Chapter 16

The Support Work of the Court’s Registry

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Introduction

When in January 2002, the UN SC decided to establish the Sierra Leone Tribunal by mandating the Secretary-General to sign an Agreement to that effect with the Government of Sierra Leone, the initial setting up work was started by the Registrar (arrived in Freetown in July 2002)\(^1\) then the Prosecutor, (arrived in August 2002)\(^2\) and only thereafter the Judges, nominated in December 2002.\(^3\)

The start-up process for both the ad hoc tribunals for the former Yugoslavia and Rwanda established earlier followed a similar pattern.\(^4\) Logically this would appear to be the normal way of doing things, since the Registry of a Court is that essential body that lays the administrative non judicial foundations for the normal functioning of the Court.

Therefore if there is a period when the work of a Registrar is particularly needed it should certainly be the beginning of the setting-up of a Court. This is the period when a myriad of technical questions need to be addressed (for example building management, procurement and logistics support, property control/inventory, and supplies; accounting and budget, personnel and recruiting; electronic data processing equipment such as computers, and information security, communications, including secure phones, mail, telex, fax, internet, and videoconferencing; archives, records management, and library development, etc.), before the Court properly starts its work.

\* The views expressed herein are solely those of the authors and do not necessarily reflect those of the Office of the Prosecutor or those of the United Nations.


This, however, was not the way the set up work for the ICC was conducted. Indeed the whole process first started with the election of the judges in February 2003, followed by that of the Prosecutor in April 2003 and only then the Registrar of the Court in June 2003. However, based on the precedents with the establishment of the ad hoc Tribunals referred to above it does not appear that the Court was lacking in practical examples of doing things “properly”, nor does it appear that the States parties to the ICC Statute were anyhow concerned about the apparent “upside down” way, things were done at the ICC.

On the contrary, it appears it was based exactly on the past experience of these two ad hoc tribunals that State parties of the ICC Statute decided to do things at the ICC “upside down.” In addition, some other innovations were introduced into the structure and exercise of the administrative functions of the Court.

I. The Experience of the ad hoc tribunals and how it is reflected in the model Registry of the ICC

Some of these experiences more directly touch upon the relationship between the Registrar, the Judges and the Prosecutor on one side, and the staff of International Criminal Tribunals on the other. In particular the experience of the ad hoc tribunals had visible impact on at least three distinct areas: a) the subordinated role of the Registry, b) the need for an independent administrative support work of the Office of the Prosecutor, c) the practice of accepting the so-called gratis personnel.

A. Elections of the Registrar and chain of authority for the Registry

One of the areas in which the previous experience of the ad hoc tribunals appears to have had an impact is itself the legal status of the Registry as one of the principal organs of the Court.

The well-known Paschke Report, the result of a carefully conducted audit and investigation of the International Criminal Tribunal for Rwanda in 1997, has put alight troubling evidence of “mismanagement in almost all areas of the ad hoc Tribunal for Rwanda and frequent violations of the United Nations rules and regulations.” In most cases, as the UN audit has shown, however, things went wrong at the ICTR essentially because the mandates of the Registry were not clearly understood by the Registrar.

For example, the Report states that the ICTR Registrar acknowledged that both the Chambers and the Office of the Prosecutor have raised questions with him concerning decisions he has taken which impact on their functions. The Rules of Procedure and Evidence provide the President of the Tribunal with authority over the Registrar and provide the Prosecutor with independence of decisions. However, the Registrar argued that the Rules were subsdi-