

Controversy over Rwanda Tribunal



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A coalition of four prominent international human rights groups are pressing the UN Security Council to ensure the independence and impartiality of the International Criminal Tribunal for Rwanda (ICTR), despite indirect pressure by the U.S., Britain, and Secretary General Kofi Annan not to prosecute Rwandan military officials for war crimes and crimes against humanity.

In a letter sent Friday to Security Council members, the four groups, including the New York-based Lawyers Committee for Human Rights (LCHR) and Human Rights Watch (HRW) suggested that proposed changes in administration of the ICTR could make it more difficult to prosecute officers in the Tutsi-dominated Rwandan Patriotic Army (RPA), the rebel force that swept to power in 1994 in the immediate wake of the genocide against ethnic Tutsis committed by senior officials of the previous, Hutu-led government and army.

The U.S. and Britain are reportedly concerned that prosecutions of key RPA officers could weaken the Rwandan Patriotic Front (RPF) government at a moment when Kigali is seen as an important ally in the "war on terrorism" in East Africa and as a check to the radical Islamist government in neighboring Sudan. In its hostility to international tribunals, such as the new International Criminal Court, the Bush administration has also stressed its preference for national courts to try cases involving major human rights abuses.

As many as 1 million people, most of them ethnic Tutsis, were killed in a matter of just three months during the spring and summer of 1994, before the RPA swept to Kigali from bases in Uganda and eastern Rwanda. Hundreds of thousands of Hutus fled the country into neighboring Zaire (since renamed the Democratic Republic of Congo--DRC) ahead of the RPA's advance.

A UN Commission of experts established by the Security Council in July 1994 concluded that some members of the RPA had "perpetrated serious breaches of international humanitarian law" and "crimes against humanity" during the military campaign. Rights groups have also charged the RPA with serious abuses in subsequent counter-insurgency campaigns, although not nearly on the scale of the 1994 genocide against the Tutsis.

When the Security Council established the ICTR, it called on the tribunal to prosecute not just the genocide, but also "other systematic, widespread, and flagrant violations of international humanitarian law," including those committed by members of the RPA.

The ICTR, however, has been plagued by management problems since it first got underway in Arusha, Tanzania, in late 1994. Among its problems have been inconsistent leadership, inexperienced attorneys, and the lack of an effective prosecution strategy. These problems, as well as Washington's call for the Court to wind up all of its investigations by September, 2004 and all trials by 2008, have resulted in the latest reform proposals, the most important of which is

to remove the UN's chief war crimes prosecutor, Carla Del Ponte, from jurisdiction over the ICTR.

Del Ponte has long been a thorn in the side of the RPF, which has actively resisted investigations of RPA soldiers. In one case, Kigali even imposed restrictions on the travel of witnesses to genocide trials as way of exerting pressure on Del Ponte to suspend her investigation. Last year, Del Ponte appealed to the Security Council to call directly on Rwanda to cooperate.

Annan announced a week ago that he would recommend that she be relieved of her Rwanda responsibilities and retain her responsibility over the International Criminal Tribunal for Former Yugoslavia (ICTY) when her contract comes up for renewal in mid-September. In contrast to the ICTR, the ICTY under her direction has successfully prosecuted individuals from all sides in the series of wars that wracked the former Yugoslavia during most of the 1990s.

"No tears would be shed if the UN Security Council does not renew her mandate," Rwanda's foreign minister, Charles Murigande, told reporters after Annan's announcement.

But Del Ponte has fought back. In a meeting with the Council Saturday, she warned that any separation of the mandates of both tribunals "would seriously undermine (the tribunal's) independence."

"Undue pressures took place to push me to abandon certain investigations," she said in an allusion to her suspension of investigations against RPA officials. "Although I always considered my task as a prosecutor to be outside the scope of politics, I was unfortunately exposed more than I would have liked." But Washington said it intended to introduce a resolution this week that would formally separate the two courts and establish a new prosecutor for Rwanda. The rights groups did not take an explicit position on Del Ponte's tenure, but echoed her concerns about the impact of the proposed recommendations on the court's independence.

"The Security Council should clearly and publicly reaffirm its support for the prosecutor in the execution of his or her duties, including prosecutions of those charged with genocide, war crimes, and crimes against humanity, regardless of their political, ethnic, or national affiliation," they said. "It should make clear that this policy includes members of the RPA."

The groups also noted that Del Ponte had been forced to suspend investigations against RPA soldiers several times, and that despite assurances by Kigali that it had prosecuted or would prosecute soldiers accused of abuses, those "few" cases that were followed up resulted in light sentences at best. Last year, Washington tried to mediate an agreement by which Rwanda would prosecute individuals investigated by the Court, but del Ponte reportedly declined to go along.

"Only one senior officer, a major, has been tried for massacres committed in 1994," the rights groups noted, but, after being sentenced to life in prison for a massacre of more than 30 people to which he confessed, he successfully appealed his sentence and was quickly freed. By mid-1998, five others had been convicted of capital offenses dating back to 1994, but four were privates, only one was a corporal, and all received light sentences. The corporal, for example, was convicted of killing 15 civilians for which he was sentenced to two years in prison.