



# ICTR Newsletter

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## ICTR President Vagn Joensen and Prosecutor Hassan B. Jallow address UN Security Council

The President of the United Nations International Criminal Tribunal for Rwanda Judge Vagn Joensen and the ICTR Prosecutor Mr. Hassan Bubacar Jallow on 7 June 2012 addressed the UN Security Council in New York at which they briefed the members of the Council on the work of the ICTR and its Completion Strategy. Below are some excerpts from their speeches:

### Excerpts from President Vagn Joensen's speech

"...I am happy to report to your Excellencies that since the last report, the Tribunal has undergone a significant shift with respect to both judicial and administrative activities. As we near completion of all trial work, judicial and legal activities have become more focused on requests for referral of cases to Rwanda, and administrative energies are increasingly spent on downsizing and providing the support necessary for the opening of the Arusha branch of the Residual Mechanism ("RM") next month. However, none of this has taken away from the nucleus of our work:

trial and appellate proceedings in a fair and expeditious manner.

In December 2011, in line with projections since 2010, the final multi-accused trial judgment was delivered in the Karempera et. al. case, marking the most expeditious judgment delivery in a multi-accused case and showing that efforts to improve efficiency in recent years have been effective in many cases. During that same month, the Appeals Chamber upheld the decision to refer the first ICTR case to Rwanda for trial. After finalizing the arrangements for monitoring, Jean Uwinkindi was transferred to Rwanda in April 2012, and a further three cases of fugitive accused have already been referred to Rwanda. The Prosecutor has also requested or will request three more referrals of fugitive cases, all of which will be disposed of by next month. The final three fugitives, for whom evidence preservation will be concluded this month, are slated for trial by the Residual Mechanism upon arrest. The Prosecutor will provide you with

phase of the trial, judgment in the trial of Augustin Ndirabatswe- the final remaining ongoing ICTR trial- is now expected by the end of 2012, and closing arguments are scheduled for next month. Additionally, just yesterday the Trial Chambers granted the application for referral to Rwanda of the case against Bernard Munyagishari, the final accused in pre-trial custody at the Tribunal. I must note that the Accused may appeal this decision. If that happens we hope to have a decision from the Appeals Chamber in the next several months.

Therefore, based upon the current status of cases, in stark contrast to the report delivered only six months ago, I am happy to bring you news that the Tribunal now has a vastly reduced judicial workload. Due in no small part to the continued hard work of our staff nearly all trial work is complete, only one trial judgment in an ongoing case will remain to be delivered in the second half of 2012, and all appeal judgments remain on track to be completed by the end of 2014.

It must be noted, however, that pursuant to the Transitional Arrangements the responsibility for two pending contempt of court/false testimony cases where indictments have already been confirmed remains with the ICTR. In the event of arrests in these cases, or if the Munyagishari referral is not upheld on Appeal, the anticipated completion of trial work may need to be pushed back.

I would also like to take this opportunity to provide the members of this esteemed Council with an update on the status of three cases for which there remains some questions as to whether the appeals, if any, would be filed with the ICTR or RM. For the first two cases, there is a possibility



ICTR President Judge Vagn Joensen

further details on fugitive referral applications and tracking during his presentation. Five trial judgments were projected for delivery during this six-month reporting period. Of those five, all but one will have been delivered by the end of this month. Due to unforeseeable fair trial requirements including the necessary continuation of the evidence

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for the appeals to remain with the ICTR, and for the third it will certainly go to the RM. In the *Nizeyimana* case the judgments will be delivered later this month; in the *Nzabonimana* case oral judgment was rendered last week and the written judgment will be filed later this month. Whether the ICTR or RM hear the appeals in these two cases will depend on the dates that the notice of appeal in each case is filed. The parties have 30 days from the filing of the written judgment to file their notice of appeal, if any. In both cases notices of appeal could be filed prior to 30 June, causing them to be heard by the ICTR. However, in both cases the time limits for filing allow the parties to file after 1 July, the date from which cases go to the RM. For the third case, *Ngirabatware*, it is now clear that the trial judgment will not be delivered before 30 June, so the appeal will certainly go to the RM. Next, I turn to an important recent request that I have sent to the Security Council and General Assembly seeking the extension of the terms of office for the trial judges on the *Ngirabatware* case and the President to correspond with our remaining work. The terms of the judges on the *Ngirabatware* bench are required to be extended until December 2012 or until judgment is rendered, if earlier, and my term is required to be extended until December 2014 in line with the projected completion of all judicial work. These extensions are critical to ensuring that we meet our remaining goals for completion of our mandate. Next, I turn to staffing. In continuation of a recurring theme in recent Reports, staff recruitment, retention and separation persist as ongoing challenges as we progress in the completion process. Where recruitment is required, the Tribunal has difficulty attracting suitably qualified candidates given the limited contractual security that we as a closing institution can provide. The ICTR continues to experience difficulties in retaining experienced staff who lack financial incentives to stay with the Tribunal to complete their work, and have few possibilities for upward mobility and have reduced contractual security. They, therefore, have been leaving the Tribunal to accept offers of employment elsewhere, either within or outside the UN system. Although we continue to work within the resources available and make significant progress, staff retention always has the potential to adversely impact the successful and timely completion of our work.

The downsizing process that began in 2008-2009 continues with the proposed abolition of 212 posts during the 2012-2013 bienniums. This will mean an overall reduction of more than one-third of the authorized 2010-2011 levels. A fair and transparent decision making process concerning staff retention during the downsizing process puts additional strain on program managers. Thus they are required to perform retention exercises in addition to their regular workload. Moreover, their workload is already increased due to restructuring plans which require all retained staff to perform an increasing range of functions.

We must express our gratitude to the Department of Management, especially the Office of the Controller and Human Resources Management, who continue to provide the Tribunal with support to explore and adopt additional measures and a common strategy to address the challenges of downsizing and separation of staff. This includes implementation of the previously planned establishment of the Outplacement Office to assist Tribunal staff who have applied for various positions in the UN.

I now turn to the issue of relocating persons who have been acquitted by the Tribunal. Both of my predecessors in office have brought to your attention the persistent problem of finding countries to receive acquitted persons. With the near completion of all trial activities, I see it as a cornerstone of my Presidency to enhance my role in these efforts. In this regard, I will be increasingly applying my energies to persuade Member States to assist with relocation. I have already begun my work in this regard by lobbying for our acquitted persons and I continue to do so today by calling upon all members of this esteemed Council to do their part in helping to ensure that we uphold this fundamental right of freedom to live one's life after being acquitted by an international tribunal.

I will now provide you with an update on the role that the ICTR is playing in the preparations for the Arusha Branch of the International Residual Mechanism for Criminal Tribunals. The Arusha Branch of the Mechanism will open its doors in less than one month. From 1 July 2012 many judicial and prosecutorial functions will begin to be officially handed over to the Mechanism, along with responsibilities for the Tribunals' archives, protection of witnesses, and numerous other functions currently handled by the Tribunal. I am very pleased with the status of efforts to ensure a seamless transition, and I would like to thank the President, Registrar and Prosecutor of the Residual Mechanism for their tireless work in this regard. It has been and will continue to be my honor and privilege to do everything in my power to assist them in this endeavor.

I would also like to express my deep gratitude to the ICTR Registrar for all that he and his staff have done to assist with making practical arrangements for the co-ordinate provision of administrative and other services to the Mechanism in line with Resolution 1966. Since January 2012, the ICTR has been working on the provision of a fully functional office space for the Mechanism within the Tribunal's current premises. The Tribunal has also supported the Mechanism in staff recruitment and finance/budgetary matters, and assisted the Mechanism in establishing its relations with the Host Country. The ICTR Registry continues to share information and know-how in the areas of witness support and protection and enforcement of sentences in order to facilitate the smooth transfer of



these functions to the Mechanism.

Efforts to prepare the Tribunal’s archives and records for transfer to the Mechanism are well under way, and co-ordinate efforts will increasingly continue in the coming months. Wherever possible we have harmonized our draft retention schedules with those of the ICTY, and we have finalized guidelines on the appraisal and disposal of records and the preparation of records for transfer to the archives. The Tribunals have finalized our coordinated efforts and have submitted a draft Secretary-General’s Bulletin on information sensitivity, classification, handling and access for the records of the Tribunals and the Mechanism. We look forward to the finalization and release of this important document.....”

**Excerpts from Mr. Jallow's speech**

“...The implementation of the ICTR Completion Strategy has gained significant momentum in the past six months. The evidentiary phase of the cases of all the current detainees except the case of Bernard Munyagishari, which is to be transferred, have been concluded pending two judgments to be delivered in the course of this year.

My office has concluded the updating of the case files of all the fugitives in respect of both the pleadings and evidence. We have also concluded the Rule 71bis evidence preservation proceedings in respect of two of the three cases concerned i.e. Kabuga and Mpiranya and are scheduled to conclude in respect of the case of the third case of Bizimana by the end of June 2012. This exercise will greatly facilitate any trials to be undertaken by the International Residual Mechanism.

Litigation over referral of cases has been a significant aspect of the work of my office during the same period. The OTP was successful in obtaining the referral of five cases of inductees, two of them detainees and three fugitives to Rwanda for trial under Rule 11bis.

Two cases in respect of fugitives are pending for decision. I propose to file an application shortly in respect of the last case for referral.

I hope that by the end of this year, all the remaining cases of the inductees that were earmarked for referral to national jurisdictions under the ICTR Completion

Strategy would have been transferred to Rwanda leaving only the cases of the three top fugitives, i.e. Kabuga, Mpiranya and Bizimana that have been reserved for trial by the Residual Mechanism.

The success of the ICTR referral strategy to date has been due largely to the commitment of the Government of Rwanda, with the support of the ICTR and the development partners, in undertaking extensive law reform and capacity building measures to ensure fair and effective trials within the legal system. I would like to commend the Government of Rwanda for its cooperation as well as the Governments of Canada, the United States and the European Union for their support in the implementation of these measures in support of strengthening the Rwandan legal system.

The referral strategy has brought dividends not only to the Rwandan legal system; it has made timely and proper completion of the work of the ICTR a probability. Equally important is the fact that the referral decisions of the ICTR have facilitated the deportation or extradition to Rwanda of suspected genocidaires to Rwanda from national jurisdictions where prosecution or extradition has hitherto been beset with technical difficulties. In this way, these gaps in the struggle against impunity have been closed.

The cases of Bucyibaruta and Munyeshyaka referred by the ICTR to France for prosecution continue to progress before the investigating judges in that jurisdiction.

The prosecution and management of appeals were of paramount importance as the workload of the OTP Appeals and Legal Advisory Division (ALAD) for the 2012 and 2013 biennium increased substantially. Following the delivery of judgments in one multi-accused trial and in one single accused trial (Karemera et al., Ndahimana), my office has been litigating in 33 appeals from final judgments and sentences returned in 12 cases. It also has been actively making advance preparations for six additional potential appeals in three cases. We anticipate that the OTP will conclude its appellate workload, including any possible appeals from the two trial chamber judgments that are pending well within the time frame of the Completion Strategy.

If the pending referral applications are also successful, the focus of my office in respect of tracking will shift to the three top level fugitives earmarked for trial by the Residual Mechanism.



*ICTR Prosecutor, Justice Hassan B. Jallow*



We shall however continue to provide support to Rwanda for the tracking and arrest of those fugitives whose cases have been referred to that jurisdiction. It should be recalled that all states have an obligation, pursuant to Article 28 of the ICTR Statute and the orders of the ICTR referral and appeals chambers, to arrest such fugitives within their territory and to transfer them to Rwanda or other jurisdiction designated by the Chambers for trial.

Tracking of the three top fugitives continues to be a challenge, with information at our disposal continuing to link *Kabuga* with Kenya and *Mpiranya* with Zimbabwe and *Bizimana* with various locations in the same region. It is necessary in the interests of peace and of justice that all states collaborate and support the ICTR for the arrest of these fugitives and for the international community and particularly the UN Security Council to bring their influence to bear on those states harboring them. Whilst these three cases are earmarked for trial by the International Residual Mechanism, it may become necessary, should they continue to evade justice, to consider at some stage, the option of referring their cases to the appropriate national jurisdiction for trial. Given that these fugitives are suspected to be in the East, Central and Southern African region, my office is actively encouraging regional inter-state institutions of the area to make the arrest of these fugitives a priority within the regional efforts for maintenance of peace, security and justice.

In order to ensure a smooth and effective migration of records and archives to the Residual Mechanism, my office is also currently working on the preparation and archiving of its holdings and consolidating the related archiving regimes and security frameworks.

The servicing of foreign requests for assistance in investigation and prosecution has continued as an important function of the work of my office over the reporting period. In order to strengthen the efforts of several Member States to bring to trial the Rwandan suspects appearing on the INTERPOL list, my office has, in the current reporting period, provided assistance to 10 member states in respect of 44 requests relating to the investigating or prosecution of genocide cases. This function will be taken over by the Office of the Prosecutor of the International Residual Mechanism, Arusha Branch from 1st July of this year.

With the appointment of all the three Principals of the International Residual Mechanism earlier this year, efforts at the establishment of the Arusha Branch of the IRM have moved quickly, due to the efforts of the Registrar of the Residual Mechanism and the cooperation of the ICTY and ICTR. Staff of the respective offices of both Tribunals and their Principals have devoted considerable time and energy to ensuring that

the Mechanism takes off as planned and functions effectively and from that date the IRM will commence operations of its Arusha Branch, focusing on the tracking of fugitives, provision of witness management and support, servicing of foreign requests for assistance, preparations for possible trials and the establishment of the IRM archives. Recruitment of the core staff of the Branch is in the meantime actively underway and I expect to have a number of staff of the OTP on board to commence the operations of the Arusha Branch by 1st July 2012.

Meanwhile, with the declining workload of the ICTR, we have intensified the separation of staff whose services are no longer required. Within my offices this has resulted in significant scaling down of staffing in both Kigali and Arusha. It is no doubt a challenging process but one that is necessary given the impending closure of the ICTR. We remain indebted to the staff who have worked hard and over many years to make the commitment of the United Nations and the mandate of the ICTR to bring justice and peace to Rwanda a reality not only for the people of Rwanda but for the rest of the world.....”

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## Appeals Chamber Delivers Judgements in the Ntabakuze, Hategekimana and Kanyarukiga Cases

The Appeals Chamber of the United Nations International Criminal Tribunal for Rwanda on 8 May 2012 delivered judgements in the cases of Aloys Ntabakuze, Idelphonse Hategekimana and Gaspard Kanyarukiga. The Appeals Chamber:

- Reversed some convictions in the Ntabakuze case and reduced his life sentence to 35 years of imprisonment
- Affirmed the convictions and sentence of life in prison in the Hategekimana case
- Affirmed the convictions and sentence of 30 years in prison in the Kanyarukiga case

### Judgement in the Ntabakuze Case

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judge Theodor Meron, presiding, Judge Mehmet Güney, Judge Fausto Pocar, Judge Liu Daqun, and Judge Arlette Ramaroson, delivered, on 8 May 2012, its judgment on the appeal lodged by Aloys Ntabakuze, reversing some of his convictions and reducing his life sentence to 35 years of imprisonment.

On 18 December 2008, Trial Chamber I of the Tribunal found Ntabakuze guilty of genocide, crimes against humanity, and serious violations of Article 3 common to the Geneva Conventions and of Additional Protocol II for crimes committed in April 1994 in Kigali.



Aloys Ntabakuze, Commander of Bataillon in FAR

The Appeals Chamber affirmed Ntabakuze’s convictions for genocide, extermination and persecution as crimes against humanity, as well violence to life as a serious violation of Article 3 common to the Geneva Conventions and of Additional Protocol II pursuant to Article 6(3) of the Statute for the killings perpetrated at

Nyanza hill on 11 April 1994 and at the Institut africain et mauricien de statistiques et d’économie around 15 April 1994. However, the Appeals Chamber reversed Ntabakuze’s convictions for preventing the refugees killed at Nyanza hill from seeking sanctuary and, Judges Pocar and Liu dissenting, for the killings perpetrated in Kabeza on 7 and 8 April 1994. The Appeals Chamber also reversed Ntabakuze’s convictions for murder as a crime against humanity and set aside the finding of the Trial Chamber that Ntabakuze is responsible for the commission of crimes by militiamen. The Appeals Chamber, Judges Pocar and Liu dissenting, considered that the reversal of some of Ntabakuze’s convictions called for a revision of his life sentence, and entered a new sentence of 35 years of imprisonment

At the time of the relevant events, Ntabakuze held the rank of Major in the Rwandan army and served as the Commander of the Para-Commando Battalion at Camp Kanombe, Kigali. Ntabakuze was arrested in Kenya on 18 July 1997. He is to remain in the United Nations Detention Facility in Arusha, Tanzania, pending his transfer to the country in which he will serve his sentence.

### Judgment in the Hategekimana Case

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judges Fausto Pocar, Presiding, Patrick Robinson, Mehmet Güney, Andréia Vaz and Carmel Agius, delivered, on 8 May 2012, the judgement in the case of Idelphonse Hategekimana v. The Prosecutor.

On 6 December 2010, Trial Chamber II of the Tribunal convicted Hategekimana for committing genocide based on his role in a joint criminal enterprise which resulted in the killings of Salomé Mujawayezu, Alice Mukarwesa, and Jacqueline Mukaburasa and of Tutsi

civilians at the Ngoma Parish and the *Maison Générale*. In addition, the Trial Chamber convicted Hategekimana of murder as a crime against humanity for ordering the abduction and killing of Jean Bosco Rugomboka and for his role in a joint criminal enterprise which resulted in the deaths of Salomé Mujawayezu, Alice Mukarwesa, Jacqueline Mukaburasa, and Solange Karenzi. The Trial Chamber also convicted Hategekimana as a superior of rape as a crime against humanity for the rape of Nura Sezirahiga. Hategekimana was sentenced to a single term of life imprisonment. Hategekimana appealed against his convictions and sentence.



Idelphonse Hategekimana, Commander of the Ngoma Camp

The Appeals Chamber dismissed Hategekimana’s appeal and affirmed his sentence of life imprisonment based on his convictions for genocide and murder and rape as crimes against humanity. He is to remain in the United Nations Detention Facility in Arusha, Tanzania, pending his transfer to the country in which he will serve his sentence.

Hategekimana was born on 1 February 1964 in Mugina Commune, Gitarama Prefecture, Rwanda. In 1994, he held the rank of lieutenant in the Rwandan army and was the commander of the Ngoma Military Camp in Butare Prefecture.



### Judgement in the Kanyarukiga Case

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judge Patrick Robinson, presiding, Judge Mehmet Güney, Judge Fausto Pocar, Judge Arlette Ramaroson, and Judge Andréia Vaz, delivered, on 8 May 2012, its judgement in the case of Gaspard Kanyarukiga v. The Prosecutor.

On 1 November 2010, Trial Chamber II of the Tribunal convicted Kanyarukiga of genocide and extermination as a crime against humanity based on his participation in the planning of the destruction of the Nyange church in Kivumu commune, Kibuye prefecture, Rwanda, on 16 April 1994, which resulted in the death of approximately 2,000 Tutsi civilians. The Trial Chamber sentenced Kanyarukiga to 30 years of imprisonment. Both Kanyarukiga and the Prosecution appealed.



*Gaspard Kanyarukiga,  
Businessman in Kigali and  
Kivumu Commune*

Nzabonimana was arrested on 18 February 2008 in Tanzania, and the trial commenced on 9 November 2009. The Prosecution presented a total of 20 witnesses, including one in rebuttal, and the Defense called 40 witnesses. The trial closed on 12 September 2011, and the Trial Chamber heard closing arguments on 20 and 21 October 2011.

Nzabonimana was born in 1953 in Nyabikenke *commune*, Gitarama *préfecture*, Rwanda. During the events of April to July 1994, Nzabonimana served both as the Minister of Youth and Associate Movements in the Interim Government and as the chairman of the MRND party in Gitarama *préfecture*.



*Callixte  
Nzabonimana,  
Minister of Youth and Member of  
MRND*



### Callixte Nzabonimana Convicted and Sentenced to Life Imprisonment

Trial Chamber III of the International Criminal Tribunal for Rwanda, composed of Judge Solomy Balungi Bossa, presiding, Judge Bakhtiyar Tuzmukhamedov, and Judge Mparany Rajohnson, delivered its Judgement on 31 May 2012 in the case of Callixte Nzabonimana, former Rwanda Minister of Youth and Associate Movements.

The Trial Chamber convicted Nzabonimana of Genocide, Conspiracy to Commit Genocide, Direct and Public Incitement to Commit Genocide and Extermination as a Crime Against Humanity. He was sentenced to life imprisonment.

The Trial Chamber found that on 14 April 1994 at Cyayi centre, Nzabonimana instigated the killing of Tutsis taking refuge at the Nyabikenke *commune* office, and that between 15 and 60 Tutsis were subsequently killed. The Trial Chamber further found Nzabonimana guilty of three separate incidents of Direct and Public Incitement. Nzabonimana directly and publicly incited the killing of Tutsis at the Butare trading centre on or about 12 April 1994, at Cyayi centre on 14 April 1994, and at Murambi on 18 April 1994.

### Idélphonse Nizeyimana Sentenced to Life Imprisonment

Trial Chamber III of the International Criminal Tribunal for Rwanda today sentenced Idélphonse Nizeyimana, a former captain at the Butare military academy called the *École des Sous-Officiers*, to life imprisonment. Nizeyimana was found guilty of genocide, extermination and murder as crimes against humanity and murder as a serious violation of Article 3 common to the Geneva Conventions and Additional Protocol II.

The Chamber concluded that Nizeyimana was criminally liable for his role in an attack on Cyahinda Parish, which resulted in the deaths of thousands of primarily Tutsi refugees. He was also found responsible for the targeted killing of Rosalie Gicanda, Rwanda's former Tutsi Queen, the murder of a former Butare deputy prosecutor, a sub-prefect for Butare and persons taken from each of their homes. The Chamber also concluded that Nizeyimana was criminally responsible for the killings of members of the Ruhutinyanya family and the killing of and serious bodily injury to select Tutsis at roadblocks in Butare town.

Nizeyimana was born on 5 October 1963 in Mutura commune, Gisenyi prefecture. He was arrested in the Republic of Uganda on 5 October 2009. Trial commenced on 17 January 2011 and closed on 22 September 2011. The Prosecution called 41 witnesses and the Defence 44. Closing arguments were submitted on 7 December 2011.

The case was heard by Trial Chamber III, composed of Judges Lee Gacuga Muthoga (Kenya), presiding, Seon Ki Park (Republic of Korea) and Robert Fremr (Czech Republic). The Prosecution team was led by Drew White, and included Kirsten Gray and Yasmine Chubin. The Defence was represented by John Philpot and assisted by Cainech Lusisa-Berdou.

Nizeyimana's judgement marks the completion by the Tribunal of work at trial level in respect of 85 of the 93 accused individuals. Only one judgement, that of Augustin Ndirabatware, which will be delivered before the end of 2012, is remaining. Six referrals to national jurisdictions (three apprehended accused and three fugitive cases) have been made and cases of three other fugitives, Felician Kabuga, Protais Mpiranya and Augustin Bizimana, will be handled by the International Residual Mechanism for Criminal Tribunals which begins its work on 1 July 2012.



*Ildéphonse Nizeyimana, a former captain at the Butare military academy École des Sous-Officiers*

killings of Tutsis in Rwankuba sector on 7 April 1994, at Kiziguro parish on 11 April 1994, and at Mukarange parish on 12 April 1994. The Trial Chamber convicted Gatete of genocide and extermination as a crime against humanity and sentenced him to a single term of life imprisonment.

Gatete contends that the Trial Chamber committed a number of errors of law and fact and requests that the Appeals Chamber overturn his convictions and acquit him on all counts or, alternatively, reduce his sentence.

The Prosecution advances a single ground of appeal, arguing that the Trial Chamber committed an error of law by failing to enter a conviction for conspiracy to commit genocide. It requests that the Appeals Chamber enter a conviction in this regard.

Gatete was born in 1953 in Rwankuba sector, Murambi commune, Byumba prefecture, Rwanda. Between 1982 and 1993, Gatete was the *bourgmestre* of Murambi commune and, in April 1994, he became a director in the Ministry of Women and Family Affairs.



*Jean-Baptiste Gatete, Bougmestre of Murambi Commune; Member of the National congress of the MRND & Presiden of the MRND in Murambi Commune*



**Appeals Chamber Hears Oral Arguments in the Gatete Case**

The Appeals Chamber of the United Nations International Criminal Tribunal for Rwanda, composed of Judge Liu Daqun, presiding, Judge Mehmet Güney, Judge Fausto Pocar, Judge Andréia Vaz, and Judge Carmel Agius, heard today oral arguments regarding the appeals by Jean-Baptiste Gatete and the Prosecution against the Judgement rendered by Trial Chamber III of the Tribunal on 29 March 2011.

The Trial Chamber found that Gatete committed (through participation in a joint criminal enterprise) , planned, instigated, ordered, and aided and abetted the

**ICTR Cases Transferred to Rwanda**

**During the months of May and June more cases were transferred to the Republic of Rwanda. The cases were those of Ladislav Ntagazwa, Bernard Munyagishari, Charles Ryandikayo and Aloys Ndimbati**

- *Transfer of the Ntagazwa Case*

The Prosecutor of the United Nations International Criminal Tribunal for Rwanda Mr. Hassan Bubacar Jallow on 24 May 2012 handed over, in compliance with the Tribunal's Referral Chamber's order, the



material supporting the Indictment against Ladislav Ntagazwa and other relevant evidence in his case file to Mr. Alphonse Hitiyaremye, the Deputy Prosecutor General of Rwanda's National Prosecution Authority.

On 8 May 2012, the Referral Chamber granted Prosecutor's application for the referral of the case of *The Prosecutor v. Ladislav Ntaganzwa*, Case No. 9609-R11bis, to the Republic of Rwanda for trial. That decision became final on 23 May 2012 when the time for appeal expired.

The Indictment charges the Accused, who was the former mayor of Nyakizu commune in Butare, with genocide; direct and public incitement to commit genocide; and extermination, murder, and rape as crimes against humanity.

The handover ceremony took place at the ICTR in Arusha, Tanzania. It marked the completion of a week-long official mission of senior Rwandan prosecutors to the ICTR that was led by Deputy Prosecutor General Hitiyaremye.

During the ceremony, Deputy Prosecutor General Hitiyaremye thanked Prosecutor Jallow for his efforts in securing the referral of this case to Rwanda for trial. He noted that this was the fourth case to be successfully referred to Rwanda in recent months. This "great achievement," he noted, has opened the door to the extradition of genocide suspects living around the world as evidenced by the growing list of national courts who have likewise confirmed Rwanda's ability to fairly adjudicate transferred cases.

Prosecutor Jallow expressed his confidence that the responsible Rwandan officials would ensure the fair trial rights of the Accused in this case and the other ICTR cases that have been referred. "The successful referral of this and other cases to Rwanda is an important step in the ICTR's completion strategy and helps ensure that those responsible for the 1994 genocide in Rwanda do not escape with impunity."

Prosecutor Jallow further noted that, as part of its order, the Referral Chamber of the United Nations International Criminal Tribunal for Rwanda on 6 June 2012 transferred to the authorities of the Republic of Rwanda the case of Bernard Munyagishari, former President of *Interahamwe* in Gisenyi prefecture. Munyagishari is charged with Conspiracy to Commit Genocide, Genocide, Complicity in Genocide, Murder and Rape as Crimes against Humanity.

#### • *Transfer of the Munyagishari Case*

The Referral Chamber of the United Nations International Criminal Tribunal for Rwanda on 6 June 2012 transferred to the authorities of the Republic of Rwanda the case of Bernard Munyagishari, former President of *Interahamwe* in Gisenyi prefecture. Munyagishari is charged with Conspiracy to Commit Genocide, Genocide, Complicity in Genocide, Murder and Rape as Crimes against Humanity.

This is the fifth transfer to Rwanda by the ICTR Referral Chamber following those made in the cases of Ladislav Ntagazwa, Jean Bosco Uwinkindi, Fulgence Kayishema, and Charles Sikubwabo. If the case reaches the Appeals Chamber and the transfer is affirmed it will be the second accused person in ICTR's custody after Uwinkindi, to be transferred to Rwanda for trial.

In its ruling the Referral Chamber composed of Judges Lee Gacuiga Muthoga, Presiding, Seon Ki Park and Gberdao Gustave Kam transferred the case to the Rwanda authorities, so that those authorities should forthwith refer the case to the High Court of Rwanda for an expeditious trial. The transfer, however, is subject to, among others, a guarantee by the President of the Kigali Bar Association to the President of the ICTR or the Residual Mechanism, that the Accused should remain indigent and will be assigned a lawyer with previous international experience.

It also requests the appointment of an independent organization as monitor either instead of, or in addition to, the ICTR legal staff who are currently acting as the Tribunal's monitors before or as soon as practicable after the transfer of the Accused to Rwanda.

The Referral Chamber further requests Rwanda to provide the Defense team with access to persons, locations and documents throughout the territory of Rwanda as may be needed for the effective conduct of the Defense case.

The Referral Chamber ordered that the referral, however, will be suspended until the expiry of the statutory period of Appeal and thereafter will be subject to the final appellate decision of the ICTR Appeals Chamber should any appeal(s) be filed.



*Bernard Munyagishari,  
former President of Interahamwe in Gisenyi prefecture*





In its indictment the Prosecution alleges that Munyagishari recruited, trained and led Interahamwe militiamen in mass killings and rapes of Tutsi women in Gisenyi prefecture and beyond between April and July 1994. Munyagishari was on 25 May 2011 arrested in the Democratic Republic of Congo (“DRC”). He was transferred to the United Nations Detention Facility.

• **Transfer of Ryandikayo Case**

The Referral Chamber of the United Nations International Criminal Tribunal for Rwanda (ICTR) on 20 June 2012 transferred to the authorities of the Republic of Rwanda the case of Ryandikayo, who was a businessman in Mubuga *secteur*, Gishyita *commune* during the genocide in Rwanda. Ryandikayo is believed to have been born around 1961 in Musenyi *secteur*, Gishyita *commune* and currently remains at large.

The Prosecution has charged Ryandikayo with genocide, complicity in genocide, direct and public incitement to commit genocide, as well as with murder, extermination, rape and persecution as crimes against humanity. Ryandikayo was a businessman who owned and ran both a restaurant and a brick factory. He was also allegedly a member of the political party *Mouvement Démocratique Républicain (MDR) – Power Faction*. It is alleged that Ryandikayo was directly involved in the systematic attacks directed against the Tutsi civilian population during the Rwandan genocide.

This is the sixth case to be transferred to the Republic of Rwanda by the ICTR following those of Jean Uwinkindi and Bernard Munyagishari whose transfer decisions were issued on 28 June 2011 and 6 June 2012, respectively, and of fugitive accused persons Fulgence Kayishema, Charles Sikuwabo, and Ladislav Ntaganzwa, whose cases were ordered to be referred to the Republic of Rwanda on 22 February 2012, 26 March 2012, and 8 May 2012, respectively.

In its ruling, the Referral Chamber, composed of Judges Vagn Joensen, Presiding, Florence Rita Arrey, and Gberdao Gustave Kam, ordered that the case of Ryandikayo be referred to the authorities of Rwanda, who will then refer the same to the High Court of Rwanda.

The Prosecution was further ordered to hand over to the Prosecutor General of Rwanda, as soon as possible and no later than thirty days after the Decision has become final, the material supporting the Indictment against the fugitive accused and all other appropriate evidentiary material in the possession of the Prosecution.

In rendering this judgment, the Referral Chamber expressed its solemn hope that the Republic of Rwanda, in accepting referrals from this Tribunal, will put into practice the commitments it has made about its good faith, capacity, and willingness to enforce the highest standards of international justice.

• **Transfer of Ndimbati Case**

The Referral Chamber of the United Nations International Criminal Tribunal for Rwanda (ICTR) on 25 June 2012 transferred to the authorities of the Republic of Rwanda the case of Aloys Ndimbati, who was the *bourgmestre* of Gisovu *commune* from 1990 until the end of July 1994. Ndimbati is believed to have been born in the early 1950s in Gitabura *secteur*, Gisovu *commune*, Kibuye *préfecture* in the Republic of Rwanda and currently remains at large.

Ndimbati has been charged with genocide, complicity in genocide, direct and public incitement to commit genocide, as well as with murder, extermination, rape and persecution as crimes against humanity. It is alleged that Ndimbati, along with others, was involved in the planning and execution of the systematic attacks directed against the Tutsi civilian population in Gisovu *commune* during the Rwandan genocide.

This is the seventh case to be transferred to Rwanda by the ICTR following those of Jean Uwinkindi and Bernard Munyagishari whose transfer decisions were issued on 28 June 2011 and 6 June 2012, respectively, and of fugitives Fulgence Kayishema, Charles Sikuwabo, Ladislav Ntaganzwa, and Ryandikayo, whose cases were referred to the Republic of Rwanda for trial on 22 February 2012, 26 March 2012, 8 May 2012, and June 22 2012, respectively.

In its ruling, the Referral Chamber, composed of Judges Vagn Joensen, Presiding, Florence Rita Arrey, and Gberdao Gustave Kam, ordered that the case of Ndimbati be referred to the authorities of Rwanda, who will then refer the same to the High Court of Rwanda.

The Prosecution was further ordered to hand over to the Prosecutor General of Rwanda, as soon as possible and no later than thirty days after the Decision has become final, the material supporting the Indictment against the fugitive accused and all other appropriate evidentiary material in the possession of the Prosecution.

In rendering this judgment, the Referral Chamber expressed its solemn hope that the Republic of Rwanda, in accepting referrals from this Tribunal, will put into practice the commitments it has made about its good faith, capacity, and willingness to enforce the highest standards of international justice.

The United Nations International Criminal Tribunal for Rwanda in joint collaboration with the Government of Rwanda, Friday 25 May 2012, commissioned the German funded Video-Tele – Conference (VTC)





### Tribunal Launches Video – Link Facility for the Republic of Rwanda

The United Nations International Criminal Tribunal for Rwanda in joint collaboration with the Government of Rwanda, Friday 25 May 2012, commissioned the German funded Video-Tele – Conference (VTC) facilities in Rwanda. The launching ceremony was held at the Main Court Room of the Rwanda Supreme Court in Kigali.

Speaking during the occasion, the ICTR Registrar, Mr Adama Dieng, said that the launch of the facility was one more step in Rwanda’s efforts to embrace modern tools in the delivery of efficient justice. He pointed out that there are numerous good reasons associated with the video link facility that will make it easier in giving testimonies as this development appears as a formidable trade-off when parties or witnesses cannot be physically present in court.

*“This facility will enable a sitting chamber to hear evidence in real-time from witnesses located inside and outside of Rwanda who, may be unable to travel to Kigali to bear witnesses before Rwandan Courts” stressed the Registrar.*

The ICTR Registrar added that this project was undertaken to assist Rwanda to meet some international standards , in order to qualify for the transfer of cases from ICTR and that the facility ,if used efficiently, would provide extended efficiency to the Rwanda domestic judicial system . Finally, he thanked the German Government who funded the project.

The Chief Justice of the Republic of Rwanda, Prof. Samuel RUGEGE, said the launch was timely as some of the cases involving persons prosecuted for the crime of genocide against the Tutsi in 1994, had been transferred to Rwanda by the ICTR, with more to come. It is in this context that the facility would significantly contribute to the efficient and effective delivery of justice.

Prof. Rugege said Rwanda was passing through a transformative phase and while it was faced with challenges of great magnitude such as resource constraints, these were certainly not insurmountable.

To this end, he thanked the partners who were working with Rwanda to promote this cause of justice.

He expressed his profound appreciation and that of the Rwanda judiciary to the Federal Republic of Germany for having accepted to fund such a very important project and the ICTR for having accepted to implement this Project.

In his remarks, the Charge d’ affaires of the Embassy of Germany in Rwanda, H. E. Mr. Wolfgang Wiesner, said that the video facility will be very helpful in

strengthening the Justice Sector in Rwanda. He also reiterated his country’s support to Rwandan Government and its people in promoting unity and reconciliation.



*Seated in the courtroom during the launching ceremony (from left to right) Mr Wolfgang Weisner, charge d’affaires of the German Embassy in Rwanda; Justice Willy Mutunga, Kenyan Chief Justice; Prof. Sam Rugege, the Rwanda Chief Justice; Mr Adama Dieng, the ICTR Registrar and far right, Mr Roland Amoussouga, the ICTR Spokesperson and chief of ERSPS.*

He added his Government through the ICTR had also funded other important projects like the the Youth Sensitization Project on “the role of the youth in the promotion of Justice, Unity and Reconciliation” in the Great Lakes Region and will continue to be an active partner in the support towards the capacity building of the Rwandan Judiciary.

The occasion was also attended by the Chief Justice of Kenya, Justice Willy Mutunga, the Prosecutor General of Rwanda, Mr Martin Ngoga, the President of High Court of Rwanda, Mr. Johnstone Busingye, senior officials from the Rwandan Judiciary and the ICTR.



*In group picture after the launching ceremony (front row from left to right) Ms Anne Gahongaire, the Permanent Secretary, Rwanda Supreme Court; Mr. Adama Dieng, ICTR Registrar; Prof. Sam Rugege, the Rwandan Chief Justice; and far right, Justice Willy Mutunga, the Chief Justice of Kenya.*



## ICTR Holds Awareness Workshops in Rwandan Prisons

As part of the United Nations Outreach Program, the ICTR, in collaboration with the Department of Public Information in New York, from 7- 20 May 2012 conducted workshops and genocide related educational programs in several Rwandan Prisons.

The events which focused on “lessons learnt from the Rwandan Genocide” are part of the United Nations and prevention of genocide initiative which is an information and educational program run by the United Nations Department of Information.

The program also seeks to raise awareness of the lasting *impact on the genocide among inmates* who participated in the 1994 genocide against Tutsis in Rwanda so that they can understand their crucial role in the contribution to the unity and reconciliation process in the country.

Since 2008, UNDP/ICR in collaboration with the United Nations International Criminal Tribunal for Rwanda (UNICTR) has organised special events such as general discussions, screening of documentary films and organizing exhibitions, as part of the outreach Activities. Five prison facilities with a total of about 35,000 inmates benefited from this year’s exercise.

The 2012 program in prisons, included lectures and debates on the history of the Rwandan conflict, more particularly the 1994 Genocide against the Tutsi’s; screening of ICTR documentary film “*Justice today, peace tomorrow*” and also the distribution various Tribunal publications, as well as the “*Tugire ubumwe publications*”, a cartoon book produced by UNDP/ICR with the main objective of educating Rwandans on the: history of genocide, its causes, how to fight its ideology and support the unity and reconciliation process in the country.



Prisoners from one of the major prisons in the country singing unity and reconciliation songs during the ICTR - DPI organized events. (Picture courtesy of New Times).

## Activity of the Appeals Chamber: June 2012

During June, the Appeals Chamber issued 1 decision on a request for review and 14 pre-appeal decisions or orders.

Currently, the Appeals Chamber is seized of 13 matters, including 8 cases involving appeals from judgement concerning 18 persons.

- [Appeals from Judgement](#)

The Trial Judgement in the *Gatete* case was rendered on 29 March 2011 and issued in writing on 31 March 2011. Both parties filed notices of appeal in May 2011, the briefing was completed in December 2011, and the appeals were heard on 7 May 2012. Deliberations are in progress.

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 2011 and January 2012, the briefing was completed in May 2012, and the appeals are being prepared for a hearing.

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 *Mugenzi & Mugiraneza/ Government II* case was rendered on 30 September 2011 and was issued in writing on 19 October 2011. Two of the parties filed their notices of appeal in November 2011, the briefing was completed in May 2012, and the appeals are being prepared for a hearing.

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 is in progress.

The Trial Judgement in the *Karemura & 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 is in progress.

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

Continued on page 12





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

• [Other Appeals and Post-Appeal Requests](#)

In addition to these appeals, the Appeals Chamber is seized of 2 appeals concerning referral (*Ntaganzwa*, *Munyagishari*) and 3 requests for review in the *Kajelijeli*, *Muvunyi*, and *Nahimana* cases.

• [Summary](#)

To date, the Appeals Chamber has delivered 36 Appeal Judgements, concluding the appellate proceedings in respect of 43 persons.

**Judges Elected to the Mechanism for International Criminal Tribunals sworn-in**

The President of the Mechanism for International Criminal Tribunals (MICT), Judge Theodor Meron, presided in Arusha on 7 May 2012 over the official swearing-in of those Judges of the ICTR who have been elected Judges of the MICT. Judges Florence Arrey, Solomy B. Bossa, Vagn Prüsse Joensen, Gberdao G. Kam, Joseph C. Masanche, Lee Muthoga, Seon K. Park, Mparany M. R. Rajohnson, and William H. Sekule were each sworn in by Registrar of the MICT, Mr. John Hocking.

The President stated that the establishment of the MICT is of vital importance to the continued protection of the rights of victims, witnesses and persons tried by the ICTR and its sister tribunal, the International Criminal Tribunal for the former Yugoslavia. In addition, he emphasized that the establishment of the MICT ensures that the closure of the ICTR and ICTY does not leave the door open to impunity for those whose trials or appeals have not been completed.

President Meron invited the Judges of the Mechanism assembled in Arusha to remember, as they were sworn in, that “the success of this ground-breaking institution rests with us, our fellow Judges, the Registrar (Mr. John Hocking), the Prosecutor (Mr. Hassan Bubacar Jallow), and a core group of staff. To succeed in our work, we shall also depend upon the support of the United Nations Secretariat—especially the Office of Legal Counsel.



*Some of the judges during the ceremony, (from left to right) Judge Florence Rita Arrey, Judge Solomy B. Bossa, Judge Vagn P. Joensen and Judge Gberdao G. Kam*



*Judge Seon K. Park (left) sworn in by Mr. John Hocking (right), Registrar of the MICT*

During his remarks, President Meron underscored what a pleasure it was to be conducting the ceremony in Arusha, where the first branch of the Mechanism will open in less than two months. He also observed that “never before has there been an institution like the new Mechanism”.





**Judge Bakhtiyar Tuzmukhamedov Assigned to the Appeals Chamber**

**Arusha Spouse Association Defines Philanthropy**

The President of the United Nations International Criminal Tribunal for Rwanda, Judge Vagn Joensen on 1 June 2012 assigned Judge Bakhtiyar Tuzmukhamedov to the Appeals Chamber of the ICTR. The assignment takes effect from 29 June 2012.

The assignment was made by Judge Joensen after having consulted with the President of the Appeals Chamber Judge Theodor Meron and with the Permanent Judges of the Tribunal in May 2012, and bearing in mind the need to ensure trial experience from the Tribunal in the work of the Appeals Chamber.

Judge Joensen recalled the consultations conducted by then ICTR President Judge Dennis Byron in 2011 and the Order of 21 June 2011 setting-out that further consultations be conducted before the assignment of Judges to the Appeals Chamber.

Resolution 1878 (2009) of the UN Security Council and amended Article 13 (3) of the Statute of the International Criminal Tribunal for Rwanda provides that the President may assign up to four additional Permanent Judges serving in the ICTR Trial Chambers to the Appeals Chamber of the ICTR once their cases are completed.

Resolution 1955 (2010) and Resolution 1995 (2011) of the Security Council notes that, upon completion of the cases to which they are assigned, four permanent judges will be redeployed from the Trial Chambers to the Appeals Chamber.

Judge Tuzmukhamedov is the third permanent judge of the Tribunal to be assigned to the ICTR Appeals Chamber after Judges Khalida Rachid Khan and Arlette Ramaroson.



*Judge Bakhtiyar Tuzmukhamedov, Appeals Chamber.*

When UNSC created ICTR, little did it know they were starting off many associations that would change the world in a definite manner, organizations that would be remembered many years later. Enjoy. 19 June 2012, Bella Luna was adorned for the 8<sup>th</sup> Arusha Spouses Association (ASA) Fund Raising dinner. Guests overflowed with Kudos to ASA for being women with great hearts that had prompted smart heads and galvanized graceful hands to make a difference in a rather selfish world. The appointment with foreign cuisine was honored as Njara, Fonyo and Kebab all answered: “present”. As if their hospitality was not enough, guests had not dealt with their



*ASA women dancing Papa Ndiaye during the event*

plates when they went cracking with laughter as Therese alias Jocelyne Beroard led Ouleye, Tidha and Fatou unto the floor in a sensational Kassav number. Of course, Aisha aka Jacob Desvarieux brought up the rear. Jamaani, Jay Ndow, huko wapi dada? Mama Marcelle showed she was a committed mother in the play and Nathalie Happiness could not dodge from school because she was not ready to face another 3 km walk to fetch water! Come see them sing their gratitude to ASA for providing boreholes at Olorien primary. Having donned the jersey of the Lions, Bintou and her friends performed La danse des lions and drew many bills from Cameroonians in particular. This was creativity at the service of generosity for the sake of philanthropy. When these West Africans who were “all over the place, shaking everything” as they danced were done, then came Betty with the graceful and serendipitous Rwandese from East Africa. You are right, Profesor Gimeno, *hay de todo en el vigno del senior* ....it takes all kinds to make the world. Promoters of Africa Magic should have been in Arusha! There was talent galore. These girls, sorry, these women, for these are regular housewives or full time professionals who in saying LET US SAVE LIVES, had decided to stop at nothing in their commitment to share with their neighbors, out of the love of God. But there was a note of sadness all through the beautiful evening as many silently dreaded they were witnessing the last ASA night. After watching Mrs Fatou Jallow tying ribbons to decorate a pump to be inaugurated in Moshono,



under the rain until Mrs Jammeh borrowed an umbrella and rushed to her rescue, many Arushans nurse the hope that by some *deus ex machina* or act of God, 19 June was not an ASA swansong. No, may ASA live long!

Mrs Jallow who amazingly leads from the back, began by thanking ASA partners, both individuals and companies. As Guest of honor, Judge William Sekulle, after whom the second ASA borehole was named, made it clear that ICTR may close but there is no Resolution that can close the ASA spirit.



Some members of the Arusha Spouses Association (ASA)

Hon Florence Rita Arrey, ICTR Vice president who never missed any ASA event would spearhead similar movements in Cameroon and beyond. It is surmised that when ICTR legacy is written, there will be a social component chapter thanks to ASA. If none salutes them, nothing will happen, nothing. But when the Completion Strategy is completed, many will look back with relish as they read the impact of ASA in the lives of babies born in Mt Meru Hospital or fathers and mothers who attended Olorien primary. Yes, their lives will bear eloquent testimony of energy spent in Papa Ndiaye or creativity in Roger Milla - an entire book worth reading. As you imagine life after the last ICTR staff member leaves town, it will be business as usual. Arusha will not be a ghost town, but it will never be the same again. The kids who gratefully sang "we will never, ever forget you" will be back as teachers, lawyers, interpreters testifying in open session that Arusha will never be the same again, for "Once upon a time," there was ICTR..... or..... ASA..... or any of the above.



ASA women performing during the event