



ICTR Newsletter

Published by the Communication Cluster — ERSPS, Immediate Office of the Registrar
United Nations International Criminal Tribunal for Rwanda

May – June 2013

President of the ICTR Judge Vagn Joensen Addresses the UN Security Council

The President of the International Criminal Tribunal for Rwanda Judge Vagn Joensen on 12 June 2013 addressed the United Nations Security Council in New York during which he presented the six-monthly report on the Completion Strategy of the ICTR.



ICTR President Judge Vagn Joensen

Below we reproduce some excerpts from the speech:

“.....It is a great honour for me to address the members of the Security Council and to present to you the current update on the Completion Strategy of the

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ICTR Prosecutor Hassan Jallow also Addresses the UN Security Council



The Prosecutor of the ICTR Justice Hassan B.

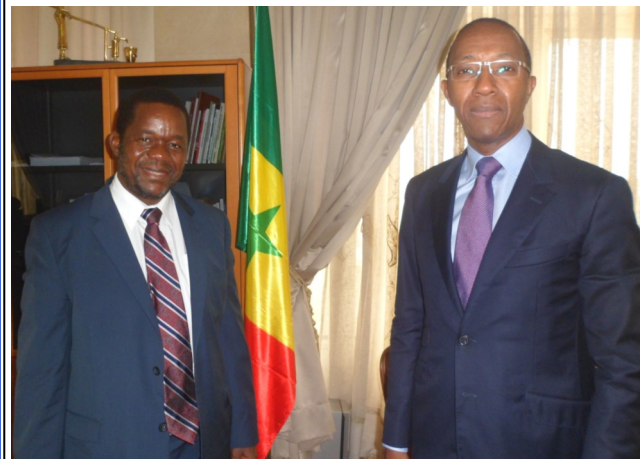
MICT & ICTR Prosecutor Hassan B. Jallow

Jallow on 12 June 2013 also addressed the United Nations Security Council in New York and updated its members on the latest developments at the Tribunal. Below we reproduce some excerpts from his speech:

“.....I am greatly honoured to brief you once more

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The ICTR Registrar Majola Visits Senegal and Sierra Leone



ICTR Registrar Bongani Majola (left) with the Prime Minister of Senegal Abdoul Mbaye (right)

The Registrar of the ICTR Mr. Bongani Majola, early June this year visited Senegal and Sierra Leone on an official mission and met several senior Government and United Nations officials and discussed with them issues related to the ICTR Completion Strategy and residual matters.

On 4 June 2013 Mr. Bongani and his delegation

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President of the ICTR Judge Vagn Joensen Addresses UN Security Council

... Continued from page 1 ... International Criminal Tribunal for Rwanda. I wish to express the appreciation of the entire Tribunal to all governments of this esteemed Council for your renewed support as we draw ever closer to the conclusion of our work.

Excellencies, the ICTR has now completed all trial work, has successfully met all timelines projected in December for appeals, and has finalised its decision to transfer the second case of an accused in custody to Rwanda. Five of the six remaining ICTR appeal cases remain on track for completion before the end of 2014, and the transfer to the Mechanism of judicial records not in active use is expected to be completed by the end of 2014. The Mechanism is now handling its first appeal from an ICTR trial judgement, and I have been actively involved in judicial matters handed over to the Mechanism in my role as Duty Judge of its Arusha branch. Relocation of acquitted persons and those released after completion of sentence in Tanzania remains a pressing issue of concern, and will require enhanced cooperation of Member States. Finally, due to difficulties which I will explain shortly, the ICTR is now projecting completion of its final appeals judgement in the Butare case by July 2015.

Five of the six remaining appeal cases concerning nine of the remaining sixteen persons are still expected to be disposed of before the end of 2014, and the final multi-accused appeal judgement concerning six persons in the Butare case is now anticipated by July 2015. This slip in projection for completion of the final case was caused by inability of our language services to meet the accelerated plans for translation of the Butare trial judgement and other documents pertaining to the appellate proceedings, which the Defence is legally entitled to receive in a language that the accused can understand before fil-



Judge William H. Sekule redeployed to the Appeals Chamber

ing their appeal briefs. Although the Tribunal made its best efforts to meet the accelerated schedule of providing the translated Butare trial judgement by August 2012, with the staffing levels that remain in our language section, the final French version was only able

to be completed and delivered to the parties in February 2013.

This meant that the briefing schedule for the appeal had to be pushed back as well. Additionally, after reviewing the written judgement in a language they could understand, several



Bernard Munyagishari was indicted for the Rwanda genocide

appellants requested leave to expand the scope of their appeals beyond that in their original Notices of Appeal, upon which the December 2014 projected Butare completion date was based. The totality of these circumstances has led to the current projection of July 2015 completion. In all other cases, however, I am happy to report the appeals work remains on schedule and all appeals except Butare remain on track to be completed by 2014.

I would next like to take this opportunity to express my gratitude to this esteemed Council for passing Resolution 2080 (2012), which extended the terms of the ICTR Appeals Chamber Judges until the end of 2014 or until completion of the cases to which they are assigned, if sooner. The swift action taken on this request has helped ensure that the Tribunal may continue to meet its Completion Strategy targets. As projected in our last report, two of the three judges on the Ngirabware case demitted office after completion of their final case, and the third, Judge William H. Sekule of Tanzania, was redeployed to the Appeals Chamber in March 2013, bringing the number of permanent judges sitting in the Appeals Chamber to eleven at that time. On 31 May 2013, Judge Andréia Vaz of Senegal resigned from her position as appeals judge, returning the total to ten judges on the appeals bench. The preminent knowledge and experience that Judge Vaz brought to the bench will be sorely missed and reassigning the ten cases that she was working on has put an increased strain on the other judges. In order to try to mitigate any detrimental effect on the completion of appeals work that would come with the loss of such an esteemed judge, I will be sending a letter to the Secretary-General requesting the swift appointment of a replacement for Judge Vaz, and expressing the importance of such replacement judge having a deep knowledge and understanding of the Tribunal's jurisprudence and practice so that no time will be lost in

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contributing to the heavy workload remaining for appeals.

I turn now to an important issue that the ICTR has been raising with the Council for several years. The enhanced cooperation of Member States to assist with our persistent and increasingly dire problem of relocating persons who have been acquitted or released after completion of sentence by the Tribunal is crucial to the completion of our mandate. I continue to see it as a cornerstone of my Presidency to deploy all possible efforts in this regard, and during this reporting period, I increasingly applied my energies to persuade Member States to assist with relocation. There are now seven acquitted persons, one of whom was acquitted in 2004, and three persons released after completion of their sentences who remain in the safe houses in Arusha under the Tribunal's protection. These ten individuals remain on Tanzanian territory without proper immigration status and are unable to move freely. The ICTR is deeply concerned about the consequences of failing to uphold the fundamental right of freedom to live one's life after being acquitted, and the importance of finding host countries for these persons before the Tribunal closes cannot be stressed enough. It is for this reason that I have worked closely with the Registrar to develop a strategic plan for relocation which was recently submitted to the Informal Working Group on International Tribunals. We call upon all Member States, and in particular those members of this esteemed Council in a position to do so, to assist with this persistent problem, and thank those who have already enhanced their cooperation with the Tribunal in this respect.

I next turn to downsizing and transition to the Mechanism. The Tribunal continues to face staff recruitment and retention challenges that arise from the



Judge Andrésia Vaz resigned from her position of Appeals Judge

downsizing process. Where recruitment is required, the ICTR continues to have difficulty attracting suitably qualified candidates given the limited contractual security that it can provide as a closing institution. The Tribunal also still experiences difficulties in retaining experienced staff due to the lack of financial incentives to stay with it to complete their work, and the lack of possibilities for upward mobility. I once again wish to express the gratitude of the Tribunal to the Department of Management, especially the Office of the Controller and Human Resources Management, who have steadily assisted the ICTR in meeting these challenges to prevent any further delay

in the completion of its mandate. Their collaboration to implement mitigating strategies in line with the applicable Staff Rules and Regulations has also afforded staff members much needed support in their transition from the ICTR to other careers.

Despite these persistent



ICTR - International Criminal Tribunal for Rwanda

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staffing challenges, the Tribunal has successfully met its projected deadlines and remains with only appellate work and the continuation of the transition to the Mechanism going forward. This transition is well underway, as the handover of judicial functions to the Mechanism is now complete and, as the Prosecutor will describe in more detail, a smooth transfer of prosecutorial tasks remains on track. In addition to the Ngirabatware appellate proceedings, the Mechanism's jurisdiction now encompasses requests for review of ICTR judgements, trials for contempt of court or false testimony from ICTR trials, and trials of the remaining three top-priority ICTR fugitives once arrested. The monitoring of all referred cases also falls under the Mechanism's responsibility, although the ICTR Registrar and I will continue to help overseeing the administration of the interim monitoring of the Uwinkindi trial and that of Bernard Munyagishari once he is transferred to Rwanda by ICTR staff until the Mechanism concludes a final agreement with an organisation in each case. I would like to take this opportunity to thank President Meron and Registrar Hocking for the excellent cooperation that we have had between the ICTR and the Mechanism throughout the transition, which I am confident will continue until the handover is complete.

Excellencies, with respect to the preparation of the ICTR's archives, much progress was made during the reporting period as the Tribunal is now in a position to transfer 40% of its hard copy records to the custody of the Mechanism, including 60% of the judicial records. The actual handover process for these records is scheduled to begin later this month, since the renovations of the temporary record repositories which will house the records until they are moved to the Mechanism's new building are almost finalised. The target date for the completion of the records handover process remains December 2014, and we anticipate that all closed judicial records will be handed over by that time. However, we must bear in mind that some records which are still in active use in support of the functions of the ICTR, including active files relating to the Butare case, will remain our responsibility and can only be transferred once they are no longer in use. These records are expected to be handed over as part of the liquidation process after the ICTR's formal closure.

I will conclude with some thoughts on our place in history. Since its inception, the ICTR has sought

to contribute to the process of reconciliation in Rwanda by helping to restore a sense of justice and playing a role in development of a lasting peace in the Great Lakes region. Rebuilding this sense of justice has paved the way for moving past the events of 1994; the Tribunal has helped ensure that these events are never forgotten through its outreach and capacity building initiatives and we recognise the need to ensure that the Tribunal's records are readily accessible to the people of Rwanda for posterity. The transition to the Mechanism, which is notably tasked with maintaining and furthering our legacy, marks the etching of a new chapter into the history of international law. The writing of this next chapter has already begun with the work of the ICC and Special Tribunal for Lebanon. With the impending closure of the ad hoc Tribunals, the Mechanism will ensure that their legacy is preserved and that lessons learnt are shared with their successors.



One of many cemeteries resulting from the genocide in Rwanda

Excellencies, before facing the renewed challenges the next chapter will bring, we would be remiss not to underline how far Member States' cooperation has brought us, the crucial role it has played, and the difficulties we face without reinvigorated efforts in certain areas. The tremendous support of the international community for the ICTR has enabled it to not only prosecute those most responsible for the Rwandan genocide, but also, in turn, to assist national jurisdictions who are able to complement its work and thereby further strengthen accountability for the most serious crimes under international law. Such empowerment of national institutions has substantiated the Tribunal's commitment towards the implementation of the rule of law, and may ultimately allow for impunity to be successfully challenged in a lasting way at all levels. However, we are in desperate need of increased cooperation with respect to relocation, and trust that Member States will do the necessary in order to help us accomplish this important task before closure....."

ICTR Prosecutor Hassan Jallow also Addresses the UN Security Council

... Continued from page 1 ... on the progress of the Completion Strategy of the ICTR and to present to you the second report on the work of the Office of the Prosecutor (OTP) of the Mechanism for International Criminal Tribunals.

OTP-ICTR

Our focus at the OTP-ICTR has for the past six months been on the prosecution and completion of appeals, referral of cases to national jurisdictions, preparation of OTP records for archiving and hand



MICT & ICTR Prosecutor Hassan B. Jallow

over to the Residual Mechanism, the completion of legacy, residual and closure issues as well as providing support to the OTP Arusha Branch of the Mechanism. This focus will, with the exception of referrals of cases to national jurisdictions, continue for the months ahead. The past six months have also seen the OTP-ICTR and OTP-ICTY spending significant time attending to the commencement of the Hague Branch of the Mechanism due to be launched on 1st July 2013.

The appellate workload of the ICTR-OTP continues to be very heavy, following the conclusion of the trial phase of ICTR cases in December 2012. Since the beginning of this year, the OTP has argued and finalized the hearing of 10 prosecution and defence appeals in connection with the *Ndahimana v. The Prosecutor and Nindiliyimana et al (3) v. The Prosecutor* cases, which were heard in the May 2013 session of the Appeals Chamber conducted in Arusha, Tanzania. The cases are now pending final

judgement by the Appeals Chamber.

Briefing and oral argument are ongoing in respect of 13 other appeals in four remaining cases before the ICTR Appeals Chamber. With the exception of the Butare case, which comprises seven defence and prosecution appeals, judgements in all of these pending cases are scheduled to be delivered before the end of December 2014. Thus, absent any changes in the judicial calendar, all but one of the ICTR's remaining appeals will be completed within the time frame of the ICTR Completion Strategy as set by the Council.

Last month, the Appeals Chamber also affirmed the referral of Bernard Munyagishari - a detainee to Rwanda for trial. This in effect concludes the ICTR work on the referrals programme. My office has now secured the referral of a total of eight cases to Rwanda and two cases to France for trial. As a result of these referrals and the completion of all trials in the first instance, the ICTR-OTP has no further trial or fugitive related workload. The tracking and arrest of the three top-level fugitives i.e. Felicien Kabuga, Protais Mpiranya and Augustin Bizimana, and the monitoring of referred cases is now being managed by the Mechanism.

The preparation of the records of the OTP for archiving by the Residual Mechanism has progressed well during the past few months. The preservation of files which involves cleaning, re-housing into acid free boxes and scanning of OTP documents has been completed in respect of 56 cases representing 414 linear metres of records. Similar work is in progress in respect of 22 cases involving 250 linear metres of documents and is due to commence in respect of other OTP documents. The entire OTP audio collection of 2681 cassettes has now been completely digitized. The digitization of OTP video tapes has not yet commenced. ICTR records that are ready for archiving continue to be prepared for handover to the Mechanism as its Archives Unit builds up its capacity to receive these records. The remaining ICTR records will be handed over to the Mechanism when they are no longer required as working records by the OTP-ICTR.

In addition to the archiving of records, work continues on a number of other important legacy projects on which the OTP ICTR has been working and which we plan to conclude before the expiry of the tribunal's mandate. We note that with the launch of the joint international ad hoc Prosecutors' Compendium of Lessons Learnt on the investigations and prosecu-

... Continued on page 6 ...

tion of international crimes in November 2012 at the Annual Conference of the International Association of Prosecutors, there is renewed interest in the legacy of the international tribunals by academics, human rights practitioners, lawyers and national judicial as well as prosecuting authorities. The OTP-ICTR has also concluded the preparation of a Best Practices Manual on Tracking and Arrest of Fugitives. The document will be available to national and international prosecutors in due course. Work on the Best Practices Manual on the Investigation and Prosecution of Sexual Violence is scheduled for completion this year and is ongoing on other subjects such as the documentation of the genocide on the basis of adjudicated facts and the lessons from the referral of cases with particular regard for their relevance to the principle of complementarity in international criminal justice.

We expect, over the next year until the closure of the tribunal, to be actively engaged with a number of these initiatives aimed at promoting best practices in the fight against impunity especially at the national levels. The ICTR-OTP's legacy products are aimed at recording the challenges and responses to the investigation and prosecution of these difficult cases and assisting national and international prosecuting authorities in managing the range of challenges as the front line in ensuring accountability for international crimes. Along with the support provided by the ICTR-OTP to national prosecuting authorities in their efforts to investigate and prosecute genocide suspects within their jurisdictions, I am pleased to note that the interest in the work of the ICTR and its potential impact at the national level is increasing. This is indeed a good sign for the legacy of international justice and the global fight against impunity. We hope that member states will deepen this impact through national programs and appropriate legislative measures.

OTP-Residual Mechanism

Mr. President, Your Excellencies, allow me now to turn to the operations of the Residual Mechanism. I am pleased to report that all the core staff as well as the ad hoc staff necessary to conduct one upcoming appeal are already in place at the ICTR Branch of the Mechanism in Arusha. Recruitment of staff and other logistical and administrative arrangements are in progress for the establishment of The Hague Branch of the Mechanism effective from the beginning of next month. We expect some of the core staff of the OTP to be in place in time for the commencement of the Branch on 1st July 2013. The support and cooperation of the Registrar and the OTP of the ICTY has been very helpful in this respect.

The OTP of the Arusha Branch of the Mechanism continues to track the three top fugitives namely Felicien Kabuga, Protais Mpiranya and Augustin Bizi-

mana. In this regard, the Mechanism is in the process of launching a number of new initiatives aimed at increasing public interest and participation in tracking to supplement the efforts of the OTP and of the national and regional law enforcement authorities. We shall continue our contacts with Kenya, Zimbabwe and other states in the Great Lakes region in respect of the tracking of the three top-level fugitives and urge the Council to request all states to cooperate with the Mechanism in this regard.

At the Arusha Branch of the Mechanism, my office has attended to 26 requests for assistance from seven member states in the past six months in support of on-going national investigations or prosecutions. These figures are in keeping with the increasing trend of ongoing investigations within national jurisdictions against those suspected to have participated in the Rwandan genocide. These national efforts will contribute significantly to closing any gaps in the struggle against impunity for mass atrocities.

The monitoring by my office of cases transferred to national jurisdictions continues. The two cases of Wenceslas Munyeshyaka and Laurent Bucyibaruta referred to France are progressing in that jurisdiction. The Jean Uwinkindi case referred to Rwanda is before the Kigali High Court for trial. Preliminary proceedings are in progress and subject to determination of applications made by the accused in the case, the subsequent trial proceedings are anticipated to be completed expeditiously. With the recent confirmation of the referral by the ICTR Appeals Chamber of Bernard Munyaguishari to Rwanda for trial, I will be appointing a monitor to also observe the proceedings in this case.

Whilst the transfer of cases to national jurisdictions has facilitated the early conclusion of the work of the ICTR, its work will only really be done when all of its fugitives have been arrested and brought to justice, whether at the Residual Mechanism or in national courts. The Residual Mechanism is committed, as mandated, to support and supplement Rwandan efforts at tracking the six fugitives whose cases have been transferred to Rwanda. The cooperation of all member states is critical for this struggle against impunity and for accountability for these heinous crimes. Mr. President, I would urge the Security Council to request all member states once again to support the Residual Mechanism and Rwanda in the tracking and arrest of these fugitives from international criminal justice....."



Pauline Nyiramasuhuko, ex Rwandan politician, indicted for the Rwanda genocide in the Butare Case. She is the first woman to be convicted by the ICTR.

The ICTR Registrar Majola Visits Senegal and Sierra Leone

... Continued from page 1 ... visited the UNDP office in Dakar, Senegal and met with the Resident Coordinator, Ms. Fatou Bintou Djibo, together with her Deputy Country Director and Operations Manager, Mr. Luc Gnonlonfoun. During the meeting the two teams discussed on the possible project of constructing eight prison cells at the Sebikotane Prison Facility in Senegal to house ICTR convicts. He later visited the facility.



The joint mission of the ICTR and MICT meets the UNDP Resident Coordinator Fatou Bintou Djibo (third from the left)

The next day, on 5 June 2013, the ICTR Registrar and the Registrar of the Mechanism for International Criminal Tribunals (MICT), Mr John Hocking, and delegations met the Senegalese Minister of Justice, Ms. Aminata Toure, during which he thanked the Government of Senegal for giving permission to the ICTR to build its facility at the Sebikotane prison. Mr. Bongani pointed out that the agreement with Senegal to allow the ICTR to build the facility for its prisoners will enable the Tribunal to transfer its convicts who are still in Arusha to Senegal.

In addition to visiting and inspecting the Sebikotane prison for suitability for enforcement of ICTR sentences, the Registrar also visited and inspected the Tambacounda prison which is still under



SCSL Registrar Binta Mansaray (left) with ICTR Registrar Bongani Majola (right)

construction and Kedougou prison near the border with Mali.

The Registrar later paid a courtesy call to the 1st Vice-President of the Parliament of Senegal, Ms. Awa Gueye and briefed her on the work, challenges, and achievements of the ICTR.

The Registrar also paid a courtesy call to the Prime Minister of Senegal, H.E. Abdoul Mbaye and briefed him on the work of the Tribunal and thanked him and the Government of Senegal for assisting in the enforcement of sentences of the ICTR.

On 6 June 2013, the Registrar and his delegation visited Sierra Leone and met with the Registrar of the Special Court for Sierra Leone (SCSL) Mrs. Binta Mansaray during which they deliberated on the challenges facing the two Tribunals. They underscored the need to share lessons learnt and to provide mutual support, and how best to go about doing that.

They later paid a courtesy call to Judge Adelaide Dworzak, formerly Trial Attorney, OTP at the ICTR, and Commissioner Joseph Kamara of the Anti Corruption Commission of Sierra Leone, formerly Deputy Prosecutor of the SCSL.



ICTR Delegation visits Kedougou Prison (Senegal)



ICTR & MICT Delegation visits Sebikhotane Prison (Senegal)

MICT Prosecutor Hassan Jallow makes historic first official visit to the region of the former Yugoslavia

Justice Hassan B. Jallow, made his first official visit to the region of former Yugoslavia on Wednesday 22 May 2013 in his official capacity as Prosecutor of the Mechanism for International Criminal Tribunals for Rwanda and the former Yugoslavia (MICT). Prosecutor Jallow attended the 7th Regional Conference of State Prosecutors of the states that made up the former Yugoslavia on the island of Brijuni in Croatia upon the invitation of the State Attorney General of the Republic of Croatia. Among the participants at the Conference were the Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY), Mr Serge Brammertz, the Chief Prosecutors of Serbia, and Bosnia and Herzegovina, and the State Attorney General of the Republic of Croatia, Mr Mladen Bajic who opened the Conference and welcomed all the guests including a special welcome to Prosecutor Jallow as Prosecutor of the MICT.

The Conference lasted two days, 22-24 May, during which several issues of cooperation and mutual assistance were discussed. Prosecutor Jallow also briefed the delegates about the work of the ICTY branch of the MICT when it starts operations from 1 July 2013 and the future of cooperation between the MICT and their respective jurisdictions particularly in the areas of request for assistance, access to and sharing of information, and the continuing transfer of technical expertise to support ongoing national prosecutions of the crimes that were committed in the territory of the former Yugoslavia during the Balkans war of the 1990s. Prosecutor Jallow informed the delegates that the start of the MICT will mark jurisdictional change but with continuity: he told the delegates that there will be change and continuity and assured them of his continued cooperation and partnership in their joint efforts to end impunity in the region. Prosecutor Jallow also took the opportunity to introduce to the delegates, Ms Tea Polescuk, who was also attending the Conference as part of the ICTY-OTP team, as the first staff member to be appointed in The Hague branch of the Mechanism OTP. This appointment marked a significant step towards continuity because not only does Ms Tea hail from the region (Croatia) and therefore a familiar face to the delegates, but she was also a former staff member of the ICTY-OTP whose work at the ICTY included the servicing of foreign requests for assistance from national authorities particularly those in the region of the former Yugoslavia.

The Brijuni Conference is an annual event organ-



ICTY Prosecutor Serge Brammertz (left) &
MICT & ICTR Prosecutor Hassan B. Jallow (right)

ized in the island of Brijuni in Croatia by the State Attorney General's Office of the Republic of Croatia. It brings together all the Chief Prosecutors and prosecutorial staff of the different states that made up the former Yugoslavia including the hosts Croatia, Serbia, Bosnia and Herzegovina, and Montenegro, and provides them with a forum for open discussions and continuous dialogue about the challenges of cooperation and mutual assistance in the national prosecution of crimes that took place in the territory of the former Yugoslavia during the Balkans war of the 90s. The Prosecutor of the ICTY has also become a regular guest to the Conference and his participation provides an avenue for continuous engagement at the highest levels between the ICTY and the different states of the former Yugoslavia. Other guests also attended the Conference including a representative of the Embassy of the United States in Croatia.

It is to be recalled that Prosecutor Jallow was appointed by the Secretary General of the United Nations as Prosecutor of the Mechanism for International Criminal Tribunals following the creation of the Mechanism by the United Nations Security Council pursuant to Resolution 1966 of 2010. The Mechanism will continue with the jurisdiction, rights, obligations and essential functions of the ICTR and ICTY as the two Tribunals move ever closer to completion of their respective mandates and closure. The ICTR branch of the Mechanism started operations on 1 July 2012, and the ICTY branch will commence operations on 1 July 2013.

Prosecutor Jallow was accompanied by his MICT Special Assistant, Mr Abubacarr Tambadou.

MICT The Hague Branch Inaugurated

Statement of the MICT Prosecutor Hassan Jallow During the Opening Ceremony

On 1 July 2013 The Hague Branch of the International Residual Mechanism for Criminal Tribunals (MICT) was officially inaugurated and the Prosecutor Hassan B. Jallow made a statement during the ceremony in The Hague, The Netherlands. Below we reproduce some excerpts from the statement:

“.....Today marks yet another milestone in the evolution of the process of international criminal justice with the inauguration of The Hague Branch of the International Residual Mechanism for Criminal Tribunals. One year ago today, we witnessed the official opening of the Arusha branch of the Mechanism in Arusha, Tanzania. I am happy to report that the OTP of the Arusha branch is now fully operational with a full complement of staff and has been actively pursuing the implementation of its mandate since 1 July 2012.

The opening of The Hague Branch today will usher in the second and final phase of the establishment of the Mechanism for the Tribunals. The Mechanism is mandated by its Statute to continue the functions of the ICTY and ICTR during the period of its operations and in this respect the material, territorial, temporal and personal jurisdiction of the two ad hoc Tribunals as well as their rights and obligations subject to the Mechanism Statute.

Thus from its establishment, the OTP of The Hague Branch will be engaged in both ad hoc as well as core activities. The former will comprise the management of all appeals where the notices of appeal have been filed on or after 1 July 2013. Unlike the Arusha Branch, which has three outstanding fugitives pending and earmarked for trial in Arusha, The



MICT & ICTR Prosecutor Hassan B. Jallow at the launch of the MICT The Hague branch, The Netherlands

Hague Branch has no fugitives outstanding and will not therefore undertake trial work except in respect of possible re-trials and trial of contempt cases. The core activities of the single OTP of the two branches are however similar and comprise among other things, management of archives, legal assistance to and capacity building in national jurisdictions, enforcement of sentences, management of review proceedings, witness protection, management of disclosure matters etc.

The recruitment of the core staff of the Hague Branch of the OTP is actively underway with some staff already in place. I expect that all of the core staff numbering seven persons will have been recruited and in place shortly. Advertisements for ad hoc positions for Mechanism appeals teams will be posted in the next few weeks and I would like to encourage all interested persons to apply. I would like to record our appreciation of the support and cooperation of the OTP and the Registry of the ICTY in this respect and in the preparations for the commencement of the Branch.

The establishment of the Mechanism is indeed



*ICTY - International Criminal Tribunal for the former Yugoslavia.
Photo: Courtesy of the ICTY*

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a truly historic occasion, marking as it does the conclusion of an important phase in international criminal justice with the imminent closure of the two main ad hoc Tribunals –the ICTR and the ICTY- and in a very innovative and cost effective manner ushering in another. It is however also a challenging process-presenting challenges to both staff and management and indeed to the constituencies of the ad hoc Tribunals. The operations of the Arusha Branch for the past twelve months have demonstrated that these challenges can be overcome. The process of ensuring accountability for international crimes continues in a lean but effective and efficient manner. The phased establishment of the two Branches of the Mechanism will enable us to take advantage of the lessons learnt from the establishment of the Arusha Branch.

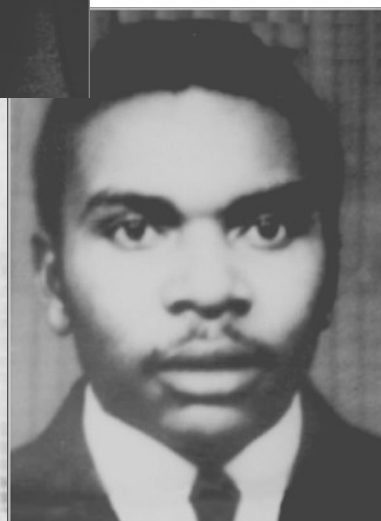
The Mechanism will rely, for the success of its operations, on the support of the existing Tribunals in many ways: on the double-hatting of staff; the commitment of management and the provision of support services; and the dedication and competence of its small number of staff; and particularly on the cooperation of member states in all aspects of its activities. I am confident that this support will be available and that The Hague Branch, like its counterpart the Arusha Branch, will take off well and conduct its operations effectively.

The states of the former Yugoslavia will continue to be the focus of capacity building as well as the sharing of information held by the OTP. In May, upon the invitation of the State Attorney General of the Republic of Croatia, I conducted my first official visit to the region as Prosecutor of the Mechanism to attend the 7th Regional Conference of Prosecutors of the states that made up the former Yugoslavia. Naturally, local prosecutors from all the states were interested to learn about the future of mutual legal assistance and the continuing transfer of technical expertise to support local prosecutions. I wish to reassure them that the establishment of The Hague branch of the Mechanism will mark a jurisdictional change but our partnership with national authorities in the region will continue on matters of legal assistance, capacity building and the various other projects that already exist between them and the ICTY-OTP.

In this regard, I wish to thank all our international partners with special appreciation to the European Union for its unflinching support to the ICTY and particularly to the OTP over the years. I am aware of the tremendous support the European Union

gives to ICTY-OTP projects and my office looks forward to this continuing cooperation and partnership between the EU and the Mechanism.

One of the biggest challenges that the Mechanism as a whole faces is the tracking and arrest of the three remaining fugitives indicted for genocide and related crimes by the ICTR: Felicien Kabuga, a former businessman and director of the infamous Radio Mille Collines; Protais Mpiranya, former Commander of the Presidential Guard; and Augustin Bizimana, former Minister of Defence of Rwanda. They are charged with playing a leading role in the most serious crimes under the law and in the context of one of the worst humanitarian tragedies of modern times. Justice and peace in the region require that they be arrested and held to account for their roles in the 1994 Rwandan genocide. The Mechanism which has jurisdiction over their cases will continue to pursue their arrest vigorously. But we need the support of all states if we are to succeed. On this occasion I seize the opportunity to call on all states to live up to their legal responsibility of cooperation with the Mechanism. For those in which the fugitives are suspected to be hiding, to conduct vigorous and credible efforts to arrest and transfer them to the Mechanism and for other states to provide the necessary support to this process. It is only in this way that the international community can bring some real closure to the process of accountability for the international crimes committed in Rwanda in those dark days of 1994.....”



Felicien Kabuga (top), Protais Mpiranya (right), and Augustin Bizimana (bottom left); remaining three fugitives indicted for the Rwanda genocide.

The Appeals Chamber Hears Oral Arguments in the Ndindiliyimana et al. Case

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judge Theodor Meron, presiding, Judge Liu Daqun, Judge Carmel Agius, Judge Khalida Rachid Khan, and Judge Bakhtiyar Tuzmukhamedov, heard the oral arguments in the appeals lodged by Augustin Ndindiliyimana, Augustin Bizimungu, François-Xavier Nzuwonemeye, Innocent Sagahutu, and the Prosecution against the Judgement pronounced by Trial Chamber II on 17 May 2011 and filed in writing on 17 June 2011. The hearing of these five appeals took place from Tuesday, 7 May 2013, through Friday, 10 May 2013.



Theodor Meron, President of the ICTY and Presiding Judge of the Appeals Chambers of the ICTR and the ICTY

The Trial Chamber found Ndindiliyimana guilty as a superior in the commission of genocide, extermination as a crime against humanity, and murder as a serious violation of Article 3 Common to the Geneva Conventions and of Additional Protocol II for crimes committed by gendarmes at Kansi Parish (Butare Prefecture) on 21 April 1994 and Saint André College (Kigali) on 13 April 1994. The Trial Chamber further entered a conviction for murder as a crime against humanity. Ndindiliyimana was sentenced to time served, and his immediate release was ordered on 17 May 2011.

The Trial Chamber found Bizimungu guilty of aiding and abetting genocide in relation to an attack in Rwankeri Sector (Ruhengeri Prefecture) on 7 April 1994. It further convicted Bizimungu as a superior

in the commission of genocide, crimes against humanity (extermination, murder, and rape), and serious violations of Article 3 common to the Geneva Conventions and of Additional Protocol II (murder and rape) for crimes committed by soldiers of the Rwandan army and Interahamwe in April, May, and June 1994 at the Josephite Brothers compound (Kigali); the École des Sciences Infirmières de Kabgayi, the Musambira Commune office and dispensary, the TRAFIPRO Centre (all Gitarama Prefecture); the Cyangugu Prefecture stadium; and the Butare Prefecture office and Episcopal Church of Rwanda (Butare Prefecture). The Trial Chamber sentenced Bizimungu to 30 years of imprisonment.



François-Xavier Nzuwonemeye, former Major in the Rwandan Armed Forces (FAR) indicted for the Rwanda genocide.

The Trial Chamber convicted Nzuwonemeye and Sagahutu for ordering and aiding and abetting murder as a crime against humanity and as a serious violation of Article 3 common to the Geneva Conventions and of Additional Protocol II in relation to the killing of Prime Minister Agathe Uwilingiyimana on 7 April 1994. The Trial Chamber further convicted Nzuwonemeye as a superior of murder as a crime against humanity and as a serious violation of Article 3 common to the Geneva Conventions and of Additional Protocol II with respect to the killing of Belgian UNAMIR peacekeepers at Camp Kigali on 7 April 1994. In relation to the same event, Sagahutu was found guilty as a superior of murder as a crime against humanity as well as for ordering and aiding and abetting murder as a serious violation of Article 3 common to the Geneva Conventions and of Additional Protocol II. The Trial



Augustin Bizimungu, former General in the Rwandan Armed Forces (FAR) indicted for the Rwanda genocide.

... Continued on page 12 ...



Augustin Ndindiliyimana, former Major General in the Rwandan Armed Forces (FAR) indicted for the Rwanda genocide.

Chamber sentenced both Nzuwonemeye and Sagahutu to 20 years of imprisonment.

Ndindiliyimana, Bizimungu, Nzuwonemeye, and Sagahutu contend that the Trial Chamber committed a number of errors of law and fact and request the Appeals Chamber to overturn their convictions. Bizimungu, Nzuwonemeye, and Sagahutu request, in the alternative, that the Appeals Chamber order a

retrial or reduce their sentences. The Prosecution submits that the Trial Chamber erred in law and fact in acquitting Ndindiliyimana and Bizimungu in relation to several crimes and seeks the reversal of these acquittals. The Prosecution further requests the Appeals Chamber to increase the respective sentences of Ndindiliyimana, Bizimungu, Nzuwonemeye, and Sagahutu.

At the time of the relevant events, Ndindiliyimana was the Chief of Staff of the Rwandan gendarmerie. Bizimungu was appointed commander of military operations for Ruhengeri Sector in January 1994 and, on 16 April 1994, became Chief of Staff of the Rwandan army. He assumed this position on 19 April 1994. Nzuwonemeye was the commander of the Reconnaissance Battalion, and Sagahutu served as the commander of Squadron A of this battalion.



Innocent Sagahutu, former Captain in the Rwandan Armed Forces (FAR) indicted for the Rwanda genocide.

The Appeals Chamber Hears Oral Arguments in the Ndahimana Case

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judge Theodor Meron, presiding, Judge William H. Sekule, Judge Arlette Ramaroson, Judge Carmel Agius, and Judge Khalida Rachid Khan on 6 May 2013 heard oral arguments in the appeals lodged by Grégoire Ndahimana and the Prosecution against the Judgment pronounced by Trial Chamber II on 17 November 2011 and filed in writing on 18 January 2012.



Grégoire Ndahimana, former Mayor of Kivumu indicted for the Rwanda genocide.

The Trial Chamber found Ndahimana guilty of genocide and extermination as a crime against humanity for failing to punish his subordinates from the communal police for the killings perpetrated on 15 April 1994 at Nyange Church, Ki-

vumu Commune, Kibuye Prefecture, and for aiding and abetting by tacit approval the killings perpetrated at Nyange Church on 16 April 1994. The Trial Chamber sentenced Ndahimana to 15 years of imprisonment.

Ndahimana contends that the Trial Chamber committed a number of errors of law and fact, and accordingly requests the Appeals Chamber to quash his convictions and sentence and order his immediate release. The Prosecution challenges some of the Trial Chamber's acquittals and the sentence imposed on Ndahimana.

Ndahimana was born in 1952 in Rukoko Sector, Kivumu Commune, Kibuye Prefecture, Rwanda. He was elected bourgmestre of Kivumu Commune in June 1993, a position he assumed in October 1993 and maintained until he left Rwanda in July 1994. Ndahimana was arrested in the Democratic Republic of the Congo on 11 August 2009, and was transferred to the Tribunal's detention facility in Arusha, Tanzania, on 20 September 2009.

Activity of the Appeals Chamber: May-June 2013

During May and June 2013, the Appeals Chamber issued **1** decision on a referral appeal, **2** decisions concerning post-appeal requests, and **8** preliminary decisions or orders. The Appeals Chamber also heard appeals in the *Ndindiliyimana et al./Military II* and *Ndahimana* cases and held a status conference in the *Nyiramasuhuko et al./Butare* case.

The Appeals Chamber is presently seized of **8** matters, including **6** cases involving appeals from judgement concerning **15** persons.



Edouard Karemera, former Rwandan politician, indicted for the Rwanda genocide.

Appeals from Judgement

The Trial Judgement in the *Ndindiliyimana et al./Military II* case was rendered on 17 May 2011 and issued in writing on 20 June 2011. The notices of appeal of the five parties were filed between July



Mathieu Ngirumpatse, former Rwandan politician, indicted for the Rwanda genocide.

2011 and January 2012, the briefing was completed in May 2012, and the appeals were heard from 7 through 10 May 2013. Judgement deliberations are in progress.

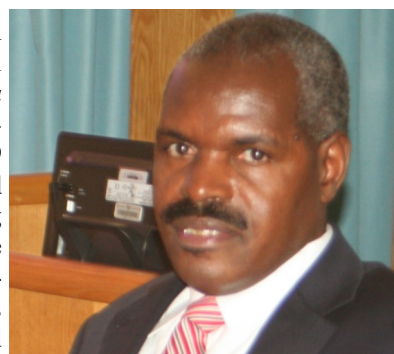
The Trial Judgement in the *Ndahimana* case was rendered on 17 November 2011 and issued in writing on 18 January 2012. Both parties filed their notices of appeal in February 2012 and the briefing was completed in February 2013. The appeals were heard on 6 May 2013 and judgement deliberations are in progress.

The Trial Judgement in the *Nyiramasuhuko et al./Butare* case was rendered on 24 June 2011 and issued in writing on 14 July 2011. The notices of appeal of the seven parties were filed between September 2011 and April 2012 and the briefing is in progress.

The Trial Judgement in the *Karempera & Ngirumpatse* case was rendered on 21 December 2011 and issued in writing on 2 February 2012. All three parties filed their notices of appeal in March 2012 and the briefing was completed in March 2013. The appeals are being prepared for a hearing.

The Trial Judgement in the *Nzabonimana* case was rendered on 31 May 2012 and issued in writing on 25 June 2012. Both parties filed notices of appeal and the briefing is in progress.

The Trial Judgement in the *Nizeyimana* case was rendered on 19 June 2012 and issued in writing on 22 June 2012. Both parties filed notices of appeal and the briefing is in progress.



Idelphonse Nizeyimana, former FAR Captain, indicted for the Rwanda genocide.

Other Appeals and Post-Appeal Requests

In addition to these appeals, the Appeals Chamber is seized of **1** appeal concerning a post-appeal request (*Munyagishari*).

Summary

To date, the Appeals Chamber has delivered **38** Appeal Judgements, concluding the appellate proceedings in respect of **46** persons.