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## **International Criminal Tribunal for Rwanda: Achievements and Shortcomings**

Only an impartial, fair and effective tribunal that abides by the highest UN standards can help put an end to the cycle of impunity and violence and begin restoring respect for human rights in the Central Africa region, Amnesty International said in a new report today.

The report, *International Criminal Tribunal for Rwanda: Trials and Tribulations*, records the achievements and weaknesses of the International Criminal Tribunal for Rwanda (the Tribunal) set up by the United Nations (UN) Security Council in November 1994 to prosecute those responsible for the genocide and other crimes against humanity in Rwanda that year.

The report highlights weaknesses in the Tribunal's policies and practices that have undermined the rights of detainees and aspects of the right to a fair trial, and damaged the effectiveness of the Tribunal in bringing perpetrators to justice.

Amnesty International strongly supports the work of the Tribunal. This international body has faced tremendous obstacles in creating a whole judicial process from the ground up. Isolated in Arusha, far from the travel hubs of Africa, crucial staff positions have been vacant for long periods, and staff have to try and make UN rules and regulations work for a judicial process.

Despite these difficulties, the Tribunal has in custody some of the highest officials of the former Rwandese Government allegedly involved in the genocide, including the former Prime Minister. Witnesses for the prosecution and defence have courageously given evidence in the first three trials, and judgment in the first trial is expected in the coming months. But justice for all Rwandese and the world means that every aspect of the trials must be unquestionably impartial, prompt and effective.

"All eyes are on this Tribunal," Amnesty International said. "Everything it does sets precedents for governments and for the future permanent international criminal court. Its work will strengthen or erode the fairness and justice of trials worldwide."

Amnesty International has scrutinized the Tribunal's work in Arusha and Kigali, against international standards and best practice. The little experience in running a court has led to inefficiency and confusion, unacceptable delays and in at least one case a dangerous breach of confidential information.

The Tribunal has sometimes failed to abide by its own Rules of Procedure and UN standards on the rights of detainees and accused. "Surely a court created by the UN should be expected to abide strictly by all the highest standards laid down by the UN itself. This is not always happening in Arusha," Amnesty International concluded.

The findings of Amnesty International include the following:

- The witness protection scheme of the Tribunal is weak and lacking in relevant experience. It may be putting witnesses at risk and putting justice in jeopardy. No African or other state has agreed to allow witnesses who cannot return safely to Rwanda to be relocated to their country and protected.
- Some of the accused have been in custody for more than 30 months and some may spend several years in detention before their trials are complete. Some of the delays are the responsibility of the Tribunal, including the court being in recess for four months out of 12 months, delays in bringing formal charges against suspects and in hearing applications for orders.
- There are unacceptable delays in hearing applications for orders. In one case an urgent motion for protection of witnesses was delayed for so long it became redundant when the refugee camp where the witnesses were located was attacked and the witnesses dispersed. In another case an urgent *habeas corpus* application was just never heard.
- In a few cases the failure to apply international standards and the Tribunal's Rules of Procedure has compromised the rights of detainees. In one case an accused has been held in an unrecognized place of detention. In another, a detainee who had been mistakenly arrested in Nairobi was held in unlawful detention for almost two months in Arusha.
- The Tribunal has not yet initiated any cases against members of the then Rwandese Patriotic Front (RPF) alleged to have committed abuses during 1994.
- There is a disturbing and sometimes dangerous lack of competent strategy for the dissemination of public information. In one case the Registry distributed a document which included names of witnesses ordered by the court to be kept confidential. In another case an indictment was publicly distributed which contained charges a judge had ordered to be struck out.

"The judges, prosecution and Registry have a shared responsibility to address these shortcomings, backed up by the UN itself," Amnesty International said.

States in the UN and the Organization of African Unity should also ask themselves if they are doing all they can to support and strengthen the Tribunal. Have they passed laws to be able to cooperate with the Tribunal? Have they offered to receive and protect witnesses or to provide prison facilities? Are they ensuring the Tribunal receives the financial and political support it needs?

“Justice must be done and seen to be done,” Amnesty International said. “Only in this way will the decisions of the Tribunal be accepted by everybody in Rwanda and in the international community, and contribute to national reconciliation.”  
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