



# ICTR NEWSLETTER

May 2005



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United Nations International Criminal Tribunal for Rwanda

## Judge Erik Møse Re-elected President of the Tribunal, with Judge Arlette Ramaroson as Vice-President



At the Judges' annual Plenary Meeting of the International Criminal Tribunal for Rwanda (ICTR) on Saturday 21 May 2005, Judge Erik Møse (Norway) was re-elected as President of the Tribunal for a

second two-year term. Judge Arlette Ramaroson (Madagascar) was elected Vice-President. She succeeded Judge Andrézia Vaz (Senegal), who did not seek re-election.

Judge Møse was first elected President of the ICTR in May 2003 after having been its Vice-President since May 1999. He is also Presiding Judge of Trial Chamber I. Before taking up his functions in Arusha, he was an Appeals Court Judge in Oslo and previously a Supreme Court barrister.



Supreme Court Criminal Division in Madagascar.

Judge Ramaroson became a Judge at the ICTR in May 2001. She has since served as a member of Trial Chamber II. Prior to joining the ICTR, she was the President of the Criminal Division of the Court of Appeal and Acting President of the

The ICTR has delivered judgements involving twenty-five accused, of whom twenty-two were convicted and three acquitted. Trials involving twenty-five persons are currently underway.

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The Judges of the Tribunal pose for a group photo during the Plenary Session. Seen here are the Appeals Judges, the Permanent Judges and the Ad Litem Judges of the ICTR flanked by the Prosecutor, Mr. H. Jallow on the left and the Registrar, Mr. A. Dieng on the right.



## Stephen Rapp Appointed Chief of Prosecutions



Mr. Stephen Rapp (USA) has been appointed Chief of Prosecutions of the United Nations International Criminal Tribunal for Rwanda with effect from 5 May 2005. Mr. Rapp will head the Prosecutions Division in the Office of the Prosecutor (OTP) with responsibility for supervising its trial teams from indictment through final judgement.

Mr. Rapp joined the ICTR in May 2001 as a Senior Trial Attorney. He led the prosecution team in the 'Media Trial' that culminated in December 2003 in the conviction of principals of RTLM radio and the Chief Editor of Kangura newspaper for genocide, incitement to commit genocide, conspiracy to commit genocide, and crimes against humanity.

Mr. Rapp is expected to see to the affective presentation in the Trial Chambers of the cases against those bearing the greatest responsibility for the Rwandan genocide in a manner that will permit trials to be concluded by the end of 2008 as projected in the ICTR Completions Strategy.

Before coming to the ICTR, Rapp was United States Attorney for the Northern District of Iowa from 1993 to 2001. Rapp, 56, received his undergraduate degree from Harvard University, studied law at Columbia University and received his J.D. degree from Drake University.

## Judicial Proceedings

### • Appeals Chamber Increases Semanza's Sentence

On 20 May 2005, the Appeals Chamber of the International Criminal Tribunal for Rwanda, affirmed the conviction of *Laurent Semanza* on genocide charges and increased his sentence by 10 years for ordering the murder, torture and rape of Tutsi civilians at a church during the 1994 Rwandan genocide.



*Semanza* entered an appeal on 22 grounds against his conviction by Trial Chamber III on 15 May 2003 for complicity to commit genocide, extermination, torture and murder as crimes against humanity. The Appeals Chamber dismissed *Semanza's* argument that he should be acquitted of all charges because the Trial Chamber was biased against him.

Instead, the Appeals Chamber accepted the Prosecutor's argument and convicted *Semanza* of ordering, rather than aiding and abetting, the massacre of Tutsis at Mushya church. Because *Semanza* had more serious culpability for the crimes at the church, the Appeals Chamber increased from 15 to 25 years, his sentence for conviction on Counts 7 and 13 of the indictment.

The Appeals Chamber also reversed the Trial Chamber's acquittal on the charges of serious violations of Common Article 3 and Additional Protocol II of the Geneva Conventions.

Under the appeals judgment, *Semanza* will serve 35 years in prison with credit for time already spent in custody. The Trial Chamber had sentenced *Semanza* to 25 years' imprisonment with a reduction of 6 months because of violations of his rights that occurred while in detention prior to his transfer to the ICTR.

*Laurent Semanza* was born in 1944 in Musasa commune, Kigali rural prefecture. Prior to becoming President of the greater Kigali branch of the MRND political party in 1993, he served as Bourgmestre of Bicumbi commune.

The appeal was before Judges Theodor Meron (United States of America), Presiding, Mohamed Shahabuddeen (Guyana), Mehmet Güney (Turkey), Fausto Pocar (Italy) and Inés Mónica Weinberg de Roca (Argentina).

The Appeals Chamber also sat for two days from Wednesday 18 May 2005 to hear the merits in the appeal case of *Jean de Dieu Kamuhanda*, former Minister of Culture and Education, during which two defence witnesses and two for the prosecution testified.

### • Appeals Chamber Reduces Kajelijeli's Life Sentence to 45 Years Imprisonment



On 23 May 2005 the Appeals Chamber for the International Criminal Tribunal for Rwanda, reduced the life sentence of *Juvénal Kajelijeli*, former bourgmestre of Mukingo, to 45 years imprisonment because his rights were violated during his arrest and detention.

The Appeals Chamber recalled that it vacated *Kajelijeli's* cumulative convictions for genocide and extermination as a crime against humanity under Counts 2 and 6 insofar as they were based upon a finding of command responsibility. However, the Appeals Chamber found that the Trial Chamber was required to take its finding on *Kajelijeli's* superior position (Article 6(3)) into account at sentencing as an aggravating factor. The Appeals Chamber found that the Trial Chamber did so. The appeal was otherwise dismissed in all other respects.

*Kajelijeli* was sentenced on 1 December 2003 by Trial



Chamber II to two concurrent life terms for genocide and extermination as a crime against humanity and to an additional 15 years imprisonment for direct and public incitement to commit genocide. All three sentences were to run concurrently.

However, the Appeals Chamber ruled that in view of the serious violations of his fundamental rights during his arrest and detention in Benin and at the UN Detention Facility from 5 June 1998 to 6 April 1999, the two life sentences and the 15 year sentence which were to run concurrently imposed by the Trial Chamber must be converted into a single sentence of imprisonment for 45 years. The Appeals Chamber ordered that *Kajelijeli* be given credit for time already served in detention. *Kajelijeli* was ordered to remain in

the custody of the Tribunal pending his transfer to the State in which his sentence will be served.

*Kajelijeli* was born on 26 December 1951 in Mukingo Commune, Rwinzovu Sector, Ruhengeri Prefecture of Rwanda. He was bourgmestre of Mukingo Commune from 1988 to 1993 and was re-appointed to that post on 26 June 1994, remaining until mid-July 1994. He was also a leader of the Interahamwe militia.

The Appeals Chamber is composed of Fausto Pocar (Italy) Presiding, Mohamed Shahabuddeen, (Guyana), Florence Ndepele Mwachande Mumba (Zambia), Wolfgang Schomburg (Germany), and Inés Mónica Weinberg de Roca, (Argentina).

## JUDICIAL DECISIONS FOR THE ICTR BETWEEN 1 MAY AND 31 MAY 2005

Date Created	Case Name	Record Number	TC	Title
02/05/2005	Mpambara	ICTR-01-65-0088	TC 1	DECISION RELATIVE A LA REQUETE DU PROCUREUR EN AUTORISATION DE DEPOSER UN ACTE D'ACCUSATION MODIFIE
03/05/2005	Nahimana et al.	ICTR-99-52-1078	AC	DECISION ON APPELLANT HASSAN NGEZE'S MOTION FOR THE APPROVAL OF THE INVESTIGATION AT THE APPEAL STAGE
03/05/2005	Nahimana et al.	ICTR-99-52-1077	AC	DECISION ON APPELLANT FERDINAND NAHIMANA'S MOTION FOR ASSISTANCE FROM THE REGISTRAR IN THE APPEALS PHASE
03/05/2005	Karemera et al.	ICTR-98-44-1759/2	TC 3	DECISION RELATIVE A LA REQUETE DEMANDANT LA LEVEE DE LA CONFIDENTIALITE DE CERTAINS ECRITS UNILATERAUX ET LA SUPPRESSION DES PARAGRAPHERS 32.4 ET 49 DE L'ACTE D'ACCUSATION MODIFIE
03/05/2005	Karemera et al.	ICTR-98-44-1759/1	TC 3	DECISION RELATIVE A LA REQUETE DEMANDANT LA LEVEE DE LA CONFIDENTIALITE DE CERTAINS ECRITS UNILATERAUX ET LA SUPPRESSION DES PARAGRAPHERS 32.4 ET 49 DE L'ACTE D'ACCUSATION MODIFIE
03/05/2005	[Military I] Bagosora et al.	ICTR-98-41-2153	TC 1	DECISION ON MOTION TO ORDER RWANDA TO TRANSFER WITNESS DO
04/05/2005	Simba	ICTR-01-76-0350	TC 1	DECISION ON DEFENCE RENEWED REQUEST FOR SITE VISIT IN RWANDA
04/05/2005	Simba	ICTR-01-76-0349	TC 1	DECISION ON DEFENCE REQUEST FOR SUBPOENAS
04/05/2005	Mpambara	ICTR-01-65-0089	TC 1	DECISION ON PROTECTION OF DEFENCE WITNESSES
04/05/2005	Ndindiliyimana, et al.	ICTR-00-56-0457	TC 2	CORRIGENDUM TO DECISION ON THE PROSECUTOR'S MOTION FOR AN ORDER FOR THE TRANSFER OF DETAINED WITNESSES GLJ, AOE,GFD, GFV PURSUANT TO RULES 90bis AND 73 (A) OF THE RULES OF PROCEDURE AND EVIDENCE
04/05/2005	[Military I] Bagosora et al.	ICTR-98-41-2157	TC 1	DECISION ON KABILIGI REQUEST FOR CERTIFICATION
04/05/2005	Ndindiliyimana, et al.	ICTR-00-56-0456	TC 2	DECISION ON THE PROSECUTOR'S MOTION FOR AN ORDER FOR THE TRANSFER OF DETAINED WITNESSES GLJ, AOE,GFD, GFV PURSUANT TO RULES 90bis AND 70(A) OF THE RULES OF PROCEDURE AND EVIDENCE



Date Created	Case Name	Record Number	TC	Title
06/05/2005	Bizimungu et al.	ICTR-99-52-1373	TC 2	DECISION ON PROSPER MUGIRANEZA'S MOTION TO ORDER A WITNESS TO BE RETURNED FOR FURTHER CROSS-EXAMINATION OR IN THE ALTERNATIVE TO STRIKE HIS TESTIMONY BASED UPON LATE DISCLOSURE OF RULE 68 MATERIAL
06/05/2005	Bizimungu et al.	ICTR-99-50-0883	TC 2	DECISION ON PROSPER MUGIRANEZA'S MOTION TO ORDER A WITNESS TO BE RETURNED FOR FURTHER CROSS-EXAMINATION OR IN THE ALTERNATIVE TO STRIKE HIS TESTIMONY BASED UPON LATE DISCLOSURE OF RULE 68 MATERIAL
06/05/2005	Zigiranyirazo	ICTR-01-73-0117	TC 3	REQUEST FOR THE COOPERATION OF THE GOVERNMENT OF RWANDA
09/05/2005	Nahimana et al.	ICTR-99-52-1370	AC	FURTHER DECISION ON APPELLANT FERDINAND NAHIMANA'S FOR ASSISTANCE FROM THE REGISTRAR IN THE APPEALS PHASE
11/05/2005	Bikindi	ICTR-01-72-0081	TC 3	DECISION ON THE AMENDED INDICTMENT AND THE TAKING OF A PLEA BASED ON THE SAID INDICTMENT
12/05/2005	Muvunyi	ICTR-00-55A-0079	AC	DECISION ON PROSECUTION INTERLOCUTORY APPEAL AGAINST TC II DECISION OF 23 FEBRUARY 2005
13/05/2005	Ndindiliyimana et al.	ICTR-00-56-0465	TC 2	DECISION ON SAGAHUTU'S MOTION FOR EXCLUSION OF WITNESS LCM, DX, BB, GS, CJ, GFO
13/05/2005	Karemera et al.	ICTR-98-44-1777	TC 3	DECISION ON JOSEPH NZIRORERA'S MOTION TO HOLD TRIAL SESSIONS IN RWANDA
16/05/2005	Bikindi	ICTR-01-72-0085	TC 3	DECISION ON THE PROSECUTION MOTION FOR EXTENSION OF TIME
17/05/2005	Nahimana et al.	ICTR-99-52-1378	AC	DECISION ON "APPELLANT JEAN-BOSCO BARAYAGWIZA'S URGENT MOTION FOR LEAVE TO HAVE FURTHER TIME TO FILE THE APPEALS BRIEF AND THE APPEAL NOTICE"
17/05/2005	Ndindiliyimana et al.	ICTR-00-56-0466	TC 2	DECISION ON BIZIMUNGU'S MOTION TO WITHDRAW THE APPEARANCE OF PROSECUTION WITNESSES GFD AND AOE AND REQUETE URGENTE DEMANDANT UN AJOURNEMENT
18/05/2005	Karemera et al.	ICTR-98-44-1795	TC 3	DECISION RELATIVE A LA REQUETE D'EDOUARD KAREMERA EN PROLONGATION DE DELAI
20/05/2005	[Military I] Bagosora et al.	ICTR-98-41-2179	TC 1	DECISION DE RETRAIT DE LA COMMISSION D'OFFICE DE MAITRE RENE SAINT-LEGER, CO-CONSEIL DE M. GRATIEN KABILIGI
20/05/2005	Semanza	ICTR-97-20-1468	AC	JUDGEMENT
20/05/2005	Muvunyi	ICTR-00-55A-0083	Trial Team IV	DECISION ON ACCUSED THARCISSE MUVUNYI'S MOTION TO EXCLUDE WITNESS CCR'S TESTIMONY
20/05/2005	Bikindi	ICTR-01-72-0086	TC 3	DECISION RELATIVE A LA REQUETE DE LA DEFENSE EN TRADUCTION ET EN COMMUNICATION D'ACTES INSCRITS AU DOSSIER
20/05/2005	Nyiramasuhuko et al.	ICTR-98-42-0853/2	TC 2	DECISION ON ELIE NDAYAMBAJE'S AND ALPHONSE NTEZIRYAYO'S REQUEST FOR THE RECALL OF WITNESS FAG FOLLOWING THE DISCLOSURE OF A NEW CONFESSONAL STATEMENT
23/05/2005	Rwamakuba	ICTR-98-44C-0025	TC 3	DECISION ON PROSECUTOR'S MOTION FOR AN ORDER FOR TEMPORARY TRANSFER OF WITNESSES PURSUANT TO RULE 90BIS





Date Created	Case Name	Record Number	TC	Title
23/05/2005	Kajelijeli	ICTR-98-44A-0879	AC	JUDGEMENT
23/05/2005	Seromba	ICTR-01-66-0188	TC 3	DECISION DE RETRAIT DE LA COMMISSION D'OFFICE DE MAITRE ALFRED POGNON CONSEIL DE M. ATHANASE SEROMBA
23/05/2005	Muvunyi	ICTR-00-55A-0086	Trial Team IV	DECISION ON PROSECUTOR'S MOTION TO HAVE PROSECUTION WITNESSES QCM AND NN TESTIFY BY CLOSED VIDEO-LINK PURSUANT TO RULES 54 AND 71 (D) OF THE RULES OF PROCEDURE AND EVIDENCE
23/05/2005	Ndindilyimana et al.	ICTR-00-56-0325/2	TC 2	DECISION ON THE PROSECUTION MOTION FOR A SEPARATE TRIAL (Article 20 of the Statute and Rule 82 of the Rules of Procedure and Evidence)
24/05/2005	Karemera et al.	ICTR-98-44-1799	TC 3	DECISION ON JOSEPH NZIRORERA'S MOTION FOR ORDER FINDING PRIOR DECISIONS TO BE OF "NO EFFECT"
26/05/2005	Karemera	ICTR-98-44-1800	TC 3	DECISION ON JOSEPH NZIRORERARA'S APPLICATION FOR CERTIFICATION TO APPEAL THE DECISION DENYING HIS MOTION TO VACATE SANCTIONS
26/05/2005	Rwamakuba	ICTR-98-44C-0028	TC 3	DECISION ON DEFECTS IN THE FORM OF THE INDICTMENT
26/05/2005	Rwamakuba	ICTR-98-44C-0029	TC 3	DECISION ON EXTENSION OF TIME TO FILE A STATEMENT OF ADMITTED FACTS AND LAW
27/05/2005	[Military I]	ICTR-98-41-2183	TC 1	BAGOSORA DECISION ON REQUEST FOR ASSISTANCE PURSUANT TO ARTICLE 28 OF THE STATUTE
30/05/2005	Mpambara	ICTR-01-65-0091	TC 1	DECISION ON THE DEFENCE PRELIMINARY MOTION CHALLENGING THE AMENDED INDICTMENT

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

**Trial Chamber 1**

*Bagosora et al.*: 11 April to 29 July, Judges Mose, Presiding, Reddy and Egorov

**Trial Chamber II**

*Nyiramasuhuko et al.*: 30 May to 15 July, Judges Sekule, Presiding, Ramaroson and Bossa

*Bizimungu et al.*: 2 May to 17 June, Judges Khan, Presiding, Muthoga and Short

*Ndindilyimana et al.*: 9 May to 15 July, Judges de Silva, Presiding, Hikmet and Park

*Muvunyi*: 16 May to end of the Prosecution case; Judges de Silva, Presiding, Latanzi and Arrey

**Trial Chamber III**

*Rwamakuba*: 9 June to 15 July, Judges Byron Presiding, Hökborg and Kam

• **Programme of Judicial Recess**

**Trial Chamber I**

Monday 1 August 2005 to 28 August 2005

**Trial Chamber II**

*Butare*: 18 July 2005 to 14 August 2005

*Government II*: 11 July 2005 to 10 August 2005

*Military II and Muvunyi*: 1 August 2005 to 31 August 2005

**Trial Chamber III**

18 July to 15 August 2005



## Cooperation with Rwanda

- **Plans to Transfer More Cases to Rwanda Underway**

On 24 May 2005 the Prosecutor of the United Nations International Criminal Tribunal for Rwanda Mr. Hassan Bubacar Jallow announced that plans to transfer cases of those already indicted by the International Criminal Tribunal for Rwanda to Kigali were underway.



Mr. Jallow said he would very soon be handing more files to Rwandan authorities adding that it was possible that ten more cases would be transferred.

The Prosecutor said he had been holding discussions with Rwanda and other countries on specific cases, which could be subject to transfer.

*"In the case of those who have been indicted, the office of the Prosecutor will later in the year submit applications to the chambers [judges] for some of these cases to be transferred not just to Rwanda but other countries as well,"* stated Jallow.

The first batch of fifteen cases was handed over to Rwanda by Mr. Jallow on 23 February 2005 in Kigali. These files were all of those suspects who had not yet been indicted by the tribunal.

The transfer of cases to national jurisdictions is part of a completion strategy to enable the tribunal meet the deadline of 2008 when its mandate is scheduled to end.

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## Inter-Tribunal Cooperation

- **Mr. Hocking, Deputy Registrar, ICTY Visits the ICTR**

The ICTY Deputy Registrar, Mr. John Hocking, paid a visit to Arusha from 31 May to 3 June 2005. This was done within the Cooperation Agreement that the two sister Tribunals have.

During the visit, Mr. Hocking, who was accompanied by Mr. Augustus De Witt, Legal Officer, ICTY, paid courtesy calls to the President of the Tribunal, Judge Erik Møse, the Prosecutor, Mr. Hassan B. Jallow, the Registrar, Mr. Adama Dieng, the Deputy Prosecutor, Mr. Bongani Majola and the Deputy Registrar, Mr. Lovemore G. Munlo.

The two Deputy Registrars then held a working session with all Chiefs of Sections in the Judicial and Legal Services Division which was aimed at exploring major issues within the scope of responsibilities of the Deputy

Registrar's Office in Judicial Support Services. The meeting shared experiences of the two sister Tribunals regarding the responsibilities in supporting the judicial process and examined existing areas of collaboration and harmonization. One of the issues that was highlighted was the Legal Aid Reform and the Development of a Lump Sum System for the ICTR.

Mr. Hocking also held discussions with the Chief of the Division of Administrative Support Services, Ms. Michelle Lee as well as other Senior Officials in the Division on various administrative and human resources related issues.



ICTY Deputy Registrar, Mr. John Hocking with Mr. A. Dieng, ICTR Registrar and Mr. L. Munlo, ICTR Deputy Registrar

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## News from Kigali

- **Sexual Assaults One Day Workshop for Investigations Division Takes Place in Kigali**

A one day workshop on sexual assaults for ICTR Investigators took place on 31 May 2005 in Kigali at the Tribunal's main Rotunda Hall. It was opened officially on behalf of the Prosecutor, by the Officer in Charge of the Office of the Prosecutor in Kigali, Commander Maxwell Nkole.

Speaking during the occasion Mr. Nkole informed the participants that currently there were a total of 19 indictments at the tribunal for sexual violence and rape awaiting trial.

*"Sexual violence and rape forms part of the serious crimes of Human Rights Violation nature that were committed during the 1994 genocide and those who committed them have to face justice. These cases will come in for trial between 2005-2008",* the OTP Chief in Kigali said.

The objectives of the workshop were, among others, to identify weaknesses associated with evidence gathering, to identify weaknesses associated with



charging or indicting the suspects, to identify deficiencies in the presentation of cases in court and to come up with an actionable strategy that would be useful for the prosecution and investigations.

The representative of the European Union that financed the workshop, Dr. Gabriel thanked the participants for coming together to discuss vital issues that concern the promotion of International Justice that is vital in the promotion of Unity and Reconciliation in Rwanda.

She said that currently, with the support of the European Union, a program to support the rule of law and promotion of Human Rights in Rwanda is being worked upon.

The EU Senior official, pledged more support for the ICTR in general and the OTP in particular.

*"We shall continue as we have been doing to support the Tribunal in its activities regarding the promotion of International Justice. Our organization is a principal partner to the Government of Rwanda's policy towards Unity and Reconciliation, and we know that the tribunal has a principal role in contributing to this cause", Dr Gabriel said.*

She urged the participants to be ready to face the challenges ahead especially as the Tribunal heads towards the completion strategy.

*"I request you to come up with a strategy that would improve the prosecution and investigations of sexual violence crimes and rape committed during the 1994 genocide so that justice can take its course", she added.*

This workshop was facilitated by three facilitators namely; Mr. James Stewart, Senior Appeals Counsel at the Tribunal, Mrs Nowrojee Binafer, a Consultant and Ms Frolida Kabasingwa.

It was attended by about 45 participants mainly Investigators from various countries, Language Assistants, officials from the Witness Management Team and Witness assistants. The Workshop follows a similar one that was held at the Tribunal's Headquarters in Arusha on 28 May 2005.

The resolutions and strategies that would be adopted by the workshop are to be presented to the Prosecutor, Mr. Bubacar Jallow, for approval.

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## News from The Hague

### • Activities of the Appeals Chamber

The Appeals Chamber sat in Arusha from 18 through 23 May. During this period, the Chamber delivered the *Semanza* and *Kajelijeli* Appeal Judgements, and heard additional evidence and submissions on the merits of the appeal in the *Kamuhanda* case. During this month the Appeals Chamber also disposed of an interlocutory

appeal in the *Muvunyi* case and issued seven Pre-Appeal orders and decisions.

The Appeals Chamber remains seized of six appeals from Judgement (*Media, Kamuhanda, Cyanguu, Gacumbitsi, Ndindabahizi, Muhimana*) and one motion for review (*Niyitegeka*). The *Kamuhanda* case is presently under deliberation.

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## ICTR Conference and Protocol Services Unit

### • Visitors to the ICTR During May 2005

2 May 2005 - Mr. Jozef Bockaert, Belgium Government Official.

3 May 2005 - Visit by the Institute of Diplomacy and International Studies (IDIS), University of Nairobi, Nairobi, Kenya.

4 May 2005 - Lecture and Book Launch by Mr. Roel Van Der Veen of the Netherlands Embassy - Dar Es Salaam.

11 May, 2005 - Jazz Trio Concert sponsored by the Netherlands Embassy - Dar es Salaam.

16 May, 2005 - Mrs. Sherry Whetstone McCall and Mr. Gaidi Faraj of the United African Alliance Community Center (UAACC)

17 May, 2005 - Professor Mark Amstutz of Wheaton College - Department of Politics and International Relations.

18 May, 2005 - ICTR by MS-TCDC, Danish Training Programme.

19 May, 2005 - Rollins College, Winter Park, led by Professors Janet Puhalla and Wendy Brandson;

19 May, 2005 - International Humanitarian Course of the International Committee of the Red Cross (IHL-ICRC).

20 May, 2005 - Dr. Carl Baar, Associate of Justice Development International Ltd, Toronto, Canada.

21 May, 2005 - 15th ICTR Plenary Session - Visiting Appeal Judges from The Hague.

23 May, 2005 - The Committee for Relations with SADC Countries of the German Parliament - 7 German Parliamentarians.

23 May-27th May, 2005 - The Rwanda Outreach Programme - Mr. Alphonse Ngagi, Dean, Faculty of Law, University of Rwanda, Mr. Francois Xavier Kalinda, Professor of the Faculty of Law, University of Rwanda and Mr. Felix Emable Majyambere, Professor of the Faculty of Law, University of Rwanda

30 May - 4th of June, 2005 - Mr. John Frederick





Hocking, Deputy Registrar of the ICTY and Mr. Augustus Charles de Witt, Legal Officer, ICTY

## Registrar's Special Address to Staff Members on their Ethical Duties and Obligations: General Staff Meeting

### UN Flag Hoisted for the First Time at United Nations Detention Facility (UNDF)

Simba Hall, 20 May 2005, 13h00

Dear Colleagues,

On Friday 13 May 2005 at 0915 hrs the UN flag was hoisted for the first time at UNDF. This was done shortly after the Tanzania National Flag was raised. The ceremony was attended among others, by Mr. Sidambaram Torosamy, the Chief of General Services and Mr. Sumathipala Wathugala Chief of Building Management Section.



I would like to thank you all for being present at this general meeting on such a short notice. Today's special address aims at reminding you about your ethical duties and obligations vis-à-vis the Tribunal and the United Nations

Speaking at the Flag Raising Ceremony on behalf of the Registrar, Mr. Saidou Guindo, the UNDF Commanding Officer said that it was an historical event since UNDF is the first and only Detention Facility managed by the United Nations.

Organization while performing the assignment for which you have been recruited, irrespective of the place or your duty stations.

He also appreciated the assistance of Building Management Section and General Services Section for having made this project possible in record time.



After the ceremony, Mr. Guindo posed for group photograph with Mr. Torosamy and Mr. Wathugala, flanked by UNDF staff members.



Two series of events that have recently occurred justify my calling of this meeting.

As you may recall, since the beginning of my tenure as Registrar of the ICTR in 2001, I have made it as part of my mandatory duties, to hold a general staff meeting at least once every year in order to provide you with ongoing state of affairs of the ICTR.

I have also made sure to seize the same opportunity to underscore to all the staff of this Tribunal, the ethical expectations of the management regarding what they are supposed to do in order to help the Tribunal achieve its mandate, through their daily private and professional conduct.

I have been very disturbed and puzzled by the recent occurrences. These indicate that some of the ICTR staff members have not yet understood the importance that the United Nations Organization and the management of this Tribunal attach to the values of integrity, professionalism and respect of diversity and gender. These values are key attributes for quality staff and are required by the ICTR in upholding the United





Nations Competency standards in order to achieve the goals that have been entrusted to us.

You may wish to recall that in my address to you in February of this year, I once again stressed that ICTR staff members in Kigali, Arusha and The Hague should always remember that we are guests of the Tanzanian, Rwandan and Dutch Governments.

I recall that in my February address as well as in the previous ones, I emphasized that our private conduct should always reflect the respect that we have for the laws and customs of our hosting lands. I invited you to ensure that both your personal and professional behaviour as well as that of your dependents are beyond reproach in order to ensure continuous positive perception of the Tribunal.

My first major concern stemmed from the recent publication of an article in the New Times journal of Kigali in Rwanda. The said article narrates an incident which dates back a week before and during which a Rwandese lady allegedly caused disorder at the ICTR Office premises at Kigali when she came to claim three hundred US Dollars from an investigator. The publication also states that according to the complainant, the investigator had promised to secure a job for her before their relationship turned sour. Following such a report, I requested that immediate investigation be conducted in order to clarify the whole story.

The Panel of investigation that I have established to that effect has done an excellent job by submitting to me its preliminary findings and conclusions. The objective of the investigation was to confirm the veracity or otherwise of the events described in the newspaper article of 11 May 2005. If they are found to be true, the case could be qualified as sexual exploitation in a wider sense and therefore disciplinary measures should be taken against the ICTR employee if he is found to be guilty.

The event prompts me to call for this general meeting of all the staff members in order to remind everybody about the need for all of you to act in your private life in compliance with the special measures for protection from sexual exploitation and sexual abuse that the Secretary-General has promulgated in his Bulletin in 2003, which are found in the ST/SGB/2003/13.

I would like to inform you that I would not tolerate any actual or attempted abuse of your position as UN staff member in taking advantage of the vulnerability, the differential power, or the trust of those of nationals among whom we live or work with, for sexual purposes. Such an un-dignified conduct is unacceptable and will not be tolerated.

Once again, I am hereby instructing the Chief of the Human Resources and Planning Section to make available to all staff members, at the end of this meeting, copies of the said ST, which shall be guiding you in your private dealings and professional conduct, wherever you are on duty. I am also asking him to reinforce the ICTR reporting mechanism, in accordance

with the ST to encourage reports on such conduct.

It is important to note that the United Nations Organization has zero tolerance for sexual misconduct of its employees since such occurrences have a tremendous negative impact on the overall integrity and image of the whole Organization. As you know, ICTR is operating in a region where we are called upon to help heal the profound wounds that the atrocious genocide scars have left on the souls, in the minds and on the body of the victims in Rwanda. Moreover, from a geo-strategic viewpoint, ICTR is discharging its mandate in an environment where it is established that some of the UN family members have been found guilty of sexual abuse and exploitation of the most vulnerable populations that they are primarily tasked to assist and protect.

You will therefore agree with me that, any such incident involving any ICTR staff member that has subsequently been widely published in the local press, whether falsely or accurately, would in any event have a very troubling impact on the image of the Tribunal. The ICTR cannot and will not tolerate such misconduct on the part of its staff members.

In accordance with the Secretary-General's Bulletin regarding the prohibition of sexual exploitation and sexual abuse, I wish to remind you that sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for United Nations Staff. Such conduct is prohibited by the United Nations Staff Regulations and Rules. In order to further protect the most vulnerable populations, especially women and children, the following specific standards which reiterate existing general obligations under the UN Staff Regulations and Rules have been promulgated as follows:

- Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;
- Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence;
- Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;
- Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;
- Where a United Nations staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, he or she must report such



concerns via established mechanisms;

- United Nations staff members are obliged to create and maintain an environment that prevents sexual exploitation and sexual abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment;

As Registrar, I am committed to consolidate and maintain an environment in the Tribunal that prevents sexual exploitation and sexual abuse.

For your information, on Thursday 12 May 2005, I was alerted by the Chief of the Division of Administrative and Support Services, about the publication of the story. My first action was to order that an immediate investigation be conducted into this alleged incident. This report might tarnish the reputation of the said staff member and the whole Tribunal and could also trigger a worldwide condemnation of the social behaviour of ICTR staff in Rwanda. By Monday 16 May 2005, I received the Preliminary Report on the Investigation.

From the preliminary conclusions of the investigation, one cannot as a matter of certainty say that sexual exploitation took place. I am prepared to take appropriate action in accordance with established rules and procedures for dealing with cases of staff misconduct, should the story be found to be true or in the event that there is reason to believe that any of the standards as I have just enumerated to you, have been violated or if any behaviour referred to under those standards has occurred. The matter is now under consideration.

Any disciplinary action which might be taken as a result of the ICTR investigation would be communicated to the United Nations Headquarters along with the ICTR investigation into the incident.

My zero tolerance of such appalling and reprehensible conduct is in line with the position expressed recently by the Secretary-General over this kind of conduct within the United Nations Organization.

Generally speaking, it is important for staff members of the Tribunal both in Kigali and Arusha to be well informed that any intimate relationship between a United Nations employee and a female, especially from the host country's population, based on the financial wherewithal of the ICTR employee, could be qualified as sexual exploitation despite the apparent consent of the female partner. The fact that the victim is economically vulnerable is considered as a factor impeding free consent.

It is public knowledge that there are in Kigali as well as in Arusha staff members who maintain more or less lasting relationships with women of the host countries; such relationships could have been sustained by the financial wherewithal of the ICTR employees. This situation makes them vulnerable to criminal and/or disciplinary prosecution especially at this point in time, when United Nations missions' staff members are under the spotlight for sexually abusing members of the local population. This is the background to the new

zero tolerance approach adopted by United Nations officials.

In these particular circumstances, I would task the Gender Adviser to institute a new awareness campaign within the Tribunal. Apart from activities that the Gender adviser could propose, I shall also and very soon issue a circular to that effect as part of the consolidation of the established reporting mechanism over cases of misconduct on the part of staff members of the ICTR. ICTR senior officials will also be designated at our respective duty stations in Arusha, Kigali, and The Hague. They shall serve as focal points for receiving reports on cases of sexual exploitation and sexual abuse. All reports of sexual exploitation and abuse shall be handled in a confidential manner in order to protect the rights of all persons involved. However, such reports may be used, where necessary, for action taken in the event that there is reason to believe that any of the standards as I cited, have been violated or if any behaviour referred to under those standards, has occurred.

The circular will recall the Code of Conduct governing the activities of United Nations employees which requires them to comport themselves in an irreproachable manner in order not to tarnish their image as well as that of the Organization. The circular will also remind ICTR staff members to uphold high moral standards and will highlight the possible consequences of violating these rules on the future career of employees at this point in time when United Nations employees at several mission stations have been put on a blacklist.

We cannot afford to have the image of the Tribunal tarnished at this critical phase of our completion strategy as a result of misconduct of some staff members.

We have all noted that the image of the Tribunal has improved drastically. I call upon you to behave in an appropriate manner both professionally and privately in order to maintain the high standards of conduct expected from all ICTR staff members.

This now brings me to my second concern.

On this particular point, I wish to stress that as United Nations Civil Servants, you are representing in your various capacities, the organization that you serve. Therefore, your behaviour at the work place should be beyond reproach.

Some of you are dealing with sensitive matters in relation to witnesses. This assignment requires confidentiality, tact, good attitude, personal discipline and integrity.

Under the Staff Regulations of the United Nations and Staff Rules pertaining to the duties, obligations and privileges, it is clearly stated that: *"Members of the Secretariat are international Civil Servants. Their responsibilities are not national but exclusively international. By accepting appointment, they pledge themselves to discharge their functions and to regulate*



*their conduct with the interests of the United Nations only”.*

I have received reports that are currently under investigation which indicate that some of the Registry staff who have been entrusted with the delicate assignment of caring for witnesses, may have been involved in conduct that might prejudice and pervert the course of justice. It is alleged that attempts were made to corrupt and induce some witnesses in order to have them change their statements before the Tribunal.

Other Registry staff members are alleged to have hosted family members of detainees in Arusha and to have offered financial assistance to these family members as a result of their close relationship.

In the event that the investigations reveal that these acts have actually occurred, they will constitute acts of serious professional misconduct, which will be subject to disciplinary measures, including summary dismissal and termination of employment.

I strongly invite you to refrain from any such conduct that would jeopardize the integrity of the trial proceedings and violate your ethical duties and obligations.

Equally important is the need for you to assist the Registry in maintaining its neutrality and impartiality as well as its good image vis-à-vis all the parties involved in the trial proceedings before the Tribunal.

Any professional misconduct would gravely affect the work of the Registry. It would not be conducive to the successful discharge of the Tribunal’s mandate within the completion strategy framework.

I will have zero tolerance for any such misconduct. Those who are involved in such behaviour should expect swift and firm action from the management.

In conclusion, let me reiterate that professional misconduct or non observance of the standards of conduct expected of the ICTR staff members would lead to disciplinary measures, and where applicable, to termination of contract.

Counting on your understanding and usual cooperation, I thank you very much for listening carefully to what I have just said.

Thank you.

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United Nations

ST/SGB/2003/13



Secretariat

9 October 2003

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## Secretary-General’s Bulletin

### Special measures for protection from sexual exploitation and sexual abuse

The Secretary-General, for the purpose of preventing and addressing cases of sexual exploitation and sexual abuse, and taking into consideration General Assembly resolution 57/306 of 15 April 2003, “Investigation into sexual exploitation of refugees by aid workers in West Africa”, promulgates the following in consultation with Executive Heads of separately administered organs and programmes of the United Nations:

#### Section 1 Definitions

For the purposes of the present bulletin, the term “sexual exploitation” means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual exploitation of another. Similarly, the term “sexual abuse” means the actual or threatened



physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.

## **Section 2**

### **Scope of application**

2.1 The present bulletin shall apply to all staff of the United Nations, including staff of separately administered organs and programmes of the United Nations.

2.2 United Nations forces conducting operations under United Nations command and control are prohibited from committing acts of sexual exploitation and sexual abuse, and have a particular duty of care towards women and children, pursuant to section 7 of Secretary-General's bulletin ST/SGB/1999/13, entitled "Observance by United Nations forces of international humanitarian law".

2.3 Secretary-General's bulletin ST/SGB/253, entitled "Promotion of equal treatment of men and women in the Secretariat and prevention of sexual harassment", and the related administrative instruction set forth policies and procedures for handling cases of sexual harassment in the Secretariat of the United Nations. Separately administered organs and programmes of the United Nations have promulgated similar policies and procedures.

## **Section 3**

### **Prohibition of sexual exploitation and sexual abuse**

3.1 Sexual exploitation and sexual abuse violate universally recognized international legal norms and standards and have always been unacceptable behaviour and prohibited conduct for United Nations staff. Such conduct is prohibited by the United Nations Staff Regulations and Rules.

3.2 In order to further protect the most vulnerable populations, especially women and children, the following specific standards which reiterate existing general obligations under the United Nations Staff Regulations and Rules, are promulgated:

(a) Sexual exploitation and sexual abuse constitute acts of serious misconduct and are therefore grounds for disciplinary measures, including summary dismissal;

(b) Sexual activity with children (persons under the age of 18) is prohibited regardless of the age of majority or age of consent locally. Mistaken belief in the age of a child is not a defence;

(c) Exchange of money, employment, goods or services for sex, including sexual favours or other forms of humiliating, degrading or exploitative behaviour, is prohibited. This includes any exchange of assistance that is due to beneficiaries of assistance;

(d) Sexual relationships between United Nations staff and beneficiaries of assistance, since they are based on inherently unequal power dynamics, undermine the credibility and integrity of the work of the United Nations and are strongly discouraged;

(e) Where a United Nations staff member develops concerns or suspicions regarding sexual exploitation or sexual abuse by a fellow worker, whether in the same agency or not and whether or not within the United Nations system, he or she must report such concerns via established reporting mechanisms;

(f) United Nations staff are obliged to create and maintain an





environment that prevents sexual exploitation and sexual abuse. Managers at all levels have a particular responsibility to support and develop systems that maintain this environment.

3.3 The standards set out above are not intended to be an exhaustive list. Other types of sexually exploitive or sexually abusive behaviour may be grounds for administrative action or disciplinary measures, including summary dismissal, pursuant to the United Nations Staff Regulations and Rules.

#### **Section 4 Duties of Heads of Departments, Offices and Missions**

4.1 The Head of Department, Office or Mission, as appropriate, shall be responsible for creating and maintaining an environment that prevents sexual exploitation and sexual abuse, and shall take appropriate measures for this purpose. In particular, the Head of Department, Office or Mission shall inform his or her staff of the contents of the present bulletin and ascertain that each staff member receives a copy thereof.

4.2 The Head of Department, Office or Mission shall be responsible for taking appropriate action in cases where there is reason to believe that any of the standards listed in section 3.2 above have been violated or any behaviour referred to in section 3.3 above has occurred. This action shall be taken in accordance with established rules and procedures for dealing with cases of staff misconduct.

4.3 The Head of Department, Office or Mission shall appoint an official, at a sufficiently high level, to serve as a focal point for receiving reports on cases of sexual exploitation and sexual abuse. With respect to Missions, the staff of the Mission and the local population shall be properly informed of the existence and role of the focal point and of how to contact him or her. All reports of sexual exploitation and sexual abuse shall be handled in a confidential manner in order to protect the rights of all involved. However, such reports may be used, where necessary, for action taken pursuant to section 4.2 above.

4.4 The Head of Department, Office or Mission shall not apply the standard prescribed in section 3.2 (b), where a staff member is legally married to someone under the age of 18 but over the age of majority or consent in their country of citizenship.

4.5 The Head of Department, Office or Mission may use his or her discretion in applying the standard prescribed in section 3.2 (d), where beneficiaries of assistance are over the age of 18 and the circumstances of the case justify an exception.

4.6 The Head of Department, Office or Mission shall promptly inform the Department of Management of its investigations into cases of sexual exploitation and sexual abuse, and the actions it has taken as a result of such investigations.

#### **Section 5 Referral to national authorities**

If, after proper investigation, there is evidence to support allegations of sexual exploitation or sexual abuse, these cases may, upon consultation with the Office of Legal Affairs, be referred to national authorities for criminal



prosecution.

**Section 6**  
**Cooperative arrangements with non-United Nations entities or individuals**

6.1 When entering into cooperative arrangements with non-United Nations entities or individuals, relevant United Nations officials shall inform those entities or individuals of the standards of conduct listed in section 3, and shall receive a written undertaking from those entities or individuals that they accept these standards.

6.2 The failure of those entities or individuals to take preventive measures against sexual exploitation or sexual abuse, to investigate allegations thereof, or to take corrective action when sexual exploitation or sexual abuse has occurred, shall constitute grounds for termination of any cooperative arrangement with the United Nations.

**Section 7**  
**Entry into force**

The present bulletin shall enter into force on 15 October 2003.

(Signed) Kofi A. **Annan**  
Secretary-General

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**ICTR/Netherlands Embassy Jazz Concert**

The Netherlands Embassy and the ICTR organised a Jazz Concert by the Michiel Borstlap Jazz Trio at the Via Via Café on 11 May 2005. The trio were composed of Michiel Borstlap (piano), Joost Kesselaar (drums) and Guus Bakker (bass).

Michiel Borstlap is one of today's celebrated musicians, regularly performing on renowned stages across the globe. Over the past decade, as a pianist and composer he has gained international acclaim for his original music and his highly communicative interpretations of modern jazz piano.

Applauded at festivals in New York, Sydney, Beijing, Tokyo, Vienna, Cape Town and London for his musical skills and flamboyant virtuosity of the piano, Borstlap also is renowned for his compositions which have been performed and recorded by artists such as Herbie Hancock, Pat Metheny, Wayne Shorter and Bill Bruford. Borstlap composed, assigned by the Emir of Qatar, the world's first Arabic Opera, which premiered in Doha in 2003.

**This event was made possible by Vincent van Zeijst, Counsellor, Political Affairs, Royal Netherlands Embassy**