

International judge has controversial past

Of the eight international judges selected for the new War Crimes Chamber in the State Court of Bosnia and Herzegovina, Gerald Gahima of Rwanda has credentials the others do not.

He has known the politics of war crimes as a high government official and as a victim. His father was crucified in an ethnic hate crime in 1961.

His experience with war crimes cases as Rwanda's prosecutor general from 1999 to 2003 gave him an advantage in selection under the new Chamber's hiring guidelines.

But Gahima also suddenly left his country in February 2004 in a controversy he has steadfastly refused to talk about.

Just before he left, Gahima resigned as Vice-President of the Rwandan Supreme Court, one month after being appointed, citing personal reasons. He left questions about personal and business debts of more than 330 million Rwandan francs (RWF), or 603,000 USD and allegations of misuse of authority by the National Rwandan Human Rights Commission, which were never acted on by the Rwandan government.

Gahima has never been officially investigated or charged with any wrongdoing. But the allegations were discussed in the local and international press, and by international organizations.

Allegations of improprieties, political and financial, against public officials are not unusual in the highly politicized east African country, which is still recovering from a genocidal eruption between Tutsi and Hutu residents that left up to a million dead in 1994.

A U.S. State Department report published in February cited allegations of misuse of office in personal bank transactions against Gahima, which, the report said, led to his resignation.

Meanwhile, the man responsible for vetting Gahima and other candidates to High Representative (HR) Paddy Ashdown, admitted that although Gahima's credentials were questioned, the Office of the High Representative (OHR) never investigated his background before his March appointment. Michael Johnson, the American registrar overseeing parts of the BiH court, said he has investigated the allegations, and they must be considered in the context of Rwandan politics.

The new War Crimes Chamber represents the latest plan by the international community to promote reconciliation among BiH's three ethnic groups still bitter after their own war from the 90s.

The reconciliation goal of the court is based on combining national and international judges to deliver war crimes justice in the country where crimes took place, rather than in an uninvolved country. The new Chamber and its counterpart courts in Croatia and Serbia and Montenegro will eventually replace the International Criminal Tribunal for the Former Yugoslavia (ICTY) at The Hague in the Netherlands.

A nationwide poll by the Center for Investigative Reporting in Sarajevo (CIN) in March shows that half the BiH public will be looking to the international judges and prosecutors as a guarantee of fairness.

Gahima was a close associate of current Rwandan President Paul Kagame, according to published reports. He made a quick rise in the Rwandan Patriotic Front (RPF), which came to power under Kagame during the genocide and replaced the Hutu-majority government.

Gahima's political climb started when he became an RPF

spokesperson after the month long genocide. After a decade he went on to become a deputy minister of public service, deputy minister of justice, prosecutor general and Supreme Court official.

The abrupt end to his political career came shortly after a series of articles in the independent Umuseso newspaper, which alleged that Gahima had bad debts and questionable loan practices.

The newspaper found Gahima's name on a list of borrowers identified by the National Bank as delinquent on commercial bank loans. The list, which the newspaper shared with CIN, identified "Gerard Gahima" as a Class 5 debtor for a 17 million RWF (31,000 USD) loan from BCR bank, and Equatoria Consult, which Gahima describes as a family business, as a Class 5 debtor for a 313 million RWF (572,000 USD) loan from BCDI bank. Under Rwandan banking law, commercial banks are warned to avoid lending to Class 5 debtors, who have failed to repay loans and are high-risk.

Gahima said he sued the newspaper for defamation but did not pursue the case after moving overseas.

Gahima said he also had served on the board of BCDI bank as a government representative and acknowledged that the newspaper had printed allegations about him involving that institution.

The Committee to Protect Journalists in New York, an NGO which monitors attacks against press freedom, has heralded Umuseso as a courageous voice harassed by the government for its investigative work. Many of the newspaper's sources for the stories on Gahima were anonymous in a country where fear of retribution from government officials runs high.

Gahima said of the allegations, "It's just one newspaper."

The U.S. government report on Rwanda that mentioned Gahima in February, a month before his appointment to the BiH said the

allegations against him of "using his position to secure bank loans" had led to his resignation.

Gahima declined to comment on any of the specific allegations but he offered to have his Kigali attorney, Haguma Jean, speak to CIN. When reached, Haguma said he would respond by email. He did not respond to email inquiries.

Gahima also offered to have officials at BCDI provide records of his loan transactions. He did not offer that contact at BCR.

Alfred Kalisa, director general of BCDI, refused to give answers to spoken questions and did not respond to written questions.

Gahima also offered to provide a contact at BACAR bank, where he had served as a government representative on the board. Gahima's affairs with the bank were also discussed in a Umuseso article.

G.W. Wright, head of operations and credit management at BACAR, said in response to a written request, that no information could be released to the media about Gahima.

Gahima repeated to CIN that his departure from the Supreme Court and Rwanda was for personal reasons, not allegations in the press. He added that he would continue not to discuss those personal reasons publicly.

"I do not want new problems with the Rwandan government," he said when pressed in one of three brief telephone interviews. He would not say what role the Kagame government, of which he was once a part, played in his decision to keep silent.

In separate allegations, a Rwandan government-watchdog organization said that Gahima overstepped his authority while he was prosecutor general.

The Rwandan government set up the National Human Rights

Commission in 1999 along with Law Reform, Electoral, Unity and Reconciliation commissions in an effort to show the West it was working toward democratization.

In annual reports covering 2000, 2001 and 2002, the commission cited Gahima's office for allegedly illegally arresting and holding a former member of parliament, Mbanda Jean, for about three years on corruption charges without a trial.

Mbanda, interviewed in Kigali, said: "What Gahima did to me was the worst thing someone can do to another. It is unspeakable."

Mbanda was arrested in May 2000, on six-year old fraud, forgery and embezzlement charges, three weeks after he wrote an open letter criticizing the RPF.

The government, responding to U.S. State Department complaints, said he was not a political detainee. He was being properly charged, the government said, in connection with diverting during the genocide a large shipment of motor vehicle spare parts owned by the association he worked for and selling the parts for his own profit.

The commission said that Gahima as prosecutor general had no authority in the old case that pre-dated Mbanda's state level position in the parliament and he should have left local authorities to press any legal case.

The commission also noted that Gahima ordered the arrest of Bugingo Eudes, a customs official and critical witness who could testify against Mbanda. The report said the government pressured Bugingo to testify against Mbanda or face imprisonment.

Bugingo, according to the commission, spent 13 months in prison, then was ordered to appear weekly before Gahima. "He is not even permitted to leave the country" the commission wrote, "yet there are no clear or valid reasons to support

those investigating him. ”

“About the Human Rights Commission, that was an interpretation of the laws by these individuals,” Gahima said, but refused to provide any further explanation.

In 2002, Gahima again came in for criticism about detaining defendants who were never brought to trial – in this case six Supreme Court justices, who ruled in two separate cases against BCR and BCDI banks.

According to the commission report, three of the judges were jailed for two days in January. The other three were jailed for five days in March, and all were charged with forging and using forged documents in their rulings in the bank cases.

Even after the judges were released, they complained to the commission, they had to report every Friday to the Prosecutor’s Office and were told not to leave Rwanda. The prosecutor, they said, was trying to force them to resign. The report said some of the judges had resigned, but did not distinguish which ones.

The commission, which worried that a lack of judges was interfering with the court system, wrote to the Supreme Court President expressing concern about the number of judges leaving their jobs and asking “whether this was done in accordance with the provisions of the law governing judges in their profession and whether there was actually imposed resignation applied to some or all of these judges.”

“After all those reports, I was appointed deputy chief justice,” Gahima said. “They would not have done that if I had done something wrong.”

Gahima is widely regarded as a spokesman on reclaiming justice after a war and genocide.

His CV includes degrees from the Kenya School of Law and the

London School of Economics and Political Science.

Gahima came highly recommended as a potential judge for the new BiH war crimes Chamber, according to Johnson, the court registrar, who is advising local court officials on setting up the Chamber.

“When I agreed to assume this responsibility last year, Mr. Gahima was recommended to me by the U.S. Institute of Peace as a respected authority,” Johnson said in an interview.

Johnson said he personally investigated Gahima’s background, and the Rwandan was also vetted by the U.S. State Department’s Office of War Crimes.

State Department spokesmen said they could not confirm that Gahima had been checked and cleared.

Neil J. Kritz, director of the Institute’s Rule of Law Program could not be reached for comment on recommending Gahima but in an earlier interview he said Gahima was experienced and capable and dismissed allegations from the past.

Johnson and Gahima met in Rwanda, first when Johnson was part of a volunteer effort to gather corporate donations in rebuilding the justice system, and in 2003 when he became a deputy prosecutor for the International Criminal Tribunal for Rwanda (ICTR) while Gahima was prosecutor general.

Johnson is responsible for finding judicial candidates, who are then appointed by the international community’s chief official, HR Paddy Ashdown.

“I don’t know if they are aware,” said Gahima, when asked if Johnson or the OHR knew about the controversy in Rwanda. “I wrote a CV.” Gahima’s CV became an issue for Bill Potter, a deputy HR, who reviewed candidates for Ashdown.

Potter questioned why the CV had no citations of actual courtroom trial experience.

"Mr. Gahima was responsible for supervising, investigating, indicting and prosecuting more genocide cases than all other human beings on the face of the earth combined," Johnson told.

"If he tried one genocide case he'll be satisfactory for us," Potter said he told Johnson.

Potter said he never got an updated CV, never recommended Gahima, but in late March, after Potter retired, Gahima became a judge.

"I think that's one where Johnson raised such a ruckus about it that Paddy finally caved in (and appointed Gahima)," Potter said.

Potter said the OHR had not checked Gahima's professional history other than the CV, and did not know about the controversy in Rwanda.

Ashdown, through his press office, has refused comment on the judge.

Potter's replacement as deputy HR, John Peyton, said that he would not dispute Potter's recall of what happened with Gahima, but had no further comment.

In light of the CIN investigation, the OHR is reviewing Gahima's past. Spokesman Oleg Milišić said, "We are looking into this at the moment and trying to confirm the facts."