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Countries at the Crossroads 2011 - Rwanda

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INTRODUCTION

Seventeen years after the 1994 war and genocide that killed an estimated 800,000 people, Rwanda has made significant progress on stability and economic development but remains highly authoritarian, a country where dissent is not tolerated and regime critics are harassed, arrested, and sometimes killed. Even as the regime has gained international praise for good governance and competent economic management, the Rwandan Patriotic Front (RPF) and President Paul Kagame have tightened their control of Rwanda's social and political life. The executive branch dominates the government, with neither parliament nor the judiciary providing any real check on presidential power. By preventing serious opposition, Kagame and the RPF used the 2008 parliamentary and 2010 presidential elections to consolidate their power, winning overwhelming majorities.

The 1994 genocide remains a central point of departure for public policy, and the government regularly invokes the need to prevent future ethnic violence as justification for restrictions on civil liberties. A 2001 law against "divisionism" and a 2008 law against "genocide ideology" have been used to stifle free speech by equating criticism of the regime with support for ethnic hatred. Government domination of civil society remains intense, and few vestiges of the independent press remain following several years of intense suppression. Even average citizens must censor their conversations, since open discussion of ethnicity is regarded as divisionism and can lead to imprisonment.

Overwhelmingly focused on prosecuting genocide crimes since 1995, the justice system has begun to shift its concentration to ordinary criminal matters. The majority of *gacaca* courts, the massive grassroots judicial initiative used to prosecute most genocide crimes, completed their work in 2009, with only a few still operating in late 2010. While the *gacaca* process did allow the release of thousands of incarcerated individuals, it also led to thousands of additional arrests, while the most serious genocide crimes continue to be prosecuted in the national courts. The *gacaca* trials suffered from problems with due process and politicization, and neither *gacaca* nor the national courts have dealt in any serious fashion with crimes committed by the RPF, creating one-sided accountability that reinforces ethnic tensions. A 2004 legal reform improved the professionalism and efficiency of the regular courts, but these courts also suffer from politicization.

The one area of significant improvement for Rwanda in recent years has been in fighting corruption. The government has undertaken a series of regulatory reforms that have improved the business climate. Institutions such as the Ombudsman's Office have worked to root out graft, and the courts have prosecuted a number of cases at all levels of government. The Rwandan civil service has earned a reputation for honesty and competency. Nevertheless, transparency remains a problem in a state that tightly controls information.

ACCOUNTABILITY AND PUBLIC VOICE

Rwanda holds regular elections for all levels of government, yet the ruling RPF's tight control of the electoral process prevents meaningful competition. Beginning with local elections in 1999 and 2001, Rwanda launched an official transition to democracy that culminated in the adoption of a new constitution and parliamentary and presidential elections in 2003. Elections have since been held for local officials in 2006, parliament in 2008, and president in 2010. The lowest level local elections are conducted by queuing, but all other elections have secret ballots. Voting has been largely free from violence and obvious voter intimidation, yet the government has controlled election outcomes by strictly limiting who can run for office. Campaign violence has been extensive, with regular harassment and arrest of would-be candidates from outside the RPF coalition.

The constitution provides for multi-party democracy, but in practice Rwanda is a de facto one-party state with no prospect for a rotation of power. The constitution charges the National Electoral Commission with organizing elections. While officially independent, in practice the electoral commission is led by loyal RPF members and helps organize support for the ruling party rather than maintaining neutrality. In 2008 parliamentary elections, official results gave the RPF's coalition 78.8 percent of the vote, up from 73.8 percent in 2003. However, the European Union Electoral Observation Mission conducted sampling in a large number of locations in the country and found that the actual RPF coalition vote was 98.4 percent; the numbers for the ostensibly independent Social Democratic Party and Liberal Party were apparently inflated to present a greater illusion of democracy.¹ The government allows only closely allied political parties to exist, banning independent parties for promoting divisionism or genocide ideology. The constitution gave legal backing to limitations on opposition politics with provisions such as one stating that parties "should not destabilize national unity, territorial integrity and security of the nation."² In addition, a constitutionally created Forum of Political Parties monitors members of parliament and forces all into conformity with the RPF agenda.

The 2010 presidential campaign involved extensive violence and harassment directed against the opposition. The government prevented the United Democratic Forces-Inkingi (FDU-Inkingi) and the Democratic Green Party of Rwanda (DGPR) from fielding candidates by refusing to register them as parties. The FDU-Inkingi's presidential candidate, Victoire Ingabire, and the party's general secretary and treasurer were arrested. The Social Party-Imberakuri was allowed to register in 2009, but it could not field a candidate after its president and general secretary were arrested. In July 2010, DGPR Vice-President Andre Kagwa Rwisereka was assassinated.³ Without any serious challengers and with voters afraid of voting against him, President Paul Kagame won re-election with 93.8 percent of the vote.⁴

According to the constitution, the executive, legislative, and judicial branches are independent and provide checks and balances. In reality, power has become increasingly centralized in the hands of the president, who uses the RPF to manage and control political life. The 2008 elections made Rwanda's parliament the first in the world to have a female majority, yet the parliament has little capacity for oversight. The executive branch initiates nearly all legislation and parliament generally rubber stamps executive policy initiatives. The judiciary similarly lacks independence.

The Rwandan bureaucracy is highly effective, with well-educated and competent civil servants. Merit is a primary factor for civil service selection and promotion, although group identity also remains important.

Rwanda boasts numerous active civil society organizations, but the government allows only those civic groups that share its political views to operate freely. In the decade after taking power in 1994, the RPF gradually extended its control over civil society by pressuring non-governmental organizations (NGOs) to place RPF supporters in leadership positions and to align their agendas with that of the government. Since at least 1995, NGOs have been required to register with the Ministry of Local Government (MINALOC), which has used the registration process as a means of shutting down organizations. A 2000 Law on Non-Profit Making Organizations expanded MINALOC's legal capacity to interfere in the internal affairs of NGOs and gave similar powers over international NGOs to the Immigration and Emigration Department of the Ministry of Internal Affairs.⁵ The RPF has also used extra-legal means to force compliance from NGOs, including assassinations and intimidation, which have driven numerous activists into exile.

In June 2004, a parliamentary commission on genocide ideology accused several of the most prominent local and international NGOs of sowing division and promoting ethnic hatred. These accusations drove a number of civil society activists to flee the country and led to the closure of most of the named organizations, including Rwanda's last remaining independent human rights group. Since this time, NGOs have not dared to challenge the regime. Most NGOs are now focused on service delivery and implementation of government initiatives rather than on serving as a voice for public interests.⁶

The legal environment for the media and freedom of expression in Rwanda has become increasingly dire. A 2001 Law on Prevention, Suppression, and Punishment of the Crimes of Discrimination and Sectarianism has been used to authorize arrest on charges of divisionism of both politicians and journalists who criticize the government.⁷ In 2008, parliament passed the Law Relating to the Punishment of the Crime of Genocide Ideology, which gives the government expanded authority to suppress legitimate dissent. The organization Article 19 condemned the

law as a violation of the freedom of expression provisions of the International Covenant for Civil and Political Rights, "because the central concept of 'genocide ideology' is extraordinarily broad and would catch a whole range of forms of expressions concerning genocide."⁸ A 2009 media law requires that both journalists and publications be licensed by the government and established strict standards that could be enforced selectively to disqualify publications and journalists critical of the regime. The law also gives wide latitude for prosecution of journalists of charges of libel or causing insecurity, forbidding the publication of material showing "contempt to the head of state" or that "endangers public decency," and requires that journalists reveal their sources.⁹

Drawing on this legal framework, the government has aggressively suppressed the printed press, harassing journalists, impounding publications, and banning journals. In 2007, the government closed the French-language *Afrique Liberation* and the English-language *Weekly Post*, and arrested journalists from three other publications. Agnès Nkusi-Uwimana, editor of *Umurabyo*, was convicted of divisionism and minimizing the genocide and sentenced to a year in prison for comparing RPF killings of civilians to the genocide.¹⁰ In 2008, *Umuco* was forced to close when its editor fled the country after an editor criticized President Kagame. The deputy managing editor of *Umuseso*, the country's most important independent newspaper, was deported.¹¹ In 2009, the editor of *Umuwugizi* was tried for defamation in what the Committee to Protect Journalists asserted was a politically motivated move.¹² *Umuseso* was suspended for three months in 2009 after publishing an article comparing Kagame to Habyarimana.¹³

In addition to legal action against journalists, government officials create an atmosphere of insecurity by accusing journalists of fomenting hatred and ethnic division, associating the current media with the hate media that helped drive the 1994 genocide. Such accusations create real threats of physical violence against journalists. In 2007, the editor of *Umuwugizi* was beaten unconscious after he published allegations of corruption and mismanagement by several top government and military officials, and he was subsequently taken in for police interrogation.¹⁴

The situation for press freedom became particularly bad in the months before the 2010 presidential election. According to Amnesty International, "In the run-up to the 2010 elections, legitimate political dissent was conflated with 'genocide ideology,' compromising the freedom of expression and association of opposition politicians, human rights defenders, and journalists critical of the government."¹⁵ In April 2010, the government suspended *Umuseso* and *Umuwugizi* for six months.¹⁶ In June, the deputy editor of *Umuwugizi*, Jean-Léonard Rugambage, was murdered outside his home after he reported in the newspaper's online edition about the attempted assassination in South Africa of former Kagame ally General Kayumba Nyamwasa.¹⁷

In July, the government again arrested Nkusi and another journalist from *Umurabyo* on charges of insulting the president and denying the 1994 genocide. A week before the presidential election, the High Council of the Media suspended nearly 30 publications and radio stations ostensibly for failing to meet registration requirements.¹⁸ The situation has not improved noticeably since the elections. In February 2011, the two *Umurabyo* journalists were convicted and sentenced to seven and 17 years in prison.¹⁹

The situation for broadcast media is no better. Although the government began allowing the establishment of private radio stations in 2004, it simultaneously placed clear restrictions on broadcasters, with the minister of information asserting that private stations should focus "on music and entertainment," leaving news broadcasts to the government.²⁰ In 2006, the government banned transmissions of Radio France International after a diplomatic rupture between Rwanda and France.²¹ In April 2009, the government banned the BBC's Kinyarwanda service for two months after an interview with former Prime Minister Faustin Twagiramungu.²² Government officials have also regularly denounced the Voice of America for promoting divisionism.

While the government does not hinder access to the internet, it does screen private emails, and it monitors social media sites for anti-government sentiments or evidence of divisionism.

CIVIL LIBERTIES

In the past several years, the Rwandan government has improved the legal framework for protection against torture and other forms of physical abuse. In 2007, as part of negotiations with the International Criminal Tribunal for Rwanda to make possible extradition of prisoners to Rwanda, the government eliminated the death penalty, becoming the first country in this region of Africa to do so.²³ In 2008, the government ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Punishment.²⁴ Yet in practice, the use of excessive force, torture, and extrajudicial execution remains common in Rwanda, particularly for those accused of political offenses.²⁵ In 2007, for example, police were responsible for 22 shooting deaths of criminal suspects.²⁶

Failures of the government to protect activists from physical abuse were particularly serious during the 2010 electoral campaign, in which banned opposition parties reported the torture of many of their arrested members.²⁷ FDU-Inkingi president Ingabire and her assistant were attacked in February 2010 as they tried to register their party.²⁸ Officials have failed to investigate politically motivated attacks and murders or have covered up the political nature of attacks. For example, the government attempted to characterize journalist Rugambage's murder as a revenge attack for supposed genocide crimes and DGPR leader Rwisereka's murder as arising from a business dispute.²⁹

Although gacaca, the popular judicial system used to try a majority of genocide suspects, was originally intended to speed up prosecutions and reduce Rwanda's prison population, the vast numbers of cases tried in gacaca led to the imprisonment of many additional people, including many guilty of only minor offenses.³⁰ In 2009, near the completion of gacaca trials, Rwanda's prison population was 64,000. While this is half of the number incarcerated at the beginning of the gacaca process in 2002, it was still over 20,000 more than the prison system was designed to accommodate, leading to serious prison crowding. Prison riots have occurred occasionally over lack of food and limited visitation rights.³¹

Arbitrary arrest is a serious problem, particularly for government critics. Opposition politicians, journalists, and civil society activists have been arrested both for political offenses, such as sowing divisionism and promoting genocide ideology, and for politically motivated prosecution on other charges. For example, in 2007, the editor of *Umuseso* was held on apparently specious rape charges in what was widely regarded as an attempt at intimidation.³²

The gacaca process also offered numerous opportunities for abuse, with false accusations used for extortion and to exact revenge against enemies.³³

Rwandan citizens who feel that their rights have been violated by state authorities have few means of redress. Anyone who criticizes a government official risks being accused of promoting divisionism. Although considerable evidence suggests that the government treats members of the Hutu and Tutsi ethnic groups differently, complaints of ethnic discrimination are particularly dangerous. The Office of Ombudsman, created in 2003, focuses on corruption complaints.

The incidence of crime in Rwanda is quite low. Many people often do not report crimes for fear that contacting the police may draw unwanted attention from the authorities.

Trafficking of women and children is a crime, but it is rarely investigated and never prosecuted. The incidence of trafficking appears to be quite limited.

Rwanda remains a leader within Africa on issues of gender equity. Already boasting the highest percentage of women in parliament in the world, the 2008 parliamentary elections made Rwanda the first country to have a majority of women in its parliament, with 56 percent women in the House of Deputies.³⁴ The RPF has actively placed women in powerful positions, including as ministers of foreign affairs, justice, agriculture, trade and industry, information, and infrastructure, president of the Supreme Court, leaders of the gacaca courts and the National Unity and Reconciliation Commission, and as key advisors to the president.

The growing constraints on civil society have limited the ability of women's organizations to represent the interests of Rwanda's women. Despite legal advances for women's rights in the early part of the decade, few new laws promoting the interests of women have been adopted in recent years. Women face considerable discrimination within Rwandan society. Sexual violence is a serious problem. The police and judiciary have little training on issues of sexual violence, and few cases are ever prosecuted.

Rwanda's population has historically been divided into three groups: the Hutu, who make up an estimated 85 percent of the population; Tutsi, who constitute 15 percent of the population; and the Twa, who are less than 1 percent. These three groups have commonly been considered ethnic groups, though they share a common language and live in integrated communities. Since taking power in 1994, the RPF has promoted the concept of a unified Rwandan national identity. State leaders have advanced the idea that ethnicity is a colonial creation that is not historically valid in Rwanda. Ethnicity was removed from national identity cards, and Article 11 of the constitution bans all forms of discrimination, expressly including discrimination based on ethnic origin.³⁵ The government claims to have replaced past discriminatory policies in such areas as education and government hiring with merit-based systems.

Despite the government's professed rejection of ethnic politics, many Rwandans privately complain that the government favors former Tutsi refugees who returned to Rwanda after 1994, particularly those who, like President Kagame, lived in Uganda. These returned refugees are said to dominate not only the civil service and military but civil society and the private sector as well. Many Tutsi genocide survivors feel that, despite the government's regular invocation of the genocide to justify its policies, they receive insufficient official support, while they face continuing threats from their Hutu neighbors and prejudice from many returned Tutsi refugees who assume that they must have betrayed their community to have survived the genocide. Many Hutu feel that genocide trials, particularly the gacaca cases, have been used to marginalize them socially. Hutu complain that social and political discrimination has increasingly pushed them out of professional positions and into manual labor. Divisions have also emerged among returned refugees based on country of exile. A 2008 decision by the government to change the language of school instruction from English and French to English only was widely perceived as a means of providing benefits to returnees from Uganda while disadvantaging the francophone returnees from the Democratic Republic of Congo and Burundi.³⁶

Despite widespread perceptions of identity-based conflict and discrimination, the political climate makes it nearly impossible for individuals to seek redress for ethnic or other forms of discrimination. Open discussions of ethnicity have been taboo in Rwanda for a decade, and the laws against divisionism and genocide ideology have made it legally risky for individuals to talk about ethnicity. After FDU-Inkingi leader Ingabire spoke in January 2010 about the government's

failure to acknowledge Hutu victims of the 1994 genocide, she was denounced by a number of government officials and state-dominated media outlets and ultimately charged with division and genocide ideology.³⁷

Limitations on discussions of ethnicity have been particularly challenging for the Twa, a small minority ethnic group widely believed to be the original inhabitants of the region. Facing prejudice and discrimination from Rwanda's majority population, the Twa have generally lived separately, rarely mixing socially with the Hutu and Tutsi. They are among the poorest segments of the population, with low rates of school attendance and a literacy rate of only 23 percent. Attempts by the Twa community to empower themselves have led to conflicts with the government, which has insisted that the Twa stop identifying themselves as an ethnic group. The government refused to re-register the umbrella organization for Twa civil society groups, the Community of Indigenous People of Rwanda (CAURWA), until it renounced the claim that Twa were Rwanda's autochthonous group. Bowing to government pressure, CAURWA changed its name in 2007 to the Community of Rwandan Potters (COPORWA), a reference to the Twa's traditional economic niche, and changed all references in its work from "Twa" to "Potters," though in fact only a minority of Twa actually works as potters.³⁸

After considerable international pressure, a proposal to criminalize homosexuality was ultimately removed from a new criminal code adopted in late 2009.³⁹ Rwanda has been a leader in Africa on promoting the interests of the handicapped, providing a reserved seat in the House of Deputies for a handicapped representative.

Rwanda is over 90 percent Christian, and about 5 percent Muslim.⁴⁰ Prior to 1994, over 60 percent of the population was Catholic, but due to a high rate of conversion, Protestants today are thought to be almost equal in number to Catholics. The constitution forbids discrimination on the basis of religion and guarantees "freedom of thought, opinion, conscience, religion, worship, and the public manifestation thereof."⁴¹ The government generally respects the right of free religious practice, though with some restrictions. Prior to 1994, the government tightly controlled which religious groups could operate in Rwanda, but in the aftermath of the genocide, the government removed these regulations, leading to a proliferation of religious groups, particularly Evangelical and Charismatic Protestant churches. Nevertheless, in part because of the implication of Christian churches in the genocide,⁴² the government does sometimes interfere in the operations of religious groups. Article 33 of the constitution, which guarantees religious freedom also, states that, "Propagation of ethnic, regional, racial or discrimination or any other form of division is punishable by law,"⁴³ which makes clear the limits of government tolerance for religious organization. Like all NGOs, religious groups must register with the government, which allows the government considerable oversight on their operations. The government has occasionally intervened in church leadership decisions and has restricted some churches that it considers ethnically exclusive.

Conditions for religious minorities are generally good in Rwanda. Muslims are well represented in government at all levels and enjoy full religious freedom. Jehovah's Witnesses have faced harassment and arrest because of their refusal to vote and to participate in certain government programs, such as security patrols. Some Jehovah's Witness teachers have been fired for refusing to attend government re-education camps called "solidarity camps." In 2008, over 100 children of Jehovah's Witnesses were expelled from schools for refusing to sing the national anthem, but most were ultimately readmitted.⁴⁴

Although the constitution states that "Freedom of association is guaranteed and shall not require prior authorization,"⁴⁵ in practice the government severely restricts the ability of individuals to form groups. Onerous registration requirements allow the government to prevent many civil society groups and political parties from organizing, and NGO regulations allow the government to interfere in the internal functioning of groups. The government also requires groups to receive police authorization to hold meetings, which is used to restrict freedom of assembly, despite constitutional guarantees. In 2009, the Democratic Green Party of Rwanda was unable to receive authorization to hold a general assembly, preventing it from meeting the requirements for official registration.⁴⁶

Gatherings of more than five people require registration, which is difficult for critics of the government to receive. Public demonstrations are therefore extremely rare.

The constitution guarantees the right of workers to form unions, and trade unions are on the whole allowed to function in Rwanda. Nevertheless, the general restrictions on freedoms of speech, association, and assembly restrict the ability of unions to act independently. The 2009 labor code clarified rules for trade unions and somewhat improved unions' ability to advocate for the members, but the country's major trade unions were not consulted in the drafting of the code. As with regulations on other forms of assembly, the labor code authorizes considerable government interference in union operations.⁴⁷

RULE OF LAW

Almost two decades after the genocide, the Rwandan judiciary has begun to shift its primary focus from trying genocide cases to adjudicating ordinary criminal matters. Specialized genocide courts that began to hear cases in 1996 continue to adjudicate the most serious genocide crimes, but the massive gacaca court process created to try lesser offenses was mostly completed in 2009, with only a few courts still wrapping up work at the end of 2010. The gacaca courts were a grassroots, community-based judicial initiative that the government created to try the overwhelming majority of genocide cases. Loosely modeled on a traditional Rwandan

dispute-resolution mechanism, gacaca involved more than 170,000 judges popularly elected in 9,000 jurisdictions throughout the country.⁴⁸

The gacaca process was initially proposed in 1998 to speed the prosecution and release of the large numbers imprisoned on genocide charges. Genocide crimes were divided into four categories, with only Category 1 offenses – organizing the genocide, extensive or enthusiastic killing, and rape – assigned to the specialized chambers. The other three categories were tried in gacaca courts. After a long legislative process, the test phase did not begin until 2002 and gacaca was not launched nationally until 2005, leaving thousands of accused languishing in prison awaiting trial. Although prisoners who confessed could receive provisional release and reduced sentences, those who wanted to prove their innocence remained in prison. Those who confessed were released only if they implicated others, which encouraged false accusations.

The gacaca process encouraged conversation about the genocide and provided opportunities for victims and perpetrators to reconcile, but the process also suffered from politicization and abuse. The government forbids consideration of crimes committed during 1994 by the RPF and its supporters, which created an impression of ethnic bias in the process. Standards for culpability were extremely low, allowing the prosecution of hundreds of thousands of individuals not previously charged or arrested. Some Rwandans used gacaca to exact revenge on enemies or for extortion. Gacaca judges were pressured into convicting the accused, since those who found too many people innocent could themselves face charges. As a result, by the end of 2010, the gacaca courts had tried about 1.5 million cases, and half of Hutu men who were adults at the time of genocide had faced charges. Rather than helping to separate the innocent from the guilty, the gacaca courts promoted the idea of collective Hutu guilt for the genocide.⁴⁹

While gacaca has assured that even the smallest genocide crimes have been prosecuted, RPF abuses were immune from gacaca. Only a handful of crimes committed by the RPF have been prosecuted in national courts, and sentences for those few convicted have been very light. This has created an impression of victor's justice and has exacerbated ethnic tensions. Politicians and journalists who have pointed out this inequity, such as Ingabire, have been accused of divisionism. The Rwandan government vociferously rejected a 2010 UN report on human rights abuses in the Democratic Republic of Congo that documented extensive crimes against humanity committed by RPF soldiers.⁵⁰

Problems with participation in gacaca were widespread. In part because of the perception that the process was politicized, many Hutu refused to attend court sessions or attended but did not take an active role. In some communities, individuals who had participated in the genocide protected themselves by intimidating potential witnesses, resulting in a "conspiracy of silence," in which people would not come forward to testify. The government provided inadequate protection to gacaca witnesses, and there were numerous reported attacks on witnesses and potential witnesses. Tutsi genocide survivors felt particularly vulnerable, and several dozen were killed in attacks believed to be related to gacaca.⁵¹

Outside of gacaca, Rwanda's judicial system has undergone procedural improvements during the past several years. Although trials for the most serious genocide charges, those outside the jurisdiction of the gacaca courts, continue to be treated in special genocide chambers of the national courts, the judicial system as a whole has shifted its attention to ordinary criminal matters. A 2004 judicial reform significantly restructured the judicial system, reducing the number of courts and raising the qualifications for judges in an attempt to streamline the treatment of cases. Human Rights Watch noted that as a result of the reforms, "The conventional courts are now staffed by judges who have more formal education and who deliver judgments more rapidly than in the past. Judicial authorities enjoy greater control over their budget and operations than previously."⁵²

Despite these procedural improvements, however, politics continues to impede the realization of judicial independence in Rwanda. The Human Rights Watch report noted that, "the technical and formal improvements in laws and administrative structure have not been matched by gains in independence in the judiciary and assurance of rights to fair trial. The laws have changed considerably, the underlying political dynamics far less."⁵³ The RPF continues to use the judicial system to intimidate potential opponents and silence critics. Particularly in the run up to the 2010 elections, numerous journalists and opposition political party activists were arrested on politically motivated charges.

A 2008 Human Rights Watch report on the Rwandan judicial system documents improvements in the efficiency of the legal system, leading to speedier trials for non-genocide offenses. However, individuals accused of genocide offenses that fell outside the jurisdiction of gacaca courts continue to languish in prison as their prosecutions remain painfully slow.⁵⁴

Although constitutionally guaranteed, the presumption of innocence is absent in many criminal cases, particularly in genocide cases and those that are politically motivated. The government has regularly published a list of suspects accused of the most serious genocide crimes, who are widely treated as guilty even before their trials. The four parliamentary reports on divisionism and genocide ideology leveled accusations against specific individuals and organizations without offering them an opportunity to defend themselves in court. The right to due process is violated regularly. Government officials and other powerful individuals interfere in the judicial process, influencing decisions, particularly in politically motivated prosecutions.

Access to counsel has been an area of growing concern in recent years. Despite a constitutional guarantee of the right to independent counsel, in practice many defendants lack access to defense. The laws regulating gacaca explicitly forbid defendants from using counsel, denying them access to legal representation. In the regular courts, access to defense counsel is limited in part because of the few qualified lawyers in the country and the inability of most Rwandans to afford a lawyer. Most troubling, however, has been a growing tendency to intimidate and even arrest and charge defense counsel, particularly in politically motivated cases. In the most high profile example, an American law professor, Peter Erlinder, was arrested in May 2010, a few days after he arrived in Rwanda offering to defend FDU-Inkingi presidential candidate Ingabire.⁵⁵ He was held for three weeks before being released for health reasons.

Rwanda's military dominates the political process. Little distinction is made between civilians and military personnel in government appointments. President Kagame remains the head of the military, and many RPF officers hold high government posts. Even military leaders outside political positions hold considerable political influence. Despite military dominance of the political system, military personnel are sometimes held accountable for crimes, including abuse of power and corruption, in the military justice system. However, senior officers tend to face prosecution for corruption only if they fall out of favor with President Kagame.

The constitution guarantees the right to own private property, individually and collectively. With approximately 90 percent of the population living in rural areas and involved in agricultural production, land is the most important form of private property. Land scarcity and competition over land have been major sources of Rwanda's periodic conflicts. In the aftermath of the genocide, hundreds of thousands of long-term, mostly Tutsi refugees returned from exile. Many of these refugees sought to reclaim their land rights, leading to conflict with those who had used the land in many cases for three decades. While government policy resolved these conflicts through partition, disputes over competing claims to these plots remain a potential source of conflict.⁵⁶

In an effort to promote efficiency in agricultural production, the post-genocide government has promoted consolidation of land holdings. A 1998-2000 villagization program that sought to force Rwandans to move out of their traditional dispersed homesteads and into villages was driven primarily by security concerns rather than economic development. A major land reform act adopted in 2005, however, codified the villagization program, promoting consolidation of land holdings, while also providing durable titles to land.⁵⁷ Tied to the policy of land consolidation has been a policy of centrally planned agricultural production that regulates the crops farmers are allowed to grow on their land. Local authorities have implemented these policies often with aggressive force, sometimes uprooting crops that do not conform to the regulations.⁵⁸

ANTI-CORRUPTION AND TRANSPARENCY

The Rwandan government has made controlling corruption and promoting good governance a major focus of its efforts to attract international investment and promote economic growth. Beginning in 1998, when then-Defense Minister and Vice-President Kagame removed military officers who smuggled wealth out of Congo during Rwanda's cross-border intervention, the government has taken an increasingly strong stand against official corruption. A series of reforms implemented to increase transparency and punish officials engaged in fraud has been quite effective in fighting corruption. As a result of these policies, Rwanda has risen in Transparency International's Corruption Perceptions Index from the 121st most corrupt country in the world in 2006 to 66th in 2010, well ahead of any other state in East Africa.⁵⁹

The Rwandan government has worked hard to limit bureaucratic regulation and eliminate red tape, and Rwanda's civil service has earned a reputation for competence and efficiency. Twenty-two separate regulatory reforms implemented since 2005 have eliminated many bureaucratic hurdles to economic activity. For example, the regulatory environment for construction has been eased by combining applications for sewage, water, and electricity into a single application.⁶⁰ The World Economic Forum's *Global Competitiveness Report* in 2010 ranked Rwanda as having the 3rd lowest burden of government regulation internationally and the 12th most efficient government overall.⁶¹ In the World Bank's rankings on ease of doing business, Rwanda has moved from 158th in 2006 to 58th in 2010. In fact, the World Bank recognized Rwanda as the country that had the second most-improved regulatory environment in 2009.⁶²

Bribery is increasingly rare in Rwanda, with the government taking decisive action against officials accused of fraud.⁶³ In the past decade, the government has undertaken extensive privatization of government businesses, including telecommunications, water, electricity, banking, tea plantations, breweries, and dairies. The privatization process has been largely free from graft, though those from the RPF's core constituency – returned Tutsi refugees, particularly from Uganda – have been best placed to take advantage of the new business opportunities.

Rwanda has established several institutions to fight corruption. The government established the Ombudsman's Office in 2004 to monitor government corruption and take complaints from citizens. Government officials are required to submit assets declarations, though they are not public. In 2009, the Ombudsman's Office was granted additional powers to investigate graft and prosecute cases of corruption.⁶⁴

The Office of the Auditor General regulates financial management and adherence of public entities to financial accountability and transparency standards. The auditor general submits

annual audit reports to parliament, which is charged by the constitution with overseeing the budget process. In practice, however, the parliament provides very little executive oversight. Other agencies charged with fighting corruption include the Rwanda Public Procurement Authority, the Rwanda Utility Regulation Agency, the Anticorruption Division in the Revenue Authority, and the National Bureau of Standards.

In a number of high-profile cases, the Prosecutor General's office has aggressively pursued government officials accused of corruption, but prosecution has not always been successful. Permanent Secretary of the Ministry of Education Justin Nsengiyumva was arrested in 2008 for demanding a bribe from companies seeking to sell equipment to the ministry. He remained in jail for a week, but escaped, reportedly with assistance from sympathetic officials. In 2009, Louis Munyakazi, the Director of the National Institute of Statistics, was convicted of embezzlement. Also in 2009, the Permanent Secretary of the Ministry of Infrastructure and the Director of the Central Public Investment and Internal Finance Bureau were arrested in a kick-back scheme in exchange for forgiving a fine.⁶⁵ These cases all seem to have been conducted fairly.

Anticorruption efforts have been bolstered by President Kagame's regular public denunciations of corruption and his decisive action against corrupt officials. The government designated July 11 as the annual Public Accountability Day, when government officials open their offices to voters. The government's commitment to fighting corruption, however, has been undermined by the politicization of corruption allegations. Kagame has used accusations of corruption to justify the removal and arrest of military and government officials who challenge his authority. For example, the April 2010 arrests of Major General Charles Muhire and Lieutenant General Karenzi Karake on charges of corruption and immoral conduct were widely viewed as politically motivated, as they took place a few days after reports of conflicts between Kagame and the two officers who were previously key allies.⁶⁶

As part of its emphasis on education, the government has fought corruption in schools and moved to a merit-based educational system. Students do not have to pay bribes for admission to schools or for good grades.

The official media regularly report on government actions against corrupt officials, but the general government crackdown on the independent media has discouraged investigative reporting on corruption. In 2010, the newspapers *Umuseso* and *Umuwugizi* were suspended in part because of reports on conflicts within the military hierarchy,⁶⁷ while three journalists from *Umuseso* were found guilty on charges of libel for reporting on an affair between a minister and the mayor of Kigali. The editor of *Umuwugizi* faced similar charges in 2009 for reporting on a different affair between the Kigali prosecutor and a women's organization leader. The journalists have defended themselves claiming that they are trying to bring transparency to the government and expose links between various officials.⁶⁸

The constitution provides guarantees of government transparency in principle but in practice Rwanda's tightly controlled political climate limits the public's ability to access information about government operations. Weak oversight from the judiciary and the parliament mean that the executive controls which cases of corruption are publicized and prosecuted. This exposes anti-corruption efforts to politicization. There are no legal guarantees for freedom of information, and the general lack of free speech and free association prevent private organizations from providing effective independent oversight.

In a 2008 reform of public financial management, the government created the Rwanda Public Procurement Authority to replace the National Tender Board. The reform was widely praised for increasing transparency in the procurement process.

The government is generally recognized as efficiently administering foreign assistance. Some government critics charge that benefits of foreign aid are not distributed equally within the population, disproportionately benefitting the RPF's core constituency of returned Tutsi refugees. But the civil service has a reputation of competently administering development programs.

RECOMMENDATIONS

- The government should allow independent political parties to function freely. Impediments to the registration of new parties should be eliminated, and parties that seek to oppose the government should be allowed to field candidates and to campaign.
- The parliament should amend the 2001 Law on Discrimination and 2008 Law on Genocide Ideology to give a clear and restricted definition to the crimes of promoting divisionism and genocide ideology, so that they are less apt to be used to punish critics of the regime. Government actions to address divisionism and genocide ideology should incorporate due process and human rights standards. Parliament and government officials should refrain from accusing individuals and organizations of these offenses without providing an opportunity for them to defend themselves.
- The government should stop interfering with the media and civil society. Criticism of the regime should no longer be equated with support for genocide ideology, and the government should stop using the judicial system to intimidate and silence opponents.

- The government should prosecute military personnel and civilians accused of war crimes or revenge killings. The Rwandan government should work with the government of the Democratic Republic of Congo to hold accountable Rwandan forces involved in crimes against humanity in the DRC.
- The government should stop interfering with the judicial process and allow courts to conduct fair trials. Arrests of journalists, politicians, and others on politically motivated charges should cease. The government should eliminate political influences on the conduct and outcome of trials.

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