

**Flygtningenævnets baggrundsmateriale**

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## Rwanda

### Events of 2008

Fourteen years after the genocide that killed three-quarters of the Tutsi population in Rwanda, the government is moving towards ending genocide trials and redirecting attention to economic development. Conventional courts are operating more efficiently under reforms begun in 2004, but still lack independence and fair trial guarantees. In 2008 the government shifted thousands of the most serious genocide cases from conventional courts to community-based *gacaca* courts, while it stepped up efforts to persuade jurisdictions abroad to send Rwandans accused of genocide home for trial. Meanwhile, a Spanish judge issued arrest warrants for 40 officers of the current Rwandan army-the Rwandan Defense Force (RDF)-spurring Rwanda to mobilize other African governments against international justice.

Rwandan authorities exercise tight control over political space, civil society, and the media, often accusing dissenters of "genocide ideology." Legislative elections in September 2008 were peaceful, but marred by serious irregularities, and further strengthened the Rwandan Patriotic Front (RPF), the dominant political party since 1994. International donors, generally satisfied by the prospect of economic development, said little about election irregularities or human rights abuses.

### Conventional Courts

Since reforms in 2004, Rwandan courts have operated with greater administrative autonomy. Judges, except those on the Supreme Court, once enjoyed life tenure. In June 2008, however, the legislature amended the constitution to limit judicial terms to four years, increasing the vulnerability of judges to pressure. The death penalty was abolished in 2007-a noteworthy achievement-but was replaced by life imprisonment in solitary confinement, a penalty that constitutes torture and violates international standards. In August 2008 the Rwandan Supreme Court found the penalty constitutional. In a more positive vein, the Supreme Court held that heavier penalties for women than for men convicted of adultery were unconstitutional.

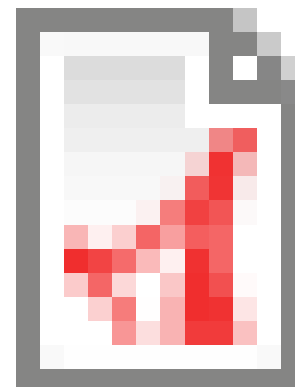
Courts continued to be burdened by a backlog of thousands of ordinary criminal and civil cases, even after most genocide cases were transferred to *gacaca* jurisdictions. Former minister of justice Agnès Ntamabyaliro, the only minister from the previous government in Rwandan custody, incarcerated since 1997, was still being tried two years after her trial had begun.

In June 2008 Rwanda charged four Rwandan military officers with war crimes for the 1994 killing of 15 civilians, 13 of them clergy. Two of the officers confessed to the killing and were sentenced to eight years in prison. Two more senior officers were acquitted after a brief trial. The RPF had acknowledged the crime committed by its soldiers 14 years ago, but brought the accused to trial only after the International Criminal Tribunal for Rwanda (ICTR) prepared a case against them. Neither the Rwandan prosecutor's office nor the ICTR anticipate further such prosecutions, despite United Nations estimates that between 25,000 and 45,000 persons were killed by RPF soldiers in 1994.

### Gacaca Jurisdictions

In June 2008 the legislature transferred the most serious genocide cases (category I) from conventional courts to community-based *gacaca* jurisdictions, created in 2001 in an effort to combine restorative and punitive justice. Nearly 90 percent of these 9,300 cases involve sexual violence and will be heard behind closed doors, a policy meant to protect victims but which also prevents monitoring the

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performance of judges, who are minimally trained and who can impose penalties up to life imprisonment in solitary confinement. Originally scheduled to end in 2007, *gacaca* jurisdictions will continue hearing cases until 2010.

Instances of faulty procedure, judicial corruption, and false accusations undermine trust in *gacaca* jurisdictions among victims as well as the accused. In February a *gacaca* appeals court sentenced former presidential candidate Dr. Théoneste Niyitegeka to 15 years in prison for genocide. Dr. Niyitegeka, who had cared for Tutsis in 1994, had been acquitted by a lower court because of the scanty, vague, and contradictory testimony against him. The appeals court gave no explanation for overturning the previous acquittal. In another case marred by grave procedural errors, an appeals court overturned the acquittal by a lower court of *Jean Népomuscène Munyangabe*, a Rwandan working for the UN in Chad, who voluntarily returned to Rwanda to contest charges against him.

The safety of witnesses in judicial proceedings continued to be a concern, with 17 genocide survivors killed in the first nine months of 2008, some in connection with testimony in *gacaca* proceedings.

### **International Justice**

Rwanda intensified efforts to have persons accused of genocide sent back to Rwanda for trial, generally unsuccessfully. At the ICTR, where officials hoped to speed closure of the court by sending genocide cases to national jurisdictions, judges refused transfers to Rwanda, citing among other reasons difficulty in obtaining defense witness testimony and the possible imposition of a sentence of life in solitary confinement. The Rwandan legislature sought to remove one obstacle to transfers by adopting a law excluding imposition of this penalty on persons transferred from the ICTR.

The United Kingdom agreed to the extradition of four Rwandans, a decision being appealed. A French appeals court refused to extradite two Rwandans, as did a German court. More than a dozen requests are pending in other European countries and Belgium is pursuing further domestic prosecutions.

In February 2008 a Spanish judge issued arrest warrants for 40 Rwandan Defense Force officers for war crimes and crimes against humanity committed against Spanish, Rwandan, and Congolese citizens in the 1990s. The prosecution is based on both domestic law and universal jurisdiction, a doctrine which permits national courts to prosecute the most heinous crimes committed abroad. Rwandan authorities mobilized African governments against such judicial action, labeling it neo-colonialist.

In a similar situation in 2006, Rwanda broke relations with France after a judge issued warrants against nine RDF officers. In August 2008 Rwanda published a report charging French involvement in the genocide and announced possible prosecutions of French citizens. In November Germany arrested Rose Kabuye, one of the nine, on a French warrant. Rwanda immediately expelled the German ambassador and organized protest demonstrations in Rwanda and abroad.

### **"Genocide Ideology"**

Authorities use prosecution, or the threat of prosecution, for "genocide ideology" to silence dissent of many kinds, including calls for justice for RPF war crimes. Prosecutors brought hundreds of cases involving this accusation before the charge was finally defined by law in June 2008. The current definition is vague, requires no link to any genocidal act, and prohibits speech protected by international conventions.

### **Elections**

In the September legislative elections, RPF candidates won 79 percent of the vote in polling that was peaceful, but marred by numerous irregularities. While acknowledging some progress since the 2003 election, European Union observers faulted procedural irregularities in over half the polling stations, RPF dominance of the media, and the absence of political plurality, in due part to the fear of "genocide ideology" accusations. Women took 44 seats in the 80-seat assembly, making the Rwandan parliament the first in the world with a female majority. The Rwandan constitution provides that women must hold at least 30 percent of parliamentary seats.

## Human Rights Defenders and Journalists

In late 2007 two activists from the Rwandan League for the Promotion and Defense of Human Rights (LIPRODHOR) were threatened and fled Rwanda following publication of a LIPRODHOR report documenting official abuses. LIPRODHOR as an organization was not allowed to monitor the 2008 elections and its members were excluded from joining other observer teams.

The Human Rights League of the Great Lakes (LDGL)-an umbrella group that includes Burundian, Congolese, and Rwandan organizations-monitored the elections, and in a balanced report identified many of the faults also noted by the EU observers. The chair of the National Election Commission attacked LDGL for the report, wrongly asserting that its Congolese president had changed an earlier version to make the report more critical.

Throughout the year, officials sought to limit reporting by critical journalists. Beginning in 2007 officials criticized the Voice of America and the BBC for favoring "genocide ideology" and in 2008 excluded their journalists from official events. In May 2008 reporters for three independent newspapers were excluded from an official celebration of World Press Day and were thereafter excluded from all government press conferences.

Journalist Dominique Makeli, jailed for 14 years on genocide charges, was acquitted in a *gacaca* trial, but the verdict has been appealed.

## Key International Actors

Donors, including multilateral institutions, like the World Bank and the EU, and bilateral donors, like the United Kingdom, the United States, Belgium, the Netherlands, Germany, and Sweden, provide generous support to Rwanda, citing its ambitious plans for economic growth and its achievement of internal stability. International actors rarely criticize the Rwandan human rights performance publicly, although some on occasion discreetly, and occasionally successfully, recommend changes in proposed legislation.

Even such generally supportive donors as the US criticized Rwanda for permitting the Congolese rebel commander Laurent Nkunda to obtain recruits and financial support from within Rwanda (see DRC chapter). Dutch parliamentarians, who attributed some responsibility to Rwanda for the Congolese crisis, proposed transferring Dutch general budget support from Rwanda to a Congolese emergency fund.

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