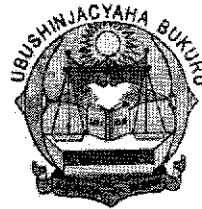


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**REPUBLIC OF RWANDA
NATIONAL PUBLIC PROSECUTION AUTHORITY
ORGANE NATIONAL DE POURSUITE JUDICIAIRE
UBUSHINJACYAHA BUKURU**



P.O. Box: 1328 KIGALI-RWANDA- Phone: +250 0252 589500- Fax: 250 0252 589501
E-mail: info@nppa.gov.rw Website: www.nppa.gov.rw

TRIAL CHAMBER II

Before: Judge Florence Rita Arrey, Presiding
Judge Emile Francis Short
Judge Robert Fremr

Registrar: Mr. Adama Dieng

Date filed: 20 June 2011

THE PROSECUTOR

V.

JEAN UWINKINDI

Case No. ICTR-2001-75-R11bis

**REPUBLIC OF RWANDA'S RESPONSE TO 6 JUNE 2011 ORDER
TO PROVIDE FURTHER INFORMATION REGARDING 36
GENOCIDE CASES AT THE HIGH COURT**

Office of the Prosecutor

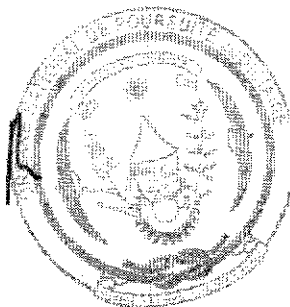
Hassan Bubacar Jallow
James J. Arguin
George Mugwanya
Inneke Onsea
Abdoulaye Seye
Francois Nsanzuwera

Counsel for the Accused

Claver Sindayigaya
Iain Edwards
Bettina Spilker

Amicus Curiae

Republic of Rwanda



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RESPONSE

1. The Republic of Rwanda welcomes the opportunity to provide additional information for the Chamber's consideration in connection with the ICTR Prosecutor's pending application for referral of this case to Rwanda for trial. The Chamber has asked that Rwanda provide the following information relating to 36 genocide cases that the High Court presided over from 2006 to 2010: (a) number of prosecution and defence witnesses who testified in each case; (b) names of counsel representing the accused in each case; (c) verdicts in each case; and (d) information regarding arrangements made for witnesses living abroad in those cases.¹

2. Before addressing these issues, Rwanda first recalls that, with respect to any referred cases, Rwanda's Transfer Law guarantees the accused the following rights relevant to the Chamber's questions about the 36 domestic genocide cases:

- the right to "obtain the attendance and examination of witnesses on his/her behalf under the same conditions as witnesses against him or her";²
- the direction to the Prosecutor General to "facilitate the witnesses in giving testimony including those living abroad, by the provision of appropriate immigration documents, personal security as well as providing them medical and psychological assistance,"³ and
- the right of an indigent accused to free legal representation.⁴

¹ *The Prosecutor v. Uwinkindi*, Case No. ICTR-2001-75-R11bis, Order to the Government of Rwanda to Provide Further Information Regarding 36 Genocide Cases at the High Court, 6 June 2011.

² See Article 13(10) of Organic Law No. 03/2009 of 26 May 2009, Modifying and Complementing Rwanda's Transfer Law, which is formally known as Organic Law No. 11/2007 of 16 March 2007, Concerning Transfer of Cases to the Republic of Rwanda from the International Criminal Tribunal for Rwanda and From Other States.

³ Article 14(2) of Organic Law No. 03/2009 of 26 May 2009, Modifying and Complementing Rwanda's Transfer Law.

⁴ Article 13(6) of Rwanda's Transfer Law.

3. With particular regard to the 36 domestic genocide cases over which the High Court has presided, Rwanda observes that all of those cases involved appeals or review proceedings from Intermediate Court judgements, sentences, or orders.⁵ The 36 genocide cases were not trials in the first instance before the High Court; genocide trials in the first instance are heard by the Intermediate Courts.⁶ As detailed below, the 36 genocide cases over which the High Court presided involved judicial review of jurisdictional issues, appeals from Intermediate Court judgements and sentences, and applications for post-conviction review.⁷

4. In each case, the High Court interpreted and applied substantive or procedural law relating to the prosecution of domestic genocide cases. It was this familiarity with genocide law and practice that, Rwanda submitted in its amicus brief, rendered its judiciary "uniquely qualified to adjudicate the substantive law in this case or other cases that may be referred by the Tribunal."⁸ Indeed, even the Defence has conceded that "Rwandan judges are almost certainly more experienced in trying genocide cases than would be the judges of almost any other jurisdiction in the world."⁹ The records in the 36 domestic genocide cases, which are summarized below, bear this out.

A. Genocide Cases on Jurisdictional Review

5. *Issa Gakwaya, et al.*, Case No. RPA/GEN/005/05/HC/KIG. This case involved an appeal filed from a judgment and sentences imposed by the

⁵ Pursuant to Article 105 of Organic Law No. 51/2008 of 9 September 2008 Determining the Organisation, Functioning and Jurisdiction of Courts, the High Court has jurisdiction to hear appeals from criminal cases tried in the first instance by the Intermediate Courts.

⁶ See Articles 73 and 89 of Organic Law No. 51/2008 of 9 September 2008 Determining the Organisation, Functioning and Jurisdiction of Courts.

⁷ The summaries below were compiled based on review of the relevant High Court files. Copies of the relevant orders and decisions issued by the High Court in Kinyarwanda are available for the Chamber's review. Because these materials are voluminous, Rwanda has not attached them to this submission.

⁸ *The Prosecutor v. Uwinkindi*, Case No. ICTR-2001-75-R11bis, Amicus Curiae Brief for the Republic of Rwanda in Support of the Prosecutor's Application for Referral Pursuant to Rule 11 bis, 18 February 2011 (Rwanda Amicus Brief), para. 123.

⁹ *The Prosecutor v. Uwinkindi*, Case No. ICTR-2001-75-R11bis, Defence Response to the Prosecutor's Request for the Referral of the Case of Jean Uwinkindi to Rwanda pursuant to Rule 11 bis of the Rules of Procedure and Evidence, 14 March 2011, para. 201.

Intermediate Court on 21 December 2001. Ten of the convicted persons were sentenced to life; two were sentenced to 10 and 15 years, respectively. In 2002, all of the convicted persons appealed their convictions. Because these appeals were lodged prior to the establishment of the High Court, it was not clear what Chamber of the High Court possessed territorial jurisdiction over the appeals. The prosecution challenged the competency of the High Court in Kigali to resolve the appeals. On 25 July 2006, the High Court in Kigali referred the appeals to the High Court, Chamber of Rwamagana. All 12 appeals remain pending before that court. Me Arsene Rutiyomba represented the convicted persons at trial and on appeal.

6. *Celestine Higiho, Bertin Mwemezi, Charles Basomiringera*, Case No. RPA/GEN/0011/04/NYA. This case involved an appeal of a 2003 Intermediate Court judgement, sentencing Higiho to six-years imprisonment and Basomiringera to life. The Intermediate Court acquitted the third accused, Mwemezi. Twenty-eight prosecution and eight defence witnesses testified at trial. Higiho and Basomiringera appealed their convictions to the High Court. The prosecution did not appeal Mwemezi's acquittal. As a result of a change in the law regarding the competence of Gacaca Courts, the High Court referred Higiho's and Basomiringera's cases to the Gacaca Court for retrial. Me Jean Damascine Baragondoza and Me Jean Christome Uwizeyimana represented the accused at trial and on appeal.

7. *Christophe Ntakonagize et al.*, Case No. RPA/0015/HC/KIG. The Defence appealed to the High Court to resolve a question of territorial jurisdiction as to which High Court Chamber had competence to review the Intermediate Court's judgement and life sentence. The High Court referred the case to the High Court, Chamber of Rwamagana, where review of the Intermediate Court's judgement and sentence remains pending. The accused is represented by Me Laurent Bugabo. Because of the jurisdictional nature of the proceeding, information on the number of witnesses who testified at trial before the Intermediate Court is not reflected in the High Court file.

B. Genocide Cases on Appellate Review

8. **Jean Baptiste Bogera**, Case No. RPA/GEN0003/05/HC/RWG. This case was an appeal from a 2000 Intermediate Court judgement, sentencing the accused to death. Prior to trial, the Intermediate Court allowed Bogera additional time to obtain counsel. He subsequently informed the Intermediate Court that he would represent himself. Two defence witnesses and two prosecution witnesses testified at trial. On appeal, the High Court, by decision dated 29 June 2007, acquitted Bogera and vacated his sentence.

9. **Anastase Bayingana, Damien Kabuguza, Felix Ndekezi, Aphrodice Harelimana, Evariste Munyempara, Damien Kamenyero, and Faustin Nzisabira**, Case No. RPA/GEN0019/04/HC/CYG. This is a multi-accused appeal from a 2001 Intermediate Court judgment, sentencing five accused to life and two accused to death. Ten defence witnesses and 12 prosecution witnesses testified at trial. On appeal, the High Court acquitted Kamenyero and vacated his death sentence. It affirmed the remaining convictions, but reduced Munyempara's death sentence to life imprisonment and reduced all of the remaining sentences from life to 30 years imprisonment. The accused were represented by Me Pascal Gashirabake and Me Theoneste Niyonzima during trial, but it is not clear from the High Court case file if they continued to represent them on appeal.

10. **Job Hodari and Paul Kanamugire**, Case No. RPA/GEN0009/04/HC/NYA. This case was an appeal from a 2002 Intermediate Court judgment, sentencing Hodari to life imprisonment and Kanamugire to death. Twenty-three defence witnesses and 24 prosecution witnesses testified at trial. Both convicts appealed. On 15 June 2007, the High Court affirmed the Intermediate Court's judgement and sentences. Me Vincent Karangwa and Me Christian Ndondera represented Hodari and Kanamugire at trial and on appeal.

11. **Jean Marie Vianney Jyaribu and Emanuel Hakizimana**, Case No. RPA/GEN/0004/HC/RWG. This was an appeal by two convicted persons

from a 2000 Intermediate Court judgement and sentences. Jyaribu was sentenced to life imprisonment; Hakizimana was sentenced to death.¹⁰ Six defence and six prosecution witnesses testified at trial. On appeal, the High Court, by decision dated 27 October 2006, acquitted Jyaribu and vacated his sentence. The High Court affirmed Hakizimana's conviction and sentence. Me Emile Rukundo represented the accused at trial and on appeal.

12. *Wallace Kayinamura*, Case No. RPA/GEN0011/09/KIG. This case involved an appeal from a 1997 Intermediate Court conviction. Seven prosecution witnesses and two defence witnesses testified at trial. Kayinamura was sentenced to life imprisonment. He appealed his conviction to the Appeals Court, which affirmed the intermediate court judgment. On 26 February 2010, the High Court confirmed the judgement of the Appeals Court. Kayinamura was represented at trial and on appeal by Me Kerry Brahima, Me Kader Chaibu, and Me Diabira.

13. *Stanislas Nkulikiyimfura and Nuru Sibomana*, Case No. RPA/GEN0010/04/HC/NYA. This case was an appeal from a 2003 Intermediate Court judgement, sentencing Nkulikiyimfura to 14-years imprisonment and Sibomana to 10-years imprisonment. Ten defence witnesses and 16 prosecution witnesses testified at trial. On appeal, the High Court, by decision dated 29 May 2007, acquitted both accused. Me Theophile Kazeneza represented the accused before the High Court; Me Fabius Gasana and Me Liberatha Mukakimenyi represented the accused before the Intermediate Court.

14. *Anastase Ntakirende*, Case No. RPA/Gen/0001/05/HC/RWG. On 18 December 2000, the Intermediate Court convicted Ntakirende and sentenced him to life imprisonment. Five prosecution witnesses and three defence witnesses testified at trial. Ntakirende appealed his convictions to the High

¹⁰ See Organic Law No. 66/2008 of 21 November 2008, Modifying and Complementing Organic Law No. 31/2007 of 25 July 2007 Relating to the Abolition of the Death Penalty (abolishing the death penalty and substituting life imprisonment as the maximum punishment available in referred cases).

Court. On 30 August 2006, the High Court acquitted Ntakirende of the charges and vacated his sentence. According to the case file, Ntakirende declined counsel and elected to represent himself at trial and on appeal.

15. *Agnes Ntamabyariro, Leonard Hategekimana, and Fannel Nsengiyumva*, Case No. RPA/GEN0002/08/KIG. This was prosecution appeal from an Intermediate Court ruling, allowing a defence motion to require a prosecution witness to appear as an accused because the witness, through his testimony at trial, implicated himself in the crimes. On appeal from this interlocutory ruling, the High Court dismissed the prosecution appeal. Me Viateur Nsengiyumva and Me Simon Ndimubanzi represented the accused at trial and on appeal.

16. *Antoine Ntibingirwa*, Case No. RPA/GEN/0091/07/HCMUS. This case involved prosecution appeal from a 2007 Intermediate Court judgement of acquittal. Eighteen prosecution witnesses and eight defence witnesses testified at trial. On appeal, the High Court confirmed the acquittal. Me A. Thadee Barisebya and Me Gashabana Gatera represented Ntibingirwa at trial and on appeal.

17. *Fils Nyirimanzi*, Case No. RPA/GEN0050/05/HC/KIG. In 1999, the Intermediate Court convicted Nyirimanzi of genocide and crimes against humanity, and sentenced him to 15 years imprisonment. Five defence witnesses and six prosecution witnesses testified at trial. Nyirimanzi appealed his convictions to the Appeals Court. As part of the reformation of Rwanda's judicial system, the Appeals Court was abolished and Nyirimanzi's appeal was transferred to the High Court. In June 2006, the High Court affirmed his convictions and sentence. Me Celine Karugu represented Nyirimanzi at both trial and on appeal.

18. *Samson Ribanje*, Case No. RPA/GEN/0002/05/HC/RWG. This case involved an appeal from a 2000 Intermediary Court judgement, sentencing Ribanje to death. Following his arrest, Ribanje was presented with statements from 30 prosecution witnesses. He wrote a letter confessing his

guilt and pleaded guilty. Subsequently, he appealed his death sentence to the High Court, which confirmed his sentence on 28 February 2007. Me Mukabaranga represented Ribanje at trial; on appeal, he elected to rely on the closing brief filed by his trial counsel.

19. *Dr. Cyriaque Sibomana and Aloys Kampayana*, Case No. RPA/GEN0004/04/HC/NYA. This case was an appeal from a 1998 Intermediary Court judgement, sentencing Kampayana to death and Sibomana to life imprisonment. Forty-six prosecution witnesses and two defence witnesses testified at trial. On appeal, the High Court, in 2007, affirmed the convictions but reduced Kampayana's sentence to life and Sibomana's sentence to 18-years imprisonment. Me Agathe Baroan and Me Sylvestre Mben represented Kampayana and Sibomana.

20. *Dr. Charles Zirimwabagabo*, Case No. RPA/GEN0002/10/10/HC/MUS. This case involved an appeal from an Intermediate Court conviction and sentence to life imprisonment. Six defence witnesses and 27 prosecution witnesses testified at trial. On appeal, the High Court affirmed the conviction and sentence. Two defence counsel, Me Vita Bizimungu and Me Nsengiyumva represented the convicted person.

21. The High Court also presided over appeals from judgements rendered by Intermediate Courts located in Cyangugu province, a rural province near the border with the Democratic Republic of Congo. These cases were tried in the early 2000's while the Kigali Bar Association was still in the process of expanding its capacity. The files associated with the cases tried in Cyangugu province indicate that, unlike the other genocide cases appealed to the High Court, the accused in several of the Cyangugu province cases elected to represent themselves. Rwanda recognizes that, at the time these cases were tried, legal services in Cyangugu province were limited both as a result of the province's distance from Kigali, where the bar association is based, and the reduced size of the bar association at that time. Additionally, at the time

these cases were tried, the road from Kigali to Cyangugu province was not paved, thereby making travel from Kigali to the province difficult.

22. In the years since these cases were tried, the Rwandan government and Kigali Bar Association have undertaken outreach efforts to educate citizens about legal rights and has expanded the availability of legal services in these remote provinces. Additionally, the province is now linked to Kigali by a paved tarmac, thereby making it easier for counsel to travel to the province.

23. *Andre Baritonda et al.*, Case No. RPA/GEN0020/04/HC/RSZ. This case involved an appeal from an Intermediate Court judgement in a multi-accused genocide case. In the Intermediate Court, eight prosecution witnesses and four defence witnesses testified. All seven accused were convicted and sentenced by the Intermediate Court to sentences ranging from 12 years to life imprisonment. On appeal, the High Court acquitted two of the accused, Pascal Nturanyi and Erasto Munyanshongore, and vacated the life sentences imposed by the Intermediate Court. The High Court also reduced the life sentences imposed against the following four convicted persons as indicated below:

Andre Baritonda	25 years
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Damascene Kanyarashongore	25 years
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Emile Musabyimana	30 years
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Feniyasi Rukeratabaro	25 years
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24. With regard to the seventh convicted person, Ezekiel Hategekimana, the High Court increased the 12-year sentence imposed by the Intermediate Court to 25 years. The case file does not identify the names of any defence counsel.

25. *Jean Bijugushu*, Case No. RPA/GEN0016/04/HC/CYG. This case involved an appeal from a 2001 Intermediate Court judgement, sentencing

Bijugushu to 16 years. Three defence witnesses and 19 prosecution witnesses testified at trial. On appeal, the High Court affirmed the judgment and sentence. According to the decision, Bijugushu elected to represent himself.

26. *Alphonse Bizimana*, Case No. RPA/GEN0025/04/HC/RSZ. This case involved an appeal of a 2002 Intermediate Court judgement, sentencing Bizimana to life imprisonment. Twenty-three witnesses testified for the prosecution; no defence witnesses testified. On appeal, the High Court, by decision dated 28 February 2006, affirmed the judgement but reduced the sentence to 25 years. According to the High Court's decision, Bizimana elected to represent himself.

27. *Thomas Hategekimana et al.*, Case No. RPA/GEN0023/04/HC/RSZ. This is an appeal from a 2002 Intermediate Court judgement in an eight accused case. Twenty-seven prosecution and eight defence witnesses testified at trial. In March 2006, the High Court acquitted three accused; reduced the death sentence for one accused to 30 years, reduced the sentence for three convicts from life imprisonment to 12 years imprisonment, and severed the remaining convict's appeal for separate consideration. According to the High Court's decision, the accused elected self-representation.

28. *Antoine Havugimana*, Case No. RPA/GEN0014/04/HC/CYG. This case was an appeal from a 2001 Intermediate Court judgement, sentencing Havugimana to five-years imprisonment. Five defence and 11 prosecution witnesses testified at trial. On appeal, the High Court affirmed the judgement and sentence. Although issued in 2005, the High Court decision was included in the 2006 Annual Report of the Judiciary. Me Mukansamba represented Havugimana at trial; Havugimana represented himself on appeal.

29. *Pascal Kayirara and Pascal Munyanshoza*, Case No. RPA/GEN0004/04/HC/CYG. This case involved an appeal from a 2000 judgment of the Intermediate Court, sentencing both accused to life imprisonment. Sixteen prosecution and two defence witnesses testified at

trial. On appeal, the High Court acquitted Kanyirara and reduced Munyanshoza's life sentence to eight years. According to the decision, Kanyirara and Munyanshoza elected self-representation.

30. *Yunus Napoleon Mubiligi*, Case No. RPA/GEN0013/04/HC/RSZ. This case involved an appeal from a 2001 Intermediate Court judgement, sentencing Mubiligi to death. The prosecution called 45 witnesses; no witnesses testified for the defence. On appeal, the High Court acquitted Mubiligi and ordered his immediate release. According to the High Court's decision, Mubiligi elected self-representation.

31. *Faustin Munyurabatware*, Case No. RPA/GEN0004/07/HC/CYG. This case was an appeal of a 2007 Intermediate Court judgement. Munyurabatware was sentenced to 20-years imprisonment. Prior to trial, the Intermediate Court asked Munyurabatware if he wanted counsel appointed; he declined. Fifteen prosecution and two defence witnesses testified at trial. On appeal, the High Court, by decision dated 22 May 2008, affirmed the judgement and sentence.

32. *Felicien Munyampeta et al.*, Case No. RPA/GEN0003/04/HC/CYG. This case is an appeal from a 2000 Interlocutory Court judgment in a multi-accused case. Twenty-one defence and seven prosecution witnesses testified at trial. On appeal, the High Court acquitted two accused and affirmed the 17 remaining convictions. It reduced the death sentence for one accused to life imprisonment. The remaining 16 convicts were sentenced to between 30 years and seven years. Me Vincent Ntaganira, Me Francois Kubwabo, Me Innocent Rwagasana, Me Jean Marie Vianney Ngirumpatse represented the accused at trial.

33. *Mutezimana alias Joseph Mutezintare*, Case No. RPA/GEN0010/04/HC/RSZ. This case was an appeal from a 2001 Intermediate Court judgement, sentencing Mutezimana to nine-years imprisonment. On appeal, the High Court reduced the sentence to three years, six months and ordered Mutezimana's immediate release. Although

issued in 2005, the High Court decision was included in the 2006 Annual Report of the Judiciary. Me Pascal Abubakar Gashirabake represented Mutezimana at trial; Mutezimana represented himself on appeal.

34. *Simon Rugero and Casimir Zirimwabagabo*, Case No. RPA/GEN0008/04/HC/RSZ. This case involved an appeal of a 2000 Intermediate Court judgement, sentencing Rugero to life and Zirimwabago to six-years, five-months imprisonment. On appeal, the High Court quashed Zirimwabago's sentence and, instead, imposed an order of restitution for the cost of destroyed property. With regard to Rugero, the High Court reduced his life sentence to 30-years imprisonment. According to the High Court case file, Rugero elected self-representation.

C. Genocide Cases on Post-Conviction Review

35. *Augustin Hakizimana*, Case No. RPA/GEN0012/09/HC/KIG. This case involved an application for post-conviction review of a 2001 Intermediate Court judgement sentencing the convicted person to death. The judgement and sentence were subsequently affirmed on appeal. In connection with this post-conviction application, the High Court directed the sentencing court to review the case. Me Venant Nzamukwereka represented Hakizimana before the High Court.

36. *Alcade Kabalisa*, Case No. RPA/GEN0036/09/HC/KIG. This case involved a post-conviction application for review of a 1998 Intermediate Court judgement and sentence to life imprisonment. In July 2000, the High Court rejected Kabalisa's appeal from his conviction and sentence. Nine years later, Kabalisi filed an application for post-conviction review in the High Court. On 13 September 2010, the High Court denied relief. Kabilisa was represented before the High Court by Me Domatille Mukanzigiye. At trial before the Intermediate Court he was represented by Me Waegebert Geet.

37. **Desiyani Karerangabo**, Case No. RPA/GEN0042/09/HC/KIG. This case involved an application for post-conviction review of a 1999 Intermediate Court judgement, sentencing him to life. On appeal, the High Court affirmed the convictions and sentence. Karerangabo subsequently filed an application for post-conviction relief in the High Court. On 15 November 2010, the High Court referred the application to the High Court, Chamber of Musanzi for consideration. The case remains pending in the High Court, Chamber of Musanzi. Me Evariste Nsabayezi represented Karerangabo before the High Court; Me Theophile Kazeneza and Me Francis Ntwali represented Karerangabo before the Intermediate Court.

38. **Charles Karuhije**, Case No. RPA/GEN0016/09/HC/KIG. This case involved an application for post-conviction review of a 1997 Intermediate Court conviction. The Intermediate Court sentenced Karuhije to death (by statutory amendment later reduced to life imprisonment), and Karuhije appealed his conviction to the (former) Appeals Court. In 1998, the Appeals Court affirmed his conviction and sentence. Eleven years later, in 2009, Karuhije filed an application for post-conviction review. On 24 March 2011, the High Court denied review and confirmed the Appeals Court's earlier judgment. Me Aimable Rwigema Karuhije represented Karuhije before the High Court.

39. **Faustin Mugaborigira**, Case No. RPA/GEN0009/09/HC/KIG. This case was a post-conviction application for review of a 1998 Intermediate Court judgement and sentence to life imprisonment. Me Moctar represented Mugaborigira at trial. On 21 July 2000, the Appeals Court affirmed his conviction and sentence. Me Etienne Ballo represented Mugaborigira on appeal. In 2009, Mugaborigira filed an application for review of his conviction and sentence. By letter dated 26 August 2010, Mugaborigira asked the High Court to withdraw his application based on the advice of his counsel, Me Jacqueline Ndekezi. On 13 September 2010, the High Court allowed his request for withdrawal.

40. *Espérance Mukamusoni*, Case No. RPA/GEN0019/06/HC/RSZ. This case involved an appeal from a 2001 Intermediate Court judgment, sentencing the accused to life imprisonment. Five prosecution witnesses and two defence witnesses testified at trial. While his appeal was pending, the territorial jurisdiction of the High Court changed. His appeal was referred to the High Court, Chamber of Ruhengeri. In 2006, the High Court, Chamber of Ruhengeri referred the case to the High Court, Chamber of Rusizi as the territorially competent court. In 2008, cases still pending at the High Court, including this one, were referred to the Gacaca Courts for trial. As a result the Intermediate Court proceedings, including Mukamusoni's conviction, were nullified in favor of the Gacaca Court proceedings.

41. *Marcel Munyabarenzi and Laurent Haragirimana*, Case No. RPA/GEN0013/07/HC/KIG. This case involved an application for post-conviction review of a 1999 Intermediate Court judgement and sentences. Munyabarenzi was sentenced to death (by statutory amendment later reduced to life imprisonment); Haragirimana was sentenced to 20 years imprisonment. Both convictions were affirmed on appeal in 2000. On 30 November 2009, the High Court denied post-conviction review. Me Bruce Bitorwa represented both convicted persons before the High Court.

42. *Charles Nkulikiyinka*, Case No. RPA/GEN0013/09/HC/KIG. This case involved an application for post-conviction review of a genocide conviction. On 2 November 2009, the High Court referred the application to the High Court, Chamber of Musanze for review. Me Evariste Nsabayeze represented Nkulikiyinka in connection with this application.

43. *Felicien Nyagatoma et al.*, Case No. RPA/GEN0003/09/HC/KIG. This case involved an application for post-conviction review of 1998 Intermediate Court judgement and sentences of five persons to life imprisonment. The Appeals Court affirmed the convictions and sentences by judgement entered 26 January 2001. In 2010, the five convicted persons filed an application for post-conviction review. The High Court denied relief.

affirming the prior judgements of the Intermediate Court and Appeals Court. Me Donat Mutunzi represented the convicts on the application for further review before the High Court. Me Seydon Drumbia represented the convicts on appeal before the Appeals Court. Me Onesime Kabayabaya represented the convicts at trial before the Intermediate Court.

D. Genocide Cases Involving Witnesses From Abroad

44. Rwanda was unable to conclusively determine from its review of the 36 genocide case files whether any of the witnesses in the trials before the Intermediate Courts traveled from abroad. But, given that these were domestic prosecutions, it appears unlikely that any defence or prosecution witnesses traveled from abroad.

45. Rwanda has nevertheless already detailed its cooperation with foreign governments in facilitating witness travel both to and from Rwanda.¹¹ Should the Chamber desire further submissions on this point, Rwanda will prevail upon those governments to whom it has provided mutual assistance, including the United Kingdom, Canada, The Netherlands, Denmark, Norway, and others, to confirm its cooperation in the investigation, defence, and prosecution of genocide cases. These submissions would lend further support to Rwanda's assertion that the provisions of the Transfer Law requiring the facilitation of testimony from witnesses residing abroad will have practical effect.¹²

CONCLUSION

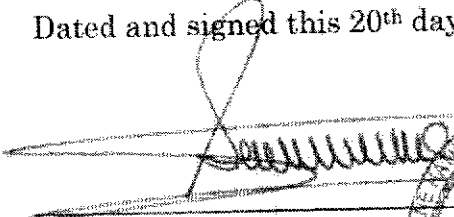
46. The records associated with the 36 domestic genocide cases over which the High Court presided lend further support to Rwanda's submissions that its legal system is able in practice to secure the fair trial rights of the accused in this or any other case that the Tribunal may refer to Rwanda for trial. As these records demonstrate, the accused have the right to call witnesses in

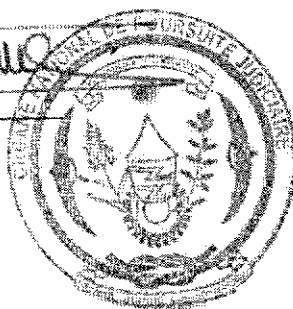
¹¹ Rwanda Amicus Brief, paras. 37-45

¹² See Articles 13(10) and 14(2) of Organic Law No. 03/2009 of 26 May 2009, modifying and complementing Rwanda's Transfer Law.

their defence; be represented by counsel if they so choose; obtain meaningful appellate review of their convictions and sentences;¹³ and, even after their convictions have been affirmed on appeal, apply for further judicial review. All of these protections are afforded in domestic prosecutions, and they would apply with equal force to cases that the Tribunal may refer for trial in Rwanda.

Dated and signed this 20th day of June 2011, Kigali, Rwanda.


Martin Ngoga
Prosecutor General
Republic of Rwanda



¹³ Indeed, 16 of the accused in the 36 genocide cases were acquitted either at trial or on appeal.



TRANSMISSION SHEET FOR FILING OF DOCUMENTS WITH CMS

COURT MANAGEMENT SECTION
(Art. 27 of the Directive for the Registry)

I - GENERAL INFORMATION (To be completed by the Chambers / Filing Party)

To:	<input type="checkbox"/> Trial Chamber I N. M. Diallo	<input checked="" type="checkbox"/> Trial Chamber II R. N. Kouambo	<input type="checkbox"/> Trial Chamber III C. K. Hometowu
	<input type="checkbox"/> OIC, JLSD P. Besnier	<input type="checkbox"/> OIC, JPU C. K. Hometowu	<input type="checkbox"/> Appeals Chamber / The Hague K. K. A. Afande R. Muzigo-Morrison
From:	<input type="checkbox"/> Chamber (names)	<input type="checkbox"/> Defence (names)	<input type="checkbox"/> Prosecutor's Office (names)
	<input checked="" type="checkbox"/> Other: Republic of Rwanda Mr. Martin Ngoga, Prosecutor General (names)		
Case Name:	The Prosecutor vs. Jean Uwinkindi		Case Number: ICTR-2001-75-R11bis
Dates:	Transmitted: 20 June 2011		Document's date: 20 June 2011
No. of Pages:	16	Original Language:	<input checked="" type="checkbox"/> English <input type="checkbox"/> French <input type="checkbox"/> Kinyarwanda
Title of Document:	REPUBLIC OF RWANDA'S RESPONSE TO 6 JUNE 2011 ORDER TO PROVIDE FURTHER INFORMATION REGARDING 36 GENOCIDE CASES AT THE HIGH COURT		
Classification Level:		TRIM Document Type:	
<input type="checkbox"/> Ex Parte		<input type="checkbox"/> Indictment <input type="checkbox"/> Warrant <input type="checkbox"/> Correspondence <input type="checkbox"/> Submission from non-parties	
<input type="checkbox"/> Strictly Confidential / Under Seal		<input type="checkbox"/> Decision <input type="checkbox"/> Affidavit <input type="checkbox"/> Notice of Appeal <input type="checkbox"/> Submission from parties	
<input type="checkbox"/> Confidential		<input type="checkbox"/> Disclosure <input type="checkbox"/> Order <input type="checkbox"/> Appeal Book <input type="checkbox"/> Accused particulars	
<input checked="" type="checkbox"/> Public		<input type="checkbox"/> Judgement <input type="checkbox"/> Motion <input type="checkbox"/> Book of Authorities	

II - TRANSLATION STATUS ON THE FILING DATE (To be completed by the Chambers / Filing Party)

CMS SHALL take necessary action regarding translation.

☐ Filing Party hereby submits only the original, and will **not submit** any translated version.

☐ Reference material is provided in annex to facilitate translation.

Target Language(s):

☐ English ☐ French ☐ Kinyarwanda

CMS SHALL NOT take any action regarding translation.

☐ Filing Party hereby submits **BOTH the original and the translated version** for filing, as follows:

Original	in	<input checked="" type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda
Translation	in	<input type="checkbox"/> English	<input type="checkbox"/> French	<input type="checkbox"/> Kinyarwanda

CMS SHALL NOT take any action regarding translation.

☐ Filing Party will be submitting the translated version(s) in due course in the following language(s):

☐ English ☐ French ☐ Kinyarwanda

KINDLY FILL IN THE BOXES BELOW

<input type="checkbox"/> The OTP is overseeing translation. The document is submitted for translation to: <input type="checkbox"/> The Language Services Section of the ICTR / Arusha. <input type="checkbox"/> The Language Services Section of the ICTR / The Hague. <input type="checkbox"/> An accredited service for translation; see details below: Name of contact person: Name of service: Address: E-mail / Tel. / Fax:	<input type="checkbox"/> DEFENCE is overseeing translation. The document is submitted to an accredited service for translation (fees will be submitted to DCDMS): Name of contact person: Name of service: Address: E-mail / Tel. / Fax:
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III - TRANSLATION PRIORITISATION (For Official use ONLY)

<input type="checkbox"/> Top priority	COMMENTS	<input type="checkbox"/> Required date:
<input type="checkbox"/> Urgent		<input type="checkbox"/> Hearing date: