in them and I am sure they will do the work. Give them the support they need", the outgoing president told the members.

In his closing remarks, he reminded the New Committee of the key responsibilities awaiting them especially as we move towards the completion strategy of the Tribunal.

On her part, the newly elected President, Ruci Nailati, thanked the old executive committee for the recommendable work done during its term in office. She expressed her appreciation to the confidence put in her and assured the members that she was to work in the interests of everybody.

"I discussed with the old committee the way forward and vision ; we shall continue from where they stopped and very soon the new committee is to hold a general meeting where we shall elaborate more on this," the new chief of the Association said.

She said that the new committee was ready to work with the administration for the success of the association especially in analysing the problems of the members and how to solve them.

Finally she requested the administration to continue with the support it has been offering to the association.

Arab Republic of Egypt Provides Financial Support to the Tribunal

In support of its commitment to ensuring peace, security and stability in the Great Lakes Region, the Government of the Arab Republic of Egypt has pledged to make additional financial contribution to the International Criminal Tribunal for Rwanda (ICTR).

The Egyptian Minister of Foreign Affairs, H.E. Ahmed Aboul Gheit, made the pledge following the participation of Mr. Adama Dieng, Registrar of the ICTR, in Egypt's commemoration of the anniversary of the Rwandan genocide. The Minister said that this support is to strengthen the worldwide mission of the Tribunal which is considered one of the major elements in eliminating root causes of conflicts and hostility in the Great Lakes Region.

Mr. Dieng expressed his appreciation to the Government of Egypt for its decision. He said that the contribution will be used for the Tribunal's outreach programme to better inform Rwandan citizens of the Tribunal's mission.