

Erlinder: Defense Lawyers Now Risk Assassination in East Africa

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Jwani Mwaikusa, Law Professor at the University of Dar es Salaam and defense lawyer at the International Criminal Tribunal on Rwanda, was gunned down outside his home in Dar es Salaam, Tanzania yesterday, July 14.

A nephew and neighbor who attempted to come to his aide are reported to have been shot and killed as well. The assassins stole Mwaikusa's briefcase and papers from his car.

At the ICTR, Mwaikusa defended Yusuf Munyakazi, a 75-yr.-old former Rwandan businessman who was, on June 30th, [sentenced to 25 years imprisonment](#) after being convicted of genocide and crimes against humanity.

Mwaikusa had said that he would appeal the Munyakazi conviction to the ICTR and ICTY Appeal Chamber, a separate court set up by the UN Security Council, which also created both international criminal tribunals.

The Security Council created the ICTR in Arusha, Tanzania, in 1997, to try the most high-profile Rwanda Genocide cases. Twenty-eight people have been convicted and five acquitted so far.

The Kagame regime attempted to have Munyakazi and three other defendants moved from the ICTR in Tanzania to stand trial in Rwanda, but [Mwaikusa successfully argued](#) that Rwanda did not have an independent judiciary that would not come under political pressure:

"The Chamber is not satisfied that the accused, if transferred to Rwanda at the present time, will receive a fair trial," [wrote Judges Weinberg de Roca of Argentina \(presiding\), Lee Muthoga \(Kenya\) and Robert Fremr \(Czech\).](#)

"The Chamber is concerned that this situation may lead to direct or indirect pressure being exerted on judges to produce judgments in line with the wishes of Rwandan government."

William Mitchell Law Professor [Peter Erlinder](#), who is also a defense lawyer at the ICTR, said, speaking from his home in St. Paul-Minneapolis, Minnesota, that Mwaikusa's assassination may well make it impossible for the ICTR to function, causing a crisis in international criminal law, because ICTR defense lawyers are no longer safe from arrest, indictment, and/or assassination.

Erlinder himself returned to Minneapolis after three weeks imprisonment in Rwanda, where

he had traveled to defend Victoire Ingabire Umuhoya, the leader and presidential candidate of Rwanda's FDU-Inkingi Party against charges of genocide ideology, which means disagreeing with the official history of the Rwanda Genocide and/or with the regime of incumbent Rwandan [President Paul Kagame](#). Ingabire was arrested and barred from running against Kagame in the presidential election, and within a few days of Erlinder's arrival to defend her, he was arrested on the same charges. After three weeks and an international campaign waged by human rights activists and bar associations on three continents, and Secretary of State Hillary Clinton's delivery of Erlinder's medical records, he was released, on medical grounds, to return to the United States.

Releasing him in response to his legal arguments, which are a challenge to Rwanda's genocide ideology law itself, would have shaken the foundations of the Kagame regime, and made way for decisions acquitting Ingabire and many others now in [Rwanda's packed prisons. The country now has the third highest per capita prison population in the world.](#)

While Erlinder was under arrest, international criminal defense lawyers at the ICTR refused to work on the grounds that they could be arrested and indicted in Rwanda, or even arrested elsewhere and extradited to Rwanda for defending their clients.

Rwandan Chief Prosecutor Martin Ngoga at first denied having used Erlinder's work at the ICTR in the prosecution's complaint against him, but review of the complaint made it apparent that he had, and the ICTR eventually issued a statement declaring that Professor Erlinder, as an ICTR defense lawyer, was immune from prosecution for his work there.

Tanzania's Citizen Newspaper reported that there has been an increase in violent crime in Dar es Salaam recently, and that five people have been shot dead by armed robbers in the last two months, but Professor Mwaikusa's assassins stole his briefcase and papers, suggesting political motive and casting suspicion on the increasingly repressive Kagame regime in Rwanda, where journalist Jean Leonard Rugambage was assassinated on June 24th, after writing that Kagame had ordered the [assassination attempt on Rwandan exile general Kayumba Nyamwasa](#), and yesterday, on the same day that Mwaikusa was gunned down, the Democratic Green Party of Rwanda's Vice President Andre Kagwa Rwisereka was found beheaded. Rwisereka's body had been left in the wetlands surrounding the Makula River near Butare, Rwanda, with his head almost completely severed and a machete left nearby.

And though assassins stole Mwaikusa's legal papers and briefcase, they left Rwisereka's car, car keys, and house keys behind. "No, it wasn't a robbery," said Democratic Green Party of Rwanda Chair Frank Habineza, because they left his car, they left the keys to his car inside the car, they left the keys to his house inside the car with his national identity card. If they were thieves, they would have taken his car. If they were thieves, they would have taken the keys to his house and gone to take things from his house. They left the keys to his car and his house inside the car."

With regard to the Mwaikusa assassination, Professor Erlinder said:

"No one knows, for sure, whether he was assassinated by Rwandan Patriotic Front operatives, but we do know that lawyers put themselves in danger by defending people whom the RPF have identified as their enemies, including me, Theogene Muhayeyezu, the lawyer who replaced me as Victoire Ingabire's lawyer, and an earlier ICTR lawyer, a Rwandan who had been living in Mozambique. He was arrested when he came to the ICTR

two years ago and eventually released, and has since died, apparently of natural causes,

The situation now is that the lawyers at the ICTR have legitimate reasons to be fearful of being in Africa, anywhere in Africa, especially East Africa, where they might be arrested, extradited to Rwanda, or even assassinated."

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