

September 7, 2002

Tribunal Says Rwanda Is Stalling Inquiry Into 1994 Killings

By MARC LACEY
NEW YORK TIMES

ARUSHA, Tanzania — The Rwandan government has long criticized the international court here for its plodding manner in trying suspects from the wave of ethnic killings in 1994.

In recent weeks, however, it has been the International Criminal Tribunal for Rwanda that has been accusing Rwanda of foot-dragging, of purposely holding up trials for political reasons.

"The Rwandan government's failure to issue travel documents in a timely manner to facilitate the appearance of witnesses before the International Tribunal has resulted in the unavailability of witnesses and, consequently, the postponement of three trials," the court's presiding judge, Navanethem Pillay, complained in a recent report.

The Rwandans deny being obstructionist. They accuse the tribunal of mismanagement and say their new rules for witnesses are the same ones they apply to all travelers.

The back and forth is just the latest example of the difficult relationship between Rwanda and the United Nations court that was set up in 1995 in this northern Tanzanian town to try genocide suspects. Both sides are calling on the United Nations Security Council to intervene.

The tension has contributed to delay — a problem given that the tribunal is supposed to wind up its work by 2008 and still has eight trials against 21 defendants pending and 20 other genocide suspects at large. In the nearly eight years since it was created, the tribunal has secured three guilty pleas, five convictions and one acquittal.

"The tribunal cannot ignore the ticking of the clock," the International Crisis Group, a research organization based in Brussels, said in a recent report that faults both the tribunal and the Rwandan government for the slow pace.

The latest standoff seems to stem from the tribunal's intention to investigate killings by Tutsi rebels that brought the massacres, orchestrated by Hutu militants, to an end.

Rwanda's current president, Paul Kagame, was the leader of those Tutsi rebels who are now under scrutiny, although no one suggests that he himself was involved in any of the mass killings. The chief prosecutor, Carla Del Ponte, has said she considers Tutsi transgressions fair game, although she has yet to bring any such charges.

"We can't cooperate with the prosecutor on this issue," said Martin Ngoga, Rwanda's liaison to the tribunal. "We've had cases of excesses, and we've punished the soldiers. We don't think the

prosecutor is qualified to venture into this area when she hasn't even brought the perpetrators of genocide to justice."

In recent months, the government has imposed new travel requirements for witnesses leaving the country to testify here. The government had previously waived such paperwork. In June, a court hearing involving the first woman ever to be tried for genocide was delayed four times before judges finally postponed the trial until October.

The indictment against Pauline Nyiramasuhuko, who has pleaded not guilty to the charges, says she urged fellow Hutu in speeches to "exterminate" Tutsi. It says she also set up a roadblock outside her home to catch escaping Tutsi and encouraged Hutu, including her own son, to rape Tutsi women.

Ms. Nyiramasuhuko was Rwanda's minister for family and women's affairs at the time.

One witness who was blocked by the new travel rules was to have testified against Ms. Nyiramasuhuko in June. When that witness and others were unable to leave Rwanda, the judges postponed proceedings against Ms. Nyiramasuhuko and issued a legal opinion directed at the Rwandan government.

Ms. Nyiramasuhuko's lawyers say they are not pleased by the delays either. "My client has been detained for more than five years, and every time they delay the trial she is detained even longer," said Nicole Bergevin, a Canadian lawyer who is representing Ms. Nyiramasuhuko.

Among the complaints raised by Rwanda is that the tribunal has mistreated witnesses who have appeared to testify. Rwandan officials cite the experience of a witness identified in court as "T.A." who testified last October that Ms. Nyiramasuhuko's son, Arsene Shalom Ntahobali, and other men had repeatedly committed rape.

The witness underwent vigorous cross-examination by Mr. Ntahobali's defense lawyer, Duncan Mwanyumba, and at one point during that grilling, the tribunal's three judges erupted in laughter.

A review of the videotape of that court session does show the three judges laughing. But it appears that they were laughing at Mr. Mwanyumba's floundering attempt to question the witness.

Still, two main groups of massacre survivors in Rwanda have suspended cooperation with the tribunal, and the Rwandan government is supporting them.

While the Nyiramasuhuko case remains stalled, other trials less reliant on witnesses from Rwanda have proceeded. In mid-August, Augustin Bizimungu, former chief of staff of the Rwandan Army, pleaded not guilty to genocide charges in his initial appearance. The trial of four senior Rwandan military officers charged with genocide has recently begun again after a five-month hiatus.

