

**SPECIAL COURT FOR SIERRA LEONE  
OUTREACH AND PUBLIC AFFAIRS OFFICE**



'Twin Mountain' in northern Sierra Leone

**PRESS CLIPPINGS**

**Enclosed are clippings of local and international press on the Special Court and related issues obtained by the Outreach and Public Affairs Office**

**as at:**

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Press clips are produced Monday through Friday.  
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### Local News

Special Court President on the detention of ICC staff in Libya / <i>OPA Press Release</i>	Page 3
The Judiciary and the Truth and Reconciliation Commission.../ <i>Concord Times</i>	Pages 4-6

### International News

International Criminal Court Swears in Gambian Lawyer as its New Prosecutor / <i>CNN</i>	Page 7
Fatou Bensouda: Changing of The Guard at The ICC / <i>Radio Netherlands Worldwide</i>	Pages 8-10
Defense Argues STL illegally Established / <i>The Daily Star</i>	Pages 11-12
UN Tribunal Transfers Case Involving Former Rwandan Official to Kigali / <i>Afriquejet</i>	Page 13



**Special Court for Sierra Leone**  
Outreach and Public Affairs Office

## **PRESS RELEASE**

**Freetown, Sierra Leone, 15 June 2012**

### **Statement by Special Court President Justice Shireen Avis Fisher on the detention of ICC staff in Libya**

I am deeply concerned about the detention by the Libyan government of four ICC staff while on mission in Libya. Intimidation of staff members of the institutions of the international criminal justice system while on official duty strikes at the heart of that system. The success of the Special Court for Sierra Leone owes much to the co-operation of the international community in respecting the Court's mandate, and accommodating the necessary privileges of the Court's personnel and the lawyers who practice before it.

The privileges and immunities of the detained ICC staff are essential to the performance of their mandated functions, as ordered by the ICC Pre-Trial Chamber on 27 April 2012, consistent with UN Security Council Resolution 1970. They must be permitted to exercise these functions without fear, harassment or intimidation.

I therefore join the Presidents of the ICC and the ICTY in calling for the immediate release of the ICC staff members.

#END

The Special Court is an independent tribunal established jointly by the United Nations and the Government of Sierra Leone. It is mandated to bring to justice those who bear the greatest responsibility for atrocities committed in Sierra Leone after 30 November 1996.

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## Concord Times (Online)

Thursday, 14 June 2012

### **Sierra Leone: The Judiciary and the Truth and Reconciliation Commission Recommendations - a Case of Motion but No Progress??**

By Sonkita Conteh

#### Opinion

On 29th May 2012, the Sierra Leone Truth and Reconciliation (TRC) website was re-launched with support from the Open Society Initiative for West Africa (OSIWA), after a long period offline due to financial constraints. That same week Charles Taylor was slammed a 50 year jail term by the Special Court for Sierra Leone. While the latter event was covered by major news outlets all over the world, the former was pretty low key, but in my opinion no less important. Going through the refurbished website, which contained the very detailed report of the commission, I was drawn to the 'recommendations matrix' which records progress on the implementation of the TRC's recommendations. The report itself is a poignant account of the causes and course of the decade-long civil conflict as told by those who were lucky to be left alive, as well as a rousing call to action to prevent the recurrence of such a national calamity. As shown by the matrix, the pace of implementation is rather lethargic giving rise to accusations of apathy on the part of the government. The fact that the website was offline for a long time until resuscitated by OSIWA speaks volumes about national commitment to propagating the outcome of such an important process.

For someone working on access to justice issues, the findings of the TRC with respect to the failure of justice makes miserable reading even today, 8 years after the report was made public: 'Institutions such as the judiciary... had become mere pawns in the hands of the executive. Corruption in the judiciary... was rife'. 'Lawyers and jurists in Sierra Leone have failed to stand up to the systematic violation of the rights of the people'. 'There is little or no meaningful access to the courts for the majority of Sierra Leoneans'. In effect, the commission found that the judiciary shared responsibility for the outbreak of war in Sierra Leone- a very substantial indictment for an institution of justice.

In relation to the judiciary, the TRC put forward what it called 'imperative recommendations' which were intended to be acted upon immediately or 'as soon as possible' and in good faith. The commission called for the judiciary to discard laws or practices contrary to justice or which undermined the rights to liberty, equality and justice. It also urged the judiciary to uphold the values that underlie an open and democratic society such as human dignity, equality and freedom.

Ten years after the official end of the civil conflict, has anything changed at all, in the justice sector? There have certainly been several developments in the justice sector, due in part to the stout contribution of overseas development partners and local and international civil society organisations. A few more court buildings have been erected to cope with demand, some in rural areas; there have been a number of local and international recruitments to boost judicial manpower; a code of conduct for judicial officers has been adopted; a fast track commercial court has been established; a raft of legislation have also been enacted including most recently a legal aid act with more, such as a sexual offences law, in the works and a judicial training institute is also taking shape. The government has adopted a new Justice Sector Reform Strategy and Investment Plan 2011-2014, its blueprint for 'bringing justice to the doors of Sierra Leoneans', a previous one with similar objectives having expired in 2010. Has the cumulative effect of these developments translated into palpable improvements in the dispensation of justice by our courts?

Many will agree that in spite of these efforts at pushing through reforms, several critical challenges continue to beset the judiciary, which if not boldly confronted, will continue to situate the judiciary in the muck of our unpalatable recent history, causing it to lose the confidence of a public that it is meant to serve.

Foremost amongst these challenges is the issue of corruption. A 2010 national public perception survey on corruption put the judiciary in the six topmost institutions where corruption is most prevalent. 75% of respondents also identified the judiciary as 'being most responsible for the failure of the war against corruption'. For many who have had contact with courts, the survey merely confirmed a long-held view that the judiciary has remained corrupt throughout the post-conflict period despite huge capital and other investments to reform it. The failure by the country's Anti-Corruption Commission to prosecute two judges accused of involvement in corruption, even though one of them has repeatedly called for such prosecution and the controversial convening of a tribunal by the judiciary instead, reinforces the negative public perception of the judiciary either as protectionist or simply ineffectual. Currently, the trial of a deputy registrar of the high court charged by the anti-graft body for corruption has not proceeded after the initial appearance apparently because someone within the judiciary is playing the role of 'the godfather'. There are many reports of justices of the peace, magistrates and judges habitually urging litigants to give them incentives directly rather than secure the services of a lawyer. Reports also abound about judicial support staff demanding and receiving payments before they carry out their official functions. Unless bravely and coherently tackled, the issue of corruption will continue to blight the courts forcing many to resort to external means of resolving disputes.

The structure of the judiciary is hierarchical for good reason- to maintain a system of oversight. This however has not helped in ensuring that there is appropriate supervision across all tiers. Many of the courts, particularly the lower ones are painfully shambolic and unproductive. The situation is worse in rural areas where proper judicial management hardly extends. Presiding officers, particularly those on the lower bench routinely behave like part time employees commencing court sittings very late and only for a few hours while litigants and lawyers would have been waiting for hours. The unlucky ones, mostly those without lawyers endure repeated adjournments or lengthy detention until they become disinterested or disillusioned. Now, plaintiffs cynically remark that the reason they take disputes to court is merely to waste the other party's time rather than seek justice. When they do sit on matters, judicial officers often do not conform to rules of procedure or wield their enormous powers capriciously, especially in relation to bail. A certain judge is cited as being averse to recording court proceedings in the usual long hand; as a result lawyers find it difficult to for instance 'perfect' orders based on his pronouncements in court. This usually leaves them and litigants alike 'high and dry'. In criminal matters, accused persons especially those that are not represented by counsel spend inordinately long periods in detention without their cases being heard on the merit. Presently, a certain court in the rural areas has over 100 cases awaiting trial on indictment due in part to the judge's very irregular schedule. Most of the accused persons are in detention and some, because of overcrowding, have had to be transferred to another jail, notorious for its terrible conditions. Supervision is essential to ensure consistent performance over time and judicial officers must be accountable for how they spend their time. By adopting a laidback attitude to work, they are essentially denying justice to those seeking it. Besides, there are serious moral questions to be asked of a judge or magistrate who gets paid by taxpayers for doing little or nothing.

A communal criticism from the lower bench directed mostly at senior officers has been the latter's penchant for interference in court proceedings at the lower level. Magistrates' courts are the work horses of the judiciary dealing with both criminal and civil cases on appeal, at first instance or as preliminary investigation. It is not uncommon, reportedly, for a magistrate to be telephoned by superiors, while presiding over a case in court and given instructions. Often, this will be about whether or not to grant bail to an accused. Failure to comply with such instructions can attract censure in the form of reduced case docket or constriction of available opportunities. Needless to say that such a practice denigrates the principle of independence that should characterise judicial existence. The judiciary should not just be

independent from the other arms of government, its judges and magistrates should also be free from interference from their superiors. Pulling rank on a magistrate to take a particular line of action not only affects the fairness of the proceedings, it also undermines the presiding officer's self-confidence. Meddling should give way to monitoring.

The adversarial nature of our legal system requires that judges and magistrates exhibit both neutrality and fairness in proceedings. They should be dispassionate and non-partisan, swayed only by compelling evidence and arguments. These traits inspire confidence in even unsuccessful litigants about the even-handedness of the process and positively influence public perception of the judiciary. Increasingly however, there have been reports of legal practitioners developing unwholesome relationships with magistrates in particular, to gain an unfair advantage in matters before their courts, mostly in exchange for money. Many magistrates are quick to point out that theirs is not a well-paid job, but that is certainly no excuse for such a dishonourable conduct. Lawyers who thrive on such ignominious practice may not need to work hard to earn a living in the short term, but eventually, word does get out to the public and their long term practice is jeopardised. Legal malpractice complaints to the law practice regulatory body have also risen sharply, with lawyers being variously accused of misdeeds such as tampering with or misappropriation of clients' funds, conflict of interests and negligence. The general reluctance of lawyers to represent clients wishing to bring legal action against their transgressing colleagues and the perceived inability of the regulatory body to act robustly nurtures the wrongly but widely held belief that lawyers are above the law. That 70% of respondents in the perception survey voted lawyers as the most corrupt professionals is therefore not surprising.

The Sierra Leone constitution and myriad international human rights instruments guarantee the inherent dignity of everyone irrespective of their status. They also enshrine the principle of presumption of innocence, which means that a person accused of a crime is presumed to be innocent until his guilt is proven. A disturbing observation and a clear cause for concern is the sometimes discourteous treatment of litigants, witnesses and accused persons by both judicial officers and lawyers. Magistrates fail to protect them from the coarse goading of lawyers who mask their inability to properly examine witnesses in insult. Regrettably, magistrates have been observed joining in ridiculing witnesses especially in sexual offences cases. Accused persons in detention, and without legal representation, fare worse. Their cases often get called up last only to be postponed, perpetuating a constant pattern of fruitless court appearances and continued detention. During proceedings accused persons are at the mercy of uncivil lawyers or terrifyingly powerful presiding officers. A certain magistrate in the provinces once threatened to imprison an unrepresented accused for two years because he dared to raise his hand in court for permission to apply for bail. The accused had been told in jail that he had a right to speak in court and apply for bail. Clearly the magistrate had a different understanding. That same magistrate also reportedly sentenced an accused to a term of imprisonment without any plea or evidence. For many, contact with the formal justice system is a traumatising experience in which presiding officers and lawyers play an unenviable part.

So, 8 years and lots of investments later, is the judiciary still a pawn in the hands of the executive? Is corruption still rife in our courts? Are lawyers still failing to stand up to violations of rights? Is there meaningful access to courts for the majority of Sierra Leoneans? There certainly will be many different and probably no definitive answers depending on who one asks. A favourite refrain of judiciary apologists is that the courts are 'a work in progress' pointing to the various developments mentioned earlier. Others claim that 10 years after the end of the war, access to justice is in a sorrier state now than it was before. Whatever view one might adopt, one thing is however certain- public confidence in the judiciary and lawyers is currently at an absolute low and this is as clear a barometer of progress in the judiciary as one can hope to get. Something more profound than an image repair is urgently required to turn the tide of public perception and rebuild confidence in the judiciary as independent and impartial forum where ordinary people can get justice. The resuscitated TRC website nevertheless provides an opportunity to, be reminded of the challenges of our troubled past, measure present actions and hope that in our lifetime, things might so improve in the judiciary as to command a volte-face in public opinion.

CNN

Friday, 15 June 2012

## International Criminal Court swears in Gambian lawyer as its new prosecutor

The International Criminal Court swears in Gambian lawyer Fatou Bensouda as its new prosecutor Friday, the first woman to assume the top job at the world war crimes tribunal.

She replaces Argentinean Luis Moreno-Ocampo, the inaugural prosecutor for the world court, whose nine-year term ends this month.



Bensouda served as Moreno-Ocampo's deputy at the court based in The Hague, Netherlands. Member nations that recognize the court's jurisdiction voted for her unanimously during a December meeting at the United Nations.

Her appointment comes amid fierce criticism against the court -- which has a heavy caseload of Africa investigations -- that it disburses justice selectively by focusing on the continent.

The court currently has investigations in the Democratic Republic of the Congo, the Central African Republic, Uganda, Kenya, Sudan, Ivory Coast and Libya.

"Bensouda is taking over an established office with an already sizable caseload," Human Rights Watch said in a statement. "The office has opened investigations in seven countries and is conducting preliminary examinations to determine whether to open an investigation in at least seven other countries."

Critics have said the court targets Africa and bypasses opportunities to investigate abuses in various nations, including Afghanistan and Iraq.

"Her election is a positive move by the International Criminal Court," said Ayo Johnson, director of Viewpoint Africa. "The court needs an African in the role to justify why it is so heavily focused on African dictators. The court must be fair and should be seen as consistent in how it discharges justice, and not only focus on Africa.

Bensouda has worked in various other positions, including as adviser to the International Criminal Tribunal for Rwanda, which is trying key figures in the 1994 genocide. She has also served as justice minister and attorney general in her native Gambia.

Supporters of the court applauded her appointment.

"In Syria and other strife-torn countries over the past 10 years, the ICC has come to symbolize the last, best hope for justice," said Richard Dicker, international justice director at Human Rights Watch. "We look to Bensouda's leadership to advance cases, build bridges with victims, and push countries to support its impartial application of the law to get the job done."

Bensouda was on this year's Time magazine list of 100 Most Influential People in the World.

## Radio Netherlands Worldwide

Wednesday, 13 June 2012

### **Fatou Bensouda: Changing of the guard at the ICC**

When the new prosecutor of the International Criminal Court (ICC) was asked to take a seat by the journalists who came to question her, she looked down and proclaimed, “The hot seat!” But the world’s next top prosecutor—Gambian lawyer Fatou Bensouda—doesn’t shy away from controversy.

By Lauren Comiteau, The Hague

Quite the opposite, the mother of two boys has a history of tackling injustice head on—from Gambian criminals to heads of state. She served as a prosecutor in her native country’s Ministry of Justice and also worked at the International Criminal Tribunal for Rwanda (ICTR) before coming to the ICC as outgoing prosecutor Luis Moreno-Ocampo’s deputy.

On Friday, she takes his place as the chief prosecutor of the world’s first permanent international criminal court. And her agenda is already full: she’ll be prosecuting the court’s first head of state, former Ivorian President Laurent Gbagbo, and overseeing seven cases and nine preliminary investigations.

Just days before her swearing-in for the nine-year post, she spoke with a group of foreign correspondents about her hopes, her obstacles and about shattering the glass ceiling.

### **What’s the difference between prosecuting criminal cases at national and international levels?**

When you get to the international level, the scale is different. You’re talking about hundreds and thousands of victims and perpetrators, about many killings and rapes at the same time.... Also at the national level, prosecuting is not so difficult.... [If] you want people arrested, you give orders and people are detained. You have access to your witnesses and the challenges of witness protection are not so great.

But when you come to the international level, these become huge challenges. Most of the time at the ICC, you’re operating in situations of ongoing conflict. The security situation on the ground is sometimes impossible...and because the prosecutor is the office that deploys first to the field, there is this huge responsibility to ensure that those who we talk to are not exposed....

### **Isn’t it frustrating to see people like al-Bashir out there and the ICC can’t do anything?**

I see the setting up of the ICC as a system in which member states resolved in 1998 to create this institution. But in making it effective, member states also have a big role to play and they undertook to play that role by signing and ratifying the Rome Statute. The ICC doesn’t have a police force. But the police of 121 member states are the police of the ICC. The armies of these countries are the armies of the ICC....

There is a sense of frustration of course when we see the likes of Joseph Kony and Omar al Bashir still out there.... But our duty under the Rome Statute has been done. We were supposed to investigate, prosecute, issue arrest warrants and present evidence. And in all these cases we have done it....

### **What are the main challenges to fighting impunity in the world?**

The issue with the ICC is that we’re a judicial institution operating in a political environment. And this sometimes becomes a challenge. Because whatever move the ICC makes—whether we decide to move,

whether we do not move, whether we charge someone below the line or very high up—there is always criticism.

So I think apart from seeking cooperation, one of the major challenges we face is that we have to continue to perform our functions strictly within the law.... I think if we do this and are very transparent about it, the credibility of the ICC will continue to grow.

**Some people say this is an African court that now has an African prosecutor. What do you say?**

I am an African and I am very proud of that...I'm not going to discount it or dismiss it. But I think it is not because I am an African that I was chosen for this position. I think my track record speaks for myself.... I have been endorsed by the African Union [AU], but I am a prosecutor for 121 states parties and this is what I intend to be until the end of my mandate....

**Do you think some of that criticism will die down now that there's an African prosecutor? And isn't the AU at odds with the ICC, telling its members not to cooperate with the court?**

The problem with the AU is not to not cooperate with the court generally, but not to cooperate with the court with regards to Bashir.... And we have to take note of what's happening with individual African states.

Over 90 percent of our requests for assistance go to African states, and they come back positive. Africa continues to engage with the ICC. I think one of the best examples you can find, even though we're having difficulties in that case, is the Kenya case. There are current presidential candidates who are coming before the ICC and appearing before judges voluntarily....

Whether this perception can change because there is an African prosecutor, I don't know. But contrary to what is being said, that the ICC is targeting Africa, the ICC is working for and with the victims of Africa.... They are the ones who are suffering from all these very serious crimes....

**What about criticisms that you're destabilizing situations, like in Kenya, by supporting one side?**

There is a track record on the continent that...the opposite is true. In Uganda, with Joseph Kony, even though we have not been able to arrest him, I think the intervention of the ICC has contributed immensely to bringing peace to Northern Uganda and to Uganda....

Likewise in Kenya. Our hope has always been that in the next elections, there wouldn't be post-electoral, or even pre-electoral, violence. And so far, this is going in the direction we hoped.

In the Cote d'Ivoire, I think the ICC's intervention has played a big role.... Laurence Gbagbo is our first case. There will be others.

**How as a young girl did you decide to take up law?**

...I was very concerned about the domestic abuse that I saw happening that I could not do anything about. I thought if I were older, probably I would be able to do something. It wasn't happening in my immediate family, but in Africa--in Gambia--you live in communities. And you see it.... And always there was this innate feeling in me saying this shouldn't happen.... So for me, it was something I had to do.

**Who were your greatest mentors?**

My greatest mentor is my mum.... I regret she's not around anymore to see all of this. But also I grew up looking up to certain people. I remember there was this lady lawyer always standing up...called Amie Bensouda, also Bensouda (you know these Bensouda men, they follow these lawyers!).

Also I have my elder sister, Warrage, my half-sister actually, but I always say that we don't know who's half, who's full.... So it's many people. The beauty in Africa is the community.... Everyone feels they have this protection they have to give to you.... I believe it makes you stronger.

It is important as an African to have girls see that there is a possibility that they can get to here. There's always the belief that there's only so much you can achieve coming from Africa and nothing more, like you've been given a handout and you should be happy.

My example shows that this is not true, that the sky is the limit. There's no glass ceiling for Africans, for all women actually....

The Daily Star  
Friday, 15 June 2012

## Defense argues STL illegally established

By Willow Osgood



*Judges of the U.N. Special Tribunal for Lebanon (STL) (back row, L to R) Janet Nosworthy, Micheline Braidi, Robert Roth, David Re and Walid Akoum attend the opening of the public hearing at the court in Leidschendam, near The Hague June 13, 2012.  
(REUTERS/Robert Vos/Pool)*

BEIRUT: The defense teams of the Special Tribunal for Lebanon argued Thursday that the U.N. Security Council abused its powers when it illegally established the court, urging the judges to find that the tribunal has no jurisdiction in the 2005 attack that killed former Prime Minister Rafik Hariri.

On the second day of hearings on defense motions challenging the court's jurisdiction, Antoine Korkmaz, attorney for Mustafa Baddredine, one of the four Hezbollah members indicted by the Netherlands-based STL, cited a number of "legal oddities" in Security Council Resolution 1757, which established the court.

Korkmaz charged that the 2005 attack was not one of three recognized international crimes – war crimes, crimes against humanity and genocide – arguing that the crime should have therefore been handled domestically.

"These oddities have created more of a disturbance to security in Lebanon than the threat the Security Council said it was trying to solve," he continued.

The defense asked the judges to decline jurisdiction in the case over what they described as the Security Council's abuse of power and the resolution's violation of international law.

They maintain that it was clear by 2007 that the bombing was not a threat to international peace and that the Security Council invoked Chapter VII only in order to bypass political obstacles blocking the ratification of an agreement between Lebanon and the U.N. to create a court. Action under Chapter VII must be in response to threats to international peace and security.

But prosecutor Norman Farrell argued that it was not the court's job to determine whether the bombing posed a threat to international peace.

"[The defense] is asking you to substitute your view for that of the Security Council ... With respect, the court doesn't have jurisdiction to do that," he said, adding "you don't get to decide whether it was actually a threat or not."

He argued that the court could only decide whether the attack was within the “species or class” of acts that constitute such a threat.

Emile Aoun, attorney for defendant Salim Ayyash, countered the prosecutor’s argument that Lebanon’s cooperation with the court, by paying its dues and compiling a list of Lebanese judges to serve in the court, indicated that its sovereignty had not been violated.

“Our previous government headed by Saad Hariri refused to take a position vis-à-vis the Special Tribunal; this is why it resigned and a new one was established,” Aoun said.

“Some said that acquiescence is a kind of approval, but silence doesn’t have any meaning in international law; it does not mean consent,” he added.

The defense maintains that that resolution imposed an international treaty on Lebanon, in violation of its Constitution and sovereignty.

Thursday’s hearing also saw the first appearance in a public session of the attorneys appointed to represent victims of the attack. The attorneys argue in their observations that court is necessary to uphold the rights of the victims.

In their filing, they said that “any claim to Lebanese sovereignty over the investigation and prosecution of those responsible for the atrocities of February 14, 2005 is disingenuous.”

They continued their observations by echoing the prosecution’s argument that the Security Council has wide powers and that Lebanon as a member state had agreed to Chapter VII resolutions.

The victims “seek the truth, expiation, redress and justice and they have applied to this tribunal to give effect to the rights which nobody seriously challenges that they have,” said attorney Peter Haynes, addressing the court.

A date for the ruling on the pretrial motions has yet to be set, but it could come before the judges go on recess in late July, according to STL spokesman Marten Youssef.

In closing the hearing, Judge Roth granted a defense request for documents that were used for the February decision to move to trial in absentia.

That hearing was not attended by the defense attorneys, who were officially assigned to represent the accused men, Baddredine, Ayyash, Hussein Oneissi and Assad Sabra, the following day.

The defense is requesting that the court reconsider that decision.

## Afriquejet

Friday, 15 June 2012

<http://www.afriquejet.com>

### **UN tribunal transfers case involving former Rwandan official to Kigali**

New York, US - The UN International Criminal Tribunal for Rwanda (ICTR) has transferred to Rwandan authorities, the case involving Bernard Munyagishari, a former government official charged with crimes against humanity. An ICTR statement on Friday said that, 'Munyagishari is accused of recruiting, training and leading Interahamwe militiamen in mass killings and rapes of Tutsi women in the Gisenyi prefecture and beyond between April and July 1994'.

It noted that the transfer of the case to Rwanda is the fifth by the tribunal.

The previous four cases transferred were those involving Ladislav Ntagazwa, Jean Bosco Uwinkindi, Fulgence Kayishema, and Charles Sikubwabo.

It stated: 'On 25 May last year, Mr. Munyagishari was arrested in the Democratic Republic of Congo (DRC). He was transferred to the UN Detention Facility in the Tanzanian city of Arusha, where the ICTR is based, on 14 June 2011. He made his initial appearance on 20 June, 2011, and pleaded not guilty to all charges.

The statement disclosed that, 'in its ruling on Mr. Munyagishari's referral, the three-judge panel ordered that the prosecution of the case be referred to the authorities of Rwanda, who will in turn hand over the case to the Rwandan High Court'.

'The ruling also requested the appointment of an independent organization as monitor instead of, or in addition to, the ICTR legal staff, before the transfer of Mr. Munyagishari to Rwanda,' it said.

'In addition, the ICTR asked that Rwanda provide the defence team with access to people, locations and documents throughout the country as required in order to effectively conduct the case of the defence,' it stressed.

The ICTR was set up after the Rwandan genocide, when at least 800,000 ethnic Tutsis and politically moderate Hutus were killed during three months of bloodletting that followed the death of then-president Juvenal Habyarimana, when his plane was brought down over the Rwandan capital of Kigali.