

PREVENTING GENOCIDE, SUPPORTING SURVIVORS

July 4, 2018

Honorable Judge Theodor Meron
President, Mechanism for International Criminal Tribunals
Churchillplein 1, 2517 JW, The Hague, The Netherlands
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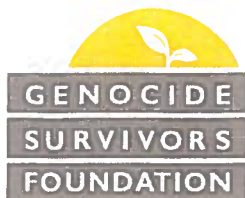
RE: Application for early release from Aloys Simba (MICT-14-62), Dominique Ntawukulilyayo (MICT-13-34) and Hassan Ngeze (MICT-13-37)

Dear Honorable Judge Meron,

I am writing to express grave concerns about granting early release to genocide convicts. I write to you as survivor of the 1994 genocide against the Tutsi in Rwanda and as the founder and president of *Genocide Survivors Foundation*, a New York based nonprofit organization dedicated to the prevention of genocide and other mass atrocity crimes and to supporting survivors.

As you are aware, the 1994 genocide against the Tutsi in Rwanda claimed the lives of more than a million people. Among those murdered was my entire immediate family parents, four brothers and two sisters. After the genocide, I learned that my immediate family had been taken to a river near our village, brutally murdered and their bodies thrown into the river. Their bodies were never found.

In addition to my immediate family, most of my extended family members (uncles, aunts, cousins, grandmothers and many others) were also murdered in the genocide. Many were hacked to death, others burned alive, others thrown alive in latrines, each and everyone of them was murdered in the most brutal and horrific ways. Their crime? Their Tutsi ethnicity.



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Today, 24 years after the genocide, the pain and loss suffered during the genocide still affects many aspects of my life. This is the case with all survivors. We all live with unimaginable pain and loss. Pain and loss that will also be felt by our children who are growing up without the grandparents, uncles, aunts, cousins and many extended family members who would be here today but for the genocide.

The crime of Genocide has rightly been called the “crime of all crimes.” It is simply the worst crime that human beings can commit.

Recognizing its gravity, its unique, devastating and lasting impact on humanity, the international community did as you know, in the aftermath of the Holocaust, adopt the *Convention on the Prevention and Punishment of the Crime of Genocide*.

Since the adoption of the convention, the international community and civil society have made some headways in prevention efforts. Nevertheless, challenges remain. For even today many ethnic and religious minorities live in fear of becoming genocide victims.

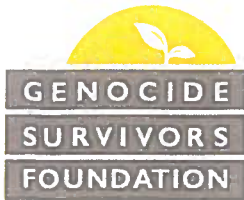
Given the rise of racism, anti-Semitism and other forms of extremism in today’s world which makes the danger of genocide even more real than ever before, we at *Genocide Survivors Foundation* believe in the need for both governments and nongovernmental institutions and organizations to step up genocide preventions efforts.

We also strongly believe that delivering justice and fighting impunity in the aftermath of genocide is a critical part of prevention. We believe that ad hoc tribunals such as the International Criminal Tribunal for Rwanda (ICTR) can play a key role in making sure that would be genocidaires are prevented from becoming so.

That is why we as genocide survivors and many others around the world are in complete disbelief and deeply troubled by what seems to be a growing pattern at the Mechanism for the International Criminal Tribunals (MICT) in granting applications for early release to those who were convicted of genocide.

It was recently reported in *The Guardian* that three genocide convicts, namely, Aloys Simba, Dominique Ntawukuliyayo, and Hassan Ngeze have applied for early release.¹ Since we are for the first time learning about these applications for early release before

¹ The Guardian, *Rwanda Appalled at chance of early release for genocide criminals*. 6 June 2018. Available at: <https://www.theguardian.com/world/2018/jun/06/rwanda-appalled-at-chance-of-early-release-for-genocide-criminals>



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the release has actually been granted, we could not miss the opportunity to express our outrage at the prospect.

We at *Genocide Survivors Foundation* respectfully urge you not to grant these men – convicted of some of the most heinous crimes imaginable - release from prison until they have served their full sentence. A decision to grant them early release would lead to a devastating impact on survivors, damage the legacy of ICTR, and undermine international criminal justice system as well as global genocide prevention efforts.

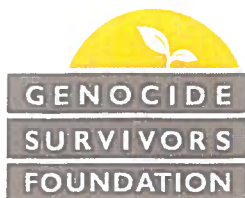
Simba, Ntawukulilyayo, and Ngeze, whose applications for early release are presently before the MICT, are among the worst masterminds of the 1994 genocide against the Tutsi. The prospect of their early release is quite simply an affront to the principles of justice and human rights. To grant them early release would make a mockery of the memory of these men’s victims, and would diminish the dignity of all humanity.

Aloys Simba is known for his enthusiasm and sadism as he led and provided weapons for a number of large Tutsi massacres, most notably at the Murambi Technical School and the Kaduha Parish in Rwanda’s southern province. He was convicted by the ICTR of genocide and extermination as a crime against humanity.

Dominique Ntawukulilyayo was responsible for massacres of Tutsis during the genocide, most notably at Kabuye Hill, where he knowingly sent thousands of Tutsis to their death. He was convicted by the ICTR for aiding and abetting extermination as a crime against humanity.

Hassan Ngeze managed *Kangura*, the newspaper that was at the center of the Anti-Tutsi propaganda machine and dehumanization campaign that led to the genocide against the Tutsi. His genocidal plans, evident in every issue of that paper, primed the pump for the genocide. *Kangura’s* “Hutu Ten Commandments” portrayed Tutsis as a disease that needed to be eradicated and stated that “The Hutu should stop having mercy on the Tutsi.” Hassan Ngeze’s Anti-Tutsi propaganda can be compared to Joseph Goebbels’ anti-Jewish propaganda leading up to – and making possible - the Holocaust.

Ngeze also actively participated in the massacres of Tutsis during the genocide. He was convicted by the ICTR of aiding and abetting the commission of genocide, direct and public incitement to commit genocide, and aiding and abetting extermination as a crime against humanity. What is more, he was famously uncooperative with the ICTR during his trial and denied virtually every charge.



Devastating Impact on Survivors/Need for Consultation with survivors

Early release of genocide convicts has the most devastating impact on genocide survivors. As survivors, our emotional response ranges from complete disbelief, to anger, to deep physical and psychological pain. Early release of genocide convicts trivializes the crime of genocide and cheapens the lives of our loved ones. Early release of genocide convicts also reinforces feelings of abandonment by the international community: first during the genocide, and again with the early release of those most responsible for our pain, loss and suffering.

For survivors, the wounds caused by the genocide are still fresh and we are trying very hard to heal those areas that we can heal. However, early release of those who are responsible for our pain, loss and suffering is like stabbing us over and over again in those wounds that are far from being healed.

Only 24 years after the genocide against the Tutsi, when a number of genocide fugitives on ICTR's wanted list are yet to be apprehended and brought to justice, it is deeply troubling and highly disturbing to see the MICT focused on granting early release to genocide convicts. Meanwhile, thousands of survivors live with untreated physical and psychological wounds and many are dying untimely and preventable deaths as a result of the wounds caused by the genocide. In the end, early release of genocide convicts simply re-victimizes us as survivors while catering to masterminds of genocide. This only adds insult to our injury.

As the people whose rights and interests were most violated by the genocide, and as the people who endured extreme pain, suffering and loss as a result of the genocide perpetrators' actions, we at *Genocide survivors foundation* believe that survivors should be consulted and their voices given proper consideration and weight in any justice calculations involving genocide convicts.

Any action that disregards victims/survivors voices in decisions that will have a devastating impact on their lives is contrary to fundamental principles of justice. Thus, survivors' voices should be given the proper consideration and weight in any release assessments involving genocide convicts.

As you know, many survivors of the 1994 genocide against the Tutsi risked their security, and faced the re-traumatizing ordeal of having to repeat over and over again the brutalities they witnessed and suffered, when they traveled to Arusha, Tanzania to

testify in front of the ICTR. Survivors made this enormous effort to testify because we believed in the ICTR's efforts to carry out justice and fight impunity, as promised by its founding statute. We ask that your decisions live up to the trust placed in the ICTR and the international criminal justice system.

Legacy of the ICTR and the Prevention of Future Genocides

Early release of genocide convicts by the MICT undermines the ICTR's efforts and tarnishes its legacy. By establishing the ICTR, the UN Security Council made clear its commitment to prevent future genocides by punishing those who were most responsible for the genocide against the Tutsi. In reference to the closure of ICTR and the International Criminal Tribunal for the former Yugoslavia (ICTY) and the establishment of MICT, you yourself stated that "by establishing the Mechanism, the Council has helped to guarantee that the closure of the two pioneering *ad hoc* tribunals does not open the way for impunity to reign once more."² However, when MICT grants early release to genocide convicts, it does just that: promotes impunity by trivializing the crime of genocide.

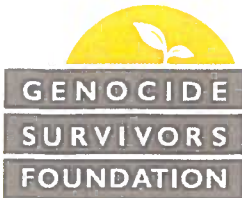
It is our understanding that early releases of genocide convicts by MICT are being considered pursuant to Rule 151 in the Mechanisms, Rules of Procedure and Evidence. This rule states that in making a determination for early release:

*"The President shall take into account, inter alia, the gravity of the crime or crimes for which the prisoner was convicted, the treatment of similarly-situated prisoners, the prisoner's demonstration of rehabilitation, as well as any substantial cooperation of the prisoner with the Prosecutor."*³

In reference to this rule and its analysis regarding the "gravity of the crime or crimes for which the prisoner was convicted," we first submit that genocide is "the crime of all crimes" and that no crime has more gravity. Justice demands that those convicted of genocide be punished to the full extent of the law and serve their sentences in full.

² President Theodor Meron, UN Security Council, 7 June 2012. Available at: <http://www.unmict.org/en/about>

³ Mechanism Rules of Procedure and Evidence. MICT/1/Amend.3 16 April 2018. Available at: http://www.unmict.org/sites/default/files/documents/180409-mict-rules-evidence-1-rev.3_en.pdf



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Furthermore, Rule 151 refers to a prisoner's "rehabilitation" but fails to provide guidelines on what that means in regards to genocide convicts or to set clear criteria by which to assess it. We note that there are no conditions or requirements for prisoners to make a public acknowledgement or give a public apology for their crimes, for example.

Rule 151 also fails to set conditions by which prisoners must abide once they are granted early release. In this case, nothing prevents convicts, upon their release, from engaging in dangerous denial and revisionist activities. Nothing prevents Simba, Ntawukuliyayo, Ngeze and other genocide convicts, once released, from starting newspapers, launching websites or social media accounts, or using other tools to spread denial of the very genocide of which they were convicted. Early release as provided by Rule 151 simply gives a head start to genocide convicts to begin their denial activities, thus contributing to the denial phase of genocide.

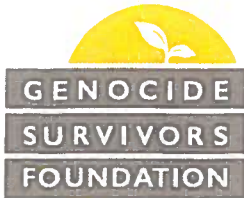
In many legal systems, people convicted of various crimes which lead to individual death or no death at all are given a life sentence without parole. Light sentences and early release for genocide convicts, people responsible for mass murder, trivializes the crime of genocide and encourage a culture of impunity.

For many years now, genocide survivors and others have been working hard to make sure that people truly understand the gravity of the crime of genocide and the fact that it should not be allowed to take place in this day and age. We are working tirelessly every day to make sure that the "Never Again" promise which was made after the Holocaust will not just remain an empty promise. Unfortunately however, when MICT grants early release to genocide convicts, it undermines efforts to prevent future genocide.

Conclusion

In regards to the 1994 genocide against the Tutsi in Rwanda, the original sin was the failure of the international community to prevent it despite the ample warnings. Today, the world and especially we as survivors must live with the genocide's devastating consequences on our lives and those of our offspring.

I and other survivors know that the MICT cannot undo the tremendous harm caused by the genocide; it cannot bring back our loved ones. However, MICT and you as MICT's President have the opportunity to honor MICT's promises to fight impunity and deliver justice.



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We implore you to use your role and platform and this moment to loudly and clearly proclaim that those who plan and execute genocide and are convicted of it will be required to fully complete their sentences. Thus, we specifically ask that you deny the current applications for early release by Aloys Simba, Dominique Ntawukulilyayo and Hassan Ngeze. Granting early release to them would undermine the international criminal justice system well beyond the Rwandan context and will diminish support for international criminal processes among current and future state leaders around the world.

Finally, we ask that you use your power and influence as the current president of MICT to help amend MICT's rules of procedure and evidence and remove the early release provision. The privilege of early release should be reserved for common criminals, not for those convicted of genocide, the "crime of all crimes."

Denying early release for genocide convicts will honor genocide victims and protect survivors. It will also prevent a culture of impunity from taking root globally, and sustain the progress of international criminal justice and genocide prevention efforts. As genocide survivors, we hope and expect that you will take our concerns and requests seriously. Our future, and the future of our children, depend on it.

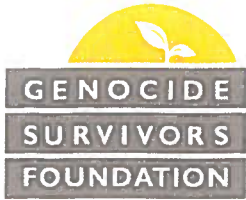
We thank you in advance for your time and sufficient consideration of this most serious and urgent matter.

Respectfully,

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CC

United Nations Security Council President



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Special Adviser, UN Office on Genocide Prevention and the Responsibility to Protect
Permanent Mission of Rwanda to the United Nations
MICT Office of the Prosecutor
U.S Department of State: Attention: The office of Global Criminal Justice