

## **Slow Progress at Rwandan Tribunal**

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At a cost of over a billion dollars, some say the tribunal to try ringleaders of the Rwandan genocide is too expensive and has dragged on for too long.

This town in northern Tanzania has always been a bustling place thanks to its proximity to the Kenyan border and tourist attractions such as the 15,000-foot Mount Meru and the Ngorongoro Crater, often called the eighth wonder of the world for its spectacular landscapes and wildlife.

But Arusha has become even busier in the last decade courtesy of the International Criminal Tribunal for Rwanda, ICTR. This one-time small town now has a population of just over a quarter of a million and has grown so fast that it was recently awarded city status.

The United Nations Security Council set up the tribunal after the 1994 genocide in Rwanda, in which some 800,000 Tutsis and moderate Hutus were slaughtered. With its goal of trying and sentencing those most for these crimes against humanity, the ICTR is widely seen as one of the most important international justice bodies since Nuremberg.

Yet the court has also drawn a lot of criticism, in particular from Rwandan President Paul Kagame, who said the ICTR was established "to do as little as possible".

During a visit to Canada earlier this year, he accused the West of allowing western actors allegedly complicit in the genocide to get off scot-free. Kagame specifically mentioned "French leaders" who he said "directly took part in the genocide by aiding the Hutu militias". French soldiers intervened briefly on the side of fleeing Hutus, as the army of the Tutsi-dominated Rwanda Patriotic Front, RPF, streamed across the border from Uganda and gradually established control of the country.

Rwandan leaders have also said that time and money could have been saved had the perpetrators been tried at home.

In an interview earlier this year, Alloys Mutabingwa, special representative of the Rwandan government at the ICTR, claimed his country would have used the money more productively - not only by prosecuting perpetrators and helping victims, but also by pouring funds into social development projects.

The ICTR focuses solely on the high-level figures alleged to have instigated the genocide.

Meanwhile, thousands of cases have already been tried in Rwanda, either in regular national courts or in a special traditional system of justice known as "gacaca" designed to relieve the burden on prisons and courts.

Gacaca hearings are held outdoors - the word loosely translates as "justice on the grass" - with household heads serving as judges in the resolution of community disputes. The system is based on voluntary confessions, apologies and pleas for forgiveness by wrongdoers.

At an estimated cost of 1.03 billion dollars by the end of 2007, there have also been complaints that the ICTR is too expensive.

Responding to such claims, ICTR spokesperson Tim Gallimore said: "The cost of the tribunal is within the range of what it costs for comparable international criminal legal proceedings."

Many also feel that far too few suspected perpetrators of crimes have been dealt with and that the process has dragged on for far too long. Only 72 suspects have so far been arrested. Of those, 28 have been tried, 24 convicted, and three acquitted.

"It is not physically possible, given the number of judges and courtrooms that we have, to hear any more cases," said Gallimore. "The process is carefully supervised by elected judges from a wide variety of legal systems and countries. They do their best to ensure that the accused get fair trial rights and that the interests of justice are served for the grave crimes against humanity that were committed in Rwanda in 1994. To do all that, it takes a certain amount of time."

The ICTR has four courtrooms and 18 judges, robed in scarlet with black cravats. They hold hearings from 8 am to 6 pm Monday through Friday for 11 months each year.

Gallimore said casual observers of the tribunal may not fully appreciate the complexity of each case and trial and the enormous amount of work that has been involved in completing 27 trials since the tribunal began work in 1997.

The Rwandan government has also been blamed for dragging out the process.

The trial of the former commerce minister Justin Mugenzi - facing at least ten specific genocide charges as well as a charge of murder - could not proceed in May this year because the government failed to honour its undertaking to transfer Agnes Ntamabyariro, another former minister who is to be a defence witness for Mugenzi, to Arusha. Ntamabyariro is in custody in Rwanda for genocide crimes.

"The Rwandan government is bullying us [the ICTR] and we are being too timid. It looks like we are making excuses for the Rwandan government," Jonathan Kirk, co-counsel for Mugenzi, told the Hironnelle News Agency, a media organisation which reports on Rwandan affairs.

A lawyer who has been with the ICTR for three years told IWPR that Rwanda's lack of cooperation in the Mugenzi case is indicative of the country's distrust and resentment of the tribunal.

"The critics are right in condemning the process as too drawn out and costing too much," she said. "But this tribunal is unquestionably laying the groundwork for future criminal cases - not only with regard to war criminals but also other criminal cases."

Meanwhile, a senior official at the ICTR, who also asked not to be named, said that international justice does not come cheap, "especially if you want to avoid the trap of victor's justice".

But some accuse the ICTR of doing just that - mirroring the Nuremberg tribunal. So far only defeated Hutus have been tried. There are those who want to see closer scrutiny and the indictment of some members of President Kagame's RPF, which now rules the country with an iron fist.

When the then rebel RPF movement invaded Rwanda from its exiled bases in Uganda and ousted the Hutu government from power, some of its members are alleged to have committed atrocious crimes in the process of putting an end to the genocide. There have been calls for these alleged perpetrators, some of whom are in government, to be brought to justice.

Gallimore denied the claim the ICTR is favouring one side over the other.

"The tribunal does not indict and try individuals based on their ethnicity or any other personal criteria," he said. "Our mandate is to bring to justice those most responsible for the 1994 genocide in Rwanda. Where there is credible evidence that individuals committed crimes within the jurisdiction of the tribunal, the prosecutor makes a determination about indictment and trial of such individuals, regardless of their ethnicity."

Independent observers as well as those working within the ICTR are concerned that cases currently on trial will not be finished before the tribunal is due to be wound up at the end of 2008. In an effort to lighten the load, the ICTR has asked several countries - including Norway, South Africa, Botswana and Senegal - if they would accept some cases.

However, there are real problems with transferring cases.

Norway indicated that it was willing to try Michael Bagaragaza, the former director general of the state-run tea industry regulator who is alleged to have ordered tea agency workers to kill hundreds of Tutsis

who were seeking refuge in a church and a factory. But the tribunal ruled that Norway does not have genocide laws, and therefore could not try a person accused of genocide.

Another stumbling block is that most African countries seem to be reluctant to take cases, because it might jeopardise their diplomatic relations with Rwanda.

Despite the already crowded docket and formidable time constraints, there are many more individuals who could face either the tribunal or national courts.

The Rwandan government in May published a list of 171 people being sought in connection with the killings, many of whom have left the country. Two wanted former Rwandan mayors, Celestin Ugirashebuga and Charles Munyaneza, are said to be living quite openly in suburban Britain. In newspaper interviews, Munyaneza has denied the allegations against him.

On both the Rwandan and ICTR wanted lists is wealthy Hutu businessman Félicien Kabuga, who is rumoured to be in Kenya. Kabuga's privately Radio Television Libre des Mille Collines called for the mass murder of Tutsis and others ahead of the genocide. Mille Collines achieved notoriety for its calls to Hutus to "stamp out the [Tutsi] cockroaches".

Kabuga is charged with supplying machetes, hoes and other tools for use as weapons by Hutu mobs. He is alleged to have been the main financial backer of the extremist militias which carried out the massacres

along with the Hutu-dominated government and military.

"We depend on the co-operation of UN member states to aid us in arresting suspects," Gallimore said. The Kenyan government has denied that it is in any way aiding Kabuga.

There has also been criticism that people are being tried in groups by the ICTR.

Fatou Bensouda, a deputy prosecutor at the International Criminal Court in The Hague, who worked at the ICTR first as legal adviser and trial attorney and eventually as head of the legal advisory unit, condemned the practice of trying groups of people instead of prosecuting individuals.

The most drawn-out case has been the so called Butare case in which two former governors in Rwanda's Butare district, Sylvain Nsabimana and Alphonse Nteziryayo, and two former mayors, Joseph Kanyabashi and Elie Ndayambaje, are on trial. The only woman on trial, Pauline Nyiramasuhuko, former Minister of Family and Women's Affairs, is also grouped with these men - accused of instigating rape and murder.

The trial of Nyiramasuhuko's son Shalom Arsene Ntahobali, an alleged militia leader in Butare, opened in June 2001 and has no end in sight. The prosecution took three-and-a-half years to argue its case, and there are indications that the defence attorneys will need the same amount of time.

The Butare case has been marked by internal splits among the accused: Kanyabashi and Nsabimana claim that Nyiramasuhuko and Ntahobali masterminded the violence in Butare. Mother and son in turn blame other senior government officials.

The ICTR is racing against time, but it is undeniably promoting future international jurisprudence. Its very existence makes a strong statement about putting an end to impunity. Long before Charles Taylor, the former ruler of Liberia, was arrested and put on trial before the Special Court for Sierra Leone, the ICTR laid a solid foundation for bringing to justice the perpetrators of crimes against humanity.

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**Location:** [Africa](#)

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