

**Flygtningenævnets baggrundsmateriale**

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# **RWANDA**

## **AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW 37TH SESSION OF THE UPR WORKING GROUP, JANUARY-FEBRUARY 2021**

### **FOLLOW UP TO THE PREVIOUS REVIEW**

1. During its previous review, Rwanda supported 50 recommendations and noted 77. Rwanda also expressed its support for over 100 other recommendations that it considered it was already implementing. The Ministry of Justice published the 2017-2020 National Human Rights Action Plan (NHRAP) following extensive consultations.<sup>1</sup> In the plan it is noted that the process “is not just about fulfilling a [UPR] recommendation, but it is about taking the necessary steps to ensure that all Rwandans have access to their fundamental human rights across the board.” Disappointingly, the NHRAP does not incorporate all the recommendations supported by Rwanda during its second cycle review in 2015.
2. For example, Rwanda supported recommendations to ratify the International Convention for the Protection of All Persons from Enforced Disappearances in both 2011 and 2015,<sup>2</sup> while noting at the adoption of the working group’s report in 2016 that “the ratification of international instruments can only take place after the consultation and approval of the Parliament of Rwanda”.<sup>3</sup> Rwanda’s NHRAP makes no mention of any plans to proceed with these outstanding ratifications, and Amnesty International is not aware of the Convention on Enforced Disappearances, in particular, having been submitted for debate in Parliament.
3. In the last review, Rwanda considered that a recommendation on the implementation of the provisions of the Optional Protocol to the Convention against Torture (OPCAT) reflected actions that were already underway.<sup>4</sup> Rwanda acceded to OPCAT in June 2015, and in 2018, Parliament adopted a law updating the mandate of the National Commission for Human Rights to include the functions of the National Preventive Mechanism required by OPCAT. However, the Subcommittee for the Prevention of Torture (SPT) had to suspend and ultimately end its visit in October 2017 “due to a series of obstructions imposed by authorities, such as accessing some places of detention, confidentiality of certain interviews and over concerns that some interviewees could face reprisals.”<sup>5</sup> This was the first time that an SPT country visit has been terminated before completion and only the third time that a visit was suspended.
4. Rwanda supported a recommendation to adopt best practices on freedom of assembly;<sup>6</sup> however, there have been no moves since the last review to address weaknesses in the legislative framework or in the application of the right in practice.
5. Rwanda has made progress in strengthening its legislation to eliminate all provisions that undermine freedom of expression,<sup>7</sup> with the removal of some defamation offences from the revised Penal Code in 2018 and a subsequent Supreme Court ruling (see below).

### **THE NATIONAL HUMAN RIGHTS FRAMEWORK**

6. Regrettably, in March 2017, Rwanda’s withdrawal of its declaration under Article 34(6) of the Protocol to the

African Charter on Human and Peoples' Rights which allows individuals and NGOs to bring cases directly to the African Court on Human and Peoples' Rights came into effect. The Court ruled in June 2016 that Rwanda's withdrawal would have no legal effect on cases pending before the Court.<sup>8</sup>

## THE HUMAN RIGHTS SITUATION IN RWANDA

### Freedom of association

7. The space for independent civil society and political opposition groups remained limited in the period under review. Human rights monitoring organizations have faced serious challenges over many years. Human rights defenders involved in reporting or advocacy activities seen as criticizing government policy or practice have faced threats, including death threats, and many have fled the country as a result.
8. Despite the reform of the NGO laws in 2012<sup>9</sup>, the registration process remains overly burdensome. For national NGOs to apply for a temporary registration certificate, they must provide numerous detailed documents, and then wait nine months after the temporary certificate is issued to apply for legal personality.
9. There are separate provisions for international NGOs, which include regional NGOs headquartered in Rwanda. While their registration certificates can be issued for up to five years at a time, in practice this is rarely the case. International NGOs must provide evidence of their funding for the entire length of their registration, and as most funders are unable to guarantee funding for multiple years, many INGOs have to go through the time-consuming re-registration process on a yearly basis.
10. Political opponents continued to come under attack. The pardon and early release of Victoire Ingabire, the then president of United Democratic Forces (FDU-Inkingi) party, in September 2018 was a positive development. However, she alongside members of both the FDU-Inkingi and Development and Liberty for All (DALFA), a new party she launched in late 2019, Victoire Ingabire continued to face harassment, including being regularly called in for questioning by the Rwanda Investigation Bureau (RIB) and an apparent smear campaign in media close to the government. Since Rwanda's last review, at least three FDU-Inkingi members disappeared and at least three others were killed in suspicious circumstances.

### Freedom of peaceful assembly

11. The legal framework governing assembly in Rwanda is opaque and does not create an enabling environment. The Constitution guarantees the right to freedom of peaceful and unarmed assembly. While it also states that prior authorization is not required except when provided for by the law and that any limitations on the right must be "aimed at ensuring recognition and respect of other people", prior authorization is in fact required for all assemblies. The 2018 Penal Code provides that "[a]ny person who illegally holds a demonstration or a meeting or who demonstrates on a public place without prior authorization, commits an offence."<sup>10</sup> The 1991 law on public demonstrations and meetings requires prior written notification of public assemblies at least six days before the event. While described as notification, the law in effect requires prior authorization and allows authorities not to authorize an assembly on very broad grounds.<sup>11</sup> The Rwanda National Police is mandated to prevent or stop unauthorized rallies from being held.
12. In practice, demonstrations and protests are rare in Rwanda. Congolese refugees from Kiziba camp in Western Rwanda held a demonstration in February 2018 outside UNHCR's offices in Karongi town. At least eight refugees were killed when the police used excessive force and opened fire on the crowd, and another three refugees were killed the same day in the camp.<sup>12</sup>

### Freedom of expression

13. Some limited progress was made towards respecting the right to freedom of expression during the period under

review. In April 2019, the Supreme Court ruled that provisions in the Penal Code that criminalize individuals for the “humiliation of national leaders and persons in charge of public service” and “public defamation of religious rituals” violated the right to freedom of expression, while upholding the criminalization of “insults or defamation against the President”.<sup>13</sup> President Kagame responded that he considered it should be a civil rather than criminal matter.<sup>14</sup>

14. Judgements issued by Rwanda’s judiciary during the period under review sent mixed messages about protections of freedom of expression. Diane Rwigara, who had sought to stand as an independent candidate in the 2017 presidential elections, her mother Adeline Rwigara, and four other individuals *in absentia* were tried on charges including “inciting insurrection or trouble among the population”. The High Court acquitted them on all charges on 6 December 2018, ruling that WhatsApp audios presented in evidence did not prove incitement of insurrection as they were private conversations. The judges also found that Diane Rwigara’s criticism of the government during press conferences was protected by freedom of expression.<sup>15</sup>
15. Conversely, in December 2019, the Court of Appeal upheld the convictions of Colonel Tom Byabagamba and retired Brigadier General Frank Rusagara for “inciting insurrection among the population” and “tarnishing the image of the country and government,” as well as Frank Rusagara’s additional conviction of illegally possessing a firearm, although it reduced their sentences from 21 and 20 years’ imprisonment respectively to 15 years each.<sup>16</sup> Their conviction in 2016 on the first two charges was based on accusations of sharing critical online articles by email and for comments made in social gatherings, thus criminalizing the private expression of views in violation of their right to freedom of expression.
16. The expression of views was further criminalised through the broad application of the charge of “spreading false information or harmful propaganda with intent to cause a hostile international opinion against the Rwandan government”. A refugee from Kiziba camp was sentenced to 15 years in prison in October 2018 for the above, as well as “causing uprising or unrest among the population” and “illegal demonstration or public meeting”. Sharing information with international media and human rights groups were cited in evidence against him.
17. The BBC Kinyarwanda service remained suspended in Rwanda throughout the period under review. It was initially suspended in October 2014 and indefinitely suspended by the Rwanda Utilities Regulatory Authority (RURA) in May 2015 after the broadcast of a documentary entitled Rwanda’s Untold Story, which the Rwandan authorities said violated Rwandan laws on genocide denial, revisionism, inciting hatred and divisionism.

### **Enforced disappearances**

18. During the period under review, Amnesty International documented several cases of probable enforced disappearances, including those of FDU-Inkingi member Illuminée Iragena who disappeared on her way to work in March 2016;<sup>17</sup> Boniface Twagirimana, FDU-Inkingi vice-president alleged to have escaped from prison in October 2018;<sup>18</sup> and Eugene Ndereyimana, another FDU-Inkingi member, went missing in July 2019 on his way to meet other party members.<sup>19</sup> Other earlier cases of probable enforced disappearances remained unresolved. Jean Damascène Munyeshyaka, the national organizing secretary of the Democratic Green Party of Rwanda, went missing in June 2014. His colleagues did regular follow-up with the relevant authorities, but he was never found.<sup>20</sup>

### **Deaths in custody**

19. There were several cases of suspicious deaths in detention. On 17 February 2020, the popular gospel musician Kizito Mihigo was found dead in his cell at Remera police station. Days earlier, RIB had confirmed that he had been arrested close to the border with Burundi.<sup>21</sup> Rwanda National Police prejudiced the outcome of an investigation into the circumstances of his death by declaring it a suicide before the investigation started. Kizito Mihigo had previously been close to the ruling Rwandan Patriotic Front but was arrested in 2014 after releasing a gospel song in which he prayed for victims of the genocide and victims of other violence. He was convicted in 2015 of plotting against the government, forming a criminal group and conspiracy to commit an assassination, before being released by presidential pardon in 2018. Under the terms of his release he had to seek authorization

to travel abroad.

20. Lawyer Donat Mutunzi went missing on 13 April 2018 after leaving his office in Kigali in the evening. Despite his family and the Rwanda Bar Association seeking information on his whereabouts, there was no news until 23 April when his wife was informed that Donat Mutunzi had committed suicide in police custody. According to media reports, he had been taken into police custody on 19 April on charges of indecent assault with violence.<sup>22</sup> Neither his wife nor colleagues from the Rwanda Bar Association had been informed of the arrest.

### **Arbitrary arrests and detention**

21. During the period under review, cases of arbitrary arrest and detention continued to be reported. In one example, on 14 February 2017, Violette Uwamahoro, a British national who had returned to Rwanda for her father's funeral went missing in Kigali. She is the wife of an opposition activist with the outlawed Rwanda National Congress (RNC) opposition group. She was held without access to a lawyer or family members for over two weeks, while the Rwandan government initially denied knowledge of her whereabouts. On 3 March, the police told the media that she was in their custody and was charged with the revelation of state secrets, formation of an irregular armed group and offence against the established government or president.<sup>23</sup> Violette Uwamahoro denied all charges and was provisionally released on 27 March, after a judge ruled that there was a lack of sufficient evidence against her. Soon after, she was allowed to return to the United Kingdom.

### **Refugees and asylum-seekers**

22. Rwanda continued to host tens of thousands of refugees, mainly from neighbouring countries, as well as receiving African asylum seekers transferred from Israel and Libya. In April 2015, President Kagame announced that the government was negotiating an agreement to transfer Eritrean and Sudanese nationals from Israel to Rwanda. Figures issued by the Israeli government indicate that 1,871 Eritrean and Sudanese asylum seekers were deported from Israel to Rwanda between January 2015 and March 2018. Since the Israeli government first announced agreements with third countries to receive asylum seekers in 2013, these agreements and their terms have been clouded in secrecy. In January 2018, the Rwandan government spokesperson denied the existence of a deal and in April 2018 the Israeli prime minister announced the agreement had been scrapped.<sup>24</sup>
23. Since September 2019, Rwanda also hosts African refugees and asylum-seekers evacuated from detention centres in Libya through an emergency transfer mechanism. The Memorandum of Understanding signed with UNHCR and the African Union states that the transfers will be voluntary. The options for durable solutions open to those transferred to Rwanda include resettlement into a third country, return to country of origin, return to a country of where first asylum had been granted, or remaining in Rwanda, subject to agreement with the authorities.

## **RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW**

### **Amnesty International calls on the Government of Rwanda to:**

#### *Freedom of association*

- Review the registration requirements for both national and international NGOs with a view to simplifying the process;
- Undertake thorough, independent and impartial investigations into all reports of harassment and attacks on human rights defenders and opposition politicians and bring to justice all those suspected to be responsible where there is sufficient admissible evidence.

#### *Freedom of peaceful assembly*

- Initiate a revision of the 1991 law on public demonstrations and meetings to promote a presumption in favour of the right to hold peaceful assemblies and demonstrations, including by introducing a notification rather than authorization regime;
- Amend the 2018 Penal Code to remove the penalties for holding unauthorized but peaceful demonstrations;
- Review and expand Rwanda National Police guidelines on policing assemblies and on the use of force and firearms in line with internationally accepted standards. Ensure that RNP officers are trained on these guidelines.

#### *Freedom of expression*

- Amend the 2018 Penal Code to repeal the offence of ‘spreading false information or harmful propaganda with intent to cause a hostile international opinion against Rwandan Government’ and ‘insults or defamation against the President’.

#### *Enforced disappearances*

- Promptly adhere to the International Convention for the Protection of All Persons from Enforced Disappearances, implement it fully into national law and recognize the competence of the Committee on Enforced Disappearances to receive and consider communications from or on behalf of victims or other states parties;
- Ensure that all cases of enforced disappearance are thoroughly and impartially investigated and that all those suspected of criminal responsibility are brought to justice in fair trials.

#### *Deaths in custody*

- Undertake thorough, independent and impartial investigations into all deaths in custody in line with the ICRC Guidelines for Investigating Deaths in Custody;
- Implement adequate safeguards against suicide in detention.

#### *Arbitrary arrests and detention*

- Ensure that detainees have access to legal counsel and family members, and that pre-charge and pre-trial detentions do not exceed the limits set out in law.

#### *Refugees and asylum-seekers*

- Ensure transparency around all agreements to receive refugees and asylum-seekers transferred from other locations, and that all transfers to and from Rwanda are done with their full and informed consent.

#### *National human rights framework*

- Reinstate Rwanda’s declaration under Article 34(6) of the Protocol to the African Charter to allow NGOs with observer status with the ACHPR and individuals to access the African Court directly;
- Continue to participate in and engage with cases ongoing at the African Court.

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<sup>1</sup> Republic of Rwanda, Ministry of Justice, *The National Human Rights Action Plan of Rwanda: 2017-2020*, [https://minijust.gov.rw/fileadmin/Documents/MoJ\\_Document/NHRAP\\_FINAL\\_version\\_for\\_cabinet-1.pdf](https://minijust.gov.rw/fileadmin/Documents/MoJ_Document/NHRAP_FINAL_version_for_cabinet-1.pdf)

<sup>2</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review of Rwanda, A/HRC/17/4, 14 March 2011, recommendations 79.1 (Spain, Netherlands, Sweden) and 79.2 (France);

Human Rights Council, Report of the Working Group on the Universal Periodic Review of Rwanda, A/HRC/31/8, 18 December 2015, recommendations 134.1 (Netherlands), 134.2 (Togo), 134.3 (Italy), 134.4 (Japan), 134.5 (Madagascar, Mali, Montenegro), 134.6 (Panama), 134.7 (Sierra Leone), 134.8 (Argentina), 134.9 (France), 134.10 (Cabo Verde), 134.11 (Chile), 134.12 (Costa Rica), and 134.13 (Greece)

<sup>3</sup> Human Rights Council, Report of the Working Group on the Universal Periodic Review of Rwanda: Addendum, A/HRC/31/8/Add.1, 10 March 2016, para 10

<sup>4</sup> A/HRC/31/8, recommendation 134.17 (Georgia)

<sup>5</sup> OHCHR, 'Prevention of Torture: UN human rights body suspends Rwanda visit citing obstructions', 20 October 2017, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22273&LangID=E>

<sup>6</sup> A/HRC/31/8, recommendation 133.32 (Namibia)

<sup>7</sup> A/HRC/31/8, recommendation 133.1 (Chile)

<sup>8</sup> Amnesty International, *Rwanda: Submission to the African Commission on Human and Peoples' Rights*, 8 November 2017, <https://www.amnesty.org/download/Documents/AFR4761432017ENGLISH.PDF>

<sup>9</sup> Republic of Rwanda, Law N°04/2012 of 17/02/2012 governing the organisation and the functioning of national non-governmental organizations and Law N°05/2012 of 17/02/2012 governing the organisation and functioning of international non-governmental organizations

<sup>10</sup> Republic of Rwanda, Law N°68/2018 of 30/08/2018 determining offences and penalties in general (Penal Code), article 225

<sup>11</sup> Republic of Rwanda, Law 33/91 of 05/08/1991 relating to public demonstrations and meetings, articles 4, 5 and 6.

<sup>12</sup> Amnesty International, *Rwanda: Investigate killings of refugees*, 22 February 2019, <https://www.amnesty.org/en/documents/afr47/9866/2019/en/>

<sup>13</sup> Reuters, 'Rwanda court repeals law banning satirical cartoons', 24 April 2019, <https://www.reuters.com/article/us-rwanda-politics-cartoons/rwanda-court-repeals-law-banning-satirical-cartoons-idUSKCN1S02B0>

<sup>14</sup> Republic of Rwanda, Office of the President, Statement on Decision of the Supreme Court, 25 April 2019, <https://twitter.com/UrugwiroVillage/status/1121666237069545472?s=20>

<sup>15</sup> *The East African*, 'Rwandan court acquits the Rwigara', 6 December 2018, <https://www.theeastafrican.co.ke/news/ea/Rwandan-court-acquits-the-Rwigaras/4552908-4884232-ypfb4s/index.html>

<sup>16</sup> *The East African*, 'Byabagamba and Rusagara sentences reduced to 15 years', 28 December 2019, <https://www.theeastafrican.co.ke/news/ea/Tom-Byabagamba-frank-Rusagara-sentences-reduced-to-15-years/4552908-5400612-10w87hkz/index.html>

<sup>17</sup> Amnesty International, 'Rwanda: Come clean about fate of missing activist Illuminée Iragena', 26 March 2017, <https://www.amnesty.org/en/latest/news/2017/03/rwanda-come-clean-about-fate-of-missing-activist-illuminee-iragena/>

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<sup>18</sup> Amnesty International, 'Rwanda: Opposition politician found dead,' 18 March 2019, <https://www.amnesty.org/en/documents/afr47/0063/2019/en/>

<sup>19</sup> Amnesty International, 'Rwanda: Ensure justice for opposition politician stabbed to death,' 24 September 2019, <https://www.amnesty.org/en/latest/news/2019/09/rwanda-ensure-justice-for-opposition-politician-stabbed-to-death/>

<sup>20</sup> Amnesty International, *Rwanda: Setting the scene for elections: Two decades of silencing dissent in Rwanda*, 7 July 2017, <https://www.amnesty.org/en/documents/afr47/6585/2017/en/>, p14.

<sup>21</sup> Amnesty International, 'Rwanda: Shocking death of gospel singer in custody must be effectively investigated,' 17 February 2020, <https://www.amnesty.org/en/latest/news/2020/02/rwanda-shocking-death-of-gospel-singer-in-custody-must-be-effectively-investigated/>

<sup>22</sup> Taarifa, 'Lawyer Found Hanging Dead In Police Custody,' April 2018, <https://taarifa.rw/lawyer-found-hanging-dead-in-police-custody/>

<sup>23</sup> Amnesty International, 'Rwanda: Detained pregnant wife of activist to appear in court,' 21 March 2017, <https://www.amnesty.org/en/latest/news/2017/03/rwanda-detained-pregnant-wife-of-activist-to-appear-in-court/>

<sup>24</sup> Amnesty International, *Forced and unlawful: Israel's deportation of Eritrean and Sudanese asylum-seekers to Uganda*, 18 June 2018, <https://www.amnesty.org/download/Documents/MDE1584792018ENGLISH.PDF>