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**ICTR LEGACY: ADMINISTRATIVE  
ACHIEVEMENTS AND CHALLENGES**

**By**

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## 1. Introduction

Twenty years ago, the international community heeded the call for the prosecution of serious violations of International Humanitarian Law committed throughout Rwanda by establishing the UN International Criminal Tribunal for Rwanda (ICTR). ICTR is an international court, the first of its kind in the UN history established in November 1994 by the United Nations Security Council by Resolution 955 to try people who bear the greatest responsibility for the Rwandan genocide and other serious violations of international law in Rwanda, or by Rwandan citizens in nearby states, between 1 January and 31 December 1994. The genocide that lasted for approximately 100 days resulted in the massacre of some 800,000 ethnic Tutsis and moderate Hutus. By resolution 977 of 22 February 1995, the Security Council decided that the seat of the Tribunal would be located in Arusha, United Republic of Tanzania.

The Tribunal consists of three organs. **The Chambers**, including the Appeals Chamber, is headed by the President. **The Office of The Prosecutor** is headed by the Prosecutor. **The Registry** is headed by the Registrar. The Division of Administrative Support Services is under the Registry, and as the name depicts, it serves as the supporting body to the three Organs by providing administrative support. The staff of ICTR came from many nationalities and therefore the skills and experience gained at ICTR will not only benefit the UN but also their home countries. The diversity of the staff working in the ICTR made it truly an international organization. Apart from the years 1995 and 1996 when the staff were from some 50 countries, the average number of countries represented at the Tribunal has been 100 and above with the current number of countries represented at the ICTR being 60.

This paper focuses on administrative services provided by sections of administration, namely, finance and budget, human resource management, supply chain management, building and maintenance, information technology, security and safety services, health and medical services, asset management, internal administration of justice, oversight bodies, counseling and career development. It aims at sharing the ICTR experience in the management of a legal ad hoc institution and especially the challenges and lessons learnt during the periods of setting up and downsizing. This paper shows the types of the relentless efforts of the Tribunal's management throughout its existence and particularly, as regards the efforts to retain critical staff needed to achieve its mandate.

The lessons learned and best practices memoir as presented in this paper aim at contributing to filling of what appears to be a secretariat-wide institutional policy vacuum regarding the guidance and assistance required by departments and offices with finite mandates when it comes to a standardized process of downsizing and retention of staff.

For administrative support to be timely and predictable, reliable work programmes must also be in place. However, the nature of the operations depended on external factors and risks which proved to be very challenging to management. The paper focuses on the challenges and best practices that have come to define how the Tribunal managed available resources to implement the mandate of the Tribunal.

## 2. Managing in Ambiguity and Uncertainty

Although no date for the closure of the Tribunal was set by the Security Council at the time of its establishment, it was assumed that when all or most of the “persons responsible” for the genocide and serious violations of international humanitarian law in Rwanda had been arrested and tried, the Tribunal would lose its *raison d’être*, and would therefore have to close its doors. Furthermore, at its inception, no one would have anticipated that, 20 years later, the Tribunal would still be striving to wind up its judicial activities.

To ensure that ICTR implements its mandate and completes its work within a reasonable time frame, the Tribunal was granted the necessary resources, including adequate staffing capacity, which increased gradually from 163 in 1995 to a peak of 1,100 for the biennia 2004-2005 and 2006-2007, 600 for the period 2008-2011 and 400 for the period covering 2012-2014. The number will further decrease by the second half of 2015 to about 95.

From inception there was no clarity as to the status of its status. Although an Office Away from Headquarters (OAH), it was nonetheless not like the other OAHs. It was unique because there had never been any such institution in the UN’s history. This lack of clarity made it possible the management to come up with creative and flexible ways of dealing with administrative challenges as they came up. This provided an opportunity to develop management policies that have elements of peacekeeping operations and regular duty stations away from headquarters.

Managing expectations in the face of the unpredictable judicial calendar has been of great challenge to the Tribunal. Unforeseen occurrences such as the change or separation of a Defence Counsel, the absence of witnesses or detainees due to illness, etc. or simply as part of a defence strategy, rendered the judicial calendar, its dynamics and parameters, including workload, very unpredictable. Therefore, there was a constant need to make adjustments in the programmes and work plans. Consequently, defining and identifying the resource requirements of the Tribunal with certainty, including human resources, became a perpetual challenge.

ICTR Management endeavored to continuously come up with flexible and creative measures within the UN rules and regulations, with the support of the office of Human resource Management (OHRM), on how to motivate staff to perform to their best of ability in the face of uncertainty. The flexible measures have facilitated delivery of quality administrative services and development of a frame work of ideas to be used as a guide to downsizing organizations

## 3. Continuity Principle under Threat- Staff Retention

The term ‘retention’, as defined in Wikipedia, is an established management practice, which refers “to the efforts by which employers attempt to retain employees in their workforce” and, by the same token, “decrease the associated cost of high turnover”<sup>1</sup>. In normal times, retention is a proactive process aimed at keeping the best employees so that the organization may remain

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<sup>1</sup> Wikipedia

productive and competitive through, among other measures, the implementation of staff motivation policies, recognition of good performance, boosting of staff morale, improved working conditions and granting of competitive benefits

Although it has been recognized that a “moderate level of employee turnover can be [positive for an organization]”<sup>2</sup>, in that it may provide an opportunity for infusion of new blood into the organization, internal mobility and promotion, a high rate of employee turnover not only reveals an organization’s lack of competitiveness, but may also prove to be a costly hindrance to its growth or even its very existence.

Therefore, measures to retain staff at a critical juncture of the life of an organization, the timely filling of vacant posts and the replacement of retirees through a proactive succession planning have been important features in the human resources management policies and strategies of modern organizations.

Besides separations and mandatory retirements as a result of the downsizing of the ICTR operations, staff members have continued to leave voluntarily due to the uncertainty of their continued future employment. Thus attracting and retaining staff has been one of the major challenges faced by the Tribunal since its inception.

#### **4. Filling the Broken Jar?**

Even though a lot of efforts were made to recruit staff, the overall vacancy rate of the Tribunal has remained high. In fact, recruiting at the ICTR has been like filling a broken jar because in spite of the efforts deployed in attracting and recruiting candidates to fill vacant positions, many posts remained vacant. This situation can be explained by a number of factors, including but not limited to the following:

##### **a. The ad hoc nature of the Tribunal**

It had been known right at the inception of ICTR that it was an organization with a limited life span. That *ad hoc* nature, was an impediment to attracting and retaining qualified and dedicated professionals. Most candidates considered jobs offered by ICTR to be insecure or a time-buying temporary opportunity to make ends meet or to strengthen curriculum *vitae*, while waiting to land a more secure job elsewhere. It was therefore difficult for the Tribunal, given the limited job security for staff, inadequate career growth and personal fulfilment, to secure the core staffing requirements it needed to complete its mandate. Staff would commence searching for employment in more secure UN or other institutions, immediately after reporting in ICTR. Consequently, the pace of recruitment could not catch up with that of separation.

Furthermore, ICTR was established at a time when the UN was undergoing a serious financial crisis and was downsizing itself and as such many experienced and qualified staff members who would normally have been willing to come to ICTR were reluctant to do so for fear of losing their current jobs and of being left out in the cold after their assignment at the ICTR.

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<sup>2</sup> Michael Page

#### **b. Lack of attractiveness of ICTR duty stations**

When ICTR was established, Kigali and Arusha lacked many facilities such as public transportation, medical facilities, modern schools, passable roads, poor housing, and lack of clean drinking water, no electricity and poor social amenities made many staff members become reluctant to come and work in Arusha and were even less inclined to consider Kigali. In addition, the standard benefits provided under the classification of duty stations and the hardship and mobility policy, as well as benefits associated with special duty station status, seemed insufficient.

#### **c. Poor advance planning of administrative support**

The magnitude of the atrocities committed in Rwanda seemed to have caught the International Community off-guard. A barrage of criticisms was levelled against the International Community for failing to intervene promptly. This meant that, planning, particularly with regard to logistics and administrative support, was made under tremendous pressure.

Hastily assembled teams in OHRM undertook recruitment while using rules which were found to be inadequate and inconsistent with the requirements of quick results and timeliness. Furthermore, no attempts were made to clarify the status of the staff of the Tribunal vis-à-vis the status of the staff of the Secretariat or to adapt the rules and procedures of the Secretariat to the particular situation of the staff of the Tribunal. Delegation of authority was granted to the Tribunal in a piecemeal manner.

Poor planning, lack of foresight, lack of clarity in the status of the Tribunal staff and weaknesses of the advanced teams all constituted genetic handicaps the Tribunal had to bear throughout its existence. These handicaps impacted negatively on recruitment and management of staff.

#### **d. Procedural and lengthy administrative process**

The filling of ICTR vacancies was also hampered by a number of procedural red tapes caused by in-built, rigid, time-consuming and cumbersome recruitment procedures. As a result, significant delays occurred during the recruitment of staff. Thus, filling ICTR vacancies in a timely manner were so difficult that OHRM dispatched a Recruitment Task Force to the Tribunal in February 1999 to streamline its recruitment process. The Task Force then proposed a series of measures, such as the use of the pro-active recruitment procedure through a roster management, the fast-track recruitment procedure with a waiver of vacancy announcements, the amendments of policies regarding the conversion of seconded staff.

#### **e. UN status of ICTR staff: Lack of clarity and belonging**

Lack of clarity as to the identity of the staff of both ICTR and ICTY and now MICT has impacted negatively on the recruitment and retention of staff at the ICTR. While the legal statute of the International Criminal Tribunal for Rwanda (ICTR) is clear, the status of ICTR staff has never been clarified. Do staff members of the Tribunal belong to the UN Secretariat or not? In fact, there is no Security Council or General Assembly document or any document of the Department of

Management, or the Office of Legal Affairs, the Office for Human Resources Management or of any UN entity which defines the status of the staff of UN International Tribunals.

Even though ICTR staff, like Secretariat Staff, were recruited under the same recruitment system and through review bodies approved by the Secretary-General, managed under the same Staff Rules and Regulations as Secretariat staff, granted the same allowances and benefits as any Secretariat staff, subject to the same disciplinary rules as Secretariat staff, still they are not considered part of UN Secretariat.

#### **f. The contractual status**

From its inception, the Tribunal operated annual budgets and contracts were granted for a maximum period of one year. Effective 2004, the Controller authorised ICTR to prepare and operate biennial budgets.<sup>3</sup> This enabled ICTR to grant two-year contracts to eligible staff. These contracts with limited benefits adversely affected the recruitment and retention of staff.

### **5. Downsizing ICTR**

The term ‘downsizing’ refers to an organization’s “decision to reduce its workforce for reasons other than poor performance, criminal conduct or unethical behaviour on the part of those being let go”.<sup>4</sup> The practice is now an integral part of modern management culture, developed into a tool used in a variety of scenarios as one of the preferred routes to turning around declining organizations and improving organizational performance and competitiveness.

Downsizing is also an ethical issue requiring management to be concerned not only with protecting the organization’s financial interests, but also with honouring the dignity and integrity of the human beings who work on the front lines and who are the lifeblood of the organization. However, due to lack of options, managing in perpetual crisis is the phrase that would suitably explain the nature of the management of ICTR resources and operations. ICTR management has continued to put relentless efforts throughout its existence, particularly, to retain critical staff needed to achieve its mandate. This is despite the fact that staff members are also trying frantically to secure jobs elsewhere.

When it came to downsizing, the Tribunal had no reference point and as such decided to pioneer its own endogenous downsizing and retention mechanism. ICTR shared its downsizing and retention experience with its sister Tribunal, the International Criminal Tribunal for the Former Yugoslavia (ICTY). Both Tribunals worked closely to harmonize their positions, particularly with regard to such retention matters as joint representations made on “appropriate incentives to retain staff of the ICTR and ICTY”. The two chiefs of Administrations have been sharing the tribunals’ experiences on the management of downsizing operations at the senior UN management and staff consultations fora and have contributed immensely to the ongoing process of preparing UN wide policy on downsizing

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<sup>3</sup> Budget preparation guidelines 2004

<sup>4</sup>Weinstein

## **6. Downsizing and Retention: the Ultimate Dilemma in Management**

The concomitant downsizing and retention operation culminates with the making of a determination as to who to retain and who to separate, with the aim of retaining the most valuable and critical skills, capabilities, experience and knowledge personnel to complete the mandate of the Tribunal in the most timely, efficient and organised manner. In coming up with an objective downsizing and retention criterion, the interest of the Organization and those of the staff must be taken into account. Thus the implementation of a downsizing and retention decision requires objectivity and integrity.

How does one reconcile a reduction in the workforce and the requirement of knowledge retention?<sup>5</sup> What mechanism should be used to identify staff with the requisite knowledge, expertise and experience? Is it possible to maintain the objectivity and the integrity of the process and at the same time be humane? Thus the ultimate Cornelian dilemma faced by the management of the Tribunal in conducting a downsizing operation of its staff is to determine who to retain and who to separate.

Within the United Nations Secretariat, there is no official retention or downsizing policy to guide management in the processes of downsizing and retention. However, on certain occasions, a few departments or institutions have introduced some motivational measures and benefits to encourage their staff not to leave the Organization. Also, over the years, whenever faced with a budgetary crisis, or when a Peace-keeping mission closed down, the Organization has had to carry out downsizing and retention operations, some of them affecting significant numbers of staff and resources. Unfortunately, the process was not described, laid down or articulated around any formal and comprehensive policies, guidelines or methodologies

Bearing in mind the importance of having a downsizing and retention policy that is objective and credible, ICTR had to embark on the development of one which was unique to the ICTR situation. The process centred on determining who would be retained, how such a determination would be made, how to prevent essential staff from leaving *end masse*, and how to cope with the mass separations.

The internal mechanism devised by ICTR can be divided into 5 main phases:

### **Phase one: Preparing the staff**

Downsizing and retention can be traumatizing to staff, both those to be retained and those to be separated. Depression, fear and anxiety provoked by an uncertain future are common syndromes experienced by staff during such difficult times. It has even been observed that the use of alcohol and drugs, including psychotropic drugs, to overcome the situation of fear and anxiety, increases during this time. Psychological preparation of staff members to accept that their departure is eminent is crucial.

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<sup>5</sup> Gilbert Probst

In 2007, the ICTR Management embarked on a systematic campaign of communication, sensitization and information sharing with the staff, as soon as the General Assembly resolution on closure of Tribunal was announced. This entailed organising of town hall meetings with staff, issuance of information circulars, meetings at Section and Unit levels and implementation of an open door policy between management and staff. In addition, the Chief of Administration set one day in a week where staff members could walk into her office with no appointment and voice their concerns or seek clarification on any issue touching on their work in the Tribunal.

From 2007 to 2014, 26 town hall meetings have been conducted where staff members get to meet with the senior Management and engage in dialogue on the remaining work of the Tribunal. The Management takes the opportunity to assure staff of an orderly, transparent and objective downsizing process, underscoring that there should be life after the Tribunal.

### **Phase two: Building the mechanism - the Staff Retention Task Force**

To enable staff members to exercise their rights throughout the retention process, the Registrar established, on 16 July 2007, an *ad hoc* Staff Retention Task Force,<sup>6</sup> with the mandate to, *inter-alia*, develop the criteria that would be used to make an objective comparative analysis of the staff performing similar functions, with the view to determining the number of staff and the needed competencies required for effective completion of the work of the Tribunal. The Task Force also consulted extensively with other UN Offices with downsizing and retention experience, including UNHABITAT, DPKO, UNICEF, UNIC, UNEP and WFP. However, the downsizing and retention experience of these organizations was not comprehensive enough to be translated into a policy framework that could have been used by the Tribunal. Moreover, unlike the Tribunal, these organisations were not closing down.

The Staff Retention Task Force carried out a comprehensive consultative process with the representatives of the Staff Association and developed a questionnaire to gather views on what staff considered to be the most pertinent criteria to be used in determining who to retain and who to separate. In line with the Tribunal's information and communication strategy and pro-active consultative process, a series of town hall meetings were held during which explanations and clarifications were provided on the criteria selected, through question and answer sessions.

### **Phase three: Building Consensus: The Lake Manyara Accord**

ICTR organized a retreat from 4 to 6 April 2008 at Lake Manyara Serena Safari Lodge in Arusha which was attended by the three Principals representing Management (the President, the Prosecutor and the Registrar), senior and mid-level managers and the Staff Association representatives. The goal of the retreat was to develop a common understanding of the approaches to be used in the Tribunal's draw-down process and to enable participants to make use of the available tools, with a view to ensuring that the decisions would be fair, transparent and clear.<sup>7</sup> Hence the retreat came up with *The Lake Manyara Accord*, which had recommendations and

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<sup>6</sup> Annex 1: ICTR Information Circular No. 2007/49 of 16 July 2007.

<sup>7</sup> The Lake Manyara Accord Pg.1

criteria to be used, together with their rating weights. The main emphasize of the criteria was on Competence to perform the remaining tasks, Multi-functionality or Continuity, Length of Service, Gender, Geographical distribution and Pension eligibility<sup>8</sup>

#### **Phase four: Operation of Retention Panels**

In order to initiate the retention exercise in their respective sections, Programme Managers were required to establish within their sections a “panel of 3-4 staff”.<sup>9</sup> Pursuant to the terms of reference, the panels were to conduct reviews of staff encumbering posts with generic functions, which had some of the staff members earmarked for reduction. Therefore the panels’ recommendations formed the basis of coming up with the list of staff to be retained or to be separated. Administration established an internal retention review mechanism to enable those not satisfied with the outcome of the retention panels to lodge complaints. Members of the ICTR Retention appeal committee are drawn from the three organs of the Tribunal.

#### **Phase five: Downsized staff: a corollary of the retention exercise**

The main challenge of the managers was how to deal with staff members identified for separation. The approach adopted to address this challenge was centred on effective communication. It was the responsibility of each programme manager to communicate and explain the review results to each staff member in their respective sections. They were also required to explain to each staff member the methodology of the review process and the staff member’s score sheet. Those not satisfied with the results were advised to appeal first to the section retention panel and if still not satisfied with the explanation, they had the option of appealing to the ICTR Retention appeal committee.

### **7. Transitioning from ICTR to other Opportunities**

Without many options of guaranteeing staff jobs after the closure of the ICTR, Management had once more to come up with innovative approaches that would enable staff to remain committed to their work. The approach was termed as managing with a human face for better results. The ICTR management took a number of structural measures aimed at managing expectations and boosting morale.

#### **a) Career Resource Centre**

In 2007, ICTR established a Career Resource Centre whose main goal was to support staff members in making well-informed career and life decisions before and after the closure of the Tribunal. Career Resource Portal was put in place to assist staff in self-study and advance career

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<sup>8</sup> Consequently, separation notices were to be served no later than 30 September 2008 on staff members whose posts were targeted for abolition on 31 December 2008, and by 30 March 2009 to those whose posts were to be abolished on 30 June 2009

<sup>9</sup> Staff retention committee at the Section level were expected to have representatives from the Staff Association

planning, writing applications, and interview techniques and in upgrading of substantive and technical skills. In addition, the Portal served as a repository for programme managers and a useful source of reference in coaching staff.

Career resource center organized training programs to enhance performance, especially given that the majority of the employees came from the private sector and with no UN experience at all. Training programmes covered courtroom advocacy skills, procedures and presentation of evidence, appellate advocacy skills and Legal Education Symposium for Judges and Legal officers

Bearing in mind that many of the ICTR staff members may not be able to secure jobs in the UN after their service in the Tribunal, Management of ICTR entered into partnership with International Labor Organization (ILO) to develop a tailor made training programme for separating ICTR staff on entrepreneurship and self-employment. Training has enabled staff members to come up with business plans and ideas that would secure them self-employment after ICTR. Training has also been organized for ICTR staff members to enable them to join the Justice Rapid Response roster of experts for future deployment in humanitarian emergencies. In addition, special measures have been put into place to allow Special Leave With full Pay (SLWP) of 20 days per year to enable staff to undertake external learning activities that are relevant to their work and continuing employment.

#### **b) Counselling Programme**

The nature of ICTR business has always required counselling services to enable colleagues to cope with the traumatic effects of constantly listening to the horrific stories of genocide. However, the needs for counselling services increased when downsizing and retention exercise commenced. Downsizing exercise is an emotionally draining and traumatic experience, especially to those who had been with the Tribunal for more than 5 years. Reactions of staff members to the possibility of being without a job have been varied. They include emotional reactions such as pain, rage, anger, sadness, stress, depression, alcoholism, violence, low productivity and loss of interest in working. Even for those being retained, symptoms of mistrust, insecurity, vulnerability, uncertainty, lack of commitment were common. The Staff Counsellor therefore organised psycho-social programmes on stress management, cross cultural communication and diversity, drug and alcohol abuse, conflict management, sexual harassment, personal safety, personal well-being etc.

The counselling unit has also continued to organize practical debriefing sessions on Psychological Support to Witnesses, Witnesses Support staff, Trial Attorneys, court reporters, drivers, security officers, legal officers, interpreters and translators to enable them to cope with the toll of psychological weight of testimony provided by witnesses during their daily interaction.

#### **c) Staff Welfare**

The welfare of staff had always been one of Managements' major concerns in the ICTR's completion strategy. In all the town hall meetings, management would always emphasize the need to ensure that the available welfare activities are adequate to improve and maintain both physical and mental wellbeing of staff. The ICTR fitness centres in Arusha and Kigali were managed by

committee members selected by the staff members and the operations financed by the contributions of the users.

#### **d) Outplacement of Local Staff Members**

The ICTR Management also took measures to assist staff to secure employment in other United Nations organisations and outside the United Nations. To this effect ICTR made a request to the host government to absorb some of the skilled staff in its civil service system. Subsequently, ICTR invited regional authorities and the business community to review the curriculum vitae of national staff that were interested in competing for local employment. Management has continued to engage other UN organisations in Tanzania and Rwanda to consider ICTR staff members who are getting separated due to downsizing. A similar approach has been employed to reach out to the East African Community, the East African Court of Justice, regional NGOs, the African Court on Human and Peoples' Rights and the business community in Tanzania.

#### **e) The UNICTR Job Fair**

The organization of an ICTR "Job Fair" was a *premier event* in the in the annals of the United Nations. It took place, *in situ*, at the ICTR Headquarters, Arusha, and the Kigali duty station. ICTR staff members based in The Hague and Kigali were provided with video and teleconference interview facilities. The goal of the Job fair was to give all the staff of the Tribunal, the opportunity to market themselves through interviews to potential employers. The development of a compendium of ICTR staff members and their *e-Fact Sheets* summarizing their core qualifications, skills and experience provided a readily available database of skills and expertise. The process of the job fair was managed by an all-inclusive ICTR Job Fair Task Force (JFTF) with the Staff Association playing a major role.

A training consultant was hired for two days to train a focal group of 15 staff members and hold a general session with all staff on 10 and 11 August 2009 respectively. This training focused on Competency based interviews, PHP preparation, and reviewing of the *e-Fact Sheets*. Altogether a total of 107 invitation letters were sent out in June 2009. In return, a total of UN institutions attended the Job fair: DPKO; OHCR; UNICEF; CTED; ECA; ICTY; UNV and "Radar Recruitment Agency", a head hunting agency. A total of 839 interviews in 9 sessions were held by the attending organizations and a total of 65 nationalities were interviewed, with the majority being Tanzanians. Out of the total of 839 interviews, 342 were females while 497 were males. From a qualitative and quantitative approach, the Job Fair was a huge success.

#### **f) Staff Separations Management**

It is worth noting that the Tribunal does not have a delegation of authority to process the separation of its staff. The payroll of the staff of the Tribunal is processed in New York. This fact rather complicates the separation of staff as it involves different sections located in different duty stations and consequently, the process of separating a staff requires a great deal of coordination. Delays caused at one level have a ripple effect on the action of the next level. The timely processing of separations of ICTR staff is therefore a team work. It requires dedication, a compassionate approach and timeliness in delivering the services of all parties.

The process of separation can be very traumatising to staff members who are already in a state of denial. Delays in getting final settlement is a situation that should be avoided. However, sometimes delays are caused by lack of action from staff members or provision of wrong information. To manage this element of separation, Career resource centre has been regularly organising seminars on the separation processes and staff members are encouraged to familiarize themselves and get themselves ready for separation at least six months in advance.

### **g) Performance Management**

Performance management is one of the main human resource management functions of a programme manager. It impacts on staff career and their future professional life. It entails programme managers to be proactively monitoring performance of individual staff. In the UN, the performance appraisal system is a result-oriented mechanism, which allows the monitoring and assessment of performance, as well as the identification of the staff training and career development needs; facilitates dialogue between supervisor and supervisee; provides a way for recognition of good performers and the constant improvement of the performance of below standard, through the performance improvement plan. It is, therefore important that separating staff members are provided on departure, with a performance assessment reflecting faithfully their level of performance.

In the ICTR the culture of performance management is deep rooted on the understanding that staff members are constantly looking for stable jobs and they need to always be in possession of the most updated report on their performance. Indeed, not only the compliance rate of the e-pass system has always been above 95% in normal time, the “no e-pass no contract extension measure” instituted by the Chief of Administration during the downsizing process has had the consequence of raising the ICTR e-pass compliance rate to close to 100%, a level rarely attained by UN departments/offices of the Secretariat.

## **8. The Birth of the Mechanism: The Double Hatting legacy**

When the Tribunals were established member States never contemplated the fact that the principle of fair trial could prove to be a goal without a fixed timeframe. It should become clear that what is commonly termed as SMART goals (Specific, Measurable, Achievable Realistic and Time bound) in the humanitarian world, could as well mean something else in an International Tribunal. Reliance on Judicial calendar has proved that the setting of timeframe for completion of a trial is dependent of many external factors. Thus, having a time frame of when the Tribunal should close has continued to be frustrating to the member states. Having been in existence for 20 years the member states were convinced that a mechanism of closing the Tribunals must be put in place.

It is most probably for this reason that the UN Security Council, on 22 December 2010, passed Resolution 1966 to establish the United Nations Mechanism for International Criminal Tribunals (MICT) to take over the residual functions of both ICTR and ICTY. MICT has two branches: one in Arusha and another in The Hague. MICT will perform a number of residual functions currently carried out by ICTR and ICTY, such as prosecution of the remaining fugitives still wanted for trial

by the ICTR will be a top priority for the Arusha branch of the MICT, which officially commenced its functions on 1 July 2012.

The decision to have the Mechanism and the Tribunals run concurrently introduced the concept of double hatting. This is a situation where a person performs work for both the Tribunal and MICT while being a staff member of one of the entities. The initial budget of the MICT clearly stated which posts were to be double hatted. However, when it came to doing the actual work of providing administrative services it emerged that everybody was actually double hatting. The challenges of undocumented double hatting either through the budget or the performance management system meant that staff were carrying more work load which was not being recognized and evaluated accordingly. This was a source of frustration, but at the same time staff of ICTR were inspired to double hat, hoping that they would be absorbed in the MICT operations.

The main challenge of the MICT and the double hatting concept is the lack of recognition that the Tribunals are also downsizing and running against time and thus adding more workload only delays the completion plan. Thus putting staff, especially in administration under tremendous pressure. It also fails to acknowledge the work done for the MICT by way of performance evaluation specifically targeted on MICT related work.

On the other the positive collaboration that has emerged among the three entities has helped in addressing challenges and sharing of best practices.

## **9. Contribution to Cultural Social and Economic growth of Arusha**

When ICTR was established 20 years, Arusha was a very quiet and sleepy rural town in the northern part of Tanzania, where life was interesting for exotic tourists but not for ICTR Staff members who had come from well-established cities of the world. One of the main challenges, ICTR management had to contend with, when recruiting staff to support the operations of the Tribunal, was lack of interest by the stable, qualified and experienced applicants. Lack of good housing facilities, hospitals, electricity, water, social, recreational, educational, roads or vocational institutions did not present a conducive environment to attract qualified and professional international civil servants. Clearly, Arusha was not at all designed to host a Tribunal of a new century like ICTR. The tarmacked road to the airport was full of pot holes and over 10 lives have been lost through road accidents when avoiding pot holes.

Staff members had to learn to do with whatever was available. Due to lack of amenities and employment opportunities staff had to live separate from their spouses and children, who could not find jobs or educational structures that were commensurate with their family expectations. The same was true in Rwanda. The city of Kigali was waking up from the dark days in the aftermath of the genocide, which destroyed most of the city infrastructures. The road network and the housing condition in Kigali were equally as bad as in Arusha.

When the Tribunal was established opened its doors in 1995 it grew to accommodate over 1100 well paid employees who received direct payment from the Tribunal. Other operations of the Tribunal engaged services in the local economy. Yearly budget stood at an average of US\$ 270 million. Indirect employment of local residents to support the operations and homes of the international staff saw over 5000 local residents employed. An MBA research project undertaken

by a spouse of a former ICTR staff member, Ms. Céline Claire Fomete reported that through the ICTR staff members, ICTR was injecting more than US \$ 30 million (50 billion/-) into the local economy of Arusha every year. Major sectors that have benefitted from this cash inflow directly from ICTR or indirectly from its staff include Real Estate, Education, General business, Health and Insurance.<sup>10</sup>

When the ICTR started its operations in Arusha there were only 76 staff members. Administration at the time was erratic with no plans, rules or policies. Arusha and Kigali had no functioning international banks and staff had to be paid in cash by cashiers who travelled with bulks of dollars in ICTR rented small aircraft to take staff monthly salaries and other office supplies to and from Kigali. During those twenty years of existence, ICTR management processes as well as its hosting cities have transformed into the current progressively modernized and fully operational system of good governance with excellent management processes, which have been noted as best practices by the rest of the UN organizations.

ICTR as an institution has greatly contributed to the rapid urbanization of its two hosting cities of Arusha and Rwanda. They have benefitted both socially and economically from the presence of thousands of international civil servants and their dependents, who brought in tremendous financial inputs. Arusha and Kigali were towns but today they are Cities with booming economy, which contributes the highest portion of revenue in Tanzania

The legacy of ICTR in Arusha and Kigali will go beyond the economic aspect to include cultural and social impacts as well. Inter-marriages have taken place and some of the ICTR international staff members have decided to remain in Arusha and Kigali even after the closure of the Tribunal. This has no doubt had an impact on cultural and social aspect of life in these two towns

Arusha has been a home for many international families for close to 20 years. Thus ICTR staff members and their spouses have become part of the wider community in Arusha and have continued to contribute to the development of their respective communities. The ICTR Spouse Association has been actively involved in building schools, drilling bore holes to provide clean drinking water to the local communities, building and equipping hospitals and supporting needy families. The development projects undertaken by ICTR family in Arusha will remain to impact the lives of the Tanzanians long after the closure of ICTR.

With the ongoing downsizing the, Arusha community continues to benefit from the donations of items earmarked for disposal. Computers, furniture and armored vehicles have been donated for use by the learning institutions and security organs in Arusha.

## **10. Other Administrative Challenges, Lessons and Achievements**

Below are some of the challenges, achievements and lessons learnt by different sections of Administrative division?

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<sup>10</sup>Céline Claire Fomete, 2006 Master of Business Administration (MBA), at the Eastern and Southern African Management Institute (ESAMI) in Arusha

### **a) Asset Management and Logistics**

It is worthy to note that the significant challenges faced by ICTR were not confined to the embryonic phase of its life. They are still present in the downsizing phase. Thus, such principles as ‘double-hatting’ had to be introduced to ensure that the remaining staff maintained the level of performance to see ICTR through its mandate. Whilst this principle applied to the whole of ICTR it was Administration in particular that bore the brunt. Thus, for instance, Transport staff were assigned tasks in travel, archiving and assets management. Restructuring and principle of multi-functionality had to be adopted to cope with the demands and unplanned departures of staff members.

Most of the staff recruited at the beginning had no experience in working with United Nations and were not particularly conversant with UN Regulations and Rules; thus administrative work was undertaken haphazardly with no proper records or audit trail. This has continued to pose challenges in reconciling assets of the Tribunal. Proper identification of the skills needed to operate an international court should have been put in place before the commencement of operations.

Lack of suitable vendors for a range of goods and services, but particularly for Transport which placed the ICTR at the mercy of a few vendors for obtaining spare parts and/or maintenance services; Furthermore, vehicles and equipment meant for Europe had been ordered for use in Africa, making the maintenance cost to be more than the cost of the vehicles. In addition, ICTR had inherited some completely worn-out vehicles from UNAMIR, which had also been inherited from other missions such as UNTAC (Cambodia), ONUMOZ (Mozambique mission), whose maintenance was very expensive.

Poor and/or lack of a transport network within Arusha, meant that staff members had to be collected from their homes in the morning and dropped back in the evening. Thus the kind of transport services provided at the inception of ICTR had to be tailored to suit the conditions at the time. During this time too, it was difficult to obtain good maintenance services of vehicles as well as obtain fuel for the vehicles. Thus ICTR had to set up its own workshop with mechanics being recruited to ensure proper maintenance of the entire fleet.

ICTR had to develop internal capacity to cope with lack of reliable contractors in Arusha and Kigali. Building and Maintenance Services (BMS) had to provide office space and ensure good working conditions. Generators have continued to be used due to lack of no/or unreliable electricity, ICTR started treating and packaging own water from a bore hole and BMS constructed court rooms from scratch with no reference point in terms of any UN organization. BMS has also been involved in the construction United Nations Detention Facility and renovation and construction detention facilities in the countries where ICTR detainees are serving their sentences. With the ICTR in the final phase of the completion strategy, BMS, once more, has been very instrumental in designing and constructing of the temporary Archives facility for preservation of documents covering judicial and administrative records of the Tribunal and dismantling all the ICTR constructed buildings.

## **b) Budget and Finance**

In other organizations, past experience is used to determine yearly or biennium resource needs. This principle could not work as all the operations are based on the judicial calendar which could never provide an accurate projection due to the high dependency on external factors and risk with no mitigating options. Many are times, the Tribunal would go back to the members states to request more funds due occurrences that had not been anticipated. To complicate the budgeting process even further, the UN did not allow budgeting for contingencies whereas all the activities of the Tribunal were contingent on future occurrences like the arrest of fugitives.

Judges and defense counsel are not considered as staff members of UN. The unique status of Judges and Defense Teams who either work for or are contracted by the ICTR, but do not fall into the usual categories of individuals such as Staff, Consultants, Individual Contractors or other gratis personnel presented a major challenge on the administration and payment of their entitlements but a special policy had to be developed. Contracting of the defense counsels was a challenge, especially given that HR are not involved in engaging them and this could be avoided if HR is involved in the hiring of the defense counsel.

Prosecutor's Special Operations Fund for tracking purposes is a very unusual operation in a regular UN set up and therefore no guidelines existed on how to manage this fund. Details of payees could not be provided and this was not in accordance with the accounting and auditing principles. Again creativity had to come in to manage the expenses of the fund.

Finance had difficulties in differentiating what constitutes administrative and judicial record when it comes archiving supporting documents in finance resulting in the duplication of the records under both the administration and Judicial divisions.

## **c) *Security Services and United Nations Detention Facilities***

The unique nature of the Tribunal operations required management to put in place special security arrangements in relation to; The transportation of arrested individuals, from place of arrest to the Tribunal; Transfer of Detainees to and from the United Nations Detention Facility (UNDF) to the court; Transfer of Detainees in respect of all non-Court related activities; Movement of designated protected witnesses "Prosecution and Defense" "medical / dental consultations"; Identification, development and subsequent provision of Security of designated Safe Houses; Develop and enhancement of requisite skills of local Police and Prison officers to work along with ICTR Security in respect of all guard, escort and patrol duties; Escort and Protection of Field Investigators in Rwanda; Escort and Protection of Judges and other ancillary staff during site visits to Rwanda; Development of procedures in respect of Close Protection afforded to judges and senior officials of the Tribunal. Management of all Security related duties in respect of Court proceedings, including, manning of public galleries;

The International Minimum Standard for the Treatment of Prisoners practiced at UNDF originates from the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held in Geneva in 1955. ICTR has continued to assist in building capacity of the Tanzania Prison officers as part of

ICTR legacy. Approximately five hundred and fifty (550) Tanzania Prison Officers have benefitted from training programmes designed for UNDF officials.

ICTR security section has continued to support training for Prison Officers from the countries which house Prisons that are parties to agreement for enforcement of ICTR sentences, including ten (10) officers from Akpro-Misserete Prison, Republic of Benin and five (5) from Koulikoro Prison, Mali; The UNDF has served as a member of the technical advisory team for the construction of the Prisons for the accommodation of ICTR prisoners in the Republic of Benin, Mali, Senegal, and Rwanda;

Security and safety of Tribunal's property and personnel has been challenging in Arusha due to the fact ICTR is housed in the same premises with other tenants whose security requirement are different. Thus having a single security policy in the ICTR premises has been a challenge. Furthermore to get more support from the host country, ICTR must pay 10 dollars per day for each security officer provided by the host country.

#### **d) Medical Services in Arusha**

Lack of health facilities in Arusha meant that ICTR had to set up a health unit to address health needs of the organization. The same arrangement was replicated in Kigali. The nature of ICTR operations required full time medical surveillance detainees a situation that exists even today. Medical services were provided to staff members, officials of ICTR and also to detainees, witnesses and victims without much delays and this reduced absenteeism to court by detainees for health reasons. For cases that are not treatable in Arusha or Kigali they are referred to Nairobi or South Africa in line with the UN medical evacuation policy.

#### **e) Human Resources Management**

Recruitment has been a challenge from inception, especially for some occupational groups such as Translators/Interpreters, Revisers, and Court Reporters. Getting very qualified Trial Attorneys, Legal Officers and Legal Advisers who can litigate in the area of genocide and international criminal law also proved difficult and took some time. The policy of Proactive Recruitment Procedures for roster purpose has enabled the Tribunal to minimize the impact of this challenge on completion strategy.

The Tribunal also embarked on a massive recruitment campaign for scarce occupational groups such as Court Reporters and Translators/Interpreters by putting up ads in the local papers in several key African countries and conducting tests and, thereafter, build a roster of qualified candidates. Additionally, a productive partnership was established between an important Court Reporting School in Belgium and in Cameroun. These institutions were always able to recommend qualified Court Reporters for consideration by the Tribunal.

At the initial stages of the ICTR existence, there was confusion and resistance in adhering to the UN rules and regulations by the majoring of the staff members who were mainly Trial Attorneys, Legal Officers and Legal Advisers due to the fact that many of them were from private sector

where bureaucracy was not similar to that of the UN. This aspect made performance management difficult. However, with continuous training this challenge has been overcome.

The lesson learnt from the above was that before establishing an institution like ICTR, issue of human resource requirement should be thoroughly analyzed to avoid delays in completing mandate. Given that most of the staff were in court during the day, meant that the management had to come up with flexible measures that relax the number of the days required to complete an assignment or work during lunch hour.

The UN-ICTR Job fair can be construed as one of the best practices derived from a UN undertaking. It constitutes a good example to emulate. A few lessons have been learned from the organization of the Job fair:

- i. The Job fair exposed areas of weaknesses, especially on competency based interviews techniques which enabled Career Resource Centre revise the training programme.
- ii. The Job Fair was an eye-opener regarding what a united UN family can do. It also demonstrated the need for being innovative and resourceful when the situation so requires.
- iii. The Job fair to be successful requires the full support of Management and Staff. It is important to organise special Job fair can be held for local staff only, targeting recruiters such as for the local or international NGOs operating in the country, UN and Non-UN regional organizations present in the territory, Civil service, government agencies, parastatals, Business ventures and corporations etc.

#### **f) Information Communication and Technology (ICT)**

The role of the ICT in ICTR evolved with the different phases of the core activities of the ICTR. In the early days, operating from a post-conflict Rwanda, skills and technologies appropriate to a typical new Peace Keeping Operation were deployed. Radio communications, VSAT satellite systems for long distance voice and data as well as Rural Telephony were essential for security and operations communications in an environment devoid of Public providers or reliable partners. As ICTR settled into its head office location, the challenge was then that of setting up a functioning operation and building capacity for a growing organization. As a UN organization in a low technology environment, it had to evolve systems and processes that conform to UN international standards. Being a relatively young institution, there was a minimal capability for internal development of resources and capabilities. The social environment also made it difficult to attract world class talents in Information Technology.

The uniqueness of the different organs posed a major challenge not familiar to other UN offices-Chambers, Registry (Defense support) and Prosecutions. This necessitated special IT governance issues resulting in special requirements for separation, replication and strict delineation of knowledge centers, networks and resources.

Alongside the challenges, there have been a number of achievements that have contributed to ICTR legacy.

- i) Court rooms were equipped with sophisticated Audio-Visual Video Conferencing systems and capable of meeting the requirements of an international criminal court, enabling remote

witness Video Tele-Conferencing facilities for live judgment broadcasts virtual meetings and collaboration with offices in the UN family.

- ii) The court technology has been shared with the Rwandan Judiciary, the East African Community, and The Economic community of West African State (ECOWAS), the African Court of Human and Peoples' Right and a number of countries in the Great Lakes Region as part of outreach and capacity building in the African region.
- iii) In a near-rural setting, established remote connectivity between Arusha HQ and Kigali, UN Detention Facility, Safe houses and VIP residences, and availed voice and data services to these locations It supported emerging trends in worker mobility, virtual office and on-demand information availability.

## **11 Guiding Principles- Conduct of a Downsizing and Retention Exercise**

ICTR management found itself in an uncharted territory. The establishment of a two track mechanism to face the situation without any model, precedent, guidance or reference was a creative, unique and commendable response. From that experience, a few guiding principles in the conduct of a downsizing and retention exercise can be derived to guide departments/offices in similar situations. These are:

- a) Informed staff members are more prepared to address the challenges that they encounter. Regular updates of the status of operations is very important. The policy of having town hall meetings every three months is unprecedented. Ensure that staff are prepared to transition from the ICTR to other opportunities and provide them with skills and ideas which are relevant for their lives after the ICTR.
- b) Downsizing and retention exercise is a complex exercise the implementation of which requires thorough planning, foresight and vision; The decision to downsize and retain, together with the context which led to that decision, must be explained, justified and clearly understood by all.
- c) A downsizing exercise requires the use of a simple, rigorous, transparent and objective mechanism devised with the participation of management, staff representatives and staff at large; It must be conducted in the most compassionate way, based on strong ethical standards and respect the dignity of individuals concerned.
- d) A downsizing and retention exercise must be conducted in such a way that it would preserve the “intellectual and professional capital of the organization”, as well as its multicultural, gender or geographical character; The operating workforce to remain after downsizing must be selected through a thorough, transparent and objective retention process, using a participative methodology, as well as clearly established criteria.
- e) Downsizing must include accompanying measures such as financial incentives, early retirement, assistance in securing jobs, special skills enhancement training, etc. and other exceptional measures; Keeping high the morale and ensuring the welfare of the staff, through counselling and welfare activities must be of paramount importance during the downsizing and retention process.

- f) A downsizing and retention exercise must not be used as a punitive measure to retaliate against staff or fire those out of favor. In the future, it is imperative when establishing an office such as the ICTR to its staff a status the benefits and recognition accorded to the staff of the Secretariat.
- g) Management of rebuttals is a case to emulate as most of the disputes were resolved internally. It is believed that, if ICTR staff had been granted Secretariat statute from the beginning with a clear institutional identity and a sense of belonging to the family of the UN Secretariat, this would have constituted an extraordinary motivating factor in the recruitment and retention of staff.

## **12. CONCLUSION**

Through its activities, ICTR has made a considerable number of remarkable and ground-breaking achievements not only in the judicial activities but in the administrative and operational activities. The challenges and achievement that ICTR administration has recorded for the 20 years in operation will continue to serve as reference points for regional and international outfits with the same set up as the ICTR. Furthermore, it is evident that the Tribunal has been a central entity in developing stabilizing procedures and policies with lasting impact on the operations of ad hoc institutions and has documented the UN secretariat views the personnel of staff working in such institutions.

The division of Administration is continuing to provide support in ensuring that the Tribunal has established an important judicially verified factual record of the atrocities. The importance and value of that record and the archival collections of the Tribunal to national, regional, and international history must not be underestimated. They have and will continue to contribute to the peace and reconciliation process in Rwanda and in the Great Lakes Region.

Location of ICTR has also contributed to the challenges faced by the Tribunal. The headquarters of most UN organizations, especially in Africa, are in the capital of the host countries. This usually made it relatively easier to deal with the government ministries, particularly the Ministry of Foreign Affairs (MOFA) in connection with work and operational permits. Thus, it takes too long to get the authority to import supplies which are not available in Arusha. This not being the case, it meant that the ICTR has to make arrangements to send staff members to Dar to follow up on pending approvals for various documents. Thus the choice of locations for international organization must not be made on political basis but on the operational basis.

The complexity of cases tried at the ICTR for instance those involving the multi-accused, the logistics of the witnesses, as well as a number of unforeseen dependencies, e.g. change of a Defense Counsel, sickness of the accused, death of a witness or separation of staff members should have served as caution to the management to avoid making the assessment of the progress made and the projection of the work remaining which were not realistic. This has had the consequences of managing in a perpetual emergency mood where the UN existing rules and regulation were not applicable.