

## Introduction

In this paper, I examine some issues of security and human rights in Rwanda in order to assess whether Rwanda is a safe country to which refugees can go back without fear of being persecuted. The idea of writing this paper came while I was reading the report published in May 2002 by a Fact-Finding Mission made of members of the British Home Office and the Danish Immigrations Service. It was also due to the fact that a number of refugees came to me for general opinion and legal advice whence I realized that a number of human rights issues have been misunderstood.

My aim is not to interfere neither in the functioning of immigration departments of these two countries nor in their respective policies in refugee area. I would like to simply highlight some important areas that the Fact-Finding Mission did not cover and those that it did not tackle seriously whereas they constitute a very important tool to assess whether security and human rights are really guaranteed for the return of refugees.

While I assume that the information contained in this paper is pertinent to help immigration officers make their mind while dealing with various individual cases, I do not pretend to have exhausted the whole subject matter mostly because the time limit and resources have not allowed me to do so. However, the content forms part of my ongoing research in the area of human rights and the rule of law in Rwanda of which subsequent publications are expected in short term.<sup>1</sup>

While contending that international human rights standards have failed both in theory and in practice in Rwanda, I do not pretend that the situation in Rwanda is like it was during the 1994 massacres. I simply show that some of the developments contained in the Fact-Finding Mission's report are a blur if one is to consider the issue of lasting peace, security and human rights. Some of the reasons for the failure are that absolutism and unfair and unequal treatment among Rwandan people have had an enormous impact on human rights, the government has not been committed to the ethnic problem for which the scope and content of rights guaranteed by Rwandan laws have been inadequate, and institutional infrastructure for the protection and enforcement of human rights has been ineffective.

The root cause of human rights failure is that the whole system has failed. As a matter of fact, there has been a completely inadequate state system and there is not a real Rwandan nation-state. Contrary to the Fact Finding Mission which believes that "certain important developments have taken place in the areas of security and human rights", this paper shows that the conditions in Rwanda are not yet conducive to lasting security and human rights promotion and protection. The failure of Rwanda as a democratic constitutional state lies in the fact that many things have gone wrong. These include, but are not limited to, the fact that the state formation itself has gone wrong, civil society has never flourished, and the various institutions and structures for the control of the exercise of power have never been adequate in promoting and fostering human rights. Not surprisingly, we saw the dramatic failure with respect to human rights denials before, during and after the genocide. In terms of what had been happening since 1990 through 1994 and subsequently, many Rwandans are less prepared now. There is more fear, more distrust, less reconciliation. There is more selfishness among Rwandan leaders, more absolutism and less democracy.

<sup>1</sup> For more details about human rights and the rule of law in Rwanda, see Mathias Sahinkuye, Human Rights and the Rule of Law in Rwanda: reconstruction of a failed state, University of Stellenbosch, December 2000.

## No party

I would start by some word on the "no party" electoral system in place in Rwanda. Some statements in the Fact Finding Mission's report show clearly that elections are manipulated.<sup>2</sup> This is right so because persisting in violations of Rwandan citizens' rights to freedoms of association, peaceful assembly, expression, movement and the right to take part in the government directly or through freely chosen representatives as recognized by the Universal Declaration of Human Rights and the African Charter for Human and Peoples' Rights, the government of Rwanda led by the Rwandan Patriotic Front (RPF) has been holding non-free and unfair municipal elections under the new brand of tyranny known as the «no party» system imported in Rwanda from Uganda by the RPF. These municipal elections are a continuation of «no party» elections initiated in March 1999 at cell and sector levels. The masterminding of these elections shows that Rwandan authorities are not preoccupied by the revival of republican democracy, freedom and justice. This is rather a blatant violation of civil and political rights aiming at prolonging indefinitely the RPF's monopoly on power.

When the RPF captured power in July 1994, it formed a government including leaders of its sympathetic factions in other political parties existing at that time. On 24 November 1994, the RPF signed a protocol of understanding on transitional institutions with its supportive factions of the political parties (MDR, PDC, PL, PSR, PSD and UDPR) rewarded with posts in RPF-controlled institutions and banned political party activities for all organizations except for itself. The Fact Finding Mission's report recognizes that this banning has closed all lawful modes of expressing opposition to government policies and dictatorship by argument and legitimate persuasion. Yes, political parties inside Rwanda exist only in name; political pluralism is apparent but not real. Political parties are not allowed to campaign, to designate or back candidates in elections, to issue membership cards nor to hold public meetings, gatherings or rallies. All candidates in elections are designated by the government and are forced to stand as individuals and not as representatives of political parties. Voter's registration is mandatory and election is compulsory. Citizens have no alternative political programs to choose from and vote for; they are only asked to reveal their preferences among government-designated candidates. In true democratic elections, candidates for election should freely be either representatives of political parties or independents without any coercion. Every citizen should enjoy fully the option to exercise his right to stand for and be elected at any level of government. The Rwandan citizens have no right to elect their leaders at all levels through universal, direct, free, equal and secret ballot. The «no party» system does not guarantee free and fair competition for political leadership; it is far from true democracy and political enfranchisement.

The modus operandi is that voters in Rwanda's municipal elections are forced to choose at sector level three councilors (including a representative of the population, a representative of women and a representative of youth) among government-designated candidates. Elected sector's councilors over all commune's sectors will form the commune's council. The commune's council, joined by a certain number of administrative authorities elected at sector and cell levels will then constitute the commune's electoral college which will choose the commune's executive committee composed of 5 persons: the new mayor, a person responsible for economic affairs, a person responsible for social affairs, a person responsible for the promotion of women and a person responsible for the youth, sports and culture.

In that imbroglio, after the call to vote of General Paul Kagame on Radio Rwanda and given the strict surveillance of the Rwandan Patriotic Army (RPA), the police and RPF's local militias units armed to the hilt, the citizens have no other choice; they are forced to go to vote in fear of being persecuted if they didn't, as this had happened in the past. This explains the high turn up, 95 per cent, observed in Rwandan elections.

The ballot at the cell level was not secret. Voters were compelled to line up behind one candidate of their choice among those selected by the government. Candidates who got the majority of persons behind them were declared

<sup>2</sup> See for example statement made by Reynjtjens, A western embassy in Kigali (D), etc.

the winners at the cell level and presented by the government as persons of integrity "elected on merit, rather than according to their political, regional or ethnic group". Those elected at different cells constituting the sector elected among themselves, at secret ballot, the leaders at the sector level. Those elected at different sectors constituting the municipality elected among themselves, at secret ballot, the leaders at the municipal level. This complex electoral process is designed in reality to ensure that those elected at all levels are RPF members or sympathizers, servants of the RPF-led government and not servants of the people. It is intended to give an appearance of legitimacy to the RPF-led dictatorial regime while leaving intact the RPF's monopoly of power on the Rwandan state institutions.

There is no independent Electoral Commission in Rwanda. The Chairman of the National Electoral Commission, Mr. Protais Musoni, is also an already known RPF political leader and Secretary-General in the Ministry of local government and social affairs. The current Executive Secretary of the National Electoral Commission, Mr. Christophe Bazivamo, is also Vice-President of the ruling Rwandan Patriotic Front. All members of the Electoral Commission at all levels are members and sympathizers of the RPF, selected and appointed by the RPF-led government.

Ironically, this complex electoral system replicates on the local level the electoral system for parliamentary elections used under «one party» regime of the late General Juvenal Habyarimana military opposed by the RPF. Under the National Revolutionary Movement for Development (MRND)'s «one-party» regime, the population had to elect Members of Parliament from the list of government-designated candidates. Mayors, or commune burgomasters, and provincial governors were appointed directly by the President since mid 1970's. The election of burgomasters could be considered as a break from the past but it is only a cosmetic change that extends to the municipal level an old method in the «one-party» system. It is deplorable that some democratic countries, including Denmark, have financed elections that violate basic human rights of the Rwandan citizens and institutionalize dictatorship. By ignoring abuses of civil and political rights associated with the «no-party» system, some members of the international community undermine the notion of the universality of human rights. It is morally unacceptable that human rights be ignored in the case of Rwanda and be used as sticks in foreign policy against other governments in the African Great Lakes region or elsewhere.

I hope the Fact Finding Mission was informed that the ban on political activities has forced some non-submissive democratic political organizations to go underground, establish their headquarters in exile or take up arms. The reaction of the Rwandan government has been always the same: rejection of any dialogue with political opposition, recourse to government's violence and show of force. Instead of solving the root causes of the conflicts in the country, Rwandan military leaders have embarked on a terrorist campaign of displays of their military might in order to persuade other countries of their army's invincibility and that any resistance to their will is pointless and brings swift and ruinous retribution in the forms of sabotage, their sponsorship of anti-government banditry or rebel movements and, in the last resort, invasion. It is to be hoped that Denmark will not fall into the trap of Kagame's RPF to force Rwandan refugees back to Rwanda in order to be submitted to RPF oppression. It should be pointed out that in these governments' demonology, all proponents of democracy opposing the current ruling cliques are globally portrayed as bandits without a cause, corrupt or incompetent individuals or Hutu génocidaires. Internally, people are bombarded with government's lies in the columns of government-controlled press and airwaves of public radio and television stations. As many know, dictatorship and government's violence in Rwanda have generated civil war and disrupted the whole of the African Great Lakes region.

What is more, the Fact Finding Mission's report has been unable to tell us the ratio of Hutus and Tutsis in the Rwandan army. This has been certainly due to the fact that ethnic affiliation has been removed from identity cards. The Fact Finding Mission ignores however that Rwandans know each other. We know who is Hutu and who is Tutsi. We therefore know very well that the Rwandan army is almost exclusively Tutsi and that the few Hutu are there by force to just blur the world. It is not very much different from a militia, RPF militia. The feeling in Rwanda and in many Rwandans, which is unfortunately not mentioned in the Fact Finding Mission's report, is "that guy is

not one of ours". Rwandans suspect each other! Observers have indicated that the suppression of political activities, the decisive place of the army in the government, the parliament, justice and civil service and the neutralization of communal, prefecture and national institutions by powerful military secret services proceed from the establishment of a hegemonic, absolute and oppressive regime.<sup>3</sup>

Furthermore, the ethnicization of institutions is a sign of a regime based on exclusion and ethnic discrimination instead of inclusion and equality before the law. In a country where nearly 90% of the population are Hutus and nearly 10% are Tutsis, out of 21 government ministers 13 are Tutsis; the army is overwhelmingly Tutsi; all the councilors at State House are Tutsis; out of 17 principal private secretaries 14 are Tutsis; out of 5 departmental heads in the office of the Prime Minister 3 are Tutsis; out of 18 director generals 16 are Tutsis; out of 60 general managers of parastatals 58 are Tutsis; out of 10 chairpersons and vice-chairpersons of parliamentary commissions 8 are Tutsis; in the local government, out of 11 prefects 8 are Tutsis and all the 143 burgomasters are Tutsis.<sup>4</sup> As one commentator said, "these integrated Hutus are just there to show the donor community that the power is not mono-ethnic".<sup>5</sup> "The lack of a democratic government and a true national army as envisioned in the Arusha Peace Agreement for Rwanda is the main cause of disruption in the region and discrimination in Rwanda. It is also one of the main causes of the insecurity Rwandan refugees fear. I wish an international conference on durable peace and security in the African Great Lakes region and in Rwanda were convened to which genuine representatives of all-important stakeholders would be invited. I think it is only the results of such a conference that would constitute the basis for the Danish and British governments to assert that important "development has occurred in the areas of security and human rights" for the repatriation of refugees. Otherwise, I do not see those steps and I do not see the ground for the Fact Finding Mission to state that there have been developments in the field of human rights.

Indeed, the entire process in Rwanda is flawed.<sup>6</sup> There can be no lasting security and human rights protection as long as the ban on the activities of the political parties is not lifted and political freedom is lacking. The citizens should have the right to elect their leaders at all levels by direct suffrage and secret ballot among candidates presented by political parties or independent candidates. The National Electoral Commission should be really independent. The «no party» electoral system prevailing in Rwanda does not guarantee free and fair competition for political leadership. It is anti-democratic and this has many social, economic and political implications that maintain refugees abroad.

It is morally unacceptable to support and aid the dictatorial regime in Rwanda and Uganda. It is amazing to see that the West did not condemn this «no party» system of elections, as had been the case in other countries, to condition all future aid flows to Rwanda on steps taken on the road to true democracy. It is surprising and indeed unfair to condemn elections in Iraq while paying zero attention to elections in Rwanda as if non-free and unfair local elections were a recipe for the Rwandan problem. It is morally unacceptable to condemn Zimbabwe that allows political parties to present candidates at local, municipal, parliamentary and presidential elections and, at the same time, to keep silence and not condemn the «no-party» system that ban political party activities in Rwanda. Ignoring abuses of civil and political rights associated with the «no-party» dictatorial system put in place

<sup>3</sup>Otherwise, members of opposition parties, or simply Hutus, have been harassed in many ways. Some have been fired from jobs, evicted from their houses and prevented from using public facilities. Others, such as *Sylvestre Kamali* have been arbitrarily arrested for allegedly posing a "threat to the State's security". *Amnesty International report, April 1997*. See also *Rwanda pour tous, Mémorandum sur la crise rwandaise*, Brussels, 24 October 1995, p. 4; Prunier, G., *Rwanda: The Social, Political and Economic Situation*, at 11.

<sup>4</sup>*Rwanda pour tous, Mémorandum sur la crise rwandaise*, at 5.

<sup>5</sup>Kamanda, B., "The RPF Reveals its Image". *Rwandafor*, 25 June 1998. However, nepotism has also divided RPF members and the armed forces. For example, most RPF ambassadors are from the same region of Kibungo prefecture. Examples: Rudasingwa (Washington DC); Kayinamura (UN); Rugema (Israel); Nsenga (London); Karenzi (South Africa); Mukanyange (Tanzania); Karenzi, T. (Burundi). *International Strategic Studies Association, Substantial Movement Toward New Rwanda War, Aug. 9, 1999*.

<sup>6</sup>For more details on the electoral system in Rwanda, see Mathias Sahinkuye, *Human rights and the rule of law in Rwanda: reconstruction of a failed state*, University of Stellenbosch, 2000.

by the RPF in Rwanda undermines the notion of the universality of human rights in the African Great Lakes region and elsewhere and explains why refugees have a fear of being persecuted.

## RPA crimes

According to Article 2 of the statute of the International Criminal Tribunal for Rwanda (ICTR), repeating provisions of the Genocide convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group as such:

(a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) imposing measures intended to prevent births within the group; (e) forcibly transferring children of the group to another group.

In addition, the tribunal, under the terms of Article 3, has wider powers to prosecute individuals guilty of crimes against humanity, which are 'committed as part of a widespread or systematic attack against any civilian population on national, political, ethnic, racial or religious grounds'. Those crimes are: murder, extermination, enslavement, deportation, imprisonment, torture, rape, persecutions on political, racial and religious grounds; and other inhumane acts.<sup>7</sup>

The Chief Prosecutor for the ICTR, Ms. Carla Del Ponte, recently announced that she would seek indictments against some members of the RPA for violating international humanitarian law.<sup>8</sup> Her effort to pursue the worst abuses by both sides to the conflict parallels her work in the former Yugoslavia.

However, on Tuesday 23 July 2002, Carla Del Ponte protested to the U.N. Security Council that the Rwandan government has refused to cooperate with her staff into investigations of alleged crimes committed in 1994 by the Rwandan Patriotic Army (RPA).<sup>9</sup> Despite assurance given by President Paul Kagame to her in the past, no concrete assistance has been provided in response to repeated requests regarding these investigations. She said that tensions have been mounting since December 2001, when she declared her intention to indict an unnamed member of the Rwandan Patriotic Front (RPF) for committing atrocities during the group's march to power in 1994.

In its reply dated 26 July 2002, the RPF-led government opposed the prosecution of its army soldiers and officers by the ICTR, saying such cases should be tried by its national courts. It argued that Rwandan courts had already brought to justice and sentencing members of the RPA who committed abuses. It said also that its army was holding the country together and attempts to indict its officials would fracture the country further.<sup>10</sup>

<sup>7</sup> Res. 955 (1994), 5 November 1994.

<sup>8</sup> In fact, apart from accusing former Rwandan State's authorities of genocide against Tutsis, all reports on which the U.N. Security Council based itself to create the ICTR, accuse the two Rwandan belligerents in 1994, i.e. the RPF and the authorities of the Rwandan State at the time, to have both committed crimes against humanity and war crimes during the period from April 6, 1994 to July 15, 1994. Those reports are namely the preliminary report S/1994/1125 of the U.N. Commission of Experts on the 1994 Rwandan genocide, the report S/1994/1157 (annex I and II) of the Special Rapporteur for Rwanda of the UN Commission on Human Rights and the reports S/1994/924 and S/1994/906 of the U.N. Secretary-General. As the current Rwandan government is under the influence of RPF/RPA suspected war criminals, it cannot prosecute them. To contribute to true national reconciliation and durable peace in Rwanda, the U.N. Security Council and the U.N. Secretary-General, the European Union and the African Union should have taken all effective measures to enable the ICTR to deliver an equitable justice to the Rwandan people by prosecuting not only suspected war criminals who lost but also those who won the 1990-1994 war.

<sup>9</sup> See Statement by the Prosecutor of the ICTR to the United Nations General Assembly Ms Carla Del Ponte, 23 July 2002

<sup>10</sup> Diplomatie Judiciaire, August 2002.

Since January 29, 2001, Kagame's envoys have had regularly visits to the United States of America and Western Europe. While there is a growing conscience in the international community for the prosecution of blood-tainted tyrants who lost power, like the Chilean Gen. Augusto Pinochet, the Ethiopian Colonel Mengistu Haile Mariam, the Chadian Hissein Habre, the Serbian Slobodan Milosevic, etc., those who are in power in Rwanda still enjoy complete impunity and all privileges attached to their status of Heads of State or Government and other envoys. General Paul Kagame and his clique in power are responsible of numerous and still unpunished crimes against peace, war crimes and crimes against humanity committed by his army, the Rwandan Patriotic Army (RPA), in Rwanda since 1 October 1990 and in Congo since August 1996. The impunity of these crimes has given to the current Rwandan rulers a license to kill and to invade neighboring countries at will without fear of prosecution. Since 1 October 1990, more than 2, 000, 000 Rwandan civilians had been systematically massacred by the RPA in Rwanda and Eastern Congo. Until now I do not understand why the U.S, who have in many instances intervened in many countries, and the United Nations could not impose an arms embargo on Rwanda and use their influence to extend the time mandate of the International Criminal Tribunal for Rwanda (ICTR) in order to cover all unpunished crimes against peace, war crimes and crimes against humanity committed and still being committed in the African Great Lakes region since the invasion of Rwanda by the RPA on 1 October 1990.

The Rwandan government has hindered the travel of witnesses, causing the suspension of some genocide trials. It has also failed to provide documents requested by the prosecutor. The prosecutor reported these obstructions to the Security Council but no action has been taken as yet.

The Rwandan government says the tribunal should try only genocide cases and leave any possible prosecution of RPA members to Rwandan courts. It is universally acknowledged that one cannot be judge and party to trial at the same time and we know that a number of refugees are victims of RPA crimes in 1994 and have little chance for justice within the country. In their show trial, the so-called Rwandan military courts mentioned in the Fact Finding Mission's report have tried very few RPA soldiers for 1994 crimes and those convicted have received light sentences. Rwandan authorities also have banned the newly created gacaca or people's courts from trying crimes by RPA soldiers.

Many States have assisted the ICTR in arranging contact with and facilitating the travel of witnesses. Some witnesses had no travel documents and special travel documents were easily arranged. However the ICTR has been experiencing difficulties over the flow of witnesses from Rwanda. The non-appearance of witnesses from Rwanda has disrupted the careful planning of the judicial calendar and is a severe setback to the judicial work.

In June 2002, Trial Chambers I and II drew the attention of the Rwandan Authorities to their statutory obligation to co-operate with the ICTR and facilitate the travel of witnesses so that trials could continue.<sup>11</sup> Despite these requests, witnesses were not sent with the result that the 2 trials had to be adjourned sine die.

On 26 July 2002, the President of the tribunal, Judge Navanethem Pillay, reported this lack of co-operation to the Security Council. She complained that the administrative changes made by the Rwandan Authorities had led to the non-issue or delayed issue of travel documents for Rwandan witnesses and that the Rwandan Government was not observing its obligation to facilitate the appearance of prosecution and defense witnesses. The Rwandan Government appeared to have suspended co-operation with the ICTR and she urged the Security Council to prevail upon the Government of Rwanda to accord good cooperation to the ICTR.<sup>12</sup> The issue of travel of witnesses from Rwanda has not yet been resolved for trials hearing prosecution to be conducted on time.

<sup>11</sup> ICTR Press Release, 19 June 2002.

<sup>12</sup> See Statement by the President of the ICTR to the United Nations General Assembly by Judge Navanethem Pillay, 28 October 2002

Judge Pillay has invited the Minister of Justice and Institutional Relations in Rwanda, Jean De Dieu Mucyo, the President of the Supreme Court of Rwanda, Simeon Rwagasore and Prosecutor General of Rwanda, Gerald Gahima, to observe first hand the judicial proceedings at the ICTR. No one knows whether her invitation will be accepted.

It is also important to mention that suspected war criminals of the FPR/APR who control the Kigali government have until now interpreted the absence of indictments against them by the Office of the Prosecutor of the ICTR for exactions committed before, during and after the genocide in Rwanda from April to July 1994 as a license to kill as they wish. Thus, in 1996, the RPA invaded the DRC in violation of the international law and massacred Rwandan refugees before seizing power in Kinshasa in May 1997 under the disguise of an internal Congolese rebellion. Following these massacres, the United Nations Security Council, in its Presidential Statement S/PRST/1998/20 of 13 July 1998, condemned "*the massacres, other atrocities and violations of international humanitarian law committed in Zaire/Democratic Republic of Congo, and especially its eastern provinces, including crimes against humanity and those other violations described in the Report of the Secretary-General's Investigative Team (S/1998/581)*". In transmitting the report of his Investigative Team in Democratic Republic of Congo to the Security Council, the United Nations Secretary-General, Kofi Annan, revealed that "*the members of the team think that some of the murders can constitute acts of genocide.*" Paradoxically, the authors of numerous crimes against peace and humanity, war crimes and genocide live quietly in Kigali with no concern of the international community. This situation is morally unacceptable and cannot last forever. In similar cases in other countries, the U.N. Secretary-General and Security Council, the European Union and the African Union would have taken special action with a view to putting an end to impunity of suspected war criminals on power.

The most disturbing story is that those in power in Kigali are walking free while their adversaries are detained and/or being hunted! Each side knows who did what and when.

Indeed, on the basis of the preliminary report S/1994/1125 of the impartial Commission of Experts, the U.N. Security Council created the International Criminal Tribunal for Rwanda (ICTR) by its resolution 955 of 8 November 1994. The Commission of Experts concluded in its preliminary report S/1994/1125 and final report S/1994/1405 that "*individuals from both sides to the armed conflict in Rwanda during the period from 6 April 1994 to 15 July 1994 perpetrated serious breaches of international humanitarian law, in particular of obligations set forth in Article 3 common to the four Geneva Conventions and relating to the protection of victims of non-international armed conflicts of 8 June 1977*" and that "*ample evidence indicates that individuals from both sides to the armed conflict perpetrated crimes against humanity*". The Special Rapporteur of the U.N. Commission on Human Rights on the situation of human rights in Rwanda, Mr. René Degni Segui, identified the then "*Rwandan State authorities*" overthrown by the RPA in July 1994 and the "*RPF organs, particularly those in charge of military operations*" as the perpetrators of those crimes. While the ICTR is being criticized for not having tried enough Hutus responsible for genocide and other crimes against humanity, no single element within the Rwandan Patriotic Front (RPF) or its armed wing, RPA, has yet been indicted or tried.

On 19 February 1993, the academic and administrative staff of the University of Rwanda appealed to the UN Secretary General, the Pope and several Western powers to convince the RPF to stop the "genocide" against Hutus in the areas it had conquered. They reported 48,500 people massacred.<sup>13</sup> The letter received no answer.<sup>14</sup> In 1992, a Rwandan human rights organization, *Association pour la Défense des Droits et Libertés* (ADL) had

<sup>13</sup>According to the letter, "... nous assistons avec impuissance à un génocide des milliers de civils innocents dans les préfectures de Ruhengeri et Byumba dont les estimations s'élèvent à 48,500 répartis comme suit: RUHENGARI: Kinigi (3,000 personnes); Kigombe (9,000 personnes); Nkumba (3,500 personnes); Kidaho (5,000 personnes); Butaro (7,000 personnes); Cyeru (2,500 personnes); Nyamugali (2,500 personnes); BYUMBA: Tumba (2,000 personnes); Kivuye (1,900 personnes); Muvumba (3,000 personnes); Cyumba (1,500 personnes); Cyungo (900 personnes); Kiyombe (700 personnes); Sous-préfecture de Ngarama: 6,000 personnes. *Letter entitled 'Dénonciation du Génocide perpétré par le FPR au Rwanda', Université Nationale du Rwanda, Butare, 19 February 1993.*

<sup>14</sup> This was confirmed by 5 of the signatories that the author interviewed. For their own security, their names are not mentioned here.

already published a list of 790 victims of the attacks by RPF<sup>15</sup> and *Grupo Solidaridad* had mentioned that RPF was committing "genocide" against Hutus<sup>16</sup>. *Human Rights Watch* confirmed the killings<sup>17</sup> and Amnesty International specified that the RPF invited people at several occasions since 1991 through July 1994 to a 'pacification meeting' and gunned them as they were gathered. Corroborating *Refugee International*, *Amnesty International* indicated that RPF had deliberately killed people since April through August 1994 in *Kigarama, Nyamugali, Gisenyi, Nyarubuye, Rushinga, Musasa, and all Rusumo*.<sup>18</sup>

Priests refugees in *Goma* affirmed in a letter dated August 2, 1994, addressed to *Pope John Paul II*, that the RPF targeted "particularly Hutu intellectuals but also killed people who did not know how to read and write".<sup>19</sup>

In August 1994, the UN Secretary-General, *Boutros-Boutros Ghali*, opposed the *Gersony* findings that established crimes perpetrated by the RPF.<sup>20</sup> Thus, the document was embargoed and was simply shelved.<sup>21</sup>

On December 9, 1994, the UN Secretary-General transmitted to the Security Council a report of the Commission of Experts that concluded, *inter alia*, that "crimes against humanity and serious violations of international humanitarian law were committed by individuals of both sides of the conflict". He recommended that "an international tribunal should be established and that investigation of violations of international humanitarian law and of human rights law attributed to the Rwandan Patriotic Front be continued by the Prosecutor of the ICTR".<sup>22</sup>

On 27 February 1996, *Libération* established the "responsibility of the RPF for killing over 100,000 Hutu within 22 months since it had seized power".<sup>23</sup>

In October 1997, Human Rights Watch reported that the RPA had gone to the DRC where its soldiers proceeded to a systematic selection of Rwandan Hutu refugees that resulted in young men, former military or militia, former members of government, and intellectuals being selected for execution.<sup>24</sup> Rwandan Vice-President, Minister of

<sup>15</sup>Desouter and Reyntjens, *Les Violations des droits de l'homme par le FPR/APR*, 1995.

<sup>16</sup>See also Africa Rights, Report, September 1994; HRW/Africa, *Rwanda: A New Catastrophe?*, December 1994.

<sup>17</sup>Human Rights Watch/Africa, *Communiqué Immédiat*, 6 June 1994.

<sup>18</sup>Amnesty International, *Rwanda: Report of killings and abductions by the Rwandan Patriotic Army*, April-August, 1994, 20 October 1994.

<sup>19</sup>The author is in possession of a copy of the letter.

<sup>20</sup>After the RPF victory, the UNHCR sent a three-person mission headed by *Robert Gersony* to find ways to speed the repatriation of the over two million refugees who had fled the country since April 1994. They became convinced in the course of the work that the RPF had engaged in "clearly systematic murders and persecution of the Hutu population in certain parts of the country." *Haut Commissariat des Nations Unies pour les réfugiés*, "Note, *La Situation au Rwanda*," *Confidentiel*, September 23, 1994, p. 4. Although few in number and pressed for time, the team covered more of RPF territory and spoke to a wider number and variety of witnesses than any other foreigners working in Rwanda during this period. They were permitted to travel freely by the RPF, which may have expected the results of their work to support their efforts to bring the refugees home. From August 1 through September 5, the team visited ninety-one sites in forty-one of the 145 communes of Rwanda and gathered detailed information about ten others. In these places, as well as in nine refugee camps in surrounding countries, they conducted more than two hundred individual interviews and another one hundred discussions with small groups. They found the information provided by witnesses detailed and convincing and they confirmed the most important parts of accounts by independent sources in other camps or inside Rwanda. *Ibid.*, pp. 1-2. In the northwest, they gathered data on an alleged RPF massacre on August 2 of some 150 persons who had been trying to return to Rwanda from Zaire and they noted systematic and arbitrary arrests and "disappearances" of adult men in the prefecture of Gisenyi. But their harshest criticism dealt with the prefectures of the south and southeast: *Butare*, part of *Kigali*, and *Kibungo*, particularly those communes adjacent to the border. They reported massacres following meetings convoked by the authorities, and the hunting down and murder of people in hiding. They also reported ambushes and massacres of persons trying to flee across the border to Burundi. They stated that the victims were killed indiscriminately, with women, children, the elderly, and the handicapped being targeted, as well as men. They concluded that "the great majority of these killings had apparently not been motivated by any suspicion whatsoever of personal participation by victims in the massacres of Tutsi in April 1994." *Ibid.*, p. 3. They added that in some cases, repatriated Tutsi refugees had joined the RPF in attacking local Hutu. They stated that during the last week of August and the first week of September, some five bodies a day on the average had been pulled from the Akagera River, many of them with their hands and feet bound. *Ibid.*, p. 3. See also Desouter and Reyntjens, *Les Violations des droits de l'homme par le FPR/APR*, 1995, at 6; *La Lettre du RDR*, No. 6-7, 1-15 April 1996, p. 1.

<sup>21</sup>Nsengiyaremye, *The unknown tragedy*, at 120.

<sup>22</sup>*United Nations and the Situation in Rwanda*, at 19.

<sup>23</sup>*Libération*, 27 February 1996, quoted in *La Lettre du RDR*, Nos. 6-7, 1-5 April 1996, front page.

<sup>24</sup>Human Rights Watch/Africa and Fédération Internationale des Droits de l'Homme, October 1997, Vol. 9, No. 5 (A), p. 14.



Defense and President of the RPF, *Paul Kagame*, had earlier confirmed that his troops were "operating" in Congo<sup>25</sup> and, later, reports stated that about 200,000 Hutus were killed in the DRC.<sup>26</sup> In this regard, Human Rights Watch listed a number of alleged war crimes and crimes against humanity committed between October 1996 and May 1997. It accused the Rwandan Patriotic Army of having carried out massive killings of civilian Rwandan refugees camped in the former Zaire and the international community, including the United Nations, of having "deliberately turned a blind eye to the killings in Rwanda and the DRC". It "urged the international community to desist from glossing over human rights abuses in both Rwanda and the DRC but to ensure that all the culprits account for their atrocities". For those atrocities committed after 1994, it even suggested that the powers of the ICTR be extended to cover those who committed similar atrocities in the neighboring DRC.<sup>27</sup>

In September 1997, it was reported that "Rwandan Intelligence agents", in connection with certain Zambian immigration and police officers, were "abducting Hutus in Zambia".<sup>28</sup> Frustrated, a number of refugees fled Zambia to seek asylum in other countries.

In its Presidential Statement,<sup>29</sup> the U.N. Security Council condemned "the massacres, other atrocities and violations of international humanitarian law committed in Zaire/Democratic Republic of Congo, and especially its eastern provinces, including crimes against humanity and those other violations described in the Report of the Secretary-General's Investigative Team"<sup>30</sup>. More than 200,000 Rwandan Hutu refugees in Eastern and dozen thousands of Congolese civilians had been butchered in cold blood in 1996-1997 by military units of the RPA allied to the forces of the Alliance of Democratic Forces for the Liberation of Congo (ADFL) which overthrew the dictatorial regime of late President Mobutu in May 1997. The Secretary-General's Investigative Team in DRC had documented only some of these crimes because it was not allowed to carry out its mission fully and without hindrance. The Security Council requested the Governments of the DRC and Rwanda to provide, before 15 October 1998, an initial progress report to the Secretary-General on the steps taken by them to investigate and prosecute those responsible for these massacres, atrocities and violations of international humanitarian law. This deadline had not been met. Until now, no single military officer or political leader has been punished for the killings of Hutu refugees.

Instead of trying to understand what happened, the UN limited the Tribunal's competence to events immediately preceding or following the Rwandan genocide, which inappropriately undermines the scope of complicity and prosecution of other crimes against humanity that should be explored. As only Hutus are subjected to criminal trials, one has reason to fear that the ICTR will not achieve what it is supposed to do, which is, to contribute "to the process of national reconciliation and to the restoration and maintenance of peace".<sup>31</sup> It is feared that justice will not be seen to be done, that the process will be viewed as partisan and that it will not be able to contribute to stability.<sup>32</sup> Many refugees have the opinion that by prosecuting one side of the conflict, the ICTR is conducting a "show trial"<sup>33</sup> which, to a certain extent, supports those Tutsis in the army and probably in government, who are walking free despite their responsibility in the massacres. "There will be no faintest glimmer of reconciliation as one party is [demonized] while the other is cherished by the UN [who is] supposed to safeguard peace and security in the world".<sup>34</sup>

<sup>25</sup>John Pomfret, 'Rwandans Led Revolt in Congo', Washington Post, July 9, 1997.

<sup>26</sup>See for example Matata, Une épuration ethnique en République Démocratique du Congo, CLIR, May, 1998; GEAPO, Rwanda: Quel Avenir?, Kivu, February 1998.

<sup>27</sup>PANA, 15 March 1998. For acts committed in 1994, the DRC should be covered as a "neighbouring State".

<sup>28</sup>The Post, No. 815, Tuesday, September 23, 1997; Amnesty International, Urgent Action, September 1997.

<sup>29</sup>Statement S/PRST/1998/20 of 13 July 1998.

<sup>30</sup>UNSC, S/1998/581

<sup>31</sup>Res. 955 (1994) of 8 November 1994, Preamble.

<sup>32</sup>See Johan Scheers, quoted in Agence France Presse, 12 September 1997.

<sup>33</sup>See discussions on Rwandanet, 1996-May 1999.

<sup>34</sup>Id.

It is the continuous prevalence of impunity that has encouraged the leaders of the RPF/RPA to perpetrate crimes against humanity, war crimes and acts of genocide in Rwanda and DRC without fear of prosecution. It has consolidated the power and the wealth of criminal elements within the RPF-led dictatorial regime. After the Security Council's Presidential Statement S/PRST/1998/20 of 13 July 2001, the then Congolese President, H.E. Mr. Laurent Desire Kabila, decided on 27 July 1998 to send back home Rwandan military advisers and ordered all foreign troops out of the Congolese territory. Considering the DRC as their Ali Baba's cave, Rwandan military advisers refused to leave Congo when ordered to do so. A week later, on 2 August 1998, Rwandan and Ugandan armies invaded the DRC. The report of the Expert Panel on the Illegal Exploitation of Natural Resources and Other Forms of Wealth in the DRC<sup>35</sup> transmitted by the Secretary-General to the President of the Security Council on 12 April 2001 accuses Rwanda, Uganda, Burundi and Congolese rebel groups of plundering DRC's wealth to finance war and the continuation of grave human rights abuses.

At many occasions, Major-General Paul Kagame, claimed that the Rwandan government had planned and led the military campaign that dispersed the refugee camps in Eastern Congo and ousted former President Mobutu. The impetus for the war, Kagame said, was the Hutu refugee camps. As said earlier, more than 200000 Rwandan Hutu refugees have been massacred in Democratic Republic of Congo by the Rwandan Patriotic Army since 1996. During this period of massacres, Colonel James Kabarebe has been a powerful commander and, under orders of Kagame, a principal strategist for the massacres. There are survivors in the refugee community who report that he ordered and supervised the massacres of more than 200000 Hutu refugees in Congo.<sup>36</sup>

These war crimes, crimes against humanity and acts of genocide have been well documented by the London-based Amnesty International in its numerous reports and press releases since 1996, United Nations Commission on Human Rights in its report entitled «*Rapport sur les allégations de massacres et autres atteintes aux droits de l'homme ayant eu lieu à l'est du Zaïre (actuellement République Démocratique du Congo) depuis septembre 1996*»<sup>37</sup> released on 23 January 1998, by the United Nations Secretariat in its report entitled «*Report of the Secretary-General's Investigative Team*» (S/1998/581), by the New York-based Human Rights Watch in its report entitled «*Democratic Republic of Congo - What Kabila is Hiding : Civilian Killings and Impunity in Congo*» released in October 1997, by the Montreal-based International Center for Human Rights and Democratic Development in its report entitled «*International Non-Governmental Commission of inquiry into the massive violations of Human Rights committed in the Democratic Republic of Congo (former Zaire) 1996-1997*» released in June 1998. In its Presidential Statement of 13 July 1998, the United Nations Security Council condemned these crimes and urged the governments of Rwanda and Democratic Republic of Congo to prosecute those responsible.

However, the Kigali government is trying to create confusion in international community in order to shield from international justice high-ranking officers of the RPA suspected of war crimes and crimes against humanity. Most of RPA members tried and sentenced in Rwandan courts are RPA rank and file soldiers and they have not been tried for war crimes or crimes against humanity. The Fact Finding Mission's report does not show any assurance about the continuing prevalence of impunity and promotion of suspected war criminals in top military and government posts in Rwanda while refugees regard this situation as conducive to more future violence.

On February 18, 2000, the government of Rwanda appointed Colonel James Kabarebe, believed by many refugees to have masterminded and let mass killings of thousands of refugees in the Democratic Republic of Congo, as deputy chief of staff of the Rwandan Patriotic Army (RPA). He replaces Colonel Frank Mugambage appointed as the head of the newly created National Police force. The government also appointed Brigadier-General Marcel Gatsinzi, chief of staff of the Gendarmerie, and Lieutenant-Colonel Patrick Karegeya, director of the External Security Organization (ESO), respectively as general secretary and deputy of the newly created State Security Council. These figures are also known to have committed numbers of human rights abuses. Instead of

<sup>35</sup> UNSC, S/2001/357

<sup>36</sup> Interview with refugees, Sept. 2001 and August 2002.

<sup>37</sup> UNCHR, E/CN.4/1998/64.

being brought to justice, they are not only enjoying complete impunity in Rwanda but also being promoted and rewarded top military and government posts.

When the UN Security Council created the ICTR, it gave it primacy over the national courts of all States. All other States, including Denmark, have transferred to the ICTR detention center in Arusha, Tanzania, indicted persons found on their territories. The Rwandan State should not be an exception. I believe that the transfer to Arusha of all persons indicted by the ICTR inside Rwanda will clean up Rwandan State institutions of suspected war criminals and contribute to true national reconciliation and durable peace and that refugees will go back with assurance of security and human rights protection.

In order to put an end to the culture of impunity plaguing Rwanda and the African Great Lakes region, my submission is that the U.N. Security Council and General Secretariat should have acted:

- ◆ to create an independent commission of inquiry with sufficient resources in order to complete the report of the Secretary General's Investigative Team (S/1998/581) by collecting all relevant information on individual and command responsibilities for the massacres of Rwandan Hutu refugees and other violations of international humanitarian law committed in DRC;

- ◆ to extend the mandate of the already existing International Criminal Tribunal for Rwanda (ICTR) in order to prosecute the persons responsible for the crimes against humanity, acts of genocide and other violations of the international law committed in Rwanda and in the DRC after 31 December 1994 or, alternatively, to create an ad hoc International Criminal Tribunal for the DRC.

Emphasis is to be put on the fact that there are many people among the refugee community who have survived those atrocities and are ready to testify before those international institutions. There are many people in Rwanda as well but, as the Fact Finding Mission's report recognizes it, they cannot dare speak out as long as they remain caught in RPF's stranglehold. International tight protection is therefore needed.

## Gacaca

I personally do not believe that the special jurisdictions «gacaca» set up in Rwanda and mentioned in the Fact Finding Mission's report will deliver justice and reconciliation to rwandans. Concerns that *gacaca* is seriously flawed and that most aspects of the tribunals fall short of international standards of fairness have remained unaddressed. There is no provision for legal counsel for the accused. There are serious questions regarding the legal competence, partiality and independence of the elected judges, and fears that pressure groups would subvert the communal debate supposed to determine the innocence or guilt of genocide suspects.

Gacaca, which some call mob courts<sup>38</sup> have received funding from governments and organizations believing that it is a solution to the overcrowding of state prisons.

Traditionally, the «gacaca» courts in Rwanda are voluntarily used by two parties who agree on the person who will hear their case and reconcile them by settling their civil disputes out of ordinary courts. The proposed «gacaca» are government-run courts imposed on the parties, headed by non-democratically elected judges with no qualification in law, empowered to hear these serious criminal matters as crimes against humanity and to impose jail terms, have nothing traditional at all and constitute a mockery of justice. The institution of special government-run «gacaca» courts violates the principles 2, 5, and 10 of the U.N. Basic Principles on the Independence of the Judiciary. In particular, principle 5 states that: "Everyone shall have the right to be tried by ordinary courts or

<sup>38</sup> RDR, Communiqué de Presse, 15 May 2002

*tribunals using established legal procedures. Tribunals that do not use the duly established procedures of the legal process shall not be created to displace the jurisdiction belonging to the ordinary courts or judicial tribunals.*" The state-run «gacaca» courts also violate the right of the accused to have a fair trial before a competent, independent and impartial tribunal as recognized by the articles 10 and 11 of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights.

Since the RPF assumed power in July 1994, violations of the principles of the equality before the law and of the presumption of innocence, the hindrance of the right to be tried without undue delay and the right to a fair and public hearing by a competent, independent and impartial tribunal have become the general rule. The overcrowding of state prisons resulted from the massive arbitrary arrests and prolonged illegal detentions of the citizens, a number of whom are political prisoners and persons whose properties are illegally occupied by RPF members and sympathizers. By the end of 1998, more than 5,000 detainees had already died in state prisons and about 150,000 are languishing in jails since 1994. In 2002, we receive reports on people disappearing in prisons and whose whereabouts remain unaccounted for. In November 1997, the Justice Ministry said it cost \$10 million per year to keep prisoners in detention and revealed in early 1998 that the minors, elders, prisoners with incurable diseases and those without complete case files were to be released. Whereas the start of release of prisoners arbitrarily arrested and illegally detained was a good step in the right direction, a campaign of intimidation and terror raged by IBUKA, a genocide survivors' association, halted all the releases. Bowing to pressures from IBUKA, the government appointed Jean de Dieu Mucyo, himself a genocide survivor, as minister of justice. The «gacaca» courts proposed by his department give the accusers all the power to prosecute themselves the accused.

In 1995, the RPF first appealed for foreign magistrates to help resurrect the legal system and many countries and NGOs pledged to offer competent legal personnel. However, the government later rejected all offers. Put in need to deliver its supporters a substantial number of guilty verdicts, the government solicited bilateral funding to train its sympathizers for the various roles required. In January 1996, the government-appointed parliament voted the relaxation of the requirement that magistrates in the Appeal Court have a law degree. On September 28, 1996, 20 Supreme Court judges, 29 Appeal Court judges and 200 public prosecutors and magistrates were sworn in after having had around six months legal training only. Most of the trials have been characteristically short, with no defense lawyers present, few if any witnesses called, little cross-examination and speedy sentencing by incompetent judges with inappropriate training or qualification in law. Under state-run «gacaca» courts, trials will be particularly unfair than it already is in ordinary courts.

Since the RPF has continuously ignored all appeals for the respect of citizens' rights and freedoms, why should not all democratic countries, the United Nations, the European Union, the Organization of the African Unity, all human rights organizations and freedom-loving people use all their influence and power to secure the release of all prisoners arbitrarily arrested and illegally detained for years in nazi-style state prisons by the RPF-led dictatorial government? There can't be true peace in Rwanda without justice and there can't be justice without true democratic institutions with an abiding culture of human rights.

### **Arbitrary arrest and detention**

I will not comment on the detention of political and human rights activists in Rwanda since interviews done by the Fact Finding Mission are self-explanatory. The only issue I would like to clarify is that the RPF regime accuses outspoken Rwandans of calling for civil disobedience and division among the Rwandan people, and threatening state security. However, I think that faced with the tyrannical regime of Mr Paul Kagame, repressive and destructive of liberty, civil disobedience is in fact a duty for every Rwandan patriot. As regards the allegation of preaching division among Rwandans, the fact that those outspoken people recognize the existence of the Hutu, Tutsi and Twa communities composing the Rwandan society is not at all preaching division among the Rwandan people; it is indeed affirming a human reality that Rwanda cannot hide to the world. Why should we hide our ethnic

division? The denial of the Rwandan community diversity by the RPF regime is intended to hide its exclusion and discrimination policy that has ended up by concentrating all the political, economic and military power in the hands of a handful Tutsi extremists. Concerning the allegation of threat to state security, this is paranoia. Mr Paul Kagame and his clique are fearing that more and more Rwandans could begin to liberate themselves from the fear of death and that the policy of terror don't influence their behavior any longer. They then fear that the masses imitate them!

Besides, who can predict the fate of the many thousands of forcefully recruited Rwandan Hutu detainees and minors who work as slaves in Congo's mines to extract gold, diamond, copper, coltan and other minerals in territories controlled by the Rwandan-backed Goma-based rebel movement Congolese Rally for Democracy (RCD)? They work hard unpaid in worst unsafe work conditions. Many prisoners have died from exhaustion and fatal accidents in these unsafe mines are frequent while arrests have been carried out in Rwanda to fill the gap in prisons so that an international human rights observer finds the same number of inmates as the one officially known. They have been housed in numerous miserable NAZI-like concentration camps around mines in Bunia, Walikale, Sarambila, Shabunda and other areas. I believe these people, if still alive, will not be able to speak out the way they have been treated in order to get compensation simply because the RPF is strong enough to shut them up. Many of the refugees detain, however, enough evidence to incriminate the concerned.

Many other thousands of Hutu detainees and minors have been forcefully conscripted in the Rwandan army. After a brief military training for fifteen days, they have been given Rwandan military uniforms and sent directly to front lines deep in Congo's jungle. Others have been integrated in special units commanded by senior RPA's Tutsi officers charged with the task of hunting down Rwandan Hutu refugees or self-defense armed Congolese groups Mayi Mayi, with the aim of causing maximum confusion as well as the maximum of casualties since their operations cannot easily be detected or identified as being under the RPA command. Others have been used by the Rwandan government in its propaganda campaigns to cover up many massacres of civilians actually carried out by the Rwandan army to punish the local population for lack of support but quickly blamed on their enemies. To justify illegal occupation of Congo by the Rwandan army and prolong the exploitation of its abundant natural resources, Rwandan Hutu prisoners have been given civilian clothes, disguised as Interahamwe and paraded by the Rwandan army as captured Interahamwe or ex-FAR (former Rwandan government's soldiers) blamed for all civilian massacres in Congo while no independent investigation has been allowed. In all these clandestine operations, Hutu prisoners and children died en masse. The death rate for them is alarmingly high (but unfortunately no known to the Western world) and incoming new recruits know they have little chance of getting out of Congo alive. Concurrently to these risks, they all face the risk of extermination when the RPA will no longer need them.

Despite the officially declared withdrawal of the RPA from the DRC following the agreement signed by Kagame and Kabila, we receive reports on the return of the RPA soldiers to the DRC dressed in civilian. The question then is to know whether they had withdrawn with their equipment. There is growing evidence on stocks of arms left in the Congo. Reliable sources in Kigali also report that a group of extremists in RPA have planned to exterminate all Rwandan Hutu prisoners and children sent to Congo in order to suppress any testimony on the massacres. It should be noted that many of the Rwandans living abroad have relatives in those targeted groups and this means, according to the culture of shared responsibility, that these refugees are also targets of the RPA and its intelligence forces. There is risk of genocide and I do not see any preventive measures.

### **Genocide versus politics**

Furthermore, the Fact Finding Mission's Report does not elaborate upon the exploitation of the 1994 Rwandan genocide for political ends.

In order to suppress any political opposition to its tyrannical regime and to justify crimes committed by its militia, the Rwandan Patriotic Army (RPA), in Rwanda since October 1990 and in the Democratic Republic of Congo (DRC) since August 1996, the RPF has a rampant policy of making the 1994 genocide an asset. This exploitation appears in:

a) the arbitrary lists of alleged category 1 genocide suspects

The Rwandan Patriotic Front (RPF) issued in January 1994 a list of 210 persons to be killed by RPA and many of them (e.g. Felicien Gatabazi, leader of the party PSD, Martin Bucyana, President of the party CDR, etc.) had indeed been allegedly assassinated by RPF's death squads before April 1994. Others were killed later. The assassination of President Juvenal Habyarimana on 6 April 1994 sparked the genocide. Evidence is growing that incriminates RPF top leaders for that crime and those who detain it may be at risk if repatriated.<sup>39</sup> After its seizure of power in July 1994, the RPF-led dictatorial regime published in the *Official Gazette* of 30 November 1996 a list of 1946 names of alleged category one genocide suspects. A second version of the list with 2133 names was issued in January 2000. By comparison to the first list, 643 names had been withdrawn and replaced by 830 new ones. A third version of the list with 2898 names was issued in March 2001. The Rwandan government regularly adjusts its list to changes in the Rwandan political arena in order to suppress any political opposition to its dictatorship and bad governance as well as to silence any one who is believed to have some knowledge of what the RPF have done. The genocide of Tutsis is exploited by the RPF as a political weapon to disqualify any person or political party (allied or in opposition) contesting its political choices or leadership, as well as anyone willing to tell the story on the Rwandan tragedy.

Here are just few illustrative examples of the RPF's political exploitation of the Rwandan genocide: One finds on these lists former collaborators of the RPF who quit it and exiled themselves (e.g., Pierre-Celestin Rwigema, minister of education from July 1994 to August 1995 and Prime Minister from August 1995 to January 2000, Brigadier Leonidas Rusatira, ex-RPA officer, Barahinyura Shyirambere Jean, ex-RPF Commissioner for documentation, etc.) or deceased persons (e.g., President Juvenal Habyarimana, Pasteur Musabe (assassinated in Cameroon), etc.). The Catholic bishop Augustin Misago, judged and found innocent in Rwanda in 2000, appears again on the new list. By contrast, persons who were on the old lists and whose loyalty to RPF is no longer questioned were withdrawn from the new list (e.g., Boniface Rucagu, provincial governor of Ruhengeri, etc.) or are maintained on the list for later blackmailing. The Rwandan government often uses the genocide of Tutsis to carry false criminal charges against any person it seeks extradition to Rwanda. That is why the language is "you do not want to come to Rwanda, so you are 'genocidaire'" instead of "if you want to live outside Rwanda, go to the consulate, get a passport and be an expatriate, not a refugee" stated in the Fact Finding Mission's Report by "a western embassy (B)". I wonder whether this diplomat, praising the Rwandan government to have 'changed' its 'attitude' is aware of the RPF's "strategy a long term" aiming at reducing to their strict minimum those 'talkative' and 'want-to-know' Hutus and Tutsis. I think it is rather the 'tactic' (some can call it 'strategy') that has changed.

b) The refusal of aid and burial with dignity to non-Tutsi victims and to some Tutsi victims

Since 1995, on 7 April of each year, the Rwandan government exhumes and recovers the rests of Tutsi victims from some sites of massacres and reserve, for unspecified period, other sites of massacres for its future ceremonies of commemoration of the genocide. Some rests of alleged Tutsis victims of genocide are sent by the authorities to museums to be exposed there to visitors while others are buried with dignity. My worry is that Hutus or Twas victims of massacres and atrocities committed by RPA, Interahamwe or other militias are not recognized by the authorities and are denied burial with dignity. What is more, no assistance is provided to Hutu or Twas survivors or to the families of Hutus or Twas victims. Only some Tutsis have the right to mourning, burial with

<sup>39</sup> For details about Habyarimana death, see Charles Onana, *Les secrets du génocide rwandais, Enquête sur les mystères d'un président*, Editions Minsi, Paris, 1999.

dignity and assistance. Other Rwandan victims or survivors are denied these rights; the current government denies them assistance and justice. As many of Rwandan refugees have lost their loved ones, I cannot imagine how one can return and live in silence facing that discrimination! Before which court of law could one claim his rights in this regard? Hearings are public, any way!

### c) The culpabilization of the international community

To attract compassion from world opinion and enjoy impunity for their crimes, the RPF leaders blame the international community to have failed to prevent the 1994 Rwandan genocide and portray their dictatorial regime as the political regime of survivors of genocide. I know well the shortcomings of the UN in the Rwandan conflict as well as in the world and I will not insist on this. However, it is important to point out that fearing that any armed United Nations (U.N.) force might prevent them from seizing power by force in Rwanda, RPF leaders warned the U.N. to stay out of the war in Rwanda during the 1994 genocide. On 13 May 1994, Denis Polisi, then RPF deputy vice-president, declared to the BBC that "Should the (UN) force come in between the two warring sides then it will be treated as an enemy force and will be engaged". According to the British newspaper *The Guardian* of 23 May 1994, Theogene Rudasingwa, then RPF Secretary-General told a news conference in Nairobi that "Africans know what they need. We don't accept that a foreign force can come to Rwanda and establish law and order". In fact, the RPF's actions and statements incited many countries not to provide troops for the U.N. mission in Rwanda during the 1994 genocide. General Paul Kagame praises himself as having stopped the genocide and maintain the spectrum of a second genocide in order to portray himself as a legendary hero, savior and protector of the Tutsi community from the final solution. He exploits the Rwandan genocide not only to justify brutal repression of political opposition and the invasion of DR Congo by his army, the RPA, but also to frighten and threaten Tutsis into submission to his will. And a number of Tutsis are persecuted in Rwanda and have strong ground for asylum.

Genocide has become an annual ritual of an ambiguous, humiliating and revolting commemoration. Each year after the genocide, the RPF celebrates its victory achieved in bloodshed and consternation. Accession to power to be saluted or awareness of a collective ruination or even collective suicide? This question is but embarrassing for the RPF and its internal and external allies who are holding a power under perfusion. In any case, it is neither democracy, nor national reconciliation that are celebrated, but a minority regime to which a war of aggression gave birth in pain and for which reconciliation is a "mission impossible".

It has been seven years (1995-2002) that the RPF regime celebrates the Tutsi genocide anniversary, and to a lesser extent, that of the "Hutu moderates". This commemoration has become a custom, not to honor the memory of all that have disappeared but only that of some victims of human barbarity. It is becoming more and more a ritual, I would rather say a culture used in Rwandan politics. It is of course an historic fact of sad and paining memory. But it is not less than a subject of extreme sensibility for certain people and an irritating subject for others. In fact no hope followed the aggression war. Rather, more than ever, Hutu and Tutsi look at each other in personified evil for many reasons.

Each celebration leaves to one side the bitterness of an unprepared destruction and to the other side the feeling of guiltiness imposed on them. It is a deleterious climate in which, each year, the ardent desire of reconciliation and the forced "mea culpa" find each other, turning the back to each other, with politics in the middle. Each year, the preached national unity gets more damaged. Time deepens the wounds instead of curing them.

The memory as celebrated, does not respond to any ideal and does not give satisfaction to many Rwandans. Hutus and Tutsis who were in armed conflict yesterday are still in ideological war. The word "genocide" and elastic figures of massacred Tutsis correspond to a hypothesis of a political combat serving RPF power rather than to a political will to exorcise the evils. In order to maintain itself on power, the RPF divides instead of uniting Rwandans. Hutus and Tutsis who face this reality live separated and categorized in "presumed guilty", "Tutsis survival of the genocide" and "Hutus survivors of massacres". These words are not sufficient to heal the evils! The said guilt

people are the majority Hutus who are excluded from the management of public affairs. Any attempt to united Rwandans is repulsed in that ideological war which pivots around the said human tragedy. It is mostly this ideological war that hinders refugees from going back home, fearing the subsequent persecutions.

It is my submission that the genocide annual commemoration remains ambiguous, humiliating and revolting. It cannot contribute to any effort for solidarity enabling Rwandans to face together that fatality. In fact Rwanda, its neighbors and the whole humanity have only two Manichean symbols before them. On one side, we have liberators who "halted the genocide". This genocide, according to the liberators, has, paradoxically, taken place. This ambiguity, this amalgam, leads the RPF and its leaders not to success but to illusion on the result. Indeed, channeling the hostility and the inquisitions to the only "Hutu presumed guilty", these people condemned to elimination by all possible just or unjust means is likely to rebound on RPF leaders. But be it as it may, this cynic game cuts the future for Rwandans.

Before repatriating Rwandan refugees, international action should be coordinated in order to restore durable peace in Rwanda and the African Great Lakes region, and that recommendations should be made:

- ◆ to all governments to reject and not legitimate the Rwandan government's lists of genocide suspects, to carry out their own independent investigations and to transfer the suspects to the International Criminal Tribunal for Rwanda (ICTR) or to judge them themselves instead of sending them to death and torture in Rwanda.
- ◆ to the U.N. Secretary-General, the President of the U.N. Security Council, the Chief Prosecutor at the ICTR, and countries and human rights organizations to take all necessary measures to bring also to justice RPF/RPA leaders responsible of war crimes, crimes against humanity and acts of genocide committed in Rwanda and in DRC.
- ◆ to the United Nations, Organization of African Unity, European Union and great powers to organize an International Conference on Peace and Security in the Great Lakes to which governments of the region and their political oppositions, including refugees, would be invited to find political solutions to their conflicts by dialogue and negotiation.

## Terrorism

Another most striking information which does not appear in the Fact Finding Mission's report is the role played by Rwandan military leaders in international terrorism. On Sunday, December 30, 2001, the *Washington Post* published on page A01 an article with the title «*Digging up Congo's Dirty Germs. Officials Say Diamond Trade Funds Radical Islamic Groups*». According to the article, "authorities in Antwerp – where more than 90 percent of the world diamonds are bought, sold, polished or cut – estimate that about \$600 million in diamonds are exported annually from Congo but that only about \$180 million worth of the stones are exported legally." On Monday, February 11, 2002, the Belgian daily *Le Soir* published an article in French with the title "*Les talibans armés au départ d'Ostende*". The article reveals the existence of a file in the Belgian Military Intelligence Service (SGR) on the arms dealer Mr. Victor Anatolievitch Bout, former member of the Russian Special Forces. According to the file and the article, Mr. Victor Bout had supplied around 40 tons of arms worth \$ 50 millions to talibans in 1996. Four Bulgarians linked to him had already been arrested in Belgium on Friday, February 8, 2002. Mr. Victor Bout is alleged to be hiding in Kigali, Rwanda.

Mr. Victor Bout is cited in United Nations reports among the main sanctions busters who supplied arms to the National Union for the Total Independence of Angola (UNITA) and the Revolutionary United Front in Sierra Leone in violation of UN arms and gems embargoes on the two rebel groups. The weapons are paid back with diamonds, gold, timber and other natural resources. The Rwandan General James Kabarebe and other RPF/RPA leaders in the inner circle of the Rwandan dictator General Paul Kagame are associated with Victor Bout in the plundering of Congolese natural resources and other forms of wealth. This is particularly corroborated by many witnesses and



confirmed by the «UN Report on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo», New York, 12 April 2001, § 91:

"First, Ali Hussein, who plays a major role in diamond and gold deals in Bukavu and Kisangani. Those who have dealt with him in the past have mentioned the presence of a Rwandan national during commercial negotiations. There are indications that the Rwandan citizen attending the meetings is a civil servant working in the President's office in Kigali. Second is Colonel James Kabarebe, who is the RPA facilitator for some deals. According to some sources he has been in contact with Victor Butt [or Bout] for the lease of an Ilyushin 76 that served to carry coltan from the Democratic Republic of the Congo to Kigali. He is said to be a partner to Mohamed Ali Salem, manager of the company Global Mineral. This company is involved in coltan purchasing in Bukavu and Goma. Third, Tibere Rujigiro, member of RPF, who is considered to be one of the main money providers to the party during the 1990-1994 war. He is a major shareholder in Tristar Investment, a company equally close to RPF. He is said to be also involved in the tobacco business."

Evidence shows that territories held by the Rwandan-backed "rebels" in eastern Congo have been free-trade zones for the financing of various international criminal cartels believed linked to terrorist organizations. It could have been useful for Rwandans if the Fact Finding Mission had investigated into this allegation in order to, before asserting that "some developments have taken place", clearly show what kind of people are ruling Rwanda and where they are likely to lead Rwandans.

Indeed, it appears from AfroAmerica Network<sup>40</sup> that Kagame, his cronies, and the Rwandan Government's links with Al-Qaeda organization are being probed by USA Intelligence services and the Justice Department. These links may date from the guerrilla war era against Habyalimana's regime and may have intensified with the illegal exploitation of natural resources in Eastern Democratic Republic of the Congo and the fuelling of invasion of the Congo.

In this web of international terrorism, arms trafficking, illegal mineral trade, invasion and civil wars, Paul Kagame himself remains the central piece around which the following key figures and organizations gravitate.

Colonel Patrick Karegeya, Kagame's right hand man and Director of the infamous External Intelligence Office (ESO) that is accused of assassinating Rwandan refugees, including Seth Sendashonga and Theonest Lizinde. Colonel Patrick Karegeya is said to have been working with Victor Bout (or Butt), Sanjivan Ruprah, and Faustin Mbundu all known arms dealers with close contacts with Al-Qaeda. Sources say Victor Bout and Sanjivan Ruprah, who is married to a Congolese-Rwandan, may have bought weapons from Al-Qaeda cells from Pakistan, Kuwait and UAE, and Lebanon and supply the weapons to Kagame. They also say that using money from Al-Qaeda companies working with the Rwandan Patriotic Army in the Congo, these arms traffickers may have supplied sophisticated weapons, communications equipments and others war materials to Al-Qaeda itself. Faustin Mbundu, an elusive Rwandan business man who lives in Uganda serves as an agent between Sanjivan Ruprah and Victor But on one side and General Kagame on the other. Al-QAEDA cells through these contracts of arm sales, have trained Rwandan troops in Pakistan, Afganistan, Somalia, and Erythrea, just until September 11, 2001. Training of Rwandan troops in Somalia, Pakistan, and Erythrea may still be going on.

Colonel Jack Nziza, another Kagame's henchman is the Director of the notorious Directorate of Military Intelligence. He is believed to be responsible for contracts with Al-Qaeda linked companies that exploit minerals and other resources in Congo. These companies, mostly from Pakistan, Lebanon, India and elsewhere, use Hutu prisoners from Rwandan jails, accused of genocide. The product of the exploitation is used to pay for arms supplied by Victor Butt and Sanjivan Ruprah and for training of Rwandan troops by Al-Qaeda.

---

<sup>40</sup> [www.afroamerica.net](http://www.afroamerica.net)

Colonel Jack Nziza's deputy in Congo is Colonel Dan Munyuzwa who oversees Hutu Prisoners, Al-Qaeda companies and other similar contracts in Eastern Democratic Republic of the Congo. He also makes minerals and timber are exported and the companies use the planes owned by General Kabarebe, the Rwanda Army Chief of Staff.

Some of the Al-Qaeda cells in Somalia and Eryhrea still train Rwanda troops but other engage in combat Congo and Burundi on the Rwandan behalf. The Rwandan Embassy in Ethiopia, also known as "Mogadisciu" for a large number of Somalis going in and out of the Embassy on a daily basis, is believed to issue Rwandan passports to Somalis, Yemenis, and Erythreans and to channel money to their families back home. AfroAmerica Network has learned that the USA intelligence services may be concerned that the passports, issued to the fighters to allow them to easily move to Rwanda, Burundi and Congo, may be used by Al-Qaeda members among these troops travel to the United States and commit crimes there.

To facilitate the transfer and laundering of money to Al-Qaeda, a Rwandan bank may have been used extensively. The Rwandan bank, using an American bank, has created fake accounts to legitimize transactions. Businessmen from Somalia, Ethiopia, and elsewhere, working with Al-Barakaat may also have used the bank in Rwanda to transfer money to Al-Qaeda cells.<sup>41</sup>

Other people who are mentioned are:

Mugunga, a brother-in-law of Paul Kagame. While Colonel Dan Munyuzwa is in minerals and timber, Mugunga is believed to handle coffee and tea businesses with Al-Qaeda.

Andre Bumaya, the Rwandan Minister of Foreign Affairs and President of Islamic Democratic Party. Manages the Rwandan Embassy in Ethiopia contacts with Somalis, Erythreans, and muslims and may be giving these party memberships cards once in Rwanda.

Hadj Harelimana, the Representative of Muslims in Rwanda. Provides legal papers to Somalis, Erythreans, Yemenis, Ethiopians, Eastern and Northern African Muslims to make them members of the Rwandan Muslim community. Hadj Harelimana is on the record for supporting September 11, 2001 attacks against the USA, during a BBC interview.

Major Karasira, Ernest Habimana, Emmanuel Kamanzi, Gakwere, Alfred Kalisa, and other names are also mentioned. AfroAmerica Network says to still be working to find out about the allegations against these individuals.

### Political solution?

Finally, from the Fact Finding Mission's report, one can conclude, and the Danish authorities know that the Rwandan conflict is fundamentally political. It is my contention that this problem must be settled by a political solution. At many times some Rwandans have appealed to General Paul Kagame and his RPF-led government for dialogue with the political opposition in order to put an end to dictatorship, oppression and ethnic discrimination. However, instead of meeting the legitimate aspirations of the Rwandan people to freedom, justice and advancement of their welfare, General Paul Kagame has always resorted to guns, all kind of weaponry, jail and harassment keys to silence any political opposition to his tyrannical rule. He maintains his power by terror and continuous massacres. He continues to be impervious to democratic processes of discussion, persuasion, consultation and negotiation for the settlement of the Rwandan conflict by peaceful means. He has banned all political activities for other political organizations and muzzled all forms of political expression by legal and peaceful

<sup>41</sup> www.afroamerica.net

means. It is clear from statements in the Fact Finding Mission's Report that the Rwandan people have no say in the actions of the government and in the choosing of those who make them. My question is: for how long will they continue to accept the RPF-led government's oppression as God-given and to submit themselves to tyranny? I think that with time, since Gen. Paul Kagame continues (and the RPF is bound) to harden his heart against all appeals for peaceful settlement of the Rwandan conflict and the policy of non-violence appears to yield no tangible result to the Rwandan ordinary man, some people are likely to resort to other methods to achieve their freedom. As the RPF is not likely to relinquish, I can foresee more insecurity and human rights abuses. Therefore, I do not really see on which basis refugees can go back home and hope to live in peace despite the "some developments" the Fact Finding Mission has found.

It is important to cast a glance at some other manipulations around Rwanda. The RPF has been leading a misleading campaign portraying as criminals or simply war displaced persons who sought refuge outside their own country Rwandan citizens fleeing Rwandan government's persecution and seeking asylum in Tanzania and other neighboring countries.

On 20 July 2001, after a meeting with the Tanzanian government and UNHCR (United Nations High Commission for Refugees) which discussed the repatriation of Rwandan refugees in Tanzania, General Paul Kagame's special adviser, Mr Abdulkarim Harerimana, declared on Radio Tanzania that there was no fundamental reason why refugees should continue entering Tanzania as peace had been restored in Rwanda, following the setting up of his so-called «government of national unity». He said that the refugees entering Tanzania currently were criminals fleeing justice in Rwanda. On 28 July 2001, Rwandan ambassador to Tanzania, Mr. Zephyr Mutanguha, declared to journalists in Dar-es-Salaam, Tanzania, that the refugees could now be returned to their homes without any fear, because peace and security had been restored in the country. Mr. Zephyr Mutanguha said there were some people suspected of involvement in 1994 Rwandan genocide who feared arrest and who were persuading the innocent citizens not to return home. Even though this kind of reasoning might seem probable to non-informed outsiders, it is not only false but also dangerous. Rwandan refugees are not criminals fleeing justice nor simply people displaced by war who sought refuge in neighboring countries, as alleged by Rwandan government's officials; there are genuine political refugees fleeing dictatorship, terror, oppression and ethnic discrimination from the current Rwandan regime.

Incapable to win the heart of the people, RPF authorities have banned all political activities for other political organizations and muzzled all forms of political expression by legal and peaceful means. As seen, the Rwandan people have no say in the actions of the government and in the choosing of those who make them. People who are neither members nor sympathizers of the RPF are excluded in the civil service, territorial administration, education, army, police, judiciary and other spheres of public life. Rwanda is ruled by the machine guns and the jail keys. The continuous flow of Rwandan refugees out of the country is the result of a bad RPF leadership. But it is only those who have means who are able to go directly to western countries while others remain desperate. Some individuals who spoke to members of the Fact Finding Mission requested anonymity because of their fear of persecution. Instead of finding ways to eliminate the root causes of the evil forcing Rwandans to flee their homeland, the current Rwandan rulers shift the blame on host countries and humanitarian organizations helping them to survive in refugee camps. However, the obstacles preventing Rwandan refugees to return home voluntarily are in Rwanda itself and not in countries hosting Rwandan refugees. Rwandan exiles cannot return to their homeland while the evil political system that forced them to exile is still in place. It is the responsibility of the Rwandan government to create a political climate in Rwanda conducive to the voluntary return of Rwandan exiles.

In the past years Rwandan authorities made a number of declarations explaining that the solution to the problem of Rwandan refugees should be a military solution in order to kill or arrest imaginary intimidators and free bona fide refugees. Even though the Rwandan army could not invade all countries around the world hosting Rwandan refugees, this idea has been used to justify the first invasion of Ex-Zaire/Democratic Republic of Congo (DRC) by the RPA. As seen, in 1996-1997, the RPA invaded the Ex-Zaire/DRC, committed crimes against peace and

humanity, war crimes and acts of genocide during the destruction of Rwandan refugee camps in Eastern Congo in which more than 200,000 Rwandan refugees were massacred. These crimes had been condemned by the United Nations Security Council<sup>42</sup> and leading international human rights organizations (Amnesty International,<sup>43</sup> Human Rights Watch,<sup>44</sup> International Center for Human Rights and Democratic Development,<sup>45</sup> etc.) but are still unpunished. As said, numbers of refugees lost many of their relatives in those massacres and they detain enough evidence to accuse soldiers of the RPA and others who may have aided and abetted them. But it is inappropriate and hazardous to engage themselves in those trials before the courts confiscated by the accused. I therefore find that all governments around the world should give no credit to the rhetoric of the oppressors of the Rwandan people and to continue to shelter Rwandan asylum seekers and refugees at risk of being persecuted if forcefully returned to Rwanda.

During the celebration of the seventh anniversary of the seizure of power by the RPF on 4 July 2001 and 2002, the Rwandan President, General Paul Kagame, has appealed again to Rwandan exiles to return home and join hands with other Rwandans in developing the country. However, the mere repetition of this appeal every year without establishing dialogue with the political opposition in order to resolve, once for all, the Rwandan conflict by peaceful means has failed to produce any miracle. Normally, in a democratic and free country, citizens are free to leave their country and return to it as they wish whenever they want, no need of any official declarations to do so. General Paul Kagame's hollow appeals to Rwandan exiles cannot produce any tangible result. Instead of continuously making hollow appeals for a rhetoric of unity while waging war on their own people and embarking on costly military adventures in neighboring countries which finally produce nothing else than killings and sufferings to the people, it would be wise for the current Rwandan rulers to engage frank and sincere dialogue with their political opponents in order to establish true democratic institutions, among them a true non-partisan national army, capable to reconcile the Rwandan people with themselves and their neighbors by respecting all Rwandan citizens' rights and freedoms as well as the sovereignty and territorial integrity of other nations. It is only once a climate of lasting security and human rights protection is established in Rwanda that many refugees will return home.

British International Development Minister, the Rt Hon Clare Short as well as some other authorities in Western Europe, promised money to help in the demobilization, disarmament, repatriation, reintegration and resettlement (DDRRR) of the alleged Rwandan "negative forces" in the Democratic Republic of Congo (DRC) as a way of bringing peace to the Great Lakes region. Ms Short alone pledged 7 millions US dollars for this purpose. While this initiative appears, for non-informed outsiders, to be a contribution to a noble and just cause, it is based on erroneous assumptions put forward by the Rwandan Patriotic Front government to justify its invasion and illegal occupation of the DRC by its army, the Rwandan Patriotic Army (RPA), and embodied in the Lusaka Peace Accord for the DRC. The false assumptions are that all Rwandans opposed to the Kigali government, armed or not, in the DRC are an anonymous homogeneous mass of all-alike people bent on restarting and finishing the Tutsi genocide, hence the term "negative forces", so that they should be treated in an identical fashion. This is not true. The DDRRR of the so-called Rwandan "negative forces" is a military solution to an ill-posed problem; it will certainly fail to bring about lasting peace in Rwanda and in the Great Lakes region. Instead of wasting taxpayers money on supporting General Paul Kagame's tyrannical rule and his wars in the Great Lakes, Western countries should be investing their taxpayers money in the liberation of the Rwandan people from dictatorship, neo-colonialism, economic exploitation, oppression and misery. Their "Fact Finding Mission" should be clear enough to show their taxpayers that current RPF political and military leaders are co-responsible for the Rwandan tragedy and distrusted by many Rwandans including refugees. No amount of money cannot buy the aspirations of the Rwandan people to democracy and freedom!

There will be no lasting security and human rights protection without true democratic institutions in Rwanda.

<sup>42</sup> Security Council Presidential Statement S/PRST/1998/20 of 13 July 1998.

<sup>43</sup> <http://www.amnesty.org>

<sup>44</sup> <http://www.hrw.org>

<sup>45</sup> <http://www.ichrdd.ca>

In democracy, winning does not require the elimination of the opponent and losing does not prohibit the loser from trying again later. This norm allows for an atmosphere of "live and let live" which creates a sense of stability on the personal, communal and national level. In contrast, political competition in the "no-party" dictatorial regimes led by the Rwandan Patriotic Front (RPF) in Rwanda and by the National Resistance Movement (NRM) in Uganda is like a zero-sum game. The winner takes almost all and uses violence and coercion in order to deny to others the power and the opportunity to rise and try their chance again. In the «no-party» political system, the government doesn't tolerate any form of political opposition. Dissent or political opposition is considered as a grave crime. This creates an atmosphere of mistrust and fear within and outside the government. Hence, the government relies increasingly on political repression and intimidation in order to deny fundamental freedoms to people expressing views that are opposite to those of the government in order to ensure effective monopoly of all political activities to the ruling party. Political activities are banned for other political organizations. In case of election, political parties are not allowed to present or back candidates. Political pluralism in Rwanda is apparent but not real. As the RPF-led "no-party" political system doesn't allow open and peaceful political competition against the ruling party but turn instead its security forces against the people in order to hopefully ensure an ever-lasting monopoly of the ruling clique to power, it is maintained by violence and is deemed to end in violence.

The Fact Finding Mission has failed to extend interviews to more sources which could have shown more evidence proving that people who are neither members nor sympathizers of the RPF are purged from the public service, territorial administration, education system, army, police, judiciary, parliament and other spheres of public life. Moreover, the Fact Finding Mission's report does not show that the Rwandan judiciary has been ethnically and politically cleansed and is not independent from the executive branch; the parliament is composed of members approved by the RPF and appointed by the RPF-led government. The current government's army is the armed wing of the ruling RPF and not a true national army.

It is this army and various security intelligence organs that have been used by the ruling RPF to prick the conscience of all Rwandan men and women of good will, from all walks of life, ethnic and religious groups, and aroused their deepest indignation. RPF leaders are strong enough and are supported by the Western world to continue closing their ears to calls for dialogue in order to settle the Rwandan conflict peacefully and maintain their position by the thunders of the guns and the rattles of the jail keys. Peace will continue to elude Rwanda and refugees have a strong ground for not returning home.

Paraphrasing the famous poem of the German protestant pastor Martin Niemöller can best illustrate how the evil forces rely on divisions and the unconsciousness of the masses to consolidate their reign of terror in Rwanda:

*When the RPF/RPA people massacred hundred thousands of Hutus in Byumba and Ruhengeri provinces since they launched war in 1990 through 1994,  
I didn't say anything  
For I'm neither from Byumba, nor from Ruhengeri nor Hutu  
When various political leaders (Emmanuel Gaphyisi of the MDR, Felicien Gatabazi of the PSD, Martin Bucyana of the CDR, President Juvenal Habyarimana of the MRND) susceptible to oppose the RPF political agenda were assassinated from 1992 through 1994  
I didn't say anything  
For I was neither member nor sympathiser of their political parties  
When hundred thousands of Tutsis were killed in Rwandan government-controlled areas in the spring of 1994  
I didn't say anything  
For I'm not a Tutsi  
When the RPF/RPA people massacred 3 catholic bishops and 17 priests at Gakurazo on 5 July 1994  
I didn't say anything*

*For I'm not a catholic*

*When the RPF/RPA people banned political activities for other political parties when they seized power in July 1994*

*I didn't say anything*

*For I don't do politics*

*When the RPF/RPA people jailed dozen thousands of persons without files accusing them of genocide*

*I didn't say anything*

*For I lost myself members of my family and friends in the genocide*

*When the RPF/RPA people killed 8000 Hutus displaced by war in the Kibeho camp in April 1995*

*I didn't say anything*

*For I'm neither from Gikongoro, nor Hutu and wasn't myself a war displaced person*

*When the RPF/RPA people invaded Congo, massacred more than 200000 Hutu refugees and hundred thousands of Congolese*

*I didn't say anything*

*For I'm neither Congolese, nor Hutu and wasn't myself a refugee*

*Then they came for me*

*And I was alone, there was no one left to say anything.*

### Summing up

The lack of peace and prosperity for all in place of war and misery, fraternity and justice in place of hatred and injustice, democracy and freedom in place of dictatorship and oppression is the main ground for a number of Rwandans to leave their country.<sup>46</sup> The wish for many of them is to go back in dignity but would not possible in the absence of a coordinated international action to persuade:

- All governments, international organizations and businesses to halt and stop all military training, supplies and flow of arms to the Rwandan Patriotic Army which has become an army without borders, responsible of aggression against neighboring countries, war crimes, genocide and crimes against humanity in the African Great Lakes region,
- All governments, the United Nations Security Council and Secretariat, the office of the chief prosecutor to the International Criminal Tribunal on Rwanda (ICTR) and other international organizations to take all steps and necessary measures to ensure that all Rwandan war crimes' suspects are brought to justice because the Rwandan justice system is under the influence of suspected war criminals on power, lacks independence and fairness, and doesn't function properly.
- All governments and organizations to promote democracy and freedom, the culture of peace, the defense and respect of all human rights and fundamental freedoms in Rwanda.

International action is necessary since the Rwandan Patriotic Front (RPF) government has been unable to bring peace and reconciliation in the country, and instead, has excelled in finding scapegoats to blame for its failures. It refused and still refuses to look for a political solution to Rwandan refugee crisis, and favored military solution to resolve this highly political problem. RPF regime's undemocratic policies based on ethnic discrimination and victimization has deterred hundreds of thousands of bona fide refugees from voluntary repatriation. Instead, there has always been a reverse movement of Rwandans inside the country fleeing, from all walks of life: cabinet ministers, members of parliament, civil servants, judges, journalists, army personnel and ordinary citizens.<sup>47</sup>

<sup>46</sup> Id.

<sup>47</sup> See Fact-Finding Mission to Rwanda, <http://www.udlst.dk>

The Kagame regime, by skillfully exploiting the genocide catastrophe, has managed up to now to attract international sympathy and lenience for its gross human rights abuses against the population inside the country and its two invasions on Zaire/DRC. I have shown on some other occasions<sup>48</sup> that invasions, thus insecurity in the region will never cease during the reign of Kagame clique. Although I strongly condemn the 1994 genocide against Tutsis, I find outrageous and unacceptable the international community double standards practice: some of the Security Council members have, in the past, succumbed to the propaganda of RPF government and assimilate to génocidaires all the opponents to that regime, and agitate the scarecrow of "Interahamwe" militiamen and a permanent danger of genocide against the remaining Tutsis of Rwanda. *This diversionary strategy has been developed in order to cover up the countless crimes of the clique in power, which has been carrying out a rampant genocide against innocent civilian Hutu population*, in a diabolical scheme of achieving numerical parity between the two ethnic groups. In democracy, responsibility must be individual and target people who failed to assume their responsibility or who have been directly involved (in the genocide of the Rwandan people).

I am convinced that any lasting solution to the insecurity in the region, and which very unfortunately stems, in great part, from the Rwandan civil war will never end without finding an acceptable solution to the Rwandan situation. It is unrealistic indeed to believe today that a simple and limited solution to the DRC conflict is automatically a solution to other countries in the region. By so doing, it will be like treating the symptoms instead of curing the disease. It is necessary to find a global solution, but within an unambiguous framework and with respect to the special political situation in every country.

For a lasting solution to the Rwandan problem, why should not Denmark play an important role to push the international community to set up an international Commission to enquire into the assassination of both the Presidents Juvénal Habyarimana of Rwanda and Cyprien Ntaryamira of Burundi which triggered off the Rwandan genocide and provoked the crisis in the Great Lakes region.

It must be agreed that a lasting solution will not be achieved without sincere negotiations between Hutus and Tutsis, and between the RPF government and the opposition - which should not be mistaken to be "interahamwe" as the RPF propaganda would like the world to believe - in a view to setting up a true government of national unity, capable of bringing about a real reconciliation for the entire Rwandan population. I think the Arusha peace agreement signed on August 4, 1993, and which has been negotiated and concluded with the support of the international community still remains a serious basis, *mutatis mutandis*, for negotiations leading to a long lasting solution acceptable to all parties provided that the ethnic issue is tackled.

As regards the repatriation of Rwandan refugees, no one should be blurred by President Paul Kagame's cynicism. He has been calling on Rwandans living in exile asking them to leave their refuge and go back to Rwanda to lend him their hands for the reconstruction of the country. At the same occasion, he called the Hutu combatants opposed to him in Congo to go back home. From some testimonies mentioned in the Report, one would be fair to conclude that Kagame is a dictator and authoritarian, indeed. He adds cynicism to his record of achievements when he appears as an assembler of a population that he ventured to disperse and to massacre since 1990 for the satisfaction of his personal ambitions!

The voluntary return of Rwandans from exile will be possible only if justice is done to all criminals, including Paul Kagame. Impunity, lack of a state of law, corruption, oligarchic and military dictatorship, violence as a way of solving conflicts, fear of being persecuted constitute obstacles to the return of refugees. The Danish authorities should bear in mind that no criminal whomsoever will be able to restore peace, security, democracy, human rights and unite Rwandans, and that insecurity, violence and human rights abuses are likely to last if this issue is not addressed.

<sup>48</sup> See for example Mathias Sahinkuye, Human rights and the rule of law in Rwanda: reconstruction of a failed state, University of Stellenbosch, 2000.

Rwandan exiles cannot return to their homeland while the evil political system that forced them to exile is still in place. It is the responsibility of the Rwandan government to create a political climate in Rwanda conducive to the voluntary return of Rwandan exiles.

The «no party» system does not guarantee free and fair competition for political leadership; it is far from true democracy and political enfranchisement. How can refugees go back home where they are not allowed to express their opinions openly through the media and political parties? We want a country where we can freely vote and overthrow the government in free and fair elections.

Exercising the right to freedom of association, peaceful assembly, expression and the right to participate in the public management of the country by challenging the political monopoly of the state party RPF is a right and a duty for every Rwandan citizen mindful of the future of his country. The continuous harassment and persecution of members of opposition parties inside Rwanda are to be condemned. The European Union, the African Union, all governments, donors and human rights organizations should have used their power and influence over the RPF regime for the immediate release of all political opponents, the cessation of the persecution of the political opposition and the organization of an inter-Rwandan dialogue in order to put in place state institutions trusted by and at the service of all the Rwandan communities. But it is not too late! Why should not they halt diplomatic support, financial aids, export of arms and military training to the Kigali government?

The Kigali regime operates with success in violence and sectarianism. They seem to forget or ignore that the real vaccine and medicine for the Rwandan evil can be found in the aspirations of Rwandan people to peace, pacific and authentic coexistence freedom, social and economic progress, and democracy. The nightmare for RPF and its president is worrying. It is a cancer that is spreading.

That country has no more hope than following "the savior" in his adventures of imperialistic conquest and appropriation of resources. Not following that person who is seen as a pet for some media and some Rwandan "genocide survivors" is to risk death threats. The savior's peace, since his accession to power, is submission of all by force. He does not profit from that submission to help to elucidate his crimes that are going unpunished, he has set up a sort of mask and assassinations have gone out of countable limits including in his own entourage. Rwanda had never had such a number of blood crimes. The civil society and NGOs that used to denounce these killings dare any more because the irascible power of the "Redeemer" accuses them to play the game of "génocidaires".

To contribute to national reconciliation in Rwanda and the restoration of durable peace in the Great Lakes, the Danish government should rather help ensure an equitable justice to the Rwandan people by prosecuting not only the losers but also suspected RPF/RPA war criminals continuing to walk free while spilling wars and blood in the Great Lakes region. It is deplorable that, eight years after its creation, the Office of the prosecutor of the ICTR has not yet indicted and arrested any RPF/RPA suspected war criminal.

How long will the 'civilized world' tolerate that a government without legitimacy, dictatorial, controlled by suspected war criminals and using the State power to escape justice, continue to maintain itself on power and appropriate state's resources against the will of the people and to reign by terror, political repression, oppression of the people, assassination, jail keys and periodic massacre of civilian populations? The grave plight of the Rwandan people calls for resistance to tyranny and oppression of Paul Kagame's regime. There cannot be durable peace in the Great Lakes without true democratic institutions in Rwanda. Meanwhile, Rwandans should be allowed to remain in safe countries.