

Rwanda

# Victims in the Balance : Challenges ahead for the International Criminal Tribunal for Rwanda

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## Description :

The purpose of the mission was not to draw up a report on the general operations of the ICTR or of the associations representing Rwandan victims, but to analyse problems currently encountered by victims who have been or will be witnesses at the Tribunal.

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## **International Criminal Tribunal for Rwanda (ICTR)**

**Between April and July 1994, the death toll from the Rwandan genocide was 1 million.**

**The United Nations Security Council, under resolution 955 (S/RES/955 (1994)), made a decision to help restore peace and international security in response to a request from the Rwandan Government "to establish an international tribunal for the sole purpose of prosecuting persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States, between 1 January 1994 and 31 December 1994 and to this end to adopt the Statute of the International Criminal Tribunal for Rwanda annexed hereto". The jurisdiction of the tribunal is therefore limited in both time and territorial scope, making the authority one of an ad hoc nature.**

**The ICTR was set up shortly afterwards in Arusha, Tanzania. The Statute of the Tribunal is based on international conventions on genocide and humanitarian law (1949 Geneva conventions) and also on customary law applying to crimes against Humanity. It includes principles already instituted by the International Criminal Tribunal for the former Yugoslavia (ICTY) designed to combat any impunity for perpetrators of the most serious crimes, including the refusal of any immunity and arguments of responsibility held by higher ranking officers.**

**To date, the ICTR has tried nine persons, and more than fifty others are still awaiting trial. However, calls have been made for the mandate of the tribunal to be brought to an end as soon as possible, and certain States have criticised the way it operates and the size of its budget. Given this ambition and also the legal time limits, the Security Council decided this year to expand the work of the Tribunal by increasing the number of judges; the rules of procedure were also altered by the ICTR so that certain trials or parts of trials could be held in Kigali, Rwanda. The decision to change the location for hearings will depend on the relevant judges dealing with the specific cases in question.**

**While the ICTR has primary jurisdiction for trials on crimes covered by the Statute of the Tribunal, national jurisdictions operate concurrently for trials of persons suspected of serious violations of international law committed on Rwandan territory.**

**Some 104 000 Rwandan detainees have been accused of involvement in the genocide and massacres, but so far only seven thousand have been tried. To speed up the trial of charges of genocide and massacre so that justice can be done within a reasonable period of time, the Rwandan authorities have set up a pilot project in twelve district Gacacas; more than eleven thousand of these "Gacaca" jurisdictions of the people, based on traditional village assemblies, are scheduled to become operational in the near future. They will be responsible for trying persons accused of genocide but who are not suspected of organising and planning genocide; these latter cases will remain under the jurisdiction of the twelve trial courts.**

### **Purpose of the Mission**

For some months now, relations between Rwandan authorities and associations representing victims of the genocide and massacres committed in Rwanda between October 1, 1990, and December 31, 1994, on the one hand, and the International Criminal Tribunal for Rwanda (ICTR) on the other, have become extremely difficult<sup>1</sup> ; to the point where victims' associations announced they had broken off all cooperation with the ICTR, and Rwandan authorities altered the formalities for witnesses to travel. A number of trials have therefore had to be postponed as witnesses for the prosecution were not present<sup>2</sup>.

In this context, the FIDH sent an international fact-finding mission to Tanzania, to Arusha, the headquarters of the ICTR, and to Rwanda, to collect information on the role and position of victims with respect to the ICTR. The fact-finding mission was in Arusha from July 28 to 31, 2002, and in Rwanda from August 2 to 10, 2002.

The mission was comprised of François-Xavier Nsanzuwera, FIDH Secretary General, and Martien Schotsmans, a consultant on international justice for the FIDH, conducting investigations in Arusha, while the mission in Rwanda was conducted by Martien Schotsmans working jointly with the Collectif des Liges pour la Défense des Droits de l'Homme au Rwanda (CLADHO) and the Ligue Rwandaise pour la Promotion et la Défense des Droits de l'Homme au Rwanda (LIPRODHOR), both FIDH member organisations.

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