



INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS

*c/o NUPL 3F. Erythrina Bldg.. Matatag cor.
Maaralin Street. Quezon City. 1101 Philippines*

NO TRANSFER TO RWANDA OF THE ICTR ACQUITTED AND RELEASED PERSONS IN THE NIGER OR ICTR CONVICTED PRISONERS HELD IN BENIN AND SENEGAL

IADL Observations on the Closing of the IRMCT: An Open Letter to the UN Secretary-General, UN Security Council Members and the Informal Working Group on International Tribunals

I. The International Association of Democratic Lawyers ('IADL') is a non-governmental organization, composed of jurists throughout the world, in Consultative II Status with ECOSOC (since 1969) and represented at UNICEF and UNESCO.

The IADL expresses grave concerns about the fate of the International Criminal Tribunal for Rwanda ('ICTR') acquitted persons and persons who have completed their sentences ('released persons') in the Niger, and the ICTR convicted persons, currently imprisoned in Benin and in Senegal when the mandate of the International Residual Mechanism for Criminal Tribunals ('IRMCT') ends in June 2026.

Our concerns are amplified in light of the December 2025 UN Security Council ('UNSC') meeting on the closing of the IRMCT in 2026, based on the Secretary-General's report on transfer of functions of the IRMCT (S/2025/786). The Report identifies the resolution of the issues concerning the released and acquitted persons in the Niger as an "outstanding obligation" (para. 74) but outlines no options. In terms of the ICTR prisoners, the Report presents one option, the transfer of prisoners to Rwanda (para. 31) and the designation of Rwanda as an enforcement State (para. 32).

In the discussion of the Report, only a few of the UNSC members even referred to the acquitted and released persons in their remarks: Sierra Leone [pointing out their uncertain legal status in the Niger]; Greece [freedom of ICTR persons in the Niger has yet to be guaranteed]; US [resolving situation in the Niger is both cost-saving and advances the objective of a principled, fair and efficient conclusion of the IRMCT]; and Guyana [concerned that issue is still unresolved and renewed calls for States to cooperate with IRMCT] and Rwanda ["individuals stranded in the Niger...should not continue to pose an unnecessary burden on the UN, particularly when they have a country and families ready to receive them"].

No Member State, however, referenced or even alluded to the dangers to the ICTR prisoners if Rwanda were to become an enforcement State, or if the acquitted and released persons were transferred there.

But one thing, based on the Report and the discussion, is presented as almost a certainty:
Rwanda is envisioned to play a major role in the transfer of the IRMCT's functions related to the ICTR prisoners and the ICTR acquitted and released persons.

In our view, any role for Rwanda in the transfer of the IRMCT's functions would be contrary to the UN's Charter and covenants in light of Rwanda's flagrant human rights violations. This would apply to the situation of the ICTR acquitted and released persons and those still serving sentences, as well as to the

ICTR Archives, which contain both evidence which is part of the judicial record, but also evidence that is not part of the record.

These Observations address particularly the ICTR acquitted and released persons and the ICTR prisoners.

TRANSFER TO RWANDA IS A DEATH KNEEL FOR ICTR ACQUITTED AND RELEASED PERSONS AND ICTR PRISONERS

II. For close to three decades, the IADL has vigorously criticized the failure of the ICTR to uphold the objective of its founding UN Security Council Resolution 955, which is to prosecute both sides of the conflict in Rwanda in 1994. Instead, the ICTR has selectively prosecuted only Hutus. Ninety-three indictments were issued to Hutus, and there were no Tutsis and no members of the Rwandan Patriotic Front ('RPF') prosecuted. This was despite evidence presented by the UN'S own team: the Gersony Report, prepared by a UNHCR Emergency Repatriation Team in August/September 1994, found that there were systematic killings of Hutus by the RPF's army, the Rwandan Patriotic Army ('RPA'), in 1994. These findings were presented to the Commission of Experts in October 1994, whose report concluded that individuals from both sides of the conflict in Rwanda perpetrated serious breaches of international humanitarian law. This selective prosecution of "Hutus only" has earned the ICTR the appellation, "victor's justice".

The IADL has consistently opposed the ICTR transfer of cases to Rwanda, based on Rwanda's human rights record of violations and on the grounds that fair trial and due process would not be implemented under President Paul Kagame's Government and the RPF. In the *Uwinkindi* case, the IADL filed an *amicus curiae* brief opposing the transfer of the case to Rwanda.

The IADL has firsthand knowledge of the ICTR in Arusha and also the IRMCT. A number of IADL members served as defence counsel starting in the late 90's through the ICTR's closing in 2015.

III. Unfortunately, throughout the decades, the violation of human rights, which include civil and political rights, in Rwanda by its Government remains abysmal and unchanged. Even the US Department of State's *2024 Country Reports on Human Rights Practices: Rwanda*, released in August 2025, under the current Trump Administration in the US, concludes in its Executive Summary that freedoms for Rwandan citizens are under attack and there are significant human rights issues, and that M23, operating with government support, committed numerous human rights violations which were not investigated or prosecuted by the Rwandan Government. These findings echo – often "word for word" – previous *Rwanda Country Reports*. The Rwandan Government's naked repression and brutality against any opposition, and primarily aimed at Hutus, is evident within its borders and outside the country, particularly in the Democratic Republic of Congo, through the terror campaigns of M23, which is supported by Rwanda.

The IADL recalls the Government's campaign against Victoire Ingabire Umuhoza who returned in 2010 to contest Paul Kagame's Presidency in the elections and was arrested on charges of terrorism and threatening national security and sentenced to fifteen years imprisonment. She served eight years and was pardoned and released in 2018. In June 2025, Victoire Ingabire was subsequently rearrested and detained by a judge on allegations related to a criminal conspiracy against the government and inciting unrest and disorder. Bail was denied, and, at the time of these Observations, she is still imprisoned in Rwanda.

The IADL also recalls Paul Rusesabagina (of “Hotel Rwanda” fame), who was kidnapped and transported to Kigali and then arrested and convicted on terrorism-related charges in 2021 and sentenced to twenty-five years imprisonment. Due to international pressure, his sentence was commuted and he was released in 2023.

And, there are countless others - from opposition parties, as well as individual citizens just exercising their rights - who were killed or are imprisoned

It is within this context of the political situation in Rwanda that we make these Observations.

IV. Observation #1: From the inception of the ICTR in 1994, threats of return to Rwanda have hung over the heads of both the ICTR acquitted and released persons and the convicted ICTR prisoners.

Rwanda, which voted against SC Resolution 955 establishing the ICTR in 1994, has never tried to hide its objective to continue its war against the largely Hutu former government and military, through any available structure or means. Rwanda vigorously pursued its war against the Hutus on the battlefield of the ICTR’s courtrooms in Arusha. This makes the transfer of former ICTR defendants – whether acquitted, released or still imprisoned - a death sentence for the military and governmental leadership at various levels who opposed the RPF’s advances culminating in the events of 1994.

Rwanda has made several attempts over the years to have the ICTR acquitted and released persons returned to Rwanda, without any credible guarantees for their safety and the safety of their families. All of these overtures have been rejected.

But with the impending closure of the IRMCT, the threat of a forced return to Rwanda is a real possibility, based on the options proposed and discussed in the Security Council meeting of Rwanda as an enforcement State for ICTR convicted, and a receiver of the Niger ICTR acquitted and released persons.

V. Observation #2. From its inception, the ICTR never envisioned acquittals.

The situation of the ICTR acquitted and released persons has continued – for up to two decades+ for one acquitted person – to be a travesty of justice, committed by the UN and its subsidiary organs, the ICTR and the IRMCT, which are responsible for these individuals.

There has been a lack of progress in finding third countries - where the ICTR persons would be safe and secure - to accept them, and biannual pleas (for about two decades) to the Security Council members for re-location have gone unrequited.

Unfortunately, these difficulties come as no surprise, considering the admission of the then Deputy Registrar, Mr. Everard O’Donnell, that the ICTR never considered the possibility that there would be acquittals, and that the ICTR would have to make plans for acquitted persons’ safety and welfare. He told an International Symposium in Geneva in 2009,

“The simple fact is—and there is some truth in this particular fact—that no proper provision was made for acquittal at the beginning of the setting up of the Tribunal. That much is a fact, and it’s one that we have been struggling with in the registry ever since. There was no budget for dealing with acquitted persons.”

Thus, despite international norms and the ICTR Statute’s fundamental principle of the presumption of innocence, the Tribunal was effectively operating on a presumption of guilt by making no plans for acquittal. The ICTR presumed that anyone brought before it would be found guilty. In practice, this proved wrong: approximately 14 of the 93 indicted and prosecuted defendants were acquitted.

VI. Observation #3: The UN/MICT’s failure – since 2004 - to find safe and secure third countries to accept all the ICTR acquitted and those who have completed their sentences (‘released persons’) is unconscionable – by any standard.

Eight acquitted and released persons were transferred from a “safe-house” in Arusha to one in Niamey in the Niger in December 2021. Today, only five remain: Major François-Xavier Nzuwonemeye, former Government Minister Prosper Mugiraneza, Col. Alphonse Nteziryayo, Dr. André Ntagerura, and Capt. Innocent Sagahutu.

Three others have died of illnesses while in the Niger “safe house”: Protais Zigiranyirazo, brother-in-law of former President Juvénal Habyarimana (2025), Lt. Col. Tharcisse Muvunyi (2024), and Lt. Col. Anatole Nsengiyumva (2024).

Although the five remaining men are “free” based on acquittals or completion of sentence, the reality is that they have no liberty: they remain stateless and without papers, and cannot travel. The UN pays a subsidy to the Niger for their lodging and subsistence, but this is scheduled to end in December 2026. And, until recently, they have been under complete “house arrest” and could not freely leave the “safe house” in Niamey.

This situation violates their rights under the Universal Declaration of Human Rights (‘UDHR’), the International Covenant on Civil and Political Rights (‘ICCPR’), the International Covenant on Economic, Social and Cultural Rights (‘ICESCR’), as well as other international covenants. These violations translate into unconscionable outcomes for individuals in the custody and care of the UN and its subsidiary bodies, the ICTR and the IRMCT.

For example,

- **Dr. André Ntagerura**, a former Minister of Transport and Communications, who was acquitted at trial in 2004 (acquittal affirmed by the Appeals Chamber in 2006), **has been illegally detained in a “safe-house” for twenty-two years.**
- **Major Francois-Xavier Nzuwonemeye**, the former Commander of the RECCE (Reconnaissance) Battalion in Rwanda in April 1994, was acquitted on appeal in 2014. In 2026 – twelve years later -- he is still being illegally detained in a “safe house.” **In 2026, he will have completed his full sentence of twenty years (rendered by the Trial Chamber in 2011) plus six additional years for crimes for which he was acquitted in 2014 by the ICTR Appeals Chamber.**

By any standard these examples and the situations of the other ICTR men should shock the conscience of those who uphold the rule of law. That an acquitted person should spend any time, but as much as twenty-two years, in detention which deprives him of his liberty should be an unthinkable figment of a criminal imagination. **But this is a reality within a UN Tribunal.**

Similarly, that three of the Niger “safe house” residents should die without being free, and away from their families because the UN has not found a safe and secure third country in which to re-locate them should not be accepted as normal – especially in a UN Tribunal.

The UN has a legal responsibility for the conduct of its subsidiary organs which it creates, including the ICTR and the IRMCT. To treat the “problem” it has, in fact, created – what to do about the ICTR acquitted and released persons – as incidental or an afterthought - is to violate its human rights obligations.

Based on the SC meeting and the Secretary-General’s Report, it appears that the only option on the table is forced transfer to Rwanda. If the UN/IRMCT were to choose this option, it would be tantamount to an intentional criminal act – given Rwanda’s human rights violations.

Moreover, it would support the view that the ICTR acquitted and released persons and ICTR prisoners are being subjected to lesser legal standards and protections, based on their geographical location in Africa and the fact that they are black men.

In closing, the IADL urges that

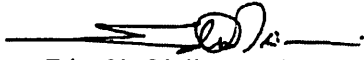
1. The UN, as the IRMCT closes, guarantee that the acquitted and released persons in the Niger, as well as the prisoners in Senegal and Benin, will not be transferred to Rwanda.
2. The UN, after the end of its current contract with the Niger in December 2026, continue to provide monies to the Niger for the subsistence of the five remaining ICTR persons until it is able to find safe and secure countries to accept these men.
3. The UN provide additional funds for bi-annual family visits so that the men in Niger, who have been deprived of any way to earn income although they are “free,” may exercise their right to family life under the Universal Declaration of Human Rights.
4. The UN provide funds for bi-annual family visits so that the ICTR persons serving sentences in Senegal and Benin may exercise their right to family life, as per the Mandela Rules.

Finally, the IADL reminds the UN Security Council of Justice Robert H. Jackson’s admonition in his Opening Statement before the International Military Tribunal at Nuremberg in 1945:

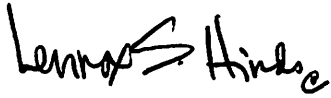
“ . . . We must never forget that the record on which we judge these defendants today is the record on which history will judge us tomorrow. To pass these defendants a poisoned chalice is to put it to our own lips as well. . . ”

The world community is watching whether the UN fails to protect the human rights and dignity of these ICTR acquitted and released persons, and ICTR prisoners presently under its jurisdiction.

Signed:



Edre U. Olalia, President, International Association of Democratic Lawyers



Professor Emeritus Lennox S. Hinds, IADL Permanent Representative to the UN in New York and Former ICTR Defence Counsel

Dated: 26 February 2026