

# Avocats Sans Frontières

## Newsletter 2004 - V

september 2004

*Dear reader,*

*As the summer comes to a close, Avocats Sans Frontières welcomes its new president, Lieven Denys. Mr. Denys, who until now served as the treasurer of our organization, was chosen by the administrative council to succeed Marc Neve. Mr. Neve will remain a member of the administrative council after having served as head of the organization for three productive years. In addition, the administrative council has elected Jean-Louis Libert to succeed Joelle Van Ex as vice president of the organization. Finally, the position of secretary has been reinstated and will be assumed by Chantal Van Cutsem. You will find a complete description of the new positions on the council in our next newsletter.*

*It gives me great pleasure to announce that Avocats Sans Frontières received the Solidariteitsprijs 2004 from the leading flemish newspaper, De Standaard. After the competition, which the paper itself recognized as being amongst the toughest, a committee of specialists chose the ad submitted by Avocats Sans Frontières (the ad was produced free of charge by the Grey advertising agency). This prize will permit Avocats Sans Frontières to place four additional full-page ads in De Standard. We will be meeting with Grey this week to prepare future publications. A photo of the winning ad can be viewed on Avocats Sans Frontière's dutch language website at [www.adzg.be](http://www.adzg.be).*

*Other news is that Avocats Sans Frontières will be organizing a seminar on "Human Rights and Its Procedural Applications Before The International Criminal Court." The main speakers at the training will be Serge Brammertz, Deputy-prosecutor for the International Criminal Court; Johan Scheers, a Belgian criminal attorney who as extensive experience as a defence counsel before the International Criminal Tribunal for Rwanda and Luc Walley, a Belgian criminal attorney who has represented victims in a number of cases involving international violations. The seminar will take place in Antwerp, in the auditorium of the Antwerp Bar Association (the Palace of Justice, 3rd floor) from 14:30 to 17:30. If you wish to receive more information, please email us indicating as subject "Antwerp seminar." You may also register for this seminar through our website.*

*Finally, from now on, you will be able to make a donation or pay for a subscription online via the Avocats Sans Frontières website. We have activated a payment process that accepts credit cards and is completely secure. You will find all the necessary information with respect to this subject at the end of this newsletter.*

*Happy reading,*

*Peter Van der Auweraert  
Executive Director*

## Timor Leste

ASF -B continues working on strengthening the Timorese Bar Association in the

goal of ensuring its unity and independence. Within this context, it continues advocating the adoption of a law on the Advocacy Statute before the National Parliament.

Moreover, the training and exchange program with the Malaysian Bar Association held from June 21st to 28th was a big success. A follow-up workshop pertaining to the lessons learnt from this exchange is scheduled for September 10th. This workshop will allow an effective transfer of the knowledge and skills that were acquired during the exchange to the members of the Timorese Bar Association who were not present at the training.

Furthermore, due to the success of this first interactive experience, contacts with other South Pacific Bar Associations, as well as with Bar Associations of Portuguese-speaking countries have been established. The purpose of such contacts is to develop professional interactions on common issues.

ASF-B has completed the processing of the data collected from the Law Directory Questionnaires sent to all public and private lawyers of Timor Leste and finished the setting up of the database of the Timorese Bar Association. This database is intended to serve as a reference tool for jurists and may be published as a directory of lawyers. The purpose of such directory will be to facilitate access to the law for the general public, as well as for governmental agencies and social service organisations.

Pursuant to a series of consultations with private lawyers in order to define their needs and expectations, Avocats Sans Frontières began drafting a Private Lawyer Training Manual as well a Pleadings Formbook. The organisation of a Portuguese course for private lawyers is also planned in partnership with the Embassy of Portugal.

Finally, ASF-B continues working on developing a Code of Ethics for private lawyers. To this end, several Code of Ethics of foreign Bar Associations (Malaysia, United States, etc.) were translated into Tetum and Bahasa and given to the members of the Transitional Administrative Body of the Bar Association, in order for these members to analyse and compare them in preparation of the first session of the drafting workshop.

## Rwanda

With respect to the International Criminal Tribunal for Rwanda, we note that during this summer season, the life imprisonment sentence given to former Minister of Information of the Interim Government during the genocide period, Mr. Niyitegeka, was affirmed by the Appeals Chamber of the Tribunal, which affirmation was welcomed by the Rwandan authorities.

Within the context of the battle against impunity, let us note, amongst other issues, that Mr. Kanyarugika, accused of having planned the massacre of approximately 2000 Tutsi in the Catholic Church of Nyange in Kibuye (West of Rwanda), was arrested in South Africa and transferred to the ICTR. As well, Mr. Nkezabera, presented as having been an influential member of the former presidential party in Rwanda (the Revolutionary Movement for National Development) and the Interahamwe militia, was arrested in Belgium. Pursuant to the realisation that the latter had not yet been indicted by the ICTR, Belgium agreed to prosecute him.

At the national level, we underline that the Parliamentary report on the permanence of the ideology of genocide in Rwanda has nourished debates during the months of July and August. In January 2004, the Chamber of Deputies of the Rwandan Parliament established a special commission whose mandate was to investigate the murders perpetrated in Kaduha, in the province of Gikongoro (see previous Newsletters), as well proceed with an enquiry into the ideology of genocide and

those that perpetrate it. The commission was mandated, amongst other goals, with proposing strategies to combat this ideology of genocide.

Although the final report of the commission was not yet published, the Parliamentary debates have revealed that national associations, such as the Liprodhor (Rwandan League for the Promotion and Defence of Human Rights), the Center for the Blind in Nyamirambo (etc), religious denominations such as the Catholic Church, the Free Methodist Church, Jehovah's Witnesses, international NGOs, such as Trocaire and Care International, and certain diplomatic representations (Kingdom of the Netherlands, France) had been accused of spreading or supporting the ideology of genocide, the denial thereof, and segregation.

Various criticisms with respect to the work of this commission were registered within the country, as well as beyond its borders. President Kagame indicated that « nobody is above the law, and that he was surprised that people had judged the Rwandan government when it had not even received nor examined the report ».

In this atmosphere, where segregation and the 1994 genocide still haunt the country, several incidents that took place at the beginning of the month of August should be pointed out, namely the murder, in the region of Butare, of people presented as being witnesses at the Gacaca jurisdictions, the burning of houses and the distribution of leaflets inciting the population not to attend the meetings of these participatory jurisdictions. Pursuant to these incidents, the Support Program for the Gacaca Process (« Programme d'appui au processus Gacaca ») decided to proceed with an enquiry.

With respect, more directly, to the Gacaca jurisdictions, following the entry into force last June of the new law governing the contentious of genocide, the structure of the National Service for the Gacaca Jurisdiction (NSGJ), and the general launching of these jurisdictions to cover the country as a whole, the time had come, in this summer season, to train the actors of this participatory justice. The training of the teachers initiated by the NSGJ was completed end of July for the pre-judisdictional phase at the level of the cell jurisdictions, to then be able to proceed with the training of the Inyangamugayo.

Currently ASF-B, in cooperation with the NSGJ, is actively preparing the training of the teachers that it will lead next October for the jurisdictional phase at the level of sectors and appeal jurisdictions.

The trainings implemented at the level of the Gacaca system are also implemented at the level of judiciary actors who, having been newly recruited for a large majority of the magistrates and of the Officers of the Public Ministry quickly began their duties. Scheduled are massive trainings for these actors with respect to the legal and judiciary reforms newly applicable in Rwanda.

ASF-B has, in this perspective, also considered and prepared training that it will implement for magistrates and officers of the Public Ministry concerning the legal and judicial reform on Genocide contentious for the final trimester of this year.

Finally, we underline out, as judiciary actors, the will of the Bar Association to train lawyers to these new Rwandan laws. ASF-B will collaborate and will support such training.

With respect to Judicial Defenders, incertitude reigns as to the coming into existence of this body. Based on information from the Bar Association and the Justice Minister, it seems that the Judicial Defenders may disappear this year. A bill concerning the reform of the Bar Association seems to be going in this direction.

With respect to the other activities of the mission, one can note that the vade-mecum is being adapted pursuant to legislative changes, and shall essentially pertain to the new Gacaca law 2004. The other organic laws of 1996-2001 have in effect been

repealed.

Concerning the jurisprudence of genocide, the VIIth Volume was completed at the end of this month of August. It will be printed in September, with the preface of the compilation having been drafted by Madam the President of the Supreme Court.

## Burundi

The forces of the United Nations Operations in Burundi (UNOB), approved in May by the Security Council, started being deployed within the country and notably in rural Bujumbura, where frequents combats still take place.

Following the very deadly attack on a Congolese refugee camp in Gatumba in Burundi (situated approximately 4 km away from the border with the DRC), by the FNL in August, the Rwandan authorities threatened to intervene outside of their borders if no international measures would be taken to disarm and repatriate the Interahamwe militia and the ex-RAF.

The discussions with respect to the question of division of « post-transition power » along ethnic lines are being continued. 25 of 30 Burundi political parties have promised that the elections will take place prior to the deadline set for November 1st. On its part, the former rebel group of Burundi, the Forces for the Defence of Democracy, announced on July 27th that they would take up participation again in the Council of Ministers as well as at the Transitional National Assembly. Participation had been suspended since May 3rd due to delays, according to them, in awarding administrative positions in their favor.

A new protest movement launched by thousands of prisoners that demand « their immediate and unconditional liberation » started in July in the three most important prisons of the country. It grew to six of the eleven other prisons of Burundi. This movement is by detainees of the 1993 crisis, military and peacekeepers and is expressed by the refusal to appear at the hearings.

When realising that criminal hearings falling within the jurisdiction of the Tribunals of High Instance (« Tribunaux de Grande Instance ») since September 2003 have been meeting with a certain blockage, ASF-B conducted consultations with the different judicial actors in question, in order to discuss and analyse the factors that slow down the progress of the trials.

Consequently, on July 9th, ASF-B organized, under the patronage of the Minister of Justice, a day of restitution and reflexion on the « progress of criminal hearings », reuniting all the parties interested in such hearings. This session gave rise to a series of recommendations, the effects of which should be noticed in the coming months.

On the other hand, ASF-B is widening its area of participation with respect to its judicial assistance by taking on new litigation files from the 1993 crisis and is looking to cover all of the 17 Tribunals of High Instance (« Tribunaux de Grande Instance ») of the country in a more balanced manner.

In the case of Munyakazi (see previous Newsletter) – those of the four Rwandans accused of having held up a bank and killed a driver of the convoy that was transporting the funds – the lawyers of the four accused have lodged an appeal against the judgment of the Court of Appeal of Bujumbura that sentences them to death (and which death penalty risks being executed).

In the file of Dr. Kassy Manlan, representative of the WHO, assassinated in Bujumbura, the Court of Appeal of Bujumbura rendered a preliminary judgment rejecting almost all of the exceptions raised by the defence. During the hearing held on June 30th, this judgment was explained by the President, who then again faced

the exception of recusation that was raised by some of the accused.

ASF-B continues to ensure a legal continuity within the Women's Health Center of Doctors without Borders, Belgium, for victims of sexual violence. It continues its follow-up of files, starting from the preliminary enquiries until the time the trial date is set (at the beginning of which phase a lawyer is named for legal assistance).

The programs of radio-theater on the theme of victims' rights continues being broadcast on the airwaves of the national radio. An evaluation of such programs already broadcast is currently being prepared.

## République Démocratique du Congo

The tension between Rwanda and the DRC culminated at the beginning of the month of June, after the collapse of Bukavu (DRC) and the accusations concerning Rwanda's involvement. However, following numerous attempts at mediation and appeasement, one notices a cautious easing in the relations between Kinshasa and Kigali. This has been manifested by the re-opening of their borders in July, as well as by a project of joint measures of verification between the two States.

The tragedy of Gatumba (see Burundi) prompted an emergency meeting at the International Committee to Accompany the Transition (ICAT). The ICAT considers the massacre as a deliberate attempt to sabotage the peace process in DRC and to provoke regional destabilization. Finally, it hopes that an Independent International Commission of Enquiry be mandated to determine the various responsibilities, and in order to bring the guilty parties to justice.

The activities of the ASF-B have been mainly focused on the seminar of recycling the magistrates of the province of Kasai Occidental. Thus, from July 28th to August 3rd, 64 magistrates were trained in Kananga.

Furthermore, ASF-B proceeded with the opening of the Kananga Bureau in Kasai Occidental. This first decentralized bureau is now operational. In order to achieve this, an Office Manager as well as a Field Logistics Secretary were recruited.

In the context of the project « Diffusion de la Constitution de Transition », all the copies intended for the provinces were sent for distribution via the Human Rights Departments of the MONUC as well as to each REPRODHOC (« réseau provincial des ONGs droits de l'homme au Congo »). The Constitution is available in French, Kikongo, Swahili, Lingala and Tshiluba.

The project « Boutique de droit », continues its consultation and awareness-raising activities on radio and television stations, as well as in the different market places and in the churches.

Finally, one must underline that the person responsible for African projects, Jean-Jacques Badibanga, was part of the delegation to the International Criminal Court that proceeds in Kinshasa in July. The delegation met various Congolese political and judicial authorities, as well as defendants of human rights in order to discuss the relevance of the signature of an Agreement concerning jurisdiction of International Criminal Court (« Accord de privilege de juridiction »)

### **ASF NEEDS YOU !**

**ASF has to urgently increase its free reserves. This important goal can only be**

**reached with your help. Only your generosity will ensure the association's long term survival. Make a donation to ASF. All cash donations equalling or exceeding thirty Euro are tax-deductible in Belgium.**

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*There are also other ways to help ASF:*

- Become a member of ASF and regularly receive the ASF newsletter (40 Euro/Year - 20 Euro for students - Bank account: ING/Caisse Privée 630-0227491-85 - IBAN: BE89 6300 2274 8185 - BIC : BRUBEBB - Mention: "membership 2004") ;
- Regularly consult our website ([www.asf.be](http://www.asf.be)) to find our regularly updated vacancies for volunteers, interns and regular staff.