

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	131
Land:	Rwanda
Kilde:	Immigration and Refugee Board of Canada - Rwanda
Titel:	Reports of ill-treatment of members of the Tutsi ethnic group, in particular genocide survivors
Udgivet:	14. oktober 2014
Optaget på baggrundsmaterialet:	13. januar 2015

[EN](#) | [DE](#)

- **Source:**
IRB - Immigration and Refugee Board of Canada
- **Title:**
Rwanda: Reports of ill-treatment of members of the Tutsi ethnic group, in particular genocide survivors and perceived or actual government opponents (2008-September 2014) [RWA104968.E]
- **Publication date:**
14 October 2014
- **ecoi.net summary:** Query response on ill-treatment of ethnic Tutsis, especially genocide survivors and perceived or actual government opponents from 2008 to September 2014 (government response; Gacaca courts; reparations and compensations; protection programs) [ID 291246]
- **Countries:**
Rwanda
- **Original link** <http://www.irb.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=455555&pls=1>

Recommended citation:

IRB - Immigration and Refugee Board of Canada: Rwanda: Reports of ill-treatment of members of the Tutsi ethnic group, in particular genocide survivors and perceived or actual government opponents (2008-September 2014) [RWA104968.E], 14 October 2014 (available at ecoi.net)
http://www.ecoi.net/local_link/291246/411730_en.html (accessed 05 December 2014)



Immigration and
Refugee Board of Canada

Commission de l'immigration
et du statut de réfugié du Canada

Rwanda: Reports of ill-treatment of members of the Tutsi ethnic group, in particular genocide survivors and perceived or actual government opponents (2008-September 2014) [RWA104968.E]

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. 1994 Genocide

Sources report that approximately 800,000 to 1 million people, mainly members of the Tutsi ethnic group and "moderate" members of the Hutu ethnic group, were killed during the Rwandan genocide in 1994 (SURF n.d.; US 27 Feb. 2014, 36-37). According to the US Department of State's *Country Reports on Human Rights Practices for 2013*, the "state-orchestrated genocide" led to the deaths of three quarters of the Tutsi population, killed by the Hutu-dominated army, militias, and ordinary citizens (ibid.). The Rwandan Patriotic Front (RPF), made up predominantly of Tutsi, ended the genocide by defeating the Hutu-led army and militia forces, while operating out of Uganda and Northern Rwanda (ibid., 37). *Country Reports 2013* reports that the RPF and President Paul Kagame were re-elected in 2010 (ibid., 1), and since forming a government in 1994, the RPF has called for "national reconciliation," abolished policies of the former administration that "created and deepened ethnic cleavages," and has removed all references to ethnicity from "written and non-written official discourse" (ibid., 37). The UN Independent Expert on Minority Issues, in a 2011 report on Rwanda, noted that the efforts of the Government of Rwanda to "forge unity and social cohesion behind a Rwandan national identity and to diminish ethnicity as a destructive force in society are praiseworthy" (UN 28 Nov. 2011, 1). *Country Reports 2013* states that the government maintains laws prohibiting "divisionism" and "genocide ideology," which "discourage citizens from expressing viewpoints that might be construed as promoting societal divisions" (ibid., 15). In his *Mission to Rwanda* report, the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Associations expressed concern over some provisions of the genocide laws that he considered "overly broad and open to abuse with a view to limiting any opposition, even moderate and peaceful, to the Government" (UN 16 Sept. 2014 para. 13).

Hirondelle News Agency, a media outlet that reports regularly on the International Criminal Tribunal for Rwanda and other judicial proceedings related to the Rwandan genocide (n.d.), states that there are approximately 300,000 genocide survivors in Rwanda, according to a 2008 government census, with most living in the districts of Gasabo, in Kigali, and Rusizi, in the southwest (28 Aug. 2008). The Survivors Fund (SURF), an organization working to rebuild the lives of genocide survivors (SURF n.d.a), reports that, according to IBUKA, an "umbrella body of survivors' organisations in Rwanda," (SURF n.d.b), the number of survivors is closer to 400,000 (ibid.).

1.1 Government Response Post-genocide

Since 2008, the government National Commission for the Fight Against Genocide has been active; the organization is mandated to "implement strategies for fighting genocide and its ideology;" and provide assistance to genocide survivors (UN 28 Nov. 2011, para. 25). Sources report that the government has established a support fund for genocide survivors (*The New Times* 30 May 2014; *The Guardian* 7 Apr. 2014) which provides healthcare and tuition to survivors (ibid.). Approximately 5 to 6 per cent of annual state revenues are reportedly spent on the fund (ibid.; *The New Times* 30 May 2014). According to a 2 June 2013 article published by the Rwandan news website the *Rwanda Focus*, the fund benefits approximately 21,000 "current recipients" such as the elderly, people with disabilities, and those living with HIV/AIDS. In correspondence with the Research Directorate, a lecturer at the University of London, whose research focuses on the history of politics in the African Great Lakes region and who co-authored a 2012 report on victim and witness protection in Rwanda, stated that "the government has, in the broadest terms, treated the Tutsi ethnic group quite favourably," although "some high-level Tutsi military, political, and business figures have fallen out of favour with the government" (29 Sept. 2014). In correspondence with the Research Directorate, an associate professor of anthropology at the University of Louisville, whose research is focused on conflict and peace-building in the Great Lakes region, noted that "overall, genocide survivors are well-integrated into society today, however they do maintain a sense of being different from other Rwandans because of their experiences" and the level of integration is "highly varied by region" as some communities have very few survivors while others have been concentrated together in villages (15 Sept. 2014).

1.2 Gacaca Courts

Human Rights Watch explains that in June 2002, the government launched the community-based gacaca courts to expedite genocide-related trials, reduce the prison population, and repair the country's "social fabric" (Human Rights Watch May 2011, 2-3). Freedom House reports that gacaca trials ended in June 2012, and prosecuted "hundreds of thousands" of people accused of involvement in the 1994 genocide (Freedom House 2014). According to a 7 April 2014 article published by AllAfrica, the gacaca trials tried more than two million cases in community courts between 2001 and 2012. In a May 2011 report titled *Justice Compromised: The Legacy of Rwanda's Community-based Gacaca Courts*, Human Rights Watch states that approximately 1.2 million cases have been tried by the gacaca courts since 2005 (28 May 2011, 1). Human Rights Watch indicates that gacaca courts were closed in 2012 (28 Mar. 2014, 6).

According to Freedom House, as of 2014, national criminal courts continued to try cases transferred from the International Criminal Tribunal for Rwanda (ICTR) (Freedom House 2014). According to Human Rights Watch, as of March 2014, at least 10,000 people have been tried in conventional courts, some of which are ongoing since 2012 (28 Mar. 2014, 6). For further information on mechanisms for solving issues that were under the jurisdiction of the gacaca courts, please refer to Response to Information Request RWA104195.

1.3 Reparations and Compensation

According to the Rwandan newspaper the *New Times*, the government commissioned a task force to investigate gacaca judgments related to property (*The New Times* 30 May 2014). According to the same source, the government's task force found that out of approximately 600,000 property-related judgments made in gacaca, approximately 160,000 were not executed as of mid-2013 (ibid.). Human Rights Watch reports that survivors have not received reparations or compensation from the government, in addition to receiving "little restitution" from convicted perpetrators (28 Mar. 2014, 5). Similarly, an article published by the *Guardian* notes that although compensation has been awarded though the prosecution of persons suspected of genocide abuses, these awards have yet to be enforced, including in cases where the Rwandan government has been mandated to pay indemnities to victims (*The Guardian* 7 Apr. 2014). In many cases, reparations have not been paid to survivors because those responsible for paying cannot afford to do so (*The East African* N.d.; *The New Times* 30 May 2014), or reportedly "lied about their ability to pay" (ibid.). Sources report that survivors have become frustrated by the lack of payment of reparations (*The Rwanda Focus* 15 Aug. 2014; *The East African* 18 Apr. 2014b).

According to a July 2014 article published on the SURF website, survivors and survivor organizations have "continuously called on the government of Rwanda as well as the international community to provide adequate reparation to survivors" and that this has been "mostly unheard" (SURF 11 July 2014). However, the government recently expressed its support of initiatives addressing the right to reparation, and a study by the International Organisation for Migration has been mandated by the ICTR to study the issue (SURF 11 July 2014).

2. Reports of Ill-Treatment of Genocide Survivors and Witnesses

Sources report that intimidation of genocide survivors increased during the 2006 national roll-out of the gacaca process (Lecturer 29 Sept. 2014; Human Rights Watch May 2011, 91). According to a 2011 Human Rights Watch report about the legacy of the gacaca court processes, the majority of documented cases of intimidation against survivors and witnesses documented involved an accused person or their family members threatening genocide survivors and their close relatives (ibid.). According to the report based on the 2011 mission to Rwanda of the UN Independent Expert on Minority Issues, "credible evidence indicates that survivors continue to face

harassment, violence and trauma" (UN 28 Nov. 2011, para. 37). According to the October 2012 report *Testifying to Genocide: Victim and Witness Protection in Rwanda* by REDRESS, a human rights organization that works to "help torture survivors obtain justice and reparation" (REDRESS n.d.), a range of threats against survivors and witnesses are present, "ranging from highly visible acts of physical violence to more subtle menacing [acts] such as throwing rocks on their roofs during the night and ostracizing survivors and witnesses from their communities" (REDRESS Oct. 2012, 40).

According to a 2013 article based on interviews with 28 survivors and published in Tilburg University's peer-reviewed journal, the *International Criminal Law Review*, survivors felt that participation in gacaca has contributed to reconciliation in society (de Brouwer and Ruvebana 2013, 952). The report also states that

[i]t is not uncommon to find places in Rwanda where survivors of the genocide live together with members of the families of the killers of their loved ones. It is also unsurprising to find places where perpetrators who have served their punishment living (again) next to survivors of the genocide. This also has to do with the fact that Rwanda is a small country and yet the most populated one in the whole of Africa. Nevertheless, there are instances in which survivors and (families of the) perpetrators do not live in harmony with each other today. (ibid.)

According to the Lecturer, since 2012 and the closure of gacaca, the situation for Tutsi survivors has remained "consistently difficult" and stated that:

there have been reports of ill-treatment, harm and violence against members of the Tutsi ethnic group since the genocide. In most cases, this harm has been carried out by other community members, usually in the context of genocide trials through the gacaca courts or in relation to post-gacaca compensation claims (Lecturer 29 Sept. 2014).

The Associate Professor indicated that it is "fairly common" that survivors who approach the courts or who are owed compensation by specific people or families face threats by those individuals or by people hired to threaten them (Associate Professor 15 Sept. 2014). The Associate Professor explained that they may face threats of violence, property damage, or have rocks thrown at their houses and rooftops (ibid.).

According to research conducted by REDRESS for their 2012 report, threats against witnesses have been most prevalent in rural areas (Oct. 2012, 24).

An August 2014 article published by the *Rwanda Focus* reports on a story where some survivors in Gisagara, who are involved with processes to have gacaca compensation claims enforced, have complained that local leaders "interfere" or prolong the process to return or refund property, and that the survivors "fear reprisals" from local leaders (15 Aug. 2014). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Associate Professor explained that there have also been cases of beatings and murders of survivors in recent and previous years, although it is "rare" (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to an article published by the Kenya-based newspaper, the *East African*, IBUKA reported that "at least" 168 genocide survivors have been killed between 2002 and 2014 (*The East African* 18 Apr. 2014a). The source also reports that, according to IBUKA, the murders were in relation to proceedings on the 1994 genocide (ibid.). Human Rights Watch reports that the rate of killings "more than quintupled during the time of gacaca, with the highest number of deaths in 2006 when trials began nationwide" (Human Rights Watch May 2011, 87). IBUKA reported in 2008 that there were 22 murders, 13 attempted murders, as well as incidents of "torture and harassment," threats, and destruction of property recorded by the organization (IBUKA 2010, 4). *Country Reports 2011* indicated that, according to IBUKA, threats and violence against survivors "continued to decrease" (US 24 May 2012, 13). *Country Reports 2012* reports that six survivors were killed in 2012, and police reportedly investigated and arrested six people in connection with the killings (US 19 Apr. 2013, 5).

According to Human Rights Watch, the killings of survivors have mostly occurred in the southern part of the country, especially in the Karongi district (May 2011, 87). REDRESS similarly states that Karongi has "experienced more murders of genocide survivors and witnesses than any other district," and adds that, according to government statistics, both the Southern and Western provinces have experienced the highest rates of murder against genocide survivors and witnesses (REDRESS Oct. 2012, 24). According to REDRESS, the regional variation is due to the fact that the Southern Province has high rates of intermarriage between ethnic groups, which has caused "major intra-family tensions" due to family members testifying against one another (ibid., 24-25). REDRESS explains that the Western Province experienced the highest number of killings during the genocide, and therefore the area holds a greater number of persons suspected genocide abuses than other regions of the country (ibid., 25).

2.1 Treatment of Genocide Victims' Family Members

According to the Lecturer, who has conducted interviews with survivors since 2012, family members of those killed in the genocide who are seeking compensation or a case review, have been subjected to harassment in the form of verbal intimidation in public spaces, death threats, having rocks thrown on their rooftops during the night, and theft of their property (Lecturer 29 Sept. 2014). The same source states that the harassment typically stems from neighbours and other community members (ibid.). The lecturer explains that survivors pursuing compensation, who are usually from the Tutsi ethnic group, are reportedly "often" perceived by their Hutu neighbours as "greedy or vindictive" (ibid.). Similarly, the Associate Professor indicated that family members of survivors who approach the courts or who are owed compensation by specific people or families, as determined by gacaca, face threats from those individuals or by people hired to threaten them (15 Sept. 2014).

Sources report that a genocide survivor in Kigali who was involved in a court case over his parents' land was attacked with machetes by six assailants in 2012, surviving the third attempt on his life in two years (US 19 Apr. 2013, 5; IGIHE 2 Oct. 2012). Further information on this case could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Protection for Genocide Survivors and Witnesses

REDRESS indicated in its 2012 report that Rwandan law required adult citizens with relevant evidence to participate in the gacaca process, and that their testimony was provided publicly due to the nature of gacaca, which led to a substantial increase in the number of "individuals rendered vulnerable to harassment or more serious threats" (REDRESS Oct. 2012, 21). Human Rights Watch, in its 2011 report, stated that "a significant number of genocide survivors, particularly widows, expressed fear of renewed violence. Some believed the individuals whom they accused might take revenge on them once released from prison" (May 2011, 123). The REDRESS report notes that convicted "*genocidaires*," suspects, survivors and their families live in "tight knit" communities, which complicates the provision of security against potential threats to survivors and witnesses (REDRESS Oct. 2012, 40).

3.1 Victim and Witness Support Unit (VWSU)

The VWSU is part of the National Public Prosecution Authority (NPPA); the unit is charged with investigating and prosecuting threats against victims and witnesses (REDRESS Oct. 2012, 15; Human Rights Watch May 2011, 91). The VWSU was reportedly created in 2006 in response to the increase in threats against survivors and witnesses after the nationwide launch of gacaca, and is the government's "principal organ for witness protection" (REDRESS Oct. 2012, 15, 32). The VWSU also provides psychological support, counselling, teaching "auto-protection, or means of ensuring security for yourself," and some legal assistance to victims and witnesses (ibid., 15). According to REDRESS, the unit adopts a four-stage response to threats, including:

1. filing a formal complaint with local authorities;
2. informing the local police/army/administration who will temporarily post a guard or increase local patrols around the threatened witness's home and convene meetings to warn neighbours not to engage in threats;
3. permanently placing a police officer or military guard at the person's home; and
4. temporarily moving the person to a safe house or another community. (ibid., 32).

REDRESS adds that at any of these stages, charging those liable for threatening witnesses with criminal sanctions is possible (ibid.). According to *Country Reports 2011*, a task force "continued efforts to monitor those genocide survivors deemed most at risk and genocide suspects considered most likely to commit violent attacks", also supervised joint patrols by survivors and security personnel in rural areas, and detained genocide suspects in order to prevent attacks "deemed imminent" by security officials (24 May 2012, 12-13).

The report by REDRESS indicates that, nationally, the VWSU has 17 staff members, with 1 member in each of the 12 provinces (located in town centres), and 5 in Kigali (including the coordinator, 1 member dealing with witness protection, 1 for victim protection, and a safe house manager) (REDRESS Oct. 2012, 15).

REDRESS indicates that due to the lack of VWSU staff, "capacity and available resources are limited" (ibid., 16). The same source reports that between 2008 and 2011, VWSU handled 507 cases, which REDRESS described as a "small fraction of the cases of actual threats, given that hundreds of thousands of witnesses gave testimony to gacaca during that period" (ibid., 34). REDRESS reports that according to its research, "most survivors view the government as a principal source of protection" and some of the interviewed survivors provided positive assessments of the protection provided by the government (ibid., 33, 34). According to de Brouwer and Ruwebana, several of those interviewed said they did not feel safe testifying at gacaca; however, by the end of 2008, security provided by the Rwandan authorities improved and "most [of the survivors interviewed] could participate in gacaca without being afraid of the (families of the) former *genocidaires*" (de Brouwer and Ruwebana 2013, 953). However, REDRESS reports that in its interviews, others "expressed serious misgivings" about government protection; many viewed neighbourhood and self-protection as "more effective methods" (ibid.). The same source reports that "in

some cases," threats have been reported to the local authorities and police, but that "relatively little" is done in order to provide assistance (ibid., 35). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2011 reports that the government "held local communities responsible" and relied on local defence forces, local leaders, police and community to protect gacaca witnesses (US 24 May 2012, 12). According to the Associate Professor, "the government does not always have the capacity to protect survivors or their family members due to the large number of people tried and sentenced by in Gacaca courts, due to the limited resources of the police forces, and due to the potential for corruption in the police force," as the matter would be handled by local government officials and police (15 Sept. 2014). According to REDRESS, the government "encourages neighbourhood security or 'mutual assistance' as a supplement to official mechanisms" (REDRESS Oct. 2012, 36). The same source reports that the government encourages intervention by neighbours to protect witnesses and alert police when necessary; however, the report notes that "many families and neighbours are a source of, rather than a remedy to, witness intimidation" (Oct. 2012, 36-37). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to de Brouwer and Ruvebana, based on their interviews, some survivors abandon their place of origin due to fear of living among "former genocidaires" (de Brouwer and Ruvebana 2013, 952). Others indicate that, "although they may prefer to leave" and live in a community with more survivors, or move to the capital where they can live "more of an anonymous life," this is "not a real possibility" due to poverty (ibid.). According to REDRESS, some witnesses have relocated to new villages built for survivors, or to urban areas due to "perceived greater safety" in these areas (REDRESS Oct. 2012, 37). REDRESS adds that such self-protective measures are pursued due to the "failure of state or community security" and "require witnesses to have financial resources to achieve their own safety" (ibid., 37, 39).

According to the East African, the Rwandan Prosecutor General, in response to IBUKA's report that 168 survivors have been killed between 2002-2014, stated that cases of witnesses having been killed "have been prosecuted accordingly" (18 Apr. 2014a). Without providing further details, *Country Reports 2013* indicated that the government "investigated and prosecuted individuals accused of threatening or harming genocide survivors and witnesses" or of "espousing genocide ideology" and prosecuted 772 individuals for "divisionism and 'genocide ideology-related crimes'", a figure that represents a 33% increase from the previous year (US 27 Feb. 2014, 16). According to REDRESS, in the case of threats made against witnesses, in practice, aggressors that have been caught and arrested receive short sentences and "often ... have been quickly released" back into the community (Oct. 2012, 35). The Lecturer explained that overall, the Rwandan court system has dealt with "very few" cases of violent harassment or intimidation and such cases have been left to local authorities and community leaders to resolve (29 Sept. 2014). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

4. Treatment of Government Opponents

Sources report that critics of the government who are Tutsi are at risk of being perceived as "traitors," according to the Lecturer, particularly those who are former members of the government, such as those in exile (Lecturer 29 Sept. 2014). Similarly, Human Rights Watch notes that former RPF officials who have turned against President Kagame and become opponents in exile have "particularly been targets of attacks and threats" (28 Jan. 2014, 2).

According to *Country Reports 2013*, the government's targeting of political opponents and human rights advocates for harassment, abuse, and arrest was one of the "most important" human rights problems in the country in 2013 (US 27 Feb. 2014, 1). Human Rights Watch indicates it has "documented numerous cases of arbitrary arrests, detentions, prosecutions, killings, torture, enforced disappearances, threats, harassment, and intimidation against government opponents and critics," which emerged "in the immediate post-genocide period in the mid-1990s and have continued to this day" (28 Jan. 2014, 1). According to the Lecturer, treatment of actual or perceived opponents of the government can amount to "unlawful arrest, including lengthy periods of house arrest, and individuals being forced into exile" (29 Sept. 2014). An August 2014 article by German broadcaster Deutsche Welle reports that, in addition to targeting opposition supporters, supposed allies of the President have allegedly been targeted by police (Deutsche Welle 28 Aug. 2014). Sources report that in late August 2014, three high-ranking military officers in the Rwanda Defence Forces were charged with crimes against state security (ibid.; *The East African* 30 Aug. 2014).

According to Freedom House, exiled opposition critics of the Rwandan government were "increasingly threatened, attacked, forcibly disappeared, or even killed" in 2014 (Freedom House 2014). The same source reports that three former members of the Rwandan security forces living in exile went missing in 2013 and 2014 and the former head of the Rwandan intelligence service, Patrick Karegeya, in exile after defecting and who was a known public critic of the RPF, was found dead in South Africa (ibid.). *Country Reports 2013* indicates that members of the opposition group, Rwandan National Congress (RNC) [co-founded by Karegeya (BBC 14 Apr. 2014)], allege

that the Rwandan government was involved in the killing of Karegeya, who had gained political asylum in South Africa in 2009 (US 27 Feb. 2014, 2). Human Rights Watch reports that the government of Rwanda "has consistently denied" involvement in attacks on its political opponents and critics (28 Jan. 2014, 3). For further information on the RNC, please refer to Response RWA104829.

According to the East African, a genocide survivor and popular musician who ran reconciliation programmes in Rwanda and whose work received support from the government, was detained and put in police custody in April 2014 (18 Apr. 2014b). The same source reports that a journalist and former soldier were arrested with the musician; all three were accused of destabilizing the security of the country and having links with the exiled RNC opposition group and the Democratic Forces for the Liberation of Rwanda (Forces démocratiques de libération du Rwanda, FDLR) [1] (ibid.). The BBC reports that the musician "used to be close" to the governing RPF (BBC 14 Apr. 2014). According to a statement by the Rwandan police, the three accused "have admitted to working closely with senior members of RNC and FDLR" (Rwanda 14 Apr. 2014). In contrast, Reuters reports that the musician's lawyer stated his client was innocent (Reuters 12 Sept. 2014). Reuters adds that earlier in 2014, a song by the musician was banned by authorities for "touching on sensitive issues about the genocide" (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

Notes

[1] The FDLR is a Hutu militia group that operates in the Democratic Republic of the Congo, whose members include those responsible for the genocide in Rwanda (News of Rwanda 28 Aug. 2014; Reuters 7 Aug. 2014). Reuters states that the group "seek[s] to overthrow the Rwandan government (ibid.)

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Oral Sources: Attempts to contact the following organizations and individuals were unsuccessful within the time constraints of this Response: Amnesty International; Ligue des droits de la personne dans la région des Grands Lacs; Researcher, Institut de recherche pour le développement in Paris. A sociology professor at Queen's University was unable to provide information within the time constraints of this Response.

Internet sites, including: Article 19; Avocats sans frontières; ecoi.net; *Forced Migration Review*; Global Witness; Institute of Dialogue and Research for Peace (Kigali); Montreal Institute for Genocide and Human Rights Studies, Concordia University; *The New York Times*; Penal Reform International; Rwanda – Assistance Fund for Genocide Survivors, Ministry of Justice, National Commission for the Fight Against Genocide, National Human Rights Commission, National Public Prosecution Authority; The Rwandan; UN – Integrated Regional Information Networks, Refworld, ReliefWeb.

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