

WHY THE NETHERLANDS MUST STOP
EXPULSIONS AND EXTRADITIONS TO
RWANDA

**OUR
ENEMIES
WILL PAY
THE
PRICE**

ALL FOR RWANDA

“Our enemies will pay the price”

Why the Netherlands must stop expulsions
and extraditions to Rwanda

“Anyone still alive who conspires against Rwanda, whoever they are, will pay the price ... Whoever they are, it is just a matter of time”.

President Paul Kagame (The Guardian, March 19, 2021)

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I. Why this book?

“He who passively accepts evil is as much involved in it as the one who helps perpetrate it. (Martin Luther King jr)”

It is widely documented, even by key allies, that the Rwandan regime is one of the most repressive regimes in Africa. In its human rights country report 2017 the US government accuses Rwanda of: *“arbitrary or unlawful killings; torture (violation of international law); harassment, arrest, and abuse of political opponents, human rights advocates, and individuals perceived to pose a threat to government control and social order; security forces’ disregard for the rule of law; and restrictions on civil liberties; restrictions on the registration and operation of opposition parties, hence denying citizens the ability to change their government through free and fair elections”*¹. The situation for civil and political rights has deteriorated since then, coming down from 24% 2017 to 22% in 2019 according to Freedom House.

During the concluded Universal Periodic Review 2021², the US State Department report for 2019, Human rights watch, EU parliament highlight cases of *torture and ill-treatment, extrajudicial killings, enforced disappearances, arbitrary detention, and deaths in custody*³. Freedom House report 2021 points out that *“Rwandan transnational repression is exceptionally broad in terms of tactics, targets, and geographic reach”* and specifically highlights the fact that *“the government usually targets individuals who challenge it through criticism or active resistance”*.⁴

Sadly, the people that the Dutch government wants to send to Rwanda fall under this category of people at risk described in the US government report and Freedom House. The Rwandan regime does not want the suspects to be tried outside Rwanda where they can get justice. When the Rwandan regime fails to get collaboration to get its critics extradited, it has resorted to assassinations or kidnap as in the case of Paul Rusesabagina.

Beyond gross violation of human rights, that should be repulsive to all champions of human rights, there is something more important which is deliberately ignored allegedly for commercial and political interests namely that repressive and exploitative socio-political systems buttressed by external forces have created conditions for the cycle of political violence in Rwanda, the worst being the 1994 violence against Tutsi and mass murder of thousands of Hutus by the victorious RPF regime. The UN Mapping report has suggested that the mass killing of Hutu refugees in the Democratic Republic of Congo could be proven to be genocide before a court of law.

As social scientist, Marc Sommers points out: *“envisioning a radiant Rwanda is only possible if one shares the blinders that its government so confidently wears. The government of Paul Kagame boasts many excellent ideas. But underneath the splendid success are disturbing realities that are systematically contained. At least for now, Rwanda’s progress is dangerously uneven and so reliant on extreme levels of social and political control that its future is foreboding”*⁵. Adding that: *“helping his nation avoid another explosion is a message that only Rwanda’s international supporters can deliver*

¹ <https://www.state.gov/documents/organization/252929.pdf>

² https://www.ecoi.net/en/file/local/2042308/a_hrc_wg.6_37_rwa_2_E.pdf

³ <https://www.hrw.org/news/2021/02/01/un-countries-call-out-rwandas-rights-record>

⁴ <https://freedomhouse.org/report/transnational-repression/rwanda>

⁵ Marc Sommers: the darling dictator of the day: <http://www.nytimes.com/2012/05/28/opinion/Paul-Kagame-The-Darling-Dictator-of-the-day.html>

to President Kagame⁶. This is the type of support that the people of Rwanda need, not blind aid.

The Center for Strategic and International Studies (CSIS) commissioned by US Africa Command (Africom) report (2011) came to the same conclusion that: *"though the country is calm and orderly, stability could be put at risk by political repression, narrowing of party base, failure to address deep seated grievances openly and equitably"*. The situation is worse today than when the report was written.

Peter Uvin equally argues, in his paper on "aiding violence", that the socio-political system, based on the preferential treatment of one group (Tutsi) by external powers (Germany and then Belgium) encouraged exclusion, and subsequent impoverishment, of another group (Hutu) in Rwandan society and that the exclusion led to feelings of humiliation, anger, and frustration among the oppressed group which eventually led to acute violence directed at Tutsi in 1959. It could be said also that the new socio-political system that emerged after the fall of the monarchy, led by the Hutu elite which received support from the West, failed to establish a fully inclusive democratic society and to resolve the problem of Tutsi refugees. The Tutsi who felt marginalised, politically excluded, refugees feeling stateless, organised an armed rebellion that has ended up in genocide and regional destabilisation in Central Africa that has caused more than six million deaths.

Tutsi refugees refused to answer the call to return in 1963 but did not respond because they did not trust the new regime. Likewise, Hutu refugees cannot return to Rwanda now, given the current repressive system.

The preferential treatment of the RPF regime by external powers and particularly in the area of justice is going to produce the same results. For example, handing over critics to a notoriously repressive regime is not only a violation of international law but also jeopardises the future stability of Rwanda and at worst could end up, as some studies predict, in a civil war. Unfortunately, as Andy Storey laments: *"as with pre-genocide Rwanda, international actors seem willing to strengthen a state 'that has proved to be a killing machine' (Oomen, 2005: 907)."*⁷

A study on the root causes of ethnic violence carried out in 155 countries from 1946 to 2005, based on the expert advice of nearly hundred country specialists from universities across the world led by Professor Andreas Wimmer at UCLA identified Rwanda, Syria and Sudan as the study's most exclusionary countries⁸. Civil wars have already happened in Syria and Sudan since the study came out.

Sadly, The Netherlands is one of the countries that fund the Rwandan regime. It can be safely suggested that unconditional support to the regime is indirectly aiding repression taking place now and preparing the next round of political violence. We have reason to believe that the Dutch Government after reading this document, will consider reviewing its position on sending political refugees to Rwanda.

⁶ Marc Sommers is a fellow at the Woodrow Wilson International Center for Scholars and the author of "Stuck: Rwandan Youth and the Struggle for Adulthood."

⁷ Andy Storey *Structural Violence and the Struggle for State Power in Rwanda: Why 'Conflict Resolution' and Other External Interventions Have Made Things Worse* Paper for presentation at the PSAI Annual Conference, 8-10 October 2010, Dublin Institute of Technology

⁸<http://newsroom.ucla.edu/releases/excluding-ethnic-groups-from-power-88681>

II. Rwanda's historical background

A summary

There is a stereotyped narrative which suggests that political violence in Rwanda that culminated in the genocide against the Tutsi is a result of irrational tribalism. But the truth of the matter is that the cycle of political violence is a result of political and social exclusion, resulting in violation of human rights. Unfortunately, group grievances patterned along ethnic and regional lines have been used by political elites to canvass these group support while external interests have helped maintain such groups in power through political, diplomatic, and economic support thus postponing an inevitable violent end. We believe that ethnic diversity, properly appreciated and well managed through a democratic process, rule of law and respect for human rights, is the mark of a strong nation.

Before 1900, Rwanda did not exist in its present form. The Rwandan territory currently known was occupied by small clan kingdoms. It was the German settlers who helped the Abanyiginya - Abega kingdom to extend their domination over the whole of Rwanda to the northern and western regions that had remained autonomous until then⁹. It is following the Berlin conference¹⁰ that Rwanda was shaped into its current borders, it is the colonial power that formalized the ethnic labels "Hutu-Tutsi" that existed in the different clans but did not have the current form.

The Rwandan political crisis is not ethnic as the current discourse would have us believe. It is the management of power that is the main cause: lack of democracy and good governance makes it possible for the political elite to exploit group grievances based on ethnicity or region to get to power and to keep it for themselves due to lack of strong institutions.

Bad governance in Rwanda has been characterized mainly by exclusion, discrimination, favouritism based on regional or ethnic affiliation.

Before the arrival of the German settlers, there were political crises, the main one being the Rucunshu¹¹ "coup d'état" between the Abega and the Abanyiginya, and when read in the ethnic mirror, it could be said that it was power struggle within the same ethnic group: the Tutsis.

The 1959 revolution was an ethnic change of power between the Hutus and the Tutsis.

The 1973 coup d'état was a result of power within the same ethnic group, the Hutus, with a prevailing regionalism character.

The war that started in October 1990 was mainly led by former Tutsi refugees.

The current Rwandan political crisis is a mixed bag. Hutus and Tutsis are fleeing RPF¹²-dominated power. The RPF witch-hunting against Rwandan refugees is part of the RPF's quest to consolidate and perpetuate its power by silencing its opponents and critics.

⁹<http://editions-sources-du-nil.over-blog.com/2020/01/vient-de-paraitre-histoire-du-rwanda-desideologisation-et-restitution-des-faits-historiques.html>

Histoire et peuplement : ethnies, *clans* et lignages dans le Rwanda ancien et contemporain. par Antoine Nyagahene : <http://www.theses.fr/1997PA070030>

¹⁰https://en.wikipedia.org/wiki/Berlin_Conference

¹¹https://en.wikipedia.org/wiki/Mibambwe_IV_Rutarindwa

¹² Rwandan Patriotic Front, political state party

The establishment of the rule of law, underpinned by political pluralism and democratic transfer of power, would make it possible to eradicate both regionalism and ethnicism. It is the establishment of the rule of law and its continuity that must therefore be put into practice. However, despite the fact that the opposition has called for a highly inclusive national dialogue, the Rwandan government shows no political will to engage in this process.

For a lasting peace and socio-economic development in Rwanda and in the sub-region, friends of Rwanda, donors, and financial institutions, should put pressure on the Rwandan authorities and make their financial and political support conditional on the country's governance based on democratic values and respect for human rights.

III. Abstract

The human rights situation in Rwanda offers no guarantee of security for Rwandan political refugees and all those who dare openly criticise the system of governance of the Rwandan Patriotic Front (RPF), the party in power since 1994. Any dissenting voice is treated as an enemy of Rwanda. In its report¹³ of February 2021, an American NGO, Freedom House, lists Rwanda alongside countries such as China, Russia, Iran and Saudi Arabia as a country where the repression of opponents is a serious cause for concern.

The Rwandan authorities exercise undivided power, with a ban on genuine opposition political parties; repression of opponents and human rights activists; killings; physical and mental torture; enforced disappearances; control over human rights organisations and media outlets; and harassment of those who call for political openness and governance according to democratic principles.

The activities of repression by the Rwandan authorities are not limited to Rwanda. They are also evident abroad where opponents of the Rwandan regime are targeted. These repressive activities belong to a carefully prepared and coordinated programme. Considered as a negative force, the movements of the Rwandan opposition abroad are scrutinised by a well-trained and financed espionage service by the Rwandan intelligence services.

In order to find people of the diaspora opposed to the regime in Rwanda, the government set up multiple espionage systems. Rwandans abroad face computer threats, spyware attacks, domestic intimidation and harassment, mobility controls, physical intimidation, assaults, detentions and killings¹⁴.

The Rwandan political system revolves around one political party, the Rwandan Patriotic Front (RPF), which has held the reins of the country since it took power by force in 1994. The RPF controls the judicial system, this greatly hampers the implementation of the right to a fair trial given the politicization of the genocide.

In Rwanda officials often use the judicial system to punish and limit the activities of persons seen as opposed to the government and to the RPF. They are often prosecuted (for divisionism and genocide ideology) and detained for long periods without charge. Laws prohibiting divisionism, genocide ideology, and genocide denial are broadly applied to silence political dissent and to shut down investigative journalism¹⁵.

The regime continues to feign efforts to modernize and bring the judicial system up to standard by displaying commendable principles and legal reforms to respond to international criticism. However, as long as there are large gaps between the text of the law and the actual conduct of legal proceedings, these standards will remain a facade and justice will remain marred by irregularities and interference of all kinds, not only at the expense of those being prosecuted but also generally in contradiction with the need for genuine justice that can contribute to true reconciliation.

¹³ <https://freedomhouse.org/report/transnational-repression/rwanda>
(this item should stay; sorry for the mess)

¹⁵ <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/rwanda/>

National prisons in Rwanda are overcrowded, there is not enough food, sanitary situations are appalling, prisoners are threatened by guards and fellow-prisoners, lawyers have restricted visit rights with their clients, people can be in prison for years without trial, medical treatment is bad, people can even disappear from prison. A prison in Rwanda is a dangerous place to be.

The evidence given by eyewitnesses, the Red Cross and human rights organizations is overwhelming. But the Dutch government and judges think otherwise. On the instigation of the Dutch Immigration service IND¹⁶ they send people back to Rwanda, to a prison system that is very untrustworthy and untransparent.

The IND is biased, partial, unreliable and sloppy. The Dutch procedure in which people are accused of genocide (1F¹⁷) violates human rights.

Anyone who is accused by the IND of participating in the Rwandan genocide ends up in a sucking swamp, in which you slowly but surely sink. Administrative law and the IND's working methods are the biggest culprits. Proving your innocence through administrative law¹⁸ is practically impossible.

Administrative law, designed to defend citizens against government decisions, provides little scope for an adequate defense in practice.

Dozens of Rwandan families in the Netherlands have become victim. Their residence permits were taken, some even lost their Dutch passports and nationality. They were no longer allowed to work and not entitled to benefits, allowances and health insurance. They have been in a permanent state of poverty, fear and uncertainty for more than ten years.

After a lengthy procedure, a judge eventually decides what will happen with the person accused of genocide. Can they be expelled to Rwanda?

For many that is a frightening option, because they are politically active for the opposition. There is a high risk of being arrested in Rwanda, an unfair trial, illegal detention, torture or even death.

The accusations of IND are riddled with errors. There is no knowledge of local language or culture. Files are compiled from general elements, supplemented with few personal details. The IND often asks for further investigation in the country itself. This results in an *Individueel Ambtsbericht* (IAB, an official report on an individual), of which even civil servants say internally that the quality leaves much to be desired. It is quite shocking to take very lightly a situation where someone is accused of the worst crime of genocide when no one is certain what happened, where it happened and when it happened.

The IND almost never admits that it can be mistaken and almost never includes in its decision arguments that are in favor of the suspect. This is contrary to the General Administrative Law (Awb¹⁹), that says an administrative organization, such as the IND, must fulfill its tasks without prejudice.

¹⁶ Immigratie- en Nationalisatie Dienst

¹⁷https://nl.wikipedia.org/wiki/Artikel_1F_Vluchtelingenverdrag#:~:text=Het%20bepaalde%20in%20artikel%201F,kunnen%20maken%20op%20vluchtelingrechtelijke%20bescherming.

¹⁸ De grondbeginselen van de rechtsstaat zijn geschonden' als 'verschrikkelijk ongeluk'. Over de noodzaak van behoorlijk bestuur, Alex Brenninkmeijer, Nederlands Juristenblad, 8-01-2021, https://www.njb.nl/media/4103/c-b-b-37e-d-97a-c-c-4d-20652575d-6b-97e-05c-9_pdf.pdf

¹⁹ <https://wetten.overheid.nl/BWBR0005537/2021-03-01>, article 2.4

In April 2021, Dutch lawyers presented a shocking black book with fifty stories telling how incredibly cruel and inhuman the IND has treated their clients.²⁰ The black book describes the activities of IND as follows: "... excessive formalism, the dismissal of people as fraudsters, an IND that adheres rigidly to the rules and in doing so completely loses sight of the human dimension..."

Almost all judges find the accused eligible for being sent back to Rwanda. Also most politicians believe people can be expelled or extradited to Rwanda. The reason seems to be that since The Netherlands itself has helped build the judicial system, it must send them back to prove that the system is working. To say otherwise would undermine years of support and millions of euros.

But what the Dutch government does not want to realize is, that by giving financial support to Rwanda, The Netherlands is helping a dictatorial system where human rights, political space and freedom of speech don't exist.

²⁰ https://www.vajn.org/wp-content/uploads/2021/04/boek-_ongehoord_-onrecht-in-het-vreemdelingenrecht.pdf

Chapter 1

Rwanda is not a safe place for (political) refugees and critics of the system

“The Rwandan government’s crackdown shows that it is unwilling to tolerate criticism or accept a role for opposition parties, and it sends a chilling message to those who would dare challenge the status quo. With each arrest in Rwanda, fewer and fewer people will dare to speak out against state policy or abuse.”

Ida Sawyer, deputy director Africa, Human Rights Watch (HRW : September 28, 2017)



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Introduction

The human rights situation in Rwanda offers no guarantee of security for Rwandan political refugees and all those who dare openly criticise the system of governance of the Rwandan Patriotic Front (RPF), the party in power since 1994. Any dissenting voice is treated as an enemy of Rwanda. In its report²¹ of February 2021, an American NGO, Freedom House, lists Rwanda alongside countries such as China, Russia, Iran and Saudi Arabia as a country where the repression of opponents is a serious cause for concern.

The Rwandan authorities exercise undivided power with a ban on genuine opposition political parties; repression of opponents and human rights activists; killings; physical and mental torture; enforced disappearances; control over human rights organisations and media outlets; and harassment of those who call for openness of the political space and governance based on democratic principles. These conclusions are shared in the United States country report (2020) on Rwanda. It says that the country has significant human rights issues like unlawful or arbitrary killings by the government; forced disappearance by the government; torture by the government. Like Freedom House this report see political arrests, politically motivated reprisal against individuals located outside the country; arbitrary or unlawful interference with privacy; serious restrictions on free expression, press, and the internet, including threats of violence against journalists, censorship, and website blocking; substantial interference with the rights of peaceful assembly and freedom of association, such as overly restrictive nongovernmental organization laws; and restrictions on political participation.²²

1.1. Rwanda is a police state

In order to be able to exercise undivided power and silence any dissenting voices, the RPF state party has opted for a strategy of infiltration. Elements of the defence and security services are in all the administrative structures²³ of the country, from the basic structure (Village = Umudugudu) to the highest level (Province = Intara).

Officially the village is the basic structure, but there is another one called “Isibo” which groups together a number of families within the village. Isibo is the equivalent of what was previously called Nyumba-Kumi (ten houses).

In this environment of ten houses, there is a RPF security agent, who makes a daily report of all the movements and events that have taken place in the ten houses. Throughout the national territory, no meeting or other form of association of any kind can be held without the approval and presence of a security agent. This is one of reasons Rwanda is a police state where neighbours spy on neighbours, families spy on families, friends spy on friends. Each family keeps a notebook where visitors are recorded who will spend a night and inform the official heading the ten houses.

1.2. Political opposition is not allowed

According to the Rwandan constitution, freedom of association and multipartyism are recognised²⁴; but also, through the law on political parties²⁵ which recognises that *“political organisations must be formed and authorised to operate freely and must be equal before government institutions.”*

²¹ <https://freedomhouse.org/report/transnational-repression/rwanda>

²² <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/rwanda/#.YGQVIRsM9v4.twitter>

²³ <https://www.gov.rw/government/administrative-structure#:~:text=Rwanda%20is>

²⁴ https://www.parliament.gov.rw/fileadmin/Bills_CD/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_RWANDA_OF_2003_REVISED_IN_2015.pdf

²⁵ http://www.rgb.rw/fileadmin/Key_documents/Law_governing_the_PP_and_politicians.pdf

Despite the clarity of the legal texts, there is an obstacle to the recognition and registration of political parties that want to offer the Rwandan people another vision or alternative of the governance of the country.

In 2010, the FDU-Inkingi party, represented by the then President of the party, **Victoire Ingabire Umuhiza**, expressed its wish to participate in the active life of Rwandan society as an approved party, but until 2019, it was impossible to register the FDU-Inkingi party. Instead of registering the party, Victoire Ingabire was charged with six accusations related to terrorist acts and genocidal ideology and sentenced by the high Court to eight years imprisonment²⁶.

She disagreed with this trial marred by numerous irregularities and appealed to the Supreme Court. Instead of alleviating her sentence, this court increased it to fifteen years imprisonment for conspiring against the authorities through terrorism and war, minimising genocide and spreading rumours with the intention of inciting the public to violence²⁷.

Ahead of the presidential elections in 2017, **Diane Rwigara**, a survivor of the 1994 Tutsi genocide, undertook administrative procedures to register as a free candidate. After the announcement of her candidacy on 3 May 2017, a campaign of moral harassment was initiated by those in power. Images of her naked body circulated on the internet with the sole aim of tarnishing her image at the launch of her campaign. After collecting the sponsorship signatures required to be accepted, her candidacy was nevertheless rejected²⁸ on the pretext that some signatures were tampered with and therefore invalid. As a result, her race for the presidential election on 4 August was slowed down.

Resolute to make her voice heard in the Rwandan political arena, she created a peaceful opposition movement 'Mouvement pour le Salut du Peuple (MSP)'. This movement was mainly made up of young people ready to mobilise for change and to express their disapproval of the coercive methods of the RPF. For the regime, Diane's approach was disturbing thus she had to be put out of action. She was arrested and taken to Kigali Central Prison in September 2017 on two charges: "falsification of documents relating to her candidacy file and allegations of tax fraud within the family business Premier Tobacco Company".

The cases of Victoire Ingabire and Diane Rwigara are not isolated. Most of the presidential contenders competing with Paul Kagame have never succeeded. Instead, they found themselves in legal trouble and were even imprisoned. Yet this is a country hailed for being the first in the world that empowers women.

²⁶<https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader>
<https://www.amnesty.org/en/latest/news/2013/03/rwanda-opposition-leader-s-right-fair-trial-jeopardy/>

²⁷<https://ijrcenter.org/2017/12/12/african-court-holds-rwanda-violated-victoire-ingabires-freedom-of-expression/>

²⁸<https://www.hrw.org/news/2017/09/29/rwanda-post-election-political-crackdown>
<https://www.amnesty.org/en/latest/news/2018/11/rwanda-drop-freedom-of-expression-charges-against-political-activist-diane-rwigara/>
<https://www.hrw.org/news/2018/10/10/rwandas-political-thaw-real>

Bizimungu Pasteur and Charles Ntakirutinka were thrown into prison in April 2002 after they founded a political party, PDR-Ubuyanja. They were accused by the authorities of "ethnic divisionism" and therefore declared illegal²⁹. According to the Supreme Court prosecutor, the PDR-Ubuyanja was "merely a cover to create a terrorist group".

Dr Théoneste Niyitegeka was one of the first to challenge Paul Kagame in the 2003 presidential elections while he was quietly practising his profession as a private doctor. But after announcing his candidacy, he was accused of acts of genocide, previously unknown. He is currently serving a 15 year³⁰ prison sentence following a politically motivated trial based on a pack of lies.

Gilbert Mwenedata, another survivor of tutsi genocide, was turned down as a candidate in the 2017 presidential elections. He was accused of falsifying sponsorship signatures. When rumours became stronger of his imminent arrest by the Rwanda Bureau of Investigation (RIB), he fled the country and went into exile³¹.

Thomas Nahimana and Mrs. Nadine Claire Kansige, both members of the exiled Ishema party, were stranded at Nairobi's Jomo Kenyatta International Airport for several days. They returned from exile for the 2017 presidential election, having boarded Kenya Airways in Amsterdam in November 2016. As they were about to board for Rwanda from Nairobi, they were informed by the check-in services that, on the instructions of the Rwandan customs services, it was no longer possible to continue their journey to Kigali. After a stay of a few days in the transit hall, they finally decided to return to their countries of asylum³².

1.3. Lack of freedom of the press and of speech

Despite the adoption of a law in February 2013³³, guaranteeing freedom of the press and independence of the media, the profession of journalism is not easy to exercise in Rwanda. The number of journalists intimidated and harassed continues to increase, according to Reporters Without Borders. Their ranking list of 2020 puts Rwanda at the 155th place out of 180 countries in the world.³⁴

Two articles of a new law, dating from 2018³⁵, restrict all freedom of expression and are invariably used against members of the opposition or any other opinion leader.

²⁹<https://www.amnesty.org/en/latest/news/2012/03/rwanda-urged-end-clampdown-dissent-charles-ntakirutinka-released/>

³⁰ <https://www.hrw.org/news/2008/02/15/rwanda-review-doctors-genocide-conviction>
<https://www.ktpress.rw/2017/05/ex-presidential-aspirant-jailed-using-nonexistent-law-court-hears/>

³¹<https://www.theeastafrican.co.ke/tea/news/east-africa/former-rwandan-presidential-hopeful-flees-country-1377526>

<https://www.ecoi.net/en/document/1422587.html>

³² <https://www.theeastafrican.co.ke/tea/news/east-africa/kenya-forced-to-keep-prelate-as-rwanda-denies-him-entry--1358474>

³³ https://www.rgb.rw/fileadmin/Key_documents/Law-RGS-Gazette/LAW_REGULATING_MEDIA-08-02-2013.pdf

³⁴ https://rsf.org/en/ranking_table

<https://www.politico.com/magazine/story/2014/02/rwanda-paul-kagame-americas-darling-tyrant-103963/>

<https://www.nytimes.com/2012/05/28/opinion/Paul-Kagame-The-Darling-Dictator-of-the-day.html>

<https://www.theguardian.com/world/2012/oct/10/paul-kagame-rwanda-success-authoritarian>

³⁵ <https://gazettes.africa/archive/rw/2018/rw-government-gazette-dated-2018-09-27-no-special.pdf>

Article 194: *Spreading false information or harmful propaganda with intent to cause a hostile international opinion against Rwandan Government*

According to Ida Sawyer, deputy director Africa, Human Rights Watch: *“The Rwandan government’s crackdown shows that it is unwilling to tolerate criticism or accept a role for opposition parties, and it sends a chilling message to those who would dare challenge the status quo. With each arrest in Rwanda, fewer and fewer people will dare to speak out against state policy or abuse.”*³⁶

Through the Media High Council, a media mediation body in Rwanda, and under the cover of the law on defamation designed to silence or even force the closure of certain media outlets, the national security services are hampering press freedom by attacking independent media. Fearing for their lives, some media managers are forced to write stories dictated to them; others are forced into exile.

Léonard Mugambake: deputy editor of the Umuwugizi newspaper, was murdered outside his home in Kigali in June 2010³⁷. The motive for his assassination remains unclear but according to some sources, he was killed because he was investigating the 19 June 2010 shooting that targeted Kayumba Nyamwasa, former chief of staff of the Rwandan army in exile in South Africa.

Agnès Nkusi Uwimana and Saidati Mukakibibi³⁸ respectively editor-in-chief and deputy editor-in-chief of the newspaper Umurabyo were sentenced in 2011 by the Kigali High Court to respectively 17 and 7 years for “undermining state security, defamation and divisionism”. On appeal to the Supreme Court, this sentence was commuted to 4 years for Agnes Uwimana and 3 years for Saidati Mukakibibi.

BBC-broadcasts in Kinyarwanda

Following the broadcast of a documentary “Rwanda Untold Story³⁹”, the BBC Kinyarwanda broadcasts were suspended in October 2014. The newspaper was accused of “violating Rwandan legislation on genocide denial, revisionism, incitement to hatred and division”. In 2015, on the recommendation of an investigation team, the Rwanda Media High Council (RMC) suspended BBC.

John Ndararasa was reported missing in August 2016. He reappeared six months later. He told the media that he had fled the country, before voluntarily deciding to return. This story aroused a lot of suspicion.

Human Rights Watch has documented numerous cases in Rwanda where former detainees have been forced to make false statements after months illegal detention and after being tortured⁴⁰.

Any person who spreads false information or harmful propaganda with intent to cause public disaffection against the Government of Rwanda, commits an offence liable to imprisonment for a term of not less than seven (7) years and not more than ten (10) years.

Article 204: Causing uprising or unrest among the population

Any person who publicly incites the population to reject the established Government commits an offence liable to imprisonment for a term of not less than ten (10) years and not more than fifteen (15) years.

<https://rsf.org/en/news/rwandas-new-penal-code-still-tough-journalists>

³⁶ <https://www.hrw.org/news/2017/09/29/rwanda-post-election-political-crackdown>

³⁷ <https://rsf.org/fr/actualites/le-journaliste-jean-leonard-rugambage-assassine-devant-son-domicile-de-kigali>

³⁸ <https://globalfreedomofexpression.columbia.edu/cases/agnes-uwimana-nkusi-and-saidati-mukakibibi/>

<https://cpj.org/2012/12/jailed-rwandan-editors-turn-to-african-commission/>

³⁹ <https://www.bbc.com/news/world-africa-29762713>

⁴⁰ <https://www.hrw.org/news/2016/09/29/rwanda-opposition-activist-missing>

In the midst of the Covid-19 pandemic, there was a wave of arrests of independent bloggers and journalists⁴¹ in April 2020. Officially they were accused of violating the rules of confinement.

However, there were other reasons for their arrest. Some were arrested for reporting on the brutal and unannounced demolitions of people's homes in Kigali. Others were arrested for reporting on the miserable conditions in which the population was living as a result of a disorderly and brutal confinement linked to Covid-19.

The journalists affected by the April 2020 clampdown include: **Theo Nsengimana** of Umubavu TV; Ivan Mugisha of the East African newspaper; **John Gahamanyi** of the New Times newspaper; **Butera** of Bloomberg newspaper; **Valentin Muhirwa and David Byiringiro** of the online channel of AFRIMAX TV, **Niyonsenga Dieudonné alias Cyuma** of Ishema TV and his driver Komezusenge Fidèle. Mr Niyonsenga has just been acquitted of all charges and released after 11 months of unnecessary detention.

1.4. Arrests, enforced disappearances, assassination of opponents and civil society activists

Since the Rwandan Patriotic Front (RPF) came to power in July 1994, its security services have engaged in acts of flagrant violation of human rights throughout the territory of Rwanda and outside its borders.

The latest condemnations are those made during the 37th session of the Universal Periodic Review (UPR) of Rwanda, held at the Human Rights Council in Geneva on 25 January 2021. The final report paints a bleak picture of human rights in Rwanda.⁴² The Human Rights Council is seriously concerned about arbitrary arrests, torture, forced disappearances, repeated politically motivated assassinations. The targets are members of the opposition, civil society and some opinion leaders.

1.5. Victims: members of the FDU-Inkingi

Apart from Victoire Ingabire Umuhoya, president of FDU-Inkingi, the first victim of the RPF was, other members of her party⁴³ are regularly harassed, murdered and reported missing.

Illuminée Iragena⁴⁴, member of the FDU-Inkingi, has been reported missing since March 2016. She was arrested after visiting Victoire Ingabire in prison. Close sources believe that Illuminée Iragena was tortured to death.

Léonille Gasengayire, treasurer of the FDU-Inkingi party, has been arrested three times. She was arrested for the first-time in the spring 2016 and accused of having brought Victoire Ingabire a printed copy of the book Ingabire had written. Released three days later, she was re-arrested by police in August 2016 in Kivumu, a village west of Kigali. She was charged with inciting uprising and unrest following comments she allegedly made at a private meeting. After seven months of pre-trial detention, she was released in March

⁴¹<https://www.hrw.org/world-report/2021/country-chapters/rwanda>
<https://monitor.civicus.org/updates/2020/09/09/multiple-journalists-arrested-throughout-covid-19-lockdown-period/>

⁴²https://www.ecoi.net/en/file/local/2042308/a_hrc_wg.6_37_rwa_2_E.pdf
<https://freedomhouse.org/report/transnational-repression/rwanda?s=08>
<https://rw.usembassy.gov/u-s-statement-at-the-universal-periodic-review-of-rwanda/>
<https://www.gov.uk/government/speeches/37th-universal-periodic-review-uk-statement-on-rwanda>

⁴³ <https://www.state.gov/wp-content/uploads/2020/02/RWANDA-2019-HUMAN-RIGHTS-REPORT.pdf>

⁴⁴ <https://www.hrw.org/news/2016/09/29/rwanda-opposition-activist-missing>

2017. Six months later, September 2017, she was arrested for the third time along with seven members of the FDU party. They were all accused of forming an armed rebellion. After three years of detention, she was cleared of all charges.

Théophile Ntirutwa, coordinator of FDU activities in Kigali was arrested in September 2016. He was detained in a secret location and beaten and questioned about his membership of the FDU-Inkingi party. He was released two days later. In September 2017, he was again arrested with seven other members of the FDU party and accused of forming an armed rebellion. After two and a half years of imprisonment, he was cleared and released. On 11 May 2020, Théophile escaped an assassination attempt⁴⁵ because the assailants shot the wrong person. Instead of pursuing the real murderers, the police and the RIB charged Théophile of the murder of the person killed due to mistaken identity. Since then, he has been in prison.

Jean Damascène Habarugira, FDU-Inkingi leader in the Eastern province, was assassinated on 8 May 2017⁴⁶.

Boniface Twagirimana, 1st vice-president of the FDU-Inkingi party, is reported missing since October 2018. According to the guards of Mpanga prison where he was imprisoned, he escaped. This is hard to believe, given that this prison is a maximum security prison.

Anselme MUTUYIMANA, assistant to Madame Victoire Ingabire was found dead on 8 March 2019; his body lay in the forest in the north-west of the country.

Eugène NDEREYIMANA, head of FDU-Inkingi in the Eastern Province, was reported missing in July 2019 while travelling to the east of the country to attend a party meeting.

Syldio Dusabumuremyi, FDU-Inkingi national coordinator, was assassinated in September 2019.

All these assassinations and disappearances of FDU members are documented by Human Rights Watch⁴⁷.

1.6. Victims: Members of other political parties

Kagwa Rwisekera, vice-president of the Democratic Green Party and survivor of the Tutsi genocide, was found beheaded⁴⁸ in July 2010, one month before the 2010 presidential elections.

The circumstances of his death have never been clear. Other members of his party like ***Jean Damascène Munyeshyaka***, national secretary of the party, was harassed and is missing since June 2014.

Bernard Ntaganda: Founding president of the Imberakuri Social Party (PSI), was sentenced to four years imprisonment plus a fine of 100,000 Rwandan francs for undermining national security, divisionism, inciting ethnic divisions and organising

⁴⁵ <https://www.therwandan.com/theophile-ntirutwa-survived-an-assassination-plot-by-the-regime-in-kigali-and-then-he-was-arrested/>

⁴⁶ <http://www.fdu-rwanda.com/en/english-rwanda-assassination-mr-damascene-habarugira-member-of-the-fdu-inkingi>

⁴⁷ <https://www.hrw.org/news/2017/09/29/rwanda-post-election-political-crackdown>

⁴⁸ <https://www.hrw.org/news/2010/07/21/rwanda-allow-independent-autopsy-opposition-politician>

demonstrations without authorisation⁴⁹. Once Ntaganda was thrown into prison, following intrigues orchestrated by the RPF, his party was split into two fractions, one remained loyal to Bernard Ntaganda until his release from prison four years later and the other led by Christine Mukabunani who runs the dissident branch in the shadow of the RPF.

Two other members of the PSI, **Sylvère Mwizerwa**, and **Donatien Mukeshimana** were also sentenced to three and two years respectively on the same charges as Bernard Ntaganda.

Diane Rwigara, her problems began the day she wanted to run for the highest office in the country. Three days after the announcement of her intention to become a candidate for the presidency, naked photos of her were published on social networks in order to humiliate and intimidate her. Her candidacy was rejected because she was accused of the offence of using false documents presented as sponsorship necessary for registration on the candidacy lists⁵⁰.

1.7. Victims: people critical of the Rwandan regime

Gustave Makonene, a genocide survivor and agent of an NGO Transparency International (TI) was found strangled in July 2013 on the shore of Lake Kivu. At the time of his assassination, he was investigating a case of corruption and illicit trafficking in minerals in which two police officers were involved⁵¹.

Retired Brigadier **General Rusagara** was arrested on August 18, 2014. The prosecution claimed that Rusagara had made favourable comments about the Rwanda National Congress (RNC), an opposition group in exile, had criticized President Paul Kagame, and had complained about the lack of freedom of expression and economic progress in Rwanda, allegedly calling Rwanda a “police state” and a “banana republic.”

Dr. Gasakure Emmanuel was the personal physician of the Head of State. The motive for his death on 25 February 2015 remains doubtful. Officially, he allegedly tried to disarm a policeman on duty who immediately shot him⁵². His family spoke of an assassination; he knew too much about the presidential family.

On March 31, 2016, the Military High Court of Kanombe sentenced **Colonel Tom Byabagamba** and retired Brigadier General Frank Rusagara to 21 and 20 years in prison respectively for inciting insurrection and tarnishing the government’s image. The prosecution had accused them of criticizing the government, alleging state involvement in assassinations of opponents, and complaining about foreign and economic policy. “*The Rwandan authorities have the right to prosecute genuine security offenses, but this case is a clear use of criminal proceedings to silence criticism of government actions or policy,*” said Daniel Bekele, Africa-director of Human Rights Watch.⁵³

⁴⁹ <https://www.amnesty.org/en/press-releases/2011/02/rwanda-opposition-politician-jailed-exercising-rights/>

⁵⁰ <https://www.hrw.org/news/2018/10/10/rwandas-political-thaw-real>

<https://www.theguardian.com/world/2018/nov/07/rwandan-dissident-politician-diane-rwigara-protests-innocence-as-trial-opens>

⁵¹ <https://www.hrw.org/news/2014/07/20/quiet-murder-rwanda>

<https://www.hrw.org/news/2014/07/19/why-whole-world-still-silent-murder-rwandan-activist-makonene>

⁵² <https://www.theeastafrican.co.ke/tea/news/east-africa/kigali-probes-shooting-of-former-kagame-doctor--1333004>

⁵³ <https://www.hrw.org/news/2016/04/01/rwanda-ex-military-officers-convicted-over-comments>

<https://www.freedom-now.org/rwanda-un-declares-detention-of-former-military-officers-arbitrary-calls-for-release/>

Donat Mutunzi, lawyer and human rights activist, was reported missing early April 2018. His death was announced on 23rd April of the same month. Officially, he committed suicide in his detention cell⁵⁴.

Kizito Mihigo: The death of this genocide survivor and charismatic singer of religious songs has caused indignation among a large part of the population both inside and outside the country. And with good reason: he had succeeded in attracting the sympathy not only of young people like him, but all Rwandans, because through his songs, he preached only peace. Before 2014, he was a “darling” of the president and the Rwandan government. This changed in 2014 after the release of a song entitled “Igisobanuro cy'urupfu” (explanation of death). According to Kizito Mihigo, there should not be a distinction between the dead. He said that the pain of losing a loved one is independent of the tool used or the legal definition of the crime. With these words, he had crossed the red line because it implied admission of the crimes committed by the RPA, the armed wing of the RPF. This song was banned from all radio and television channels in Rwanda. He became the enemy of the RPF. In early April 2014, he was abducted and held in a secret location. When his disappearance was beginning to worry national and international community, he was paraded before journalists and accused of collaboration with rebellion.

In February 2015, he was sentenced to 15 years imprisonment. By the presidential pardon granted to a number of prisoners, Kizito Mihigo was among those pardoned and he was released from prison in September 2018. He thought he was free but realised that he was not. He was forbidden to continue his campaign to raise awareness of unity and national reconciliation through his foundation KMP (Kizito Mihigo for Peace). In February 2020 he was arrested. According to the police he was trying to cross the southern border of Rwanda to Burundi to join armed groups. Four days later, he was found dead in his cell on Monday morning 17 February⁵⁵.

Innocent Mussa Bahati, was a young Rwandan artist and genocide survivor, who used to express himself through poetic verses on social problems such as poverty and the shortcomings of the education system. He was declared missing on February 7, 2021⁵⁶ while on his way to the district of Nyanza, Southern Province. Shortly before his disappearance, he had written and recited a poem entitled “Urwandiko rwa Benegakara” (*Letter to the Descendants of Gakara*) in which he invited the leaders of the countries of the sub-Saharan region including Rwanda to adapt the strategies of the fight against Covid-9 to the local realities of their respective countries rather than blindly copying and pasting those adopted by Western countries.

Yvonne Idamange Iryamugwiza, is a young woman who appeared on social networks at the end of January 2021. She is very critical of the Rwandan government regarding the mismanagement of the Covid-19 pandemic, the famine that has become endemic in Rwanda, corruption, the poor living conditions of the survivors of the Tutsi genocide and the education system. She accused the regime of exhibiting the remains of their loved ones in museums around the country to make money from tourists and foreign aid rather

⁵⁴<https://www.therwandan.com/me-donat-mutunzi-a-rwandan-lawyer-was-found-dead-in-police-custody/>
<https://www.ecoi.net/en/document/2004185.html>

⁵⁵<https://www.hrw.org/news/2020/08/17/rwanda-6-months-no-justice-kizito-mihigo>
<https://www.hrw.org/news/2020/02/20/rwanda-ensure-justice-over-kizito-mihigo-death>
<https://www.hrw.org/world-report/2021/country-chapters/rwanda>

⁵⁶ <https://www.therwandan.com/where-is-bahati-innocent-enforced-disappearances-in-rwanda/>

than in the fight against a repeat of genocide. She was arrested at her home⁵⁷ a few hours after the release of her last video on 15 February 2021 and detained at Remera police station for questioning. She is accused of inciting a popular uprising and disturbing public order, spreading rumours, minimising the genocide and the usefulness of genocide memorials, and resisting arrest by injuring a law enforcement officer.

1.8. The meaning of the opposition in the eyes of the Rwandan regime

Anyone who raises the voice to denounce the RPF's method of governance that include brutality, terror, attacks and physical elimination, is treated with dehumanising qualifiers. They will be called genocidaires and fugitives if living abroad, traitors or enemy of the country, terrorists, divisionists or devils disguised democracy and human rights activists. They are accused of being infatuated with the ideology of genocide and propagating it. If it is a youth, he/she will be accused of having sucked the genocide ideology from their mothers' breasts.

In an article posted on 31 July 2019 in the pro-government newspaper Igihe, Tom Ndahiro, a self-proclaimed researcher on genocide and genocidal ideology, made dehumanising remarks about Victoire Ingabire, going so far as to compare her to the Ebola virus⁵⁸. It will be remembered that it was this kind of statements that played a decisive role in the Rwandan genocide of 1994.

On 17 May 2020, another RPF fanatic named Ellen Kampire publicly launched a call for murder⁵⁹ against Victoire Ingabire.

The people who publish these statements and call for murder of government critics on social networks and other private, state-subsidised newspapers, operate permanently and with impunity because of their links with the government.

⁵⁷ <https://www.newtimes.co.rw/news/yvonne-idamange-arrested-charged-inciting-public-disorder-assault>
<https://www.jambonews.net/en/actualites/20210222-brussels-paris-geneva-the-hague-lyon-rwandans-are-fed-up/>

⁵⁸ <https://mobile.igihe.com/twinigure/ubibona-ute/article/abakwiza-ingengabitekerezo-ya-jenoside-bakwiye-akato>

⁵⁹ <https://youtu.be/J3mCNtbR-5k>

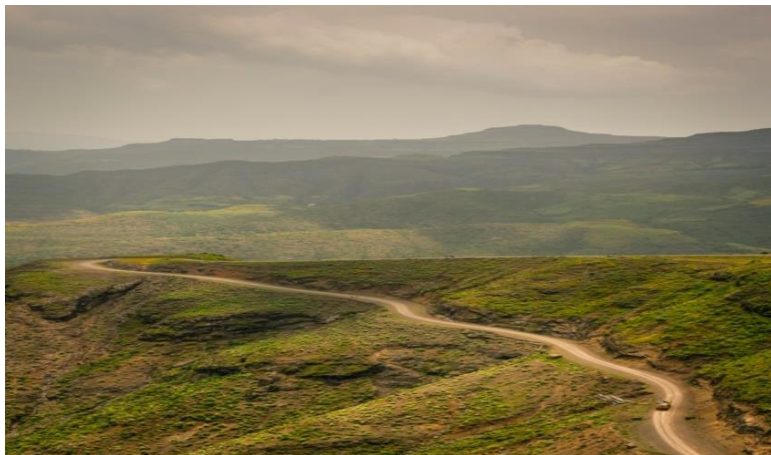
Chapter 2

Rwandans outside Rwanda (diaspora) are not safe

'Tot onze grote schande was ons verlangen om Rwanda te laten slagen veel groter dan ons vermogen om in te zien tegen welke prijs dit succes werd afgekocht.'

De Zuid-Afrikaanse aartsbisschop Desmond Tutu

(our need for Rwanda to succeed far exceeded our desire or ability to see the cost at which that success was bought: . <http://michelawrong.com/books/>, 01 April 2021)



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Introduction

The activities of the Rwandan state police are not limited to Rwanda. They are also active abroad where opponents of the Rwandan regime are targeted. Their repressive activities belong to a carefully prepared and coordinated programme. Considered as a negative force, the movements of the Rwandan opposition abroad are scrutinised by a well-trained and financed espionage service by the Rwandan intelligence services.

According to the Freedom House report (2021): *“The government usually targets individuals who challenge it through criticism or active resistance, or who question its version of Rwandan history. Authorities take an extremely broad view of what constitutes dissent and seek to exert control over the totality of the diaspora, including through its embassies and official diaspora organizations. Even communicating with fellow Rwandans who have run afoul of the government poses a risk”*⁶⁰.

In order to find people of the diaspora opposed to the regime in Rwanda, the government set up multiple espionage systems. Rwandans abroad face computer threats, spyware attacks, domestic intimidation and harassment, mobility controls, physical intimidation, assaults, detentions and killings⁶¹.

2.1. Espionage and Cleaning the West

The Rwandan regime makes it no secret that it wants to spread and reinforce the climate of hatred and terror among dissidents living abroad.

For example, in 2019 the Rwandan government launched an operation called *“cleaning the west”*⁶² to target the Rwandan opposition in the West. Speaking about the opposition outside Rwanda to young genocide-survivors in November 2019, General James Kabarebe, the Rwandan former minister of Defence and President Kagame Senior advisor on security matters, said: *“Do we allow them to reach a level where they become a threat, or should we keep them in a position where they are useless and don’t pose a threat to us?”*⁶³ Senator Professor Jean-Pierre Dusingizemungu, president of the IBUKA association⁶⁴, publicly declared in April 2020, during the period of the 26th commemoration of the genocide, that it was necessary to draw inspiration from Jewish friends to go after the genocidaires with the objective of bringing them to justice, terrorizing them (gutesha umutwe), mistreating and destabilizing them (guhungeta) and other undisclosed acts (implying killing them). A representative of an ONG “Umurinzi Initiative” told the audience that his project was busy fundraising to pay for the witch-hunt of alleged genocidaires around the world⁶⁵.

⁶⁰ <https://freedomhouse.org/report/transnational-repression/rwanda>

⁶¹ <https://freedomhouse.org/report/transnational-repression/rwanda>
<https://www.bbc.com/news/world-africa-54801979>

⁶² <http://www.therwandan.com/operation-cleaning-the-west-kagame-new-operation-to-shut-down-the-opposition-based-in-the-west/>

⁶³ <https://www.youtube.com/watch?v=SEYYboG8iRw>

<http://www.fdu-rwanda.com/en/english-rwanda-president-kagame-top-security-adviser-unveils-a-blood-chilling-stratagem-of-drumming-up-an-alleged-permanent-hutu-threat-to-maintain-a-grip-on-power/#more-6460>

⁶⁴ Ibuka is a lobby group, active for survivors of the genocide. There are 15 associations in various countries. The organizations are very pro-regime. Ibuka means “remember”, which is the objective of the umbrella

⁶⁵ <https://www.youtube.com/watch?v=vllGmCrzCIM&feature=youtu.be>

<https://www.youtube.com/watch?v=TwqQeXZULI&feature=youtu.be>

<http://www.fdu-rwanda.com/en/rwanda-lusage-du-genocide-comme-arme-politique-de-violence/#more-6563>

In addition to the classic spying systems, the RPF regime has put in place 3 other systems. First there is the *Come and see programme (Umushyikirano)*. Through this yearly programme, members of the diaspora that are pro-regime (positive diaspora), are invited to Rwanda. Officially the programme aims to show participants the progress made by the country and interest them in investing in Rwanda. In reality, there is another motive: they get to meet intelligence officials who ask them to get involved in RPF activities outside the country. In return they receive some financial compensation or another form of incentives.

Secondly there is the *Itorero programme/Ingando*. This programme concerns all Rwandans who have just completed their secondary education. This programme takes place every year and brings together young people from the interior as well as those from the pro-regime diaspora. It is an indoctrination programme during which participants learn "to love" their country (*meaning RPF*) regardless of the cost.

No young person in Rwanda can claim a job or a scholarship without having acquired the certificate of participation in this forced ideological training programme. In addition to the ideological training, the participants follow paramilitary activities, from which they obtain a certificate of participation.

Once the diaspora has returned home, they meet again at the Rwandan embassy in their respective host countries to pledge allegiance and swear an oath⁶⁶ before the ambassador of the country under their jurisdiction committing body and soul to obey the aims and objectives of the ruling party RPF and accept death by hanging if ever they betray their oath of allegiance : "*If ever I betray you or stray from the RPF's plans and intentions, I would be betraying all Rwandans and must be punished by hanging on a cross*" (Translation from Kinyarwanda).

They also make a solemn declaration to fight "*enemies of Rwanda (meaning critics), wherever they are found*". It is no secret that those whom they consider to be enemies of Rwanda are of course the critics of the regime.

And thirdly there is *Rwanda Day*. It is a day of meetings between the Rwandan president, senior executives of the country, economic operators like businessmen, executives of the country and members of the pro-FPR diaspora. This meeting generally brings together nearly four thousand people. Apart from the businessmen, the costs of stay and travel are covered by funds coming from the Rwandan taxpayer. Take note that starvation is raging in the country with a chronic malnutrition rate⁶⁷ amongst children of around 38 percent. Rwanda Day offers an opportunity to disseminate members of the spy network and death squads around the world to neutralize opposition members.

2.2. Embassies coordinate the espionage activities

The coordination of these espionage activities is overseen by the staff of the Rwandan embassies abroad. All Rwandan embassies are involved, but one of the most feared is the Rwandan Embassy in Brussels. Apart from Rwanda's neighbouring countries, Belgium -as a former colonizer of Rwanda- is the country that hosts the most Rwandan refugees outside of Africa. That is why the Rwandan intelligence services are focusing their

⁶⁶ <https://www.bbc.com/news/world-africa-54801979>

⁶⁷ <https://www.rfi.fr/en/africa/20160208-Rwandan-agricultural-policies-hurting-poorest-poor-study>

<http://www.fdu-rwanda.com/en/english-politique-agricole-1995-2016-au-rwanda-contraste-entre-les-belles-statistiques-de-productions-agricoles-et-les-famines-chroniques/>

<https://www.usaid.gov/sites/default/files/documents/1864/Rwanda-Nutrition-Profile-Mar2018-508.pdf>

<https://www.worldbank.org/en/country/rwanda/publication/tackling-stunting-rwandas-unfinished-business>

maximum efforts to it. The Rwandan embassy in Brussels is therefore the hub of all Rwandan espionage⁶⁸ activities in the European Union.

The Belgian intelligence services and the Financial Services and Markets Authority (FSMA)⁶⁹ became aware of a group of people of Rwandan origin grouped together in what was called the Intervention Group (founded in 2014) and the Rwanda Cash ASBL. The mission of these organizations was to destabilise the activities, actions and projects of the political opposition.

They also had to conduct intelligence activities within the Rwandan community in Europe and conduct intelligence activities within local and international political institutions that could be of a strategic interest for Rwanda. The two organizations were also supposed to protect the pro-FPR diaspora and ensure the protection of Rwandan VIPS and especially the security of the Rwandan President during his travels in Europe.

In August 2015, the Flemish newspaper “Het Belang van Limburg”⁷⁰ revealed that the Rwandan regime would try to eliminate dissidents and opponents in Belgium. Kigali sent well-trained commandos to Belgium for this purpose. Belgian State Security provided protection to several targeted individuals.

In 2017, Serge Ndayizeye, a journalist with Radio Itahuka, an online medium belonging to the political party Rwanda National Congress (RNC) and highly critical of the Rwandan regime, was informed by the Belgian federal police that he was at very high risk. He had only three choices: either stay under constant police protection, stay in a safe house, or board the first plane to the United States where he lives. Serge had travelled to Brussels to cover an anti-Kagame demonstration that was taking part in the European Development Days.

It's not only the Rwandans critical of the Rwandan regime who are targeted. In 2014, journalist Judi Rever from Montreal, while on a reporting mission in Belgium, was informed by the Belgian police that her life was in real danger⁷¹. She was granted close protection during her week-long stay in Belgium. She revealed in a radio programme called ‘Bien Entendu’⁷² in January 2021 that she was also threatened in her homeland, Canada,

The Rwandan Embassy in Canada is also very active. For example, a Rwandan RPF official entered Canada in 2018 through a Francophone scholarship. Officially it was for study reasons, but her real mission was to spy on a Canadian of Rwandan origin who was opposed to the regime in Kigali. Before flying to Canada, along with about thirty other young people, she had undergone military training at the Gako camp to learn the basics of

⁶⁸ Belgium: The secretive operations of the Rwandan embassy in Brussels

<https://www.jambonews.net/actualites/20190618-belgique-les-activites-obscur-es-de-lambassade-du-rwanda-a-bruxelles/>

⁶⁹ The FSMA launches a warning against the activities of the non-profit organization Rwanda Cash :

https://www.rtf.be/info/economie/detail_la-fsma-lance-une-mise-en-garde-contre-les-activites-de-l-asbl-rwanda-cash?id=7946351

⁷⁰ https://www.hbvl.be/cnt/dmf20150805_01805879

https://www.vrt.be/vrtnws/nl/2015/08/06/_rwandese_moordeskadensookinonslandactief-1-2408263/

⁷¹ Death squads from Rwanda active in Belgium: https://www.rtf.be/info/belgique/detail_belgique-une-journaliste-anti-kagame-protegee-par-la-surete-de-l-etat?id=9049887

⁷² https://ici.radio-canada.ca/premiere/emissions/bien-entendu/segments/entrevue/338315/genocide-rwandais-cesese-explosive-judi-rever?fbclid=IwAR3uxFs18U0z5FJfjuBu7hkpoOpY2KmQQfW_YFQ6vw8H68u7tDDWwAtjHo

espionage. In a programme⁷³ broadcasted on Radio Canada, the spy acknowledged the facts and gave all the details of her mission.

The Rwandan embassy in the UK has a spy network which is part of the Brussels-based Intervention Group. The members of this group are young people who have undergone the indoctrination and paramilitary training organised each year in Rwanda.

In 2014 René Mugenzi and Jonathan Musonera, both very critical of the Rwandan government, were notified by the London Metropolitan Police that their lives were in danger⁷⁴. They received protection. A former Rwandan secret service agent was afterwards arrested in Folkestone by British counter-terrorism police officers before being deported on suspicion of plotting against the two Rwandan critics living in London⁷⁵.

Espionage also takes place in the Rwandan Consulate of Australia. In 2017 Noel Zihabamwe received threats during a meeting that brought together members of the Rwandan diaspora in Sydney⁷⁶. He was accused of refusing to participate in the activities of the Rwandan consulate. According to him, these activities were illegal and undermined the security of Rwandans living in Australia. In retaliation, his two brothers in Rwanda went missing one month after Noel Zihabamwe's harassment. His brothers were abducted by the police while travelling on a public transport bus. The abduction took place in September 2019 in Nyagatare, Eastern Province of the country.

2.3. Rwanda's espionage-network in Africa

In March 20210, **Déo Mushayidi**, a survivor of the Tutsi genocide and the only survivor of his family, was kidnapped in Burundi and transferred⁷⁷ to Rwanda where he is serving a life sentence for participation in alleged terrorist activities linked to the FDLR, hostile to the Rwandan government. He was executive secretary of the PDP-Imanzi party formed in 2014.

Charles Ingabire, genocide survivor and former editor in charge of the online newspaper Inyenyeri News was found dead⁷⁸ in November 2011 in Kampala. He had fled Rwanda in 2007 and sought refuge in Uganda where he was living under the protection of the UNHCR. René Rutagungira, a Rwandan intelligence spy based in Kampala was arrested for the death of Ingabire and imprisoned. Under pressure from Paul Kagame, Rutagungira was released and handed over to the Rwandan authorities. Kagame demanded his release as a precondition for the normalisation of relations between Rwanda and Uganda, which have been tense in recent years. We have learnt that he has been redeployed at the Rwandan embassy in Mozambique. He is a trained hitman.

Kenya is the East African country where there have been many attacks, disappearances, and assassinations. In October 1996 **Augustin Bugirimfura**, a businessman and

⁷³ <https://ici.radio-canada.ca/info/2019/10/espionnage-rwanda-gouvernement-canada-paul-kagame/>

⁷⁴ <https://www.theguardian.com/world/2011/may/20/rwanda-exiles-warned-assassination-threat>

⁷⁵ <https://www.bbc.com/news/world-africa-13475635>

⁷⁶ <https://www.smh.com.au/national/nsw/we-need-help-community-leader-faces-alleged-threats-and-intimidation-20201005-p56206.html>

⁷⁷ <https://www.newtimes.co.rw/section/read/81215>

⁷⁸ <https://cpj.org/data/people/charles-ingabire/>

<https://www.nouvelobs.com/rue89/rue89-afrique/20111217.RUE6522/un-journaliste-rwandais-assassine-en-ouganda-kigali-pointe-du-doigt.html>

Théoneste Lizinde, a former parliamentarian after the RPF took power and former member of the intelligence services under the regime of Juvenal Habyarimana, went missing from Lizinde's home in the Kenyan capital⁷⁹. Two days later, their bodies were found on the outskirts of Nairobi. They had been shot dead.

Seth Sendashonga, former Minister of the Interior in the government formed by the RPF after the genocide, survived a first assassination attempt in February 1996. In May 1998 he was fatally shot dead. During a meeting of senior government officials with Paul Kagame in March 2019, the president justified Sendashonga's death that he had crossed the red line⁸⁰. *"As to whether Seth Sendashonga died because he crossed the line, I do not have much to say about it, but I will not apologize for it"*, the president said.

Jean Chrysostome Ntirugiribambe, former officer under the Habyarimana regime and investigator at the ICTR, was kidnapped in June 2015 while shopping at a Nairobi supermarket⁸¹. His abduction was allegedly facilitated by an agent of the Rwandan embassy in Uganda, Colonel James Burabyo on the instructions of Jack Nziza, then head of the Rwandan intelligence service.

Emile Gafirita was abducted in November 2014 in Nairobi, Kenya. His abduction occurred while he was supposed to go to Paris where he was to be heard by judges Marc Trévidic and Nathalie Poux⁸² in the case of the attack of 6 April 1994 against President Habyarimana's plane.

Guillaume Rutembesa was a young Rwandan activist and survivor of the 1994 genocide. He was living in Kenya where he had refugee's status after being imprisoned for his activism in Rwanda, end 2016. In Kenya he was often the target of insults and threats from supporters of the Kigali regime. Two weeks before his disappearance, one of the RPF-fanatics, Damien Nkaka, a former soldier of the RPA (Rwandan Patriotic Army) had warned him in particular in these terms: *"Little dog of Rutembesa, you think you'll manage to hide better than Sendashonga?"*; Rutembesa has been missing since November 2020⁸³.

Like Kenya, South Africa is also a country where there have been many attacks and assassinations.

On 1 January 2014, **Patrick Karegeya**, former head of Rwanda's foreign intelligence services and one of the founding members of the Rwanda National Congress (RNC), was found dead in a hotel room in Johannesburg.

Paul Kagame's reaction to Karegeya's death is a clear admission of Rwanda being responsible for the murder: *"Whoever betrays the country will pay the price. I assure you*

⁷⁹ <https://www.hrw.org/news/2014/01/28/rwanda-repression-across-borders>

⁸⁰ <https://www.theguardian.com/world/2013/may/19/kagame-africa-rwanda>
<https://www.therwandan.com/rwanda-kagame-confessed-to-the-assassination-of-seth-sendashonga%E2%BB%BF/>

<https://www.chronicles.rw/2019/03/09/president-kagame-to-ugandas-museveni-am-begging-you-deal-with-this-matter/>

<https://www.kenyans.co.ke/news/58856-witness-nairobi-murder-rwanda-minister-dies>

⁸¹ <https://www.therwandan.com/the-abduction-mr-jean-chrysostome-ntirugiribambe/>
<https://l-hora.org/en/request-for-formal-investigation-jean-chrysostome-ntirugiribambe-ict-rw-witness-and-ict-r-investigator-legal-officer-kidnapped-23-june-2015-in-nairobi-kenya-rwandan-political-prisoners-support-network/>

⁸³ <https://www.jambonews.net/actualites/20201211-rwanda-kenya-inquietudes-apres-la-disparition-de-lactiviste-guillaume-rutembesa/>

*of that. If you disappoint a country, if you wish harm to its people, you will end up suffering the consequences. Anyone still alive who conspires against Rwanda, whoever they are, will pay the price ... Whoever they are, it is just a matter of time*⁸⁴ ".

Louise Mushikiwabo, Minister of Foreign Affairs at the time wrote about Karegeya on her personal Twitter account on January 5, 2014: *"It's not about how u start, it's how u finish. This man was a self-declared enemy of my Gov & my country, U expect pity?"*⁸⁵.

Kayumba Nyamwasa, former chief of staff of the army under the presidency of Paul Kagame and member of RNC, escaped an assassination attempt⁸⁶ in June 2010 in South Africa, where he had taken refuge since February of the same year.

There is a need to mention also **Seif Bamporiki** murder. After the assassination of Patrick Karegeya and the attempted assassination of Kayumba Nyamwasa it was Seif Bamporiki, coordinator of the RNC party, who was assassinated in February 2021⁸⁷.

2.4. The kidnapping of Paul Rusesabagina

Paul Rusesabagina⁸⁸, famous as the hero of the Hotel Rwanda for having saved around 1200 Tutsi refugees at the Hotel des Milles Collines during the 1994 genocide, was kidnapped in Dubai on 28 August 2020. Since receiving the prestigious Medal of Freedom from former President George W Bush, Paul Rusesabagina had been targeted by the Rwandan intelligence services who accused him of involvement in terrorist activities against the Rwandan state. After Rusesabagina landed from Dubai in Kigali, president Kagame declared that Rusesabagina returned to Kigali on his own free will.

Four months later, on the Al Jazeera programme UpFront, Johnston Busingye, Rwandan minister of Justice, had to admit that the private jet that transported Paul Rusesabagina was rented by the Rwandan government⁸⁹. His statement made clear that Rwanda was responsible for the abduction. The case of Paul Rusesabagina is a case of international terrorism and should be treated as such.

⁸⁴ <https://www.theguardian.com/news/2019/jan/15/rwanda-who-killed-patrick-karegeya-exiled-spy-chief>
<https://www.theguardian.com/global-development/2021/mar/19/we-choose-good-guys-and-bad-guys-beneath-the-myth-of-model-rwanda>

<https://www.hrw.org/news/2019/09/13/rwandans-charged-murder-exiled-critic>

⁸⁵ <https://twitter.com/LMushikiwabo/status/419861033776193538>

⁸⁶ <https://www.bbc.com/news/world-africa-28981317>

<https://www.hrw.org/news/2014/01/28/rwanda-repression-across-borders>

⁸⁷ <https://www.bbc.com/news/world-africa-56119088>

⁸⁸ <https://www.bbc.com/afrique/region-53965923>

<https://www.youtube.com/watch?v=2uXvQpIOVEU&feature=youtu.be>

<https://www.aljazeera.com/news/2020/11/27/hotel-rwanda-hero-says-he-was-kidnapped-before-arrest>

⁸⁹ <https://www.youtube.com/watch?v=2uXvQpIOVEU>

Chapter 3

Justice system in Rwanda is not independent

"We have two types of justice: the ordinary type that follows written laws and another type we use for people who are stubborn".

President Paul Kagame (Rwanda-Rubavu; May 11, 2019)



Introduction

The Rwandan political system revolves around one political party, the Rwandan Patriotic Front (RPF), which has held the reins of power since it took power by force in 1994. The RPF controls the judicial system, this greatly hampers the implementation of the right to a fair trial given the politicization of the genocide.

In Rwanda officials often use the judicial system to punish and limit the activities of persons seen as opposed to the government and to the RPF. They are often prosecuted for divisionism and genocide ideology and detained for long periods without charge. Laws prohibiting divisionism, genocide ideology, and genocide denial are broadly applied to silence political dissent and to shut down investigative journalism⁹⁰.

The regime continues to feign efforts to modernize and bring the judicial system up to standard by displaying commendable principles and implementing legal reforms to respond to international criticism. However, as long as there are large gaps between the text of the law and the actual conduct of legal proceedings, these standards will remain a facade and justice will remain marred by irregularities and interference of all kinds, particularly at the expense of those being prosecuted but also generally in contradiction with the need for genuine justice that can contribute to true reconciliation.

In 2019, while on visit in the Western Province President Paul Kagame publicly stated the following: *"We have two types of justice: the ordinary type that follows written laws and another type we use for people who are stubborn"*⁹¹

3.1. Citizens are not protected by Rwandan law

The presumption of innocence and the right to a public and fair trial for any person prosecuted for crimes are enshrined in law⁹². The implementation of these principles however varies according to the nature of the cases handled by Rwandan courts. Trials with a political connotation or linked to the Rwandan genocide are systematically subject to treatments far removed from the principles of fairness and take place in conditions that run counter to the independence of the judiciary.

3.2. The Rwandan judicial system

The Rwandan judiciary consists of both ordinary and specialized courts. The ordinary courts are divided into several levels. A higher echelon is represented by the Supreme Court and divided into several sections. An intermediate level is represented by the Intermediate Courts. And finally, a basic level is represented by the Primary Courts. Specialized Courts include the Commercial and Military Courts⁹³.

The mission entrusted to the judiciary by the Constitution of Rwanda is the *"protection of rights and freedoms"*. To this end, the independence of the judiciary from the executive and legislative branches as well as its financial and administrative autonomy are stipulated by the same constitution⁹⁴.

⁹⁰ <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/rwanda/>

⁹¹ <https://www.youtube.com/watch?v=SLz5v4t3QjE&feature=youtu.be> (min. 43.54-44.25)

⁹² Article 29 of the Constitution of Rwanda

Critical Evaluation of Right to a Fair Trial in Rwandan Criminal Law

https://www.researchgate.net/publication/344432206_Critical_Evaluation_of_Right_to_a_Fair_Trial_in_Rwanda_Criminal_Law

⁹³ <https://www.judiciary.gov.rw/>

⁹⁴ Article 150 of the Constitution of Rwanda

While this constitutional law entrusts a commendable mission to the judicial system, it is nevertheless important to note the significant gap that exists between the stated objectives of the judiciary and the reality of cases observed on the ground and in the daily lives of Rwandan citizens.

3.3. No fair trials for political opposition

As stated, the political opposition is often accused of genocide activities, division or denying the genocide. A lot of genocide prosecutions have been marred by interference in the judicial process by powerful persons and by other violations of due process rights.

A report of Human Rights Watch rights says:

"A former minister of justice, judges and former judges, former prosecutors, and lawyers all recounted cases of interference with the judicial system that they had experienced or knew of in some detail. A former official well-acquainted with such practices said that judges in important cases were rarely bought off but were subject to pressure from the executive as well as from powerful persons outside the government. He said that judges "would know what to do." Or, if there was any doubt about the decision, they would receive a call to tell them "this is what is expected." ⁹⁵

The RPF's political grip on power and its longevity illustrate the paradox between the provisions of the Rwandan constitution and the political realities of the country. While the law provides for freedom of association and multipartyism⁹⁶, it also contains strict legal provisions surrounding the process of forming and registering a political party. It makes the process of registering laborious, arbitrary and often interminable⁹⁷. Once the party has been formed, this obstruction is perpetuated through other means such as an unequal and unfair treatment when the political party doesn't agree with the RPF-government policies and they intend to lead a real political opposition. The regime will generally set insurmountable obstacles to restrict any real capacity to exist in the country's political scene: prohibition of political meetings, very little coverage in the national media and usually through hostile lenses, acts of harassment and intimidation against members and sympathizers.

3.4. The trials against Victoire Ingabire and other critics

This practice of suppressing the opposition has been illustrated many times in the past. The opposition party Forces Démocratiques Unifiées - Inkingi (FDU) never obtained its registration with the authorities despite initiating an application procedure as early as 2010. The FDU has suffered countless attacks in the form of arbitrary arrests and detention of members and sympathizers and even enforced disappearances.

In 2012, **Victoire Ingabire**, the then president of the FDU, was sentenced to eight years in prison for conspiring against the authorities through terrorism and war and denying the genocide. The sentencing was pronounced at the end of a trial that was marred by numerous irregularities: acts of intimidation and illegal interrogation practices, failure to take account of exonerating evidence⁹⁸. Her trial symbolizes a first emblematic case of the

https://www.parliament.gov.rw/fileadmin/Bills_CD/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_RWANDA_OF_2003_REVISÉD_IN_2015.pdf

⁹⁵ <https://www.hrw.org/report/2008/07/25/law-and-reality/progress-judicial-reform-rwanda>

⁹⁶ Article 35 and 54 of the Constitution of Rwanda

⁹⁷ La Démocratie mise sous tutelle au Rwanda by the *International Federation for Human Rights*

<https://www.fidh.org/IMG/pdf/rwanda699fraout2017web.pdf>

⁹⁸ *Rwanda: Eight-Year Sentence for Opposition Leader* by Human Rights Watch

<https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader>

lack of a genuine right to a fair trial and the arbitrary application of the presumption of innocence until proven guilty. Indeed, government officials effectively interfered with the course of the trial by making public statements suggesting the guilt of the accused even before the first court appearance⁹⁹. From the Minister of Foreign Affairs Louise Mushikiwabo to the Minister of Local Government James Musoni and the President of the Republic Paul Kagame, the regime's officials made incriminating statements in public which were then picked up and largely amplified by pro-government media.

The trial was thus heavily influenced by the pressure exerted by the regime on the judiciary. At the time, Human Rights Watch concluded that:

*"... the Rwandan judicial system lacks independence, and judges, prosecutors and witnesses remain vulnerable to pressure from the government, especially in cases involving opponents and critics"*¹⁰⁰.

On appeal Ingabire was sentenced to fifteen years imprisonment. She appealed to the African Court for Human and People's rights (AfCHPR). In November 2017, the court found that Rwanda had indeed violated Victoire Ingabire Umuhiza's right to freedom of opinion and expression, as well as her right to an adequate defence. The Rwandan government was ordered to pay reparations but up until today the Rwandan regime has ignored this ruling¹⁰¹.

Since Ingabire's trial, there has not been any sign of important changes in the judicial system despite the numerous recommendations made by international non-governmental organizations.

On the contrary, political interference has amplified and with it the number of trials done in blatant violation of the principle of the independence of the judiciary. **Bernard Ntaganda**, founder of the Parti Social Imberakuri (PSI), was subjected to numerous acts of judicial harassment, which led to his arrest and detention in 2010 for having made comments critical of certain government actions¹⁰².

Numerous other cases have highlighted the subservience of the judiciary to political power, which hinders the constitutional principles of the presumption of innocence and the right to a fair trial.

Another example relates to the trial of **Léopold Munyakazi**. Two arrest warrants were lodged against him for the crime of genocide, denial of genocide and minimization of genocide, while living in the United States. Following a lengthy extradition process

⁹⁹ *Rwanda – Justice in Jeopardy* by Amnesty International

<https://www.amnesty.org/download/Documents/12000/afr470012013fr.pdf>

¹⁰⁰ *Rwanda: Eight-Year Sentence for Opposition Leader* by Human Rights Watch

<https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader>

¹⁰¹ <https://www.victoire-ingabire.com/Eng/12th-april-2012-stop-intimidation-of-defense-witnesses-in-ingabires-trial/>

Application 003/2014 judgment 24 November 2017

<https://ijrcenter.org/2017/12/12/african-court-holds-rwanda-violated-victoire-ingabires-freedom-of-expression/>

[http://www.african-court.org/en/images/Cases/Judgment/003-2014-](http://www.african-court.org/en/images/Cases/Judgment/003-2014-Ingabire%20Victoire%20Umuhiza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf)

[Ingabire%20Victoire%20Umuhiza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf](http://www.african-court.org/en/images/Cases/Judgment/003-2014-Ingabire%20Victoire%20Umuhiza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf)

https://www.europarl.europa.eu/doceo/document/B-8-2016-1065_EN.html

<https://www.amnesty.org/en/latest/news/2012/10/rwanda-ensure-appeal-after-unfair-ingabire-trial/>

¹⁰² *La Démocratie mise sous tutelle au Rwanda* by the International Federation for Human Rights

<https://www.fidh.org/IMG/pdf/rwanda699fraout2017web.pdf>

arguing that he was being prosecuted for his political views, he was finally extradited to Kigali. At first instance, he was sentenced to life imprisonment. He appealed and the judgment handed down in July 2018 acquitted him of most of the charges. Nevertheless, he was sentenced to nine years in prison for denial and minimization of the genocide¹⁰³.

Instead of helping Rwanda to set up a judicial system that would be improved to provide impartial justice underpinned by the rule of law, the Netherlands substantial financial contribution to justice in Rwanda since 2008¹⁰⁴ was used to strengthen the repressive machinery of the RPF regime.

3.5. Appeals to the East African Court of Justice

Ingabire appealed with success to the African Court, others went to the East African Court of Justice (EACJ)¹⁰⁵. Colonel Severine Rugigana Ngabo who was tried and sentenced for undermining the security of the country by Rwandan courts was cleared by the EACJ, which acknowledged that the conditions of his arrest and detention were contrary to the treaties signed by all members of the EACJ of which Rwanda is a member¹⁰⁶.

Tribert Ayabatwa Rujugiro¹⁰⁷ won the lawsuit relating to the auction sale of his property¹⁰⁸. He's the founder of the Union Trade Center in Kigali. In 2013 the Rwandan government seized this twenty-million-dollar shopping mall; they claimed it was abandoned.

In its judgment¹⁰⁹ of November 2019, the EACJ ordered the Rwandan government to restore Kennedy Gihana's¹¹⁰ rights by returning the Rwandan passport that had been withdrawn for purely political reasons. The court ruled that the decision was arbitrary.

As a sore loser and to protest against all these judicial decisions, Rwanda has chosen the empty chair policy by withdrawing from certain treaties¹¹¹, notably the human rights treaty that allows nationals of East African Community countries to file complaints against their own country in case of human rights violations.

3.6. The Gacaca Courts: grave injustices

In the aftermath of the genocide, nearly 130 thousand suspects of crimes of genocide were packed into Rwandan jails. With a judicial system that had suffered major destructions during the genocide, delivering justice under these conditions proved to be a tremendous challenge.

The Gacaca courts were created in 2001¹¹² in an attempt to resolve the bottleneck in the justice and penitentiary systems. The Rwandan regime opted for this community-based

¹⁰³ https://www.washingtonpost.com/local/education/cleared-of-murders-convicted-of-speech-bittersweet-end-to-case-of-accused-goucher-professor/2018/09/06/d8de0518-b07c-11e8-aed9-001309990777_story.html

¹⁰⁴ <http://www.buitenpostdewereld.org/weblog-rwanda-2010/how-much-paid-the-dutch-for.html>

¹⁰⁵ [https://www.justiceinitiative.org/publications/east-african-court-justice#:~:text=The%20East%20African%20Court%20of%20Justice%20\(EACJ\)%20hears%20cases%20on,%2C%20Rwanda%2C%20Uganda%20and%20Tanzania.](https://www.justiceinitiative.org/publications/east-african-court-justice#:~:text=The%20East%20African%20Court%20of%20Justice%20(EACJ)%20hears%20cases%20on,%2C%20Rwanda%2C%20Uganda%20and%20Tanzania.)

¹⁰⁶ <https://africanlii.org/ea/judgment/east-african-court-justice/2012/10>

¹⁰⁷ <https://africanlii.org/ea/judgment/east-african-court-justice/2018/78>

¹⁰⁸ <https://apnews.com/press-release/accesswire/business-tobacco-products-manufacturing-kigali-africa-east-africa-83ee3ad50bb9f2380ea71019357335c0>

¹⁰⁹ <https://africanlii.org/afu/judgment/african-court/2019/10-0>,

¹¹⁰ <https://www.news24.com/drum/News/lawyer-who-walked-6000km-from-rwanda-to-south-africa-african-humility-kept-me-alive-20191216>

¹¹¹ <https://ijrcenter.org/2016/03/14/rwanda-withdraws-access-to-african-court-for-individuals-and-ngos/>

¹¹² Organic law 26 January 2001

<https://jurafrica.org/docs/statutes/ORGANIC%20LAW%20N0%2040.pdf>

courts system inspired by the traditional Rwandan Gacaca model. The aim was mainly to speed up legal proceedings for those accused of genocide and reduce the prison population.

Since 2005, just over twelve thousand community-based *gacaca* courts have tried approximately 1.2 million cases.¹¹³ The Gacaca Courts ended in 2012¹¹⁴, government found they had done their job. About 65 percent of close to two million people were found guilty.¹¹⁵

The Gacaca courts system involved the active participation of local community members and ruling by local judges as well as a number of Gacaca laws to regulate the trials. Although the experiment proved to be a relief to the judicial system by initiating legal proceedings that had stalled for years, several shortcomings and failures were noted¹¹⁶. The most significant of these shortcomings resulted from the deliberate approach by the Gacaca court system to restrict the right to a fair trial of the accused. The Gacaca laws did not implement measures to ensure a fair trial in the cases brought before the courts. Most striking was the absence of the right to a defence attorney in the proceedings or even the lack of resources to prepare for trials in gathering evidence for instance. In theory, the fairness in the trials was to be guaranteed by the participation of local community members that had witnessed the events during the genocide. However, in most cases of biased proceedings, community members remained silent by fear of possible reprisals. Another source of shortcomings in the Gacaca court system was the lack of legal training of the judges who, in some cases, had no formal education. In addition, they were not remunerated and were mostly expected to use common sense and general principles of fairness rather than evidence-based judgment. This has led in many cases to flawed and biased decisions and convictions, based on insufficient evidence.

One other major failure for the Gacaca court system is that crimes committed by RPF soldiers have been excluded from the jurisdiction of these courts. The RPF regime has ensured that those crimes could not be discussed in the trials. As a result of these shortcomings, it is undeniable that miscarriages of justice and grave injustices have been committed during the Gacaca courts system experiment to the detriment of several accused that were deprived of their right to a fair trial.

In general, the Rwandan judicial system shows shortcomings in terms of its independence from the political power and the regime; this greatly hampers the implementation of the right to a fair trial given the politicization of the genocide of which the regime continues to be guilty.

3.7. Military handling civilian cases

Between 2010 and 2017, Human Rights Watch documented that Rwanda's military frequently arbitrarily detained and tortured people, beating them, asphyxiating them, using electric shocks, and staging mock executions in military camps around Kigali and in

<https://repositories.lib.utexas.edu/bitstream/handle/2152/4582/3677.pdf?sequence=1>

¹¹³ <https://www.hrw.org/report/2011/05/31/justice-compromised/legacy-rwandas-community-based-gacaca-courts>

<https://www.tandfonline.com/doi/pdf/10.1080/10402650903099369>

¹¹⁴ Organic law n°04/2012/ol of 15/06/2012

<https://www.ilo.org/dyn/natlex/docs/SERIAL/98238/116823/F1869279459/RWA-98238.pdf>

¹¹⁵ <https://www.bbc.com/news/world-africa-18490348>

¹¹⁶ Justice Compromised by Human Rights Watch

<https://www.hrw.org/report/2011/05/31/justice-compromised/legacy-rwandas-community-based-gacaca-courts>

the northwest. Most of the detainees were forcibly kidnapped and held incommunicado for months on end in deplorable conditions.¹¹⁷

3.8. Genocide trials outside Rwanda

The inadequacy of the judicial system for genocide-related crimes

Established on 8 November 1994 by the United Nations Security Council, the International Criminal Tribunal for Rwanda (ICTR)'s mission was:

*"... to prosecute persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and neighbouring States, between 1 January 1994 and 31 December 1994"*¹¹⁸.

In setting up the ICTR, the international community wished to provide a judicial response commensurate with the scale of the genocide crimes and the reality of a complex political situation which saw a large number of the alleged criminals scattered outside Rwanda's borders after fleeing the RPF takeover. This required, among other things, a capacity to investigate on an international scale in order to identify and search for individuals, arrest and detain them, collect testimony and evidence, ensure the dispatch of documents and bring the accused before the court¹¹⁹. Furthermore, the establishment of the ICTR under the auspices of the UN Security Council gave it international jurisdiction and primacy over national jurisdictions which helped to strengthen its capacity to conduct the necessary work during the trials.

The importance of the means available to the courts is paramount when one considers the very nature of the crimes of genocide and the specific characteristics of the Rwandan culture. Establishing facts accurately and finding evidence is particularly difficult in a context of political conflict in a divided society. Further complexity arises from the fact that the legal evidence is largely based on testimony, given a general lack of documentation or other physical evidence. The investigators have to take into account multiple constraints and obstacles when dealing with witnesses, who most of the time struggle when it comes to providing a neutral and accurate account of the facts as they happened.

The ICTR ended its work on 31 December 2015 and left residual functions to the United Nations International Residual Mechanism for Criminal Tribunals ("the Mechanism"). Such residual functions include appeals, review of ICTR judgments and the preservation of archives.¹²⁰

The ICTR indicted 93 individuals, resulting in 61 convictions, and 14 acquittals. It withdrew two indictments and two individuals died before conclusion of their trials. Five cases were transferred to national courts in France and Rwanda.¹²¹

Opinion remains divided on whether or not the court dispensed justice. There is a general feeling that ICTR never fulfilled its full jurisdiction to try all crimes against humanity whether perpetrated by ethnic Hutus and Tutsi rebel groups and the Rwandan Patriotic

¹¹⁷ <https://www.hrw.org/news/2021/02/01/un-countries-call-out-rwandas-rights-record>

¹¹⁸ *The ICTR in Brief*

<https://unict.irmct.org/en/tribunal>

¹¹⁹ *About the ICTR* by Cécile Aptel

<https://www.icrc.org/fr/doc/resources/documents/misc/5fzet4.htm>

¹²⁰ Functions of the Mechanism

<https://www.irmct.org/en/about/functions>

¹²¹ <https://ijrcenter.org/international-criminal-law/ictr/#:~:text=The%20ICTR%20indicted%2093%20individuals,courts%20in%20Rwanda%20and%20France>

Front (RPF), which is now Rwanda's governing party. The feeling is ICTR has failed Rwandan genocide victims and survivors¹²².

Perhaps the ICTR's most significant failure, Human Rights Watch said, has been its unwillingness to prosecute war crimes and crimes against humanity committed in 1994 by the Rwandan Patriotic Front (RPF). Though the scale and nature of these killings were not equivalent or comparable to the genocide, the victims and their families also have the right to justice. Although the ICTR had a clear mandate to prosecute these crimes, not a single RPF case has been brought before the ICTR for prosecution¹²³.

*"This political aspect of the tribunal is very frustrating, as it offers an official narrative: Where genocide crimes against the Tutsi population have been highlighted as the only crimes. The reality is... the RPF committed a tremendous number of crimes throughout the country during the civil war and during the genocide, and because the tribunal has failed to properly investigate them or try to prosecute them, I think this is going to be one of the biggest failings of the tribunal."*¹²⁴

3.9. Genocide trials in Rwanda not up to international standards

With the completion of the ICTR's work, the Mechanism began transferring two trials to the national jurisdiction in Rwanda, the Uwinkindi and Munyagishari trials. Other foreign national jurisdictions have also extradited alleged perpetrators of genocide crimes to Rwanda at the request of the Rwandan regime. Canada, Denmark, the Democratic Republic of Congo and the Netherlands have all transferred suspects to Rwanda for prosecution.

According to Amnesty International however, suspects must not be transferred to Rwandan courts for trial until it is demonstrated that trials will comply with international standards of justice.¹²⁵

While issuing extradition requests, the regime promised to implement reforms in order to allocate the necessary resources to the judicial system and allow them to conduct these trials at a level that meets international standards aimed at, among other things, guaranteeing the presumption of innocence and a fair trial for the accused.

However, while some reforms have been adopted and implemented, such as the establishment of legal assistance for defendants, there still are discrepancies between the reality of their effectiveness and their initial intentions.

¹²² <https://www.dw.com/en/ict-r-a-tribunal-that-failed-rwandan-genocide-victims-and-survivors/a-51156220>

¹²³ <https://www.hrw.org/news/2015/12/23/rwanda-international-tribunal-closing-its-doors#>

¹²⁴ <https://www.bbc.com/news/world-africa-35070220>

https://en.wikipedia.org/wiki/In_Praise_of_Blood

<https://richardwilsonauthor.com/2010/09/14/secret-un-briefing-on-1994-atrocities-full-text-of-the-gersony-report/>

¹²⁵ <https://www.amnesty.org/download/Documents/60000/afr470132007en.pdf>

Martin Witteveen, a Dutch expert in International Crimes and former advisor to the National Public Prosecution Authority in Rwanda (NPPA) has illustrated these discrepancies in his June 2015 *Additional Expert Report*¹²⁶. In the report Witteveen acknowledged that the justice system is functional and capable of investigating and prosecuting cases of genocide, transferred from other jurisdictions requiring fair trial rights for defendants and international standards. In spite of this acknowledgement however, Witteveen expressed serious reservations on the quality of the defence attorneys representing the defendants and their ability to deal with genocide cases.

In the five cases that were observed and analysed in his report¹²⁷, the performance of the defence lawyers was found to be far below the level required by international standards. When the ministry of Justice did manage to provide defence attorneys to the defendants, they lacked the knowledge and experience to build a proper defence strategy. In other cases, persisting disagreements between the assigned attorneys and the ministry of Justice over fees or other contractual terms led to serious failures in the defence strategy which undermined the defendants' cases.

According to Witteveen the observed weakness in the defences is linked to the stark contrast between the extensive assistance and international donations enjoyed by the National Public Prosecution Authority, and the little support received by the Rwanda Bar Association, which is supposed to defend the suspects. The difference in available resources clearly weighs against the defendants' rights to a fair trial and undermines the defence attorneys' capability to conduct credible investigation aimed at establishing exonerating evidence in a context where international standards are required.

In 2008 and 2009 the District Judge and the High Court agreed that both prosecution and defence witnesses had been attacked and killed.

"The Appeals Chamber considers that there was sufficient information before the Trial Chamber of harassment of witnesses testifying in Rwanda and that witnesses who have given evidence before the Tribunal experienced threats, torture, arrests and detentions, and, in some instances, were killed". That was a case where the ICTR refused to transfer the defendant¹²⁸.

¹²⁶ *Additional Expert Report* by Martin Witteveen

<http://www.buitenpostdewereld.org/untitled/nl--genocide/rapport-martin-witteveen.html>

¹²⁷ *Additional Expert Report* by Martin Witteveen

<http://www.buitenpostdewereld.org/untitled/nl--genocide/rapport-martin-witteveen.html>

¹²⁸ <https://www.judiciary.uk/wp-content/uploads/2015/12/rwandan-five-judgment-211215.pdf>

<https://academic.oup.com/jicj/article/18/1/185/5820566>

Chapter 4

Prison system is not up to international standards.

“To force them to confess, or to incriminate others, officials severely tortured or ill-treated most of the detainees interviewed by Human Rights Watch. Several former detainees gave accounts of severe beatings, electric shocks, asphyxiation, and mock executions.”

Human Rights Watch, 2017, report ‘We will force you to confess. Torture and unlawful military detention in Rwanda’



Introduction

Rwanda is one of the countries in the world with the highest rate of incarceration¹²⁹. National prisons in Rwanda are overcrowded, there's not enough food, sanitary situations are deplorable, prisoners are menaced by guards and fellow-prisoners, lawyers have restricted visit rights with their clients, people can be in prison for years without a trial, medical treatment is bad, people can even disappear from prison. A prison in Rwanda is a dangerous place to be.

The evidence given by eyewitnesses, the Red Cross and Human Rights Organizations is overwhelming. But Dutch government and judges think otherwise. They send people back to Rwanda, to a prison system that's very dangerous.

4.1. Expulsion or extradition

There's a big difference for a person if he's expelled or extradited to Rwanda. If a country doesn't permit an asylum seeker to live in its country, a residence permit is not given, and that person can be sent back to Rwanda. That's called expulsion.

If Rwanda thinks crimes are committed by a Rwandan living abroad, they can ask the country where the Rwandan is living to send him or her to Rwanda. This is called extradition¹³⁰. In the case of an official extradition, Rwanda asks for an arrest warrant directly to the person's country of residence or through Interpol. *"It typically is enabled by a bilateral or multilateral treaty. Some states will extradite without a treaty, but those cases are rare"*.

Extraditions are under requirements, including prohibition of torture, inhuman or degrading treatment for fair trial and legal follow-up.¹³¹

Extradition is thus surrounded with all kind of legal conditions. To avoid these conditions Rwanda extracts illegally persons from abroad. For example, former hero of Hotel Rwanda, Paul Rusesabagina¹³². He stepped in a plane in Dubai, thinking he was going to Burundi. Instead, he ended up in jail in Kigali. This illegal extradition got a lot of international attention. The European Parliament even adopted a resolution, asking for an investigation, expressing its deep concern for the medical condition of Rusesabagina. The resolution also:

*'Condemns politically motivated trials, the prosecution of political opponents, and prejudgements on the outcome of trials; urges the Rwandan authorities to ensure the separation of administrative, legislative and judicial powers, in particular the independence of the judiciary; calls on Rwanda to open up its political sphere and improve its human rights record; expects Rwanda to implement the recommendations of the country's Universal Periodic Review from the Human Rights Council in Geneva on 25 January 2021.'*¹³³

¹²⁹ <https://www.statista.com/statistics/262962/countries-with-the-most-prisoners-per-100-000-inhabitants/>

¹³⁰ <https://www.cfr.org/backgrounder/what-extradition> "Extradition is the formal process of one state surrendering an individual to another state for prosecution or punishment for crimes committed in the requesting country's jurisdiction. It typically is enabled by a bilateral or multilateral treaty. Some states will extradite without a treaty, but those cases are rare".

¹³¹ https://www.researchgate.net/publication/272997383_Refugee_Exclusion_and_Extradition_in_the_Netherlands_and_Rwanda (something missing here?)

¹³² <https://www.hrw.org/news/2021/03/02/rwandan-judiciary-under-scrutiny>

¹³³ https://www.europarl.europa.eu/doceo/document/TA-9-2021-0055_EN.html

4.2 Extradition and prison in Rwanda

Generally, prisoners are transferred to international standard prisons and tried by special courts in accordance with Transfer law¹³⁴. The extradited persons are taken to Mpanga prison, which was built with funding from the Netherlands, in fact the only prison with international standards in Rwanda. The new Mageragere prison in Kigali has improved detainees' conditions but is still below international standards.

4.3. Expulsion and prison

The expulsion applies to a person who is illegally resident in a country. For Rwandans, this generally applies to asylum seekers who are accused of genocide activities and therefore excluded from international protection. After definitive exclusion from protection, people cannot stay in that country, e.g. The Netherlands, and are repatriated to Rwanda without any requirements. In case of arrest by the Rwandan authorities on arrival, people are locked up in ordinary prisons and may go through a lengthy procedure before being tried. For expelled people there is no support or international monitoring. Only the International Red Cross has access to the Rwandan prisons and can monitor the situation.

4.4. Overcrowded prisons

In 2019 a USA human rights report on Rwanda says:

*"Physical conditions in prisons operated by the Rwanda Correctional Service (RCS) approached international standards in some respects, although reports of overcrowding and food shortages were common. According to the RCS, the prison population rose from fewer than 52,000 inmates in 2015 to more than 66,000 during the year, which greatly exacerbated overcrowding. Convicted persons and individuals in pretrial detention in RCS prisons were fed once per day, and family members were allowed to deposit funds so that convicts and detainees could purchase additional food at prison canteens, but human rights advocates reported that lack of food continued to be a problem"*¹³⁵.

Many people sleep in small spaces, sometimes there isn't enough room for a single mattress. Also, they stand, four to a square yard, in the muddy central courtyard. It takes hours to reach the latrines, or the cooking fires where they eat¹³⁶.

In many prisons the inmates are given 5 planks to be used as beds and to store personal belongings. Sanitary situations are bad. It is common for diseases and infections to occur, especially since the prison services do not distribute soap and cleaning materials for showers and latrines.

There isn't enough food for the inmates. The prisoner receives a cup of porridge in the morning and a cup of corn and beans in the evening. But because of the high number of prisoners, sometimes they may only receive this ration once every 2 or 3 days.

Since 1994 the international Red Cross is sounding the alarm about overcrowding in Rwanda's prisons¹³⁷.

More than 71.000 inmates are incarcerated in 13 prison facilities around the country. They had initially a capacity of housing 57.000 inmates. The senate held a thorough survey

¹³⁴ https://www.ecoi.net/file_upload/1504_1217829493_organic-law-concerning-transfer-of-cases-to-the-republic-of-rwanda-from-the-international-criminal-tribunal-for-rwanda-and-from-other-states.pdf

¹³⁵ <https://www.state.gov/wp-content/uploads/2020/02/RWANDA-2019-HUMAN-RIGHTS-REPORT.pdf>

¹³⁶ Amazingplanetnews · March 7, 2016; <http://amazingplanetnews.com/top-10-most-violent-prisons-in-the-world/8/>

¹³⁷ <https://www.icrc.org/en/doc/resources/documents/misc/57jmug.htm>
https://app.icrc.org/files/2015-emergency-appeals/files/2015_ea_rwanda.pdf

and found that overcrowding is growing: from 99.6 percent in 2014 to 125 percent in 2019. In 2020, the Rwandan Senate has expressed worries¹³⁸ over the high number of inmates in the overcrowded prisons. The Senate asked government to solve that problem¹³⁹. During a session in October 2020, senators warned that if the problem was not solved, it could have many negative impacts both on government and inmates. The Senate recommended the government to consider decongesting the prisons by applying amnesty to those who are eligible, expanding prisons facilities, introducing electronic ankle monitors among others. Government also was urged to adopt the use of community work as another model of punishment.

4.5. TIG: community work or slavery?

TIG (*Travail d'Intérêt Général*) is an alternative for prisoners convicted of genocide or crimes against humanity (second category) who want to shorten their stay in prison¹⁴⁰. In order to get into a TIG, people must have confessed and shown remorse before the Gacaca.¹⁴¹

It's presented as community work, but the working conditions are harsh, housing and food conditions are bad. They get no salary. TIG is therefore also seen as a form of slavery. The convicted are engaged in various jobs including the construction of survivors' houses and building roads. Through TIG there's a reserve of free labour for RPF cadres.¹⁴²

4.6. Lawyers are refused access

Even in normal times, it is difficult to meet your lawyer in confidence. Often prison officials simply refuse lawyers access to their clients. So, imagine the situation in the Covid-pandemic.

People in detention are particularly vulnerable to the outbreak¹⁴³. Prisoners live in confined conditions for prolonged periods. Hygiene and health care are difficult to access in detention centres, and even more so during a pandemic. And the transmission of diseases in overcrowded facilities is rife, placing the lives of both prisoners and staff at risk. The coronavirus has already started to spread in prisons across the world.

4.7. People staying in prison for years without files or trial

According to Amnesty International suspects must not be transferred to Rwandan courts for trial until it is demonstrated that trials will comply with international standards of justice.¹⁴⁴

Most of the deficiencies of the Rwandan justice system are noted in the report of Mr Martin Witteveen a Dutch legal expert on international crimes who had been seconded to the Rwandan Ministry of Justice and worked with the Genocide Fugitive Tracking Unit (GFTU). He wrote a report highlighting that there is no fair trial in political cases particularly in cases genocide suspects.¹⁴⁵

¹³⁸ <https://www.youtube.com/watch?v=eZC213hX8k8>

¹³⁹ <https://panafricanvisions.com/2020/10/rwanda-overcrowding-in-prisons-worries-senators/>

¹⁴⁰ https://ilpd.ac.rw/fileadmin/user_upload/ILPD_Document/Publications/STUDY_ON_ALTERNATIVE_TO_IMPRISONMENT.pdf

¹⁴¹ <http://197.243.22.137/rcs/index.php?id=5>

¹⁴² <https://www.musabyimana.net/20070929-haro-sur-les-tribunaux-gacaca/>

¹⁴³ <https://africanarguments.org/2020/03/decongest-africa-covid-19-prisons-urgently/>

¹⁴⁴ <https://www.amnesty.org/download/Documents/60000/afr470132007en.pdf>

¹⁴⁵ <http://www.buitenpostdewereld.org/untitled/nl--genocide/rapport-martin-witteveen.html>
<http://www.buitenpostdewereld.org/untitled/nl--genocide/>

In Rwanda, the political opposition is often arrested, taken to court and convicted for many years imprisonment. According to Ida Sawyer, deputy director Africa, Human Rights Watch:

*“The Rwandan government’s crackdown shows that it is unwilling to tolerate criticism or accept a role for opposition parties, and it sends a chilling message to those who would dare challenge the status quo. With each arrest in Rwanda, fewer and fewer people will dare to speak out against state policy or abuse.”*¹⁴⁶

President Kagame stated publicly on record: *“We have two types of justice: the ordinary type that follows written laws and the type we use to deal with people who are stubborn”*¹⁴⁷.

Léopold Munyakazi is a typical political trial. He had first been put in prison after the genocide and then benefited from a parole, he then fled to the USA in 2004. He gave lectures in 2006 and in 2008, two arrest warrants were lodged against him for the crime of genocide, denial of genocide and minimization of genocide. Following a lengthy extradition process arguing that he is being prosecuted for his political views, he was finally extradited to Kigali. At first instance, he was sentenced to life imprisonment. He appealed and demanded that his trial take place at the scene in Kamonyi. The judgment handed down on July 20, 2018 acquitted him of the crime of genocide, but nevertheless sentenced him to nine years in prison for denial and minimization of the genocide.

4.8. People disappear from prisons

Enforced disappearances are recurrent in Rwanda. The ruling Rwandan Patriotic Front (RPF) continued to exert total control over political space in Rwanda in 2019. Several opposition members and one journalist disappeared or were found dead in mysterious circumstances. Although the Rwanda Investigation Bureau (RIB) said they launched investigations into the cases, they rarely shared their findings.¹⁴⁸ There were several reports of politically motivated disappearances during 2017. Domestic organizations critical of the State Security Force reported interference in their operations by the government and cited a lack of capacity and independence to investigate security-sector abuses.¹⁴⁹

On the night of October 7, 2018, Rwandan opposition leader Boniface Twagirimana ‘disappeared’ from his cell in high-profile maximum-security prison Mpanga in southern Rwanda. Since then, his family and friends have no information on his whereabouts. According to the government Twagirimana escaped. But this story is challenged by his friends and colleagues. They say, according to other detainees, Twagirimana was abducted and driven away in a state prison vehicle¹⁵⁰.

4.9. Police cells and military camps are not safe

National prisons are not safe, that also counts for police cells. Take for example the singer Kizito Mihigo. On February 17, 2020, the police announced that Kizito Mihigo¹⁵¹ had been found dead in his cell at the Remera Police Station in Kigali, four days after his arrest near the border with Burundi. The police said it was suicide. However, shortly before his death, he told Human Rights Watch that he was being threatened and told to provide false

¹⁴⁶ <https://www.hrw.org/news/2017/09/29/rwanda-post-election-political-crackdown>

¹⁴⁷ <https://www.youtube.com/watch?v=SLz5v4t3QjE&feature=youtu.be> (min. 43.54-44.25)

¹⁴⁸ <https://www.hrw.org/world-report/2020/country-chapters/rwanda#>

¹⁴⁹ <https://www.refworld.org/docid/58ec89dbc.html>

¹⁵⁰ <https://www.hrw.org/news/2018/11/08/one-month-rwandan-opposition-leader-disappeared>

¹⁵¹ <https://www.hrw.org/news/2020/08/17/rwanda-6-months-no-justice-kizito-mihigo>

testimonies against political opponents, and that he wanted to flee the country because he feared for his safety.

Abuse and torture of opponents and other critics of the RPF regime take place in illegal detention centres where only executioners have access. In these centres, arrested persons are subjected to all forms of physical, moral and psychological ill-treatment.

4.10. Unlawful Military Detention, Torture

In 2017 Human Right Watch denounced systematic patterns of torture, enforced disappearances, illegal and arbitrary detention, unfair trials, and other serious human rights violations in military detention centres in Rwanda, from 2010 to 2016, in clear violation of Rwandan and international law.¹⁵² This reports states that between 2010 and 2016, scores of people suspected of collaborating with “enemies” of the Rwandan government were detained unlawfully and tortured in military detention centres by Rwandan army soldiers and intelligence officers. Some of these people were held in unknown locations, including incommunicado, for prolonged periods and in inhuman conditions.

In July 2018, in its search for the truth about the existence of these torture centres, the UN Subcommittee on Prevention of Torture (SPT) cancelled its visit to Rwanda due to a lack of cooperation from the Rwandan authorities¹⁵³. The head of the SPT delegation said: *“We have been barred from completing our work in some places, and grave limitations have been imposed on granting access to certain places of detention; We have also been unable to carry out private and confidential interviews with some persons deprived of their liberty. Moreover, many of those we have managed to interview have expressed fears of reprisals. We must not place the persons that have cooperated with us in danger”*¹⁵⁴.

The 2019 US country report¹⁵⁵ accuses Rwanda and emphasizes that human rights advocates reported numerous instances of illegally detained individuals tortured in unofficial detention centres. Advocates asserted that military, police, and intelligence personnel employed torture and other cruel, inhuman, or degrading treatment or punishment to obtain information and elicit confessions before transferring the individuals to formal detention facilities.

In 2020, Human Rights Watch reported¹⁵⁶ also centres that has served as an unofficial detention facility where street children, street vendors, sex workers, homeless people, and beggars are arbitrarily locked away.

A chilling report of Human Rights Watch gives many details about the conditions in some of the military camps: *“To force them to confess, or to incriminate others, officials severely tortured or ill-treated most of the detainees interviewed by Human Rights Watch. Several former detainees gave accounts of severe beatings, electric shocks, asphyxiation, and mock executions.”*¹⁵⁷

¹⁵²<https://www.hrw.org/report/2017/10/10/we-will-force-you-confess/torture-and-unlawful-military-detention-rwanda>

<https://www.hrw.org/news/2017/10/10/rwanda-unlawful-military-detention-torture>

<https://www.hrw.org/news/2017/11/14/submission-committee-against-torture-rwanda>

¹⁵³ <https://www.hrw.org/world-report/2019/country-chapters/rwanda>

¹⁵⁴ <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22273&LangID=E>

¹⁵⁵ <https://www.state.gov/wp-content/uploads/2020/02/RWANDA-2019-HUMAN-RIGHTS-REPORT.pdf>

¹⁵⁶ <https://www.hrw.org/report/2020/01/27/long-we-live-streets-they-will-beat-us/rwandas-abusive-detention-children>

¹⁵⁷ <https://www.hrw.org/report/2017/10/10/we-will-force-you-confess/torture-and-unlawful-military-detention-rwanda>

During harsh interrogations, detainees are tortured to finally confess to crimes or offences fabricated by the security services of RIB and DMI.

In a video¹⁵⁸ posted in June 2020 a former detainee recounts how he was morally and physically tortured in the first days of his arrest and incarceration in the notorious torture prison known as “Chez Gacinya”. These detention centres, which are neither official nor authorised by law, are generally located inside military camps, or are private homes or houses built for this purpose so-called safe houses. HRW has continued to denounce such practices, but to no avail.

On the side-lines of the 37th session of the Universal Periodic Review in January 2021, when Rwanda was invited to explain the presence of these illegal torture centres in Rwanda, the Minister of Justice of the Rwandan government Jonhston Busingye initially denied the existence of these centres. Shortly afterwards, he officially acknowledged the serious accusations against the Rwandan government and promised to remedy¹⁵⁹.

4.11. People are harassed by guards and fellow prisoners

On the 25th of March 2013 Sylvain Sibomana, member of the opposition party FPU-Inkingi, was arrested and beaten up till he was rushed to hospital. All he had done was asking a police officer guarding the High Court premises, why the police were barring him and a colleague to attend the trial of Mrs Victoire Ingabire Umuhoya. After their arrest they were charged for contempt of public officials, inciting insurrection and causing trouble amongst the population.¹⁶⁰

In January 2020 seven members of the opposition party FDU-Inkingi were sentenced from seven to ten years imprisonment for complicity in forming or joining an irregular armed force. Three members were acquitted¹⁶¹. After their release the three men gave video interviews to local YouTube channels detailing their pretrial detention and ill-treatment and torture, including in “Kwa Gacinya”, an unofficial detention facility in the Gikondo neighbourhood of Kigali, and in Mageragere and Nyanza prisons. One of the three men, Venant Abayisenga, went missing in June 2020, on his way to buy phone credit¹⁶².

In short, Rwandan prisons are far from international standards. People live in appalling conditions in overcrowded prisons. People disappear, are tortured, threatened by guards and inmates. Human rights are violated, both in normal as in military prisons. Though there are some improvements in respecting human rights in penitentiaries, the National Commission for Human Rights (NCHR) found still many problems like overcrowding where suspects and convicted prisoners sharing the same room. Disturbing is also that files went missing during transfers of prisoners: *“We advised the prisons management to*

Jailed hero of 'Hotel Rwanda' claims he was tortured at 'slaughterhouse' after arriving in Kigali:

<https://abcnews.go.com/International/jailed-hero-hotel-rwanda-claims-tortured-slaughterhouse-arriving/story?id=77748884>

<https://www.telegraph.co.uk/news/2021/05/19/hero-hotel-rwanda-tells-terror-trial-tortured-regime-secret/>

¹⁵⁸ <https://youtu.be/48DDWYR1FVI>

¹⁵⁹ <https://igihe.com/amakuru/u-rwanda/article/u-rwanda-rwemeye-kuzubahiriza-inama-rwagiriwe-mu-kubahiriza-uburenganzira-bwa>

¹⁶⁰ <http://www.fdu-rwanda.com/en/english-rwanda-urgent-appeal-torture-and-illegal-detention-of-sylvain-sibomana-fdu-inkingi-interim-secretary-general/>

¹⁶¹ <https://www.hrw.org/news/2016/09/29/rwanda-opposition-activist-missing>

¹⁶² <https://www.hrw.org/world-report/2021/country-chapters/rwanda>
<http://rwandansrights.org/rwanda-stand-up-for-the-disappeared/>

be more careful when they are transferring prisoners, because we found out that sometime files got lost in process which result in a detention without supporting dossiers ”¹⁶³.

4.12. International prisons in Rwanda

The only one prison with international standards in Rwanda is the Mpanga prison, built with funding from the Netherlands¹⁶⁴. It opened in 2005 and has a population of over seven thousand men. It is a hybrid prison, housing national and international prisoners in different departments. There are two kinds of international prisoners at Mpanga Prison. The first are accused or convicted genocidaires. The second kind come from the West African country of Sierra Leone.¹⁶⁵

Jean Baptiste Mugimba and Jean Claude Iyamuremye were extradited from the Netherlands to Rwanda in November 2016. They are currently staying in the Mpanga prison, while their trials move very slowly forward. In its monitoring report of Mugimba, for the period October to December 2020, the monitoring organisation ICJ (International Commission of Jurists, appointed by The Netherlands) highlighted general issues about the genocide trials in Rwanda, including the presumption of innocence as well as the difficulty of accessing the prisons during the COVID-19 pandemic period. In this regard, the Monitor also referred to the Mandela rules on Communications and in particular, Rule 58 on communication with families¹⁶⁶. Lack of media coverage of the case meant that the public could not follow the hearings. In former reports the two prisoners complain of bad health care, guards spying on them, restricted access from their lawyers and lack of privacy to work on their case and discuss the case with their lawyers.

4.13. No possibilities to prepare for trial without being spied upon

Normally all writing entering and leaving the prison is read by prison officials, thus depriving the defence of any confidentiality with their clients.

This is confirmed by the minister of Justice, Johnston Busingye¹⁶⁷ concerning the case of Paul Rusesabagina.¹⁶⁸ The communication with his lawyer had been intercepted, a flagrant violation of his defence.

Victoire Ingabire is the best example of how political trials in Rwanda take place in an environment that is not conducive to impartial and fair political processes. She was arrested and jailed because she was trying to stand against President Kagame in 2010 elections under the ticket of FDU-Inkingi. In a letter of 6 May 2011 addressed to the President of the High Court, now the current Minister of Justice, her defence lawyers complained of the difficulties of having confidential communications with their client due to the continuous presence of prison officers who monitor and follow closely all conversations. In their letter of 27 September 2011, the lawyers complained of the refusal by the President of the High Court to respond to the remarks publicly addressed to them with a manifest bias in favour of the public prosecutor.

Ingabire was arrested and sentenced to 15 years. She appealed to African Court for Human and People's rights (AfCHPR). On November 24, 2017, the court found that

¹⁶³ <http://sportnewsharusha.blogspot.com/2014/12/human-rights-violations-in-rwanda.html>

¹⁶⁴ <http://www.buitenpostdewereld.org/weblog-rwanda-2010/how-much-paid-the-dutch-for.html>

¹⁶⁵ <https://ruminationsfromrwanda.blog/2019/06/27/mpanga-prison/>

¹⁶⁶ <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/rapporten/2021/01/11/monitoring-rapport-uitlevering-jean-baptiste-m.-oktober-december-2020/Monitoring+rapport+uitlevering+Jean+Baptiste+M.+okt-dec+2020.pdf>

¹⁶⁷ <https://www.youtube.com/watch?v=2uXvQpIOVEU>

¹⁶⁸ <https://www.nytimes.com/2020/09/18/world/africa/rwanda-paul-rusesabagina.html>

Rwanda violated Victoire Ingabire Umuhiza's right to freedom of opinion and expression, as well as her right to an adequate defence; the Rwandan government was ordered to pay reparations, but the Rwandan regime still ignores this the ruling¹⁶⁹.

4.14. Prisoners spend years in prison without being tried

According to law¹⁷⁰, the duration of a provisional detention order should not be more than six months. But we have seen people detained for more than twenty years without trial. Dr Runyinya Barabwiliza ¹⁷¹ was detained in September 1994. His trial began almost 17 years later in April 2011. Dr Bernard Mutwewingabo is probably the most chilling example: he's in jail without trial for 27 years.

After being detained without trial for such long periods, many are sentenced to lengthy prison terms, including life imprisonment. They are sentenced sometimes partly or entirely based on confessions or witness testimonies obtained under torture. Others are acquitted and released after lengthy pretrial detention¹⁷².

Jean Baptiste Mugimba and Jean Claude Iyamuremye were extradited from The Netherlands in 2016 and their trial started 3 years later. In December 2019 Dutch members of Parliament asked why their trials took so long, and why the Netherlands wanted to extradite more people. The minister answered in February 2020 that:

"On 12 November 2016, genocide suspect Jean-Claude I. and Jean-Baptiste M. were extradited to Rwanda. The exact stage of the criminal investigation in Rwanda at the time of the extraditions was not known and was considered irrelevant to the assessment of the extradition requests".

A strange thing to say if you have issued an arrest warrant for his extradition, based on information from Rwanda.

Answering a parliamentary referral¹⁷³ the minister of Justice mentioned the Monitoring reports¹⁷⁴ from the ICJ indicate :

"In September 2017, the court cases against Jean-Claude I. and Jean-Baptiste M. started. Since then, the proceedings have been in the trial phase and the substantive hearing of the cases is, in accordance with Article 2 of the Rwandan Transfer Law, the substantive hearing of the cases is taking place before the High Court. In the Reporting Letter International Crimes of 27 March 2019 erroneously stated, however, that the proceedings would still be in the 'pre-trial phase'. From the most recent Monitoring Report on Jean-Baptiste M. of 15

¹⁶⁹ <https://www.victoire-ingabire.com/Eng/12th-april-2012-stop-intimidation-of-defense-witnesses-in-ingabires-trial/>

Application 003/2014 judgment 24 November 2017

<https://ijrcenter.org/2017/12/12/african-court-holds-rwanda-violated-victoire-ingabires-freedom-of-expression/>

[http://www.african-court.org/en/images/Cases/Judgment/003-2014-](http://www.african-court.org/en/images/Cases/Judgment/003-2014-Ingabire%20Victoire%20Umuhiza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf)

[Ingabire%20Victoire%20Umuhiza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf](http://www.african-court.org/en/images/Cases/Judgment/003-2014-Ingabire%20Victoire%20Umuhiza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf)

https://www.europarl.europa.eu/doceo/document/B-8-2016-1065_EN.html

<https://www.amnesty.org/en/latest/news/2012/10/rwanda-ensure-appeal-after-unfair-ingabire-trial/>

¹⁷⁰ relating to the criminal procedure N° 027/2019 of 19/09/2019

¹⁷¹ <http://rwandansrights.org/dr-runyinya-17-years-of-miscarriage-of-justice-that-had-been-halted-3-years-ago-has-been-given-blessing-to-resume/>

¹⁷² <https://www.hrw.org/report/2017/10/10/we-will-force-you-confess/torture-and-unlawful-military-detention-rwanda>

¹⁷³ <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/02/07/antwoorden-kamervragen-over-stand-van-zaken-van-de-processen-in-rwanda/antwoorden-kamervragen-over-stand-van-zaken-van-de-processen-in-rwanda.pdf>

¹⁷⁴ <https://www.rijksoverheid.nl/documenten/rapporten/2020/03/15/monitoring-rapport-uitlevering-jean-baptiste-m.-dec.-2019-feb.-2020>

December 2019 shows that the High Court asked the Prosecution and Defence in October 2019 for 'concluding observations and submissions'. On the basis of this information, I do not consider that there is an unreasonable delay in the process at present."
Is this statement really reasonable and responsible?"

Mugimba and Iyamuremye are in jail, first in The Netherlands since 2012, then in Rwanda since November 2016, until March 2021 they were not tried yet.

In various monitoring reports it appears that Mr. Mugimba laments the unnecessary delays that his trial continues to suffer. On 19 December 2019, Iyamuremye still had unresolved problems with his legal assistance.¹⁷⁵

The quarterly Monitoring Report concerning Mugimba, from June to September 2020 says:

"The Accused recalled that the Prosecution had called eight witnesses and that during the 9 September hearing, the Defence had urged the Court to disregard three witnesses' testimonies because they all had contradictions. Furthermore, he noted that none of the witnesses had accused him directly but had only testified that they had heard about his involvement in the genocide. The Accused told the monitor that four convicted former military prisoners had been brought to the special enclosures of Mpanga prison, known as the Delta Wing, which was intended for international detainees and prisoners. The Accused believed that one of the convicted prisoners was a former director at Mageregere prison. The Accused told the monitor that he had heard rumours that the four convicted prisoners had been found guilty of killing Hutus in retaliation against the Tutsis during the genocide. The monitor notes this as a pertinent issue of concern and will raise it with the Prison Director at the next prison visit. Regarding communication with his relatives, he told the monitor that family visits had been stopped due to Covid-19. He could now only make calls to his wife and children".¹⁷⁶

4.15. Ill-treatment in prison

For those who are ill, a Rwandan prison is not the place to be.

The African Court of Human and Peoples' Rights ruled in November 2020 that Rwanda has subjected former Canadian resident Léon Mugesera to "cruel, inhuman and degrading treatment". In its ruling, the Court ordered Rwanda to pay 25 million Rwandan francs, or nearly thirty three thousand dollars (\$33,000), to Léon Mugesera and his family, including 10 million dollars for moral damages¹⁷⁷.

This brings back to memory the case of Bernard Ntaganda, leader of the political party P.S. Imberakuri. After his arrest, spring 2010, he was tortured and placed in isolation. Months later, in October, he was rushed to intensive care as a result of RPF torture. Considering his deteriorating condition, the doctor put him on a special diet of fresh food that his family delivered to him daily. A few months later, back in confinement, torture and mistreatment began again: a new inmate was paired with Ntaganda with a mission to ill treat him. When the International Red Cross wanted to visit Ntaganda in Mpanga prison, the director of the prison placed conditions on the ICRC: The visit could only take place in the presence of prison guards. The ICRC refused and only after contact with prison headquarters in Kigali, the Red Cross could meet him without guards. It is after this visit with the ICRC that Bernard Ntaganda was authorized to see a doctor¹⁷⁸.

¹⁷⁵<https://www.rijksoverheid.nl/documenten/rapporten/2020/03/15/monitoring-rapport-uitlevering-jean-claude-i.-dec.-2019-feb.-2020>

¹⁷⁶<https://www.rijksoverheid.nl/documenten/rapporten/2020/10/15/monitoring-report-uitlevering-jean-baptiste-m-june---september-2020>

¹⁷⁷ Affaire Léon Mugesera | Le Rwanda condamné pour traitement cruel et inhumain (lapresse.ca)

¹⁷⁸ <https://sfbayview.com/2013/09/opposition-leader-bernard-ntaganda-tortured-in-rwandan-prison/>

Chapter 5

The procedure in The Netherlands is in violation of human rights

"You can't win when you fight the government as an individual...."

Pieter Omtzigt (January 2021, Member of parliament, CDA).



IND office, Almere

Introduction

The IND, the Dutch immigration service, is biased, partial, unreliable and sloppy. The Dutch procedure in which people are accused of genocide (1F¹⁷⁹) violates human rights. Anyone who is accused by the IND of participating in the Rwandan genocide ends up in a sucking swamp, in which you slowly but surely sink. Administrative law and the IND's working methods are the biggest culprits. Proving your innocence through administrative law¹⁸⁰ is practically impossible. Dutch parents, victims of the national Tax Authorities know that all too well¹⁸¹.

The Rwandans living in The Netherlands, accused of genocide know this as well. Administrative law, designed to defend citizens against government decisions, provides little scope for an adequate defence in practice.

Dozens of Rwandan families in the Netherlands are victims. Their residence permits were taken, some even lost their Dutch passports and nationality. They were no longer allowed to work and not entitled to benefits, allowances and health insurance. They have been in a permanent state of poverty, fear and uncertainty for more than ten years.

After a lengthy procedure, a judge eventually decides what will happen. Can they be expelled to Rwanda?

For many that is a frightening option, because they are politically active for the opposition. There is a high chance of being arrested, getting an unfair trial, illegal detention, torture or death.

The IND's working method makes things worse. Their accusations are riddled with errors. There is lack of knowledge of language or culture. Files are compiled from general elements, supplemented with a few personal details. The IND often asks for further investigation in the country itself. This results in an *Individueel Ambtsbericht (IAB, an official report on an individual)*, of which even civil servants say internally that the quality leaves much to be desired. Someone is accused of the worst crime there is, while it is not certain what happened, where it happened and when it happened.

The IND almost never admits a mistake and almost never includes in its decision arguments that are in favor of the suspect. This is contrary to the General Administrative Law (Awb¹⁸²), that says an administrative organization such as the IND, must fulfill its tasks without prejudice.

In April 2021 Dutch lawyers presented a shocking black book with fifty stories telling how incredibly cruel and inhuman the IND treated their clients.¹⁸³ The black book describes the activities of IND as follows:

¹⁷⁹https://nl.wikipedia.org/wiki/Artikel_1F_Vluchtelingenverdrag#:~:text=Het%20bepaalde%20in%20artikel%201F,kunnen%20maken%20op%20vluchtelingrechtelijke%20bescherming.

¹⁸⁰ De grondbeginselen van de rechtsstaat zijn geschonden' als 'verschrikkelijk ongeluk'. Over de noodzaak van behoorlijk bestuur, Alex Brenninkmeijer, Nederlands Juristenblad, 8-01-2021, https://www.njb.nl/media/4103/c-b-b-37e-d-97a-c-c-4d-20652575d-6b-97e-05c-9_pdf.pdf

¹⁸¹ Ongekend onrecht. Rapport parlementaire ondervragingscommissie Kinderopvangtoeslag, 17 december 2020, <https://www.rijksoverheid.nl/documenten/publicaties/2021/01/21/kabinetsreactie-rapport-%E2%80%9COngekend-onrecht%E2%80%9D---samenvatting>

¹⁸² <https://wetten.overheid.nl/BWBR0005537/2021-03-01>, article 2.4

¹⁸³ https://www.vajn.org/wp-content/uploads/2021/04/boek-_ongehoord_-onrecht-in-het-vreemdelingenrecht.pdf

“... excessive formalism, the dismissal of people as fraudsters, an IND that adheres rigidly to the rules and in doing so completely loses sight of the human dimension...”

Almost all Dutch judges find the accused eligible to be sent back to Rwanda. Also, most politicians believe people can be expelled or extradited to Rwanda. After all, the Netherlands itself has helped build the judicial system. To say otherwise would undermine years of support.

5.1. The IND Rwanda project

It all started in 2006. During an introductory interview¹⁸⁴, a new IND official suggested to his boss that Rwandan refugees should be re-examined. There might be genocidaires among them. Contact was sought with the ministry of Foreign Affairs and in 2008 the so-called Rwanda Project became a reality. The IND's 1F unit was to assess the files on the basis of a number of criteria. What those criteria were, has not been made public.

At the end of 2009, 17 dossiers were 'selected' and in 2010, the first letters from the IND were sent out. The recipients were accused of lying during their asylum procedure and of genocide activities. For them and their families it was the beginning of a nightmare from which there was almost no escape. Expulsion to Rwanda became a serious threat.

5.2. The IND accusations riddled with errors

The accusation, innocently called ‘*Voornemen*’ (Intention), consists of a general part and a personal part. The first time one sees such a report, one is shocked: this report is about a real criminal. But if you look more closely, you will see that the general section is lengthy, while the personal section is often just a few pages, including the IAB. This report is often riddled with errors. Villages are mixed up. Names are misspelled.

During the entire procedure, including the hearings and the court case, the IND is eager to give their targets the 1F stamp. Thus, demonstrable inaccuracies are presented as truth. The IAB's are selectively, incorrectly, incompletely or wrongly quoted. Sources are quoted incompletely, which creates a distorted picture. Favorable information and positive sources are ignored. False conclusions are drawn. Sometimes IND pretends that sources are eyewitnesses, when in fact they're retelling what they've heard from others (hearsay). IND also uses reports of unreliable organizations like African Rights.

5.3. Poor quality of IAB

Very important for the procedure is the IAB, the official report about an individual. How does an IAB come about? The IND asks the Ministry of Foreign Affairs for an investigation in Rwanda of the suspect. The IND formulates the questionnaire. The Dutch embassy in Kigali asks a trusted counsellor (often a Rwandan lawyer) to carry out this investigation. The result is sent to the unit 1F of Foreign Affairs. This unit checks the sources, except for the human sources. That's a practical impossibility. The 1F-unit is the only one allowed to see the so-called background documents, often reports of conversations with the witnesses. This department asks the embassy for further explanation if necessary and then draws up the IAB. Then the IAB goes to the IND.

Ultimately, the court decides whether expulsion is permitted. They attach great value to the IAB. But that is unjustified. In 1998, the Nationale Ombudsman concluded: *"The quality of individual official reports is insufficiently guaranteed... There are also a number*

¹⁸⁴ Informatie verkregen via Wob-verzoek,

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/wob-verzoeken/2020/08/04/besluit-wob-verzoek-uitlevering-persoon-aan-rwanda/Openbaar+gemaakte+documenten+Rwanda.pdf>

*of shortcomings in the reporting and verification of information from investigations in the country of origin*¹⁸⁵."

In 2007, the Nationale Ombudsman again investigated the quality of the IABs. Not much has changed: *"The way the IND uses these reports indicates bias and partiality*¹⁸⁶."

In a letter a year later to the Tweede Kamer (House of Commons), the Nationale Ombudsman complains about the lack of information: *"The Netherlands shields through the IAB's a disproportionate amount of concrete information, so that on the evidence in the procedure is not possible to hear both sides*¹⁸⁷."

The Ombudsman stands not alone in his criticism. Lawyers, professors and journalists have highlighted time and again the IAB's contain many faults. Even civil servants are critical. For example, a report of the International Crimes (Internationale Misdrijven, IM) reconciliation meeting of 14 May 2018 states: *"During the Rwanda consultations of 3 April, it emerged that the IABs are not always sufficiently concrete. For example, it is not always clear which events and which period are involved*¹⁸⁸."

For example, someone is accused of the worst crime there is, and yet it's uncertain what happened, when it happened and where it happened. But the IND, Foreign Affairs and most judges turn a deaf ear to all criticism, including internal criticism. The IAB's have been drawn up carefully, it is said.

Judges also look at the official thematical notice, this gives a general oversight of the situation in a country. For Rwanda, the last report was heavily criticized.¹⁸⁹ It gave a much too rosy picture: "The official notice Rwanda 2016, is incorrect and unreliable and based on selective evidence."

5.4. IND: sloppy work

There is no question of meticulousness. Not in the IAB's, nor in the research carried out in Rwanda on which they are based. Rwanda is a strictly controlled society where, when anyone who does not belong in a village or neighborhood¹⁹⁰, will be reported 'as a suspicious individual' to the chef of the neighborhood. It is therefore not possible for the *Vertrouwenspersoon* (trusted counsellor) of the Dutch embassy, often a Rwandan lawyer, to do independent research. People mostly give politically correct answers because they have to report the conversation to the representative of the state's party in their area.

In addition, there is no check on human sources. Apart from the *Vertrouwenspersoon*, nobody knows if they really exist and what they said. There is no recording of the conversation, no copy of an identity card.¹⁹¹ This is understandable given the risk witnesses run. But it does mean that no one can check the oral sources. It is often unclear whether they are eyewitnesses or sources who quote others. In addition, in a number of cases the sources can be linked to one single source, so that it seems as if that one source

¹⁸⁵ Rapport Nationale Ombudsman 1998: Kwaliteit van individuele ambtsberichten in asielzaken onvoldoende gewaarborgd.

¹⁸⁶ Rapport Nationale Ombudsman 2007: 2007/200

¹⁸⁷ Brief Nationale Ombudsman aan Tweede Kamer september 2008

¹⁸⁸ Informatie verkregen via Wob-verzoek:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/wob-verzoeken/2020/09/15/besluit-op-wob-verzoek-inzake-documenten-asielaanvraag-15-september-2020/Gewitte+stukken+deel+1+tot+en+met+deel+3.pdf>

¹⁸⁹ <https://www.njb.nl/blogs/het-ambtsbericht-rwanda-waarom-weer-zon-onjuiste-voorstelling-van-zaken/>

¹⁹⁰ See chapter 4

¹⁹¹ Brandpunt: De lange arm van Kagame. <https://tvblik.nl/brandpunt/9-november-2014>

has recruited the others. It is also not clear whether sources have had contact with each other.

Because the names of many districts and places changed in Rwanda after the genocide, geographical references are also dubious. Sometimes a single official report refers to a district, which later changes into a village with the same name, but on a completely different location.

Furthermore, there is a high probability that the *Vertrouwenspersoon* will be dealing with 'sources' that can be linked to the Genocide Fugitive Tracking Unit (GFTU)¹⁹². The *Vertrouwenspersoon* could then receive ready-made information, prepared by the GFTU. It is not unique that in Rwanda people are forced to make a false statement. And finally, sources can benefit themselves if they accuse someone in order to obtain land, house or goods from the suspect.

In a number of cases, it seems that the IND even has investigations redone if they do not like the results. For example, a Rwandan *Vertrouwenspersoon* conducted an investigation into Joseph Mugenzi. He did not find anything special, whereupon another *Vertrouwenspersoon* was promptly sent to do a second investigation. And surprisingly, during this second investigation he found human sources that accused Mugenzi. In the end, the second report was sent to The Netherlands, the first was put in a very large desk drawer¹⁹³.

A number of times, the Netherlands has sent investigators themselves. It is even more complicated for them. They do not know the history and culture sufficiently well, are accompanied by the Rwandan OM, the police and the Genocide Fugitive Tracking Unit and are dependent on interpreters whose independence cannot be established.

People are thus charged thanks to official reports that are riddled with errors, based on sources that no one can verify.

Research by the National Ombudsman shows that the IAB leads to the rejection of asylum applications in eighty percent of cases¹⁹⁴.

5.5. Dangling in no man's land

Those who are accused of 1F run a great risk of ending up in 'limbo'. Often, there is too little evidence for criminal prosecution, but the IND's 1F stamp remains. The highest judge, the Raad van State, almost always agrees with judges and IND.

A situation may then arise in which the suspect is not convicted or acquitted but is also not admitted to the Dutch facilities because of the 1F stamp; meaning there is no refugee protection.

In March 2015, a member of the Dutch Lawyers Committee wrote: *"Leaving people who cannot prove their innocence in any way dangling in a legal no man's land is not fair. (...) Deporting refugees (...) after eighteen years of residence in the Netherlands or allowing 1F*

¹⁹² In addition to the Interpol project, the Rwandan National Prosecution Services established the Genocide Fugitive Tracking Unit (GFTU) in 2007, tasked with identifying the whereabouts of genocide suspects abroad, investigating allegations and cooperating with national prosecution services and international judicial bodies to either prosecute the accused domestically or extradite them to Rwanda. European states continue to assist Rwanda in building up relevant expertise. The Netherlands, in particular, signed a letter of intent with the Rwandan government in 2010 which allowed the exchange of non-operational knowledge between Dutch and Rwandan public prosecution, judiciary and bar associations. In 2012, the GFTU issued a list with names of more than 70,000 genocide fugitives who had been convicted by gacaca courts in absentia.

¹⁹³ Brandpunt: De lange arm van Kagame. <https://tvblik.nl/brandpunt/9-november-2014>

¹⁹⁴ Rapport Nationale Ombudsman 2007: 2007/200

*people to live for years in illegality without proper (criminal) assessment is not a credible and humane asylum policy*¹⁹⁵."

5.6. Tenacious IND

Once the IND lays hands on a file, they find it difficult to let go, even if in some cases there is no file in Rwanda at all. The most compelling example is Lin Muyizere, Victoire Ingabire Umuhuza's husband. In the summer of 2010, a request to draw up an IAB was on the desk of the Dutch ambassador in Kigali. At that time, the situation there was highly explosive. There were regular grenade attacks, media were suspended, journalists were chased away, arrested or even murdered. In August, presidential elections were being held.

Rwanda repeatedly stated that it had no case at all with Muyizere. And being the husband of the opposition leader Victoire Ingabire Umuhuza you can bet they took time to vet him. If there had been found anything -however small- against him, they would have used it against him. But nothing came up. Yet in 2014 he received the report of IND, saying he was suspect of genocide activities. During the course of his procedure, his passport was withdrawn just like his Dutch citizenship. In the meantime, his wife was arrested and sentenced on appeal to 15 years' imprisonment. Muyizere became seriously ill. Nevertheless, the IND continued the procedure. Muyizere appealed and in December 2018 he won the case against the Dutch State, meaning he got all his rights and passport back.

The same goes for the first Rwandan who was expelled as a result of the Rwanda project, Jean Gervais Munyaneza. He flew to Kigali with a number of Dutch military police and a 'laissez passer'. Rwanda was not amused. They had no file; they had not asked for this man. He was allowed to enter Rwanda only with the greatest difficulty. Since then, he is living with family in Kigali.

His brother was deported a year later. He was arrested immediately and put in an ordinary prison because he was not covered by Transfer Law. After five years of investigation, the judge found that he could await his trial in liberty. He still doesn't know when his trial will end.¹⁹⁶ His case is also brought to the European Court of Human Rights, and that's a lengthy procedure that will take at least one year.

Jean Baptiste Mugimba, also a victim of IND, was extradited in November 2016 at the request of Rwanda. In his case, too, it became clear last year that witnesses had lied. During one of the hearings, a witness from the prosecution who was expected to testify against him, did the opposite, clearing him of all blame.¹⁹⁷ In spring 2021 it became known the judges asked for a reopening of his trial in may 2021, because they wanted to hear more witnesses. Highly unusual as the prosecutor and the defence lawyers had all held their final speech.

Jean Claude Iyamuremye¹⁹⁸ was extradited at the same time; his case is proceeding more slowly than Mugimba's, but again the evidence seems wafer-thin. It was the IND that started a case against them.¹⁹⁹ During the procedure it became an extradition case because Rwanda asked for it.

¹⁹⁵ <https://www.volkskrant.nl/columns-opinie/vluchtelingen-in-juridisch-niemandland~b3aa0d01/>

¹⁹⁶ Anonymous source in The Netherlands, name known by editor

¹⁹⁷ <https://www.radiyoyacuvoa.com/a/4764022.html>

<https://www.topafricanews.com/2019/01/31/umutangabuhamya-wubushinjacyaha-yashinjuye-mugimba/>

¹⁹⁸ <https://www.vn.nl/ik-een-moordenaar-integendeel/>

¹⁹⁹ <https://www.vn.nl/was-deze-man-een-moordenaar-in-rwanda/>

Rwanda was afraid both accused would not get a trial in The Netherlands because of the expenses. The Rwandan government was also afraid that if the trial took place in The Netherlands, the sentence would be too low.

5.7. Monitoring of extradited Rwandans rattles

Mugimba and Iyamuremye were allowed to be extradited by the judge because they were covered by Transfer Law, would stay in an international prison and could count allegedly on a fair trial monitored by international lawyers. However, this does not seem to be the case. The knowledge of the judges leaves much to be desired, as does the quality of the monitors, the International Commission on Justice²⁰⁰. In an email dated 22 June 2018, the then Dutch ambassador Frederique de Man wrote: *"... unfortunately we have to note that even now questions are emerging in the preparatory hearings. We have asked the monitors of the ICJ to prepare more analytical reports from now on with clear reference to the existing legislation and in particular to the transfer law. The last report of the monitors showed that there are judges who are not so familiar with this law."*

The reports of the monitors come irregularly and they do not provide analyses or advice even though this is agreed upon in their contract. Sometimes complete court sessions were reported on in only two sentences.

The report of the IM reconciliation meeting of 5 November 2018 states: *"During the consultation between (omitted.), it was decided that AIRS²⁰¹ will steer for better monitoring of the processes in Rwanda by ICJ."*

The monitors promise to do better, didn't mean much in practice. An email dated 13 December 2019 still calls for improvement in reporting. The contract was therefore amended in 2020 with additional requirements. Although the reports now come more regularly, the quality of the largely public reports has still not improved.

5.8. Administrative procedure: swimming with a lead ball

To say that the administrative procedure does not make it easy for the accused is an understatement. During the procedure, the only thing IND has to do is make it plausible that there is a serious suspicion of war crimes. It does not have to be proven. There is no question of a serious trial about guilty or not, it's only about procedures.

If the procedure has been followed properly according to the judge and if there are no objections to expel someone to Rwanda, the accused can be sent back.

For the lawyers it's an unfair fight: the suspect must prove his innocence, but witnesses and sources are not accepted because, according to IND, "they are not objective". Often defence also has an information gap in comparison with the IND.

The IND makes and judges the content of the accusations. Remarkably, the judge is not allowed to test the content of the accusations. The judge only looks at the procedures followed. The highest appeal body, the Council of State (Raad van State), consists of many former politicians and is therefore in fact a political body. In most cases the Council of State agrees with the judge. According to figures from the Ministry of Justice, the IND has more than a 20 percent chance of winning an appeal. An asylum seeker has less than a five percent chance of doing so.

²⁰⁰ <https://www.icj-kenya.org/>

²⁰¹ Afdeling internationale Rechtshulp in Strafzaken

5.9. The Netherlands gave millions of euros in support of the judicial system

Before the genocide, the Netherlands was not active in Rwanda. This changed when minister for Development Cooperation, Jan Pronk, visited Rwanda in May 1994. What he saw there shocked him deeply and caused him to become deeply involved with Rwanda.

The Netherlands had given hardly any military support before and during the genocide, despite Pronk's strong insistence. Development aid to Rwanda was seen as the repayment of a debt of honor, and although there were many signs of human rights violations at the time, this did not affect Pronk's attitude or the financial assistance. Support was given to security, governance and especially justice. The Netherlands became one of the main sponsors of the ICTR and Gacaca: the people's courts that had to relieve the ordinary courts. At first, these courts were very amateurish, and, over time, their functioning came under increasing criticism. The Netherlands recognized its shortcomings, but still considered it a good instrument for reconciliation. In addition, the Netherlands largely contributed to the international wing of the prison in Mpanga, to court buildings, and the training of judges and lawyers. In 2010, 2012 and 2014, development aid was temporarily suspended following the publication of the UN Mapping Report and the destabilization of eastern Congo.

Yet the suspensions were always reversed, and even new aid was given, regardless of the human rights situation in Rwanda. Dutch diplomats kept quiet about the lack of political space and freedom of expression. The trials of Rwandan politician Victoire Ingabire, who had lived in the Netherlands for 16 years, were hardly mentioned in public. The Netherlands considered it not their responsibility, because Ingabire had the Rwandan nationality and not the Dutch nationality. The Dutch embassy did follow the process closely however, and the ambassador visited her several times.

During these years, the Netherlands was able to present itself as a reliable actor in a conflict-sensitive area, thanks to its support to the judicial sector. Rwanda became eager to bring genocide suspects to justice in their own country during this period, and Dutch support was invaluable to let this succeed. It is against this background that the first steps were taken in the Rwanda project in 2008: re-evaluation of the Rwandan files on possible genocide activities.

It was inevitable that most politicians, prosecutors, and judges believed people can be expelled or extradited to Rwanda. After all, the Netherlands itself has helped build the judicial system. To say otherwise would undermine years of support and millions of euros.

5.10. The Netherlands is funding a system of repression

The Rwandan justice system operates at the expense of financial support from several Western countries. The Netherlands is one of the four major financial contributors to Rwanda. For years, the Netherlands has financially supported the Rwandan judicial system in several areas: costs of certain administrative services, Gacaca courts, the Supreme Court, legal aid NGOs, training of judicial officials²⁰².

Considering the human rights record of Rwanda as presented during the General Assembly of the UN-Human Rights Council in Geneva in January 2021²⁰³, it is high time that the Dutch

²⁰² <http://www.buitenpostdewereld.org/weblog-rwanda-2010/how-much-paid-the-dutch-for.html>

²⁰³ https://www.ecoi.net/en/file/local/2042308/a_hrc_wg.6_37_rwa_2_E.pdf

<https://rw.usembassy.gov/u-s-statement-at-the-universal-periodic-review-of-rwanda/>

<https://www.gov.uk/government/speeches/37th-universal-periodic-review-uk-statement-on-rwanda>

taxpayer hold the Dutch government accountable. Because what's the result of all the money spent?

The Rwandan judicial system is at a standstill. Not only is the quality of the magistrates on duty unsatisfactory, but more importantly, the Rwandan judicial system has become a shortcut to getting rid of opponents and silencing any critical voices. It is time, if it is not too late, for the contributors to the Rwandan justice system to realise that they are funding a system of repression.

Indeed, instead of helping Rwanda to set up a judicial system that would be improved to provide impartial justice underpinned by the rule of law, the Netherlands substantial financial contribution to justice in Rwanda was used to strengthen the repressive machinery of the RPF regime that keeps its population under severe oppression.²⁰⁴

²⁰⁴ <https://freedomhouse.org/report/transnational-repression/rwanda>
<https://www.hrw.org/world-report/2021/country-chapters/rwanda>
<https://www.hrw.org/world-report/2020/country-chapters/rwanda>
<https://www.hrw.org/news/2014/01/28/rwanda-repression-across-borders#>

Conclusion

Rwandan refugees' human rights have been sacrificed on the altar of political expediency as the Dutch government looks for a success story to justify the aid given by the Dutch taxpayer and the European Union to aid the Rwandan judicial system.

But it is crystal clear that the Rwanda judicial system does not meet any of the prerequisites for a fair trial until now. Fair trial standards are routinely flouted in many sensitive political cases, in which security-related charges are often used to prosecute prominent government critics.

Therefore, it is hardly acceptable that the Dutch Immigration Service IND continue to rely on testimonies given by the Rwandan authoritarian regime obtained from witnesses in Rwanda under duress, paid or given other incentives or those who have pledged total loyalty to the government in official ceremonies, during which they sign off their own death sentence in case of disloyalty. Some of these false witnesses are prisoners who give false testimony in exchange for the promise of release or lesser charges. On the other hand, the lawyers fight with their hands tied behind their backs, as the suspect must prove his innocence, and the defense witnesses and sources are systematically rejected because, according to IND, "they are not objective".

Prioritising political and economic interests over respect for human rights is a recipe for future implosion in Rwanda.

The current policy of the Netherlands towards Rwanda undermines national reconciliation by helping entrench repression and selective justice which contributes to creating the very conditions that led to conflict and genocide in Rwanda. Should this happen again, God forbid, the Netherlands would have to assume her responsibility.

It is our very considered view that the Dutch government needs to stop sending critics to a notoriously repressive regime that has a record of practising torture and kidnapping of opponents from abroad. It is not in the long-term interests of the people of the Netherlands and of Rwanda for the Dutch government to prop up a system that is not sustainable.

Appendix 1:

Rwanda's historical background²⁰⁵

There are two main opposing schools of historians on the modern Rwanda history dealing with the origin of the different ethnic groups in Rwanda: the migration theory and the theory of social differentiation²⁰⁶.

In order not to risk going too far in these debates, we have opted for what is commonly known from migration theory.

Original population in Rwanda, Burundi and Congo, 700 B.C.

The Twa are the original pygmy people who lived in Burundi, Rwanda and Congo. They are hunter-gatherers; they live off what the forest has to offer.

The first Hutus settled in the Great Lakes region around 700 BC. They belong to the Bantu peoples, who have been spreading slowly across Central Africa since 1000 BC. The Bantus were farmers and were looking for new land. They found it in the Great Lakes region. In Rwanda and Burundi mainly the Bantu Hutus settled, in Congo settled other Bantu tribes like the Mongo, Luba and Longo.

The Tutsi arrive in Rwanda and Burundi

It was not until the thirteenth century AD that the Tutsi arrived in Rwanda and Burundi. They were cattle breeders. Opinions are divided on where exactly they come from. Among other things, they show kinship with the tall Masai. Their arrival is not massive, family after family trickles into the area.

The Tutsi culture is more hierarchical than that of the Twa or the Hutu. Martial arts play a greater role.

Shifting relations in Rwanda and Burundi, 17th-19th centuries

Cattle breeders and farmers are generally a bad combination. Cattle farmers are nomads, they need a lot of space for their cattle. Farmers settle in one place where they work the land they cherish, they do not like crop-trampling cows.

From the seventeenth century onwards, the Tutsis began a conquest of the Hutu lands because they needed more grazing land. The Tutsis were successful, conquering more and more land from the Hutus, but this did not automatically mean that the Tutsis became the rulers and the Hutus their subordinates. A large herd of cattle does mean a lot of status though, which is why many Tutsis have a higher status as cattle breeders than the Hutus, who were traditionally farmers.

Because the size of one's herd determines one's status, Hutus could also rise to the rank of Tutsi and Tutsis could fall back to Hutu status if they lost all their cows.

In the nineteenth century, there were two Tutsi kingdoms: Ruanda and Urundi. The Hutus play a subordinate role, they are obliged to carry out all kinds of services for the Tutsis.

²⁰⁵ A big part of this historical background comes from the book: *Rijke mensen sterven niet*, written by Anneke Verbraeken.

²⁰⁶ https://en.wikipedia.org/wiki/History_of_Rwanda

<http://editions-sources-du-nil.over-blog.com/2020/01/vient-de-paraitre-histoire-du-rwanda-desideologisation-et-restitution-des-faits-historiques.html>

Histoire et peuplement : ethnies, *clans* et lignages dans le Rwanda ancien et contemporain. par Antoine Nyagahene : <http://www.theses.fr/1997PA070030>

The upper class of administrators consists largely of Tutsi. The Twa are a minority, they do not play a significant role and live in the forests.

Congo: property of King Leopold II, 1885-1908

At the end of the nineteenth century, Western explorers headed for the Great Lakes Region: they were all looking for the mythical sources of the Nile.

At the Berlin Conference in 1885, fifteen European countries and the United States determine the spheres of influence of the African continent: East Africa, including Burundi and Rwanda, becomes Germany's; Congo is allocated to the Belgian King Leopold II. He proclaimed Congo Free State as his personal property; Leopold could do whatever he wanted with Congo. He used the Congolese as slaves on his rubber plantations. An estimated five million Congolese died from disease, exhaustion and exploitation. When it becomes known what is going on in Congo, international outrage follows. In 1908, Leopold has to hand over his country to the state of Belgium.

Rwanda and Burundi: colonies of Germany, 1895-1918

Around 1895, Rwanda and Burundi had to contend with German colonists, as they had been assigned to Germany during the Berlin Conference. The Germans saw the Tutsis as natural rulers and left the administration largely to them. Only a dozen German officials governed both countries when the First World War broke out in 1914.

Colonised by the Belgians

In 1916, Belgium took part in the fight against the Germans in Africa; part of the First World War was fought on African soil. The East Africa campaign of the Belgians and the British was a success; they defeated the Germans. As a reward, the Belgians were given Rwanda and Burundi; this was formalised in 1919 by the Treaty of Versailles. The League of Nations issued a mandate designating Belgium as governor; the area was merged and renamed Ruanda-Urundi.

From 1925, Ruanda-Urundi became part of the Belgian Congo. Because Rwanda and Burundi hardly had any minerals, it became a second-class colony.

Rwanda and Burundi: the influence of the Catholic Church, 1920-1945

With the Belgians, the Catholic Church also came to Ruanda-Urundi. At first, the Tutsi were not very keen on the Catholic Church and they pushed the Hutu to the front; they could be converted. When the Tutsi leaders saw that they could secure their position through the Catholic Church and that an education at the mission school was good for a career, the Tutsi were also converted.

The Catholic Church favoured the Tutsi, based on the conviction that the Tutsi are descendants of the North African Hamites, a race allegedly related to Europeans and genetically predestined to rule. In addition, the Tutsi are monotheists, which also goes down well with the church.

Slowly but surely, the Hutus disappeared from the local administrative systems. In practice, the Hutus had to deal with two dominant systems: the Belgians and the Tutsis. The Tutsis also had more opportunities than the Hutus in terms of education.

In the 1930s, under the influence of eugenics, the Belgians fully implement the ethnic division into three groups: everyone in Ruanda-Urundi received a Twa, Hutu or Tutsi stamp on their identity card. The Belgians even designed a measuring system based on external features (skull, nose, body size) to determine which ethnic group someone belonged to. The ethnicity on the identity card largely determined one's education and

future. But determining ethnicity is not easy: Hutus and Tutsis have lived together for centuries, intermarried and had children. Ethnicity was not only determined by external features, but also by social status. Anyone who owned more than ten cows was automatically a Tutsi.

Tensions in Rwanda and Burundi: 1945-1959

After the Second World War, Ruanda-Urundi fell under the United Nations and just like after the First World War, Belgium was given the trusteeship. The Belgians had to ensure that the region grows towards independence, although this was expected to take many decades.

The Church modernised and call for democracy became more important. The Catholic Church increasingly stood up for the Hutus; it believed that Hutus should have equal rights.

The position of the Hutus improved as a result and they were able to move on to good schools more often. Cattle and land were also redistributed, allowing more Hutus to own cattle, although much of the land still remained the property of the Tutsis. The Tutsis were pushing for rapid independence; they still had influence with the Belgians but expected the tide to turn. This was indeed happening; the Belgians were increasingly focusing on the Hutus, also because, with 85 percent, they represent the majority of the population. Belgians supported the independence movement of the Hutu elite. The first political parties emerged along ethnic lines. From the mid-1950s onwards, ethnic tensions increased.

In the summer of 1959, the Tutsi king Mutara died under suspicious circumstances in Rwanda. The king's death was the starting point for months of unrest. When a Hutu leader was assaulted in November, the Hutu revolution was declared. Belgian soldiers tried to restore peace, but thousands of Tutsis fled to eastern Congo, Burundi and Uganda. Among them was a two-year-old boy, the future president of Rwanda, Paul Kagame.

Hutus win elections in Rwanda, 1960-1970

The very first elected president of Rwanda was Hutu, Gregoire Kayibanda. He took office after the parliamentary elections in 1961. It is not surprising that the elections were won by the Hutus: with their numerical preponderance of 85 percent. Like Congo, Rwanda became a one-party state, thanks to a Hutu elite trying to seize all the power.

Rwanda: run-up to the genocide, 1970-1990

Tensions in Rwanda continued to rise after the 1972 Burundian genocide:

In July 1973, the Hutu defence minister Juvenal Habyarimana staged a coup.

After his military coup in 1973, tensions increased when the Hutu government instituted the 90-ten rule: schools must have 90 per cent Hutu and 10 per cent Tutsi. This meant that many Tutsi pupils were no longer welcome at their schools. The rule was intended to ensure school places were allocated proportionately according to the ethnic percentage in the general population.

In the 1980s, power increasingly fell to Habyarimana and a small circle of Hutus and Tutsis. By the end of the 1980s, a handful of confidants held power and money. Thanks to the relative calm, foreign donors were interested in Rwanda and Kigali had grown from village to city. *"Food production in Rwanda grew at 4.7 % while the population grew 3,4% between 1975 to 1982. Rwanda has avoided urban bias so common in Africa. Government remained attentive to the farming majority in determining price policy, exchange rate*

*policy, fiscal priorities, and effective rural institutions. Within the enabling environment output grew largely because of spontaneous changes undertaken by farmers*²⁰⁷.

At the end of the 1980s, the international community decided that Burundi and Rwanda should become democracies; it was an important reason for both countries to change from a one-party to a multi-party system. Rwanda embarked on the democratic process after the Baule conference in 1990.²⁰⁸

In October 1990, the Tutsi-dominated RPF (Rwandan Patriotic Front) invaded Rwanda from Uganda, seeking to end to Habyarimana's Hutu rule.

Paul Kagame, who fled to Uganda in 1959 and grew up in a refugee camp, is one of the important leaders. He was a senior officer in the Military intelligence service in the Uganda Army. When the commander Fred Rwigema, former Deputy Chief of Staff in the Ugandan Army, died in October 1990, Kagame took over command.

Rwanda: unrest increases, 1991 - February 1994

With the multiparty system in Rwanda, ethnic divisions widened in the early 1990s. Since 1991, each party had a youth wing that developed into a militia: Interahamwe for MRND; Inkuba for MDR and Abakombozi for PSD. The best known are the Interahamwe, the youth of dominant Hutu party MRND. They were accused of being responsible for many massacres during the 1994 genocide. The curious thing is that the president of the Interahamwe, Robert Kajuga, was Tutsi.

Meanwhile, RPF guerrilla attacks from Uganda into Rwandan territory continued. There are many reports of the massacres of Hutus who did not want to ally themselves with the RPF in the conquered areas²⁰⁹. Hutu survivors were fleeing these atrocities. April 1993 there were more than 60 thousand internally displaced persons in Nyacyonga²¹⁰ camp at the gateway to Kigali. In response, Tutsis were being murdered. The fighting reached a provisional climax later in 1993 when the RPF advanced to the gates of Kigali.

Negotiations took place under great diplomatic pressure, and in August 1993 an agreement was reached in Arusha²¹¹, Tanzania, including the condition that a mixed Hutu Tutsi transitional government should be established and that the Rwandan and RPF armies should be merged. In November, a UN peacekeeping force, composed mainly of Belgian soldiers, arrived. Their task was to ensure all parties abide by the agreement.

In the meantime, targeted assassinations of politicians in Rwanda's interior increased. Many people pointed a finger at the RPF as being responsible. Meanwhile, mutual distrust among the Hutus grew: some Hutu parties were in favour of cooperating with the RPF, others were fiercely opposed.

The RPF broadcasts its propaganda on radio station Muhabura. In response, a number of Hutu parties started Radio Milles Collines, which would later be accused of spreading hate.

²⁰⁷ <http://documents.worldbank.org/curated/en/498241468742846138/pdf/multi0page.pdf> page 105.

²⁰⁸ https://fr.wikipedia.org/wiki/Discours_de_La_Baule

²⁰⁹ <https://www.bbc.com/news/world-africa-35070220>

https://en.wikipedia.org/wiki/In_Praise_of_Blood

<https://richardwilsonauthor.com/2010/09/14/secret-un-briefing-on-1994-atrocities-full-text-of-the-gersony-report/>

²¹⁰ <https://www.alamy.com/stock-photo-nyaconga-camp-around-60-000-of-displaced-people-all-hutus-23819542.html>

²¹¹ <https://peacemaker.un.org/rwanda-peaceagreementtrpf93>

<https://nsarchive2.gwu.edu/NSAEBB/NSAEBB469/>

Rwanda genocide, April - July 1994

General Habyarimana remained in power until 6 April 1994, when his plane was shot down and crashed on his own presidential mansion. The plane was carrying the Rwandan and the new Burundian president. Who exactly pulled the plane down?

Despite countless investigations and even more books and reports, opinions are still divided to this day, but the RPF is the most obvious suspect. On 7 April 1994 this army launched an offensive from the north, killing thousands of Hutus. The Hutu-dominated Rwandan army was unable to stop the advance on Kigali.

After the death of the Rwandan president was announced, all hell broke loose in Rwanda. The presidential guard slaughtered opposition leaders and Tutsi ministers. Ten Belgian blue helmets were also killed, because the radio reported that Belgians in the blue helmets were responsible or accomplice for the death of the President.

Groups of Hutu -militias, mainly from parties opposed to the RPF, all being assimilated into the Interahamwe, roamed the country, killing every Tutsi in their path. RPF militias also roamed the country, in their turn hunting down Hutus. Many people took advantage of the violent situation to settle old scores with family, neighbours, colleagues and acquaintances.

It was an unprecedented bloodbath; in three months' time, more than a million Rwandans are estimated to have been killed. The blue helmets did nothing, the international community looked away. The RPF required all foreign forces to leave the country²¹². The genocide left the country and its people traumatised to the core. There is not a single family to be found that has not lost someone.

Rwanda after the genocide: July 1994-1995

On 7 July 1994 RPF troops marched into Kigali. Almost two weeks later, a government of Hutu and Tutsi was formed, but the Tutsis got the most important posts. Paul Kagame became Vice-President and minister of Defence. Although not a president, he was de facto the most powerful man in the country.

Congo: second genocide 1996-1998

During and after the genocide, hundreds of thousands of Rwandans fled across the border, most of them, about one and a half million, eventually ending up in Eastern Congo, near Rwanda in Goma and Bukavu. Large camps were set up there, but the conditions were miserable, especially during the first period; thousands died of cholera. Not only ordinary citizens lived there, but also former political and military leaders. When Congo threatened to send refugees back to Rwanda, most political leaders tried to flee abroad; they feared for their lives if they were forced to go back to Rwanda.

Several attempts were made for the return of the refugees in dignity, but they were rejected by Kigali regime. The "Interahamwe" and military in the camps tried to set up a new army to overthrow the regime in Kigali. In 1996, Rwandan Defence Minister Kagame put an end to this threat and bombed the refugee camps. Thousands of civilians were killed and once again a huge displacement of people began.

²¹² <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB117/Rw29.pdf>

<https://medium.com/@RwandaBriefing/statement-by-the-rpf-on-the-proposed-deployment-of-a-u-n-b0a7cfe6bda8>

Hundreds of thousands of people embarked on a terrible 2,000-kilometre journey from eastern Congo to western Congo. They were mercilessly pursued by the army of Rwanda and the rebel army of Laurent Kabila, who wanted to depose President Mobutu in Kinshasa. Again, thousands of Rwandans, mostly Hutus, died. A United Nations report spoke of a covert genocide by the Rwandan army against the Hutu refugees. This second genocide is a taboo subject in Rwanda; it does not fit the image of Kagame as the liberator from the genocide.

Congo: Kabila in power, 1997

Kabila's rebels and the Rwandan army arrived in Kinshasa in May 1997. Kabila proclaimed himself president, bringing the Mobutu era to an end. Rwanda and Uganda supported Kabila in Kinshasa. Having made the 2.000-kilometre journey together they all wanted a stake in Congo, a country rich with natural resources. The Rwandan general James Kabarebe of the RPF became Chief of Staff of the Congolese army.

After a while, Kabila felt Rwanda and Uganda were getting too much power, and he ordered the Rwandan army to leave the country. It was the start of the African World War, so called because there were nine countries involved.

East Congo: African World War, 1998

Tutsis living in eastern Congo revolted against Kabila's decision to expel them from his government. They formed rebel groups and were supported by the Rwandan army. The best known are the CNDP led by general Laurent Nkunda and the M23 led by Sultani Makenga.

Kabila called on the remaining Hutu fighters in eastern Congo for help. They too became rebels: the FDLR, a group still active in North Kivu in particular. The FDLR declared that its main goal is to protect Hutu refugees and to push for a negotiated return of refugees in dignity and to end Tutsi domination of all the levers of power.

Rwanda then formed an alliance with Burundi and Uganda and occupied part of eastern Congo. Congo in turn received help from Angola, Namibia and Zimbabwe. The African World War is in fact a fight for minerals.

During this whole conquest of Congo by the RPF and its allies, many Hutu refugees were massacred. The Mapping Report even mentions acts of genocide²¹³.

Rwanda and Uganda continue to support rebel groups to this day. It makes eastern Congo one of the most insecure areas in the world. Rebels plunder villages, steal minerals, rape and kill. International companies, neighbouring countries and (local) authorities circle over the area like vultures, trying to grab what they can. The local population tries to protect itself by forming its own armies: the Mai Mai.

Rwanda: 1996 - present

After the genocide, Rwanda was in ruins. Everything was destroyed, not only houses, schools and churches, but also the entire social structure.

How do you deal with your neighbour if he has killed your father?

What is it like to meet the rapist of your sister in the street?

Rwandans, already unaccustomed to showing the back of their tongues, became more silent and suspicious.

In the years that follow, the Tutsi government officially declared the genocide a Tutsi genocide. Anyone claiming Hutus were also murdered during the genocide risks a hefty

²¹³<https://www.ohchr.org/en/countries/africaregion/pages/rdcprojetmapping.aspx>
https://www.ohchr.org/Documents/Countries/CD/DRC_MAPPING_REPORT_FINAL_EN.pdf

prison sentence. According to the law, Hutus and Tutsis no longer exist in the new Rwanda, only Rwandans.

The prisons were full of people accused of mass murder; the conditions were degrading. It soon became clear that the ordinary justice system could not cope with these enormous numbers. There is a return to the earlier popular jurisdiction dating from the 17th Century: the Gacaca, when wise men decided whether someone was guilty or not. The traditional gacaca came to an end during the colonization period.

After the genocide, this form of justice was taken up again, but the lay judges were not quite up to the task, especially in the beginning. They received training, from the Netherlands among others, observers were appointed and the quality improved. But there is much criticism²¹⁴ too: people used it to settle scores, to obtain goods and land; the system is used to silence critics of the regime and became selective because only Hutus are tried, no Tutsis.

The gacaca was for people accused of 'minor to medium' crimes. According to Rwandan government figures, nearly two million cases have been dealt with; the gacaca was abolished in 2012 when the backlog had been cleared. In Tanzania, Arusha, came *International Criminal Tribunal for Rwanda (ICTR)* a tribunal for the people accused of the most serious crimes committed during the genocide. Here, too, only Hutus stood trial.

With Paul Kagame at the helm, the country slowly began to rebuild the country economically.

The international community realized it had looked away at crucial moments during the genocide and supported Rwanda with money and knowledge. Rwanda became the darling of donors and aid organizations.

In 2000, Deputy Prime Minister Kagame deposed his president Pasteur Bizimungu and appointed himself head of state. Three years later, elections were held. Kagame was elected by a large majority. Officially, there were several candidates from whom the Rwandans could choose, but they were of little importance.

President Kagame became more and more a dictator, especially in the run-up to the second 'free' elections in 2010. From one day to the next, English became the language of communication instead of French. History was also being rewritten again and again: the RPF did not commit any crimes before or after the genocide and Kagame and his army were the great liberators of Rwanda. Reports like UN Mapping Report and human rights organizations like HRW and Amnesty are repeatedly demonised.

Kagame won the 2010 elections with more than 90 percent of all votes. His second term officially ended in 2017, but parliament voted in 2015²¹⁵ to amend the constitution, allowing Kagame to remain president until 2035. On 4 August 2017, Paul Kagame was re-elected president with 99 percent of the votes.

There is apparent peace in Rwanda, no dissenting voices are tolerated, opposition is muzzled, disappearances²¹⁶ of people continue, even genocide survivors no longer feel safe with the RPF²¹⁷.

²¹⁴ <https://www.hrw.org/report/2011/05/31/justice-compromised/legacy-rwandas-community-based-gacaca-courts>

<https://www.musabyimana.net/20070929-haro-sur-les-tribunaux-gacaca/>

²¹⁵ https://www.europarl.europa.eu/doceo/document/E-8-2015-012336_EN.html

²¹⁶ <http://www.rwandanlivesmatter.site/#/>

²¹⁷ <http://dianerwigara.com/open-letter-to-president-paul-kagame/>

<https://www.jambonews.net/en/actualites/20191007-tutsi-survivors-calling-out-paul-kagame/>

Appendix 2:

What is All for Rwanda?

The future of Rwanda and a lasting peaceful Rwandan society

1. What is All for Rwanda?

Many of us are young people who left Rwanda at a very young age. We were recovering from the trauma we experienced during the war in Rwanda between 1990-1994. But now we are also deeply distressed by the destruction of our social stability due to the destabilisation, for strictly political reasons, by the Rwandan government of our elders in the community. In the African culture, elders are respected not because of their age but because of their wisdom and the strict moral integrity that they must demonstrate to the youth. Once you weaken their reputation and dignity, as the Rwandan regime is trying to do, you are undermining the social fabric of the community. We have the Dutch nationality and want to participate in establishing a responsible and reciprocal partnership between the Rwandan people and the Dutch people, to whom we are proud to belong.

All for Rwanda is a participatory approach launched by the association called "Rights of Opponents, Political Refugees and Activists (DORPA)²¹⁸".

This approach aims to open a debate to reflect on the paths that can lead to the construction of a Rule of Law in Rwanda, where all Rwandans can live together in harmony and respecting human rights.

DORPA aims at promoting and defending the rights and freedoms of human rights activists, Rwandan political opponents in exile or descendants of Rwandan exiles who have actions related to the implementation and the consolidation of the rule of law in Rwanda.

It is within this framework that DORPA has included in its activities, the advocacy against the extradition of Rwandan exiles established in Europe, starting with the Netherlands.

2. All for Rwanda challenges to build a Rwanda for all

Vision

"All for Rwanda" for a Rwanda for All under the rule of law, where people are free to voice their opinions, opposition can work without any restrictions, and with a government that brings peace, harmony, economic prosperity, and wellbeing for all its citizens in- and outside the country.

Mission

We are an interactive youth-centred group that campaigns and lobbies for a Rwanda for All. We organize all kind of activities to achieve this mission. We aim to engage Rwandan youth, in- and outside Rwanda, in political, social, economic and human rights activism so Rwanda can be transformed into a peaceful, harmonious and prosperous country. We want to establish transparency on international and national affairs related to Rwanda, so people, including decision-makers and journalists, have trustworthy information to make the right decisions.

²¹⁸ **D.O.R.P.A:** *Droits d'Opposants, Réfugiés Politiques et Activistes*. Moniteur belge *21314789*, n° d'entreprise : 0764666539

3. Long-term interests of the people of the Netherlands and of Rwanda

Twenty-seven years after the Rwandan tragedy that claimed the lives of countless innocent people, the Rwandan population is still suffering in the aftermath of a very bloody war which began in October 1990 and the Rwandan genocide that followed. The social framework is ripped out since it faces a highly contested process of reconciliation initiated by the regime. Rwandans continue to be disenfranchised and flee their country. Several tests lead to the same conclusion: the main problem is power.

The globalization of negative ethnicity and lack of dialogue leads to the recurring pattern of a logic to gain power by using violence, by exploiting ethnic groups as a cover. This explains the absence of the rule of law, elections that are undemocratic, unfair and not transparent periodically organized, and the cyclical conflicts which regularly marred Rwanda. Therefore, it is more obvious and imperative to hold Highly Inclusive Inter-Rwandan Dialogue (HIIRD).

Through such dialogue, representatives of the various stakeholders in the society would agree on the mechanisms of good governance and management of power through constitutional arrangements that would ensure the personal security and dignity of each and every Rwandan. This process should lead to a restoration of democracy and genuine reconciliation in which all citizens enjoy equal rights in all the sectors of national life and where interests and solidarity are defined on the basis of political ideas that are shared, rather than based on ethnicity or area of origin.

It is not in the commercial, moral, political and long-term strategic interest of the Netherlands to hand over high profile political leaders or any political activist to a government known to use liberticide in its policy “repression across borders” to gag critics. A positive action on the part of the Netherlands in supporting the initiative to install a democratic system and the rule of law in Rwanda would greatly enhance political stability in Rwanda and the region and consolidate the Netherlands’ image as a country hosting the international Justice institutions ensuring the respect for human rights and the law.

“All for Rwanda” for a Rwanda for All under the rule of law, where people are free to voice their opinions, opposition can work without any restrictions, and with a government that brings peace, harmony, economic prosperity, and wellbeing for all its citizens in- and outside the country

