



ICTR Newsletter

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

NOV-DEC 2011

The Editorial Committee wishes you a Happy and Prosperous New Year!

ICTR Completion Strategy: President Updates UN Security Council



Judge Khalida Rachid Khan

Contents

ICTR Completion Strategy	2
Appeals Chamber Affirms referral of Uwinkindi case to Rwanda	3
Bagosora and Nsengiyumva Appeals Judgment Delivered	4
ICTR hands over Armored Truck to Tanzania Prison Services.....	5
Appeals Chamber Affirms Ntawakuliyayo's Conviction	6
Édouard Karemera and Mathieu Ngirumpatse sentenced	6
Grégoire Ndehimana sentenced to 15 years in Prison.....	7
Appeals Chamber hears oral arguments in the Hategekimana case.....	8
Appeals chamber hears oral Arguments in the Kanyarukiga case.....	8
Activity of the Appeals Chamber: November and December 2011.....	9

Editor-in-Chief: Roland Amoussouga
Associate Editor: Danford Mpumilwa
Editorial Committee members: Sarah Kilemi, Cheick Bangoura, Chiara Biagioni, Iyane Sow, Ahmed Anees, Roman Boed.
Editing/Layout/Design/Photos: Mahbib Jemadari, Constantin Désiré Lebogo, Speciosa Kitindi
E-Mail: ictr-press@un.org

The President of the International Criminal Tribunal for Rwanda (ICTR), Judge Khalida Rachid Khan, on November 7 presented to the United Nations Security Council an updated report on the implementation of the Tribunal Completion Strategy. The report covered the period from 13 May 2011 to 4 November 2011. According to Judge President Khan, the Tribunal had completed the work at the Trial level with respect to 76 of the 92 accused, which included two referrals to national jurisdictions, two withdrawn indictments, and two indictees who died prior or in the course of the trial. The Tribunal has delivered 50 first-instance judgments involving 70 accused, 9 of whom pleaded guilty, said Judge Khan.

Regarding activities in Chambers, the ICTR President predicted that all trial work was expected to finish by the first half of 2012, as the three judgments projected in the last Completion Strategy Report (S/2011/317) for delivery in the course of the reporting period were rendered. The major challenges remaining for the Tribunal, according to the ICTR President, include “the completion of the final cases, special depositions, contempt cases, and the review of witness protection orders”. The challenges will have to be faced “amid continued departure of key staff”, said Judge Khan.

In the Appeals Chamber, appellate proceedings had been concluded in respect of 37 persons as at 4 November 2011. And since the last report in May 2011,

the Appeals Chamber delivered two appeal judgments, in the *Setako* and *Munyakazi* cases. The Appeals Chamber also rendered 1 decision disposing of an interlocutory appeal, 4 decisions concerning post-appeal requests, and 64 pre-appeal orders and decisions. Two other appeal judgements were still expected to be delivered in 2011, for a total of six appeal judgments for the year. Judge Khan assured the Council that four appeal judgments are to be delivered in 2012, five by the end of 2013 and the remaining three appeal judgments will be delivered in 2014.

With regard to staff management, President Khan reiterated her concern about the adverse impact the difficulty to recruit qualified candidates in some areas of work and to retain experienced staff members may have on “the successful and timely implementation of the completion strategy”.

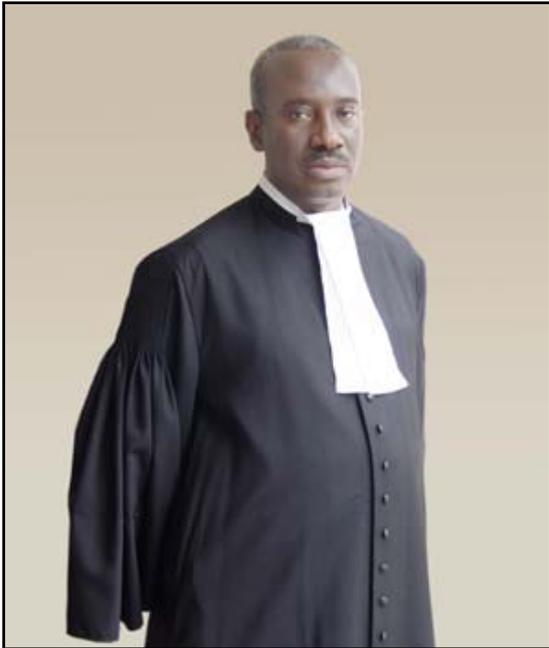
In the area of cooperation, Judge Khan once again stressed the need for Member States to lend their full and efficient cooperation to the Tribunal in completing its mandate. This relates in particular to ensuring the arrest of the remaining fugitives, the referral of cases to national jurisdictions, the transfer of convicts for the enforcement of their sentence, and the relocation of acquitted persons and persons who have served their sentence.

The Tribunal, according to Judge Khan, has also continued to

Continue to page 2



ICTR Completion Strategy: Justice Hassan B. Jallow Reports to the UN Security Council on the Work of the Office of the Prosecutor



Justice Hassan B. Jallow

The Chief Prosecutor of the International Criminal Tribunal for Rwanda (ICTR) on 7 December 2011 updated the UN Security Council on the work of his Office over the past six months towards the completion of the ICTR's mandate. Justice Hassan B. Jallow informed the Security Council that the Office of the Prosecutor had concluded trial proceedings in respect of four accused persons, and that judgement was delivered and conviction entered in the case of *Ndahimana* on 17 November 2011. The hearing of evidence had been concluded in *Nzabonimana*, and the same was expected in *Nizeyimana* shortly. The prosecution had closed its case in the matter of *Augustin Ndirabatware* subject to prosecution rebuttal evidence being led after closure of the defense case which is expected to resume in early 2012. He revealed, "trial judgments have been rendered in all multi-accused cases, including Karemera et al. whose judgement was delivered later on 21 December 2011".

Regarding the cases of *Felicien Kabuga*, *Protais Mpiranya* and *Augustin Bizimana*, the proceedings for the preservation of evidence are still going on, and "much progress has been achieved as the prosecution phase has been concluded in all three cases", assured the Chief Prosecutor.

Justice Jallow also revealed that there are currently only two detainees at the ICTR, namely *Jean Bosco Uwinkindi* and *Bernard Munyagishari* whose cases are pending trial. Moreover, the Re-

ferral Chamber, in an unprecedented decision, granted the request of the Prosecutor to refer the *Uwinkindi* case to Rwanda for trial under Rule 11 bis of the ICTR rules. The decision was affirmed on 16 December 2011 by the Appeals Chamber. Justice Hassan Jallow expects this to pave the way for the transfer of other cases to Rwanda for trial, namely the *Munyagishari* case, as well as the *Kayishema* and *Sikubwabo* cases. This "confirmatory decision by the Appeals Chamber in the *Uwinkindi* case may also result in no new trials being commenced at the ICTR", said the Chief Prosecutor.

The work of the Office of the Prosecutor in the months ahead will also be focused on the prosecution and the management of appeals, the tracking of fugitives, servicing foreign requests for assistance and preparing for the smooth and effective transition to the Residual Mechanism. Justice Jallow vowed to intensify activities regarding the tracking and arrest of the remaining nine fugitives through enhanced cooperation with relevant Member States, especially in the Great Lakes region.

The Office of the Prosecutor is currently updating case files in respect of six fugitives to ensure their readiness for trial before the Residual Mechanism or transfer to a national jurisdiction.

ICTR Completion Strategy: President Updates

Continued from page 1

improve awareness of its work through its outreach programme in showcasing, disseminating and sensitizing the people of the Great Lakes region and visitors to the Tribunal's Offices in Rwanda and Tanzania about its achievements and challenges in the implementation of its mandate.

The Tribunal has thus welcomed over 1,700 visitors to its seat, and continue its capacity-building activities for legal professionals in Rwanda during the period under review.

Regarding the Residual Mechanism, she concluded that ICTR has been working closely with the International Tribunal for the Former Yugoslavia (ICTY) to implement Security Council Resolution 1966 (2010) establishing the International Residual Mechanism for Criminal Tribunals. The Arusha branch of the Mechanism is due to commence its operations on 1 July 2012.



Appeals Chamber Affirms Referral of Uwinkindi's case to Rwanda



Jean Bosco Uwinkindi during a court hearing at the ICTR

The Appeals Chamber of the United Nations International Criminal Tribunal for Rwanda on 16 December 2011 dismissed Jean Uwinkindi's appeal against a decision by a Referral Chamber to refer his case to the Republic of Rwanda to be tried in the Rwandan national court system under Rule 11 *bis*.

The Appeals Chamber composed of Judges Theodor Meron, presiding, Patrick Robinson, Mehmet Güney, Andrézia Vaz and Carmel Agius dismissed Uwinkindi's appeal in all respects and affirmed the impugned decision and stayed the transfer of Uwinkindi to Rwanda pending a Trial Chamber's acceptance of a corrected indictment.

The Appeals Chamber recalled that, in a separate decision it had ordered Trial Chamber III of the Tribunal to direct the Prosecution to file a corrected indictment in Uwinkindi's case in order to remedy several defects which had been identified.

The Appeals Chamber noted that it considered it important that these defects be remedied prior to Uwinkindi's transfer to Rwanda so that the Rwandan Prosecutor General's office may file its own adapted indictment based on an instrument that gives proper notice and so that this case remains trial-ready at the Tribunal in the event of any possible revocation of the order referring this case to Rwanda.

In addition, the Appeals Chamber found that monitoring reports should be submitted on a monthly basis until the President of the Tribunal or Residual Mechanism decides otherwise.

On 28 June 2011 a Referral Chamber of the Tribunal referred the case of Uwinkindi to Rwanda marking the first time in the history of the Tribunal to do so. Subsequently Uwinkindi appealed against this decision. The Chamber was convinced, based on the evidence, that Rwanda possesses the ability to accept and prosecute Uwinkindi's case.

The Chamber expressed its solemn hope that the Republic of Rwanda would actualise in practice the commitments it made in its filings about its good faith, capacity and willingness to enforce the highest standards of international justice.

The Referral Chamber also requested that the Registrar appoint the African Commission on Human and People's Rights to monitor Uwinkindi's trial in Rwanda and determined that the Commission would bring to the attention of the ICTR President any potential issues that may arise throughout the course of the proceedings. The Chamber emphasised its authority under Rule 11 *bis* to revoke the case from Rwanda as a last resort if necessary.

Uwinkindi was born in 1951 in Rutsiro commune, Kibuye prefecture. He was a former Pastor of the Pentecostal Church of Kayenzi in Kigali Rural prefecture. He is accused of being responsible for attacks against Tutsi at Kayenzi Church, at Biyimana and Rwankeli cellules, and in Cyugaro's swamps. He was arrested in Uganda on 30 June 2010 and transferred to the United Nations Detention Facility in Arusha on 2 July 2010.

Bagosora and Nsengiyumva Appeals Judgement Delivered

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judge Theodor Meron, presiding, Judge Patrick Robinson, Judge Mehmet Güney, Judge Fausto Pocar, and Judge Liu Daqun, on 14 December 2011 delivered its judgement on the appeals lodged by Théoneste Bagosora and Anatole Nsengiyumva, reversing a number of their convictions and reducing their life sentences to 35 and 15 years of imprisonment, respectively.

On 18 December 2008, Trial Chamber I found Bagosora and Nsengiyumva 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 and June 1994 in Kigali, Gisenyi, and Kibuye prefectures.



Théoneste Bagosora, former Director of Cabinet, Rwandan Ministry of Defense

The Appeals Chamber affirmed Bagosora's convictions for genocide, crimes against humanity (murder, extermination, persecution, rape, and other inhumane acts), and serious violations of Article 3 common to the Geneva Conventions and of Additional Protocol II (violence to life and outrages upon personal dignity).

However, it reversed Bagosora's convictions for the killings of Augustin Maharangari, Alphonse Kabiligi, and the peacekeepers murdered before his visit to Camp Kigali, as well as for the killing in Gisenyi town, at Mudende University, and at Nyundo Parish.

The Appeals Chamber also set aside the finding that Bagosora was responsible for ordering crimes committed at Kigali area roadblocks, but found him liable as a superior instead. In addition, the Appeals Chamber reversed a number of Bagosora's convictions for murder as a crime against humanity and, Judge Pocar dissenting, for other inhumane acts as a crime against humanity for the defilement of Rwandan Prime Minister Uwilingiyimana's corpse. The Appeals Chamber, Judges Pocar and Liu dissenting, considered that the reversal of some of Bagosora's convictions called for a revision of his life sentence, and entered a new sentence of 35 years of

imprisonment. The Appeals Chamber reversed Nsengiyumva's convictions for the killing of Alphonse Kabiligi, as well as for the killings at Mudende University, Nyundo Parish, and Bisezero. It also reversed Nsengiyumva's convictions for murder as a crime against humanity. In addition, the Appeals Chamber set aside the finding that Nsengiyumva was responsible for ordering the killings in Gisenyi town on 7 April 1994, but, Judges Meron and Robinson dissenting, found him liable as a superior instead.



Anatole Nsengiyumva, former Commander of the Gisenyi Operational Sector

It thus affirmed Nsengiyumva's convictions for genocide, crimes against humanity (extermination and persecution), and serious violations of Article 3 common to the Geneva Conventions and of Additional Protocol II (violence to life) in relation to the Gisenyi town killings. The Appeals Chamber considered that the reversal of nearly all of Nsengiyumva's convictions called for a revision of his life sentence, and entered a new sentence of 15 years of imprisonment.

At the time of the relevant events, Bagosora was *directeur de cabinet* in the Rwandan Ministry of Defence. Bagosora was arrested in Cameroon on 9 March 1996. 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. He was defended by Counsel Raphael Constant (Martinique/France) and Allison Turner (Canada).

Nsengiyumva served as Commander of the Gisenyi Operational Sector. He was arrested in Cameroon on 27 March 1996. He was immediately released following the hearing today in light of time served. Counsel Kennedy Ogetto and Ottachi Bw'Omana from Kenya represented Nsengiyumva.

The Prosecution was initially led by Chile Eboe-Osuji but was transferred to Barbara Mulvaney whose team included Drew White, Christine Graham and Rashid Rashid.



ICTR Hands Over Armoured Truck to Tanzania Prison Services

The United Nations International Criminal Tribunal for Rwanda on 10 November 2011 handed over a Mercedes Benz armoured truck with eight new spare tyres to the Tanzania Prison Services for the latter to use it for its prison activities.

The handover ceremony was held at the UN Detention Facility in Arusha.

established in 1994. She added that the handing over of the truck was just a token of appreciation of this work and reiteration of the Tribunal's commitment to assisting the Prison Services through capacity building projects.

Dr. Kilemi added that the Tribunal was also undertaking training programmes for the Tanzanian



Chief Of DASS, Ms. Sarah Kilemi handing over the keys of the Armoured Truck to the Tanzanian Commissioner of Prisons

Dr. Sarah M Kilemi, the ICTR Chief of the Division of Administrative and Support Services (DASS) handed the keys of the truck to Mr Fidelis Mboya, the Tanzania Commissioner of Prisons in charge of Legal and Administration Services, at a ceremony attended by senior officials of the Tribunal and the Prison Services. The Commissioner was representing the Tanzania Principal Prison Services Commissioner Mr. Augustino Nanyaro who could not attend the event due to other commitments.

The heavily armoured truck was being used by the Tribunal's Detention Facility to transport its detainees who are being tried by the ICTR for crimes of genocide they allegedly committed in Rwanda in 1994.

Speaking during the occasion, Dr. Kilemi, who read a statement on behalf of the ICTR Registrar Mr. Adama Dieng, expressed ICTR's appreciation for the support the Tanzania Prison Services has accorded the Tribunal's operations since it was

Prison Officers. It is on record that the ICTR, in particular the UNDF, has also contributed to the efficiency of the Tanzania Prison Services by way of offering on-the-job training to about 300 officers.

This was achieved by ensuring the officers assigned to the UNDF for the past 15 years were trained in various aspects of handling detainees in accordance with international required standards.

Some of them were trained in First Aid, fire fighting techniques, team building and confidence building.

The Tribunal, Dr. Kilemi added, was now inviting the Prison Services to avail some of its officers for short secondment programmes with the ICTR as part of a more effective training programme. These would then be re-absorbed back by the Prison Services.



The Appeals Chamber Affirms Ntawukulilyayo's Conviction, Reduces his Sentence



Dominique Ntawukulilyayo former Sub-Prefect of the Gisagara sub-prefecture, in Butare prefecture.

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judge Carmel Agius, presiding, Judge Mehmet Güney, Judge Liu Daqun, Judge Arlette Ramarson, and Judge Andrésia Vaz on 14 December 2011 affirmed the conviction for aiding and abetting genocide of Dominique Ntawukulilyayo, but reduced his sentence.

On 3 August 2010, Trial Chamber III convicted Ntawukulilyayo of genocide for ordering, as well as aiding and abetting, the killing of Tutsi civilians at Kabuye hill, Butare prefecture, in April 1994. The Trial Chamber sentenced Ntawukulilyayo to 25 years of imprisonment.

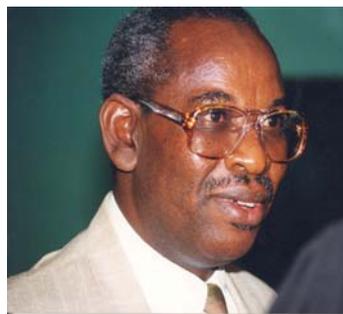
The Appeals Chamber found that Ntawukulilyayo was not liable for ordering the killings at Kabuye hill, and that the Trial Chamber therefore erred in convicting him of ordering genocide for those killings. However, the Appeals Chamber affirmed Ntawukulilyayo's conviction for aiding and abetting genocide by instructing the refugees who had gathered at Gisagara market to move to Kabuye hill, and by transporting soldiers who participated in the 23 April 1994 attack at Kabuye hill. The Appeals Chamber reduced Ntawukulilyayo's sentence to a term of 20 years of imprisonment.

During the relevant events, Ntawukulilyayo was the Sub-Prefect of the Gisagara sub-prefecture, in Butare prefecture, a position he maintained until he left Rwanda in July 1994. Ntawukulilyayo was arrested in France on 17 October 2007. 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. The Prosecution was led by Charles Adeogun-Phillips assisted by Ibukunolu Babajide while Counsel Maroufa Diabira from Mauritania represented the accused.

Édouard Karemera and Matthieu Ndirumapatse Sentenced to Life Imprisonment

Trial Chamber III of the United Nations International Criminal Tribunal for Rwanda composed of Judges Dennis Byron, presiding, Gberdao Gustave Kam, and Vagn Joensen delivered on 21 December 2011 its judgement concerning Édouard Karemera, Minister of the Interior in the Interim Government and Vice-President of the MRND and its Executive Bureau, and Matthieu Ndirumapatse, National Party Chairman of the MRND and Chairman of its Executive Bureau.

Matthieu Ndirumapatse, Former National Party Chairman of the MRND and Chairman of its Executive Bureau.



Édouard Karemera, former Minister of the Interior in the Interim Government and Vice-President of the MRND and its Executive Bureau.

The judgement deals with a wide range of crimes of utmost gravity committed throughout Rwanda between April and July 1994. The Trial Chamber found that the Accused were members of a joint criminal enterprise to destroy the Tutsi population of Rwanda and, therefore, liable not only for their own criminal acts and omissions, but also for the criminal acts and omissions committed by others within the common purpose of that enterprise. They also bear extended liability for the widespread rapes and sexual assaults of Tutsi women and girls, which were a foreseeable consequence of the joint criminal enterprise.

Moreover, the judgement finds that the Accused bear superior responsibility for the crimes committed by the Kigali and Gisenyi *Interahamwe*, and administrative personnel in the ministries controlled by the MRND, such as Colonel Théoneste Bagosora, throughout the entirety of the genocide. In addition, Édouard Karemera bears superior responsibility as of 25 May 1994 for the crimes committed by civilians who participated in the Civil Defence Programme and local officials who were part of the territorial administration.

Continued on page 7



Édouard Karemera and Matthieu Ngirumpatse Sentenced to Life Imprisonment

Continued from page 6

After assessing the alleged criminal conduct of the Accused, the Trial Chamber found Édouard Karemera and Matthieu Ngirumpatse guilty of genocide, direct and public incitement to commit genocide, extermination as a crime against humanity, rape and sexual assault as crimes against humanity, and killings as causing violence to health and physical or mental well-being as serious violations of Article 3 Common to the Geneva Conventions and Additional Protocol II. The Chamber dismissed the count of complicity in genocide because it was pleaded as an alternative to the count of genocide. Although it found the Accused guilty of conspiracy to commit genocide, the Chamber did not convict them of this

count, noting that the conviction for genocide fully accounted for their criminal responsibility in that regard. Having considered the gravity of each of the crimes, the Trial Chamber sentenced Édouard Karemera and Matthieu Ngirumpatse to life imprisonment.

Édouard Karemera was born on 1 September 1951 in Mwendo *commune*, Kibuye *préfecture*, Rwanda. He was arrested in Lomé, Togo, on 5 June 1998 and transferred to the United Nations Detention Facility. He was defended by Ms. Dior Diagne Mbaye, assisted by Félix Sow from Senegal.

Grégoire Ndahimana Sentenced to 15 Years in Prison

Trial Chamber III of the United Nations International Criminal Tribunal for Rwanda on 17 November 2011 found Grégoire Ndahimana, former Mayor of Kivumu Commune in Kibuye Prefecture, guilty of genocide and extermination as a crime against humanity. It then sentenced him to fifteen years in prison.

The Chamber composed of Judges Florence Rita Arrey, presiding, Bakhtiyar Tuzmukhamedov and Aydin Sefa Akay found Ndahimana guilty of genocide and extermination by aiding and abetting as well as by virtue of his command responsibility over communal police in Kivumu. Judge Arrey agreed with the majority that the accused was guilty on these counts but dissented on the appropriate mode of liability.

The Trial Chamber unanimously dismissed the other count of complicity in genocide.

The Trial Chamber having considered the gravity of each of the crimes, for which Ndahimana was convicted, sentenced the accused to a single sentence of 15 years imprisonment, with Judge Arrey dissenting. It also ordered that the sentence supersedes any other sentence imposed on the accused by any other state or institution. Ndahimana will receive credit for time served since his arrest on 11 August 2009, pursuant to Rule 101 (C) of the Rules.



Grégoire Ndahimana, former Mayor of Kivumu Commune in Kibuye Prefecture

Among others, the Trial Chamber found Ndahimana's position as the leading political authority in Kivumu Commune to be an aggravating factor. However, the majority of the Trial Chamber, Judge Arrey dissenting, found that this factor was mitigated by its belief that the accused did not enjoy the same degree of *de facto* authority as

that exercised by Bourgmestres who were members of the National Republican Movement for Democracy and Development (MRND).

The majority also found as mitigating factor the fact that the scale of the operation that led to the destruction of Nyange church, and the killing of thousands of Tutsi civilians, reflected broad coordination among

various groups, local and religious authorities as well as civilian assailants.

Though this did in no way exonerate the accused, it did, however, suggest that his participation through aiding and abetting may have resulted from duress rather than from extremism or ethnic hatred.

Ndahimana was arrested in the Democratic Republic of Congo (DRC) and was transferred to the UN Detention Facility in Arusha on 26 August 2009. He was born in 1952 in Kivumu Commune.



Appeals Chamber Hears Oral Arguments in the Hategekimana Case

The Appeals Chamber of the International Criminal Tribunal for Rwanda, composed of Judge Fausto Pocar, presiding, Judge Patrick Robinson, Judge Mehmet Güney, Judge Andréia Vaz, and Judge Carmel Agius, on 15 December 2011 heard oral arguments in the appeal filed by Ildephonse Hategekimana against the judgement pronounced by Trial Chamber II on 6 December 2010 and filed in writing on 14 February 2011.

The Trial Chamber convicted Hategekimana of genocide for the killing 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 in relation to the killing of Jean Bosco Rugomboka, Salomé Mujawayezu, Alice Mukarwesa, Jacqueline Mukaburasa, and Solange Karenzi. Finally, the Trial Chamber convicted Hategekimana as a superior of rape as a crime against humanity for the rape of Nura Sezirahiga by one of his subordinates. Hategekimana was sentenced to a single term of life imprisonment.

Hategekimana contends that the Trial Chamber violated his fair trial rights and committed a number of other errors of fact and law in considering his case. He requests the Appeals Chamber to set aside or overturn his convictions and order his immediate release—or in the alternative to redress the violations of his fair trial rights by reducing his sentence to time-served and awarding him financial compensation.



*Ildephonse Hategekimana
Former Lieutenant in the
Rwandan Army and
commander of the Ngoma
Military Camp in Butare Prefecture.*

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 served as the commander of the Ngoma Military Camp in Butare Prefecture. He was arrested on 16 February 2003 in Congo Brazaville and was transferred to the UN Detention Facility in Arusha three days later. He is represented by Counsel Jean de Dieu Momo from Cameroon while the Prosecution is led by William Egbe.

The Appeals Chamber Hears Oral Arguments in the Kanyarukiga Case



Former business man, Gaspard Kanyarukiga, during his Trial in ICTR Arusha.

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, heard on 14 December 2011 oral arguments regarding the appeals by Gaspard Kanyarukiga and the Prosecution against the Judgement rendered by Trial Chamber II on 1 November 2010 and issued in writing on 9 November 2010.

The Trial Chamber convicted Kanyarukiga for genocide and extermination as a crime against humanity based on his participation in the planning of the destruction of the Nyange church in Nyange *secteur*, Kivumu *commune*, Kibuye *préfecture* on 16 April 1994, which resulted in the killing of approximately 2,000 Tutsi civilians. The Trial Chamber sentenced Kanyarukiga to thirty years of imprisonment.

Kanyarukiga contends that the Trial Chamber committed a number of errors of law and fact and requests the Appeals Chamber to overturn his convictions and acquit him on all counts, or substantially shorten his sentence, or order a new trial.

The Prosecution advances two grounds of appeal, arguing that the Trial Chamber committed an error of law in finding that planning cannot be a contribution to a joint criminal enterprise and that it further erred in determining Kanyarukiga's sentence.

In April 1994, Kanyarukiga was a businessman who owned a pharmacy in the Nyange Trading Centre, located in Nyange *secteur*, Kivumu *commune*, Kibuye *préfecture*.

He was arrested in South Africa on 16 July 2004 and transferred on 19 July 2004 to the UN Detention Facility in Arusha.

He is represented by David Jacobs from Canada while the Prosecution is led by Ms. Holo



Activity of the Appeals Chamber: November and December 2011 (as of 31/12/11)

During November and December, the Appeals Chamber delivered Judgements in the **Bagosora & Nsengiyumva** and **Ntawukulilyayo** cases and heard appeals in the **Kanyarukiga** and **Hategekimana** cases. The Appeals Chamber also issued its decision concerning referral in the **Uwinkindi** case, and issued **1** decision on an interlocutory appeal (*Uwinkindi*), as well as **21** pre-appeal decisions or orders.

Currently, the Appeals Chamber is seized of **14** matters, including **8** cases involving appeals from judgement concerning 18 persons.

Appeals from Judgement

The *Bagosora et al.* Trial Judgement was pronounced on 18 December 2008 and issued in writing on 9 February 2009. Theoneste Bagosora, Aloys Ntabakuze, and Anatole Nsengiyumva appealed. The briefing in respect of the appeals was completed at the end of July 2010.

The appeals of Theoneste Bagosora and Anatole Nsengiyumva were heard from 30 March 2011 through 1 April 2011. Due to unavailability of Aloys Ntabakuze's counsel for the scheduled hearing of his appeal, the Appeals Chamber severed his case and heard his appeal on 27 September 2011. The Appeal Judgement in the **Bagosora & Nsengiyumva** case was delivered on 14 December 2011 and deliberations are in progress in the **Ntabakuze** case.

The Trial Judgement in the **Kanyarukiga** case was rendered on 1 November 2010 and issued in writing on 9 November 2010. Both parties filed notices of appeal in December 2010 and the briefing was completed in June 2011. The appeals were heard on 14 December 2011 and deliberations are in progress.

The Trial Judgement in the **Hategekimana** case was rendered on 6 December 2010 and issued in writing on 14 February 2011. Ildephonse Hategekimana filed his notice of appeal on 16 March 2011 and the briefing was completed in July 2011. The appeal was heard on 15 December 2011 and deliberations are in progress.

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 are being prepared for a hearing.

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. All five parties requested extensions of time to file their notices of appeal and the briefing is 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. All seven parties expressed their intention to appeal and the briefing is in progress.

The Trial Judgement in the **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 on 21 November 2011 and the briefing is in progress.

The Trial Judgement in the **Karemera & Ngirumpatse** case was rendered on 21 December 2011 and both convicted persons expressed their intention to appeal.

Other Appeals and Post-Appeal Requests

In addition to these appeals, the Appeals Chamber is seized of 2 interlocutory appeals in the **Ngirabatware** and **Nzabonimana** cases, and 4 requests for review in the **Ndindabahizi**, **Kajelijeli**, **Karera**, and **Niyitegeka** cases.

Summary

During 2011, the Appeals Chamber delivered 6 Appeal Judgements, 1 decision on a referral appeal, 5 decisions on interlocutory appeals, 7 decisions on review or other post-appeal requests, and issued 150 pre-appeal orders or decisions. To date, the Appeals Chamber has delivered **33** Appeal Judgements, concluding the appellate proceedings in respect of **40** persons.