

ALUMNI PROFILE

Gideon Kaino Mandesi

by Regina Njogu*

Gideon Kaino Mandesi, a 1999 graduate of the Washington College of Law (WCL) LL.M. program, is a Legal Officer with the Ministry of Labor of the Republic of Tanzania. His responsibilities at the Ministry entail serving as adviser to the Tanzania Labor Commission and the Minister of Labor. He also provides expert opinion and advice on matters affecting disabled employees and represents the labor concerns of disabled employees. He helped persuade the Ministry of Labor to reverse its 1995 action declaring a large number of disabled employees redundant under a government entrenchment plan. He also is involved in public interest work, particularly on behalf of disabled people. Mandesi is blind, the result of cataracts and an infection that he suffered at age seven years. Mandesi's condition and experiences as a visually disabled person have instilled in him a special passion to advocate for the rights of the disabled. He does not view his disability as a drawback, but rather as a tremendous source of strength.

Before coming to WCL, Mandesi attended the Faculty of Law at the University of Dar es Salaam, where, in November 1995, he earned his Bachelor of Laws (LL.B.). While pursuing his LL.B. degree, he developed and nurtured a deep interest in the rights of the disabled. During research on the legal status of the visually disabled in Tanzania, he was amazed to discover the lack of legal safeguards for the protection of disabled people both in his country and internationally. This discovery inspired him to lobby for legislation in Tanzania that would recognize and afford such protection. He was at the forefront of a movement that advocated reform in Tanzania, lobbying the Tanzanian government to add a non-discrimination clause outlawing discrimination on the basis of gender, religion, and disability to the Tanzanian Bill of Rights.

Upon completion of Mandesi's studies at the University of Dar es Salaam, in 1996, he founded the Human Rights Centre for Disabled Persons (the Centre). In 1998, Mandesi also founded the Disabled Peoples Organization for Legal Affairs and Social Economic Development (DOLASED). Both organizations collaborate and converge on their vision and endeavors. The Centre is focused on lobbying for the enactment of legislation to enable promotion of legal rights and safeguards for the disabled. DOLASED focuses on actual implementation of programs for the disabled, namely the establishment of micro-enterprises for adults with disabilities, disability prevention, and HIV control. These organizations also represent the plight of disabled refugees in the Great Lakes region of Africa (Burundi, the Democratic Republic of Congo, Rwanda, Tanzania, and Uganda). Mandesi has raised the issue of disability rights with the Organization of Africa Unity (OAU), and more specifically, he has called for a change to the 1951 OAU Convention on the Rights of the Refugees to address the status of disabled refugees. In addition, his organizations have taken up other issues such as drawing attention to child labor and child disability issues.



Gideon Kaino Mandesi with his wife, Silvia Mandesi.

Melanie Cashdan

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Mandesi came to WCL in August 1998 on a USAID Country Mission Scholarship administered through the African American Institute's Advanced Training for Leaders program. The scholarship is awarded to individuals from the African continent who exhibit extraordinary achievement in academic studies and public interest work. While at WCL, Mandesi wrote a thesis entitled *Universal Human Rights Standards on Disability Rights*, in which he called for the recognition of disability rights as civil rather than welfare rights, and recommended enactment of an international convention espousing this notion. Additionally, his thesis explored the applicability of existing international human rights norms and standards to protection of disability rights

within states as well as internationally.

After completing the LL.M. program, Mandesi returned to Tanzania in December 1999, where he resumed his work as chairperson of the Centre. In this capacity, he directs and manages a legal aid clinic, recruiting volunteer attorneys to take up cases on behalf of disabled people before Tanzanian courts. Mandesi also continues his work as executive director of DOLASED and his duties are similar to those he handles for the Centre.

Mandesi also has taken part in various panels and discussions that debated the agenda for, and shaped the course of, human rights protections in Tanzania. For instance, persistent lobbying by Mandesi, the Centre, and other human rights colleagues helped culminate in Constitutional Amendment Bill Number 15 of 2000, which proscribes discrimination on the basis of gender and religion. Mandesi is disappointed that the clause does not include disabled persons as a protected category but is optimistic that further lobbying will lead to their inclusion. It is expected that the bill, now awaiting the president's approval, will become full law in the next few months.

Although Mandesi's work is focused largely on Tanzania, he has made numerous contributions to the subject of disability rights internationally. In November 1999, Mandesi served as an expert on disability rights at the "Disability and Human Rights" panel held in New York. The panel was organized by the UN Disability Unit and examined the enhancement of disability protection through existing international norms. Mandesi hopes that all UN agencies will mandate the development of disability programs and that UN member states will agree to establish a binding international convention. An international convention would strengthen and compliment existing international labor organizations' instruments that guarantee the rights of disabled employees. Such international agreements include the vocational rehabilitation and employment of disabled persons (Convention 159) and the dozen UN General Assembly resolutions and declarations on the rights of disabled persons, such as the UN General Assembly Resolution 2856 of December 20, 1971, and the World Programme of Action concerning Disabled Persons (UN General Assembly Resolution 37/52 of December 3, 1982).

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In addition, in December 1999, Mandesi attended the "Inter-regional Seminar and Symposium on International Norms and Standards Relating to Disabled Persons," held in Hong Kong, which drew representatives from approximately 50 countries. The seminar's main agenda was to advocate for the establishment of a binding international instrument on disability rights, similar to the Inter-American Convention on the Elimination of All Forms of Discrimination Against Persons with Disabilities, which the Organization of American States (OAS) enacted. This convention seeks to prohibit employment and other forms of discrimination against disabled people. In Hong Kong, Mandesi presented three papers: *Legal Rights in Africa*; *International Protection and Advancement of Disabled Children*; and *International Norms and Standards on Disability Rights*.

Mandesi attributes his experience in the United States and his study at WCL as a major resource for his future work with DOLASED and the Centre. He credits the legal safeguards enumerated in the Americans with Disabilities Act of 1990 as a framework for disabled people in the United States. He appreciates WCL as a place where

structural facilities have been designed and constructed to accommodate the needs of the disabled. He praised the support and social integration with staff, faculty, and the student community at WCL as friendly and socially responsive.

Having returned to Tanzania, Mandesi plans to spearhead efforts in the Ministry of Labor to develop a code modeled upon the Americans with Disability Act. The act would prohibit private employees, local governments, employment agencies, and labor unions from discriminating against qualified disabled people in job application procedures, hiring, firing, and in all other matters pertaining to employment. He also hopes such a code will encompass the notion of reasonable accommodation. Additionally, he continues to expand the Centre's and DOLASED's programs to benefit more disabled people within Tanzania. On the international level, he plans to keep abreast of developments pertaining to the rights of the disabled, while at the same time continuing to advocate and lobby for them. ☺

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dreds of bodies were dumped after being shot in the head. It was those television pictures and other reports of atrocities that spurred the United Nations to create the ICTY. "But I don't know anything about international war crimes," she told Conrad Harper, the U.S. State Department's legal counsel. "That's not a qualification," he told her. "You'll learn." She was elected by the UN General Assembly, garnering the largest number of votes of all judges elected to the ICTY, and was the only American judge elected to sit at the tribunal. McDonald was chosen to preside over the ICTY's first trial—that of a Bosnian Serb karate teacher named Dusan Tadić.

The trial was difficult. Tadić was accused of helping to ethnically cleanse his hometown, killing two Muslim policemen, and beating and torturing prisoners at local prison camps. McDonald listened as witness after witness told stories of unimaginable brutality at the hands of former friends and neighbors. Sometimes she would take off her glasses, or reach for a glass of water, anything to distract herself from the gut-wrenching testimony. The stories often followed her home in the form of nightmares. McDonald and her two judicial colleagues, Judge Ninian Stephen from Australia and Judge Lal Vohrah from Malaysia, who act as both judge and jury at the ICTY, found Tadić guilty of 11 counts of crimes against humanity on May 7, 1997.

When it came time to sentence Tadić to 20 years behind bars, McDonald looked across the courtroom at the man surrounded by uniformed policemen. Tadić stared back without emotion. "You committed these offenses intentionally and with sadistic brutality," she told him, "using knives, whips, iron bars, the butt of a pistol, sticks, kicking the victims, and tightening a noose around the neck of one until he became unconscious. Why?"

Tadić did not answer. McDonald continued, reviewing the testimony about the organized plan for ethnic cleansing—rounding up neighbors and sending them to prison camps, leaving the region ethnically pure. "And that came to pass . . ." At that biblical-sounding phrase, her voice cracked.

McDonald choked back her emotions and continued. "You must bear responsibility for your criminal conduct. To condone your actions even when committed in this context . . . is to give effect to a base view of morality and invite anarchy." Tadić was escorted from the courtroom.

Behind the scenes, McDonald was respected by her fellow judges for her frank American way of speaking from the heart and her "just get it done" attitude. Both were needed at the ICTY's sister court, the International Criminal Tribunal for Rwanda (ICTR), located in Arusha, Tanzania. It was a courthouse without air conditioning, a place where the local red dust got into the copiers and

clogged their machinery, a court where there were not enough fax machines or computers. McDonald was dispatched to Africa in May 1997 to see what could be done.

This was McDonald's first trip to Africa, the continent where some of her ancestors had been captured as slaves and brought to America. She wanted to learn all she could about how the people lived today, how they supported their families, and what it was that caused people to raise a machete against their neighbors, as happened during the Rwandan genocide. She asked herself the same question she had asked Tadić back in the courtroom in The Hague. "Why?"

When she returned to The Hague, full of ideas about how to assist the fellow tribunal in Rwanda, McDonald was offered another challenge. Her fellow judges elected her president of both the ICTY and ICTR in November 1997.

As president, she battled for adequate resources for the ICTR, and for additional judges for both tribunals. She pressured officials in the former Yugoslavia for access to evidence. But her greatest battle on the bench is one she continues today: the court's invisibility. "Although the Tribunal was established to try cases for the former Yugoslavia," she says, "it has a greater mission. And that is to deter this behavior wherever it occurs. And in order for it to be deterred, we have to get the story out." McDonald is discovering that the best place to get that word out to Americans is back home in America. Her message: that there is a powerful link between the struggle for civil rights in the United States and the battle for human rights around the world. People in the former Yugoslavia lived as neighbors, married each other's brothers and sisters, and built each other's houses. Yet they turned into mortal enemies almost overnight. If it happened in Yugoslavia, couldn't it happen here the ethnically diverse communities in America as well?

"Everyone has the responsibility to talk about these issues, to say that they're wrong," she says. "They can't be permitted thousands of miles away and they can't be permitted in the United States. Because if somehow we condone that, then after seeing that, then stealing tennis shoes or stealing automobiles or maybe just shooting and killing one person or maybe just shooting and wounding them is not so bad in the big picture of things because look at what's going on. No. That's wrong over there and that's wrong in our country." ☺

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