PRESS BRIEFING BY PROSECUTOR OF INTERNATIONAL CRIMINAL TRIBUNALS
FOR FORMER YUGOSLAVIA AND RWANDA

The International Criminal Tribunal for Rwanda had taken big leaps forward in the past year and a half, but the high vacancy rate on the Tribunal was a major concern she had voiced during her week in New York, the Prosecutor of the International Criminal Tribunals for both the Former Yugoslavia and Rwanda, Louise Arbour, said this morning during a Headquarters briefing.

The Tribunal had taken a big leap forward at the beginning of the summer of 1997, she continued, when a series of very important arrests had been made in Nairobi with the assistance of the Government of Kenya. Among those arrested had been a number of very high ranking officials including the former Prime Minister of the interim Government of Rwanda, who had been found guilty in June and sentenced in September to life imprisonment upon his pleading guilty to six counts on charges such as genocide, conspiracy to commit genocide and incitement to genocide. Arrest initiatives by the Office of the Prosecutor had also been successful this past summer in an operation in West Africa, in which six suspects had been apprehended with the assistance of local governments.

The verdict in the Akayesu case during early September had also been an important step forward, Ms. Arbour said, not only because Mr. Akayesu had been the first defendant to be brought to full trial but also because the depth of the analysis contained in that decision had involved many legal issues. Even more noticeably, the analysis had provided a blueprint for the prosecution of sexual violence as a war crime and a crime against humanity under the heading of torture, rape, persecution and an act of genocide.

Ms. Arbour admitted the Prosecution had suffered a setback in the rejection by a single judge of an indictment presented for confirmation in an attempt to provide a very broad-based theory for the court to examine a charge of conspiracy. The indictment had included 29 accused and it had not yet been made public because several of them were not yet in custody. If and when all those persons were arrested and indicted on other bases, the indictment that had not received confirmation would be unsealed, and it would basically articulate the conspiracy theory the Prosecution wished to put forward.

Confirmation of the indictment had remained ungranted on the basis of procedural grounds, Ms. Arbour said. The resultant appeal had been dismissed on the grounds that the Prosecutor had no right to appeal the non-confirmation of an indictment. As a result, the Prosecution had intensified efforts to reorganize prosecutions so as to join several accused together as a way of advancing not only charges of genocide but in particular of conspiracy to commit genocide. Much judicial activity was expected this autumn on those (more)
motions for joinder and in amending existing indictments. While the setback had not been a happy outcome, it would be overcome by developing prosecutorial strategies that met court requirements.

The very high vacancy rate was in part a factor of an institution that had had to grow rapidly at the same time that it had had to remain very active in its operation, she said. The lack of resources had to be addressed if the Tribunal was to meet the very active investigation calendar. Suspects had been identified and were within reach. If resources were deployed and employed, the pace of the last year and a half could be maintained or surpassed.

A correspondent asked whether any governments had been uncooperative in helping to apprehend suspects taking sanctuary within their domain.

"In connection with the Rwanda Tribunal, we have never met with the obstructionism encountered in respect to the enforcing of warrants in the former Yugoslavia", Ms. Arbour said, explaining that the circumstances of performing arrests were very different in the two cases. In the former Yugoslavia, the Tribunal had been wholly dependent on the good will of States to discharge their obligations, and the good will had been severely lacking. In the case of Bosnia and Herzegovina, the presence of international forces had helped apprehend them. In the Federal Republic of Yugoslavia, there were no international forces to help and there was a clear unwillingness on the part of the State to discharge its obligations to execute warrants.

In the case of the Rwanda Tribunal, she continued, virtually all suspects had left Rwanda and were quite mobile on the continent. Especially as time passed and the validity of travel documents elapsed, local authorities were perfectly happy to discharge their international obligations and execute warrants.

In response to a question, Ms. Arbour said she did not have the numbers of the vacancies in the Rwanda Tribunal at hand. The vacancies, however, fluctuated throughout the year and came into question during budgeting for the next year. It was particularly troubling that the posts had been approved and that the Assembly was prepared to deploy the resources which could not be utilized in a relevant, timely manner. There was no such problem filling vacancies in the former Yugoslavia Tribunal.

In response to a request for more information on the conspiracy indictment, Ms. Arbour said a large indictment had been presented in order to allege and prove, if the trial could result on that basis, a conspiracy that cut across the various sectors and groupings involved in the genocide. In other words, the indictment carried allegations against people in the political parties arena, in the militia, in the bureaucracy and government and those involved in propaganda, and its purpose was to link those various actors.

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The failure to receive confirmation had resulted from the inability to obtain from a single judge an indictment joining together people already in custody in Arusha, after individual indictments, with others still at large, Ms. Arbour added. Future activities in such regard would be sectoral since there was theoretically nothing impossible in proving a conspiracy against a single co-conspirator, but it was more consistent with the reality of what had happened and more productive as well as resource-efficient to have joinders.

Asked about her views on the arrest of Chilean General Augusto Pinochet in London, Ms. Arbour said that regardless of outcome, the remarkable development was another sign of human rights having entered the era of enforcement and that the agenda was being pursued very aggressively. The moment had begun, in a sense, with the creation of the two ad hoc tribunals and it had been reinforced in the international forum by the Rome Conference on the International Criminal Court and by an increased attention and judicial activity in the national courts to pursue the same issues. The momentum was towards a vigorous enforcement of pursuing the grossest violations of human rights in all environments.

Was the Pinochet arrest a breakthrough? the correspondent asked. "I think it is a symptom of the will, particularly in judicial circles, for an initiative grounded in the normal forum for vindicating human rights, which is the courts", Ms. Arbour answered. The Pinochet event was occurring in a national court but playing in the international environment and it was following the current commitment to break the culture of impunity and search for appropriate vehicles and institutions for bringing such cases forward. "The initiative is very consistent with developments in other jurisdictions and in the international scene", she added.

In response to a question on the conspiracy trial that had not received confirmation, Ms. Arbour elaborated on the phenomenon of joining trials, giving examples of cases in which the accused were tried together, at times with one undergoing trial while another remained at large or on hold. The significance of that case, she added, was in the Tribunal not having a crime base duplicating the domestic one, meaning it could only prosecute certain types of cases, with conspiracy specifically referred to in the statute under the genocide charge. "Conspiracy to commit genocide is a crime very much within the Tribunal's competence, and this case aims to do justice to the reality of the crime committed in Rwanda by using the conspiracy charge", she said.

Asked whether there was an intention to prosecute the hate speech of the radio announcers urging people to go out and slaughter Tutsis, Ms. Arbour said several individuals had already been charged under the heading of "incitement to genocide". Not only would it be alleged that they were guilty of "incitement", but it would also be alleged that by doing so, they had been co-conspirators and had participated in a larger conspiracy, making them guilty of genocide and of conspiracy in its commitment.