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Rwanda: Researched and compiled by the Refugee Documentation Centre of Ireland on 16 June 2011

Do returned failed asylum seekers face any problems?

A report from *Amnesty International* published in August 2010 notes:

“At times, the Rwandan government went to great lengths in seeking “genocide ideology” prosecutions. One such case involved the prosecution of a failed asylum seeker for statements made abroad. Such cases, in the context of public statements by government officials insinuating guilt of individuals before trial, contribute to the broader chilling effect and do little to instil trust and confidence in the justice system.” (Amnesty International (31 August 2010) *Safer to Stay Silent: The Chilling Effect of Rwanda's Laws on 'Genocide Ideology' and 'Sectarianism'*)

Page 23 of the report notes:

“Innocent Irankunda, a Rwandan man in his twenties, was arrested in Kigali in October 2009 on “genocide ideology” and forgery charges after being deported from Germany following a failed asylum application.

On his arrival in Rwanda, authorities went through his bags and found documents relating to his asylum claim. They reportedly told him there was a lot of “genocide ideology” in his file. As part of his asylum request in Germany, Innocent Irankunda had claimed that the RPF had killed his family and that only one side had been judged before gacaca. Following his arrest, he retracted this statement and said that these family members were still alive.⁷⁵

The prosecution requested that Innocent Irankunda be sentenced to 20 years in prison for the “genocide ideology” charge and an additional 10 years for the forgery charge. The court did not recognise the “genocide ideology” charge when the case came to trial. The court’s ruling said that, “as Irankunda wanted to show with the forgery that he was being persecuted by the Rwandan government and as he had also stated that the former RPF soldiers had killed his parents, this could better be interpreted as defamation and not genocide denial.” Instead, they convicted him of using forged documents submitted as part of his asylum claim and sentenced him to four years in prison. ⁷⁶

It is troubling that this “genocide ideology” charge was brought against Innocent Irankunda. It is even more concerning that the prosecution brought charges against a failed asylum-seeker for a declaration made as part of asylum proceedings abroad. The case received significant media attention within Rwanda and was commented on in the media before trial by the Spokesperson for the National Public Prosecution Authority (NPPA), Augustin Nkuzi,⁷⁷ demonstrating that senior officials were aware of the charges.” (ibid)

The report also noted:

“Rwandan human rights groups feel particularly vulnerable to accusations of “genocide ideology”, given vague and unsubstantiated allegations against Rwanda’s leading human rights organization, the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) by parliamentary commissions in March 2003 and June 2004. Several of LIPRODHOR’s staff fled as a direct result of these accusations and were granted asylum abroad.⁹⁰ While several years have since passed, Rwandan human rights defenders continue to cite this as a defining moment which still constrains their work.

Several human rights workers interviewed by Amnesty International said that ambiguities in these laws made them uncertain about what behaviour is acceptable. Many prefer to shy away from politically sensitive areas of work, such as “genocide ideology”, “divisionism” and RPF war crimes. Where they do document delicate issues, such as restrictions on freedom of assembly of opposition politicians at the local level, they tend to refrain from publishing or delay publishing to reduce potential repercussions.⁹¹” (ibid)

Under the heading ‘Refugees and Asylum Seekers’ *Amnesty International* notes:

“On 14 and 15 July, a joint operation between the Ugandan and Rwandan authorities forcibly returned around 1,700 failed asylum-seekers and some refugees from Nakivale and Kyaka II camps in south-western Uganda. The operation violated international refugee and human rights law. Rwandans, including a number of recognized refugees, were forced onto trucks at gunpoint. Several were injured, including pregnant women. At least one man died after jumping off a truck.” (Amnesty International (13 May 2011) *Amnesty International Annual Report 2011 – Rwanda*)

The *US Department of State Country Report on Human Rights Practices* published in April 2011 notes under the heading ‘Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons’:

“The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not use it.

According to the UNHCR, during the year the country accepted 9,886 citizens returning from other countries; most were settled in their districts of origin. According to Rwanda Demobilization and Reintegration Commission statistics, approximately 3,000 civilian noncombatants, who had been living in FDLR-controlled areas of the DRC, returned in 2009 and during the year. The government worked with the UNHCR and other aid organizations to assist the resettled returnees.

The government continued to accept former combatants who returned to the country from the DRC as part of the ongoing rapprochement between the two countries. A total of 9,196 former combatants from armed groups in the DRC,

including 771 former child soldiers, had been demobilized and peacefully resettled in the country since the beginning of the disarmament, demobilization, and reintegration program in 2001. During the year the government demobilized 610 adult former combatants from armed groups and rehabilitated 47 children, reuniting 29 with their families. It also demobilized 2,000 RDF soldiers during the year. With international support, the government's Demobilization and Reintegration Commission, the lead agency for the reintegration of returned former combatants, placed such persons in a three-month reeducation program at a demobilization and reintegration center in Northern Province. There also was a center solely for former child combatants in Eastern Province. After the three-month reeducation period, each adult former combatant received approximately 60,000 Rwandan francs (\$108) and permission to return home; several months later, each received an additional 120,000 Rwandan francs (\$216). Returnees accused of committing genocide and who were at least 14 years old at the time of the genocide faced gacaca trials." (US Department of State (8 April 2011) *Rwanda: Country Report on Human Rights Practices – 2010*)

A query response from the *Immigration and Refugee Board* of Canada states:

"HRW has documented cases of so-called "reprisal killings" where Tutsi survivors of the genocide retaliate against persons of Hutu ethnicity (HRW 19 Jan. 2007, 1). In East province, the November 2006 murder of a genocide survivor, the nephew of a gacaca judge, prompted other genocide survivors to retaliate by killing "at least" eight individuals (ibid.; AI 2007; see also US 6 Mar. 2007, Sec. 1.d), including children and injuring others as well as looting and burning houses in the vicinity (HRW 19 Jan. 2007, 4-5). Those who were killed in retaliation reportedly had no connection to the death of the genocide survivor (ibid.). Police were reportedly "less thorough" in their pursuit of the reprisal killers than they were in pursuing the person who killed the genocide survivor (ibid., 2). A "small military detachment" was, however, sent to restore order to the village where the reprisal killings had taken place, and this seemed to have reassured inhabitants (ibid., 6).

Also in November 2006, the president of a gacaca jurisdiction was killed because he had refused to drop genocide-related charges against an individual (ibid., 7; see also US 6 Mar. 2007 Sec.1.d). Police reportedly conducted the immediate arrest of three men, who were subsequently killed in police custody (ibid., 7). Witnesses reported to HRW that the men had been extrajudicially executed by police on a little-used road (ibid., 7-8). The effect of these reprisal killings conducted by genocide survivors and the apparent lack of impartial justice has served to "reinforce Hutu fears that they may not receive justice when crimes are committed against them and even that they may be accused of and punished for crimes they have not committed" (HRW 19 Jan. 2007, 13)." (Immigration and Refugee Board of Canada (03 August 2007) *RWA102533.E Rwanda: Reports of ill-treatment of members of the Hutu ethnic group, in particular in connection with reprisals for harm experienced by Tutsi genocide survivors, and perceived or actual opponents of Hutu ethnicity (2004 - July 2007)*)

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This response was prepared after researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. This response is not and does not purport to be conclusive as to the merit of any particular claim to refugee status or asylum. Please read in full all documents referred to.

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IRIN

Lexis Nexis

Refugee Documentation Centre Query Database

Relief Web

UNHCR Refworld

UK Home Office

US Department of State