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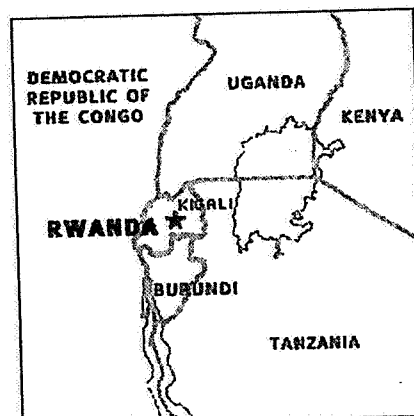
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Rwanda

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HUMAN RIGHTS DEVELOPMENTS

The Rwandan government, dominated by the Rwandan Patriotic Front (RPF), demonstrated continuing hostility towards political dissent, press freedom, and an independent civil society as it moved towards a new constitution and national elections in 2003. Eight years after the 1994 genocide that killed at least half a million Tutsi, the government launched gacaca, an innovative, participatory, state-run justice system meant to speed up genocide trials and promote reconciliation. But its concern for justice had limits: It refused to let gacaca jurisdictions hear allegations of Rwandan Defense Force (RDF, formerly Rwandan Patriotic Army, RPA) war crimes, and it tried to stop the United Nations International Criminal Tribunal for Rwanda from investigating RDF suspects. Under growing international pressure over the presence of its troops in the Democratic Republic of Congo (DRC), Rwanda signed a peace treaty with the DRC and withdrew most of its soldiers, leaving unresolved the question of accountability for the crimes they committed there.



In April, authorities arrested former President Pasteur Bizimungu and former Minister Charles Ntakirutinka on charges of attacking state security, fostering ethnic division, and engaging in banned political activities. Nine months previously the two had formed a new political party, PDR-Ubuyanja, which the government had declared illegal despite there being no applicable law. In 2001, authorities confiscated notes and recordings from journalists who interviewed Bizimungu and on one occasion obliged diplomats to leave his house. They seized all copies of a memoir that Bizimungu tried to publish in late 2001. Street mobs attacked both Bizimungu and Ntakirutinka with impunity. In December 2001 unknown assailants assassinated another PDR-Ubuyanja founder, Gratien Munyarubuga, at midday in the capital, Kigali. Authorities detained another supporter, Catherine Mujawamariya, at the end of 2001 for a month and arrested twenty-four other suspected PDR-Ubuyanja members in April and May 2002, including the treasurer of the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) as well as a Rwandan employee of the United States embassy. Some were freed within two months but others were held for longer periods. Before Bizimungu's arrest authorities restricted his movements, refusing even to allow him to attend church services. In a highly publicized speech delivered before an international audience shortly before the arrest, President Paul Kagame warned that no one would be able to protect Bizimungu and other dissidents if the government lost patience with them. The courts denied Bizimungu's and Ntakirutinka's requests for provisional release, and as of November they remained in prison.

In January the government arrested the secretary-general of the Democratic Republican Movement (MDR), Pierre Gakwandi, accusing him of inciting ethnic division and defaming the government. Parliamentarian Jean Mbanda, arrested in 2000 immediately after he had published criticism of the government, remained jailed without trial on charges of corruption.

In March local officials were elected at the cell level (Rwanda's lowest local administrative unit) but political parties were prohibited from campaigning. Parties had been similarly limited in district council elections in 2001 and seemed likely to face similar restrictions under the new constitution. In November, a government commission issued a draft constitution that, if approved, would only allow parties to operate at the national and provincial

levels, not the local level.

In February a criminal law took effect that punishes any speech or action considered to promote discrimination or sectarianism. Courts can dissolve political parties or nongovernmental organizations (NGOs) found guilty of sectarianism, and can annul election results if a candidate employed discrimination or sectarianism.

A law promising press freedom took effect in July, but not before the government had effectively closed down three journals and harassed another. In late December 2001, the police detained the editor of *Le Partisan* for three days for publishing articles criticizing the government. After his release, the editor fled the country and the journal collapsed. In January police arrested Laurien Ntezimana and Didace Muremangingo of *Ubuntu*, and charged them with attacking the security of the state for publishing the word "ubuyanja," a term meaning "renewal" also found in the name of Bizimungu's party. Provisionally released in February, they were ordered not to leave Butare town without permission, while a provincial administrator banned publication and distribution of *Ubuntu*. The government expelled the Ugandan-born editor of the *New Times* on immigration charges in May shortly after he had published an editorial calling for Bizimungu's release. In January, the government minister responsible for the press accused the journal *Umuseso* of publishing divisive propaganda and compared it to newspapers that incited genocide in 1994. In May, police questioned *Umuseso*'s editor after he poked fun at a presidential speech, and in July they held three *Umuseso* journalists for two weeks after they stopped to observe police conduct during a dispute.

The new press law permits heavy sentences against journalists, publishers, or even street vendors of publications found guilty of broadly defined infractions like endangering law and order, defaming authorities or undermining army morale. In a welcome move, the law permits the licensing of private radio and television stations. But it also creates a national press council operating under presidential authority to accredit or ban publications and to close down radio or television stations.

The government required all local and international NGOs to register under terms of a law passed in 2001. Although the law grants the authorities broad powers to interfere in such organizations, they appeared to have granted registration to most applicants, including those critical of the government, with the exception of the Modest and Innocent Association (AMI), a small organization that provided reconciliation training to educational and religious institutions and that published *Ubuntu*. The Butare provincial administrator banned all activities by AMI and warned members they could resume their work only if they disassociated themselves from *Ubuntu*'s editors, Ntezimana, a respected lay theologian and past recipient of the Pax Christi Award, and Muremangingo, a young genocide survivor.

Gacaca was launched in twelve pilot jurisdictions in June, and was to be expanded later to some eleven thousand jurisdictions to try more than one hundred thousand detainees accused of genocide, many of whom had been languishing in overcrowded and inhumane prisons and communal lock-ups since 1994-95. In October 2001, approximately 250,000 "persons of integrity" were elected as judges and then received only six days of training. In some cases, the trainers themselves were poorly informed and differed, for example, on such important questions as the difference between intentional and unintentional homicide.

Gacaca courts at the cell level include nineteen judges who establish lists of victims and accused persons and place the accused in one of four categories depending on the gravity of the crime. They will hear cases involving crimes against property. Courts at the sector level will judge those accused of assault and unintentional homicide while those at the district level will judge persons accused of intentional homicide. The regular courts retain jurisdiction over the more than two thousand persons accused of being high-level leaders, notorious killers, and rapists, who could face the death penalty. As of September 2002, prosecutors had registered approximately twenty thousand confessions from detainees who might benefit from reduced sentences and from the chance to convert half of the prison time into community service should their confessions be accepted. Numerous detainees, having been in prison for years, might thus be eligible for release or community service immediately should they confess.

Although the President signed an order authorizing community service in February, the government had not organized its implementation or financing at this writing, nor had it prepared the survivor community for the return of confessed killers to communities.

Gacaca raised several human rights concerns. The accused, for example, have no right to legal counsel. Given the poor training of judges, defendants accused of similar crimes may be classed in different categories, resulting

in sentencing disparities. The impartiality of judges was raised in several communities and in several cases those accused of having themselves participated in the genocide resigned. In addition, sentences for rape will violate the principle of non-retroactivity because the gacaca law imposes long prison terms or even the death penalty while earlier penal law imposes only terms of five to ten years. There is no protection for witnesses and detainees, who testify publicly, thus making it difficult for Tutsi—a small minority in most communities—to accuse others.

The law establishing gacaca courts authorized them to hear charges of war crimes and crimes against humanity. President Kagame and other government officials stated repeatedly, however, that these courts may not hear accusations of such crimes by RDF soldiers, which must be taken to regular courts, a position that continued to be questioned by people in several communities. There were problems obtaining the required quorum of one hundred adults at some of the gacaca sessions and local authorities threatened fines or other sanctions against absentees or used the Local Defense Forces, a government paramilitary force, to compel attendance.

The regular judicial system functioned poorly, in part because of lack of resources, and in part because of interference from the executive branch. In March, six Supreme Court judges were obliged to resign because of alleged corruption. During the first half of 2002, the regular courts tried only 757 persons for genocide (from 1997 to June 2002, the courts tried 7,211 persons, resulting in 1,386 acquittals and 689 death sentences, though no executions have occurred since 1998). The acquittal rate increased from 22 percent in 2001 to almost 27 percent in the first half of 2002, while the proportion of cases ending in death sentences fell sharply from 8.4 percent in 2001 to 3.8 percent in the same period. In July prosecutors began the latest in a series of efforts to resolve the problem of detainees whose cases had never been adequately investigated, presenting 750 detainees who had insufficient case files (of some seven thousand) before local communities to collect witness testimony. As a result, eighty were provisionally released for lack of credible evidence.

In June the Ministry of Local Affairs and local authorities directed police and members of the Local Defense Forces to round up hundreds of street children in Kigali. They detained them in overcrowded centers that lacked sufficient water, food, sanitation and supervisory staff. A member of the Local Defense Forces reportedly shot a child who tried to escape from a detention center. The United Nations Children's Fund (UNICEF) reacted slowly and with insufficient force when the Rwandan authorities rounded up street children and detained them in miserable conditions.

In September Rwanda withdrew most of its troops from the DRC, as called for in a July 30 peace treaty with the Kinshasa government. In the months before, Rwandan troops had made war against the Banyamulenge, a Congolese people of Rwandan origin, whose protection had once been advanced as a justification for Rwandan military intervention, and had fought numerous other engagements in support of its local allies the Congolese Rally for Democracy (RCD). Rwandan troops reportedly supported RCD soldiers in putting down a mutiny at Kisangani where more than a hundred civilians were killed. In the first nine months of 2002, as in earlier years, Rwandan soldiers were accused of many war crimes, including killing and rape. Military authorities claimed that such crimes were punished and that several RDF soldiers had been arrested, but no convictions had been announced at this writing.

Having in previous years encouraged Congolese of Rwandan origin to flee to Rwanda, beginning in August Rwandan authorities cooperated with the RCD in forcibly repatriating more than nine thousand such persons who had been refugees in Rwanda since 1996. Possibly the intent behind this decision was to help expand the potential base of supporters for the RCD. Rwandan officials forced refugees to destroy their shelters and closed schools for the thousands of children in camps inside Rwanda. Those sent back to the DRC suffered lack of food, water, and medical care, in part because RCD authorities refused to allow humanitarian organizations access to them.

DEFENDING HUMAN RIGHTS

LIPRODHOR, the country's most independent human rights organization, operated with little of the official harassment which had troubled its work in previous years (notwithstanding the arrest of its treasurer—see above). It was registered by authorities and began publishing a new monthly journal on human rights.

Supporting documentation missing from its registration application led to the League of Human Rights in the Great Lakes Region (LDGL) being attacked by a government minister for noncompliance with the legal

registration requirement, and to security agents visiting its offices. In an exchange of letters published in Umuseso, a member of the government human rights commission accused the LDGL secretary-general of the serious charge of minimizing the genocide.

In a report covering 2001, the National Human Rights Commission tackled the politically sensitive issues of land rights and illegal detention but said little about political arrests. One member of the commission privately sought to excuse the arrest of Ntezimana and Muremangango in connection with the Ubuntu affair.

THE ROLE OF THE INTERNATIONAL COMMUNITY

International Justice

The International Criminal Tribunal for Rwanda (ICTR) experienced its most troubled year to date. Shortly after Prosecutor Carla Del Ponte announced her intention to indict RDF soldiers for war crimes committed in 1994, a part of the mandate established for the ICTR, Rwandan genocide survivor organizations in January called on prosecution witnesses to boycott the ICTR for a number of reasons, including alleged mistreatment of witnesses. In June the government imposed new travel restrictions on prosecution witnesses that disrupted three trials, and refused to provide access to documents needed by the prosecution. In July Del Ponte informed the U.N. Security Council about these obstructions.

The U.N. delayed approval of the Tribunal's U.S.\$192 million biennial budget for three months because the Tribunal lacked a clear strategy for finishing trials by 2008. Under United States (U.S.) pressure, the U.N. in August approved hiring temporary judges to ease the backlog of cases, but those judges will not start until 2003. Even with temporary judges, the prosecutor's initial plan of issuing 136 new indictments threatened to overwhelm a tribunal that already had more than fifty suspects in custody and that had issued only eight judgments between January 1997 and October 2002. In October, the Prosecutor scaled back her plan to 26 new indictments.

The Tribunal amended its rules to allow the transfer of suspects to national courts for trial subject to the agreement of the arresting states. It seemed unlikely that many arresting states would consent to transfer to Rwanda, however, as long as Rwanda retained the death penalty.

After the U.S. announced \$5 million in rewards for information leading to the arrest of ten prominent suspects, the ICTR was able to arrest former chief of staff General Augustin Bizimungu, former prefect of Kigali Colonel Tharcise Renzaho and the former mayor of Murambi, Jean-Baptiste Gatete.

Despite the estimated thousands of rapes committed during the 1994 genocide, as of this writing the ICTR had convicted only two defendants of crimes of sexual violence, one of whom had his sentence reversed on appeal. Crimes of sexual violence were included in nineteen outstanding indictments.

European Union

E.U. representatives met with the Rwandan foreign minister in February to express concern over restrictions on freedom of the press and freedom of association, and again in April after the arrest of Pasteur Bizimungu. In September, E.U. representatives protested a plan to impose a 40 percent tax on the salaries of expatriates working for international NGOs, seeing this as a possible impediment to their work. The E.U. gave Rwanda, one of twenty-eight countries targeted for its European Initiative for Democracy and Human Rights, U.S.\$155 million in assistance, and gave an additional \$4 million to local and international NGOs and \$1.28 million to the National Human Rights Commission for monitoring gacaca. It gave \$475,000 towards rebuilding the Rwandan Supreme Court to make it possible for the ICTR to hold trials in Kigali.

The United Kingdom continued strong political and financial support to the Rwandan government, providing approximately \$50 million, two-thirds in budgetary support and the remaining third in technical assistance. It made modest efforts to support civil society and press freedom and to support independent research on gacaca. In October 2001, the Dutch government sought to make Rwanda a preferred aid recipient, but in the face of stiff domestic and parliamentary opposition, it compromised by granting Rwanda this special status but with

restrictions: no sector-wide budget support and the obligation to meet certain benchmarks on human rights and democratization. The Netherlands disbursed \$19 million in aid, which included budget support and technical assistance to two provinces in furtherance of decentralization as well as significant political and financial support to local human rights organizations and the press.

Belgium was the single largest donor to gacaca, giving \$4.75 million to the government and NGOs, out of a total assistance package of \$17 million. Belgium also coordinated diplomatic and donor responses to gacaca.

United States

The U.S. administration put serious diplomatic and financial pressure on the Rwandan government to withdraw from the DRC, an effort that culminated in President George W. Bush meeting with President Kagame in September. In the face of the crisis between the Rwandan government and the ICTR, the U.S. pressured Rwanda to permit witnesses to travel so that trials could resume, but it failed to give strong backing to investigations of alleged RDF crimes. At the International Monetary Fund meeting in June, the U.S. refused to approve funding for Rwanda's Poverty Reduction Growth Facility, in part to indicate strong disapproval of Rwandan human rights abuses in the DRC. The U.S. State Department human rights report criticized Rwanda's poor record in 2001, prompting a sharp rejoinder from the Rwandan government. The U.S. Agency for International Development (USAID) gave \$32 million in assistance.

RELEVANT HUMAN RIGHTS WATCH REPORTS:

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