

**Flygtningenævnets baggrundsmateriale**

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| <b>Bilagsnr.:</b>                  | <b>76</b>                            |
| Land:                              | Rwanda                               |
| Kilde:                             | Human Rights Watch.                  |
| Titel:                             | World Report 2009 - Country Summary. |
| Udgivet:                           | 20. januar 2010                      |
| Optaget på<br>baggrundsmaterialet: | 25. januar 2010                      |

## Rwanda

Rwanda in 2009 saw increasing government restrictions on political space and individual freedoms, growing intolerance of criticism of state policies, and a refusal to allow any discussion of ethnicity, leading to concerns of heightened repression among human rights groups and several international donors. Preparations for the 2010 presidential election raised fears of intimidation and violence within local communities and led to a handful of arrests of individuals supporting the formation of new political parties.

Community-based *gacaca* courts and national conventional courts continued to try individuals for crimes committed during the 1994 genocide. *Gacaca* courts were expected to close in June 2009, but the National Service of Gacaca Jurisdictions (SNJG) unexpectedly began gathering new allegations in parts of the country and extended the deadline to December. While some Rwandans feel the *gacaca* process has helped reconciliation, others point to corruption and argue that the accused receive sentences that are too lenient, or are convicted on flimsy evidence. The government increasingly but unsuccessfully called for foreign jurisdictions, including the International Criminal Tribunal for Rwanda (ICTR) in Tanzania, and several European countries, to return genocide suspects to Rwanda. It vehemently rejected calls for the ICTR to prosecute crimes committed by the Rwandan Patriotic Front in 1994.

### *Gacaca* Jurisdictions

Corruption and undue influence by local authorities and other prominent community members marred *gacaca* proceedings, undermining trust among victims and the accused. According to the SNJG, *gacaca* courts have decided nearly 1.6 million genocide cases since their start in 2002. Recent cases increasingly related to government silencing of political dissent and private grievances, rather than events from 1994, led many Rwandans to flee the country to escape condemnation or perceived threats of renewed prosecution.

*Gacaca* courts spent much of the year trying thousands of sexual violence and other particularly serious cases, and imposed mandatory lifetime solitary confinement for convicted persons. In the absence of legislation setting out the implementation of this punishment, prison authorities did not isolate prisoners. Rape victims uniformly expressed

disappointment at having to appear in *gacaca* rather than conventional courts, as *gacaca* proceedings—even behind closed doors—failed to protect their privacy.

## **Conventional Courts**

With most genocide cases transferred to the *gacaca* system in 2008, conventional courts presided over only a handful of such cases in 2009, including that of Agnès Ntamabyariro, minister of justice in the interim government, who was sentenced to lifetime solitary confinement.

Former Transport Minister Charles Ntakirutinka remained in prison, serving a 10-year sentence imposed after a flawed 2004 trial for his role in establishing a new political party, together with former President Pasteur Bizimungu, who was pardoned and released in 2007.

In January 2009 Rwanda's military captured Congolese rebel leader Laurent Nkunda, who at this writing remains in custody without charge or trial, in violation of Rwandan criminal procedure. The courts rejected all attempts to challenge the legality of his detention, and the government declined to respond to the Democratic Republic of Congo's extradition request.

## **Rwandan Patriotic Front Crimes**

Rwanda strongly opposed renewed calls for prosecution of members of the now-governing Rwandan Patriotic Front (RPF) who committed crimes during the genocide. Despite estimates by the United Nations High Commissioner for Refugees that the RPF killed between 25,000 and 45,000 civilians in 1994, Rwanda has tried only 36 soldiers. These include four military officers charged with murdering 15 civilians (including 13 clergy) and tried perfunctorily in 2008. In February 2009 the military appeals court upheld the acquittals of the two more senior officers and reduced the junior officers' sentences from eight to five years' imprisonment.

In June the ICTR prosecutor told the UN Security Council that this RPF trial had met fair trial standards, and that he had no other RPF indictments ready to pursue. At an international conference assessing the legacy of the ICTR in July, many participants deemed the prosecutor's decision not to indict any RPF crimes to be the Tribunal's greatest failure.

## **International Justice**

As in previous years, securing justice for genocide suspects living outside Rwanda remained elusive. Rwandan prosecutors reinforced efforts to secure suspects' extradition to Rwanda,

including pairing up with US network NBC for a live television program aimed at confronting with genocide accusations a Rwandan man teaching at a Maryland university. NBC scrapped the program after it came under criticism for politicizing justice and engaging in an unethical journalism practice.

In April 2009 the UK High Court denied the extradition of four Rwandan genocide suspects, concluding they could not be fairly tried in Rwanda. Sweden consented to an extradition request in July, although an appeal lodged before the European Court of Human Rights halted the extradition and has yet to be decided. Rwanda repeated its call to the ICTR to transfer cases to Rwanda, and amended legislation seeking to secure such transfers, but no new transfer requests were filed at the ICTR.

### **Human Rights and Individual Liberties**

Government restrictions on free speech, reproductive health, homosexuality, political association, and land use signaled increased repression and lack of freedom in Rwanda. Opposition to government policies often led the government to accuse its critics of engaging in “genocide ideology,” a vaguely defined offense established in 2008 that does not require any intent to assist, facilitate, or incite violence on the basis of ethnicity. Penalties range from 10 to 25 years in prison and fines up to US\$2,000, while political groups and non-profit organizations risk disbandment upon conviction. Children of any age may be sent away to rehabilitation centers for up to one year under the law—including for the teasing of classmates—and their parents and teachers face sentences of 15 to 25 years for the child’s conduct.

Working groups in Parliament contemplated, and then tabled, a bill forcing couples to test for HIV before marriage or whenever a spouse requests, and requiring the forced sterilization of individuals with intellectual disabilities if three doctors so recommend. At this writing Parliament is debating a new penal code criminalizing homosexuality and providing for sentences of 5-10 years’ imprisonment and significant fines. As warned by the UN Human Rights Committee in March 2009, criminalizing homosexuality would place Rwanda in violation of its obligations under the International Covenant on Civil and Political Rights (ICCPR).

Two new political parties faced difficulties in obtaining the government registration necessary to participate in the 2010 presidential election. Both groups had meetings broken up by police and party members arrested, particularly the Parti Social Imberakuri.

The government continued to roll out its land policy, directing farmers to plant only the officially designated crop for their region. Aimed at replacing subsistence farming with a fully professional agricultural industry by 2020, the policy is often enforced aggressively by local officials who uproot crops and threaten to appropriate land when a farmer fails to comply. Critics suggest that the program places farmers at risk of food insecurity and may lead to increased poverty.

The government continued expropriating land in less developed neighborhoods in Kigali and other urban areas for commercial buildings. The policy disproportionately affected poorer communities, providing landholders with inadequate compensation and little choice but to move to distant government settlements and indebt themselves to the government for any difference in value between their original property and the new land offered to them.

## **Media Freedom**

In April 2009 the government suspended the BBC's Kinyarwanda service, alleging it provided a platform to genocide deniers. The suspension, lifted two months later, formed part of a broader pattern of government interference in the media. In assessing Rwanda's ICCPR compliance, the UN Human Rights Committee in March expressed concern over reports that the government subjected journalists critical of government policies to intimidation and harassment and charged journalists with "divisionism," a term often used interchangeably with genocide ideology.

At a presidential press conference in July, Rwanda's minister of information stated that "the days of [leading independent newspapers] *Umuseso* and *Umuwugizi* are numbered." Within days the Media High Council, which regulates the profession, recommended a three-month suspension of *Umuseso* for an article critical of President Paul Kagame, and prosecutors launched criminal defamation proceedings against the editor of *Umuwugizi* for an article exposing a sex scandal involving a high-ranking national prosecutor.

A new media law passed in August bans all Rwandan journalists without a university degree or certificate from working in the field; most independent Rwandan journalists have neither. The legislation also imposes a wide range of restrictions on gathering and reporting information, and maintains defamation as a criminal offense.

## **Key International Actors**

Donors provide generous support to Rwanda, emphasizing its economic growth and relative stability in the region. However, the Netherlands and Sweden suspended all direct budget

support in December 2008 after the release of a UN report exposing Rwanda's support of a Tutsi rebel movement in the Democratic Republic of Congo; neither has resumed assistance at this writing.

The United Kingdom remains the largest bilateral donor and successfully pushed for electoral reforms before 2010's election. Germany and Rwanda restored diplomatic relations after interrupting them in November 2008 over the arrest of Rose Kabuye under a French indictment for alleged participation in the 1994 shooting down of former president Habyarimana's plane. Rwanda also strengthened economic ties with China.