



**UPR Submission
Rwanda
July 2010**

Summary

This submission describes breaches of Rwanda's international human rights obligations and commitments, particularly with regard to freedom of expression, freedom of association, and freedom of assembly. It also highlights positive developments, as well as ongoing concerns, in the justice sector. It is not intended as a comprehensive overview of the human rights situation in Rwanda.

Rwanda has made significant progress in rebuilding the country and in developing the country's infrastructure and economy since the 1994 genocide. However, human rights have been low on the list of priorities, with the government clearly favouring economic development over protection of civil and political rights. At times, it has sought to justify violations of these rights in the name of ensuring security and "stability" after the genocide, and has engaged in hostile rhetoric against Rwandan and international human rights organizations. Human Rights Watch is concerned that the continuing repression of civil and political rights, particularly restrictions on free speech, is likely to affect the country's long-term stability as well as the prospects for genuine reconciliation in the aftermath of the genocide.

Violations of civil and political rights

Freedom of expression has been severely restricted in Rwanda for many years. The months leading up to presidential elections in August 2010 have been marked by a further crackdown on independent voices. Tight restrictions on democratic space have ensured that President Paul Kagame is not facing any serious competition. Nevertheless, the government and the ruling Rwandan Patriotic Front (RPF) have engaged in increasingly aggressive tactics against opponents and critics – among them, members of opposition parties, journalists, and human rights organizations.

The genocide ideology law

The government has used provisions in a law on genocide ideology, adopted in 2008, as one of its principal tools for silencing independent opinion and criticism. The very broad and imprecise nature of the offense of genocide ideology provided for in this law leaves it open to abuse. Of particular concern is the absence of the requirement to prove "intent" and "causality" for this crime. The 2008 law includes, as characteristics of the crime, behavior such as "laughing at one's misfortune," "mocking, boasting, despising," and "stirring up ill feelings." Children can be accused of genocide ideology, as can their parents, teachers or guardians if found guilty by implication.

Hundreds of cases of genocide ideology have been brought before the Rwandan courts since 2007, some even before the 2008 law was adopted. A significant proportion of cases have resulted in acquittals, but often after defendants had spent long periods in detention. In a number of cases, the accusations could be considered frivolous, with defendants arrested on the basis of casual comments of an inoffensive nature.

Those who defend the law on genocide ideology say it is intended to prevent hate speech of the kind witnessed before and during the genocide. But in practice, it has often been used to quash debate, to discredit government critics, and to attempt to impose a single version of Rwanda's recent history. Individuals who have spoken out about crimes committed by the RPF during and since 1994 have been particularly vulnerable to accusations of genocide ideology, as have members of opposition parties.

The law on genocide ideology has also had a chilling effect on freedom of expression in Rwanda. Many ordinary Rwandans are afraid of voicing their views, even on seemingly uncontroversial issues, for fear that they will be accused of genocide ideology and imprisoned. The offense is punishable by up to 25 years' imprisonment, or life imprisonment for repeat offenders and those convicted of genocide.

In 2010, in a welcome development, the government indicated that it was reviewing the law on genocide ideology. By June, a new draft was not yet available.

Opposition parties

Members of opposition parties in Rwanda have been, and continue to be, harassed, threatened and intimidated. Two of the new opposition parties seeking to stand in the 2010 elections – the FDU-Inkingi and the Democratic Green Party of Rwanda – have been prevented from registering. They have been repeatedly obstructed by the authorities and told they have to provide police clearance and guarantees of security before they can be authorized to hold their congress meetings. Meetings of the Democratic Green Party and the PS-Imberakuri (a third opposition party) have been disrupted several times, sometimes violently, by dissident members or other individuals.

The PS-Imberakuri managed to register, but has since been taken over by dissident members believed to have been manipulated by the RPF to silence the party's president, Bernard Ntaganda. Ntaganda himself was summoned before the Senate at the end of 2009 on accusations of genocide ideology. In April 2010, members of the Senate's political commission expressed their view that these accusations were well-founded. On June 24, 2010, Ntaganda was arrested and questioned by the police. At the time of writing, the precise accusations against him are not confirmed. On the same day, dozens of members of the PS-Imberakuri and the FDU Inkingi were rounded up and detained by the police.

Victoire Ingabire, leader of the FDU-Inkingi, has been questioned by the police numerous times since her return to Rwanda in January 2010 after many years in exile. In March 2010, police stopped her at Kigali airport and prevented her from leaving the country. In April, she was brought before a court to face accusations of genocide ideology, "divisionism", and collaboration with the *Forces démocratiques pour la libération du Rwanda* (FDLR), an armed group active in the Democratic Republic of Congo, composed in part of individuals who took part in the 1994 genocide. She was released on bail but is not allowed to travel outside the capital. There has been an unrelenting campaign against Ingabire in the pro-government media, relating primarily to public statements in which she criticized the government and called for justice for massacres of Hutu by the RPF. These measures against Ingabire have paralyzed her party's activities.

Frank Habineza, leader of the Democratic Green Party, and other members of his party have faced threats from people close to the government and the RPF, warning them to stop their political activities.

Unless the situation changes in the very near future, neither the Democratic Green Party nor the FDU-Inkingi will be able to compete in the elections, while at the time of writing, the PS-Imberakuri's position remains uncertain.

Independent media

Independent journalists in Rwanda have been subjected to persistent harassment and threats for many years. Several have fled the country due to credible fears for their safety. One independent journalist was shot dead in 2010 (see below). In March 2009, in assessing Rwanda's compliance with the International Covenant on Civil and Political Rights, the UN Human Rights Committee expressed concerns about reports of intimidation and harassment of journalists critical of government policies.

The Rwandan media is dominated by pro-government newspapers and radio stations. In May 2008, the government excluded three independent newspapers from the celebration of World Freedom of Press Day, then banned them from government press conferences. In August 2009, the government introduced a new media law, which places unrealistic and burdensome restrictions on journalists, including extremely high registration fees for establishing a newspaper and levels of formal qualification which most Rwandan journalists do not have.

Umuseso and *Umuvugizi*, two of the few remaining independent newspapers, have been singled out by the government for harsh treatment. In July 2009, the Minister of Information stated that "the days of the destructive press are numbered," referring to these newspapers. Within 24 hours, the editor of *Umuvugizi* was summoned to the national prosecutor's office to answer allegations of defamation. In 2009, both newspapers were sued for defamation – a criminal offense punishable with imprisonment – in connection with articles exposing scandals involving public figures.

On April 13, 2010, the Media High Council, a government-aligned body responsible for regulating the media, suspended both newspapers for six months, then called for their definitive closure. *Umuvugizi* has since launched an electronic version of its newspaper, but access to its website has been blocked inside Rwanda. The editors of *Umuvugizi* and *Umuseso* fled into exile after receiving repeated threats. On June 24, 2010 *Umuvugizi* journalist Jean Léonard Rugambage was shot dead outside his home in Kigali.

In April 2009, the government suspended the BBC's Kinyarwanda service for two months, claiming it provided a platform to genocide deniers. After restoring it to air, it cautioned the BBC about its reporting and has threatened the BBC service with suspension on at least one further occasion. Previously, the government had threatened both the BBC and the VOA in connection with their reporting in the run-up to 2008 parliamentary elections.

Non-governmental organizations (NGOs) and other independent voices

After years of intimidation of civil society activists, there are very few independent human rights NGOs now left in Rwanda. The government strongly urges Rwandan NGOs to join the officially sanctioned Civil Society Platform (CSP), marginalizing those who choose not to. The original purpose of the CSP was to provide NGOs with a collective voice, but in practice, it has proved restrictive, because it requires consensus and limits NGOs' ability to work outside this framework. In addition, the leadership of the CSP has close ties to the government.

Organisations trying to document human rights abuses in Rwanda face constant threats and obstacles. In the run-up to the 2008 parliamentary elections, the *Ligue des droits de la personne dans la région des Grands Lacs* (LDGL) was prevented from deploying its full election observer mission, was fiercely attacked by the National Electoral Commission before its report even came out, and was implicitly threatened with denial of registration as an NGO in Rwanda. Members of the independent human rights organization LIPRODHOR have also faced serious threats over several years, causing key members to leave the country, and leaving the organization significantly weakened. The work of ADL, one of Rwanda's oldest human rights organizations, has been almost paralyzed for several years, after its leadership was effectively taken over by individuals close to the government, who blocked its activities.

Rwandan government officials have accused human rights activists of supporting individuals seeking to overthrow the government and armed groups linked to the genocide. For example, a Rwandan government representative attacked human rights organizations in these same terms at the 47th session of the African Commission on Human and Peoples' Rights in the Gambia in 2010.

International human rights organizations, including Human Rights Watch, Amnesty International and Reporters Sans Frontières, have been repeatedly criticized and discredited in the pro-government media. In 2008, the Rwandan authorities twice blocked the entry into Rwanda of the late Alison Des Forges, Human Rights Watch's senior advisor on the Great Lakes region and a renowned Rwanda expert. In March 2010, the immigration authorities cancelled the work visa of Human Rights Watch's senior researcher in Kigali, then rejected her second visa application, forcing her to leave the country in April.

On 28 May 2010, US lawyer Peter Erlinder, one of Victoire Ingabire's defense lawyers, was arrested on accusations of genocide denial and spreading malicious rumors which could endanger national security. He was released on bail three weeks later. The accusations against Erlinder – who is also a defense lawyer at the International Criminal Tribunal for Rwanda – were related primarily to articles he had published under his own name in previous years, in which he questioned key events surrounding the genocide. The prosecution also argued that some of his writings amounted to a call to rebellion and endangered national security. Although the charges make no reference to Ingabire, his arrest and prosecution, and the high level of publicity surrounding his case, are likely to further jeopardize Ingabire's chance of a fair trial.

Attempted murder of General Kayumba Nyamwasa

On June 19, 2010, Rwandan general Faustin Kayumba Nyamwasa was the target of attempted murder in Johannesburg, South Africa. He was seriously injured, but survived. Once a close ally of President Paul Kagame and a former chief-of-staff of the Rwandan army, Kayumba had fled to South Africa in February 2010. In exile, he became an outspoken critic of the Rwandan government and of President Paul Kagame. The South African police have arrested several suspects.

Developments in the justice sector

There have been a number of positive reforms in the justice sector. The government has rebuilt the infrastructure of the judicial system, largely destroyed by the genocide, and has enacted legal reforms aimed at reducing the number of courts and judges, improving the qualifications of lawyers and judges, and affording due process to accused persons. However, there are continuing concerns about unfair trials; the abuse of the genocide ideology law to deter witnesses and lawyers' participation in the defence of genocide charges; other pressure on, and intimidation of, witnesses; corruption; and lack of judicial independence.

In a significant and welcome development, Rwanda abolished the death penalty in 2007. At the same time, regrettably, it introduced a new sentence of "life imprisonment with special provisions." which includes detention in isolation. Fortunately, this provision has not been applied to date, as Rwanda's prisons do not have the facilities for isolating large number of prisoners. In 2010, the Rwandan parliament was debating a draft law implementing "life imprisonment with special provisions", which specified that prisoners serving this sentence have the right to go outside their cell, to receive visits from their immediate family members and their lawyer, to receive medical treatment, and to perform research, artistic and cultural activities. However, the law does not specify the frequency with which prisoners will be able to exercise these rights and other important rights-related details.

Gacaca

Community-based *gacaca* courts, which began trying genocide cases in 2002, are finally expected to close in 2010. Rwanda is now facing the challenge of how to deal with outstanding or new genocide cases, both domestically and internationally.

Gacaca has been a mixed experience for individual Rwandans and for the country as a whole. Positive aspects include the fact that the courts have processed a large number of cases and significantly reduced the prison population; they have involved the local population in the process of justice for the genocide; and some judges have delivered fair and objective judgments.

On the negative side, courts have sometimes handed down heavy sentences, including life imprisonment, on the basis of very little evidence against the accused; witnesses and judges have been vulnerable to corruption, affecting the outcome of the trials and undermining confidence in the courts; some defense witnesses have been afraid of testifying for fear of being accused of genocide themselves; and there are numerous allegations that *gacaca* courts have sacrificed the truth to satisfy political interests. Many Rwandans anecdotally view *gacaca* as a way of settling scores rather than delivering justice. Numerous allegations of miscarriages of justice by *gacaca* courts still need to be rectified.

The government has announced closure of *gacaca* courts several times in the past but their closure has been repeatedly postponed. When *gacaca* does end, there will be opportunities for encouraging reforms of the judicial system. Such reforms will be necessary for Rwanda to meet international judicial standards and for other countries to be able to transfer alleged genocide suspects to Rwanda for trial. To date, only one country has been willing to extradite genocide suspects to Rwanda, mainly because of insufficient guarantees of a fair trial. The same applies to transfers of defendants by the International Criminal Tribunal for Rwanda.

Detention without trial of Laurent Nkunda

In January 2009, the Rwandan authorities arrested Congolese rebel leader Laurent Nkunda (whom they had previously backed for several years) and have held him illegally under house arrest ever since. Nkunda has still not been charged or tried. As documented by Human Rights Watch and others, troops under his command committed war crimes in eastern Congo between 2002 and 2008, including extrajudicial executions, killings, rape and recruitment of child soldiers.

Recommendations

Remove legal and de facto restrictions on political activities and free expression; cease harassing opposition party members; and enable parties to freely register, carry out their activities and contest elections.

Allow journalists – including those with a record of criticizing the government – to practise freely, to carry out investigations and to publish their findings and comments without reprisals.

Ensure that Rwandan and international human rights organizations are free to carry out their work without hindrance or intimidation.

Pursue reforms of Rwanda's justice system, in particular measures to strengthen the independence of the judiciary, reinforce witness protection, and guard against corruption and political interference.

*Ensure that alleged miscarriages of justice in *gacaca* trials are reviewed independently and, where appropriate, rectified.*

Amend the law on genocide ideology to ensure a more precise and narrow definition of the crime in line with international norms, and require that intent to commit, assist or incite genocide be clearly demonstrated.

Ensure that Laurent Nkunda is charged and tried without delay, or transferred to another jurisdiction willing to try him in connection with crimes committed in the Democratic Republic of Congo, in accordance with international fair trial standards.

Appendix: Recent Human Rights Watch documents on Rwanda

Press release: "Stop Attacks on Journalists, Opponents", 26 June 2010

Press release: "Allow Human Rights Watch to Work: Government Denies Visa to Rights Researcher in Crackdown on Critics", 23 April 2010

Press release: "End Attacks on Opposition Parties: Intimidation of Political Opponents Increases in advance of Presidential Elections", 10 February 2010

Report: "Law and Reality: Progress in Judicial Reform in Rwanda", July 2008

Press release: "Restore BBC to the Air", 27 April 2009

Human Rights Watch World Report 2010 and World Report 2009, chapters on Rwanda