

Statement of Ad Hoc Organizing Committee for the Bruxelles Conference - 30 May 2010

The Ad Hoc Organizing Committee for the Second International Criminal Defence Conference at Bruxelles on 21-23 May 2010 condemns the arrest of our colleague Professor Peter Erlinder in Kigali on 27 May, while representing his client, Ms. Victoire Ingabire Umuhoya, who is trying to challenge President Kagame in the forthcoming August elections. Professor Peter Erlinder is Lead Counsel at the ICTR for Major Aloys Ntabakuze, and a member of the Ad Hoc Organizing Committee for the Bruxelles Conference.

Professor Erlinder, like his client, Ms. Ingabire, is charged with “negationism,” a crime of “denying genocide” under Rwandan law. The Rwandan law defines “genocide ideology” so broadly that it can be used to prohibit a wide range of expression, including free speech, and makes “genocide ideology” a crime without any specific reference to an act of genocide. This law expressly violates international conventions, such as the Genocide Convention of 1948 and International Covenant on Civil and Political Rights. Rwanda is a signatory to both the Convention and Covenant.

In April 2010, Professor Erlinder, with Attorney Kurt Kerns, filed a civil lawsuit based on the Alien Claims Tort Act in the US, against President Kagame and other leading members of the RPF government, for damages stemming from the RPF’s planned shooting down of the plane on 6 April 1994 in which President Habyrimana of Rwanda and President Cyprien Ntaryamira of Burundi died. The suit is filed on behalf of Madame Habyarimana and Madame Cyprien Ntaryamira, the widows of the Presidents.

Professor Erlinder, and the Bruxelles Conference were virulently attacked in Kigali’s *New Times* on 19 May. Attorney General Martin Ngoga stated, “For a few years now, some defence lawyers at the ICTR have so badly deviated from their professional duties and turned into activists and advocates of Genocide denial.” The reporting continued that “a programme of the meeting. . . shows several lawyers known for their efforts to negate or trivialize the 1994 Genocide against the Tutsi.”

The article also named two Rwandans who gave presentations at the Conference: Dr. Eugene Rwamucyo and Mr. Charles Ndereyehe, who, according to the article, are indicted for genocide.

Dr. Rwamucyo was arrested in Paris, on the orders of President Sarkozy, while attending the funeral of Jean Bosco Barayagwiza last week. Mr. Barayagwiza, a lawyer, was a detainee who died while serving his sentence in prison in Benin, and whose family’s efforts to transfer him to a hospital in France to provide medical care for his condition were rejected by the International Criminal Tribunal for Rwanda.

Professor Erlinder and the Bruxelles Conference were again virulently attacked in the Rwanda *Sunday Times* front-page editorial, on 30 May 2010.

• **The Ad Hoc Committee vehemently condemns Dr. Rwamucyo’s arrest and the harassment of Mr. Ndereyehe.** We wish to publicly thanks Dr. Rwamucyo and Mr.

Ndereyehe for their excellent contributions to our Conference last week-end, and salute their courage, and the courage of the Rwandan community in participating in the Conference.

• We vehemently oppose the arrest and false charges against Professor Erlinder, and demand his immediate release and dismissal of Rwanda’s fabricated “case.”

The attacks on Professor Erlinder are politically motivated: President Kagame is trying to suppress and expunge any evidence, in any trial at the ICTR, that shows that the RPF committed crimes in 1994 against the Rwandan people – Hutu, Tutsi and Twa.

Under Security Council Resolution 955 (1994), the ICTR is mandated to prosecute both sides of the conflict in 1994. Since its inception, the ICTR has selectively prosecuted only one side – Hutus. Selective prosecution supports the view that the ICTR is “victor’s justice,” and defiles its stated objectives to combat impunity and contribute to reconciliation in Rwanda.

In addition, ten years later, Security Council Resolution 1534 (2004) reiterated, *inter alia*, the necessity to investigate the Rwandan Patriotic Army, and to intensify cooperation among States, especially Rwanda, Kenya, DRC and Republic of Congo, on this matter.

However, rather than carrying out the Security Council’s Resolution, Rwanda has contemptuously chosen to criminalize “genocide ideology” and “negationism,” and use this law to hunt down and persecute victims of the 1994 tragedy, as well as the Defence lawyers at the ICTR.

• We vehemently oppose the targeting, by the Kagame Government, of all Defence attorneys at the ICTR, who are committed to the internationally accepted principles of fair trial and presumption of innocence.

The *New Times* has condemned all Defence attorneys who hold the Prosecution to its legal burden to prove each and every element of the crime of genocide beyond a reasonable doubt.

• We strongly condemn Rwanda’s criminalization of freedom of expression and call on the Rwandan Government and Parliament to repeal and expunge this abusive law, which is illegal under international conventions which it has signed.

We demand that the Rwandan government immediately release Professor Erlinder and dismiss all charges against him.

We demand that all steps be taken, by the ICTR in particular, as well as the United Nations and International Community, to win Professor Erlinder’s release, and the dismissal of all charges.

We demand that the United States government, which has refused to intervene aggressively and affirmatively to free Professor Erlinder, and to protect his rights as a U.S. citizen, start acting like a government which is legally obligated to protect its citizens.

We demand that the Rwandan Government respect the rule of law and the fundamental principles on which it is founded, and cease obstructing the legal process. The Rwandan Government must stop targeting those who defend Hutus who have been accused of genocide.

We call on the Security Council to implement SC 1534, and ensure that RPF perpetrators of crimes are arrested and prosecuted.

Signed, The Ad Hoc Organizing Committee

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