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TRIBUNAL PENAL INTERNATIONAL POUR LE RWANDA

CHAMBRE DE PREMIERE INSTANCE I

Devant : Erik Mose, Presiding
Sergei Alekseevich
Florence Rita Arrey

Greffier : Adama Dieng

Date : 26 novembre 2007

LE PROCUREUR

contre

Gaspard KANYARUKIGA

Case No. ICTR 2002-78-1

JUDICIAL RECEIVED
2007 NOV 26 P 4 50

Motion by ADAD (the Organization of ICTR Defence Counsel) for Leave to Appear and Make Submissions as *Amicus Curia* In Opposition to the Prosecutor's Rule 11bis Request to Refer the Case of Gaspard Kanyarukiga to Rwanda Pursuant to Rule 74

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BACKGROUND

1. On 7 September 2007, the Prosecutor of International Criminal for Rwanda filed the “*Prosecutor’s Request for the Referral of the Case of Kanyaruikiga to Rwanda Pursuant to Rule 11bis of the Tribunal’s Rules of Procedure and Evidence*”¹.
2. A similar request has been made in the cases of *Prosecutor v. Kanyarukiga*, *Prosecutor v. Munyakazi* and *Prosecutor v. Kayishema*, all of which are the subject of requests for referral to Rwanda by the Prosecutor.
3. On November 7, 2007, the Republic of Rwanda was granted leave to appear as *amicus curiae* in support of the Prosecutor’s Rule 11bis Request for the Referral...to Rwanda in the on or more of the above-referenced cases in the *Prosecutor v. Munyakazi*.² This Motion anticipates that the *amicus* request of the Republic of Rwanda will be treated similarly in each proceeding.
4. On November 8, 2007, Human Rights Watch [HRW] has also been granted leave to appear as *amicus curiae* in one (or more) of the above-referenced cases, in light of important information regarding the functioning of the legal system of Rwanda, and its concern for fair proceedings in bodies governed by international jurisprudence.³
5. The International Criminal Defense Attorneys Association [ICDAA] has requested *amicus* standing in one (or more) of the above-referenced cases.⁴ The ICDAA is also concerned with international jurisprudence, as it particularly relates to fair trials and *equality of arms* for the Defence.

¹ *Prosecution v. Kanyarukiga*, No. 2002-78-1, Request of September 7, 2007.

² *Prosecution v. Munyakazi*, No. 97-36A, Decision of November 9, 2007 (Whether Rwanda has been granted *amicus* status in other cases above is clear from the available record.)

³ *Prosecutor v. Kayeshima*, No. 2001-67-01, Decision of November 8, 2007 (Whether HRW has sought or will, seek *amicus* status in all four cases in not known to Petitioner.)

⁴ *Prosecutor v. Hategehimana*, No. 2000-55-1 (November 19, 2007). (Whether, ICDAA has sought or will, seek *amicus* status in all four cases in not known to Petitioner.)

6. Amnesty International as also filed a request to appear *Amicus Curiae* in one or more of the cases related to transfer, and/or the inability of the Defence to function properly in Rwanda.⁵
7. Proposed *amicus*, ADAD, would note that the serious implications of these transfer decisions, and the absolute necessity of the Chambers having a full factual record to make a reasoned decision, militate in favor of the Chamber accepting a broad range of *amici*. Moreover, a full and fair proceeding, including several non-duplicative *amici* and the opportunity to present and test evidence, will protect any decision of this Chamber from subsequent review, or public criticism.
8. However, because of the unique status and experience of ADAD members and their associates with : carrying out ICTR investigations in Rwanda ; threatened or actual prosecution of members of ICTR Defence Teams by the Rwandan Government ; and, other actual experiences with the respect of the Rwandan Government's respect for the Rule of Law at the ICTR, ADAD is in a position to assist all four Chambers in a manner that is not possible for any other *amicus curiae*.

STATUS OF ADAD AS PROPOSED AMICUS CURIAE

9. ADAD (Association des Avocats de la Defence) is an unincorporated voluntary association that has been the *only* organized voice of the Defence at the ICTR for nearly 10 years. Unlike the ICTY, which created a formally recognized Defence Bar within the Tribunal structure, the ICTR has chosen NOT to establish such formal entity for representation of Defence Counsel interests at the ICTR. In the alternative, ADAD formed as a voluntary association of Defence Counsel for the purpose of ensuring fair trials and to permit the collective voice of Defence Counsel to be expressed at the ICTR.

⁵ In *Prosecutor v. Rukondo*, investigator Leonidas Nshogoza has been prosecuted in Rwanda for carrying out normal defence activities in Rwanda. See, *Declaration of Defence Counsel of November 24, 2007* and request for immunity pending before the Trial Chamber in that case. See also, Report of Amnesty International, November 2, 2007, *Suspects must not be transferred to Rwandan courts for trial until it is demonstrated that trials will comply with international standards of justice*.

10. In its capacity as the only organized group representing Defence interests at the ICTR, ADAD has attended ICTR Plenaries at the request of the President and Judges, as well as upon request from ADAD. In addition, ADAD has previously sought *Amicus Curiae* status relating to the transfer of cases to Rwanda in 2004, although the transfer of cases did not take place at that time. ADAD has also played a consultative and representative role in resolving numerous issues in which the Tribunal has found ADAD to be a useful interlocutor, including the unlawful arrest of Defence Counsel Gakwaya at the ICTR in September 2006; conditions of confinement at UNDF; and, numerous procedural and administrative matters related to the Defence function at the ICTR.
11. The majority of Defence attorneys at the ICTR are either formal members of ADAD or voluntarily associates of ADAD. Meetings are open to all Defence teams. The ADAD membership is composed of senior and junior members of bar of African, European and North American jurisdictions, all of whom are bound by the professional obligations of their national jurisdictions, as well as those imposed as a condition of assuming responsibilities at the ICTR. The current officers of ADAD are: Prof. Peter Erlinder (USA), President, Me. Gershom Otachi Bw'Omanwa (Kenya), Me. Mathias Sahinkuye (Denmark), Me. John Philpot (Canada), Me. Christopher Black (Canada) and Me. Nathalie Leblanc (Canada).
12. The Association's objectives include promotion of fair trials and the establishment of a sound foundation of international jurisprudence, which includes the specific obligation to uphold and defend the juridical integrity of the International Criminal Tribunal for Rwanda, as a specific condition of appointment to the ICTR, as Members of the Bar of our respective jurisdictions, AND under the Constitution of ADAD.⁶

⁶ The ADAD statute is on record with the Registry and available from ADAD on request.

**THE UNIQUE ASSISTANCE TO THE COURT WHICH ADAD CAN PROVIDE
AS *AMICUS CURIAE*.**

13. Rule 74 of the Rules of Procedure and Evidence empowers a Chamber, “if it considers it desirable for the proper determination of the case, to invite or grant leave *to any state, organization or person* to appear before it and make submissions on any issue specified by the Chamber.” (emphasis added)
14. ADAD submits that its appearance as *Amicus curia* will uniquely assist the Trial Chamber in its determination of the Prosecutor’s Request for the referral of ICTR cases to the Republic of Rwanda, within the meaning of Rule 74 of the Rules of Procedure and Evidence (hereinafter the Rules), as elaborated by the Tribunal’s jurisprudence.⁷
15. The provisions on *amicus curiae* at the ICTY and ICTR are identical. In both Tribunals, the Judges have been significantly liberal in granting pleas for *amicus curiae*. Rule 74 of the Rules and the Tribunal’s jurisprudence make clear that when determining whether to grant leave to *amicus curiae* to appear before the Chamber,

⁷ *The Prosecutor vs Laurent Semanza*, Decision on the Kingdom of Belgium’s application to file *Amicus Curiae* Brief and on the Defence application to strike out the observations of The Kingdom of Belgium Concerning the Preliminary Response by the Defence, 9 February 2001; *The Prosecutor vs Jean Bosco Barayagwiza*, Order (AC), 8 December 1999; *The Prosecutor vs Alfred Musema*, Decision on Application By *African Concern* for leave to appear as *Amicus Curiae*, Decision of 17 March 1999; *Nahimana et al. v. The Prosecutor*, Decision on the Admissibility of the *Amicus Curiae* Brief Filed by the Open Society Justice Initiative and on its Request to be Heard at the Appeals Hearing, 12 January 2007; *The Prosecutor v. Bagosora et al*, Decision on *Amicus Curiae* Request by Rwandan Government, 13 October 2004; *The Prosecutor v Nyiramasuhuko et al*, Decision on the Motion of Tharcisse Muvunyi for Leave to Make Submissions as *Amicus Curiae* in the Butare Trial, 8 June 2001; *The Prosecutor v Bagosora et al*, Decision on *Amicus Curiae* Request by African Concern, 23 March 2004; *Prosecutor v Ntagerura et al*, Decision on the Application to File an *Amicus Curiae* Brief According to Rule 74 of the Rules of Procedure and Evidence Filed on Behalf of the NGO Coalition for Women’s Huma Rights in Conflict Situations, 24 May 2001; *The Prosecutor v Seromba*, Decision sur les Requêtes en Annulation de Sanction et Intervention en qualité d’*Amicus Curiae*, 22 Octobre 2004 ; *The Prosecutor v Bagosora et al*, Decision on the *Amicus Curiae* Application by the Kingdom of the Government of Belgium, 6 June 1998; *The Prosecutor v Bagosora et al*, Reconsideration of Earlier Decision on *Amicus Curiae* Application by Kingdom of Belgium, 13 February 2007; *The Prosecutor v. Akayesu*, Order Granting Leave for *Amicus Curiae* to Appear, 12 February 1998; *The Prosecutor v Bagagaragaza*, Decision on Rule 11 *bis* Appeal, 30 August 2006.

the Chamber must consider whether such submissions would assist the Chamber in considering the questions at issue.⁸

16. The members and associates of ADAD have more than decade of professional experience specific to the ICTR and to impediments to fair trials involving the Rwandan Government, both within Rwanda and without. As a result, ADAD and its associates are particularly well-situated to provide the Chamber with specific, detailed evidence and analysis, as well as collective experience that cannot be equaled by either the Rwandan Government, nor any other prospective *amici*.
17. Moreover, unlike any other prospective *amici*, the members of ADAD are obligated under the Rules of the Tribunal, itself, to assist the Tribunal in doing justice and to uphold the integrity of the Tribunal process, while representing the interests of the Accused. And, in the absence of counsel, or the Accused, ADAD is obligated to request leave to appear as *amicus*, under the specific Professional Rules governing the appearance of all Defence Counsel at the ICTR.⁹
18. The Association notes that a Government or Non-Governmental Organization not actually responsible for the defence of cases at the ICTR can have no more interest in the outcome of proceedings, and less specific experience with these issues, than would the only organization of Defence Counsel representing actual parties

⁸ *Nahimana et al. v. The Prosecutor*, Decision on the Admissibility of the *Amicus Curiae* Brief Filed by the Open Society Justice Initiative and on its Request to be Heard at the Appeals Hearing, 12 January 2007, para 2.

⁹ Code of Professional Conduct for Defence Counsel

Article 5 -- Competence and Independence

...Counsel must:

- (a) Act with competence, dignity, skill, care, honesty and loyalty;
- (b) Exercise independent professional judgement and render open and honest advice;...
- (d) Preserve their own integrity and that of the legal profession as a whole;
- (e) Never permit their independence, integrity and standards to be compromised by external pressures....

Article 15 --Impartiality of the Tribunal

(1) Counsel must take all steps to ensure that their actions do not bring proceedings before the Tribunal into disrepute...

Article 20 Misconduct –

It is unprofessional conduct for Counsel, inter alia, to:

- (d) Engage in conduct which is prejudicial to the proper administration of justice before the Tribunal;...

appearing before the Tribunal. Both Defence Counsel and their clients stand to suffer immediate, direct and irreparable harm on the order of a threat-to-life, itself, in the event of an adverse decision.¹⁰

NATURE OF THE REQUEST

19. ADAD submits that its appearance as an *Amicus* will assist the Trial Chamber in its determination of the Prosecutor's Request for the referral of the Accused for trial in Rwanda in a manner unique to the *only* entity charged with representing the collective voice of the Defence Counsel appearing at the ICTR. And, given the experience of its members with the precise questions pending before the Chamber only ADAD is in a position to provide the Chamber with concrete responses to the Chambers' concerns.
20. The Association opposes the Prosecutor's Application of 11 June 2007 and wishes to put before the Chamber and on the public record, matters relating to foundational questions relating to International Jurisprudence and the "legacy" of the Tribunal, all of which are related to fair trials in the international arena, generally, and concepts of fundamental fairness in this particular context.

INITIAL SUBMISSIONS OF PROPOSED *AMICUS CURIAE*

21. In his submission the Prosecutor says that transferring trials to Rwanda can be undertaken preserving the right to a fair trial for the accused and preserving his other basic rights. This is an assertion with which ADAD must differ in light of the decade of experience of its members being impeded from functioning properly in

¹⁰ The Decision of this Chamber, dated November 8, 2007 granting leave for Human Rights Watch to appear *Amicus Curiae* (pp 5-6) and the Order to *Amicus*, Government of Rwanda, in Prosecutor v. Munyakzi, issued November 9, 2007 (pp. 6-8) both note, with specificity, a number of issues with which the Chamber is particularly concerned.. Without addressing each issue at this point, ADAD notes that its members are in the best position to provide the Chamber with first person accounts that address many of the questions raised by the Chamber of which other *amici* may not even be aware.

Rwanda, even with the advantage UN immunity, which will not apply to the defence in a national jurisdiction should cases be transferred to Rwanda.¹¹

22. Further, the Prosecutor does not address issues related to any apparent necessity of holding such trials in Rwanda, as opposed to other locations in member-states who were not a party to the 1994 War in Rwanda, nor the choice of Rwanda as an alternative venue for the holding of trials of ICTR
23. Although the Prosecutor's request relates to only four accused, who have not yet been brought to trial through no fault of their own, the Prosecutor's motion raises serious issues of law and fact with far-reaching implications, not only for the particular Accused mentioned in the request, but also to all accused persons awaiting trial; to all persons with pending trials at the ICTR; and, to all convicted detainees who have not yet been transferred from UN custody.
24. If the orders sought are granted, a precedent would be set that undermines, if not completely erodes, the intended independence and impartiality of the Tribunal, particularly in light of recent revelations from the Office of the Prosecutor, itself, regarding improper influence in favor of the Government of Rwanda in 2003¹² and the suppression of indictments of RPF leaders in 1997.
25. If the orders requested are granted, irreversible precedent will have been set, which will affect the entire defence (the accused persons and their defence teams), in this and other Tribunals, and will establish ICTR Jurisprudence that is inconsistent with

¹¹ In this regard, the Rwandese investigator for the Rukondo Defence Team, Nshogoza, is now facing 10 years in prison on the charge of 'minimization of genocide' after being arrested while on mission for the ICTR in Rwanda. The 2006 arrest of Defence Counsel Gakwaya while attending trial at the ICTR was referenced earlier.

¹² According to former members of the OTP, i.e. former Chief Prosecutor Carla del Ponte and Michael Hourigan, Q.C., the Judges of the ICTR have been denied a full explication of events in Rwanda in 1994. See, Hartmann, '*Paix et chatiment : les guerres de la politique et de la justice internationales*' (Paris, Flammarion, September 10, 2007) pp. 262-275 [excerpts attached as an APPENDIX] and Exhibit DNT 365 (affidavit of QC Hourigan and related documents) Military 1 Trial Record [excerpts attached as an APPENDIX].

the primary mandate of the ICTR (i.e., to hold *all* persons who committed crimes in Rwanda in 1994 accountable for their acts).¹³

26. Although the Accused is represented by skilled counsel, highly-skilled advocates recently arrived at the Tribunal, with no experience with the practical realities of litigation at the ICTR over time, are not well placed to inform the Chamber about the numerous examples of conduct and policies of the Rwandan Government, and the OTP at the ICTR over the long history of the Tribunal. This history raises serious questions as to whether the ICTR Chambers can reasonably expect the Rwandan Government to provide fair trials, in settings in which the life or health of the Detainees is not at risk before, during, or after trial, including, but not limited to such matters as:

- threats by the Rwandan Government to prevent ICTR witnesses from attending trial, in response to Defence cross-examination of witnesses, thus intentionally influencing the course of the ICTR and demonstrating no scruples about doing so;¹⁴
- the long history of witness intimidation and manipulation of ICTR witnesses testifying in Arusha, by the Rwandan Government,¹⁵ with many ICTR defence witnesses having to testify confidentially because of their fear of retribution upon return to Rwanda;
- the arrest or threatened arrest of ICTR Defence Team members in Rwanda for “minimization of Genocide” under Rwandan law based solely upon work

¹³ **Statute of the International Criminal Tribunal for Rwanda**

Having been established by the Security Council...the International Criminal Tribunal *for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the territory of Rwanda...between 1 January 1994 and 31 December 1994...* shall function in accordance with the provisions of the present Statute. (emphasis added).

Article 1

The International Tribunal for Rwanda shall have the power to prosecute persons responsible for serious violations of international law in the territory of Rwanda...between 1 January 1994 and 31 December 1994...(emphasis added)...

¹⁴ See, Hartmann, ‘*Paix et chatiment : les guerres de la politique et de la justice internationales*’ (Paris, Flammarion, September 10, 2007) pp. 262-275

¹⁵ Report of Prof. Filip Reyntjens of August 16, 2007, Butare Case, ICTR. *See generally*, Amnesty International Report of November 2, 2007.

necessary for the defence at the ICTR,¹⁶ thus establishing with certainty that unfettered defence investigation is not possible in Rwanda, even for ICTR cases;

- the arrest of Defence Counsel in Arusha during attendance at the ICTR based on warrants issued by the Rwandan Government despite the protection of UN Immunity applicable at the ICTR,¹⁷ thus demonstrating that Defence Counsel in Rwanda can expect no better treatment in Rwanda and raising the possibility of detention in any state that might chose to cooperate with Rwanda;¹⁸
- dismissal of former Chief Prosecutor del Ponte in 2003 under pressure from the United States and the United Kingdom, after she attempted to comply with the mandate of the ICTR by bringing charges against *both* sides in the 1994 Rwanda War;¹⁹ thus demonstrating that the current Rwandan Government is not, and cannot be, unbiased in establishing responsibility for crimes committed in Rwanda ;
- the 1997 destruction of investigative files (recommending the indictment of Paul Kagame for the assassination of President Habyarimana) at the order of then-Chief Prosecutor Louise Arbour, as reported in the sworn affidavit of former ICTR Prosecutor, Australian Queen's Counsellor Michael Hourigan,²⁰ which confirms that the evidence sufficient for prosecution of members of the Rwandan Government has existed at the ICTR-OTP for more than ten years, thus calling into question whether the Chambers can rely on the Prosecutor in assessing the fairness of the trials in Rwanda ;

¹⁶ ICTR Defense investigator, Léonidas NSHOGOZA was arrested 16 June 2007 in Gitarama two weeks before his client, Emmanuel RUKUNDO, was scheduled to commence the presentation of his case. He appeared on 19 November 2007 before the Tribunal de Grande Instance de GASABO in RUSORORO for his trial on charges of compromising witnesses and "minimization of genocide" for allegedly being complicit in the retraction of prosecution witness testimony. The 26 June 2007 decision found that NSHOGOZA had become "expert in the search for people to testify in defence of persons accused of genocide before the International Criminal Tribunal for Rwanda in Arusha, Tanzania". The charge of minimization of genocide provided for in the law 33bis of 6 September 2003 carries with it a sentence of between 10 and 20 years. On 19 November the Prosecutor asked the Tribunal de Grande Instance de GASABO to sentence NSHOGOZA to 10 years imprisonment.

Similar charges were laid against a former legal assistant for the Ntabakuze Defence in Military 1, Emilien Dusabe, who left his ICTR post to seek asylum when he learned he was to be charged in connection with his work with defence witnesses in Rwanda.

¹⁷ Former ADAD colleague, Lead Defence Counsel Me. Gakwaya was arrested in September 2006, when he arrived at the ICTR. He was released only through intervention of the Tribunal, but was unable to continue his appointment because of the danger of being arrested. See, The News Times, July 2, 2006 (Kigali). He is recently deceased.

¹⁸ The Government of Rwanda is asking for a 10-year sentence for Rukondo investigator, Leonides Nshogoza, based on the charge of « minimization of Genocide » under Rwandan Law, Rule 33 bis. Under this theory, all Defence Team members are subject to liability for nothing more than performing their professional functions.

¹⁹ See, Hartmann, 'Paix et chatiment : les guerres de la politique et de la justice internationales' (Paris, Flammarion, September 10, 2007) pp. 262-275

²⁰ Exhibit DNT 365 (affidavit of QC Hourigan and related documents) Military 1 Trial Record.

- the existence of significant evidence already in the public record of the ICTR that Pres. Kagame and the RPF are, themselves, war criminals as has also been found by Judge Bruguiere in France²¹, and Judge Garcon in Spain;²²
27. In both of the Decisions granting *amicus* status to the Rwandan Government, and to Human Rights Watch, each Chamber was quite precise in framing issues in which each Chamber were particularly interested.²³ Many of the questions put to both the Rwandan Government, and the Human Rights Watch require information and experience from the ICTR Defence, which is the Chamber's best source of assistance in determining whether *theory and practice* coincide, regarding virtually all of the questions posed by the Chambers, such as the nine subparts of Question II put to HRW in *Kayeshima* and Questions (i) through (ix) put to Rwanda in *Munyakazi*.
28. The foregoing issues are merely the tip of a very large iceberg of evidence and facts, which have built up over years, and are beyond the ability of a *single* defence team to accumulate for the benefit of the Chamber. IF the Chamber is interested in having its findings on the transfer motions coincide with evidence already in the ICTR public record.²⁴
29. The Chamber would also benefit from examining documents already in the ICTR public record, including : October 1994 reports of RPF crimes by Human Rights Watch;²⁵ Amnesty International ;²⁶ and, the United Nations High Commission for

²¹ Bruguiere, *Ordonnace de soit communique*, November 16, 2006

²² Garcon Indictment, Madrid, May 30, 2007.

²³ *Prosecution v. Munyakazi*, No. 97-36A, Decision of November 9, 2007, pp. 6-8 ; *Prosecutor v. Kayeshima*, No. 2001-67-01, Decision of November 8, 2007 , pp. 5-6.

²⁴ Including, but not limited to: (a) the testimony of: Prof. Filip Reyntjens (regarding Rwandan Government tampering with ICTR witnesses) and evidence; (b) former Chief Prosecutor Carla del Ponte (regarding interference from the U.S. and U.K. to prevent the prosecution of Pres. Kagame and other members of the Rwandan Government in 2003) ; (c) former ICTR Prosecutor Michael Hourigan, QC (regarding suppression of RPF/Kagame indictments in 1997 ; (d) former RPF officers, such as Abdul Ruzibiza (regarding crimes committed by their RPF colleagues during 1994) ; and (e) former Chief Prosecutor Richard Goldstone, who has publicly stated that the Prosecution of President Kagame and members of the current Rwandan Government IS within the jurisdiction of the Tribunal (Danish Daily, *Berlingske Tidende-National*, Dec. 10, 2006) all are factors to consider in determining whether these Chambers can rely on the Rwandan Government to adhere to international standards in convicting and punishing their enemies.

²⁵ Human Rights Watch Report on Rwanda, September 1994, Exhibit DNT 261, Military 1.

Refugees [UNHCR] ;²⁷ the November 2006 indictments issued by Judge Bruguiere of France and his recommendation that Pres.Kagame be prosecuted at the ICTR ; the 2007 indictments issued Judge Garcon of Spain ; and, the May 17, 1994 UNHCR document which confirms massive RPF crimes being committed in areas under their control,²⁸ among others.

30. Without the assistance of the collective experiences of : former prosecutors del Ponte and Hourigan; ADAD members and associates with first-hand experience with the actual practices of the Rwandan Government at the ICTR, the Chamber will be unable to render a Decision that will stand the test of time, and the predictable scrutiny of the « ICTR legacy » with which we are all concerned.
31. Only ADAD can provide the Chamber with specifics, arising from proceedings at the Tribunal, beyond the brief references in this Motion. Should ADAD be denied *amicus* status, the Chamber will be creating a glittering anomaly in the Jurisprudence of the Tribunal.
32. The Chambers of the ICTR have not been treated fairly by the OTP, who has refused to put the parties and evidence before the Chambers take would permit a reasoned assessment of liability for crimes in Rwanda, the Chambers should not compound *selective prosecution* with *selective consideration of the facts*, when, as here, the Chamber is not limited to the case put before it by the OTP.

²⁶ Amnesty International Report on Rwanda, October 1994. Exhibit DNT 258, Military 1.

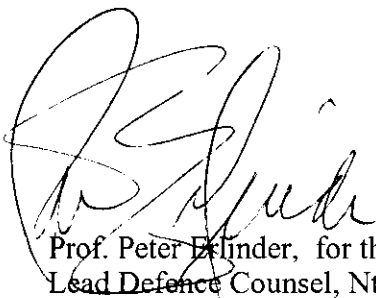
²⁷ The August 1994 Report of UNHCR Investigator Robert Gersony. Military 1 Exhibit, DNT 260, DK 112 and related testimony of former RPF Foreign Minister Jean Marie Ndagijimana on Nov. 16, 2006.

²⁸ UNHCR Report of RPF crimes dated May 17, 1994, Exhibit DNT 259, Military 1.

CONCLUSION

33. ADAD, the *only* Association of ICTR Defence lawyers, prays that in the interests of justice and fairness, its plea to appear as an *amicus curiae* on the above issues be granted.
34. The Association undertakes to file her *Amicus* Brief as soon as the Trial Chamber grants this Request, and in any case, within any reasonable timeframe the Trial Chamber may order, and similar to the limits granted to other *amici*.
35. Also, the Association respectfully requests, that there be a full evidentiary oral hearing with fact and expert witnesses, as well as documentary submissions to establish the precise circumstances and conditions in Rwanda, with respect to fair trials and the possibility of meaningful defence in cases involving former and current opponents of the Rwandan Government, in particular.²⁹
36. Finally, the Association respectfully requests the Trial Chamber to issue any other order it considers necessary, in the interests of justice.

Dated at Arusha this 23rd day of November 2007



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²⁹ In this regard, ADAD has specific documentary and real evidence relating to witness intimidation by the Rwandan Government ; criminal prosecution and threatened prosecution of defence team members by the Rwandan Government and interference with the Defence Function at the ICTR by the Rwandan Government, which the practical, real-evidence that only ADAD members can present to the Court.

**PROSECUTOR DEL PONTE: "The Legacy of the ICTR –
the Creation of Legal Impunity"**

**Exerpts from: PEACE AND PUNISHMENT: THE SECRET CONFLICT BETWEEN
POLITICS AND INTERNATIONAL JUSTICE¹**

Evidence of Kagame/RPF war crimes within ICTR jurisdiction sufficient to prosecute.²

261-- Carla Del Ponte, in December 1999, had opened investigations into Tutsi officers of the army of the Rwandan Patriotic Front (RPF) under Kagame's command. These investigations, known as "special investigations", did not relate to the genocide of Tutsis, the primary mandate of the ICTR, but to the massacres of the genocidaires and ordinary Hutu civilians who fled Rwanda in large numbers before the advance of the RPF.... It would make it possible, at the same time, to short circuit the inclination of Judge Jean-Louis Bruguiere to have President Kagame indicted by the ICTR. Since 1998, the French judge had been in charge of the inquiry into the attack on the plane of Rwandan president Juvénal Habyarimana...

262--...The Judge was convinced that Paul Kagame was the instigator of this attack. However, even though his investigations had reached the conclusion that the current Rwandan Président was involved, the immunity granted in France to Heads of State in situ prevented any prosecution there...In November 2001, the Americans were interested in Judge Bruguiere's progress at the ICTR and questioned Del Ponte on what she knew about Kagame. But they did not at this time make known their opposition to any proceedings against their ally in the area of the Great Lakes, or against his entourage...

263--The International Tribunals were by now perceived as providing justice at too high a price, without quantifiable impact and as having a destabilising effect both in Rwanda and in ex-Yugoslavia: they were simply obstacles to the management of the post-war period... [U.S. Envoy] [Pierre]Prosper remained deaf to the recommendations of the International Tribunal. At the beginning of 2003, he made it more obvious than ever that the Americans wished to subject the court to an entirely political management of its exit strategy....

265--...A side effect of the ICC was to drive the International Tribunal [ICTY/ICTR] out of the Europeans' concerns; they failed to understand that this abandonment suited the American administration's crusade against international justice. The great powers from now on had no further scruples in taking the decision to close the court. ... The year 2003 was to be the high point of international justice's difficulties in maintaining its principles in the face of political powerplay...

¹ *Paix et chatiment : les guerres de la politique* The author, Ms. Florence Hartmann, has been a close associate of former ICTR/ICTY Chief Prosecutor for the time period covered in the book. [Flarion Publishers, Paris, Sept. 10, 2007]. Numbers refer to the original pagination in the French text:

² Subtitles NOT in the original [ed.] Editing of translated text by: Prof. Peter Erlinder, Lead Ntabakuze Defence Counsel in Military 1 and President of ADAD, the defence counsel interests at the ICTR and pas- President of the National Lawyers Guild, NY,NY.
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Rwandan Government manipulates ICTR Prosecutions

...Prosper³ forced a meeting between the Rwandan leaders and the prosecutor of the International Tribunals Carla del Ponte. For a year relations between Kigali and Arusha had been at a low point. In the summer of 2002, the Rwandan government had, for several weeks, paralysed the genocide trials by preventing the arrival of the witness-victims in Arusha. Del Ponte protested in July, then again in October, to the Security Council of UN...

266--[In December 2002]...Prosper further encouraged Del Ponte to...reopen a dialogue with the Rwandan leaders...The prosecutor accepted readily, because Kigali's obstructionism was likely to lead to the acquittal of the genocide suspects, for lack of witnesses. Almost all the prosecution witnesses come from Rwanda. This formidable weapon available to the Rwandan capacity was a counter-attack by Kigali to prevail on Del Ponte to give up her investigations parallel to the genocide, aimed at officers of the tutsi army of the Rwandan Patriotic Front...According to independent experts, some thirty thousand Hutu had been killed on Rwandan territory, at the time the army of the FPR was advancing. The Arusha prosecution had catalogued fourteen sites of massacres and was making efforts to go up the chain of command.

Officially, Kagame promised his assistance, but the General-President never intended to hand over a single one of his men to the ICTR. As a result of the pressures exerted during the summer 2002 Del Ponte was forced to order her three investigators to suspend their mission in Rwanda, but she refused to suspend, even temporarily, the work...Unknown to Carla Del Ponte, the American Michael Johnson, who had arrived in September 2002 in Arusha to take over temporarily the duties of the deputy prosecutor...ordered the suspension of the "special investigations". Del Ponte discovered this only in December...responsibility for the investigation was then entrusted to a British substitute, Marks Moore. The Rwandan authorities knew from now on that Del Ponte would not yield. They turned to their powerful American and British allies ...

Del Ponte Ordered by the U.S. to drop RPF prosecutions...or else.

267--The arrival of Del Ponte in mid-May 2003 in Washington was the occasion for the two parties to get together. Prosper reassured the prosecutor: the United States was proposing to use their good offices and did not intend to interfere in the discussions. Del Ponte did not suspect for a moment what would occur.

On Wednesday May 14, 2003, at the end of the afternoon...at the State Department... Del Ponte and her advisers took their seats around the table, opposite the Rwandan delegation⁴...Pierre Prosper...took an active role, suggesting the broad outline of the discussions. The game was skewed from the beginning. It was played according to rules pre-established by the Americans and the Rwandan...he ended this first meeting by underlining the need for arriving at an agreement on the transfer of cases to Rwanda.

On Thursday May 15 at 5pm there was a further meeting in the same room of the State Department...The message was clear: The ICTR cannot legitimately conduct investigations

³ Peter "Pierre" Prosper was the lead prosecutor in the Akeyesu Case at the ICTR and was appointed Ambassador for War Crimes and served in the U.S. State Department.

⁴ The Rwandan delegation was composed of Gerald Gahina, Prosecutor General of Rwanda, Martin Ngoga, Rwandan liaison officer at the ICTR, and Richard Sezibera, Rwandan ambassador to the United Nations

against the Tutsi soldiers when it is far from having completed its work on the genocide. The Rwandans did not deny the crimes...

268--They said they wanted to deal with it themselves...Prosper intervened on several occasions to encourage the prosecutor to give up the special investigations to Rwanda...[del Ponte] was ready to grant the Kigali authorities a few months to show evidence of their desire to do justice:

"These crimes exist, they cannot be overlooked. To bring proceedings would be a contribution to reconciliation", she insisted.

But she demanded control of these investigations. Prosper tried to dissuade her from this: "Rwanda would lead the inquiries and the proceedings...But in a Rwanda dominated by the Tutsi soldiers...Del Ponte...was unable to allow them to be in sole charge of the possible prosecutions nor give up her primacy in the trials...as Prosper insistently suggested...Prosper proposed that these should be summarized, in the next few days, in a document which could be used as a basis for future negotiations...

269--Friday May 16, at 11 a.m....Del Ponte was at the State Department to discuss the ICTY. Prosper and his advisers ...present a document to her entitled "Summary of the conclusions between the government of Rwanda and the ICTR"...Taken by surprise, Del Ponte agreed nonetheless to look at the text.

The document was a travesty of the content of the discussions of the previous day. It envisaged the abandonment of all the investigations against suspects belonging to the Rwandan Patriotic Army (APR) by the ICTR prosecution and their reference to Rwandan jurisdiction, without any guarantee of results. It required the Arusha prosecution to hand over its catalogue of the sites of massacres and also "to share all the evidence with the government of Rwanda", in spite of the prohibition on transmission of witness statements to another jurisdiction without their agreement.... Del Ponte...repeated the position she had expounded the previous day. Prosper invited her to modify the text...

The State Department advisers noted the objections, and promised to make the necessary corrections. ...The document arrived the following week at the office in The Hague. The Americans had not modified anything of substance. Under the terms of the alleged "agreement" ... The prosecutor of the ICTR would no longer have any control of the investigations nor over the course of possible proceedings and would have to yield all information in her possession to the Rwandan authorities.

270-- Del Ponte rejected the document out of hand...For her part, she informed Kofi Annan's office: he condemned the American manoeuvre but objected to Del Ponte having exposed herself to State pressure.

Del Ponte ejected from the ICTR for upholding the Security Council Mandate

Prosper['s] ...government was under obligation to Kigali having already negotiated the *quid pro quo*. In exchange for the guarantees of impunity against any prosecutions of tutsi soldiers before the TPIR, Kigali was soon to sign a bilateral agreement with the United States which protected American nationals from proceedings before the International Criminal Court....preventing American nationals from being handed over to the ICC. After signing, Kigali would have the benefit of the lifting of the embargo on weapons... substantial military aid from the United States although the war in the neighbouring Democratic Republic of

Congo was still raging, having already cost more than three million lives... to exploit the mineral and natural resources in the area which are the cause of so much greed.

271-272-- Reprisals were not long in coming. The Americans asked the British to take the lead. A powerful supporter of the ICC, Great Britain would be more convincing as the protagonist in this trial of strength against the International Tribunals. At the end of June, Jack Straw gave to Kofi Annan, while passing through Geneva, a letter requesting the separation of the post of prosecutor, hitherto common to the ICTR and the ICTY, and the appointment of a separate prosecutor for the Arusha Tribunal...the renewal of the Del Ponte's mandate seemed to suit everyone, with the exception of London and Washington, who wanted to put her out of the game...

...The negotiations between the members of the Security Council to divide Del Ponte's job, which combined the ICTR and the ICTY began in early July 2003. London and Washington skilfully prepared the ground with the assistance of Kigali. To mobilize diplomatic support, the Rwandan authorities, from the very start of June, together with the victims' organisations, got up a virulent campaign against the ICTR. Kigali was thus able to denounce a "part-time" prosecutor...[t]he Americans and the British claimed that she did not devote enough time to Arusha... The arguments appeared convincing and the majority of the members of the Security Council received the proposal favourably.

Little did they suspect a manoeuvre motivated by the desire to set aside Del Ponte in order to put an end to the "special investigations"... At the beginning of July, the draft Resolutions began to circulate, initially between the five permanent members then between the ten other non-permanent members of the Security Council. The Americans and British were pulling the strings but continued to deny their involvement. They represented to their partners that the initiative came from Kofi Annan... But Kofi Annan was not ready for a new confrontation with the Americans.

...Disillusioned, Iqbal Riza confided privately to Del Ponte: "Its all politics. It should not have happened like this, but everything is politicized." Del Ponte responded "It is unfair that politics undermines our work. I find it wounding to see that we have managed to ridicule the principles of international justice just because Kagamé has signed a bilateral agreement [on the ICC with the United States]..... And Iqbal Riza concluded: "Yes, I know. I recognize the strength of your arguments, I entirely concur, but do not quote me publicly".

The American and British manoeuvring caused a reaction in France which... fought successfully for a mention of the "special investigations" in the resolution. The final text invited Rwanda "to intensify [its] co-operation with the ICTR in particular on the investigations into the Rwandan Patriotic Army".

Supported by several members of the Security Council, Paris also managed to block the original Anglo-American proposal...London and Washington's initiative was to be emptied of its substance, except for the ousting of Del Ponte from the ICTR. ..the fifteen members of the Security Council did not want to take responsibility for demanding a dead halt to the investigations, thus giving impunity to top leaders who were already in the prosecution's sight...[But] [a]ccording to the terms of Security Council resolution 1503 of August 28, 2003, the Tribunal from now on, was required to concentrate its activity on "those principally responsible" for the crimes committed in ex-Yugoslavia.

...Carla Del Ponte was excluded from the ICTR prosecution with immediate effect.

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**THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA
ARUSHA TANZANIA**

CASE NO: ICTR-98-41-I
EXHIBIT NO: ANT 365
DATE ADMITTED: 12-4-2007
TENDERED BY: DEFENCE
NAME OF WITNESS:

AFFIDAVIT OF MICHAEL ANDREW HOURIGAN

Date of document: 8 March, 2007

Filed on behalf of the Plaintiff by: Michael Hourigan
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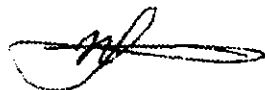

Date and time of filing or transmission: 8 March 2007

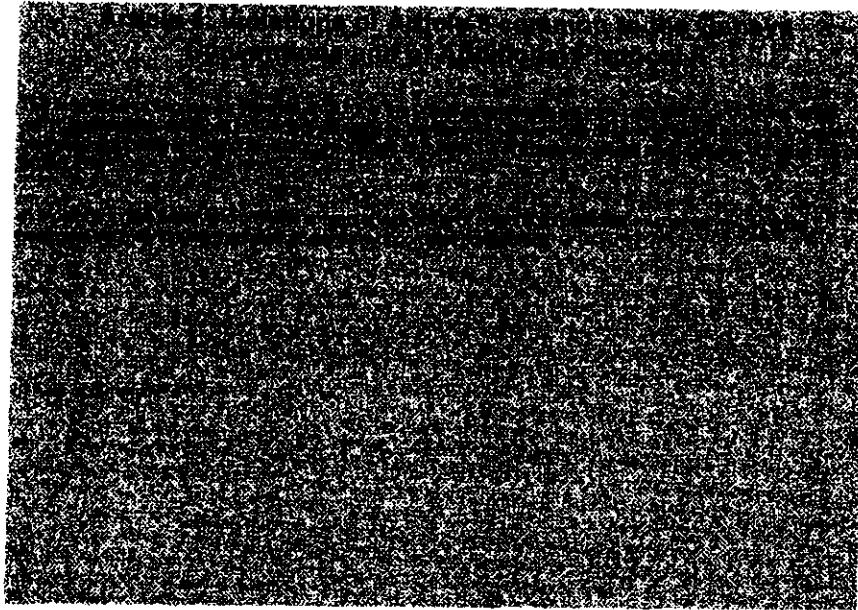
AFFIDAVIT

34510

I, MICHAEL ANDREW HOURIGAN Lawyer of 61-63 Carrington Street Adelaide 5000 in the State of South Australia Solicitor MAKE OATH AND SAY as follows:

- 1 I am a qualified legal practitioner in the State of South Australia. I was also a former police detective before completing a law degree in 1995 after which time I took up a post as a Crown Prosecutor with the Director of Public Prosecutions (D.P.P. Adelaide).
- 2 In April, 1996 I left the D.P.P. in Adelaide and took up a position as an investigator with the International Criminal Tribunal for Rwanda.
- 3 Soon after my arrival in Rwanda I was put made a team leader in charge of a team consisting of about 20 members and the team was to be known as 'the National Team'.
- 4 I was directed by Judge Richard Goldstone (the then Chief Prosecutor) and Judge Honoré Rakotomana (the then ICTR Prosecutor) and Mr. Alphonse Breau (the then Director of Investigations) to focus my teams investigations on the following matters:-
 - 4.1. Investigate the criminal conduct of Colonel Theoneste Bagosora and then locate and arrest him;
 - 4.2. Investigate the criminal conduct of Colonel Anatole Nsengiyumva and then locate and arrest him;
 - 4.3. Investigate the murder of thousands of Rwandan elite in the first days of the genocide by the Rwandan Presidential.
 - 4.4. Identify the person(s) responsible for the fatal rocket attack on 6 April 1994 killing President Habyarimana and all others on board;
- 5 Together with my investigators we conducted investigations into these matters throughout the next year. During the course of 1996 I was called upon to brief Judge Goldstone and then his replacement Judge Louise Arbour and other senior prosecutors on the progress of our investigations into Bagosora, Nsengiyumva, the Presidential Guard and the rocket attack upon President Habyarimana's aircraft.
- 6 At no time did Judge Goldstone, Judge Arbour or any other member of the ICTR ever indicate to me that our investigations into the downing of the President Habyrimana's aircraft were outside the ICTR mandate. On the contrary, it was made clear to me that our investigations into the rocket attack upon the President's aircraft was an act of international terrorism which clearly fell within the ICTR statute Article 4 Violations of Article 3 common to the Geneva Conventions:-



- 7 I am pleased to say that the National Team was successful and we achieved the following results:-
- 7.1. Located, arrested and charged Colonel Theoneste Bagosora with Genocide and Crimes Against Humanity;
 - 7.2. Located, arrested and charged Colonel Anatole Nsengiyumva Genocide and Crimes Against Humanity;
 - 7.3. Gathered evidence against senior members of the Presidential Guard in relation to the killing of key Rwandan citizens, including but not limited to, UNAMIR-protected VIPS Justice Joseph Kavaruganda, (President of the Constitutional Court) and Vice President Lando Ndasigwa (the head of the Parti liberal);
 - 7.4. In late January or early February 1997 members of the National Team were approached by three (3) informants (either former or serving member of the R.P.F.) claiming direct involvement in the 1994 fatal rocket attack upon the President's aircraft. Their evidence specifically implicated the direct involvement of President Paul Kagame, members of his administration and military. The informants also advised that the Kagame administration was actively involved in covert operations aimed at murdering high profile expatriate Rwandans – once such murder was the death of Seth Sedashonga in Nairobi.
- 8 With respect to the highly sensitive information from the three informants regarding the plane crash I immediately informed my Commander Jim Lyons. My Director Mr. Alphonse Breau was out of the country and I arranged for him to be told by telephone.
- 9 The information from the sources was very detailed and seemed very credible. I was very concerned about the sensitivity of the information and arranged for an urgent 'secure' telephone call to Judge Arbour.

- 10 Commander Jim Lyons and I attended at the US Embassy in Kigali and I made a call to Judge Arbour at the US Embassy in the Hague using an encrypted ('secure') STU III telephone. I informed Judge Arbour in considerable detail about the information implicating President Kagame. She was excited by the break through and advised me that the information corroborated some other information she had just learnt from Alison Des Forge the week before. At no time did she suggest that our investigations were improper. On the contrary, I would describe her mood as upbeat and excited that at last we were making significant progress into the events surrounding the plane crash.
- 11 Judge Arbour was concerned about the safety of the informants and my men. I advised her that the informants' identities had been kept secure and if she so directed me I would arrange for my investigators involved in the plane crash to leave Rwanda. She directed that my investigators should leave and I agreed to have them travel from the country on suitable inquiries in Nairobi. As for me I declined to leave Rwanda and advised her that I wanted to stay with my team and assist them complete other important investigations. She consented to this but asked me to keep in touch with her while she considered what to do with this sensitive information.
- 12 During the next week I was directed by senior members of the UN in Kigali that I was required to travel to the ICTY in the Hague in order to meet with Judge Arbour and brief on her on our investigations in the rocket attack upon President Habyarimana's aircraft.
- 13 Some days later I was approached at the ICTR headquarters in Kigali by Mr. Michael Hall, UN Deputy Security (NY). He advised me that I would be flying to Arusha the next day on the ICTR aircraft and from there board an international KLM flight to Amsterdam. Mr. Hall asked me to give him any information that I had on air crash and he would convey it to the airport in a UN diplomatic pouch. I then gave Mr. Hall a single floppy disc containing a memorandum I had prepared for Judge Arbour.
- 14 The next day Mr. Hall conveyed me to the Kigali airport where I checked in for the UN flight. There Mr. Hall and I were told that the flight was overbooked and that I could not to Arusha. Mr. Hall became agitated and told the UN flight officer that the UN Secretary General Mr. Kofi Annan had personally ordered my attendance in Arusha for an international connection the next day. As a consequence I was given a seat on the UN flight and flew to Arusha.
- 15 The next day I flew to the Hague and over-nighted in a hotel near the ICTY.
- 16 The following morning I met with Mr. Al Breau and briefed him on the information concerning the plane crash. Together we discussed forming a special ICTR investigations unit based outside of Kigali to investigate the plane crash.
- 17 Following breakfast Mr. Breau and I attended at the ICTY and met with Judge Arbour. Also present was Mr. Mohammed Othman, Acting ICTR Prosecutor.

 Michael H


- 18 I briefed Judge Arbour on the informants and their information regarding the involvement of President Kagame and members of the RPF in the downing of President Habyrimana's aircraft.
- 19 I presented her with a copy of a memo I had prepared entitled '*Secret National Team Inquiry - Internal Memorandum*' and this document which is undated is attached to this statement. This document detailed the information provided by the three informants.
- 20 To my surprise Judge Arbour was aggressive and questioned me about the source of the information regarding the informants and the quality and potential reliability of their information. I advised her that the information was given to me by members from my team - the National Team. Those members were Amadou Deme and Peter Dnistriansky. I advised her that I held both investigators in the highest regard. I did say that I was not able to provide any advice as to the reliability of their information as it had not been tested. However, I did suggest that it was very detailed and this in itself meant that it could be subjected to considerable forensic examination.
- 21 Mr. Al Breau also expressed his strong view that both Amadou Deme and Peter Dnistriansky were highly effective and reliable men.
- 22 Judge Arbour then advised me that the National Team investigation was at an end because in her view it was not in our mandate. She suggested that the ICTR's mandate only extended to events within the genocide, which in her view began 'after' the plane crash.
- 23 I was astounded at this statement. I pointed to the temporal mandate of the ICTR being 1 January 1994 until 31 December 1994 and this clearly covered the time of the plane crash. I also addressed the 'terrorism' and 'murder' provisions of the ICTR statute.
- 24 More particularly I also told her that this was the first time she had ever suggested that this was outside the ICTR mandate. I reminded her that I had personally briefed her before about our investigations into the plane crash and that she had never ever expressed a view that this matter should not be part of an ICTR inquiry.
- 25 I expressed my strong view to her that these Rwandan informants were courageous and were deserving of our protection. I cautioned her that the UN had a history of abandoning informants in Rwanda and I specifically reminded her of the UN's abandonment of Jean Pierre Turatsinze in 1994.
- 26 Judge then became hostile and asked me if I was challenging her authority to direct to end our investigations into the plane crash.
- 27 I told her that I was not questioning her authority only her judgement. I informed her that I was her servant and I would obey her direction.



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- 28 Judge Arbour then asked me if the memo that I had prepared for her was the only copy. I told her that it was and she said she was pleased to hear that and placed in her office filing cabinet.
- 29 She then asked me to leave the room.
- 30 I was extremely concerned at Judge Arbour's decision and felt that it was wrong both in law and policy.
- 31 I returned to Kigali and a short time later resigned from the ICTR.
- 32 After my resignation from the ICTR I was offered a position as an investigator with the UN's Office of Internal Oversight Services (OIOS) in New York. Soon after taking up my appointment I was asked to provide OIOS investigators investigating corruption within the ICTR with a statement re my service in Rwanda for the ICTR.
- 33 On 1 August 1997 I prepared an internal memorandum detailing various issues which I felt lay behind some of the difficulties with the ICTR. A copy of this memorandum is attached here.
- 34 The OIOS leadership were not at all interested in the memorandum and they expressed their concern at some of the contents of the document implicating the Secretary General in some of the serious events in Rwanda in 1994.
- 35 I completed six months with OIOS and resigned.
- 36 I feel that unknown persons from within the UN leadership and possibly elsewhere pressured Judge Arbour to end the National Team's investigations into the shooting down of President Habyarimana.
- 37 Following my resignation my National Team was dismembered – the National Team investigations into the plane crash were brought to an end.
- 38 I have suffered at the hands of Judge Arbour and the UN because my career with the ICTR was brought to an untimely and ignominious end. I was proud of serving with the ICTR but I felt that I could not work for Judge Arbour when, in my view, she acted for personal reasons against the interests of the ICTR, the UN and world community which we served.
- 39 I know the facts deposed to herein to be true of my own knowledge, information and belief except where otherwise plainly appears.

SWORN by the above named Deponent)
 at Adelaide South Australia on the 8th day of)
 March 2007)


 Signature of Deponent

Before me:)

)

NICOLE LIDIS
 A Commissioner for taking affidavits
 in the Supreme Court of South Australia


34506

I, Nicole Lidis, a Commissioner for taking affidavits in the Supreme Court of South Australia, declare that:

On 8 March 2007, in Adelaide, South Australia, I administered an oath to Mr. Michael Hourigan, and witnessed his signature to the attached statement;

and that:

- a) the person making the statement, that is, Mr. Michael Hourigan, is the person identified in the said statement;
- b) the person making the statement, that is, Mr. Michael Hourigan, stated that the contents of the written statement are, to the best of his knowledge and belief, true and correct;
- c) I informed the person making the statement, that is, Mr. Michael Hourigan, that if the content of the written statement is not true then he may be subject to proceedings for giving false testimony;
- d) this declaration is made on 13 March 2007, at Adelaide South Australia.


NICOLE LIDIS
A Commissioner for taking affidavits
In the Supreme Court of South Australia

13/03/07

NICOLE LIDIS
A Commissioner for taking affidavits
In the Supreme Court of South Australia



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input checked="" type="checkbox"/> Trial Chamber I N. M. Diallo	<input type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / Arusha F. A. Talon
	<input type="checkbox"/> Chief, CMS J.-P. Fomété	<input type="checkbox"/> Deputy Chief, CMS M. Diop	<input type="checkbox"/> Chief, JPU, CMS M. Diop	<input type="checkbox"/> Appeals Chamber / The Hague R. Muzigo-Morrison K. K. A. Afande
From:	<input type="checkbox"/> Chamber (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)	<input type="checkbox"/> Other: ADAD (names)
Case Name:	The Prosecutor vs. KANYARUKIGA		Case Number: ICTR-2002-782/	
Dates:	Transmitted: 11/26		Document's date: 11/26	
No. of Pages:	24	Original Language: <input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda		
Title of Document:	motion by ADAD			
Classification Level:		TRIM Document Type:		
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Indictment	<input type="checkbox"/> Warrant	<input type="checkbox"/> Correspondence
<input type="checkbox"/> Confidential		<input type="checkbox"/> Decision	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Notice of Appeal
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Disclosure	<input type="checkbox"/> Order	<input type="checkbox"/> Appeal Book
		<input type="checkbox"/> Judgement	<input checked="" type="checkbox"/> Motion	<input type="checkbox"/> Book of Authorities
				<input type="checkbox"/> Submission from non-parties
				<input type="checkbox"/> Submission from parties
				<input type="checkbox"/> Accused particulars

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

Filing Party hereby submits only the original, and **will not submit** any translated version.

Reference material is provided in annex to facilitate translation.

Target Language(s):

English French Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

Filing Party **will be submitting the translated version(s)** in due course in the following language(s):

English French Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:
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III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date:
<input type="checkbox"/> Normal		<input type="checkbox"/> Other deadlines: