

WHY WESTERN COUNTRIES SHOULD  
STOP EXPULSIONS AND EXTRADITIONS  
TO RWANDA

# OUR ENEMIES WILL PAY THE PRICE

DORPA- ALL FOR RWANDA



**"Our enemies  
will pay the price".**

**WHY WESTERN COUNTRIES SHOULD STOP DEPORTATIONS AND EXTRADITIONS  
TO RWANDA.**

***"Anyone still alive who conspires against Rwanda, whoever they are, will pay the price ....  
Whoever it is, it is only a matter of time.***

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

## Table of contents

i.	Why this book?	Page 5
ii.	Summary of the historical context of Rwanda	page 9
iii.	Summary of the book	page 11
 <b>Chapter 1:</b>		
	Rwanda is not a safe place for (political) refugees and critics of the RPF system	page 15
 <b>Chapter 2:</b>		
	Rwandans outside Rwanda (Diaspora) are not safe	page 27
 <b>Chapter 3:</b>		
	Rwanda's judicial system is not independent	page 41
 <b>Chapter 4:</b>		
	Rwanda's Prison System Does Not Meet international standards	page 53
 <b>Chapter 5:</b>		
	Proceedings in the Netherlands violate human rights	page 65
 <b>Chapter 6:</b>		
	Extraditions of Rwandans by other EU countries, the United Kingdom and others	page 77
 <b>Conclusion</b>		
		page 88
 <b>Annex 1:</b> The historical context of Rwanda		
		page 100
 <b>Appendix 2:</b> "All For Rwanda": Rwanda's future and sustainable peace		
		page 108

## Why this book?

*"He who passively accepts evil is as much involved as he who helps perpetrate it. (Martin Luther King Jr)"*

We observe with dismay and bitterness the silence, not to say complacency, of the international community in the face of the demonisation of a part of Rwandan society based on an overly simplistic reading of the history of Rwanda which groups Rwandans into two camps, the good ones who must be protected and the bad ones, summarily accused of genocidal and divisionist ideology, who must be crushed and humiliated at all costs in order to avoid a new genocide.

This is despite the fact that it is now common knowledge that the RPF regime has used a national tragedy, the genocide of the Tutsis, as a blank cheque to crush political opponents and any other dissenting voices both inside and outside the country. It is astonishing to see that those who preach democracy and the rule of law would fall for the game of a repressive regime by handing Rwandan dissidents to it on a platter. It is not a question of wanting to oppose justice, but rather of seeking impartial and fair justice.

In writing this black book, we wanted to contribute to shedding light on the totalitarian and repressive nature of the Rwandan regime in order to finally bring external political actors, especially donors, to stop subsidising its repressive machine and/or collaborating in its transnational repression policy.

It has been widely established, including by its main allies, that the Rwandan regime is one of the most repressive regimes in Africa. In its 2017 Human Rights Report, the US government accuses Rwanda of: *"extrajudicial killings; torture (violation of international law); harassment, arrest, and abuse of political opponents, human rights defenders, and individuals perceived as a threat to government control and social order; disregard for the rule of law by security forces; as well as restrictions on civil liberties; restrictions on the registration and operation of opposition parties, thereby depriving citizens of the ability to change their government through free and fair elections"*<sup>1</sup>. The civil and political rights situation has since deteriorated from 24% in 2017 to 23% in 2019, 22% in 2020 and 21% in 2021 according to Freedom House<sup>2</sup>.

During the 2021 Universal Periodic Review<sup>3</sup>, the US State Department's 2019 report, Human Rights Watch and the European Parliament highlighted cases of *torture and ill-treatment, extrajudicial killings, enforced disappearances, arbitrary detention and deaths in custody*<sup>4</sup>. Freedom House's 2021 report highlights that *"Rwandan transnational repression is exceptionally broad in terms of tactics, targets, and geographic scope"* and specifically points to the fact that *"the government generally targets individuals who challenge it through criticism or active resistance"*<sup>5</sup>.

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

<sup>2</sup> <https://freedomhouse.org/country/rwanda/freedom-world/2021>

<sup>3</sup> [https://www.ecoi.net/en/file/local/2042308/a\\_hrc\\_wg.6\\_37\\_rwa\\_2\\_E.pdf](https://www.ecoi.net/en/file/local/2042308/a_hrc_wg.6_37_rwa_2_E.pdf)

<sup>4</sup> <https://www.hrw.org/news/2021/02/01/un-countries-call-out-rwandas-rights-record>

<sup>5</sup> <https://freedomhouse.org/report/transnational-repression/rwanda>

Beyond the gross violation of human rights<sup>6</sup>, which should shock all human rights defenders, there is something more important that is deliberately ignored, allegedly for commercial and political interests<sup>7</sup>, namely that repressive and exploitative socio-political systems, supported by external forces, created the conditions for the cycle of political violence in Rwanda, the worst being the genocide against the Tutsis in 1994 and the mass murder of hundreds of thousands of Hutus by the victorious RPF regime. The UN Mapping Report suggested that the massacre of Hutu refugees in the Democratic Republic of Congo could be considered genocide in a competent court of law.

All European Union countries and the United Kingdom (UK) have refused to send Rwandan refugees to Rwanda except the Netherlands, Denmark, Finland and Norway.

Unfortunately, the people these governments are sending to Rwanda fall into the category of people at risk described in the US government and Freedom House report. The Rwandan regime does not want suspects to be tried outside Rwanda where they can get justice. When the Rwandan regime fails to obtain the necessary cooperation to have its critics extradited, it resorts to assassinations or kidnappings. Examples include the case of Colonel Karegeya, confirmed by the South African justice system, and the words of President Kagame and his former Minister Kabarebe, as well as the case of Paul Rusesabagina<sup>8</sup>.

As social scientist Marc Sommers points out: *"envisioning a bright Rwanda is only possible if one shares the blinkers that his government so confidently wears."*

*Paul Kagame's government boasts many excellent ideas. But underneath this splendid success there are disturbing realities that are systematically concealed. Rwanda's current progress is dangerously uneven and so dependent on extreme levels of social and political control that its future is worrying"*<sup>9</sup>. He added: *"Helping his nation avoid another explosion is a message that only Rwanda's international allies can deliver to President Kagame"*<sup>10</sup>. This is the kind of support the Rwandan people need, not blind aid.

The Center for Strategic and International Studies (CSIS) report (2011), commissioned by the US Africa Command (Africom), came to the same conclusion: *"Although the country is calm and orderly, stability could be endangered by political repression, the shrinking base of the ruling party, and the inability to deal openly and fairly with grievances that are deeply entrenched in society"*. The situation is worse today than when the report was written in 2011.

Peter Uvin also argues, in his article on 'aid to violence', that the socio-political system, based on the preferential treatment of one group (the Tutsis) by external powers (Germany and then Belgium), encouraged the exclusion - and subsequent impoverishment - of another group (the

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<sup>6</sup> <https://www.rwandanlivesmatter.site/>

<sup>7</sup> <https://www.youtube.com/watch?v=gW887jvslFY>  
<https://youtu.be/SwvX2y9yg18>  
<https://youtube.com/watch?v=sCzK-f2CeDw&feature=share>

<sup>8</sup> <https://www.hrw.org/news/2021/09/20/rwanda-paul-rusesabagina-convicted-flawed-trial>

<sup>9</sup> Marc Sommers : le dictateur chéri du jour  
<https://www.nytimes.com/2012/05/28/opinion/Paul-Kagame-The-Darling-Dictator-of-the-day.html>

<sup>10</sup> Marc Sommers est membre du Woodrow Wilson International Center for Scholars et l'auteur de *"Stuck : Rwandan Youth and the Struggle for Adulthood"*.  
<https://academic.oup.com/afraf/article-abstract/112/449/685/100755?redirectedFrom=fulltext>

Hutus) from Rwandan society, and that this exclusion created feelings of humiliation, anger and frustration within the oppressed group, which eventually led to acute violence against the Tutsis in 1959. It can also be said that the new socio-political system that emerged after the fall of the monarchy, led by the Hutu elite that received support from the West, failed to establish a fully inclusive democratic society and to solve the problem of Tutsi refugees. The Tutsis, who felt marginalised, politically excluded, refugee and stateless, organised an armed rebellion that resulted in genocide and regional destabilisation in Central Africa that left more than six million dead.

Tutsi refugees refused to respond to the call to return in 1963: they did not respond because they did not trust the new regime. Similarly, Hutu refugees cannot return to Rwanda now, given the current repressive and exclusionary system<sup>11</sup>.

The current preferential treatment of the RPF regime by external powers, especially in the area of justice, will produce the same results. For example, handing over critics of a notoriously repressive regime is not only a violation of international law and entrenches that repressive regime, but it also jeopardises Rwanda's future stability, which at worst could lead, as some studies predict, to civil war. Unfortunately, as Andy Storey laments: *"As with pre-genocide Rwanda, international actors seem to want to reinforce a state that has proved to be a killing machine"* (Oomen, 2005: 907)<sup>12</sup>.

A study on the root causes of ethnic violence conducted in 155 countries between 1946 and 2005, based on the opinions of nearly 100 country experts from universities around the world, led by Professor Andreas Wimmer of UCLA, identified Rwanda, Syria and Sudan as the most discriminating countries in the study<sup>13</sup>. Civil wars have already taken place in Syria and Sudan since the study was published.

Of the European countries that fund Rwanda, only the Netherlands takes away the nationality of Rwandans and sends them to the hands of the executioners of the dictatorial RPF regime. It is safe to say that unconditional support to the regime indirectly contributes to the repression that is currently taking place and prepares the next round of political violence. We have reason to believe that the governments of European countries, in particular the Netherlands, after reading this document, will consider reconsidering their positions on the surrender of Rwandan refugees to a regime accused of crimes under international law. As a reminder, at the last session of the Universal Periodic Review (UPR-37), held in Geneva in January 2021, 99 countries called on the government of Rwanda to end torture and ill-treatment and to investigate cases of extrajudicial executions, enforced disappearances, arbitrary detention and

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<sup>11</sup> <https://africanarguments.org/2021/11/from-ethnic-amnesia-to-ethnocracy-80-of-rwanda-top-officials-are-tutsi/?s=08>

<sup>12</sup> Andy Storey *La violence structurelle et la lutte pour le pouvoir de l'État au Rwanda : Why 'Conflict Resolution' and Other External Interventions Have Made Things Worse. Document à présenter à la Conférence annuelle du PSAI, 8-10 octobre 2010, Dublin Institute of Technology*

<sup>13</sup> <http://newsroom.ucla.edu/releases/excluding-ethnic-groups-from-power-88681>  
<https://africanarguments.org/2021/11/from-ethnic-amnesia-to-ethnocracy-80-of-rwanda-top-officials-are-tutsi/?s=08>

deaths in custody<sup>14</sup>. They made 284 recommendations to the Rwandan government. These recommendations remain unheeded in view of the recent arrests of independent journalists and members of the opposition and the trial of Paul Rusesabagina. Handing over Rwandan opponents to the regime in Kigali is not only a blessing of the repression but also a direct collaboration.

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<sup>14</sup> A/HRC/WG.6/37/RWA/2 <https://daccess-ods.un.org/tmp/9858612.41817474.html>  
<https://www.hrw.org/fr/news/2021/02/01/onu-le-rwanda-pointe-du-doigt-pour-son-bilan-en-matiere-de-droits-humains>  
<https://www.gov.uk/government/speeches/37th-universal-periodic-review-uk-statement-on-rwanda>  
<https://rw.usembassy.gov/u-s-statement-at-the-universal-periodic-review-of-rwanda/>  
<https://www.article19.org/resources/rwanda-accept-and-implement-upr-recommendations/>



## I. Summary of the historical context of Rwanda

There is a stereotypical narrative that suggests that the political violence in Rwanda, which culminated in the genocide against the Tutsis, was the result of irrational tribalism. But in reality, the cycle of political violence is the result of political and social exclusion, which leads to the violation of human rights. Unfortunately, political elites have used the grievances of groups along ethnic and regional lines to gain the support of these groups, while outside interests have helped to keep these groups in power through political, diplomatic, military and economic support, thereby postponing an inevitable violent outcome. We believe that ethnic diversity, properly valued and managed through a democratic process, the 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 known today 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 then<sup>15</sup>. It was following the Berlin conference<sup>16</sup> that Rwanda was shaped into its current borders, it was the colonial power that formalised the ethnic labels "Hutu-Tutsi" that existed in the different clans but did not have the present 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: the lack of democracy and good governance allows the political elite to exploit group grievances based on ethnicity or region to gain and retain power for themselves, in the absence of strong institutions.

Before the arrival of the German settlers, there were political crises, the main one being the Rucunshu 'coup'<sup>17</sup> between the Abega and the Abanyiginya. From an ethnic point of view, it can be said that it was a power struggle within the same ethnic group: the Tutsis.

The 1959 revolution was a power shift of an ethnic nature between the Hutus and the Tutsis. The 1973 coup was the result of a power struggle within the same ethnic group, the Hutus, with a dominant regionalist character.

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

The current Rwandan political crisis is more complex. Both Hutus and Tutsis are fleeing RPF-dominated power<sup>18</sup>. The RPF witch-hunt against Rwandan refugees is part of the RPF's quest to consolidate and perpetuate its power by silencing its opponents and any critics. Hutu opponents are easily accused of genocide, genocide minimisation or genocidal ideology while Tutsis are accused of embezzlement of public funds, treason or wanting to overthrow power by

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<sup>15</sup> <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>

<sup>16</sup> [https://en.wikipedia.org/wiki/Berlin\\_Conference](https://en.wikipedia.org/wiki/Berlin_Conference)

<sup>17</sup> [https://en.wikipedia.org/wiki/Mibambwe\\_IV\\_Rutarindwa](https://en.wikipedia.org/wiki/Mibambwe_IV_Rutarindwa)

<sup>18</sup> Rwandan Patriotic Front, state political party  
[https://en.wikipedia.org/wiki/List\\_of\\_political\\_parties\\_in\\_Rwanda](https://en.wikipedia.org/wiki/List_of_political_parties_in_Rwanda)

force. Most recently, even survivors of the Tutsi genocide such as Karasira and Idamange are accused of, among other things, denying and minimising the Tutsi genocide.

The establishment of the rule of law, underpinned by political pluralism and the democratic transfer of power, would eradicate both regionalism and ethnism. It is the establishment of the rule of law and its attributes that must therefore be put into practice. However, despite the fact that the opposition has called for a very inclusive national dialogue, the Rwandan government shows no political will to engage in this process. Two letters requesting dialogue, addressed to President Kagame by the opposition parties, have not been answered.

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

## II. Summary of the book

The human rights situation in Rwanda offers no guarantee of security to Rwandan political refugees and to all those who dare to 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 February 2021 report<sup>19</sup>, an American NGO, Freedom House, cites Rwanda alongside countries such as China, Russia, Iran and Saudi Arabia where repression of opponents is a serious concern.

The Rwandan authorities exercise undivided power, including the banning of genuine opposition political parties, repression of opponents and human rights activists, assassinations, physical and mental torture, disappearances, control of human rights organisations and the media, and harassment of those calling for political openness and democratic governance<sup>20</sup>. The repressive activities of the Rwandan authorities are not limited to Rwanda. They are also manifested abroad where opponents of the Rwandan regime are targeted. These repressive activities are part of a carefully prepared and coordinated programme. Considered as negative forces, Rwandan opposition movements abroad are scrutinised by a well-trained spy service financed by the Rwandan intelligence services.

In order to identify people in the diaspora opposed to the Rwandan regime, the government has put in place multiple spying systems. Rwandans abroad face computer threats, spyware attacks, domestic intimidation and harassment, mobility controls, physical intimidation, assaults, detentions and killings.

The Rwandan government has created a fifth column, the 'diaspora', made up of Rwandans outside the country who swear loyalty to the RPF party. This column animates the supporters from outside who get involved in espionage activities and go to Rwanda to follow political education and espionage courses. They also undergo military training.

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 judiciary, which greatly hinders the implementation of the right to a fair trial given the politicisation of the genocide. Indeed, officials often use the judicial system to punish and restrict the activities of people considered to be opposed to the government and the RPF. These people are often prosecuted (*for divisionism and genocide ideology, or for offences against the established power or the President of the Republic and inciting the uprising or unrest of the population*<sup>21</sup>) and detained for long periods without being charged. Laws against divisionism, genocide ideology and genocide denial are widely used to silence political dissent and to suppress investigative journalism<sup>22</sup>.

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<sup>19</sup> <https://freedomhouse.org/report/transnational-repression/rwanda>

<sup>20</sup> <https://www.hrw.org/fr/world-report/2022/country-chapters/380887>  
<https://www.youtube.com/watch?v=IN5uofccsvQ>

<sup>21</sup> [https://police.gov.rw/uploads/tx\\_download/Official Gazette no Special of 14.06.2012-4.pdf](https://police.gov.rw/uploads/tx_download/Official_Gazette_no_Special_of_14.06.2012-4.pdf)  
<https://gazettes.africa/archive/rw/2018/rw-government-gazette-dated-2018-09-27-no-special.pdf>

<sup>22</sup> <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/rwanda/>

The regime continues to tout its efforts to modernise and upgrade the judiciary by displaying laudable principles and legal reforms to address international criticism. However, as long as there are wide gaps between the law and the actual conduct of judicial proceedings, these standards will remain a façade and justice will remain marred by irregularities and interference of all kinds. This is not only detrimental to the rights of (at the expense of) individuals prosecuted but also (in general) undermines genuine national reconciliation through true justice.

Rwanda's national prisons are overcrowded, food is inadequate, sanitary conditions are appalling, medical treatment is inadequate, visiting rights of lawyers are extremely limited, prisoners are threatened by guards and co-detainees, some remain in prison for years without being tried, others disappear from prisons and there is no investigation to determine the circumstances of these disappearances. A prison in Rwanda is an excessively dangerous place.

The evidence from eyewitnesses, the International Red Cross and human rights organisations is overwhelming. On the other hand, the Dutch government and judiciary repeatedly do not see it that way. At the instigation of the Dutch immigration service IND (*Immigratie en Naturalisatiedienst*)<sup>23</sup>, the government sends suspected criminals back to Rwanda, to a very unreliable and untransparent prison system, without any guarantee of fair and impartial justice.

The IND is biased, partial, unreliable and botches its work. The Dutch procedure in which people are accused of genocide (1F<sup>24</sup>) violates human rights.

Anyone accused by the IND of having participated in the Rwandan genocide is caught in quicksand that slowly but surely swallows you up. Administrative law and the IND's working methods are the main culprits. Proving innocence through administrative law<sup>25</sup> is virtually impossible.

Administrative law, designed to defend citizens against government decisions, offers few possibilities for adequate defence in practice. Dozens of Rwandan families living in the Netherlands have been victims of this. Their residence permits were withdrawn, some even lost their Dutch passports and nationality. They were no longer allowed to work and were not entitled to social benefits and health insurance. These families have been in a permanent state of poverty, fear and uncertainty for over ten years.

After a long process, a judge finally decides the fate of the person accused of genocide. Can she be deported to Rwanda?

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<sup>23</sup> Service de l'immigration et de la nationalité (Immigratie- en Nationalisatie Dienst)

<sup>24</sup> <https://www.refugeelegalaidinformation.org/exclusion-refugee-status-under-article-1f-convention>  
<https://www.canlii.org/en/ca/scc/doc/2013/2013scc40/2013scc40.html?resultIndex=1>  
<https://www.canlii.org/en/ca/scc/doc/2013/2013scc40/2013scc40.pdf>  
[https://nl.wikipedia.org/wiki/Artikel\\_1F\\_Vluchtelingenverdrag#:~:text=Het%20bepaalde%20in%20artikel%201F,kunnen%20maken%20op%20vluchtelingrechtelijke%20bescherming.](https://nl.wikipedia.org/wiki/Artikel_1F_Vluchtelingenverdrag#:~:text=Het%20bepaalde%20in%20artikel%201F,kunnen%20maken%20op%20vluchtelingrechtelijke%20bescherming.)  
<https://www.amnesty.org/en/wp-content/uploads/2021/05/AMR2000092012ENGLISH.pdf>

<sup>25</sup> 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](https://www.njb.nl/media/4103/c-b-b-37e-d-97a-c-c-4d-20652575d-6b-97e-05c-9_pdf.pdf)

For many, this is a frightening option, as they are politically active in the opposition. The risk of being arrested in Rwanda, of being subjected to enforced disappearance, unfair trial, illegal detention, torture or even death, is high.

The IND's accusations are riddled with errors. There is no knowledge of the local language or culture. Files are built up from general elements, supplemented by few personal details. The IND often requests further investigation in the same country, where it is well aware that the regime can only seek or pay for prosecution witnesses. The result is an official report on an individual: IAB (*Individueel Ambtsbericht*), the quality of which even the officials say internally leaves something to be desired. It is quite shocking to make light of a situation where someone is accused of the worst crime of genocide when no one is sure what happened, where it happened and when it happened.

The IND almost never admits that it might go (wrong and almost never includes in its decision arguments in defence of the suspect. The IND literally says: *"For the withdrawal of Dutch citizenship, it is sufficient that there are serious suspicions"*. This leaves too much room for arbitrariness, because for such serious suspicions to be acceptable, they must be based on verifiable facts and not on the information of a prosecution witness recruited by the Rwandan prosecutor. But this is contrary to the General Administrative Law (Awb<sup>26</sup>), which stipulates that an administrative organisation, such as the IND, must perform its tasks without prejudice.

In April 2021, Dutch lawyers presented a black book revealing the inhumane and degrading treatment of asylum seekers, a situation that does not give credit to a democratic country like the Netherlands. It contains fifty stories of how the IND treated their clients in an incredibly cruel and inhumane manner<sup>27</sup>. The black book describes the IND's activities as follows: *"...excessive formalism, dismissing people as fraudsters, an IND that rigidly adheres to rules and in doing so completely loses sight of the human dimension..."*

Almost all Dutch judges believe that the accused can be sent back to Rwanda. Similarly, most Dutch politicians believe that people can be deported or extradited to Rwanda. The reason seems to be that, since the Netherlands itself helped build the judicial system, it has to send them back to prove that the system works. To say otherwise would be to undermine years of support worth tens of millions of euros.

But what the Dutch government does not want to admit is that by providing financial support to Rwanda, the Netherlands is helping a dictatorial system where human rights, political space and freedom of expression do not exist.

In the meeting of 28 October 2008<sup>28</sup>, the Netherlands through the representative of the European Union in the Great Lakes countries, Mr Roeland van de Geer, tried to get European

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<sup>26</sup> <https://wetten.overheid.nl/BWBR0005537/2021-03-01>, article 2.4

<sup>27</sup> <https://www.vajn.org/wp-content/uploads/2021/04/boek-ongehoord-onrecht-in-het-vreemdelingenrecht.pdf>

<sup>28</sup> [Rwanda - EU - Internationaal recht - Bijeenkomst inzake uitlevering aan Rwanda en vervolging in Europa van FDLR genocide verdachten  
https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/wob-verzoeken/2020/08/04/besluit-wob-verzoek-uitlevering-persoon-aan-rwanda/Openbaar+gemaakte+documenten+Rwanda.pdf](https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/wob-verzoeken/2020/08/04/besluit-wob-verzoek-uitlevering-persoon-aan-rwanda/Openbaar+gemaakte+documenten+Rwanda.pdf)

countries to harmonise extradition policies. But many countries rejected the idea and said that extradition procedures would be assessed according to the human rights situation in Rwanda.

In accordance with their laws of universal jurisdiction, **Germany** and **Belgium** preferred to try themselves the alleged perpetrators reported on their territories.

**France** went even further. The Court of Cassation ruled that there was no legal provision to try the crime of genocide in 1994 at the time when the crime was committed and the legal texts were produced after July 1994.

In the **Scandinavian countries**, attitudes have varied:

**Denmark** was one of the first countries in Europe to extradite Rwandans accused of genocide.

**Sweden**, on the contrary, did not want to send the accused to Rwanda and tried several suspects in its own country. As early as 2005, in order to investigate and possibly extradite or prosecute those suspected of involvement in major international crimes, **Norway** created a special prosecutor's post and set up a unit within the National Criminal Investigation Service (NCIS). **Finland** has refused to extradite individuals to Rwanda because it felt it could not ensure that the trial would be conducted fairly.

The **United Kingdom (UK)** has refused extradition requests and has demanded guarantees for fair and impartial justice with specific and verifiable evaluation indicators<sup>29</sup>.

**Switzerland**: by a decision of 1 July 2009, the Swiss government refused to extradite a former Rwandan minister to Rwanda.

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<sup>29</sup><https://www.judiciary.uk/wp-content/uploads/2017/07/rwanda-v-nteziryayo-and-others-judgment-20170728.pdf>

## Chapter 1

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

*"The Rwandan government's crackdown shows that it is not willing to tolerate criticism or accept the role of 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 Africa Director, Human Rights Watch)

September 28, 2017



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## Introduction

The human rights situation in Rwanda offers no guarantee of safety for Rwandan political refugees and all those who dare to 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 February 2021 report<sup>30</sup>, an American NGO, Freedom House, cites Rwanda alongside countries such as China, Russia, Iran and Saudi Arabia where the repression of opponents is a serious concern.

The Rwandan authorities are exercising unchecked power with the banning of genuine opposition political parties, the repression of opponents and human rights activists, assassinations, disappearances<sup>31</sup>, physical and mental torture<sup>32</sup>, the control of human rights organisations and the media, and the harassment of those calling for open political space and governance based on democratic principles. These findings are shared by the US report on Rwanda (2020). It states that the country has very serious human rights failures on the part of the government, such as killings, enforced disappearances and torture. As the NGO Freedom House points out, the report mentions political arrests, politically motivated reprisals against people outside the country, arbitrary or unlawful interference in private life, severe restrictions on individual freedom of expression and of the press and/or the internet, including threats of violence against journalists, censorship and blocking of websites, serious interference with the rights of peaceful assembly and freedom of association, such as overly restrictive laws on non-governmental organisations, and restrictions on political participation<sup>33</sup>.

### 1.1. Rwanda is a police state

In order to exercise unrestricted power and silence any dissenting voices, the RPF party-state has opted for a strategy of infiltration. Elements of the defence and security services are present in all administrative structures<sup>34</sup> 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 structure called 'Isibo' composed of () a number of families within the village. The Isibo is the equivalent of what used to be called Nyumba-Kumi (ten houses).

In this environment of ten houses, there is an RPF security officer, who reports daily on all movements and events that have taken place in the ten houses. Throughout the country, no meeting or other form of association of any kind can be held without the approval and presence of a security officer. This is one of the reasons why Rwanda is a police state where neighbours spy on neighbours, families spy on families, friends spy on friends.

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<sup>30</sup> <https://freedomhouse.org/report/transnational-repression/rwanda>

<sup>31</sup> <https://www.rwandalivesmatter.site/>  
<https://www.hrw.org/news/2021/10/19/rwanda-crackdown-opposition-media-intensifies>  
<https://www.hrw.org/world-report/2022/country-chapters/rwanda>

<sup>32</sup> <https://www.youtube.com/watch?v=IN5uofccsvQ>

<sup>33</sup> <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/rwanda/#.YGQVIRsM9v4.twitter>

<sup>34</sup> <https://www.gov.rw/government/administrative-structure#:~:text=Rwanda%20is>



Each family keeps a notebook where visitors who will spend a night are recorded and will inform the person in charge of the ten houses.

## 1.2. Political opposition is not allowed

According to the Rwandan constitution, freedom of association and multipartyism are recognised<sup>35</sup> and the law on political parties<sup>36</sup> recognises that "*political organisations must be formed and allowed to function freely and must be equal before government institutions*".

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 even an alternative to the governance of the country.

In 2010, the FDU-Inkingi party, represented by the party president at the time, **Victoire Ingabire Umuhoza**, expressed its desire to participate in the active life of Rwandan society within a registered party, but it was never possible to register the FDU-Inkingi party. Instead of getting her party registered, Victoire Ingabire was charged with six counts including allegations of terrorism and genocidal ideology. She was sentenced by the high court to eight years in prison<sup>37</sup>.

When she appealed to the Supreme Court the Court increased the sentence 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 violence<sup>38</sup>.

In the run-up to the 2017 presidential elections, **Diane Rwigara**, a survivor of the 1994 Tutsi genocide, took administrative steps to register as an independent candidate. After the official announcement of her candidacy on 3 May 2017, the government initiated a campaign of moral harassment against her. Images of her naked body were circulated on the Internet with the sole aim of tarnishing her image during the launch of her campaign. After collecting the necessary sponsorship signatures to be allowed to run, her candidacy was nevertheless rejected<sup>39</sup> under the pretext that some signatures were forged and therefore invalid. As a result, her run for the presidential election on 4 August was ended..

Determined to make her voice heard in the Rwandan political arena, she created a peaceful opposition movement, the Movement for the Salvation of the People (MSP). This movement is mainly composed of young people ready to mobilise for change and to express their disapproval of the RPF's coercive methods. The regime found Diane's move quite disturbing and therefore decided to end her political career. She was arrested and interned in Kigali Central Prison in

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<sup>35</sup>[https://www.parliament.gov.rw/fileadmin/Bills\\_CD/THE\\_CONSTITUTION\\_OF\\_THE\\_REPUBLIC\\_OF\\_RWANDA\\_OF\\_2003\\_REVISED\\_IN\\_2015.pdf](https://www.parliament.gov.rw/fileadmin/Bills_CD/THE_CONSTITUTION_OF_THE_REPUBLIC_OF_RWANDA_OF_2003_REVISED_IN_2015.pdf)

<sup>36</sup> [http://www.rgb.rw/fileadmin/Key\\_documents/Law\\_governing\\_the\\_PP\\_and\\_politicians.pdf](http://www.rgb.rw/fileadmin/Key_documents/Law_governing_the_PP_and_politicians.pdf)

<sup>37</sup> <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/>

<sup>38</sup> <https://ijrcenter.org/2017/12/12/african-court-holds-rwanda-violated-victoire-ingabires-freedom-of-expression/>

<sup>39</sup> <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>

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 real contenders for the presidency in competition with Paul Kagame never made it into the race. On the contrary, they found themselves in legal trouble and were even imprisoned. Yet this is a country praised for being the world leader in women's empowerment.

**Bizimungu Pasteur** and **Charles Ntakirutinka** were thrown into prison in April 2002 after founding a political party, PDR-Ubuyanja. They were accused by the authorities of "ethnic divisionism" and therefore declared illegal<sup>40</sup>. According to the Supreme Court prosecutor, the PDR-Ubuyanja was "only a cover to create a terrorist group".

**Dr Théoneste Niyitegeka** was one of the first to challenge Paul Kagame in the 2003 presidential elections, when he was quietly practising as a private doctor. But after announcing his candidacy, he was accused of previously unknown acts of genocide. He is currently serving a 15-year prison sentence following a politically motivated trial based on a web of lies<sup>41</sup>.

**Gilbert Mwenedata**, another survivor of the Tutsi genocide, was rejected as a candidate in the 2017 presidential elections. He was accused of forging sponsorship signatures. When rumours grew of his imminent arrest by the Rwanda Bureau of Investigation (RIB), he fled the country into exile<sup>42</sup>.

**Thomas Nahimana** and **Nadine Claire Kansige**, two members of the exiled Ishema party, were stranded at Jomo Kenyatta International Airport in Nairobi for several days. They had returned from exile for the 2017 presidential election, having boarded Kenya Airways in Amsterdam in November 2016. As they were about to embark 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 few days in the transit hall, they finally decided to return to their country of asylum<sup>43</sup>.

**Barafinda Sekikubo Fred**: he was another candidate who wanted to confront the strong man of Kigali, General Paul Kagame, in the 2017 elections. He became famous for his public utterances since he went to the electoral commission (NEC) to file his candidacy for the presidential elections. <sup>44</sup>.

Since his failed attempt to run against President Kagame, he has often been arrested by the Rwandan police (RIB: The Rwanda Investigation Bureau) and interned in the Psychiatric

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<sup>40</sup><https://www.amnesty.org/en/latest/news/2012/03/rwanda-urged-end-clampdown-dissent-charles-ntakirutinka-released/>

<sup>41</sup> <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/>

<sup>42</sup> <https://www.theeastafrican.co.ke/tea/news/east-africa/former-rwandan-presidential-hopeful-flees-country-1377526>  
<https://www.ecoi.net/en/document/1422587.html>

<sup>43</sup><https://www.theeastafrican.co.ke/tea/news/east-africa/kenya-forced-to-keep-prelate-as-rwanda-denies-him-entry--1358474>

<sup>44</sup> <https://www.jambonews.net/actualites/20191028-rwanda-barafinda-sekikubo-fred-monte-au-creneau/>  
<https://www.therwandan.com/ki/barafinda-sekikubo-fred-yarawe-atwawe-nabambaye-gipolisi/>

Centre. The Rwandan system has resorted to using the tactics of the former USSR, when political opponents and those who were critical of the Soviet state and its social system, were labelled as 'undesirable persons' and isolated in psychiatric institutions without being able to appear in court. This method, known as 'punitive psychiatry', is an abuse of psychiatry for political purposes<sup>45</sup>.

**Kayumba Christopher:** A professor at the School of Journalism and Communication at the National University of Rwanda, he is the founder of the "*Rwandese Platform for Democracy*" (RPD<sup>46</sup>) party and of the newspaper "*The Chronicles*", which is highly critical of the government. Every time he goes out driving, he is stopped and his car is seized. The police, instead of calling him a "madman" like Barafinda, they call him a "drunkard" and a "danger to public order". Accused of several evils, he is currently lying-in prison. He was allegedly warned by powerful men in government in Kigali that he had to choose between leaving his political party or risk spending the rest of his life in prison<sup>47</sup>.

### 1.3. Lack of freedom of the press and expression

Despite the adoption of the February 2013 law<sup>48</sup> guaranteeing press freedom and media independence, the profession of journalism is very difficult if not impossible to exercise in Rwanda. The number of journalists intimidated and harassed is constantly increasing, according to Reporters Without Borders. Their 2021 ranking puts Rwanda in 156th place out of 180 countries in the world<sup>49</sup>.

In a democracy, people must be able to present and discuss alternative policy options. But in Rwanda, two articles of a new law dating from 2018<sup>50</sup> restrict all freedom of expression and are invariably used against members of the opposition or any other opinion leader.

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<sup>45</sup><http://www.musabyimana.net/20200307-le-rwanda-a-lere-de-la-psychiatrie-punitive-cas-de-fred-barafinda-et-du-dr-christopher-kayumba/>  
<https://www.ac-news.org/fr/rwanda/48561-l-opposant-christopher-kayumba-en-greve-de-la-faim-transfere-a-hopital>

<sup>46</sup><https://www.hrw.org/fr/world-report/2022/country-chapters/380887>  
[https://medium.com/@david.himbara\\_27884/kagame-has-imprisoned-christopher-kayumba-who-predicted-his-arrest-when-he-launched-the-rwandese-5c5fe4607b0a](https://medium.com/@david.himbara_27884/kagame-has-imprisoned-christopher-kayumba-who-predicted-his-arrest-when-he-launched-the-rwandese-5c5fe4607b0a)  
<https://www.chronicles.rw/2021/03/16/from-jail-kayumba-christopher-forms-political-organization/>

<sup>47</sup><https://les-mutikeys.com/2021/11/04/rwanda-christopher-kayumba-avait-ete-prevenu-quitter-son-parti-ou-la-prison/>

<sup>48</sup>[https://www.rgb.rw/fileadmin/Key\\_documents/Law-RGS-Gazette/LAW REGULATING MEDIA-08-02-2013.pdf](https://www.rgb.rw/fileadmin/Key_documents/Law-RGS-Gazette/LAW REGULATING MEDIA-08-02-2013.pdf)

<sup>49</sup>[https://rsf.org/en/ranking\\_table](https://rsf.org/en/ranking_table)  
<https://www.politico.com/magazine/story/2014/02/rwanda-paul-kagame-america-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>

<sup>50</sup> <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**

Any person who spreads false information or harmful propaganda with intent to cause public disaffection against the Government of Rwanda, or where such information or propaganda is likely or calculated to cause public disaffection or a hostile international environment against the Government of Rwanda commits an offence. Upon conviction, he/she is liable, in wartime, to a term of life imprisonment. In peacetime, he/she is 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, either by a speech, writings of any kind, images or any symbols, whether displayed, distributed, purchased or sold or published in any manner, incites the population to reject the established

Ida Sawyer, deputy Africa director at Human Rights Watch, said: "*The Rwandan government's crackdown shows that it is unwilling to tolerate criticism or accept the role of 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.*"<sup>51</sup>

Through the Media High Council, Rwanda's media ombudsman, and under the guise of the defamation law aimed at silencing or even forcing 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 articles that are dictated to them, while others prefer exile.

**Léonard Mugambage**, deputy editor of the newspaper Umuvugizi, was murdered outside his home in Kigali in June 2010<sup>52</sup>. The motive for his murder remains unclear, but sources say he was killed because he was investigating the 19 June 2010 shooting of Kayumba Nyamwasa, the former chief of staff of the Rwandan army in exile in South Africa.

**Agnès Nkusi Uwimana** and **Saidati Mukakibibi**<sup>53</sup>, respectively editor-in-chief and deputy editor-in-chief of the newspaper Umurabyo, were sentenced in 2011 by the Kigali High Court to 17 and 7 years respectively for "undermining state security, defamation and divisionism". On appeal to the Supreme Court, this sentence was commuted to 4 years for Agnès Uwimana and 3 years for Saidati Mukakibibi.

### **BBC broadcasts in Kinyarwanda**

Following the broadcasting of a documentary "Rwanda Untold Story"<sup>54</sup>, BBC broadcasts in Kinyarwanda were suspended in October 2014. The station 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 the BBC.

**John Ndabarasa** disappeared 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 has aroused much suspicion.

Human Rights Watch has documented numerous cases in Rwanda where former detainees have been forced to make false statements after months of illegal detention and torture<sup>55</sup>.

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*Government, or who causes uprising in the population with intention to incite citizens against one another or disrupts the population with intention to cause unrest in the Republic of Rwanda commits an offence. Upon conviction, he/she is be 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>

<https://www.jambonews.net/en/actualites/20220329-happiness-index-why-is-rwanda-rounding-out-the-bottom-five-%ef%bf%bc/>

<sup>51</sup><https://www.hrw.org/news/2017/09/29/rwanda-post-election-political-crackdown>

<sup>52</sup><https://rsf.org/en/news/newspapers-deputy-editor-gunned-down-outside-home-kigali>

<sup>53</sup><https://globalfreedomofexpression.columbia.edu/cases/agnes-uwimana-nkusi-and-saidati-mukakibibi/>  
<https://cpj.org/2012/12/jailed-rwandan-editors-turn-to-african-commission/>

<sup>54</sup><https://www.bbc.com/news/world-africa-29762713>

<sup>55</sup><https://www.hrw.org/news/2016/09/29/rwanda-opposition-activist-missing>

In the midst of the Covid-19 pandemic, in April 2020, a wave of arrests of independent bloggers and journalists<sup>56</sup> took place. Officially, they were accused of violating containment rules. However, there were other reasons for their arrest. Some were arrested for reporting on the brutal and unannounced demolitions of houses in Kigali. Others were arrested for reporting on the miserable conditions in which the population was living due to the uncoordinated and harsh lockdown restrictions linked to Covid-19.

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

The Rwanda Investigation Bureau (RIB) announced in a tweet<sup>57</sup> late on 13 October that Théoneste Nsengimana and five other unnamed people had been taken into custody for "publishing rumours aimed at inciting an uprising or unrest among the population"<sup>58</sup>. The RIB also warned those using social networks that they should avoid "undermining national security" and "inciting division". The investigation office has not publicly acknowledged the arrest of the other four people.

On 11 November 2021 Niyonsenga Dieudonné alias Cyuma Hassan was re-arrested and sentenced to 7 years in prison after the prosecutor appealed against his release.

#### **1.4. Arrests, enforced disappearances, assassinations of opponents and civil society activists.**

Since the Rwandan Patriotic Front (RPF) took power in July 1994, its security services have engaged in gross human rights violations throughout Rwanda and beyond.

The latest denunciation of human rights violations were made at the 37th session of the Universal Periodic Review (UPR) of Rwanda, which was held at the Human Rights Council in Geneva on 25 January 2021. The final report paints a bleak picture of human rights in Rwanda<sup>59</sup>. The Human Rights Council is gravely concerned about arbitrary arrests, torture, enforced disappearances, repeated politically motivated killings. The targets are members of the opposition, civil society and certain opinion leaders.

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<sup>56</sup><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/>

<sup>57</sup>[https://twitter.com/RIB\\_Rw/status/1448401732661301251](https://twitter.com/RIB_Rw/status/1448401732661301251)

<sup>58</sup><https://www.hrw.org/news/2021/10/19/rwanda-crackdown-opposition-media-intensifies>

<sup>59</sup>[https://www.ecoi.net/en/file/local/2042308/a\\_hrc\\_wg.6\\_37\\_rwa\\_2\\_E.pdf](https://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>



## 1.5. Victims: FDU-Inkingi members

In addition to Victoire Ingabire Umuhiza, former president of the FDU-Inkingi, the first victim of the RPF within the FDU, other party members<sup>60</sup> are regularly harassed, assassinated or reported missing.

**Illuminée Iragena**<sup>61</sup>, a member of FDU-Inkingi, has been missing since March 2016. She was kidnapped on her way to work. 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 first arrested in the spring of 2016, accused of bringing 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, on charges of inciting an uprising and unrest following comments she allegedly made at a private meeting. After seven months in pre-trial detention, she was released in March 2017. Six months later, in September 2017, she was arrested for the third time along with seven FDU party members. They were all accused of forming an armed rebellion. After three years in detention, she was cleared of all charges.

**Théophile Ntirutwa**, coordinator of FDU activities in Kigali, was arrested in September 2016. Held in a secret location, he was 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 FDU party members and accused of forming an armed rebellion. After two and a half years in prison, he was cleared and released. On 11 May 2020, Théophile escaped an assassination attempt<sup>62</sup> because the assailants shot the wrong person due to mistaken identity. Instead of prosecuting the real killers, the police and the RIB accused Théophile of the murder. Since then he has been in prison.

**Jean Damascène Habarugira**, leader of FDU-Inkingi in the Eastern Province, was murdered on 8th May 2017<sup>63</sup>.

**Boniface Twagirimana**, 1<sup>st</sup> vice-president of FDU-Inkingi, has been missing since October 2018. According to the guards of the Mpanga prison where he was imprisoned, he escaped. This is difficult to believe given that it is a high security prison.

**Anselme Mutuyimana**, assistant to Victoire Ingabire was found dead on 8 March 2019; his body was found lying in a forest in the north-west of the country.

**Eugène Ndereyimana**, leader of FDU-Inkingi in the eastern province, disappeared in July 2019 while travelling to the east of the country to attend a party meeting.

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<sup>60</sup><https://www.state.gov/wp-content/uploads/2020/02/RWANDA-2019-HUMAN-RIGHTS-REPORT.pdf>

<sup>61</sup><https://www.hrw.org/news/2016/09/29/rwanda-opposition-activist-missing>

<sup>62</sup><https://www.therwandan.com/theophile-ntirutwa-survived-an-assassination-plot-by-the-regime-in-kigali-and-then-he-was-arrested/>

<sup>63</sup><http://www.fdu-rwanda.com/en/english-rwanda-assassination-mr-damascene-habarugira-member-of-the-fdu-inkingi>

**Syldio Dusabumuremyi**, national coordinator of FDU-Inkingi, was murdered in September 2019.

All these killings and disappearances of FDU members are documented by Human Rights Watch<sup>64</sup>.

### 1.6. Victims: Members of other political parties

**Kagwa Rwisereka**, vice-president of the Green Democratic Party and a survivor of the Tutsi genocide, was found decapitated in July 2010<sup>65</sup>, one month before the 2010 presidential elections.

The circumstances of his death have never been clarified. Other members of his party such as **Jean Damascène Munyeshyaka**, the party's national secretary, have been harassed and have been missing since June 2014.

**Bernard Ntaganda**, founding president of the Imberakuri Social Party (PSI), was sentenced to four years in prison and fined 100,000 Rwandan francs for undermining national security, divisionism, inciting ethnic divisions and organising unlawful demonstrations<sup>66</sup>. After Ntaganda's imprisonment, his party split into two factions as a result of RPF-orchestrated intrigues, one that remained loyal to Bernard Ntaganda until his release from prison four years later and the other led by Christine Mukabunani, who heads the dissident branch endorsed by the RPF.

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

### 1.7. Victims: Critics of the Rwandan regime

**Gustave Makonene**, a genocide survivor and staff member of the NGO Transparency International (TI), was found strangled in July 2013 on the shores of Lake Kivu. At the time of his murder, he was investigating a case of corruption and illicit trafficking in minerals in which two police officers were involved<sup>67</sup>.

Retired Brigadier General **Frank Rusagara** was arrested on 18 August 2014. The prosecution claimed that Rusagara had made comments supportive of the Rwandan National Congress (RNC), an exiled opposition group, that he criticised President Paul Kagame and 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 unclear. Officially, he tried to disarm a police officer on

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<sup>64</sup><https://www.hrw.org/news/2017/09/29/rwanda-post-election-political-crackdown>

<sup>65</sup><https://www.hrw.org/news/2010/07/21/rwanda-allow-independent-autopsy-opposition-politician>

<sup>66</sup><https://www.amnesty.org/en/press-releases/2011/02/rwanda-opposition-politician-jailed-exercising-rights/>

<sup>67</sup><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>

duty who immediately shot him<sup>68</sup>. His family spoke of an assassination; he knew too much about the presidential family.

On 31 March 2016, the Kanombe High Military Court sentenced Colonel **Tom Byabagamba** and retired Brigadier General Frank Rusagara to 21 and 20 years in prison respectively for inciting insurrection and tarnishing the image of the government. The prosecution had accused them of criticising the government, alleging state involvement in the killing 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 the criminal process to silence criticism of government actions or policies," said Daniel Bekele, Africa director at Human Rights Watch<sup>69</sup>.

**Donat Mutunzi**, a lawyer and human rights activist, was reported missing in early April 2018. His death was announced on 23 April 2018. Officially, he committed suicide in his cell while in detention<sup>70</sup>.

**Kizito Mihigo**: The death of this genocide survivor and charismatic singer of religious songs caused outrage among a large part of the population inside and outside the country because he had managed to attract the sympathy not only of young people like him, but of all Rwandans: through his songs, he preached only peace. Before 2014, he was the darling of the Rwandan president and government. This changed in 2014 after the release of a song entitled "*Igisobanuro cy'urupfu*" (explanation of death). According to Kizito Mihigo, there should be no discrimination between the dead. He stated 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 crossed the red line as he acknowledged the crimes committed by the RPA, the armed wing of the RPF. This song was banned from all radio and television stations in Rwanda. He became an enemy of the RPF. In early April 2014, he was abducted and held in a secret location. As his disappearance began to worry the national and international community, he was paraded in front of journalists and accused of collaboration with the rebellion.

In February 2015, he was sentenced to 10 years in prison. Through a presidential pardon granted to a number of prisoners, Kizito Mihigo was among those pardoned and was released from prison in September 2018. He thought he was free but realised he was not. He was banned from continuing his campaign for 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 from Rwanda into Burundi to join armed groups. Four days later, on the morning of Monday 17 February, he was found dead in his cell<sup>71</sup>.

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<sup>68</sup><https://www.theeastafrican.co.ke/tea/news/east-africa/kigali-probes-shooting-of-former-kagame-doctor--1333004>

<sup>69</sup><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/>

<sup>70</sup><https://www.therwandan.com/me-donat-mutunzi-a-rwandan-lawyer-was-found-dead-in-police-custody/>  
<https://www.ecoi.net/en/document/2004185.html>

<sup>71</sup><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>



**Innocent Mussa Bahati**, was a young Rwandan artist and genocide survivor, who used to express himself through poetic verses about social problems such as poverty and the shortcomings of the education system. He was reported missing on 7 February 2021<sup>72</sup> while on his way to Nyanza district in the Southern Province. Shortly before his disappearance, he had written and recited a poem entitled "*Urwandiko rwa Bene Gakara*" (*Letter to the descendants of Gakara*) in which he invited the leaders of countries in the sub-Saharan region, including Rwanda, to adapt strategies to combat Covid-19 to the local realities of their respective countries instead of 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 displaying the remains of their relatives in museums around the country to make money from tourists and foreign aid rather than fighting the recurrence of the genocide. She was arrested at her home<sup>73</sup> a few hours after her last video was broadcast 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.

On 30 September 2021, she was sentenced to 15 years in prison and fined the equivalent of \$2,000<sup>74</sup>. She is charged with six counts, the main ones being incitement to violence and riots and provoking public disorder. And despite her status as a genocide survivor, like **Karasira Uzaramba Aimable**, arrested three months earlier, Idamange Iryamugwiza is accused among other things the denial and minimisation of the genocide against the Tutsis<sup>75</sup>.

### 1.8. The significance of the opposition in the eyes of the Rwandan regime

Anyone who raises their voice to denounce the RPF's method of governance, including brutality, terror, attacks and physical elimination, is labelled with dehumanising terms. They are called genocidaires and fugitives if they live abroad, traitors or enemies of the country, terrorists, divisionists or demons in the guise of democracy and human rights activists. They are accused of having a genocidal ideology and spreading it. If it is a young person, he or she will be accused of having 'sucked' genocide ideology from the mothers' breast milks.

In an article published 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 virus<sup>76</sup>. It is remembered

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<sup>72</sup><https://www.therwandan.com/where-is-bahati-innocent-enforced-disappearances-in-rwanda/>

<sup>73</sup><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/>

<sup>74</sup><https://www.monitor.co.ug/uganda/news/rwandan-youtuber-jailed-for-15-years-after-anti-kagame-posts-3568938>

<sup>75</sup><https://www.therwandan.com/rwanda-idamange-yvonne-sentenced-to-15-years-in-prison/>

<sup>76</sup><https://mobile.igihe.com/twinigire/ubibona-ute/article/abakwiza-ingengabitekerezo-ya-jenoside-bakwiye-akato>

that it was this kind of statement that played a key decisive role in the Rwandan genocide of 1994 when tutsi were labelled cockroaches.

On 17 May 2020, another RPF fanatic, Ellen Kampire, made a public call for murder<sup>77</sup> of Victoire Ingabire.

Those who publish such statements and call for the murder of government critics on social networks and in other private, state-subsidised newspapers continually act with impunity because of their links to the government.

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<sup>77</sup> <https://youtu.be/I3mCNtbR-5k>

## Chapter 2

### Rwandans outside Rwanda (Diaspora) are not safe

*"To our shame, our desire to see Rwanda succeed was far greater than our ability to see at what cost that success was achieved."*

Desmond Tutu, Archbishop of South Africa

*(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)*



*Copyright: Clay Knight*

## Introduction

The activities of the Rwandan police state are not limited to Rwanda. They also extend abroad where Rwandan refugees are targeted. Its repressive activities are part of a carefully planned and coordinated programme. Considered a negative force, refugees are hunted down and the operation is , financed and supervised by the Rwandan intelligence services.

According to the Freedom House report (2021): "*The government generally targets individuals who challenge it through criticism or active resistance, or who question its version of Rwanda's history. The authorities have an extremely broad view of what constitutes dissent and seek to exercise control over the entire diaspora, including through its embassies and official diaspora organisations. Even communication with fellow Rwandans who have had a run-in with the government is risky*"<sup>78</sup>.

In order to identify members of the diaspora who are opposed to the Rwandan regime, the government has put in place multiple spying systems. Rwandans abroad face computer threats, spyware attacks, domestic intimidation and harassment, movement restrictions, physical intimidation, assault and detention, and even murder as if all this is not enough<sup>79</sup>.

### 2.1. Espionage and 'Cleaning up the West

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

Thus in 2019, the Rwandan government launched an operation called "Western Cleansing"<sup>80</sup> to target the Rwandan opposition in the West. In November 2019, speaking to young genocide survivors about the opposition outside Rwanda, General James Kabarebe, former Rwandan Defence Minister and President Kagame's chief security adviser, said, "*Should 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 do not pose a threat to us?*"<sup>81</sup>

In the same vision, Senator Professor Jean-Pierre Dusingizemungu, president of the IBUKA<sup>82</sup> association, stated publicly in April 2020, during the period of the 26th commemoration of the genocide, that we should take inspiration from Jewish friends to hunt down genocidaires with the aim of bringing them to justice, terrorising them (*gutesha umutwe*), mistreating them, destabilising them (*guhungeta*) and mentions other unmentionable acts (implying: to kill

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<sup>78</sup><https://freedomhouse.org/report/transnational-repression/rwanda>

<sup>79</sup><https://freedomhouse.org/report/transnational-repression/rwanda>  
<https://www.bbc.com/news/world-africa-54801979>

<sup>80</sup><http://www.therwandan.com/operation-cleaning-the-west-kagame-new-operation-to-shut-down-the-opposition-based-in-the-west/>

<sup>81</sup><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>

<sup>82</sup>"*Ibuka*" is a lobby group, active for genocide survivors. There are 15 associations in different countries. The organisations are very pro-regime. *Ibuka* means "to remember", which is the objective of the association.

them). A representative of an NGO "Umurinzi Initiative" told the hearing that the aim of their project is to raise funds to finance the witch-hunt of alleged genocidaires worldwide<sup>83</sup>.

In addition to the classic spying systems, the RPF regime has put in place three other systems. First, there is the *Umushyikirano* ('Come and see') programme. Through this annual programme, members of the diaspora who are pro-regime ('positive' diaspora) are invited to Rwanda for a so-called national dialogue forum. Officially, the programme aims to show participants the progress the country has made and to interest them in investing in Rwanda. In reality, there is another motive: they meet intelligence officers who ask them to get involved in RPF activities outside the country. In return, they receive financial compensation or other incentives.

Secondly, there is the *Itorero/Ingando* programme. This programme involves, among others, all Rwandans who have just completed their secondary education. This programme takes place every year and brings together young people from within the country as well as those from the pro-regime diaspora. It is an indoctrination programme in which participants learn to 'love' their country (i.e., the RPF and its ideology) at all costs.

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, participants undergo paramilitary training, after which they are awarded a certificate of participation.

Once members of the diaspora arrive in their host countries, they are invited to the embassy to pledge on oath<sup>84</sup> before the Rwandan ambassador to commit themselves body and soul to obey the aims and objectives of the ruling RPF party, accepting death by hanging if they ever betray their oath of allegiance: "*If I ever betray you or deviate from the plans and intentions of the RPF, I will have betrayed all Rwandans and I should be punished by hanging on a cross*" (translation from Kinyarwanda).

They also make a solemn declaration to fight "*the enemies of Rwanda* (i.e., the detractors) *wherever they are*". It is no secret that those they consider to be enemies of Rwanda are of course the regime's detractors.

And thirdly, there is *Rwanda Day*. This is a day of meetings between the Rwandan president, the country's top executives and economic operators (businessmen, local executives and members of the pro-Rwandan diaspora among others). This meeting usually gathers around four thousand people. Apart from the businessmen, the stay and travel expenses are covered by funds from the Rwandan taxpayer. It is worth noting the paradox between this spending spirit and the fact that famine is rampant in the country with a chronic malnutrition rate<sup>85</sup>

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<sup>83</sup><https://www.youtube.com/watch?v=vllGmCrzClM&feature=youtu.be>  
<https://www.youtube.com/watch?v=TwqQeXZXULI&feature=youtu.be>  
<http://www.fdu-rwanda.com/en/rwanda-lusage-du-genocide-comme-arme-politique-de-violence/#more-6563>

<sup>84</sup><https://www.bbc.com/news/world-africa-54801979>

<sup>85</sup><https://www.rfi.fr/en/africa/20160208-Rwandan-agricultural-policies-hurting-poorest-poor-study>  
<https://fdu-rwanda.com/wp-content/uploads/2016/07/Agriculture-Rwandaise.FPR-bad-Politics-EN.pdf>

among children of about 49% according to Compassion Canada. *Rwanda Day* is an opportunity for the regime in Kigali to disseminate members of the spy network and death squads around the world to neutralise members of the opposition.

## 2.2. RPF intelligence activities in Belgium

### 2.2.1 Introduction

The coordination of espionage activities is supervised by the staff of Rwandan embassies abroad. All Rwandan embassies are involved, but one of the most feared is the Rwandan embassy in Brussels. Apart from Rwanda's neighbours, Belgium, Rwanda's former colonial guardian power, is the country that hosts the biggest number of Rwandan refugees outside Africa. This is why Rwandan intelligence services are concentrating enormous efforts there. The Rwandan embassy in Brussels<sup>86</sup> is therefore the hub of all Rwandan espionage activities in the European Union.

The Rwandan community deplores a worrying proliferation of RPF criminal cells on Belgian soil, moving back and forth between Rwanda and Belgium, as well as quasi-military activities that logically cannot escape the Belgian intelligence and security services.

In this respect, a project for a '*cultural centre*' to camouflage the embassy's obscure activities<sup>87</sup> is said to be in the making.

It is common for the RPF to camouflage its aggressive intelligence activities through structures that appear 'normal'. Already in the 2000s, the embassy had opened a '*cultural centre*' that was supposed to promote the image of Rwanda in Belgium. Dissensions within the Tutsi diaspora, which was the linchpin of the project, notably within IBUKA, led to the decision to put the project on hold.

The project was reactivated and entrusted to Gustave Ntwaramuheto, First Secretary of the Embassy. He is an active agent of the National Intelligence Security Services (NISS), Rwanda's main intelligence service. He has been coordinating Rwandan intelligence activities in Belgium for many years. He is reportedly often called to order by the Belgian authorities and is always in the hot seat because of his activities incompatible with his diplomatic status.

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[https://www.academia.edu/34018420/AGRICULTURAL\\_POLICY\\_1995-2016\\_IN\\_RWANDA\\_CONTRAST\\_BETWEEN\\_THE\\_BEAUTIFUL\\_STATISTICS\\_OF\\_AGRICULTURAL\\_PRODUCTION\\_AND\\_CHRONIC\\_FAMINES\\_IN\\_RWANDA](https://www.academia.edu/34018420/AGRICULTURAL_POLICY_1995-2016_IN_RWANDA_CONTRAST_BETWEEN_THE_BEAUTIFUL_STATISTICS_OF_AGRICULTURAL_PRODUCTION_AND_CHRONIC_FAMINES_IN_RWANDA)  
<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>

<sup>86</sup>Jambonews.net, *Belgique : Les activités obscures de l'ambassade du Rwanda à Bruxelles*

<https://www.jambonews.net/actualites/20190630-belgique-les-activites-obscures-de-lambassade-du-rwanda-a-bruxelles/>

<sup>87</sup><https://www.jambonews.net/actualites/20210805-le-rwanda-cherche-a-intensifier-ses-activites-de-renseignement-en-belgique/>



Gustave Ntwaramuheto is also, along with the late Eulade Bwitare (former army officer who died in 2020), one of the architects of the 'Intervention Group', an unidentified RPF militia, which is active in Belgium and whose details are given in the following paragraphs.

### 2.2.2 Belgian services aware of RPF subversive activities

Jambonews<sup>88</sup> documented in 2018, through a lengthy investigation, the establishment of an intelligence and security cell within the embassy whose role is to coordinate Rwandan intelligence activities in Belgium. It has been pointed out above that it is not surprising that Belgium is the hub of Rwandan spies, since it has the highest concentration of the Rwandan diaspora not affiliated with the regime, after the countries bordering Rwanda. What raises questions is the fact that these activities are mainly aimed at antagonising sections of the Rwandan community instead of seeking to reconcile them.

The Belgian services have reportedly complained on several occasions about the actions of Rwandan agents in Belgium.

In June 2018, Guy Rapaille, the former head of Committee R, the body that oversees all intelligence services, revealed that Belgian services *'have been informed of the existence of Rwandan death squads in Europe'*.<sup>89</sup> Guy Rapaille had deplored illegal activities in Belgium: *"The principle is simple: when foreign secret services carry out operations here, they are supposed to inform the Belgian services. This works well with most countries, but there are foreign services that do not work like that"*. In June 2019, Claude Van de Voorde, the former head of the SGRS (Service Général du renseignement et de la sécurité), placed Rwanda alongside China and Russia *'in the top priorities of Belgian military intelligence'*.

In October 2019, in response to joint questions from Ecolo MPs Cécile Thibaut and Samuel Cogolati in the Justice Committee of the House, then Minister of Justice Koen Geens confirmed that *'Rwandan intelligence services are active on our territory'*. According to the Minister, the *Rwandan intelligence services 'are mainly trying to weaken what is perceived as a potential political threat from the Rwandan opposition in Belgium'*<sup>90</sup>.

All these signals should have prompted Belgium to crack down, as Sweden did by expelling a diplomat involved in activities that are so contrary to the Geneva agreement governing diplomatic relations. Some reputable newspapers had reported that the diplomat had been expelled for spying on refugees<sup>91</sup>.

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<sup>88</sup><https://www.jambonews.net/actualites/20190630-belgique-les-activites-obscur-es-de-lambassade-du-rwanda-a-bruxelles/>

<sup>89</sup>Jambonews.net, op cit

<sup>90</sup>Séance Plénière (lachambre.be) 21-01-2020 : <https://www.lachambre.be/doc/CCRI/pdf/55/ic091.pdf>  
<https://www.lesoir.be/317380/article/2020-08-05/renseignement-laccord-confidentiel-belgo-rwandais-etait-trop-secret>  
<https://samuelcogolati.be/actualites/2019/11/22/ecolo-sinquiete-des-ingerences-des-services-de-renseignement-rwandais-en-belgique/>

<sup>91</sup><https://www.rfi.fr/fr/afrique/20120216-suede-expulse-diplomate-rwandais>

Recently, thanks to the work of the journalist consortium Forbidden Stories and Amnesty International, it was revealed that Rwanda had spied on nearly 3,500 people using Pegasus spy software owned by the company NSO<sup>92</sup>.

The investigation revealed that **Carine Kanimba**, the daughter of Paul Rusesabagina, living in the suburbs of Brussels, was one of the victims of Rwanda's electronic spying. For example, it was found that this spyware was active in her phone on 14 June 2021 throughout her meeting with Belgian Foreign Minister Sophie Wilmès and up to 30 minutes afterwards. The minister's office said that "*no sensitive information was shared during this meeting*". But so be it. This shows the determination of the RPF to spy in Belgium, without any reservations. The fact that the interviews of a deputy prime minister of the kingdom are virtually bugged by a foreign service of a country that regularly receives aid from the Belgian taxpayer is undoubtedly contrary to diplomatic practices and raises ethical and moral questions.

The NGO Freedom House had confirmed in a report published in February 2021 that the means used by Kigali to muzzle the Rwandan diaspora and target nationals considered as terrorists abroad "*are exceptionally important for a country of about 13 million inhabitants where almost a third of the population lives below the poverty line*"<sup>93</sup>.

Belgium which gives 60 million Euros of aid per year (Rwanda is the second largest beneficiary of Belgian development cooperation<sup>94</sup>, according to the World Bank), is entitled to demand that the RPF regime behave in a more civilised manner by respecting a minimum of diplomatic protocol.

### 2.2.3 Targeted harassment of rising stars of the Rwandan diaspora

As mentioned above, in a speech to student members of the Genocide Survivors Association in November 2019, General Kabarebe James dropped the bomb by saying he was concerned about the situation of young people in the Diaspora who are well educated and have a comfortable financial situation. He announced that his audience should be wary of these young people who constitute a threat to their security. He openly advocated actions to destabilise these young people<sup>95</sup>.

One of the implementations of this call to hatred by General Kabarebe can be seen in Belgium, where the Asbl Jambo is regularly targeted by agents of the RPF regime. Thus, in 2020, when Ms. Laure Uwase, a lawyer at the Brussels bar and of Rwandan origin, was appointed as an expert to the House of Representatives commission in charge of shedding light on Belgium's

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<sup>92</sup><https://www.amnesty.ie/pegasus-project-rwandan-authorities-chose-thousands-of-activists-journalists-and-politicians-to-target-with-nso-spyware/?id=15611>

<sup>93</sup><https://www.rfi.fr/fr/afrique/20210207-le-rwanda-parmi-les-pays-qui-r%C3%A9priment-le-plus-leurs-opposants-%C3%A0-l-%C3%A9tranger>  
<https://freedomhouse.org/country/rwanda/freedom-world/2021>  
<https://freedomhouse.org/country/rwanda/freedom-world/2022>

<sup>94</sup><https://rwanda.diplomatie.belgium.be/fr/cooperation-au-developpement>

<sup>95</sup><https://www.youtube.com/watch?v=oljbz-HzWbw>  
<https://www.youtube.com/watch?v=Qylr1EtMPmQ>  
[https://medium.com/@david.himbara\\_27884/kagames-advisor-kabarebe-should-be-tried-according-to-genocide-ideology-law-99149b549fb4](https://medium.com/@david.himbara_27884/kagames-advisor-kabarebe-should-be-tried-according-to-genocide-ideology-law-99149b549fb4)  
<https://gateteviews.rw/transgenerational-hate/>



colonial past, the RPF went all out to oppose her appointment. Even the president of the Rwandan senate intervened with the Belgian authorities to try to cancel this appointment<sup>96</sup>. This clumsy request was ignored but it has the merit of revealing the agenda of the regime in Kigali to seek by all means to radicalise and antagonise groups of the Rwandan community. A few years earlier, another member of the association, Gustave Mbonyumutwa, had to give up running in the legislative elections in Liège, following pressure from RPF lobbies who accused him of being the grandson of the first Hutu president after the fall of the monarchy. This doctrine of original sin, i.e., that sin is handed down at birth, which is dear to the RPF and is considered outrageous within Rwandan circles.

#### **2.2.4 The Intervention Group: a secret police of the embassy**

The project of this group with paramilitary overtones dates back to 2014, under the impetus of the political and military authorities in Kigali.

The Rwandan intelligence services would have instructed the Rwandan embassy in Brussels to set up a security and intelligence network in Belgium<sup>97</sup>. This project is called "Intervention Group". At its launch, the Rwandan Ambassador in Brussels at the time, Robert Masozera, held several meetings during which the contours, functioning and objectives of this "Intervention Group" were drawn.

The "Intervention group" was created in 2014 as an unofficial security and intelligence service on behalf of the Rwandan authorities in Europe. It is intended to be deployable to all Western European states.

It has a fivefold objective:

- 1) To destabilise the activities, actions and projects of the political opposition;
- 2) To conduct intelligence activities within the Rwandan community in Europe;
- 3) To conduct intelligence activities among personalities as well as local and international political institutions and organisations present in Belgium (which may have a strategic interest for Rwanda)
- 4) Protecting members of the Diaspora who support the RPF leadership;
- 5) Ensure the protection of personalities and especially that of Rwandan President Paul Kagame during his travels in Europe.

At the end of 2014, a dozen carefully selected individuals were sent to Rwanda for extensive ideological, military and intelligence training. Among them were *'Victor Kayumba, Abou Uwase, Gustave Mukunde, Claude Birasa, Claude Muvunyi, Olivier Jyambere, Lewis Murahoneza, Florent Kamanzi or Octave Nyangabo'*<sup>98</sup>. Another group left for Rwanda at the beginning of the COVID 19 crisis. Those who came out of this group constitute the hard core of this group that is omnipresent in all incidents involving the Rwandan diaspora.

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<sup>96</sup><https://www.chronicles.rw/2020/10/31/rwanda-senate-president-complains-of-colonial-disrespect-from-speaker-of-belgian-parliament>

<sup>97</sup>Jambonews, op cit.

<sup>98</sup>Jambonews.net, op cit

Also, on an almost regular basis, members of the pro-RPF Rwandan diaspora participate in Ingando, political and military training sessions exclusively for RPF members. This gives the members all the attributes of a militia, as long as the participants also swear loyalty to the RPF.

The group is organised into three cells:

- 1) A Mobilisation cell,
- 2) a Finance cell and a Support cell which is in charge of all logistical organisation.
- 3) The intervention group is headed by Victor Kayumba.

At the general coordination, we find the diplomat Gustave Ntwaramuheto. The late Eulade Bwitare was also part of it during his lifetime.

The group also recruits from the Hutu diaspora. Some respond to the call for financial reasons, while others are blackmailed. The embassy threatens them with prosecution for genocide and eventually convinces them to redeem themselves by joining the group. The Intervention Group is carefully supervised by the NISS, the Rwandan intelligence service, which regularly sends emissaries to Belgium.

### **2.2.5 The tentacles of the Intervention Group**

The Intervention Group now operates almost everywhere in Europe where it is needed, even though its coordination centre is based in Belgium. Its agents were seen at the demonstrations against President Kagame in Europe.

Examples include Gustave Mukunde, who was arrested by British police in London with a knife near political opponents in 2014<sup>99</sup>, and Claude Birasa, who instigated the attack on journalist Peter Verlinden and his team from VRT (Flemish public television), the Dutch journalist Anneke Verbraeken and members of Jambo ASBL during the Rwanda Day in Amsterdam on October 2015<sup>100</sup>. The victims have been threatened and their phone forcibly taken away.

#### *The Intervention Group Network*

According to reliable sources, the Intervention Group, under the impetus of Gustave Ntwaramuheto, who has a large budget, has managed to create a network of informants on which it bases its actions. Honorine Uwamurera, divorced from a former Belgian army officer, is one of the pillars of his network and is very useful for his infiltration capacities not only in Belgian but also in Rwandan circles.

Another pillar of the network's system is a certain Patrick Bwito. Under the cover of Rwandair, he managed to obtain relays at Zaventem airport. This would allow Gustave Ntwaramuheto to get passenger lists and thus control the comings and goings of Rwandan nationals from Brussels.

Some Belgian nationals provide services to the network. This is the case of Jean-François Cahey, who married a Rwandan woman very active in the diaspora called Nadia Kabalira. During a Rwandan opposition demonstration in Belgium in 2017, he was caught taking portrait photos

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<sup>99</sup> <https://www.therwandan.com/belgium-the-obscure-activities-of-the-rwandan-embassy-in-brussels/>

<sup>100</sup> <https://www.jambonews.net/actualites/20151007-la-face-cachee-du-rwanda-day-a-amsterdam/>

of some demonstrators<sup>101</sup>. When questioned by the protesters, he lied and said he worked for the Belga agency but could not show his press card as is customary.

The shadowy activities of the embassy and the Intervention Group require a lot of money. In order to avoid the radar of the control services of illicit financial movements, the Intervention Group uses the Rwanda Cash Asbl, an association denounced by the FSMA (Financial Services and Markets Authority).

In 2013, the FSMA issued a warning against the activities of Asbl Rwanda Cash for non-compliance<sup>102</sup>. Despite this warning, Rwanda Cash reportedly continues its activities in Belgium under the protection of the embassy.

In August 2015, the Flemish media outlet *Het Belang van Limburg* revealed that the Rwandan ruling regime was attempting to eliminate dissidents and opponents in Belgium. According to the newspaper, Kigali would use efficient commandos sent to Belgium for this purpose. It also revealed that the State Security had already had to provide protection to several people. The media revealed in particular the case of a Canadian journalist, **Judi Rever**, author of books and articles critical of the regime of Rwandan President Paul Kagame, who had to travel in an armoured Mercedes accompanied by two agents of the Sûreté during a one-week working visit in Belgium. The Canadian journalist said that a federal agent had informed her that "*Belgium had serious information that the Rwandan embassy in Brussels posed a threat to me*".

The journalist was informed by the Belgian police that her life was in danger<sup>103</sup>. She was given close protection during her one-week stay in Belgium. She also revealed in a radio programme called "*Bien Entendu*"<sup>104</sup> in January 2021 that she was also under threat in her home country, Canada,

The Rwandan embassy in Canada is also very active. For example, it was reported that a Rwandan civil servant and member of the RPF entered Canada in 2018 on a Francophone scholarship. Officially, it was for study purposes, but her real mission was to spy on a Canadian of Rwandan origin opposed to the Kigali regime. 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 espionage. In a programme broadcast on Radio Canada<sup>105</sup>, the spy admitted the facts and gave all the details of her mission.

Another case is that of **Serge Ndayizeye**, coordinator and journalist of *Radio Itahuka*, an online media belonging to the Rwanda National Congress (RNC), a Rwandan political opposition party in exile. This radio station, which is very critical of the Rwandan regime, is in the sights of the

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<sup>101</sup>[www.jambonews.net](http://www.jambonews.net), op cit

<sup>102</sup>[https://www.rtb.be/info/economie/detail\\_la-fsma-lance-une-mise-en-garde-contre-les-activites-de-l-asbl-rwanda-cash?id=7946351](https://www.rtb.be/info/economie/detail_la-fsma-lance-une-mise-en-garde-contre-les-activites-de-l-asbl-rwanda-cash?id=7946351)

<sup>103</sup>Les escadrons de la mort du Rwanda sont actifs en Belgique : [https://www.rtb.be/info/belgique/detail\\_belgique-une-journaliste-anti-kagame-protegee-par-la-surete-de-l-etat?id=9049887](https://www.rtb.be/info/belgique/detail_belgique-une-journaliste-anti-kagame-protegee-par-la-surete-de-l-etat?id=9049887)

<sup>104</sup>[https://ici.radio-canada.ca/ohdio/premiere/emissions/bien-entendu/segments/entrevue/338315/genocide-rwandais-these-explosive-judi-rever?fbclid=IwAR3uxFs18U0z5FJfquBu7hkpo0pY2KmQQfW\\_YFQ6vw8H68u7tDDWwAtjHo](https://ici.radio-canada.ca/ohdio/premiere/emissions/bien-entendu/segments/entrevue/338315/genocide-rwandais-these-explosive-judi-rever?fbclid=IwAR3uxFs18U0z5FJfquBu7hkpo0pY2KmQQfW_YFQ6vw8H68u7tDDWwAtjHo)

<sup>105</sup><https://ici.radio-canada.ca/info/2019/10/espionnage-rwanda-gouvernement-canada-paul-kagame/>

Rwandan authorities, who have repeatedly called for its closure by the American authorities. In June 2017, Serge Ndayizeye, a resident of the United States, had exceptionally travelled to Belgium to cover Paul Kagame's visit to Brussels. He was informed by the Belgian police that his safety was at risk and that he should keep a low profile.

## 2.2.6 Incidents in the margins of Paul Kagame's visits to Europe and other cases

Every trip of President Kagame to Europe is accompanied by violence perpetrated by the Intervention Group against demonstrators from the Rwandan diaspora.

The latest deployment was in May 2018, when President Paul Kagame was in France. For the occasion, no less than twenty members of the Intervention Group travelled from Brussels to Paris to assist the Republican Guard. Among them were<sup>106</sup>: *Vicky Kayumba (team leader), Florent Kamanzi, Gustave Mukunde, Prosper Rutayisire, Vincent Kabagema, Olivier Berlamont-Kayiganwa, Eric Muhirwa, Felix Rukundo Butera, Clovis Nkubito, Ndekezi Chico, Kennedy Bizimana, Claude Birasa and Lewis Murahoneza.*

Already in May 2014, while the group was in formation, members of the Intervention Group and the Republican Guard attacked a meeting of members of the Rwandan opposition and civil society held at the Parc Royal in Brussels. **Brave Bahibigwi**, former President of Jambo asbl was present at the scene. He told the following: "*About twenty people surrounded us, little by little they started to threaten us and some of them took out knives to intimidate us. The meeting was cut short because many of the participants ran away.*"<sup>107</sup>.

On 21 October 2014, when Paul Kagame was meeting with his supporters in London, a large security detail was set up with members of the Intervention Group playing a prominent role. The demonstrators of Congolese origin being very numerous, Kagame's Republican Guard decided to intervene to intimidate them. Many of the group, coordinated by *Innocent Ndacyayisenga*, a member of the Republican Guard, were apprehended by Scotland Yard<sup>108</sup>. Among them were: *Gaston Basominger (Belgian), Jean-Bosco Rutaganga (Belgian), Gustave Mukunde (Belgian), Olivier Barlamont-Kayiganwa (Belgian), Jean-Claude Uwagitare (Belgian), Jean Aimé Nkundabagenzi (Belgian), and Edwin Mutabazi (Rwandan).*

This is not the first time that the British services have had to deal with Rwandan agents allegedly sent to London from Brussels for obscure activities. On 13 May 2011, *Norbert Rukimbira*<sup>109</sup>, a Brussels bus driver and former Rwandan secret service agent, was arrested in Folkestone by British counter-terrorism police officers before being deported on suspicion of plotting against two Rwandan critics living in London.

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

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<sup>106</sup> [www.jambonews.net](http://www.jambonews.net), op cit.

<sup>107</sup> [www.jambonews.net](http://www.jambonews.net), op cit.

<sup>108</sup> [https://www.youtube.com/watch?v=GGSM54W\\_PAE](https://www.youtube.com/watch?v=GGSM54W_PAE)

<sup>109</sup> <https://www.7sur7.be/home/un-chauffeur-de-bus-bruxellois-interpelle-pour-complot-presume~ad659a38/>

In 2011, **René Mugenzi** and **Jonathan Musonera**, both highly critical of the Rwandan government, were informed by the London Metropolitan Police that their lives were in danger<sup>110</sup> and were given protection<sup>111</sup>.

In the afternoon, a demonstration was held in the vicinity of the conference centre hosting Rwanda Day. The peaceful demonstrators were surrounded by police and were protesting against the presence of President Kagame. Despite this (insufficient) police presence, **Antoine Niyitegeka**, an executive of the FDU Inkingi, an opposition party, many of its members have been killed in Rwanda, was violently beaten by a group of five individuals led by *Lewis Murahoneza* and a certain *Safari Mubenga*, two Belgians of Rwandan origin who are members of the 'Intervention Group'.

In June 2017, on the occasion of a Rwanda day organised in Brussels, then in Ghent, several members of the Rwandan diaspora were attacked. **Father Athanase Mutarambirwa** was attacked, beaten and had his camera stolen in an ambush targeting Thomas Nahimana, former candidate for the 2017 presidential elections. The attack took place in the vicinity of Tour & Taxis as Father Mutarambirwa was returning home from a demonstration against the presence of Paul Kagame in Belgium. He and his colleague were the victims of a platoon of about ten members of the Intervention Group. Among them was once again *Lewis Murahoneza*. Other opponents had their cars vandalised or were the victims of blows and provocation, fortunately not serious.

Spying also takes place in the Rwandan consulate in Australia. In 2017, **Noel Zihabamwe** received threats at a meeting of members of the Rwandan diaspora in Sydney<sup>112</sup>. He was accused of refusing to participate in the activities of the Rwandan Consulate. He claimed that these activities were illegal and undermined the security of Rwandans living in Australia. In retaliation, his two brothers in Rwanda disappeared a month after Noel Zihabamwe's harassment. His brothers were abducted by the police while travelling on a bus. The abduction took place in September 2019 in Nyagatare, in the country's eastern province.

On 5 June 2018 during the demonstration against the presence of President Paul Kagame in Brussels, **Charles Ndereyehe** (an FDU-Inkingi cadre) together with his wife and **Dr. Deo Twagirayezu** (FDU-Inkingi cadre) were attacked by a group of RPF militias while waiting for their colleagues at the square at Avenue du Port in Brussels where the demonstrations were to take place. C. Ndereyehe was slapped in the left eye and underwent ophthalmological treatment for two years.

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<sup>110</sup> <https://www.theguardian.com/world/2011/may/20/rwanda-exiles-warned-assassination-threat>

<sup>111</sup> <https://www.bbc.com/news/world-africa-13475635>

<sup>112</sup> <https://www.smh.com.au/national/nsw/we-need-help-community-leader-faces-alleged-threats-and-intimidation-20201005-p56206.html>

### 2.3. Rwanda's spy network in Africa

In March 2010, **Déo Mushayidi**, a survivor of the Tutsi genocide and the only survivor of his family, was abducted in Burundi and transferred to Rwanda<sup>113</sup>, where he is serving a life sentence for allegedly participating in terrorist activities linked to the FDLR, which is hostile to the Rwandan government. He was executive secretary of the PDP-Imanzi party formed in 2008.

**Charles Ingabire**, a genocide survivor and former editor of the online newspaper Inyenyeri News, was found dead in November 2011 in Kampala<sup>114</sup>. He had fled Rwanda in 2007 and taken refuge in Uganda where he lived under the protection of the UNHCR. René Rutagungira, a Rwandan intelligence spy based in Kampala, was arrested for Ingabire's death 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 had become strained in recent years. We have learned that he has been redeployed to the Rwandan embassy in Mozambique where a Rwandan refugee, **Cassien Ntamuhanga**, has just disappeared<sup>115</sup> and another, **Revocat Karemangingo**, has just been murdered<sup>116</sup>. This was done, according to our sources, by an experienced hitman.

Kenya is one of the countries in East Africa where there have been numerous attacks, disappearances and assassinations. In October 1996, **Augustin Bugirimfura** (a businessman), and **Théoneste Lizinde** (a former parliamentarian after the RPF took power and a former member of the intelligence services under the regime of Juvénal Habyarimana), disappeared from Lizinde's home in the Kenyan capital<sup>117</sup>. Two days later, their bodies were found in the suburbs of Nairobi. They had been shot dead.

**Seth Sendashonga**, a former Minister of Home Affairs in the RPF post-genocide government, survived a first assassination attempt in February 1996. In May 1998, he was shot dead. At a meeting of senior government officials with Paul Kagame in March 2019, the president justified Sendashonga's death by saying he had crossed the "red line"<sup>118</sup>. *"As to whether Seth Sendashonga died because he crossed the line, I don't have much to say about that, but I will not apologise for it,"* the president said.

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<sup>113</sup> <https://www.newtimes.co.rw/section/read/81215>

<sup>114</sup> <https://cpj.org/data/people/charles-ingabire/>  
<https://www.nouvelobs.com/rue89/rue89-afrique/201111217.RUE6522/un-journaliste-rwandais-assassine-en-ouganda-kigali-pointe-du-doigt.html>

<sup>115</sup> <https://www.hrw.org/news/2021/06/15/mozambique-grave-concerns-rwandan-asylum-seeker>

<sup>116</sup> <https://www.bbc.com/news/world-africa-58557350>  
<https://clubofmozambique.com/news/revocat-karemangingo-killed-in-hail-of-bullets-fear-settles-on-rwandan-community-in-mozambique-o-pais-200940/>

<sup>117</sup> <https://www.hrw.org/news/2014/01/28/rwanda-repression-across-borders>

<sup>118</sup> <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%82%AC%82%80/>  
<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>



**Jean Chrysostome Ntirugiribambe**, a former gendarmerie officer under the Habyarimana regime and an investigator at the ICTR, was abducted in June 2015 while shopping in a Nairobi supermarket<sup>119</sup>. His abduction was allegedly facilitated by an officer from the Rwandan embassy in Uganda, Colonel James Burabyo, on the instructions of Jack Nziza, then head of Rwandan intelligence.

**Emile Gafirita** was abducted in November 2014 in Nairobi. His abduction took place as he was due to travel to Paris to be heard by judges Marc Trévidic and Nathalie Poux<sup>120</sup> in the case of the 6 April 1994 attack on President Habyarimana's plane.

**Guillaume Rutembesa**<sup>121</sup> was a young Rwandan activist and survivor of the 1994 genocide. He was living in Kenya where he had refugee status after being imprisoned for his activism in Rwanda in late 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 on social networks in these terms: *"Little dog of Rutembesa, do you think you will succeed in hiding better than Sendashonga?"* He has been missing since November 2020.

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

On 1 January 2014, **Patrick Karegeya**<sup>122</sup>, former head of Rwanda's external intelligence services and a founding member of the Rwandan 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's responsibility for the murder: *"Whoever betrays the country will pay the price. I assure you of that. If you disappoint a country, if you want to harm its people, you will end up suffering the consequences. Anyone still alive who conspires against Rwanda, whoever they are, will pay the price.... Whoever it is, it is only a matter of time"*<sup>123</sup>.

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<sup>119</sup> <https://www.therwandan.com/the-abduction-mr-jean-chrysostome-ntirugiribambe/>  
<https://l-hora.org/en/request-for-formal-investigation-jean-chrysostome-ntirugiribambe-ictr-witness-and-ictr-investigator-legal-officer-kidnapped-23-june-2015-in-nairobi-kenya-rwandan-political-prisoners-support-network/>

<sup>120</sup> <https://www.theeastafrican.co.ke/tea/news/east-africa/habyarimana-plane-crash-witness-disappears--1330258>  
<http://www.mdrwi.org/rapports%20et%20doc/journaux/gafirita.htm>  
<https://theworld.org/stories/2014-11-23/rwanda-s-disappearing-dissidents>  
<https://www.inyenyerinews.org/justice-and-reconciliation/gafirita-accused-kagame-of-triggering-genocide-before-his-abduction/>

<sup>121</sup> <https://www.rwandanlivesmatter.site/victim/551>  
<https://www.jambonews.net/actualites/20201211-rwanda-kenya-inquietudes-apres-la-disparition-de-l-activiste-guillaume-rutembesa/>

<sup>122</sup> <https://www.theguardian.com/news/2019/jan/15/rwanda-who-killed-patrick-karegeya-exiled-spy-chief>  
<https://www.hrw.org/news/2019/09/13/rwandans-charged-murder-exiled-critic>

<sup>123</sup> <https://www.theguardian.com/global-development/2021/mar/19/we-choose-good-guys-and-bad-guys-beneath-the-myth-of-model-rwanda>

Louise Mushikiwabo, Minister of Foreign Affairs at the time, wrote on her personal Twitter account on 5 January 2014 about Karageya: "*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?*"<sup>124</sup>.

**Kayumba Nyamwasa**, former army chief of staff under President Paul Kagame and member of the RNC, escaped an assassination attempt in June 2010 in South Africa<sup>125</sup>, where he had taken refuge since February of the same year. A second attempt on his life was made on 4 March 2014.

The assassination of **Seif Bamporiki** should also be mentioned. 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 2021 in South Africa<sup>126</sup>.

## 2.4. The abduction of Paul Rusesabagina

**Paul Rusesabagina**<sup>127</sup>, famous hero of the film *Hotel Rwanda* for having saved more than 1200 Tutsi refugees at the Hotel des Milles Collines during the 1994 genocide, was abducted in Dubai on 28 August 2020. Recipient of the prestigious Medal of Freedom from former US President George W Bush, Paul Rusesabagina was a target of Rwandan intelligence services who accused him of being involved in terrorist activities against the Rwandan state. When Rusesabagina landed in Kigali, President Kagame declared that Rusesabagina had returned voluntarily. Four months later, on Al Jazeera's "Up Front" programme, Johnston Busingye, Rwanda's Minister of Justice, admitted that the private jet carrying Paul Rusesabagina had been hired by the Rwandan government<sup>128</sup>. His statement made it clear that Rwanda was responsible for the kidnapping. This case is a case of international terrorism and should be treated as such.

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<sup>124</sup> <https://twitter.com/LMushikiwabo/status/419861033776193538>

<sup>125</sup> <https://www.bbc.com/news/world-africa-28981317>  
<https://www.hrw.org/news/2014/01/28/rwanda-repression-across-borders>

<sup>126</sup> <https://www.bbc.com/news/world-africa-56119088>

<sup>127</sup> <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>

<sup>128</sup> <https://www.youtube.com/watch?v=2uXvQpIOVEU>



## Chapter 3

### Rwanda's judicial system is not independent

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

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



## Introduction

The Rwandan political system revolves around one political party, the Rwandan Patriotic Front (RPF), which has held the reins of power unchallenged since it took power by force in 1994. The RPF controls the judiciary at all levels, which greatly hinders the right to a fair trial, given the politicisation of the genocide.

In Rwanda, the authorities often use the judicial system to punish and restrict the activities of people considered to be opposed to the government and the RPF. These individuals are often prosecuted for divisionism and genocide ideology and detained for long periods without charge. Laws prohibiting divisionism, genocide ideology and genocide denial are widely applied to silence political dissent and shut down investigative journalism<sup>129</sup>.

The regime continues to feign efforts to modernise and upgrade the judiciary by displaying laudable principles and implementing legal reforms to respond to international criticism. As long as there is a gap between the text of the law and the actual conduct of judicial 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. Moreover, in general, genuine justice as a tool for national reconciliation has been greatly compromised by lack of independence of the judiciary. The various speeches by Rwandan state politicians bear witness to this:

In 2019, during a visit to 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 that we use for people who are stubborn*"<sup>130</sup>.

### 3.1. Victors' justice at work in Rwanda

Until 2014, the Gacaca people's courts in Rwanda had tried one and a half million Rwandans, 70% of whom were Hutus. While the crimes committed by the Rwandan Patriotic Front (RPF) are known in Rwanda and in the international community, no member of this party, currently in power, has yet been tried, neither by international nor by national criminal mechanisms. However, as the former ICTR prosecutor, Carla Del Ponte<sup>131</sup>, stated at a symposium organised at the Senate in Paris<sup>132</sup>, "*The ICTR is a great success for international justice. But for the truth to be complete, the crimes must be judged on all sides*".

In an interview with *Afrik.com*<sup>133</sup>, Professor Filip Reyntjens believes that most of those responsible for the genocide have been tried. On the other hand, "*since the end of the genocide,*

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<sup>129</sup> <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/rwanda/>

<sup>130</sup> <https://www.youtube.com/watch?v=SLz5v4t3QjE&feature=youtu.be> (min. 43,54-44,25)

<sup>131</sup> <https://www.justiceinfo.net/en/19964-en-en-020408-ictrrwanda-carla-del-ponte-tells-of-her-attempts-to-investigate-rpf-in-her-new-book1076110761.html>

<https://www.theguardian.com/world/2003/sep/13/johnhooper>

<sup>132</sup> <https://www.rfi.fr/fr/afrique/20140402-paris-le-drame-rwandais-debat-lors-colloque-senat>

<https://www.therwandan.com/fr/rwandaa-paris-le-drame-rwandais-en-debat-lors-dun-colloque-au-senat/>

<sup>133</sup> <https://www.afrik.com/genocide-rwandais-20-ans-apres-le-credit-genocide-du-regime-fonctionne-toujours-selon-filip>

*no RPF suspect has been tried for crimes against humanity or war crimes,"* he said. The term 'victors' justice' was also used by the non-governmental organisation (NGO) Human Rights Watch in a 2009 report on the ICTR<sup>134</sup>.

However, *"impunity can only be ended if everyone is convicted and prosecuted. One of the big problems with impunity is that it encourages criminals to commit other crimes,"* Reyntjens warned.

It is clear that in this environment of *"victor's justice"* it is not normal for democratic countries to continue to extradite alleged perpetrators (accused by the victors' camp!!) to Rwanda. Efforts should be made to put pressure on the Kigali dictatorship to open up its political space and to establish truly independent judicial institutions.

### **3.2. Citizens are not protected by Rwandan law**

The presumption of innocence and the right to a fair and public trial for anyone prosecuted for crimes are enshrined in law<sup>135</sup>. The implementation of these principles, however, varies according to the nature of the cases dealt with by the Rwandan courts. Trials with political connotations or linked to the Rwandan genocide are systematically treated in a manner that is far removed from the principles of fairness and are conducted in conditions that are contrary to the independence of the judiciary.

### **3.3. The Rwandan judicial system**

The Rwandan judicial system is composed of ordinary courts and specialised courts. The ordinary courts are divided into several levels. The top level is represented by the Supreme Court and is divided into several divisions. The intermediate level is represented by the Courts of Appeal. And finally, the basic level is represented by the Primary Courts. In addition, there are specialised courts, including commercial courts and military courts.<sup>136</sup>

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 in the same constitution<sup>137</sup>.

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

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<sup>134</sup> <https://www.hrw.org/news/2009/06/01/rwanda-tribunal-risks-supporting-victors-justice>

<sup>135</sup> Didace Nshimiyimana, 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\\_Rwandan\\_Criminal\\_Law](https://www.researchgate.net/publication/344432206_Critical_Evaluation_of_Right_to_a_Fair_Trial_in_Rwandan_Criminal_Law)

<sup>136</sup> <https://www.judiciary.gov.rw>

<sup>137</sup> Article 150 de la Constitution du Rwanda

[https://www.parliament.gov.rw/fileadmin/bills\\_cd/the\\_constitution\\_of\\_the\\_republic\\_of\\_rwanda\\_of\\_2003\\_revised\\_in\\_2015.pdf](https://www.parliament.gov.rw/fileadmin/bills_cd/the_constitution_of_the_republic_of_rwanda_of_2003_revised_in_2015.pdf)

### 3.4. No fair trial for the political opposition

As mentioned, the political opposition is often accused of genocide-related crimes of divisionism or genocide denial. Many genocide related prosecutions have been marred by irregularities due to interference in the judicial process by persons other than judicial officials and to other violations of the right to due legal process,

A Human Rights Watch report states:

*"A former minister of justice, judges and former judges, former prosecutors, and lawyers all recounted instances of interference in the judicial system that they had experienced or known about in some detail. One former official familiar with such practices said that in important cases judges were rarely bought but were pressured by the executive as well as powerful people outside government. He added that judges would "know what to do". Or, if in doubt about the decision, they would get a call to tell them "what is expected of them."'<sup>138</sup>*

The RPF's political hold 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 multipartyism<sup>139</sup>, it also contains restrictive legal provisions regarding the process of forming and registering a political party. Unfortunately, this makes the registration process laborious, arbitrary and often interminable<sup>140</sup>. Once the party is formed, this obstruction is perpetuated by other means such as unequal treatment when the political party disagrees with the policies of the RPF government and intends to lead a genuine political opposition. The regime will then usually put in place insurmountable obstacles to restrict any real ability to exist on the country's political scene: banning of political meetings, very little coverage in the national media, generally hostile and accompanied by harassment and intimidation against members and supporters.

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<sup>138</sup> <https://www.hrw.org/report/2008/07/25/law-and-reality/progress-judicial-reform-rwanda>

<sup>139</sup> Articles 35 et 54 de la Constitution du Rwanda

<sup>140</sup> La Démocratie mise sous tutelle au Rwanda par la *Fédération Internationale des Droits de l'Homme*  
<https://www.fidh.org/IMG/pdf/rwanda699fraout2017web.pdf>  
<https://www.fidh.org/en/region/Africa/rwanda/the-african-court-refuses-to-address-rwanda-s-dangerous-interference>

### 3.5. Trials against Victoire Ingabire Umuhoza and other critics

This practice of suppression of 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 having started the application procedure as early as 2010. The FDU has suffered countless attacks in the form of arrests, arbitrary detentions, enforced disappearances, assassinations or daily intimidation of its members, supporters and their relatives.

In 2012, **Victoire Ingabire**, then president of the FDU, was sentenced to eight years' imprisonment for conspiring against the authorities on charges of terrorism, war and genocide denial. The sentence was handed down after a trial marred by numerous irregularities, including intimidation and illegal interrogation practices, and failure to take into account exculpatory evidence<sup>141</sup>. Her trial is the first case in Rwanda to be emblematic of the absence of a genuine right to a fair trial and of the arbitrary application of the presumption of innocence until proven guilty. Indeed, government officials effectively interfered with the trial by making public statements suggesting the guilt of the accused even before the first court appearance<sup>142</sup>. The ministers of Foreign Affairs Louise Mushikiwabo and of Local Government James Musoni, the President of the Republic Paul Kagame, as well as other regime officials made incriminating statements in public that were then picked up and widely amplified by the 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 government pressure, particularly in cases involving opponents and critics."*<sup>143</sup>

On appeal, Victoire Ingabire was sentenced to 15 years in prison. She appealed to the African Court on Human and Peoples' Rights (ACHPR). In November 2017, the Court found that Rwanda had effectively violated Victoire Ingabire Umuhoza'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 has ignored this decision until now<sup>144</sup>.

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<sup>141</sup> **HRW:** Rwanda: Eight-Year Sentence for Opposition Leader, Victoire Ingabire Found Guilty of Two Charges in Flawed Trial

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

<sup>142</sup> **Amnesty International:** Rwanda: justice in jeopardy the first instance trial of Victoire Ingabire, Index Number: AFR 47/001/2013, March 25, 2013

<https://www.amnesty.org/en/documents/AFR47/001/2013/en/>

<sup>143</sup> HRW: <https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader>

<sup>144</sup> <https://www.victoire-ingabire.com/Eng/12th-april-2012-stop-intimidation-of-defense-witnesses-in-ingabires-trial/>

Application 003/2014 judgment of 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%20Umuhoza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf)

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

[https://www.europarl.europa.eu/doceo/document/B-8-2016-1065\\_EN.html](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/>

After this conviction, the Rwandan state withdrew its declaration in favour of its nationals regarding the referral to the Court under Article 5(3) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, in accordance with Article 34(6) of the said Protocol, which states: *"At any time after ratification of this Protocol, the State shall make a declaration accepting the jurisdiction of the Court to receive applications under Article 5(3) of this Protocol. The Court shall not receive any application under Article 5(3) concerning a State Party which has not made such a declaration"*. Thus, following Victoire Ingabire Umuhiza's application, which put the Rwandan State in difficulty, the latter withdrew its declaration, thus depriving Rwandan nationals of the benefit of the right to appeal to the African Court on Human and Peoples' Rights

Since the trial of Victoire Ingabire, there have been no signs of significant changes in the judicial system, despite numerous recommendations made by international non-governmental organisations.

On the contrary, political interference has increased and with it the number of trials conducted in flagrant violation of the principle of judicial independence. **Bernard Ntaganda**, founder of the Parti Social Imberakuri (PSI), has been the subject of numerous acts of judicial harassment which led to his arrest and detention in 2010 for having made critical comments about certain government actions<sup>145</sup>.

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

Another concrete example is the trial of **Léopold Munyakazi**. Two arrest warrants were issued against him for the crime of genocide, genocide denial and genocide minimisation, while he was living in the United States. After a lengthy extradition process arguing that he was being prosecuted for his political views, he was finally extradited to Kigali. In the first instance, he was sentenced to life imprisonment. He appealed and the judgement in July 2018 acquitted him of most of the charges against him. Nevertheless, he was sentenced to nine years in prison for genocide denial and minimisation<sup>146</sup>.

The list of trials of opponents of the RPF regime is long, but the case of Paul Rusesabagina, who became a hero of the Hotel Rwanda for having saved nearly 1,200 Tutsis during the 1994 genocide, is of particular interest given the circumstances of his arrest and transfer to Kigali. The course of his trial has only provided additional and sufficient evidence of the violations of the rights of the accused in Rwanda. The irregularities noted were numerous: interference by political leaders in his trial, refusal to accredit a lawyer of his choice, limited access to the judicial record, violation of professional secrecy by intercepting telephone conversations with

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<sup>145</sup>*The International Federation for Human Rights (FIDH): Democracy under control in Rwanda*  
<https://www.fidh.org/IMG/pdf/rwanda699fraout2017web.pdf>

<sup>146</sup>[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](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)



his lawyer and with members of his family, refusal of access to medication, despite the fact that it was prescribed by his doctor, etc.

The verdict pronounced at the end of this one-sided trial has attracted the attention of the international community, including the political leaders of countries that were previously considered to be sponsors of the Kigali regime. Some countries such as Belgium and the United States, the European Parliament as well as international human rights organisations such as HRW, have expressed their concerns about this trial where Paul Rusesabagina was condemned in advance.

The reaction of Sophie Wilmès<sup>147</sup>, Belgian Minister of Foreign and European Affairs, is unequivocal: *"At the end of this judicial procedure and despite repeated calls from Belgium on this subject, it must be noted that Mr. Rusesabagina did not benefit from a fair and equitable trial, particularly with regard to the rights of the defence. The presumption of innocence was not respected either. These de facto elements call into question the trial and the judgment"*.

The United States, through US diplomatic spokesman Ned Price<sup>148</sup>, expressed its concern immediately after the verdict:

*"The United States is concerned about the sentencing of Paul Rusesabagina, who holds a permanent residence permit in the United States, to 25 years in prison for "terrorism", Price said in a statement. "The lack of fair trial guarantees calls into question the fairness of the verdict," he added.*

In resolution 2021/2906(RSP)<sup>149</sup> of 7 October 2021, members of the European Parliament, in a clear vote, ruled that the fairness of the verdict was called into question and called for Mr Rusesabagina's immediate release on humanitarian grounds and his repatriation to Belgium.

For its part, the International Human Rights Organisation HRW, through its Africa Director, Lewis Mudge, believes that the violations observed throughout the trial of Paul Rusesabagina have further undermined the credibility of the Rwandan judicial system in dealing with cases deemed political<sup>150</sup>.

Instead of assisting Rwanda to build a judicial system that would have enhanced impartial justice underpinned by the rule of law, the significant Dutch financial contribution to the operation of the judicial system since 2008<sup>151</sup> has been used to reinforce the repressive apparatus of the RPF regime.

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<sup>147</sup> [https://www.rtb.be/info/monde/detail\\_la-belgique-estime-que-paul-rusesabagina-le-heros-de-hotel-rwanda-n-a-pas-beneficie-d-un-proces-juste-et-equitable?id=10845594](https://www.rtb.be/info/monde/detail_la-belgique-estime-que-paul-rusesabagina-le-heros-de-hotel-rwanda-n-a-pas-beneficie-d-un-proces-juste-et-equitable?id=10845594)

<sup>148</sup> <https://www.i24news.tv/en/news/international/africa/1632162270-washington-fears-hotel-rwanda-hero-did-not-get-a-fair-trial>

<sup>149</sup> [https://www.europarl.europa.eu/doceo/document/B-9-2021-0508\\_EN.html](https://www.europarl.europa.eu/doceo/document/B-9-2021-0508_EN.html)

<sup>150</sup> <https://www.hrw.org/news/2021/09/20/rwanda-paul-rusesabagina-convicted-flawed-trial>

<sup>151</sup> <http://www.buitenpostdewereld.org/weblog-rwanda-2010/how-much-paid-the-dutch-for.html>

### 3.6. Appeal to the East African Court of Justice

Victoire Ingabire has successfully appealed to the African Court, while others have appealed to the East African Court of Justice (EACJ)<sup>152</sup>. **Colonel Severine Rugigana Ngabo**, tried and convicted by Rwandan courts for undermining the country's security, was cleared by the East African Court of Justice, which recognised that the conditions of his arrest and detention were contrary to treaties signed by all members of the East African Court of Justice, of which Rwanda is a member<sup>153</sup>.

**Tribert Ayabatwa Rujugiro**<sup>154</sup> won the case against the auction of his property<sup>155</sup>. He is the founder of the Union Trade Center in Kigali. In 2013, the Rwandan government seized the shopping centre, valued at twenty million dollars, claiming it was abandoned.

In its November 2019 judgment<sup>156</sup>, the EACJ ordered the Rwandan government to restore **Kennedy Gihana**'s rights by returning the Rwandan passport that had been taken away from him for purely political reasons. The East African Court of Justice ruled that this decision was arbitrary<sup>157</sup>.

As a sore loser and in protest against all these judicial decisions, Rwanda chose the policy of the empty chair by withdrawing from certain treaties, notably the treaty on human rights<sup>158</sup> which allows nationals of the East African Community countries to lodge complaints against their own country in case of human rights violations.

### 3.7. The Gacaca courts: serious injustices

In the aftermath of the genocide, nearly 130,000 suspects of genocide crimes were crammed into Rwandan prisons. With a judicial system that had suffered major destruction during the genocide, dispensing justice proved to be an enormous challenge.

The Gacaca courts were created in 2001<sup>159</sup> in an attempt to address the overcrowding of the judicial and prison systems, as the Rwandan regime opted for this system of community courts inspired by the traditional Rwandan Gacaca model. The main objective was to speed up judicial proceedings for those accused of genocide and to reduce the prison population.

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<sup>152</sup> [https://www.justiceinitiative.org/publications/east-african-court-justice#:~:text=La%20East%20African%20Court%20of%20Justice%20\(EACJ\)%20entend%20des%20affaires%20sur,%2C%20Rwanda%2C%20Uganda%20et%20Tanzanie.](https://www.justiceinitiative.org/publications/east-african-court-justice#:~:text=La%20East%20African%20Court%20of%20Justice%20(EACJ)%20entend%20des%20affaires%20sur,%2C%20Rwanda%2C%20Uganda%20et%20Tanzanie.)

<sup>153</sup> <https://africanlii.org/ea/judgment/east-african-court-justice/2012/10>

<sup>154</sup> <https://africanlii.org/ea/judgment/east-african-court-justice/2018/78>

<sup>155</sup> <https://apnews.com/press-release/accesswire/business-tobacco-products-manufacturing-kigali-africa-east-africa-83ee3ad50bb9f2380ea71019357335c0>

<sup>156</sup> <https://africanlii.org/afu/judgment/african-court/2019/10-0>

<sup>157</sup> <https://www.news24.com/drum/News/lawyer-who-walked-6000km-from-rwanda-to-south-africa-african-humility-kept-me-alive-20191216>

<sup>158</sup> <https://ijrcenter.org/2016/03/14/rwanda-withdraws-access-to-african-court-for-individuals-and-ngos/>

<sup>159</sup> Organic Law of 26 January 2001 <https://jurisafrika.org/docs/statutes/ORGANIC%20LAW%20N0%2040.pdf>  
<https://repositories.lib.utexas.edu/bitstream/handle/2152/4582/3677.pdf?sequence=1>

Since 2005, just over twelve thousand Gacaca community courts have tried approximately 1.2 million cases<sup>160</sup>. The Gacaca courts ended in 2012<sup>161</sup>, with the government believing that they had done their job. About 65% of nearly two million people were found guilty<sup>162</sup>.

The Gacaca court system involves the active participation of local community members and trial by local judges. There is a body of Gacaca law to regulate trials. Although the experiment has proved to be a relief for the judicial system by initiating legal proceedings that had been stalled for years, several shortcomings and failures have been noted<sup>163</sup>.

The most important of these shortcomings is the deliberate approach of the Gacaca court system to restrict the right of the accused to a fair trial. The Gacaca laws have not implemented any measures to ensure a fair trial in cases brought before the courts. Most striking is the absence of the right to a defence lawyer in the proceedings or even the lack of resources to prepare trials by gathering evidence. In theory, the fairness of the trials was to be guaranteed by the participation of local community members who had witnessed the events during the genocide. However, in most cases, there were biased proceedings because community members remained silent for 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 legal education at all. In addition, they were not paid and were expected to use common sense and general principles of fairness rather than evidence-based judgement. This led in many cases to flawed and biased decisions and convictions based on insufficient evidence.

Another major failure of the Gacaca court system is that crimes committed by RPF soldiers were excluded from the jurisdiction of these courts. The RPF regime ensured that these crimes could not be discussed at trial. As a result of these mistakes, it is undeniable that miscarriages of justice and grave injustices were committed during the experience of the Gacaca court system to the detriment of several accused who were deprived of their right to a fair trial.

In general, the Rwandan judicial system is deficient in terms of independence from political power and the regime, which greatly hinders the implementation of the right to a fair trial given the politicisation of the genocide for which the regime remains guilty.

### **3.8. The military takes care of civilian affairs**

Between 2010 and 2017, Human Rights Watch documented that the Rwandan 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 the

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<sup>160</sup> <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>

<sup>161</sup> [Loi organique n°04/2012/ol du 15/06/2012](https://www.ilo.org/dyn/natlex/docs/SERIAL/98238/116823/F1869279459/RWA-98238.pdf)

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

<sup>162</sup> <https://www.bbc.com/news/world-africa-18490348>

<sup>163</sup> Human Rights Watch: Justice Compromised : The Legacy of Rwanda's Community-Based Gacaca Courts

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

northwest. Most of the detainees were forcibly abducted and held incommunicado for months in deplorable conditions<sup>164</sup>.

### 3.9. Genocide trials outside Rwanda

The inadequacy of the judicial system for genocide-related crimes

Created on 8 November 1994 by the UN Security Council, the International Criminal Tribunal for Rwanda (ICTR) was tasked with:

*"... 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"*<sup>165</sup>.

In creating the ICTR, the international community wished to provide a judicial response commensurate with the scale of the alleged crimes of genocide and the reality of a complex political situation that saw many of the alleged criminals disperse outside Rwanda's borders after fleeing the RPF takeover. This required, among other things, an international investigative capacity to identify and track down individuals, arrest and detain them, collect testimony and evidence, ensure the delivery of documents and bring the accused to trial<sup>166</sup>. In addition, the establishment of the ICTR under the auspices of the UN Security Council has given it international jurisdiction and primacy over national courts, which has helped to strengthen its ability to carry out the necessary trial work.

The importance of the resources available to the tribunals is paramount when one considers the very nature of the crimes of genocide and the specific characteristics of the Rwandan culture. Accurate fact-finding and evidence-gathering are particularly difficult in a context of political conflict in a divided society. The complexity is compounded by the fact that legal evidence is largely based on testimony, given the general absence of documents or other physical evidence. Investigators face multiple constraints and obstacles when dealing with witnesses who, more often than not, have difficulty providing a neutral and accurate account of the events as they occurred.

The ICTR ended its work on 31 December 2015 and left residual functions to the **International Residual Mechanism of the United Nations Criminal Tribunals** ("the Mechanism"). These residual functions include appeals, review of ICTR judgments and preservation of archives<sup>167</sup>. The ICTR has indicted 93 persons, resulting in 61 convictions and 14 acquittals. It withdrew two indictments and two people died before the end of their trial. Five cases were transferred to national courts in France and Rwanda<sup>168</sup>.

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<sup>164</sup> <https://www.hrw.org/news/2021/02/01/un-countries-call-out-rwandas-rights-record>

<sup>165</sup> The ICTR in Brief: : <https://unictr.irmct.org/en/tribunal>

<sup>166</sup> *A propos du TPIR* par Cécile Aptel :

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

<sup>167</sup> Functions of the Mechanism: <https://www.irmct.org/en/about/functions>

<sup>168</sup> <https://ijrcenter.org/international-criminal-law/ictr/#:~:text=Le%20ICTR%20inculp%C3%A9%20individue%20tribunaux%20du%20Rwanda%20et%20de%20France>

Opinions remain divided as to whether the tribunal has done justice or not. The general feeling is that the ICTR has never fulfilled its full mission to try all crimes against humanity, whether they were perpetrated by Hutu and Tutsi rebel groups or by the Rwandan Patriotic Front (RPF), which is now the ruling party in Rwanda. The feeling is that the ICTR has abandoned the victims and survivors of the Rwandan genocide<sup>169</sup>.

The most significant failure of the ICTR, according to Human Rights Watch, has been its refusal to prosecute the war crimes and crimes against humanity committed in 1994 by the Rwandan Patriotic Front (RPF). Although the scale and nature of these killings were not - a priori - comparable to the genocide, the victims and their families are equally entitled to justice. Although the ICTR has a clear mandate to prosecute these crimes, it has not had a single case involving the RPF<sup>170</sup>.

*"This political aspect of the tribunal is very frustrating, as it offers an official narrative where the crimes of genocide against the Tutsi population have been highlighted as if they were the only crimes. The reality is that... the RPF committed a huge number of crimes across 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 failures of the tribunal."*<sup>171</sup> Through this political character, the ICTR has completely undermined any hope of national reconciliation that the Rwandan people had aspired to after a dark period of four years of war culminating in the 1994 genocide".

The UN Commission of Experts' preliminary and final reports (S/1994/1125 and S/1994/1405) on which basis the Security Council Resolution 955 set up the ICTR point out that: during the war that followed the assassination of President Habyarimana " *Individuals from both sides to the armed conflict in Rwanda during the period from 6 April 1994 to 15 July 1994 perpetrated serious breaches of international humanitarian law, in particular of obligations set forth in Article 3 common to the four Geneva Conventions and relating to the protection of victims of non-international armed conflicts of 8 June 1977 and that Individuals from both sides to the armed conflict perpetrated crimes against humanity.*"

### 3.10. Genocide trials in Rwanda do not meet international standards

With the completion of the ICTR's work, the Mechanism began to transfer two trials to Rwanda's national jurisdiction, those of **Uwinkindi** and **Munyagishari**. 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.

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<sup>169</sup> <https://www.dw.com/en/ictr-a-tribunal-that-failed-rwandan-genocide-victims-and-survivors/a-51156220>

<sup>170</sup> <https://www.hrw.org/news/2015/12/23/rwanda-international-tribunal-closing-its-doors#>

<sup>171</sup> <https://www.bbc.com/news/world-africa-35070220>

[https://en.wikipedia.org/wiki/In\\_Praise\\_of\\_Blood](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/>

However, according to Amnesty International, suspects should not be transferred to Rwandan courts for trial until it is demonstrated that the trials will meet international standards of justice<sup>172</sup>.

While issuing extradition requests, the regime has promised to implement reforms to allocate the necessary resources to the judicial system to enable it to conduct these trials to a standard that meets international standards aimed, among other things, at ensuring the presumption of innocence and a fair trial for the accused.

However, while some reforms have been adopted and implemented, such as the provision of legal aid for defendants, the reality of their effectiveness is far from the original intentions.

Martin Witteveen, a Dutch expert on international crimes and former advisor to the National Public Prosecution Authority in Rwanda (NPPA) illustrated these discrepancies in his June 2015<sup>173</sup> *Additional Expert Report*. Witteveen acknowledged that the judicial system is functional and capable of investigating and prosecuting genocide cases, transferring from other jurisdictions requiring fair trial rights for defendants and international standards. At the same time Witteveen expressed serious reservations about the quality of defence lawyers and their ability to handle genocide cases.

In the five cases that were observed and analysed in his "*Additional Expert Report*", the performance of the defence lawyers fell well below the level required by international standards. Where the Ministry of Justice was able to provide lawyers to the accused, they lacked the knowledge and experience to develop an adequate defence strategy. In other cases, persistent disagreements between the appointed lawyers and the Ministry of Justice over fees or other contractual terms led to serious flaws in the defence strategy, which compromised the defendants' cases.

According to Witteveen, the weakness in the defence is linked to the stark contrast between the extensive assistance and international donations received by the national prosecution and the limited support received by the Rwandan bar, which is supposed to defend the suspects. The difference in available resources clearly affects the right of the accused to a fair trial and undermines the ability of defence lawyers to conduct a credible investigation to establish exculpatory evidence in a context where international standards are required.

In 2008 and 2009, District Judges and the High Court acknowledged that prosecution and defence witnesses had been attacked and killed.

*"The Appeals Chamber considers that the Trial Chamber had sufficient information on the harassment of witnesses testifying in Rwanda and that witnesses who testified before the Tribunal were subjected to threats, torture, arrest and detention and, in some cases, were killed. This is a case where the ICTR has refused to transfer the accused"*<sup>174</sup>.

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<sup>172</sup> <https://www.amnesty.org/download/Documents/60000/afr470132007en.pdf>

<sup>173</sup> Martin Witteveen *additional Expert Report*

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

<sup>174</sup> <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

### Rwanda's prison system does not meet international standards

*"To force them to confess, or to incriminate others, officials severely tortured or mistreated most of the detainees interviewed by Human Rights Watch. Several former detainees described being severely beaten, given electric shocks, asphyxiated, and subjected to mock executions."*



Human Rights Watch, 2017,  
Report *'We will force you to confess. Torture and illegal military detention in Rwanda'*.

## Introduction

Rwanda has one of the highest incarceration rates in the world<sup>175</sup>. The country's prisons are overcrowded, there is not enough food, sanitary conditions are deplorable, prisoners are threatened by guards and fellow prisoners, lawyers' visits to their clients are limited, prisoners remain in prison for years without trial, the quality of medical care is well below international standards, prisoners regularly disappear from prison in suspicious conditions. All these elements amply demonstrate that prisons in Rwanda do not offer any guarantee of security. The evidence provided by eyewitnesses, the Red Cross and regional and international human rights organisations is overwhelming. But the Dutch government and judges think otherwise. They remain determined to return genocide suspects to Rwanda where the prison system is life threatening

### 4.1 Expulsion or extradition

There is a big difference between expulsion and extradition. If the host country does not allow the asylum seeker to live in the country, the residence permit is not granted and the person can be sent back to Rwanda. This is called expulsion.

If Rwanda believes that crimes in Rwanda were being committed by a Rwandan living abroad, it can ask the country where the Rwandan lives to send him or her to Rwanda. This is called extradition<sup>176</sup>. In the case of a formal extradition request, Rwanda sends an arrest warrant directly to the person's country of residence or through Interpol. *"It is usually permitted by a bilateral or multilateral treaty. Some states extradite without a treaty, but these cases are rare."*

Extraditions are theoretically subject to requirements, including the prohibition of torture, inhuman or degrading treatment, a fair trial and legal monitoring<sup>177</sup>.

Extradition is therefore surrounded by all sorts of legal conditions. To circumvent these conditions, Rwanda illegally kidnaps people from abroad. The most recent case is that of Hotel Rwanda hero Paul Rusesabagina<sup>178</sup>. He boarded a plane in Dubai, thinking he was going to Burundi. Against his will, he ended up in Kigali and was taken directly to prison. This illegal extradition attracted the attention of the international community. The European Parliament even adopted a resolution calling for an investigation and expressed deep concern about Rusesabagina's health. The resolution also : "condemned politically motivated trials, prosecutions of political opponents and prejudices about the outcome of trials; urged the Rwandan authorities to ensure the separation of administrative, legislative and judicial powers,

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<sup>175</sup><https://www.statista.com/statistics/262962/countries-with-the-most-prisoners-per-100-000-inhabitants/>

<sup>176</sup><https://www.cfr.org/background/what-extradition>

*The extradition process enables governments to bring fugitives abroad to justice, but it can be fraught with political tension, even when a treaty is in place.*

*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.(i.e. The Netherlands : editor's note)*

<sup>177</sup>[https://www.researchgate.net/publication/272997383\\_Refugee\\_Exclusion\\_and\\_Extradition\\_in\\_the\\_Netherlands\\_Rwanda\\_as\\_Precedent\\_Journal\\_of\\_International\\_Criminal\\_Justice\\_125\\_1115-1139](https://www.researchgate.net/publication/272997383_Refugee_Exclusion_and_Extradition_in_the_Netherlands_Rwanda_as_Precedent_Journal_of_International_Criminal_Justice_125_1115-1139)

<sup>178</sup><https://www.hrw.org/news/2021/03/02/rwandan-judiciary-under-scrutiny>

in particular the independence of the judiciary; called on Rwanda to open up its political sphere and improve its human rights record; and expected Rwanda to implement the recommendations of the Human Rights Council's Universal Periodic Review in Geneva of 25 January 2021"<sup>179</sup>.

## 4.2 Extradition and prison in Rwanda

In general, prisoners are transferred to prisons that are supposed to meet international standards and are tried by special courts in accordance with the Transfer Law<sup>180</sup>. Extradited persons are taken to Mpanga prison, which was built with funding from the Netherlands. This prison is the only one in Rwanda that theoretically meets international standards. In the new Mageragere prison in Kigali, the conditions of detention for prisoners have been improved but still fall short of international standards.

**Jean Baptiste Mugimba** and **Jean Claude Iyamuremye** were extradited from the Netherlands to Rwanda in November 2016. They are currently staying in Mpanga prison. Despite lying witnesses and almost no proof, both were sentenced to 25 years.. In its monitoring report on the Mugimba case, for the period of October to December 2020, the monitoring commission, ICJ (International Commission of Jurists, appointed by the Netherlands) raised general questions about genocide trials in Rwanda, including the presumption of innocence as well as difficulties in accessing prisons during the period of the COVID-19 pandemic. In this regard, the commission highlighted the Mandela Rules on Communications and in particular Rule 58 on communication with families<sup>181</sup>. The lack of media coverage of the case meant that the public was unable to follow the hearings. In previous reports, both prisoners complained of poor health care, spying by guards, limited access to their lawyers and lack of privacy to work on their case and discuss it with their lawyers.

**Venant Rutunga** was extradited on 26 July 2021. He appeared before a Rwandan court for the first time on 12 August 2021. Contrary to what had been agreed with the Dutch government<sup>182</sup>, he had been detained until then in Kigali's Mageragere prison when he should have been transferred to Mpanga international prison. Since his first appearance before the judges, nothing more has happened.

The first monitoring report was published in September 2021<sup>183</sup> but was not made public on the website provided for this purpose until the end of December 2021. In this report, it was noted that the defendant had not yet been given access to his case file, nor had he received a

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<sup>179</sup> [https://www.europarl.europa.eu/doceo/document/TA-9-2021-0055\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2021-0055_EN.html)

<sup>180</sup> [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](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)

<sup>181</sup> <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>

<sup>182</sup> <https://www.bbc.com/gahuza/amakuru-58188604>  
<https://www.rijksoverheid.nl/onderwerpen/internationale-vrede-en-veiligheid/documenten/rapporten/2022/02/01/monitoringsrapport-uitlevering-venant-r.-oktober-november-december-2021>

<sup>183</sup> <https://www.rijksoverheid.nl/documenten/rapporten/2021/09/15/monitoringsrapport-uitlevering-venant-r.-juli-en-augustus-2021>

computer to prepare his defence. In addition, he complained that the YouTube videos that had been published during the genocide commemorations (2014, 2016, 2019 and 2020) and in which Tutsi genocide survivors pleaded on his behalf were no longer available in Rwanda.

#### 4.3 Expulsion and prison

Deportation applies to a person who resides illegally in a country. For Rwandans, this generally applies to asylum seekers who are accused of genocidal activities and thus excluded from international protection. After final exclusion from protection, people cannot stay in the host country, e.g., the Netherlands, and are repatriated to Rwanda without any requirement of security guarantees. If arrested by the Rwandan authorities on arrival, they are detained in ordinary prisons and risk going through a lengthy process before being tried. For those deported, there is no international support or follow-up. Only the International Red Cross has access to Rwandan prisons and can monitor the situation.

#### 4.4. Overcrowded prisons

In 2019, a US report on human rights in Rwanda states:

*"Material conditions in prisons run 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 increased from less than 52,000 inmates in 2015 to more than 66,000 during the year, significantly increasing overcrowding. Convicted persons and individuals on remand in SCR prisons were fed once a day, and family members were allowed to deposit funds so that convicts and detainees could purchase additional food from prison canteens, but human rights defenders reported that lack of food continued to be a problem<sup>184</sup>."*

Many prisoners sleep in small spaces, sometimes there is not enough room for a single mattress. They also sometimes stand four to a square metre in the muddy central courtyard. It takes hours to get to the latrines or dining halls<sup>185</sup>.

In many prisons, prisoners are given five wooden planks to use as beds and place to store their belongings. Sanitary conditions are poor. Illness and infection are common, especially as the prison service does not provide soap or cleaning products for showers and latrines.

There is not enough food for the prisoners. The prisoner receives a cup of porridge in the morning and a cup of corn and beans in the evening. But due to the high number of prisoners, they sometimes receive this ration only once every 2 or 3 days.

Since 1994, the International Red Cross has been sounding the alarm about the overcrowding in Rwanda's prisons<sup>186</sup>.

More than 71,000 prisoners are incarcerated in 13 prisons in the country. They initially had a capacity of 57,000 inmates. The Senate conducted a thorough investigation and found that

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<sup>184</sup> <https://www.state.gov/wp-content/uploads/2020/02/RWANDA-2019-HUMAN-RIGHTS-REPORT.pdf>

<sup>185</sup> *Amazing planet news* - 7 mars 2016 ;  
<http://amazingplanetnews.com/top-10-most-violent-prisons-in-the-world/8/>

<sup>186</sup> <https://www.icrc.org/en/doc/resources/documents/misc/57jmug.htm>  
[https://app.icrc.org/files/2015-emergency-appeals/files/2015\\_ea\\_rwanda.pdf](https://app.icrc.org/files/2015-emergency-appeals/files/2015_ea_rwanda.pdf)

overcrowding has increased from 99.6% in 2014 to 125% in 2019. In 2020, the Rwandan Senate expressed concern about the high number of inmates in prisons and called on the government to address the problem. At a session in October 2020, the senators warned<sup>187</sup> that if the problem was not solved, there could be many negative impacts on both the government and the prisoners<sup>188</sup>. The Senate recommended that the government consider decongesting prisons by, among other things, applying amnesty to those who are eligible, extending prison facilities and introducing electronic ankle bracelets. The government has also been urged to adopt community service as an alternative punishment model.

#### **4.5. TIG/GIT: community service or slavery?**

TIG/GIT? (*Community service*) is an alternative for prisoners convicted of genocide or crimes against humanity (second category) to reduce the length of time spent in prison<sup>189</sup>. To be admitted to the TIG programme, people must have confessed and shown remorse before the Gacaca courts<sup>190</sup>. It is usually from this group of TIG inmates that witnesses are recruited to appear in all the courts in Rwanda to give false testimony against genocide suspects abroad.

The TIG is presented as community work, but the working and housing conditions are harsh, and the prisoners involved in this work are poorly fed for the effort they put in. They receive no pay. GIT is therefore considered a form of slavery. The convicts are engaged in various jobs, including building houses for genocide survivors and building roads. Through TIG/GIT there is a free labour pool for RPF cadres<sup>191</sup>.

#### **4.6. Lawyers are denied access**

Even under normal circumstances, it is difficult to meet with one's lawyer in confidence. Often prison officials simply deny lawyers access to their clients. The situation has been made worse by the Covid-19 pandemic.

People in detention are particularly vulnerable to the epidemic<sup>192</sup>. Prisoners live in confined conditions for prolonged periods. Hygiene and health care are difficult to access in detention centres, and even more so in the event of a pandemic. The transmission of infectious diseases in overcrowded facilities is common, putting the lives of prisoners and prison staff at risk.

#### **4.7. People remain in prison for years without charge or trial**

According to Amnesty International, suspects should not be transferred to Rwandan courts for trial until it can be demonstrated that the trials will meet international standards of justice<sup>193</sup>.

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<sup>187</sup> <https://www.youtube.com/watch?v=eZC213hX8k8>

<sup>188</sup> <https://panafricanvisions.com/2020/10/rwanda-overcrowding-in-prisons-worries-senators/>

<sup>189</sup> [https://ilpd.ac.rw/fileadmin/user\\_upload/ILPD\\_Document/Publications/STUDY\\_ON\\_ALTERNATIVE\\_TO\\_IMP\\_RISONMENT.pdf](https://ilpd.ac.rw/fileadmin/user_upload/ILPD_Document/Publications/STUDY_ON_ALTERNATIVE_TO_IMP_RISONMENT.pdf)

<sup>190</sup> <http://197.243.22.137/rcs/index.php?id=5>

<sup>191</sup> <https://www.musabyimana.net/20070929-haro-sur-les-tribunaux-gacaca/>

<sup>192</sup> <https://africanarguments.org/2020/03/decongest-africa-covid-19-prisons-urgently/>

<sup>193</sup> <https://www.amnesty.org/download/Documents/60000/afr470132007en.pdf>



Most of the shortcomings of the Rwandan judicial system are identified in the report of Mr Martin Witteveen, a Dutch legal expert on international crimes, who was 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 for politically motivated cases, particularly in cases of genocide suspects<sup>194</sup>.

In Rwanda, members of the political opposition are often arrested, prosecuted and sentenced to long prison terms.

According to Ida Sawyer, deputy Africa director of Human Rights Watch:

*"The Rwandan government's crackdown shows that it is unwilling to tolerate criticism or accept the role of 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."*<sup>195</sup>

President Kagame has stated publicly and officially: *"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."*<sup>196</sup>

The case of **Leopold Munyakazi** is a typical political trial. He was first put in prison after the genocide and then conditionally released. He then fled to the USA in 2004. After holding conferences in 2006 and 2008, two arrest warrants were filed against him for the crime of genocide, genocide denial and genocide minimisation. After a long extradition process, and despite the fact that he claimed to be prosecuted for his political views, he was finally extradited to Kigali. At first instance, he was sentenced to life imprisonment. He appealed and requested that his trial take place in Kamonyi, the place where the crime was reported to have been committed. The judgement delivered on 20 July 2018 acquitted him of the crime of genocide, but sentenced him to nine years in prison for genocide denial and minimisation.

#### 4.8. People disappear from prisons

Enforced disappearances are recurrent in Rwanda. The ruling Rwandan Patriotic Front (RPF) has continued to exercise total control over the political space in Rwanda. In 2019 several opposition members and a journalist disappeared or were found dead in mysterious circumstances. Although the Rwanda Bureau of Investigation (RIB) said it had launched investigations into these cases, it rarely shared its findings<sup>197</sup>. Several politically motivated disappearances were also reported in 2017. National organisations critical of the state security forces have reported government interference in their operations and highlighted lack of capacity and independence to investigate security service abuses<sup>198</sup>.

On the night of 7 October 2018, Rwandan opposition leader **Boniface Twagirimana** "disappeared" from his cell in the highly secure Mpanga prison in southern Rwanda. Since then,

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<sup>194</sup> <http://www.buitenpostdewereld.org/untitled/nl--genocide/rapport-martin-witteveen.html>  
<http://www.buitenpostdewereld.org/untitled/nl--genocide/>

<sup>195</sup> <https://www.hrw.org/news/2017/09/29/rwanda-post-election-political-crackdown>

<sup>196</sup> <https://www.youtube.com/watch?v=SLz5v4t3QjE&feature=youtu.be> (min. 43,54-44,25)

<sup>197</sup> <https://www.hrw.org/world-report/2020/country-chapters/rwanda#>

<sup>198</sup> <https://www.refworld.org/docid/58ec89dbc.html>



his family and friends have no information on his whereabouts. According to the government, Twagirimana escaped from prison. But this version is disputed by his friends and colleagues. They claim, based on information provided by other detainees, that Twagirimana was abducted and taken away in a prison vehicle<sup>199</sup>.

#### **4.9. Police cells and military camps are not safe**

The national prisons are not safe and this also applies to the cells of the police stations. The case of singer Kizito Mihigo is the most illustrative. On 17 February 2020, the police announced that Kizito Mihigo<sup>200</sup> had been found dead in his cell at Remera police station in Kigali, four days after his arrest near the Burundi border. The police said it was suicide. However, shortly before his death, he told Human Rights Watch that he was threatened, that he was being asked to provide false testimony against political opponents, and that he wanted to flee the country because he feared for his safety.

The abuse and torture of opponents and other critics of the RPF regime take place in illegal detention centres where only the torturers and their victims have access. In these centres, those arrested are subjected to every inconceivable form of physical, moral and psychological abuse.

#### **4.10. Unlawful military detention and torture**

In 2017, Human Right Watch reported on 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<sup>201</sup>. The report states that between 2010 and 2016, dozens of people suspected of collaborating with "enemies" of the Rwandan government were illegally detained and tortured in military detention centres by Rwandan army soldiers and intelligence officers. Some of these people have been held for long periods of time in inhumane conditions and in unknown locations, only known only by their torturers.

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 the lack of cooperation from the Rwandan authorities<sup>202</sup>. The head of the SPT delegation said: "*We were prevented from carrying out our work in some places, and severe restrictions were imposed on access to some places of detention. We have also been unable to conduct private and confidential interviews with some of those deprived of their liberty. Moreover, many of those we managed to interview expressed fear of reprisals. We must not endanger those who have cooperated with us*"<sup>203</sup>.

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<sup>199</sup> <https://www.hrw.org/news/2018/11/08/one-month-rwandan-opposition-leader-disappeared>

<sup>200</sup> <https://www.hrw.org/news/2020/08/17/rwanda-6-months-no-justice-kizito-mihigo>

<sup>201</sup> <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>

<sup>202</sup> <https://www.hrw.org/world-report/2019/country-chapters/rwanda>

<sup>203</sup> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=22273&LangID=E>

The 2019 US report<sup>204</sup> denounces Rwanda and points out that human rights defenders have reported numerous cases of people being illegally detained and tortured in unofficial detention centres. Human rights defenders claimed that military, police, and intelligence personnel used torture and other cruel, inhuman, or degrading treatment or punishment to obtain information and elicit confessions before transferring people to official detention facilities.

In 2020, Human Rights Watch<sup>205</sup> also reported on centres that have served as unofficial detention facilities where street children, street vendors, sex workers, homeless people, and beggars are arbitrarily held.

A chilling report by Human Rights Watch gives many details of the conditions in some of the military camps: *"To force them to confess or incriminate others, officials severely tortured or mistreated most detainees. When interviewed by Human Rights Watch, several former detainees described beatings, electric shocks, asphyxiation, and mock executions"*<sup>206</sup>.

During harsh interrogations, detainees are tortured into confessing to crimes or offenses fabricated by the RIB and DMI security services.

In a video published in June 2020<sup>207</sup>, a former detainee recounts how he was morally and physically tortured in the early 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 either located inside military camps or in private or specifically -built houses known as "safehouses". HRW has continued to denounce these practices, but to no avail.

On the margins of the 37<sup>th</sup> session of the Universal Periodic Review in January 2021, when Rwanda was asked to explain the presence of these illegal torture centres, the Rwandan government's Minister of Justice, Johnston Busingye, initially denied the existence of these centres. Shortly afterwards, he formally acknowledged the serious accusations against the Rwandan government and promised to address them<sup>208</sup>.

#### 4.11. People are harassed by guards and other prisoners

On 25 March 2013, **Sylvain Sibomana**, a member of the opposition party FDU-Inkingi, was arrested and beaten until he was rushed to hospital. All he had done was to ask a policeman guarding the High Court premises why the police were preventing him and a colleague from

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<sup>204</sup> <https://www.state.gov/wp-content/uploads/2020/02/RWANDA-2019-HUMAN-RIGHTS-REPORT.pdf>

<sup>205</sup> <https://www.hrw.org/report/2020/01/27/long-we-live-streets-they-will-beat-us/rwandas-abusive-detention-children>

<sup>206</sup> <https://www.hrw.org/report/2017/10/10/we-will-force-you-confess/torture-and-unlawful-military-detention-rwanda>

Le héros emprisonné de "Hotel Rwanda" affirme avoir été torturé dans un "abattoir" après son arrivée à 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/>.

<sup>207</sup> <https://youtu.be/48DDWYR1FVI>

<sup>208</sup> <https://igihe.com/amakuru/u-rwanda/article/u-rwanda-rwemeye-kuzubahiriza-inama-rwagiriwe-mu-kubahiriza-uburenganzira-bwa>

attending the trial of Ms Victoire Ingabire Umuhoya. After their arrest, they were charged with contempt of court, inciting insurrection and disturbing public order<sup>209</sup>.

In January 2020, seven members of the opposition FDU-Inkingi party were sentenced to between seven- and ten-years' imprisonment for complicity in forming or joining an irregular armed force. Three members were acquitted<sup>210</sup>. After their release, the three men gave video interviews to local YouTube channels, detailing their pre-trial detention, ill-treatment and torture, including at "Kwa Gacinya", an unofficial detention centre in Kigali's Gikondo district, and at Mageragere and Nyanza prisons. One of the three men, **Venant Abayisenga**, disappeared in June 2020 on his way to buy phone credit<sup>211</sup>.

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 prisons and in military prisons. Although there are some improvements in the respect of human rights in penitentiaries, the National Commission on Human Rights (NCHR) has noted that many problems remain, such as overcrowding, with the result that suspects and convicted prisoners share the same room. It is also worrying that files disappear during prisoner transfers: *"We have advised the prison management to be more cautious when transferring prisoners, as we have found that files are sometimes lost in the process, resulting in detention without a supporting charge file"*<sup>212</sup>.

#### 4.12. International prisons in Rwanda

The only international prison in Rwanda is the Mpanga prison, built with funding from the Netherlands<sup>213</sup>. It opened in 2005 and has a population of over seven thousand inmates. It is a hybrid prison, holding national and international prisoners in different departments. There are two types of international prisoners in Mpanga prison. The first are accused or convicted génocidaires. The second are from the West African country of Sierra Leone<sup>214</sup>.

#### 4.13. Trial preparation and spying

All written material entering and leaving the prison is read by prison officials, depriving the defence of any confidentiality with their clients.

This practice was confirmed by the Minister of Justice, Johnston Busingye<sup>215</sup>, in relation to the case of Paul Rusesabagina<sup>216</sup>. Communication with his lawyer had been intercepted, which is a clear violation of the rights of the defence.

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<sup>209</sup> <http://www.fdu-rwanda.com/en/english-rwanda-urgent-appeal-torture-and-illegal-detention-of-sylvain-sibomana-fdu-inkingi-interim-secretary-general/>

<sup>210</sup> <https://www.hrw.org/news/2016/09/29/rwanda-opposition-activist-missing>

<sup>211</sup> <https://www.hrw.org/world-report/2021/country-chapters/rwanda>  
<http://rwandansrights.org/rwanda-stand-up-for-the-disappeared/>

<sup>212</sup> <http://sportnewsharusha.blogspot.com/2014/12/human-rights-violations-in-rwanda.html>

<sup>213</sup> <http://www.buitenpostdewereld.org/weblog-rwanda-2010/how-much-paid-the-dutch-for.html>

<sup>214</sup> <https://ruminationsfromrwanda.blog/2019/06/27/mpanga-prison/>

<sup>215</sup> <https://www.youtube.com/watch?v=2uXvQpIOVEU>

<sup>216</sup> <https://www.nytimes.com/2020/09/18/world/africa/rwanda-paul-rusesabagina.html>

The case of Victoire Ingabire is the best example of how political trials in Rwanda are conducted in an environment that is not conducive to impartial and fair trial processes. She was arrested and imprisoned because she was trying to run against President Kagame in the 2010 elections on behalf of the FDU-Inkingi party. In a letter of 6 May 2011 to the Chief Justice, now Minister of Justice, her lawyers complained about the difficulties of maintaining confidential communications with their client due to the continuous presence of prison officers who closely monitor and follow all conversations. In their letter of 27 September 2011, the lawyers complained about the refusal of the High Court President to respond to remarks publicly addressed to them, indicating a clear bias in favour of the prosecution.

Victoire Ingabire was arrested and sentenced by the High Court to 8 years in prison, but after appealing, the Supreme Court sentenced her to 15 years. She then appealed to the African Court on Human and Peoples' Rights (ACHPR). On 24 November 2017, the African Court ruled that Rwanda had violated Victoire Ingabire Umuhoza'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 is still ignoring this ruling<sup>217</sup>.

#### 4.14. Prisoners spend years in prison without being tried

According to the law<sup>218</sup>, pre-trial detention should not exceed six months. However, there are cases of people being held for more than twenty years without trial. **Dr Runyinya Barabwiliza**<sup>219</sup> has been detained since September 1994. His trial started almost 17 years later, in April 2011. The case of **Dr Bernard Mutwewingabo** is surely the most chilling example: he has been in prison without trial for 28 years.

After being detained without trial for such long periods of time, many are sentenced to long prison terms, even life imprisonment. These convictions are sometimes based partly or entirely on confessions or testimony obtained under torture. Others are acquitted and released after long and arbitrary pre-trial detention.<sup>220</sup>

**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 MPs asked why their trials took so long, and why the Netherlands would want to extradite others to Rwanda.

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<sup>217</sup> <https://www.victoire-ingabire.com/Eng/12th-april-2012-stop-intimidation-of-defense-witnesses-in-ingabires-trial/>

Demande 003/2014 arrêt du 24 novembre 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-Ingabire%20Victoire%20Umuhoza%20V%20Rwanda%20-%20Judgement%2024%20November%202017.pdf>

[https://www.europarl.europa.eu/doceo/document/B-8-2016-1065\\_EN.html](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/>

<sup>218</sup> Relative à la procédure pénale N° 027/2019 du 19/09/2019

[https://www.nppa.gov.rw/fileadmin/Archive/LAWS\\_FILES/ Procedure\\_Penal.pdf](https://www.nppa.gov.rw/fileadmin/Archive/LAWS_FILES/ Procedure_Penal.pdf)

<sup>219</sup> <http://rwandansrights.org/dr-runyinya-17-years-of-miscarriage-of-justice-that-had-been-halted-3-years-ago-has-been-given-blessing-to-resume/>

<sup>220</sup> <https://www.hrw.org/report/2017/10/10/we-will-force-you-confess/torture-and-unlawful-military-detention-rwanda>

Responding to a parliamentary referral<sup>221</sup>, Justice Minister Ferdinand Grapperhaus stated in February 2020 that:

*"On 12 November 2016, Jean-Claude I. and Jean-Baptiste M., suspected of genocide, 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 for the assessment of the extradition requests."*

Yet they had been extradited on the basis of arrest warrants issued by Rwanda and supposedly resulting from serious and complete investigations!

Minister Grapperhaus further replies that ICJ monitoring reports<sup>222</sup> indicate:

*"In September 2017, the judicial cases against Jean-Claude I. and Jean-Baptiste M. started. Since then, the proceedings are in the trial phase and the substantive hearing of the cases, in accordance with Article 2 of the Rwandan Transfer Law, is taking place before the High Court. However, the International Crimes Report Letter of 27 March 2019 erroneously states that the proceedings are still in the "investigation phase". From the latest Monitoring Report on Jean-Baptiste M. of 15 December 2019, it appears that the High Court requested 'final observations and submissions' from the Prosecution and the Defence in October 2019. Based on this information, I do not consider that there is currently an unreasonable delay in the process".*

Is this statement really reasonable and responsible?"

Mugimba and Iyamuremye have been in prison, first in the Netherlands since 2012 and then in Rwanda since November 2016. As of March 2021 they have not yet been tried.

In various monitoring reports, it appears that J.B. Mugimba deplores the unnecessary delays his trial continues to suffer. Until 19 December 2019, Iyamuremye still had unresolved issues with his legal aid<sup>223</sup>.

The quarterly monitoring report from June to September 2020 regarding Mugimba, states:

*"The accused recalled that the Prosecution had called eight witnesses and that during the hearing on 9 September, the Defence had asked the Court to disregard the testimony of three witnesses as they all presented contradictions. Furthermore, he noted that none of the witnesses had accused him directly but had only stated that they had heard about his involvement in the genocide. The accused told the monitoring team that four convicted former military prisoners had been taken to the special compounds at Mpanga prison, known as the Delta wing, which were intended for international detainees and prisoners. The accused believed that one of the convicted prisoners was a former warden of Mageregere prison. The accused told the monitor that he had heard rumours that the four convicted prisoners had been convicted of killing Hutus in retaliation against Tutsis during the genocide. The monitor notes that this is a relevant concern and will raise it with the prison director during the next visit to the prison. As regards communication with his*

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<sup>221</sup><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>

<sup>222</sup><https://www.rijksoverheid.nl/documenten/rapporten/2020/03/15/monitoring-rapport-uitlevering-jean-baptiste-m.-dec.-2019-feb.-2020>

<sup>223</sup><https://www.rijksoverheid.nl/documenten/rapporten/2020/03/15/monitoring-rapport-uitlevering-jean-claude-i.-dec.-2019-feb.-2020>

*relatives, he told the monitoring team that family visits had been interrupted because of Covid-19. He could now only make calls to his wife and children”<sup>224</sup>.*

Having failed to convict him due to lack of evidence following false testimony, as a prisoner who was supposed to charge him instead testified in his favour, J.B. Mugimba's trial was postponed several times in attempts to dig out to find someone who would have testified against him in the Gacaca courts. The Gacaca trials had been ended by the Rwandan court at the very beginning of the trial in Rwanda to avoid a second trial for the same thing. The trial was first postponed to 10/05/2021, then to 7 July 2021<sup>225</sup> under the pretext that the Genocide Centre CNLG had not provided the requested information. Five years later, the trial finally resumed on 9 November 2021. The ruling that was to be delivered on 23/12/2021 was postponed indefinitely<sup>226</sup>.

#### 4.15. Ill-treatment in prison

Rwandan prison is not suitable for the sick.

The African Court on Human and Peoples' Rights ruled in November 2020 that Rwanda subjected former Canadian resident **Leon Mugesera** to "cruel, inhuman and degrading treatment"<sup>227</sup>. In its ruling, the court ordered Rwanda to pay 25 million Rwandan francs, or nearly thirty-three thousand US dollars (\$33,000), to Léon Mugesera and his family, including 10 million for moral damages<sup>228</sup>.

This case is reminiscent of that of Bernard Ntaganda, leader of the political party P.S. Imberakuri. After his arrest in spring 2010, he was tortured and placed in solitary confinement. A few months later, in October, he was rushed to hospital in intensive care following torture by the RPF. As his condition deteriorated, the doctor put him on a special diet of fresh food delivered daily by his family. A few months later, back in detention, the torture and ill-treatment started again: a fellow prisoner was assigned to abuse him. When the International Red Cross wanted to visit Ntaganda in Mpanga prison, the prison director imposed conditions on the ICRC: the visit could only take place in the presence of prison guards. The ICRC refused and it was only after having contacted the Directorate General of Prisons in Kigali that the Red Cross was able to meet him without guards. It was after this visit by the ICRC that Bernard Ntaganda was allowed to see a doctor<sup>229</sup>.

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<sup>224</sup> <https://www.rijksoverheid.nl/documenten/rapporten/2020/10/15/monitoring-report-uitlevering-jean-baptiste-m-june---september-2020>

<sup>225</sup> <https://www.rijksoverheid.nl/onderwerpen/internationale-vrede-en-veiligheid/documenten/rapporten/2021/06/29/monitoringsrapport-uitlevering-jean-baptiste-m-maart-mei-2021>

<sup>226</sup> <https://www.bbc.com/gahuza/amakuru-59221701>  
<https://www.bbc.com/gahuza/amakuru-59768708>

<sup>227</sup> <https://www.african-court.org/cpmt/storage/app/uploads/public/5fc/769/f00/5fc769f003397040902256.pdf>

<sup>228</sup> <https://www.lapresse.ca/international/afrique/2020-11-27/affaire-leon-mugesera/le-rwanda-condamne-pour-traitement-cruel-et-inhumain.php>

<sup>229</sup> <https://sfbayview.com/2013/09/opposition-leader-bernard-ntaganda-tortured-in-rwandan-prison/>



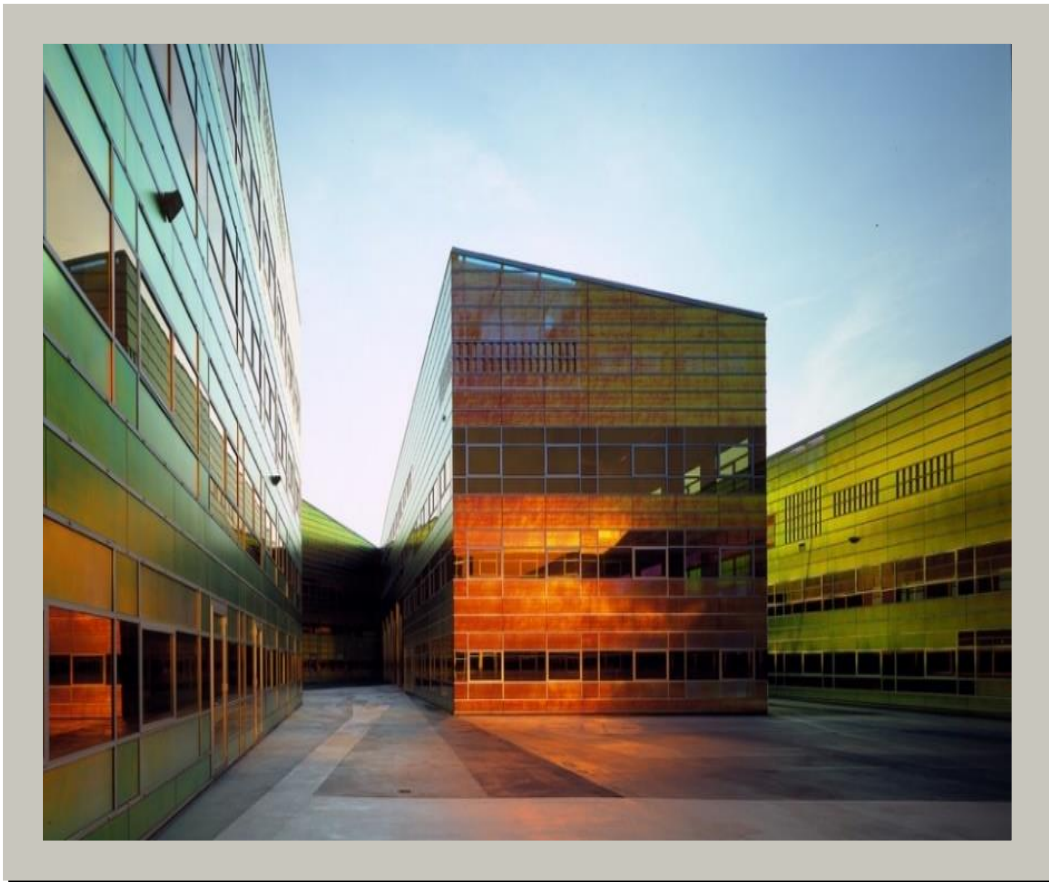
## Chapter 5

### **The procedure in the Netherlands is a violation of human rights**

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

Pieter Omtzigt

(Member of the Dutch Parliament, CDA; January 2021)



*IND office, Almere*

## Introduction

The IND, the Dutch immigration service, is biased, unreliable and not very rigorous. The Dutch procedure for people accused of genocide (1F<sup>230</sup>) violates human rights.

Anyone accused by the IND of having participated in the Rwandan genocide is caught in quicksand that slowly but surely swallows them up. Dutch administrative law<sup>231</sup> and the IND's working methods are the main factors. Proving innocence through administrative law is almost impossible. Dutch citizens, victims of the National Tax Authorities, have experienced this bitterly<sup>232</sup>.

Rwandans living in the Netherlands who are accused of genocide have also experienced this. In practice, administrative law, which is designed to defend citizens against government decisions, offers little opportunity for an adequate defence. Dozens of Rwandan families living in the Netherlands are victims of this. Their residence permits were withdrawn, some even lost their Dutch passports and nationality. They were no longer allowed to work and were not entitled to social benefits, allowances and health insurance. They found themselves in a permanent state of poverty, fear and uncertainty, and some of them for more than ten years.

After a lengthy procedure, with no focus on the substance but only on the procedure, a judge finally decides what will happen, i.e., whether they can be deported to Rwanda.

For many, this is a frightening destination, because they are politically active in the opposition. There is a high risk of being arrested, given an unfair trial, being illegally detained, tortured or killed.

The IND's method of working makes matters worse. Their charges are riddled with errors. There is a lack of knowledge of language and/or culture. The files are built up from general elements, supplemented by some personal details. The IND often requires further investigation in the country itself. The result is an 'Individueel Ambtsbericht' (*IAB, official report on an individual*), the quality of which even IND officials say internally leaves a lot to be desired. Thus, someone is accused of the worst possible crime, even though it is not known exactly what happened, where and when!

The IND almost never admits a mistake and almost never includes arguments in defence of the suspect in its decision. This is contrary to the General Administrative Law (Awb<sup>233</sup>), which stipulates that an administrative organisation such as the IND must fulfil its tasks without prejudice.

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<sup>230</sup><https://www.refugeelegalaidinformation.org/exclusion-refugee-status-under-article-1f-convention>  
<https://www.canlii.org/en/ca/scc/doc/2013/2013scc40/2013scc40.html?resultIndex=1>  
<https://www.canlii.org/en/ca/scc/doc/2013/2013scc40/2013scc40.pdf>  
[https://nl.wikipedia.org/wiki/Artikel\\_1F\\_Vluchtelingenverdrag#:~:text=Het%20bepaalde%20in%20artikel%201F,kunnen%20maken%20op%20vluchtelingrechtelijke%20bescherming.](https://nl.wikipedia.org/wiki/Artikel_1F_Vluchtelingenverdrag#:~:text=Het%20bepaalde%20in%20artikel%201F,kunnen%20maken%20op%20vluchtelingrechtelijke%20bescherming.)

<sup>231</sup>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](https://www.njb.nl/media/4103/c-b-b-37e-d-97a-c-c-4d-20652575d-6b-97e-05c-9_pdf.pdf)

<sup>232</sup>Ongekend onrecht. Rapport parlementaire ondervragingscommissie Kinderopvangtoeslag, 17 december 2020  
<https://www.rijksoverheid.nl/documenten/publicaties/2021/01/21/kabinetsreactie-rapport-%E2%80%99Congekend-onrecht%E2%80%99D---samenvatting>

<sup>233</sup><https://wetten.overheid.nl/BWBR0005537/2021-03-01>, article 2.4

In April 2021, Dutch lawyers presented a shocking black book containing fifty stories of how the IND treated their clients in an unbelievably cruel and inhumane manner<sup>234</sup>. The publication describes the IND's activities as follows: "...excessive formalism, the dismissal of people as fraudsters, an IND that rigidly adheres to rules and in doing so completely loses sight of the human dimension..."

Since the Netherlands has helped build the Rwandan judicial system for many years, almost all Dutch judges believe that defendants can be sent back to Rwanda. Similarly, most politicians believe that these people can be deported or extradited to Rwanda. There seems to be a general feeling that to say otherwise would devalue all the years of technical, financial and political support provided by their government.

### **5.1. The IND Rwanda Project**

It all started in 2006. During an introductory interview<sup>235</sup>, a new IND official suggested to his boss that the situation of Rwandan refugees should be re-examined with the understanding that there might be genocidaires among them. Contacts were made with the Ministry of Foreign Affairs and in 2008 the 'Rwanda project' became a reality. Unit 1F of the IND was to reassess the files on the basis of a number of criteria. These criteria were not made public.

At the end of 2009, 17 cases were "selected" and in 2010 the first indictment letters by the IND were sent. The recipients were accused of having lied during their asylum procedure and of having participated in the genocide. For them and their families, this was the beginning of a nightmare from which there was almost no escape. Deportation to Rwanda became a serious and real threat.

### **5.2. The IND's charges are riddled with errors**

The accusation, innocently called '*Voornemen*' (intention), consists of a general part resulting from an internet search and a personal part. The first time you see such a report, you are shocked: this report is about a real criminal. But if you look closely, you will notice that the general part is long, while the personal part is often only a few pages long, including the IAB (*official report on an individual*). This report is often full of mistakes. Villages are mixed up. Names are misspelled.

Throughout the process, including during the hearings and trial, the IND is quick to mark its targets with the 1F stamp. Thus, obvious and blatant inaccuracies are presented as truths. BTIs are selectively quoted incorrectly, incompletely or erroneously. Sources are also quoted incompletely, distorting the reality. Information and sources that exonerate the suspect are simply left out. Obviously, false conclusions are drawn. Sometimes the IND claims that sources

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<sup>234</sup><https://www.vajn.org/wp-content/uploads/2021/04/boek-ongehoord-onrecht-in-het-vreemdelingenrecht.pdf>

<sup>235</sup>Les informations sont enregistrées 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>

are eyewitnesses when in fact they are only repeating what they have heard from others (hearsay). The IND also uses reports from unreliable organisations such as African Rights.

### 5.3. Poor quality of the IAB

The IAB, the official report on an individual, is very important for the procedure.

#### Procedure

The IND requests the Ministry of Foreign Affairs to conduct an investigation in Rwanda on the suspect. IND drafts the questionnaire. The Dutch Embassy in Kigali asks a 'trusted' advisor (often a Rwandan lawyer) to conduct the investigation. The result is sent to Foreign Affairs Unit 1F. This unit verifies the sources, except for human sources. This is impossible in practice. Only Unit 1F is allowed to see the so-called basic documents, often reports of conversations with witnesses. This unit asks for further explanations from the embassy if necessary and then draws up the IAB which is then forwarded to the IND.

Ultimately, the court decides whether deportation is permitted. They attach great value to the IAB without any further justification. In 1998, the National Ombudsman (Ombudsman) concluded that: *"The quality of the various official reports is not sufficiently guaranteed... There are also a number of shortcomings in the reporting and verification of information from home country investigations"*<sup>236</sup>.

In 2007, the National Ombudsman again investigated the quality of the ABIs. Little had changed: *"The way the IND uses these reports indicates bias and partiality"*<sup>237</sup>.

In a letter to the Dutch Parliament (Tweede Kamer) a year later, the National Ombudsman complained about the lack of information: *"The Netherlands protects a disproportionate amount of factual information through the IAB, so that it is not possible to have the views of both sides of the case about the evidence included in the procedure"*<sup>238</sup>.

The Ombudsman is not alone in his criticism. Lawyers, professors and journalists have repeatedly pointed out the many flaws in the process leading to the IAB. Even civil servants are critical. For example, a report from the reconciliation meeting on international crimes (Internationale Misdrijven, IM) of 14 May 2018 states: *"During the consultations on Rwanda on 3 April, it became clear that the IAB is not always sufficiently concrete. For example, it is not always clear which events and which period are referred to [."*

So, someone is accused of the worst possible crime, yet it is not clear what happened, when and where!

But the IND, Foreign Affairs and most judges turn a deaf ear to all criticism, including internal criticism. According to the IND, the IABs were carefully drafted.

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<sup>236</sup> Rapport Nationale Ombudsman 1998 :  
<https://www.nationaleombudsman.nl/nieuws/1998/kwaliteit-individuele-ambtsberichten-in-asielzaken-onvoldoende-gewaarborgd>.

<sup>237</sup> Rapport Nationale Ombudsman 2007 :2007/328  
[https://www.nationaleombudsman.nl/uploads/rapporten/20070328\\_2006.14164.pdf](https://www.nationaleombudsman.nl/uploads/rapporten/20070328_2006.14164.pdf)

<sup>238</sup> Brief Nationale Ombudsman aan Tweede Kamer september 2008  
<https://www.nationaleombudsman.nl/nieuws/onderzoeken/2007200>  
<https://www.nationaleombudsman.nl/uploads/brief-individuele-ambtsberichten-aan-tweede-kamer-0-0.pdf>

The judges also look at the official thematic opinion, which gives a general overview of the situation in a country. For Rwanda, the last report was heavily criticised<sup>239</sup>. It gave a far too flattering picture: "*The official opinion Rwanda 2016, is incorrect, unreliable and based on selective evidence.*"

#### 5.4. The IND botches the job

There is total lack of rigorous scrutiny of information provided .. Neither in the BILs, nor in the Rwanda investigations on which they are based. It is an open secret that Rwanda is a strictly controlled society where anyone who does not belong to a village or neighbourhood is reported to the neighbourhood chief as suspicious. It is therefore not possible for the *Vertrouwenspersoon* (trusted advisor) of the Dutch embassy, often a Rwandan lawyer, to carry out independent research. People usually give politically correct answers because they have to report the conversation to the state party representative in their neighbourhood.

In addition, there is no human source control. Apart from the 'adviser' (*the Vertrouwenspersoon*), no one knows whether these people really exist or, if they do, what they said. There are no recordings of the conversation and no copies of identity cards<sup>240</sup>. This may seem understandable if one is willing to believe that witnesses are at risk. But it means that no one can verify the oral sources. It is often difficult to know whether they are eyewitnesses or sources who quote others. Moreover, in a number of cases, many sources can be linked to one source, so that it appears that the source has recruited the others. It is also not clear whether the sources had contact with each other.

As the names of many districts and places changed in Rwanda after the genocide, geographical references are also questionable. Sometimes a single official report refers to a district, which then turns out to be a village with the same name, but in a completely different location.

Furthermore, it is very likely that the *Vertrouwenspersoon* is dealing with 'sources' that can be linked to the Genocide Fugitive Tracking Unit (GFTU<sup>241</sup>). The *Vertrouwenspersoon* could then receive information prepared by the GFTU. In Rwanda, it is not uncommon for people to be forced to make a false statement. And finally, sources can benefit from their false testimony if they accuse someone in order to obtain land, a house or property from the suspect.

In a number of cases, it seems that the IND will repeat investigations if the results do not fit into their expectations. For example, a Rwandan *Vertrouwenspersoon* conducted an investigation on **Joseph Mugenzi**. He found nothing special, and another *Vertrouwenspersoon* was quickly sent to conduct a second investigation. And surprisingly, during this second investigation, he

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<sup>239</sup><https://www.njb.nl/blogs/het-ambtsbericht-rwanda-waarom-weer-zon-onjuiste-voorstelling-van-zaken/>

<sup>240</sup>Brandpunt : De lange arm van Kagame. <https://tvblik.nl/brandpunt/9-november-2014>

<sup>241</sup>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.



found human sources that accused Mugenzi. In the end, the second report was sent to the Netherlands, as the first one was no longer relevant<sup>242</sup>, because it exonerated the accused.

On several occasions, the Netherlands sent investigators themselves. It is even more complicated for them. They are not sufficiently familiar with the history and culture of Rwanda, are accompanied by the Rwandan judicial police officer (Ministère public), the police and the Genocide Fugitive Tracking Unit (GFTU) and are dependent on interpreters whose independence cannot be established.

Individuals are thus charged on the basis of official reports that are full of errors and based on unverifiable sources.

Research by the National Ombudsman shows that the IAB leads to the rejection of asylum applications in eighty per cent of cases<sup>243</sup>.

### 5.5. Living in limbo in no-man's land

Persons charged on the basis of Article 1F run a high risk of landing in a trap that they can hardly get out of. Like the wolf and the lamb in La Fontaine's fable<sup>244</sup>, the reason of the strongest is always the best. Often there is too little evidence for a criminal prosecution, but the 1F stamp of the IND remains. The supreme judge, the Raad van State, almost always agrees with the judges and the IND because he/she must limit him/herself to the form and does not analyse the substance.

This can lead to a situation in which the suspect is neither convicted nor acquitted but is also not entitled to support from Dutch institutions because of the 1F stamp, which means, among other things, that he or she is not entitled to refugee protection, insurance or social assistance. In March 2015, a member of the Dutch Lawyers' Committee wrote: *"Leaving people in a legal no-man's land who can in no way prove their innocence is not fair. (...) Deporting refugees (...) after eighteen years of residence in the Netherlands or allowing 1F people to live for years illegally without proper (criminal) assessment is not a credible and humane asylum policy"*<sup>245</sup>.

### 5.6. The IND is persistent

Once the IND gets hold of a case, it is difficult to let go, even if in some cases there is no case to answer at all in Rwanda. The most obvious example is that of **Lin Muyizere**, the husband of Victoire Ingabire Umuhiza. In the summer of 2010, an application for the establishment of an IAB was on the desk of the Dutch ambassador in Kigali. At that time, the situation on the ground was highly volatile. There were regular grenade attacks, the media was suspended, journalists were being hunted down arrested or even murdered. In August, presidential elections were held.

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<sup>242</sup> Brandpunt : De lange arm van Kagame. <https://tvblik.nl/brandpunt/9-november-2014>

<sup>243</sup> Rapport Nationale Ombudsman 2007 : 2007/200

<sup>244</sup> <https://lyricstranslate.com/en/le-loup-et-lagneau-wolf-and-lamb.html>

<sup>245</sup> <https://www.volkskrant.nl/columns-opinie/vluchtelingen-in-juridisch-niemandsland~b3aa0d01/>



Rwanda has repeatedly stated that it has no case against Muyizere. And since he is the husband of opposition leader Victoire Ingabire Umuhiza, it is likely that they took the time to check him out. Indeed if they had found anything against him - however little - they would have used it against him and her. But nothing was found. Yet in 2014, Muyizere received a report from the IND indicating that he was suspected of genocide-related activities. In the course of his proceedings, his passport was taken away as was his Dutch nationality. Meanwhile, his wife was arrested and sentenced on appeal to 15 years' imprisonment. Muyizere became seriously ill. Nevertheless, the IND continued the proceedings. Muyizere appealed and in December 2018, he won his case against the Dutch state, getting back all his rights and his passport.

The same goes for the first Rwandan expelled under the Rwanda project, **Jean Gervais Munyaneza**. He flew to Kigali accompanied by Dutch policemen and provided with a 'laissez-passer'. Rwanda was not amused. They didn't have a case against him, they had not made any request for this man. He was only allowed into Rwanda with great difficulty. Since then, he has been living with his family in Kigali.

His brother was deported from the Netherlands a year later. He was arrested on arrival in Rwanda and immediately placed in an ordinary prison as he was not covered by the transfer law. After five years of investigation, the judge ruled that he should be released and be tried while he is out of prison. . He still does not know when his trial will end<sup>246</sup>. His case has also been taken to the European Court of Human Rights. That court decided negatively for his case in January 2022.

**Jean Baptiste Mugimba**, also a victim of the IND, was extradited in November 2016 at the request of Rwanda. Also in his case, it became clear last year that witnesses had lied. During one of the hearings, a prosecution witness who was to testify against him did the opposite, clearing him of any responsibility<sup>247</sup>. In the spring of 2021, it was reported that the judges had asked for his trial to be reopened in May 2021 because they wanted to hear more witnesses. This is very unusual because the prosecutor and the defence lawyers had all already presented their closing arguments. All that remained was the delivery of the verdict.

Since the decision to reopen his case was taken, the date for a new hearing has been continually postponed. At the end of December 2021, it was still unclear whether and when the trial would resume. It was learned, however, that the verdict was to be delivered on 23 December 2021. Surprisingly, it did not take place and no further date was given.

**Jean Claude Iyamuremye**<sup>248</sup> was extradited at the same time. His case progressed more slowly than Mugimba's, but again the evidence seemed thin. It was the IND that initiated proceedings against them<sup>249</sup>. In the course of the proceedings, it became an extradition case because Rwanda requested it.

Rwanda feared that the two accused would not be tried in the Netherlands because of the very high costs involved in such a trial. The Rwandan government also feared that if the trial took place in the Netherlands, the sentence would be too low.

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<sup>246</sup> Anonymous source in the Netherlands, name known to the publisher.

<sup>247</sup> <https://www.radiyoyacuvoa.com/a/4764022.html>

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

<sup>248</sup> <https://www.vn.nl/ik-een-moordenaar-integendeel/>

<sup>249</sup> <https://www.vn.nl/was-deze-man-een-moordenaar-in-rwanda/>

The issue of **Rutunga Venant** is equally emblematic.

Until 2010, Rutunga was not explicitly wanted by the Rwandan government, but it knew all about him. Indeed, in 1996, two years after the genocide, Rutunga's passport was renewed by the Rwandan authorities, something the IND says had never happened to a genocide suspect. Indeed, there have been two trials in Rwanda for the alleged perpetrators of crimes committed at ISAR-Rubona in Butare: Butare - RMP 41.640/S8 RP 76/2/2000 and on appeal in Nyabisindu RPA 145/I/2001/NZA RP 76/2/2000. The Rwandan authorities found no reason to suspect him.

Two laws were enacted in 2000 and 2004 criminalising the failure to talk about crimes committed during the genocide, but Mr Rutunga was not subsequently reported as a suspect. Rutunga had continued to publish his agricultural research papers in international journals after 1994 and they are well known to Rwandan authorities. He was therefore known to the Rwandan authorities and, if necessary, it would have been easy to find him. However, there was no attempt to get him extradited to Rwanda. In 2009, Mr Rutunga was allowed by the Rwandan authorities to share the proceeds of the sale of the Kigali Butchery and Charcuterie, which is impossible for genocide suspects. Similarly, the IND, and in its wake the Dutch courts, have always stressed that Mr Rutunga was not wanted by the Rwandan authorities. His name was never published in the Official Gazette of Rwanda, as was done for all the main genocide suspects.

The IND first told Venant Rutunga in the 1F objection of 27 January 2009: *"you are not wanted in Rwanda, so you will not be prosecuted in Rwanda as a genocide suspect and you can return safely"*. On 16 March 2010, Venant Rutunga was declared finally inadmissible for refugee protection because he could safely return to Rwanda. Just over six weeks later, on 29 April 2010, after 16 years without any sign of interest from the Rwandan authorities for Mr Rutunga, an extradition request suddenly came out of the blue from the Rwandan government.

## **5.7. Monitoring of extradited Rwandans is mind blowing ()**

Mugimba, Iyamuremye and Rutunga were allowed to be extradited because they were covered by the transfer law, which provided that they would remain in an international prison and could allegedly count on a fair trial monitored by international lawyers. This is not the case. The knowledge of the Rwandan judges leaves much to be desired, as does the quality of the guards, as the International Commission of Justice writes<sup>250</sup>. In an email dated 22 June 2018, the then Dutch ambassador, Frederique de Man, writes: *"... unfortunately, we have to note that even today, questions arise during the preparatory hearings. We have asked the ICJ monitors to prepare more analytical reports from now on with clear reference to the existing legislation and in particular to the Transfer Law. The last monitors' report showed that some judges are not familiar with this law."*

The monitoring reports are irregular and do not provide analysis or advice, although this is agreed in their contract. Sometimes entire court sessions are reported in just two sentences.

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<sup>250</sup> <https://www.icj-kenya.org/>

The report of the IG reconciliation meeting of 5 November 2018 says: "*At the consultation between (omitted.), it was decided that AIRS<sup>251</sup> will pilot better monitoring of the proceedings in Rwanda by the ICJ.*"

The monitors' promise to do better has meant little in practice. An email dated 13 December 2019 still calls for improved reporting. So, the contract was amended in 2020 with additional requirements. Although the reports now arrive more regularly, the quality of the largely public reports has still not improved.

For Iyamuremye, after the report of March-April-May 2021, and the (first) verdict of June 2021 (*according to the unofficial translation of the verdict sentenced to 25 years for genocide*), there is a final report of August 2021 giving an overview of the whole process. It also says nothing about a possible appeal by Iyamuremye against the June 2021 verdict. To monitor a possible appeal, ICJ-Kenya will probably have to obtain a new contract, if our Ministry of Justice so wishes.

After so many delays and postponements for lack of evidence, the court finally came up with a diversion, ruling that, even if there was no evidence that he himself had participated in the Nyakabanda crimes, he would have participated anyway in setting up the roadblocks on which Tutsis were killed in Nyakabanda, Nyamirambo and Gitega<sup>252</sup>. Then, J.B. Mugimba was sentenced to 25 years imprisonment<sup>253</sup>, March 17, 2022. He subsequently appealed.

Regarding Rutunga, there are now two reports on the website.

## **5.8. Administrative procedure: swimming with lead tied on the back.**

To say that the administrative procedure fails totally to protect the accused is an understatement. In the course of the proceedings, the IND only needs to make it look plausible that there exists a serious suspicion of war crimes. It does not have to prove it.

The Administrative Jurisdiction Division considers that the Dutch Nationality Act does not require this. The IND literally says: '*For the withdrawal of Dutch citizenship, it is sufficient that there is a serious suspicion*'<sup>254</sup>. This gives too much room for arbitrariness, because this legal vacuum is for the benefit of the 'law of the strongest'. IND is the only one to rule on this. Yet these "serious suspicions" are only acceptable if they are based on verifiable facts and not on lies. In these cases, IND elevates the Rwandan regime to the status of "judge and jury". In effect, he is relying solely on the accusations that this authoritarian regime provides by taking advantage of this legal vacuum, whereas there is irrefutable evidence that in political cases, witnesses are either forced to testify against the government's critics, or are paid to do so, or receive other benefits. Others do so because, as RPF supporters, they have taken an oath<sup>255</sup> of total loyalty to the government and have sworn to fight the enemies of the state. They are forced to sign their own death sentences in case of disloyalty to the state; the text of this oath can be

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<sup>251</sup> Afdeling Internationale Rechtshulp in Strafzaken ( *International Legal Assistance Division in Criminal Matters*)

<sup>252</sup> <https://www.bbc.com/gahuza/amakuru-60778526>

<sup>253</sup> <https://www.newtimes.co.rw/news/jean-baptiste-mugimba-gets-25-years-genocide-crimes>

<sup>254</sup> <https://www.raadvanstate.nl/uitspraken/@124086/201907911-1-v6/#highlight=%2c%20ECLI%3aNL%3aRVS%3a2021%3a114>

<sup>255</sup> <https://www.bbc.com/afrique/region-54985445>

found on social media. Some witnesses are prisoners who make a false statement in exchange for the promise of release or a reduction in their prison sentence.

So, this is not a trial about guilt or not, it is only about procedures. If the procedure has been followed correctly according to the judge and if there are no objections to deporting someone to Rwanda, the accused can be deported.

The highest appeal body, the Council of State (Raad van State), is composed of many former politicians and is therefore in fact a political body. In most cases, the Council of State approves the judge's decision. According to figures from the Ministry of Justice, the IND has more than a 20% chance of winning an appeal. An asylum seeker has less than a 5% chance of winning.

For lawyers, it is an unfair fight: the suspect is presumed guilty and must prove his innocence. But in its position of supremacy, the IND is the only omnipotent one to assess the charges and decide whether the testimony is fair, credible, reliable or not. Witnesses and sources of the accused are systematically rejected on the grounds that, according to the IND, 'they are not objective'.

The defence also often has an information deficit vis-à-vis the IND. Firstly, it is difficult for the defence to conduct its own investigations in Rwanda; secondly, it cannot verify the motives of the IND's witnesses as they are anonymised; and thirdly, it is only administrative law which does not allow for cross-examination.

## **5.9. The Netherlands has spent millions of Euros to support the judicial system**

Prior to the genocide, the Netherlands was hardly active in Rwanda except for the presence of an NGO SNV that worked in partnership with local organisations. This changed when the Minister for Development Cooperation, Jan Pronk, visited Rwanda in May 1994. What he saw there shocked him deeply and prompted him to make a strong commitment to Rwanda.

The Netherlands had provided virtually no military support before and during the genocide, despite Pronk's strong insistence. Development aid to Rwanda was seen as repayment of a debt of honour, and although there were many signs of human rights violations at the time, this did not affect Pronk's attitude or Dutch financial support. This support was given to security, governance and especially justice. The Netherlands became one of the main sponsors of the ICTR and the Gacaca: the people's courts that were supposed to relieve the congestion of the ordinary courts. Even in the beginning, these Gacaca courts functioned in an unprofessional way and over time they were increasingly criticised. The Netherlands recognised their shortcomings, but still considered them a good instrument for reconciliation. In addition, the Netherlands contributed significantly to the construction of the international wing of the Mpanga prison and the court buildings, as well as 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 destabilisation of eastern Congo.

However, these suspensions were always subsequently lifted, and new aid was even granted, despite the appalling human rights situation in Rwanda. Dutch diplomats were silent about the

lack of political space and freedom of expression. The trials of Rwandan politician Victoire Ingabire, who had been living in the Netherlands for 16 years, were barely mentioned in public. The Netherlands considered that it was not their responsibility, as Victoire Ingabire had Rwandan, not Dutch, national. However, the Dutch embassy followed the trial closely 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 through its support to the judicial sector. During this period, Rwanda showed a willingness to bring genocide suspects to justice in its own country, and Dutch support was invaluable in achieving this. It was against this background that the first steps of the Rwanda project were taken in 2008: 'Reassessment of Rwandan cases on possible genocide activities'.

It was inevitable that most politicians, prosecutors and judges would think that people could be deported or extradited to Rwanda. After all, the Netherlands itself helped build the judicial system. To say otherwise would be to cast doubt on years of support and on the usefulness of millions of euros of funding.

But since the kidnapping of Paul Rusesabagina and his conviction by the Rwandan courts, former Minister Jan Pronk has become very critical of the Dutch position towards Rwanda. He disagrees with the extradition of Rwandans to Rwanda: *"We extradite people to Rwanda on insufficient grounds. This is irresponsible. If you want to charge people, bring them to justice in the Netherlands and don't extradite them to a country where you don't know if the rule of law is respected. There seems to be a general laziness on the part of the IND and the Dutch legal institutions to get rid of people."*<sup>256</sup>

## **5.10. The Netherlands finances a system of repression**

The Rwandan judicial system operates with the financial support of several Western countries. The Netherlands is one of the four main financial supporters of Rwanda. For years, it has contributed financially to the functioning of the Rwandan judicial system in several areas: costs of certain administrative services, Gacaca courts, the Supreme Court, legal aid NGOs, training of judicial officials<sup>257</sup>, etc.

Given Rwanda's human rights record, as presented at the General Assembly of the UN Human Rights Council in Geneva in January 2021<sup>258</sup>, it is high time that the Dutch taxpayer held the Dutch government to account. What is the result of all this spending?

The Rwandan judicial system is at a standstill. Not only is the quality of the magistrates in office unsatisfactory, but above all, the Rwandan judicial system has become a means of getting rid of

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<sup>256</sup> <https://eenvandaag.avrotros.nl/item/forse-kritiek-van-oud-minister-jan-pronk-op-proces-held-van-hotel-rwanda/>

<sup>257</sup> <http://www.buitenpostdewereld.org/weblog-rwanda-2010/how-much-paid-the-dutch-for.html>

<sup>258</sup> [https://www.ecoi.net/en/file/local/2042308/a\\_hrc\\_wg.6\\_37\\_rwa\\_2\\_E.pdf](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>

opponents and silencing all critical voices. It is time, if not too late, for the financiers of the Rwandan judicial system to realise that they are feeding a system of repression.

Indeed, instead of helping Rwanda to build a judicial system more capable of providing impartial justice based on the rule of law, the substantial financial contribution of the Netherlands to the Rwandan judiciary has been used to strengthen the repressive apparatus of the RPF regime that keeps its population under severe oppression<sup>259</sup>.

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<sup>259</sup> <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#>



## Chapter 6

### Extraditions of Rwandans by other EU countries, the UK and others

*The **European Convention on Human Rights and Fundamental Freedoms** (or the Convention for the Protection of Human Rights and Fundamental Freedoms) aims to guarantee a number of fundamental rights and individual freedoms in states that have ratified it. It refers to the **Universal Declaration of Human Rights of 1948**<sup>260</sup>.*



*The **European Court of Human Rights** intervenes as a **last resort**, i.e., when the applicant has exhausted all domestic remedies (this is called subsidiary jurisdiction).*

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<sup>260</sup> <https://www.echr.coe.int/Pages/home.aspx?p=basictexts>  
<https://www.touteurope.eu/fonctionnement-de-l-ue/la-convention-et-la-cour-europeennes-des-droits-de-l-homme-cedh/>  
<https://www.equalityhumanrights.com/en/what-european-convention-human-rights>  
[https://www.echr.coe.int/Documents/Convention\\_ENG.pdf](https://www.echr.coe.int/Documents/Convention_ENG.pdf)

## Introduction

Amongst the documents declassified by the Dutch Ministry of Foreign Affairs, document n°24 reports on the meeting at European level, in which the Netherlands barely explains the reasons for the strategy of extraditing Rwandans. It also states the basis for the IND's efforts to assist Rwanda in removing obstacles to the extradition of Rwandan refugees<sup>261</sup>.

Many countries considered that the extradition of Rwandans would be conditional on the respect of human rights in that country.

### 6.1 Belgium tries suspects itself but can do better in terms of justice for all

#### 6.1.1 General introduction

It is fair to commend the Belgian government for some but important positive steps it has taken towards Rwandan refugees. In fact, unlike some countries that were early supporters of the RPF (Canada, USA, Holland), Belgium does not have extradition agreements with Rwanda and has therefore never carried out any extradition at the request of the RPF.

It has recently been quite critical of the unjust judgments handed down by Rwandan courts. It is in this capacity that it does not execute the judgments rendered by the infamous Gacaca courts<sup>262</sup>, despite the insistence of the RPF.

Belgium is also one of the few countries to have welcomed former ICTR detainees who have been acquitted or who have served their full sentences on its soil.

It is nevertheless regrettable that in this complex drama, Belgium has signed judicial cooperation agreements with the RPF regime that seem to be asymmetrical.

Belgium also has limited universal jurisdiction<sup>263</sup> and can, if necessary, judge genocide suspects. This has already happened. One of the difficulties lies in the existence of witnesses from Rwanda, where denunciation and manipulation by the regime are common place.

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<sup>261</sup> 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>  
<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>

<sup>262</sup> Case de Rusesabagina et Guy Theunis

<https://reuters.screenocean.com/record/285892>  
<https://rsf.org/en/news/belgian-courts-urged-clear-father-guy-theunis>  
<https://paulr.org/2021/06/09/belgium-parliament-asks-for-rwanda-to-repatriate-rusesabagina/>  
<https://www.lalibre.be/belgique/2005/11/09/guy-theunis-accuse-de-genocide-au-rwanda-transfere-en-belgique-XPDMT64GVNB3TGQN4JBK6ECY4/>  
[https://www.rtf.be/info/monde/detail\\_paul-rusesabagina-le-heros-de-hotel-rwanda-ecope-de-25-ans-de-prison-pour-terrorisme?id=10845375](https://www.rtf.be/info/monde/detail_paul-rusesabagina-le-heros-de-hotel-rwanda-ecope-de-25-ans-de-prison-pour-terrorisme?id=10845375)

<sup>263</sup> <https://casebook.icrc.org/case-study/belgium-law-universal-jurisdiction>  
<https://www.refworld.org/pd/3f1441b04.pdf>

### 6.1.2 Questions about asymmetrical judicial cooperation

Belgium's other major shortcoming lie in the judicial area.

Firstly, despite the fact that a few complaints have been lodged in the past against certain leading figures of the RPF regime in relation to their responsibility in the Rwandan tragedy, no legal action has yet been taken against them.

However, some people admit today, in the light of the mass of information currently available, that the RPF was also heavily involved in the triggering and unfolding of the Rwandan tragedy. Belgium remains one of the potential actors that can play a central role in the reconciliation process of Rwandans, and this is only possible if there is full and impartial justice for all.

The RPF is currently very concerned that it will soon be caught up with its past and its actions. Indeed,

- ✓ The population inside and outside the country is gradually becoming aware that it has been cheated in the so-called war of liberation started by elements of the Ugandan regular army as early as 1990. Indeed, growing inequalities between the victors who are new comers and the people who were in the country are now a reality, , fundamental freedoms have been curtailed, the regime promotes discriminatory practices when it comes to memory for the dead and support to survivors;
- ✓ A lot of information is coming out to the world demonstrating the immense responsibilities of the RPF in the Rwandan tragedy<sup>264</sup>;

Thus, in its strategy of "*mainly trying to weaken what is perceived as a potential political threat emanating from the Rwandan opposition in Belgium*"<sup>265</sup>, the Kigali regime does not hesitate to instrumentalise justice, especially by fabricating, even after more than 27 years, accusations related to the 1994 genocide. The Belgian authorities in general, and the judiciary in particular, should be vigilant on this characteristic aspect of power struggles between groups of Rwandans.

In this regard, it is surprising to note that none of the cases brought against the RPF for their involvement in the Rwandan tragedy has ever led to legal proceedings.

In this regard, some people wonder about the maintenance of a one-way judicial collaboration between Rwanda and Belgium, especially in the light of what happened in the case of the hero of Hotel Rwanda, Paul Rusesabagina.

In conclusion, Belgium should dismantle the network that sows terror in the diaspora, and that exacerbates antagonisms between Rwandans.

Belgium should review all forms of judicial and security collaboration with the RPF regime, until the latter democratises and fully opens its political space and establishes a truly independent justice system.

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<sup>264</sup> <https://mg.co.za/africa/2020-11-29-exclusive-top-secret-testimonies-implicate-rwandas-president-in-war-crimes/>

<https://blackagendareport.com/top-secret-testimonies-implicate-rwandas-president-war-crimes>

<sup>265</sup> Séance Plénière (lchambre.be) 21-01-2020 : <https://www.lchambre.be/doc/CCRI/pdf/55/ic091.pdf>

<https://www.hrw.org/world-report/2022/country-chapters/rwanda>

<https://www.brusselstimes.com/news/belgium-all-news/79862/belgium-a-playground-for-rwandan-spies>

<https://www.beyondintractability.org/casestudy/bekken-rwandas-hidden-divisions>

Belgium should no longer allow itself to be intimidated under the pretext of its colonial past and its supposed inactivity during the genocide. The genocide is above all a Rwandan affair.

Belgium has enough levers to bend the RPF regime and bring it to a less confrontational relationship with Belgium and its diaspora in Belgium.

## 6.2 France

Extradition is, by definition, a procedure whereby a State, known as the "requested State", agrees to hand over a person on its territory to another State, known as the "requesting State", which asks that the person be transferred to it in order to have him tried by its own courts or to have him serve a sentence if he has already been convicted.

Indeed, under the terms of Article 696 paragraph 3 of the French Code of Criminal Procedure, the acts that may give rise to extradition, whether it is a question of requesting it or granting it, are the following

- All acts punishable by criminal penalties under the law of the requesting State;
- Acts punishable by criminal penalties under the law of the requesting State, when the maximum sentence of imprisonment incurred is equal to or greater than two years or, in the case of a convicted person, when the sentence pronounced by the court of the requesting State is equal to or greater than two months' imprisonment.

In no case is extradition granted by the French government if the act is not punishable under French law by a criminal or correctional sentence (JORF of 10 March 2004).

Acts constituting attempts or complicity are subject to the same rules provided that they are punishable under the laws of the requesting and requested States.

Regarding the extradition of Rwandans, France has never extradited a Rwandan, even one prosecuted as a suspected genocidaire. Two cases had been favourable to extradition: the Innocent Musabyimana case in Dijon and the Claude Muhayimana case in Rouen. The Paris Court of Appeal had issued a favourable opinion for their extradition to Rwanda, but this decision was overturned by the Court of Cassation in November 2013. The Court of Cassation justified this decision by two fundamental principles, namely

- the legality of offences and penalties ;
- the non-retroactivity of criminal law.

Article 55<sup>266</sup> of the French Constitution recognises the primacy of international treaties and conventions ratified by Parliament in the domestic legal order. Hence the need to first examine

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<sup>266</sup> Article 55 de la Constitution : Les traités ou accords régulièrement ratifiés ou approuvés ont, dès leur publication, une autorité supérieure à celle des lois, sous réserve, pour chaque accord ou traité, de son application par l'autre partie.

<https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/texte-integral-de-la-constitution-du-4-octobre-1958-en-vigueur>

the principle of extradition as provided for by international treaties and conventions in relation to the domestic order, and then to look at French case law on the extradition of Rwandans.

### 6.2.1. International conventions on extradition in relation to French law

The Convention on the Prevention and Punishment of the Crime of Genocide (CPRCG) is a treaty under international law that was unanimously approved by the General Assembly of the United Nations on 9 December 1948 and entered into force on 12 January 1951 in accordance with Article 13 of this Convention. The latter article fixes the entry into force of the Convention on the 90th day following the deposit of the twentieth instrument of ratification or accession.

The CPRCG has been supplemented by other conventions, namely

- The International Covenant on Civil and Political Rights (ICCPR, UN, 1966) which states that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law".
- The Convention on the Elimination of All Forms of Racial Discrimination (ICERD, UN, 1965 4) which prohibits incitement to racism.
- The *Convention confirming the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity*, adopted on 26 November 1968 by the UN General Assembly, which covers inter alia the crime of genocide (Art. 1b); this treaty entered into force on 11 November 1970.

The contracting parties undertook to prevent and punish genocide, whether committed in time of peace or war (Art. 1) and to adapt their national legislation so that the UN Convention is effectively implemented (Art. 5). This includes providing for criminal sanctions against those who have organised, encouraged or participated in genocide (Art. 3) - regardless of whether they acted on their own initiative or as a representative of an authority (Art. 4). The competent courts may be national or international, and the accused will not be able to avail themselves of the right of political asylum to avoid extradition if necessary (Arts. 6 and 7).

The application of the term genocide to political groups was removed from the Convention at the request of the USSR and the Soviet bloc countries (which, moreover, entered several reservations on Articles IX and XII on the direct application of the Convention to non-autonomous territories).

Upon ratification of the Convention on the Prevention and Punishment of the Crime of Genocide in February 1975, Rwanda expressed in turn reservations on the implementation of Article IX of the Convention with regard to sanctions. This meant that the acts concerned by the Convention were not sanctioned under Rwandan law at the time of their commission, namely during the genocide committed against the Tutsis in 1994.

This reservation was however questionable in the light of Article V of the Convention on the Prevention and Punishment of the Crime of Genocide, which provides that "*The Contracting Parties undertake to take, in accordance with their respective constitutions, the necessary legislative measures to ensure the application of the provisions of the present Convention, and in*

*particular to provide for effective penal sanctions against persons guilty of genocide or any of the other acts enumerated in Article III."*

In other words, it is clear from the documents produced by the Applicant State that no Rwandan criminal law sanctioned the crime of genocide at the time it was committed in 1994, as the texts produced by Rwanda were produced after July 1994. Indeed, Organic Law No 16/2004 of 19 June 2004 punishing the crimes of genocide, war crimes and crimes against humanity is of course after the date of the events.

From this point of view, the French Court of Cassation could only rely on the principle of non-retroactivity of criminal law to reject the extradition request made by Rwanda against its nationals alleged to be *genocidaires*.

In addition to the principle of non-retroactivity of criminal law, France ratified the International Covenant on Civil and Political Rights (ICCPR) on 4 November 1980. In its preamble, the ICCPR implies that the ideal of free human beings enjoying civil and political freedoms and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy civil and political rights, as well as economic, social and cultural rights.

Article 15 (2) of the Covenant provides that: *"Nothing in this article shall preclude the trial or punishment of any person for any act or omission which, at the time when it was committed, was considered criminal according to the general principles of law recognized by the community of nations"*.

Article 15(2) of the ICCPR referred to Article 11(1) of the Universal Declaration of Human Rights (UDHR) in that *"Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law in a public hearing at which he has been afforded all the guarantees necessary for his defence."*

French law therefore criminalises acts of genocide committed after **1 March 1994**, when the new Penal Code came into force. Articles 211-1, 212-1, 212-3 and 127-7 of the Penal Code make the perpetrators of these acts liable to sentences of up to life imprisonment.

Although France has never extradited suspected Rwandan *genocidaires*, the Cour de cassation justifies this position by two fundamental principles, namely

- the legality of offences and penalties ;
- the non-retroactivity of criminal law.

These fundamental principles are intended to guide the French judge in his or her assessment before taking any decision on extradition.

There is, however, an accelerated extradition procedure put in place by European Union states, including France, in the form of the *"European Arrest Warrant"* (EAW).

This is a simplified cross-border judicial surrender procedure for the purposes of criminal prosecution or the execution of a custodial sentence or security measure. It is issued by a judicial authority in an EU country and is valid throughout the EU. The EAW mechanism has been in operation since 1 January 2004. It has replaced the lengthy extradition procedures that



existed between EU countries. A manual of procedures regulates the functioning of an EAW in terms of its issuance and execution.

### 6.2.2. French case law on the extradition of Rwandans

The following case law of the Court of Cassation summarises the above legal principles on which the rejection of the extradition of a Rwandan to France in 2014 was based. We reproduce below in extenso the text:

#### **FRENCH REPUBLIC, IN THE NAME OF THE FRENCH PEOPLE**

THE COURT OF CASSATION, CRIMINAL CHAMBER, rendered the following judgment:

Ruling on the appeal lodged by :

- The Public Prosecutor at the Douai Court of Appeal, against the judgment of the Investigation Division of the said Court of Appeal, dated 12 September 2013, which, in the extradition proceedings against Mr Laurent X... at the request of the government of the Republic of Rwanda, issued an unfavourable opinion ;

*The COURT, ruling after debates at the public hearing of 29 January 2014 where were present: Mr Louvel, President, Ms Caron, Conseiller rapporteur, Mr Foulquié, Mr Moignard, Mr Castel, Mr Raybaud, Mr Moreau, Ms Draï, Conseiller de la Chambre, Mr Laurent, Ms Carbonaro, Mr Beghin, Conseiller référendaires; Advocate General: Mr Le Baut; Clerk of the Chamber: Ms Randouin;*

*On the report of Councillor CARON, the observations of the professional civil law firm WAQUET, FARGE and HAZAN, lawyer at the Court, and the conclusions of Advocate General LE BAUT, Mr Waquet having had the floor last;*

*Having regard to the pleadings in the application and in the defence; On the single plea in law, alleging violation of Articles 696-3 and 696-4 of the Code of Criminal Procedure, violation of the law;*

*"in that the judgment under appeal gave an unfavourable opinion on the request for the extradition of Mr X... submitted on 10 June 2013 by the government of the Republic of Rwanda;*

*"on the grounds that the international arrest warrant issued on 17 May 2013 and the extradition request submitted on 10 June 2013 relate to acts of genocide, complicity in genocide and conspiracy to commit genocide, murder and extermination, formation, membership, participation in and direction of a joint criminal enterprise, the object of which was to cause damage to persons and property, committed between April and July 1994 on Rwandan territory;*

*that under the terms of Article 696-4 of the Code of Criminal Procedure, "Extradition shall not be granted: ... 5° When, according to the law of the requesting State or French law, the statute of limitations for the action was acquired prior to the extradition request, ... ;*

*that under the terms of Article 7 of the Code of Criminal Procedure, "In matters of crime and subject to the provisions of Article 213-5 of the Criminal Code, the public action is prescribed*

*by ten years from the day on which the crime was committed if, in the meantime, no act of investigation or prosecution has been carried out. If there has been one in the meantime, it is not time-barred until ten years have elapsed since the last act. " ;*

*the extradition request does not mention any act interrupting the statute of limitations, except for the international arrest warrant issued on 17 May 2013, i.e., more than ten years after the events; therefore, the acts of murder are time-barred under French law;*

*that under the terms of Article 8 of the Code of Criminal Procedure, "In matters of crime, the statute of limitations for public action is three years; it is fulfilled according to the distinctions specified in the preceding article";*

*that the facts referred to are those of participation in and direction of a joint criminal enterprise, the purpose of which was to harm people and property, facts committed between April and July 1994; that the extradition request does not mention any act interrupting the statute of limitations, apart from the international arrest warrant issued on 17 May 2013, i.e., more than three years after the facts;*

*That, consequently, the said facts are time-barred under French law; that, with regard to the other charges, by decree-law 8/75 of 12 February 1975, approving and ratifying various international conventions relating to human rights, disarmament, the prevention and punishment of certain acts likely to endanger peace between men and nations, it was decided that the Rwandan Republic would accede to the following conventions:*

- *...4. Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity adopted by the General Assembly of the United Nations and dated 26 November 1968, ...*
- *...5. Convention on the Prevention and Punishment of the Crime of Genocide, adopted by the General Assembly of the United Nations on 9 December 1948; that it follows from the documents produced by the requesting State and from the very terms of the international arrest warrant and the extradition request that at the time when the acts were allegedly committed, no Rwandan criminal law incriminated and punished the said crimes, the texts referred to being all subsequent to July 1994;*

*1) whereas, as regards the reciprocity of offences and the statute of limitations, the acts prosecuted as crimes of genocide, complicity in genocide, murder as crimes against humanity and extermination as crimes against humanity, which were committed after 1 March 1994 (the date on which the new Criminal Code came into force), are provided for and punished under French law by Articles 211-1, 212-1, 212-3 and 127-7 of that Code; that they subject the perpetrator to life imprisonment; that, on the other hand, with regard to Rwandan legislation, although it is common ground that the texts of incrimination referred to by the Rwandan authorities were not accompanied, at the time of the events, by any sanction, since organic law no. 16/2004 of 19 June 2004 punishing the crimes of genocide, crimes against humanity and war crimes was promulgated after the date of the events; that, in view of the nature of the acts prosecuted, the "general principles recognised by all nations", as mentioned in Article 15, paragraph 2, of the International Covenant on Civil and Political Rights signed on 16 December 1966 and recalled by Article 49 2a of the*

*EU's Fundamental Charter, could legitimately infringe the general principle that 'no one shall be held guilty of any act or omission which, at the time when it was committed, did not constitute an offence under national or international law', even in the absence of any national legislative transposition of the provisions necessary to ensure the application of the provisions of the Convention of 9 December 1948;*

*2) while it is also appropriate to refer to international conventions (Resolution 260 III A of the United Nations General Assembly of 9 December 1948 ratified by Rwanda by decree - law n° 08/75 of 12 February 1975) and to the same general principles of law recognised by civilised nations to prosecute acts of genocide and crimes against humanity, even if these were not sanctioned in Rwandan law at the time of their commission;*

*3) whereas the crimes of genocide and crimes against humanity are not subject to any statute of limitations under either Rwandan or French law;*

*Whereas, in support of the unfavourable opinion given to the request made by the government of the Republic of Rwanda for the extradition of Mr X... Whereas, in support of the unfavourable opinion given to the request made by the government of the Republic of Rwanda for the extradition of Mr X., the investigating chamber held, inter alia, that the request concerned acts committed between April and July 1994, which it described as crimes against humanity and genocide, which were not criminalised under Rwandan law until after the latter date, and that the other crimes and offences under ordinary law, which were allegedly committed during the same period, were time-barred under French law, in the absence of any interruptive act prior to the international arrest warrant of 17 May 2013;*

*Whereas in so ruling, the investigating chamber did not commit any violation of the law within the meaning of Article 696-15 of the Code of Criminal Procedure, since the offences of genocide and crimes against humanity would have been covered by international instruments, in this case the Genocide Convention of 9 December 1948 and the Convention on the Non-Applicability of Statutory Limitations to Crimes against Humanity of 26 November 1968, which were applicable on the date of the commission of the acts, in the absence, on that same date of a precise and accessible definition of their constituent elements as well as the provision of a penalty by Rwandan law, the principle of criminal legality, enshrined in the International Covenant on Civil and Political Rights as well as in the European Convention on Human Rights and having constitutional value in French law, prevents the said acts from being considered as punishable by the law of the requesting State, within the meaning of Article 696-3, 1°, of the Code of Criminal Procedure; Hence the plea can only be rejected;*

*And whereas the judgment was delivered by a competent investigating chamber composed in accordance with the law, and the procedure is regular;*

*Dismisses the appeal;*

*Thus, made and judged by the Court of Cassation, Criminal Division, and delivered by the President on the twenty-sixth of February two thousand and fourteen;*  
*In witness whereof this judgment has been signed by the President, the Rapporteur and the Clerk of the Chamber;*  
*ECLI:FR:CCASS:2014:CR00808*  
*Publication: Criminal Bulletin 2014, no. 59*

It has already been reported that France has never extradited suspected Rwandan genocidaires on the grounds of the legality of offences and penalties and the non-retroactivity of criminal law. However, two cases had given rise to a favourable extradition opinion by the Paris Court of Appeal, which had tried to circumvent the position of the Cour de cassation. These were the Innocent Musabyimana case and the Claude Muhayimana case, which we examine below:

### **The case of Innocent Musabyimana**

An international warrant had been issued against him and a request for his extradition had been sent to France. He was arrested in January 2013 and then released in May 2013.

Indeed, the Dijon Court of Appeal had ruled in favour of his extradition in January 2013. In order to circumvent the principle of legality of offences and penalties and that of non-retroactivity, the Court had invoked, on the one hand, the international conventions ratified by Rwanda in 1975 and defining genocide, and on the other hand, it had resorted to the provisions of the Rwandan penal code of 1977 which punished common crimes such as murder and rape.

The decision of the Dijon Court of Appeal was quashed on 29 May 2013 by the Court of Cassation, which referred the case to the Paris Court of Appeal. The latter ordered his release but he was placed under judicial supervision by the Dijon public prosecutor's office.

Before the Paris Court of Appeal, the Paris Public Prosecutor's Office had for the first time supported the extradition of a Rwandan, arguing that the crimes committed against humanity and the crimes of genocide are of such gravity that they are not subject to any statute of limitations and that it was therefore justified to respond favourably to the extradition request. The prosecution supported its argument by the fact that Rwanda had abolished the death penalty and that the conditions for a fair trial were therefore met in order to decide in favour of extradition. The prosecution was unsuccessful and the extradition request was rejected.

### **Claude Muhayimana case**

In June 2013, the Collective of Civil Parties for Rwanda (CPCR) represented by Alain Gauthier and his wife Daphrose, filed a complaint against Claude Muhayimana.

He was arrested on 10 April 2014 in the middle of the commemoration of the genocide committed against the Tutsis in 1994. He is under investigation as part of a judicial investigation opened in June 2014. The Paris Court of Appeal ruled in favour of his extradition. He appealed against this decision to the Court of Cassation.

The Court of Cassation opposed the extradition of Claude Muhayimana in February 2015 on the same grounds as those invoked in the case of Innocent Musabyimana. Rwanda had noted with regret the refusal of the Court of Cassation to reject the extradition.

In conclusion, more than twenty investigations are nevertheless underway at the Genocide and Crimes against Humanity Unit of the Paris Tribunal de Grande Instance concerning Rwandans suspected of having participated in the 1994 killings. At present, three cases have been tried before this Tribunal. All three have been appealed against and are still pending before the Paris Court of Appeal.

As part of the fight against impunity, France adopted in 2010 a law on universal jurisdiction and created in 2012 a specialised judicial unit to fight genocide, crimes against humanity and war crimes.

Since the publication of the Duclert report in March 2021 and the visit of French President Emmanuel Macron to Rwanda in May 2021, relations between France and Rwanda have eased: the French Embassy in Kigali has been reopened and a diplomat has reportedly been assigned to the Embassy to closely follow up the cases of Rwandan genocide suspects.

### 6.3 Germany

On the basis of the ICTR's refusals to transfer cases to Rwanda, an appeal court in Frankfurt/Main rejected the extradition requests of two genocide suspects on November 3 2008.

1. On 25<sup>th</sup> June 2008, as part of INTERPOL's Rwandan Genocide Fugitives Project, the General Secretariat headquarters in Lyon, France, circulated to all 186 INTERPOL member countries a list detailing the fugitives wanted by NCB Kigali in connection with the Rwandan genocide<sup>267</sup>.

The first Rwandan was intercepted in Germany<sup>268</sup>. He was released and sent back to France, as Berlin has no extradition agreement with Rwanda<sup>269</sup>. France handed him over to the International Criminal Court.

Pre-Trial Chamber I of the ICC refused to confirm the charges and did not refer the case for trial. The Prosecution's appeal was rejected. On 23 December 2011, he was released from ICC custody. The case is considered closed unless and until the Prosecutor submits new evidence<sup>270</sup>.

2. A second Rwandan was intercepted in transit through Frankfurt and detained on the basis of a hastily prepared extradition request by the Rwandan Government in July 2016<sup>271</sup>. Previous charges communicated to Interpol by the Rwandan government had been found to be unfounded in New Zealand, where he is citizen, and in Belgium, where he had also

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<sup>267</sup> <https://www.interpol.int/en/News-and-Events/News/2008/German-police-arrest-Rwandan-genocide-fugitive-subject-of-INTERPOL-Red-Notice>

<sup>268</sup> <https://www.dw.com/en/rwandan-genocide-suspect-arrested-in-germany/a-3469887>

<sup>269</sup> <https://www.france24.com/en/20080708-genocide-suspect-arrested-rwanda-un>

<sup>270</sup> <https://www.icc-cpi.int/drc/mbarushimana>  
<https://www.icc-cpi.int/pages/item.aspx?name=pr798>

<sup>271</sup> <https://www.justiceinfo.net/en/28797-german-arrest-of-top-aide-to-rwandan-ex-president-raises-questions.html>  
<http://www.fdu-rwanda.com/en/english-germany-should-refuse-to-be-drawn-into-the-machiavelian-operations-of-the-totalitarian-regime-of-president-paul-kagame/>

stayed. In 2007 and 2009, the various pieces of information gathered in the New Zealand and Belgian proceedings invalidated all the alleged charges. On 15 April 2014, the New Zealand Minister for Immigration had informed this New Zealand citizen of the outcome of their investigation. "The outcome of the investigation is that there is nothing that directly links you to planning or participating in genocide."

When he learned of the Interpol Red Notice against him, he himself pleaded his innocence and asked for the arrest warrant to be cancelled.

Germany also considered that the charges against him were full of contradictions and unfounded<sup>272</sup>. Unjustly detained for 9 months, he was released in March 2017 and sent back to New Zealand.

3. A third Rwandan<sup>273</sup> was arrested at the request of the Rwandan government. Germany refused his extradition because of the lack of guarantee of impartial justice in Rwanda. He was tried on the basis of the German universal jurisdiction law. Initially, the Frankfurt court tried him as an accomplice and sentenced him to 14 years in prison. But at this trial he was not found guilty of killing anyone himself. On appeal, at the request of the Federal Court, he was sentenced to life imprisonment<sup>274</sup>.
4. Other Rwandans<sup>275</sup> were arrested for alleged crimes committed by the FDLR. Instead of extraditing them, Germany preferred to try them on the basis of its universal jurisdiction. The leader of the Democratic Forces for the Liberation of Rwanda (FDLR) was sentenced to 13 years in prison on 28 September 2015 while his deputy was sentenced to eight years. Both men, who had been living in Germany for over 20 years, were accused of remotely ordering war crimes committed in the Democratic Republic of Congo (DRC) between January 2008 and their arrest in November 2009. One of them died in prison while awaiting appeal<sup>276</sup>.

## 6.4 Scandinavian countries

### Introduction

In the **Scandinavian countries**, attitudes have varied:

**Denmark** was one of the first countries in Europe to extradite Rwandans accused of genocide. **Sweden**, on the contrary, did not want to send the accused to Rwanda and tried several suspects in its own country. As early as 2005, in order to investigate and possibly extradite or prosecute those suspected of involvement in major international crimes, **Norway** created a special prosecutor's post and set up a unit within the National Criminal Investigation Service (NCIS). **Finland** has refused to extradite individuals to Rwanda because it felt it could not ensure that the trial would be conducted fairly.

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<sup>272</sup> <https://www.justiceinfo.net/en/29899-the-arrest-of-enoch-ruhigira-president-juvenal-habyarimanas-former-chief-of-staff.html>

<sup>273</sup> <https://www.reuters.com/article/us-germany-rwanda-court-idUSKBN0UC11R20151229>

<sup>274</sup> <https://www.dw.com/en/germany-gives-life-sentence-to-rwandan-for-genocide/a-18950040>

<sup>275</sup> <https://www.dw.com/en/german-justice-under-spotlight-as-rwandan-rebel-leaders-are-jailed/a-18746080>

<sup>276</sup> <https://www.dw.com/en/rwandan-rebel-leader-dies-in-germany-awaiting-retrial/a-48385651>



#### 6.4.1. Denmark<sup>277</sup>

1. The former second-in-command of the reconnaissance battalion left Rwanda in 1994 and lived with his wife and two children for two years as a political refugee in western Denmark. He was arrested in Denmark on 15 February 2000 and charged with eleven counts<sup>278</sup>. He was transferred to the International Criminal Tribunal for Rwanda (ICTR) in Arusha, Tanzania, in November 2000. His trial at the ICTR and of his co-accused began on 20 September 2004 and ended on 29 June 2009. Two of them were acquitted on 11 February 2014. The former commander was sentenced to 15 years imprisonment<sup>279</sup>.
2. A teacher at a primary school in Dahwe, in the former Butare prefecture in 1994, was arrested in December 2010. He was sentenced to life imprisonment in absentia in Rwanda in 2008. He had fled to Denmark where he lived under a false identity until the Danish police arrested him in December 2010<sup>280</sup> in Roskilde. His case was important because the Danish Supreme Court had to decide whether the 1955 Genocide Act allowed Danish courts to prosecute people accused of genocide, even when the genocide had not been committed in Denmark and the accused was not a Danish national. Two lower courts ruled that Danish courts could not prosecute, but the Supreme Court overturned the decisions of two lower courts and ruled that the charge of genocide committed in Rwanda by a Rwandan national could indeed be raised in Danish courts. The wording of the 1955 Genocide Act made genocide a criminal offence in Denmark, even if committed outside the country, and Danish law did not require that the accused be a Danish national. It was sufficient that genocide was a crime under both Danish and Rwandan law: the alleged perpetrator could therefore be prosecuted in a Danish court. However, on 26 October 2011, an appeal court in Copenhagen ruled that the Danish genocide law could not be used to prosecute the accused and dismissed part of the case, with the accused remaining in pre-trial detention on the charge of murder<sup>281</sup>. In February 2012, the Rwandan authorities had requested his extradition. In June 2012, the Danish Minister of Justice decided that he should be extradited to Rwanda. The defendant challenged this decision in court, but both at first instance (19 November 2012) and on appeal (22 March 2013) the extradition decision was upheld. The Danish Supreme Court agreed: on 6 November 2013, it decided that there was no reason not to extradite him. He would receive a fair trial and would not be at risk of torture or other inhuman treatment. Preparations for his extradition were blocked after he lodged a complaint with the European Court of Human Rights (ECHR), claiming that his fundamental rights would be violated if he was extradited to Rwanda. However, the ECHR rejected his complaints on 12 January 2014 and upheld the Supreme Court's order authorising the extradition. In December 2017, the

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<sup>277</sup> For security reasons we present most cases anonymously

<sup>278</sup> <http://www.haguejusticeportal.net/index.php?id=10486>

<sup>279</sup> <https://unictr.irmct.org/en/cases/ictr-00-56>

<sup>280</sup> <https://www.newtimes.co.rw/section/read/26676>  
<https://www.internationalcrimesdatabase.org/Case/819/T/>

<sup>281</sup> <https://www.justiceinfo.net/en/23917-en-en-261011-rwandadenmark-genocide-charges-dismissed-in-mbarushimanas-case-1473714737.html>

Special Chamber of the Rwandan High Court for International Crimes sentenced him to life imprisonment<sup>282</sup>.

3. Another Rwandan was arrested in May 2017 and deported from Denmark in December 2018 to Rwanda on the basis of an arrest warrant issued against him by the Rwandan authorities. His case went all the way to the European Court of Justice after Denmark decided to extradite him. His trial is still ongoing and in October 2021 he claimed not to be the person described by 25 prosecution witnesses<sup>283</sup>.

#### **A special case: Sylvere Ahorugeze** <sup>284</sup>

**Sylvere Ahorugeze** is the former director of the Rwandan Civil Aviation Authority and former head of Kigali International Airport. He claims to have left Rwanda on 14 April 1994<sup>285</sup>. Ahorugeze has lived in Denmark since 2001. Denmark opened an investigation in 2006, but the prosecution did not find sufficient evidence and the investigation was discontinued. Rwanda then requested his extradition, but Denmark hesitated: it considered the request incomplete. On 16 July 2008, he was arrested in Sweden, after a visit to the Rwandan embassy in Stockholm. A year later, in July 2009, Sweden decided to extradite Ahorugeze to Rwanda. In July 2009, Ahorugeze filed an application with the European Court of Human Rights (ECHR), again claiming that his extradition would violate Articles 3 and 6 of the ECHR. Ahorugeze believed that because of his Hutu ethnic origin and the conditions of detention in Rwanda, he would be at serious risk of torture and other ill-treatment if extradited to Rwanda. In addition, Ahorugeze suffered from heart problems and claimed that he needed a heart bypass operation within a few years, which could not be done in Rwanda. Furthermore, according to Ahorugeze, a fair trial could not be guaranteed, in particular due to the lack of qualified lawyers to defend him, his inability to call witnesses for fear of reprisals and the lack of independence and of impartiality of the judiciary in Rwanda. Furthermore, as Ahorugeze had testified for the defence in cases tried by the ICTR, he was, in his view, of great interest to the Rwandan authorities. On 20 July 2011, the Swedish government decided not to execute the extradition until further notice. On 27 July 2011, the Supreme Court ordered Ahorugeze's release as there was no reason to keep him in detention until the European Court of Human Rights ruled on his case. Ahorugeze returned to Denmark and has been living there ever since. Rwanda has requested his extradition, but so far without success<sup>286</sup>.

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<sup>282</sup> <https://bigwobber.nl/wp-content/uploads/osd/20171221/6946.pdf>, p12

<https://www.newtimes.co.rw/section/read/226571>

<sup>283</sup> <https://www.chronicles.rw/2021/10/27/genocide-suspect-twagirayezu-wenceslas-is-it-case-of-mistaken-identity/>

<sup>284</sup> [https://www.stradalex.com/en/sl\\_src\\_publ\\_jur\\_int/document/echr\\_37075-09](https://www.stradalex.com/en/sl_src_publ_jur_int/document/echr_37075-09)  
<http://www.asser.nl/upload/documents/20130116T105021-ECtHR%20CASE%20OF%20AHORUGEZE%20v.%20SWEDEN%2027-10-2011.pdf>

<sup>285</sup> <http://www.internationalcrimesdatabase.org/Case/904>

<sup>286</sup> <https://www.newtimes.co.rw/news/extradite-genocide-fugitive-ahorugeze>

### 6.4.2. Sweden

Unlike other countries, Sweden has tried several cases on its own country, not wanting to send the accused to Rwanda, although Swedish law provides for the possibility of extradition to Rwanda.

1. The first genocide trial in Sweden took place in 2012. After the genocide, the accused fled to Sweden and became a Swedish citizen. The Swedish government decided that he should be tried in Sweden, but that victims and witnesses should be interviewed at the Supreme Court in Kigali while the Swedish District Court monitored the examinations via video link. He was convicted in 2013, although he denied the charges. The Swedish court sentenced him to life imprisonment<sup>287</sup>.
2. The second judgment<sup>288</sup> in Sweden concerns a Rwandan refugee who obtained Swedish citizenship in 2012. A Swedish court found him guilty in May 2016 and sentenced him to life imprisonment. On 15 February 2017, the Svea Court of Appeal confirmed this sentence.
3. Another alleged perpetrator, alias Tabaro, was arrested in October 2016<sup>289</sup>. In April 2019, the Svea Court of Appeal confirmed his life sentence decided in June 2019 by a district court<sup>290</sup>.
4. Finally, another Rwandan was arrested in November 2020<sup>291</sup>.

### 6.4.3. Norway

In 2005, Norway established a special prosecutor and a unit within the National Criminal Investigation Service (NCIS) to investigate and possibly extradite or prosecute those suspected of involvement in major international crimes. A list of potential perpetrators was drawn up in 2004.

However, Norway's desire to prosecute war criminals was thwarted when its attempt to have the trial of Michel Bagaragaza transferred to its jurisdiction was refused by the International Criminal Tribunal for Rwanda (ICTR) on the grounds that Norway did not have the appropriate legislation. Although Bagaragaza could have been prosecuted in Norway under ordinary domestic offences such as murder and assault, the ICTR claimed that these charges would not adequately reflect the repugnant nature of the offences with which Bagaragaza was charged. It therefore became apparent that Norway might face opposition in any future attempt to try war criminals under existing law. Consequently, in 2007, the Norwegian government announced its intention to enact legislation to punish key international crimes that were not specifically

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<sup>287</sup> <https://www.bbc.com/news/world-africa-22992242>

<sup>288</sup> <https://www.nytimes.com/2016/05/17/world/europe/sweden-rwanda-claver-berinkindi.html>

<sup>289</sup> <https://trialinternational.org/latest-post/tabaro-theodore/>

<sup>290</sup> <https://www.newtimes.co.rw/news/swedish-court-rukeratabaro-appeal>

<sup>291</sup> <http://www.apanews.net/en/news/new-genocide-suspect-arrested-in-sweden>

provided for in previous national legislation. Since then, the country has increasingly taken a stand against alleged war criminals<sup>292</sup>.

1. A Rwandan man who arrived in Oslo from Belgium, where he had been refused asylum, was arrested in June 2010 at a Norwegian airport. The Belgian authorities claimed that he had travelled through Norway on his way to Brussels and should therefore apply for asylum in Norway in accordance with EU asylum regulations. The person was sentenced to 21 years imprisonment by the Oslo District Court. However, the Norwegian government decided to send him to Rwanda for trial. He was extradited from Norway in March 2013. The accused thus became the first person to be extradited by a European country. In May 2015, the International Crimes Chamber of the High Court in Rwanda handed down a 30-year prison sentence against him. This was the first sentence handed down by the specialised chamber since its creation to try suspects extradited to Rwanda from other jurisdictions. During the appeal before the Rwandan Supreme Court in November 2018, the convict criticised the High Court for convicting him without sufficient evidence. In 2019, the Supreme Court upheld the 30-year sentence<sup>293</sup>.

2. Another Rwandan was arrested in Norway on 3 May 2011. His trial was the first genocide case tried in a Norwegian court. The person had been living in Norway since 2001 and had been granted a residence permit in 2005. He was convicted in February 2013 and sentenced to 21 years in prison - the maximum he could get from a Norwegian court<sup>294</sup>. In December 2014, a court of appeal in Oslo upheld the conviction<sup>295</sup>.

3. Another alleged perpetrator was put under investigation in December 2007 and arrested in Norway in May 2013. He had been living in Norway since 1999. Rwanda formally requested his extradition in August 2013. The District Court of Stavanger, in southwestern Norway, ruled that, despite "several different explanations and observations", the allegations in the extradition request were based on "reasonable grounds".

The court also ruled that the suspect's rights would be respected in Rwanda and that he would be treated fairly by the country's legal system.

In February 2015, the Supreme Court ruled that the defendant should be extradited to Rwanda for trial. His case became very controversial because of a major investigation report by his lawyer. This report proved the existence of false testimony and witness manipulation by the Rwandan authorities. The defence also discovered that important investigation documents had been withheld. The alleged perpetrator was released in March 2017. The Ministry of Justice refused to extradite him to Rwanda in 2020, following reports from his lawyer. He is formally still under investigation; no formal decision has been taken on whether to close the case or bring it to justice.

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<sup>292</sup><https://oxford.universitypressscholarship.com/view/10.1093/acprof:oso/9780199671144.001.0001/acprof-9780199671144-chapter-13>

<sup>293</sup><http://www.genocideresearchhub.org.rw/document/genocidesupreme-court-upholds-30-year-jail-sentence-bandora/>

<sup>294</sup><https://www.nytimes.com/2013/02/15/world/europe/norway-rwandan-convicted-for-his-role-in-1994-genocide.html?r=2&>

<sup>295</sup><https://www.internationalcrimesdatabase.org/Case/919>

4. In June 2018, police in Oslo arrested a man suspected of involvement in the killing of many Tutsis during the 1994 genocide in his African home country. His name has not been released. According to NCIS, the man arrived in Norway in 2006 as a refugee and became a Norwegian citizen in 2014.

### **The particular case of Michel Bagaragaza.**

Until July 1994, Michel Bagaragaza was the Director General of OCIR-Thé, the controlling body of the tea industry in Rwanda. He voluntarily surrendered to the ICTR in 2005. The ICTR prosecutor requested the transfer of his case to Norway. ICTR prosecutors in Arusha were under pressure to clear a backlog of cases and hoped that European nations could help. The case against Michel Bagaragaza would make Norway the second country outside Africa - along with Belgium - to prosecute a Rwandan genocide suspect. But the ICTR Trial Chamber ruled that the Kingdom of Norway lacked jurisdiction over the crimes contained in the indictment and rejected the prosecutors' request<sup>296</sup>. However, the prosecutor did not relent in his efforts to have Bagaragaza's case transferred. After convincing the Dutch government to agree to a transfer, he again asked the Tribunal to transfer the Bagaragaza case. This time, the prosecutor succeeded: by decision of 13 April 2007, the Tribunal agreed to transfer the case to the Netherlands (where Bagaragaza had been detained anyway since 2005, for security reasons, and where he had applied for asylum already in 1998).

However, a decision by the District Court in The Hague in another case against another Rwandan national, in which the court ruled that Dutch courts had no jurisdiction to try a genocide crime committed by non-Dutch nationals abroad before 2003, was made public shortly after Bagaragaza's transfer to the Netherlands. Fearing that the outcome would be the same and that his case would not be prosecuted in the Netherlands, the ICTR asked the Netherlands to transfer Bagaragaza to the ICTR for prosecution.

By a decision of 21 March 2008, the District Court in The Hague authorised the transfer<sup>297</sup>. On 17 September 2009, the accused pleaded guilty to one count of complicity in genocide. By a decision of 17 November 2009, the accused was sentenced to 8 years imprisonment. By a decision of 24 October 2011, he was granted early release as he had served 2/3 of his sentence.

### **6.4.4 Finland**

On 20 February 2009, the Finnish Ministry of Justice refused to extradite a former Rwandan pastor to Rwanda to face genocide and murder charges. The Ministry referred to several ICTR decisions and their conclusion that the right to a fair trial, in particular the right of the defence to call and hear witnesses, could not be guaranteed in Rwanda. According to the Ministry, it had no reason to question the ICTR's findings and no reason to assess the circumstances in Rwanda differently from the ICTR. Given that Finland, by acceding to the European Convention, has committed itself to ensuring a fair trial for persons under its jurisdiction, the Ministry considered that the Finnish authorities could not, by their own actions, contribute to a trial in a foreign state that raises justified concerns as to whether the trial will be conducted fairly.

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<sup>296</sup> <https://unictr.irmct.org/en/news/transfer-bagaragaza-case-kingdom-norway-denied>

<sup>297</sup> <http://www.haguejusticeportal.net/index.php?id=11116>

On the 1<sup>st</sup> June 2009, the alleged perpetrator was charged with genocide and murder in the Finnish courts on the basis of universal jurisdiction under Finnish law. The trial started in September 2009 and on 11 June 2010, after hearing witnesses in Finland, Rwanda and Tanzania, the Porvoo District Court found the defendant guilty. An appeal has been lodged against the conviction.

## 6.5 The United Kingdom

In August 2006, the Rwandan government issued arrest warrants on suspicion of genocide for four men resident in the UK. Following an extradition hearing at the City of Westminster Magistrates Court, District Judge Evans, on 6 June 2008, referred the case to the Secretary of State who, on 1 August 2008, signed extradition orders for the four suspects to Rwanda. Appeals were lodged in the High Court against the judge's decision and the orders of the Secretary of State.

On 8 April 2009, the High Court (Lord Justice Laws and Lord Justice Sullivan) delivered its judgment. Although it did not dispute the existence of a *prima facie* case against the four appellants, on the main issue of whether they would receive a fair trial in Rwanda, its assessment of the facts and evidence differed significantly from that of the District Judge. The High Court stated (at paragraphs 24 and 33) that the legal test for the issue of fair trial - under Article 6 of the Convention - was "*whether the appellants would face a real risk of a flagrant denial of justice if extradited to stand trial in Rwanda*". While the District Judge correctly stated that the burden of proving the existence of such a risk was on the defence, he erred in concluding that the appellants had to prove it on the balance of probabilities. In the High Court's view, this was not the correct meaning of the term "real risk"; rather, the term implied "a risk which is substantial and not merely fanciful; and it can be established by something less than proof of a 51% probability", the same approach taken in refugee cases (paragraph 34).

On the merits of the fair trial issue, the High Court referred extensively to the findings in the ICTR transfer decisions. It noted that there was no specific provision in Rwandan procedural law for witnesses to give evidence by video link and that, in the circumstances, there was at least a significant risk that such facilities would not be available. For example, the UK High Court found that it was likely that the applicants would not be able to call supporting witnesses who refused to testify in person for stated fear of reprisals (paras 64-66).

Furthermore, on the basis of, *inter alia*, a Human Rights Watch report of July 2008 and the testimony of three experts, the High Court concluded that there was evidence of judicial interference by the Rwandan executive and that the appellants would suffer a flagrant denial of justice, particularly with regard to the impartiality and independence of the judiciary (paragraphs 119-121). Accordingly, the appeals of the four appellants were allowed and their extradition refused<sup>298</sup>.

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<sup>298</sup> <https://www.judiciary.uk/wp-content/uploads/2017/07/rwanda-v-nteziryayo-and-others-judgment-20170728.pdf> (pp 107-110 & 359-383)



It is useful to set out the High Court's considerations with regard to a "fair trial". Here are some extracts:

**§ 368:** (...) However, whether viewed as a moral question or tested by the law, if the extraditees were to return to face trial which represented a flagrant denial of justice, then the case is altered. And the judgment on that question cannot be distorted by the desirability of trial in the country where the events took place, much less by such questions as Rwandan national pride, or the aim of building capacity or improving justice in Rwanda, much less of relieving international institutions of a longstanding expensive burden. We think it unlikely that returning defendants to face charges in an inadequate criminal justice system would tend to improve matters there: rather, it would be likely to reduce the pressure to change and improve.

**§ 369:** (...) If there is a real risk of a flagrant denial of justice, that means there is a real risk of the innocent being convicted. To extradite in the face of such a risk, even if motivated by a desire to repatriate the criminal process to the country where it should properly be conducted, would be no more and no less a wrong than it would be to permit a serious miscarriage of justice here.

**§ 370:** (...) We are struck by the fact that these renewed requests from the Government of Rwanda (GoR), relying on improvements in the legal system, come from a state which, in very recent times, has instigated political killings, and has led British police to warn Rwandan nationals living in Britain of credible plans to kill them on the part of that state.

**§ 371:** We are also struck by the conjunction of hostile remarks by President Kagame and others, made during the currency of criminal proceedings, and the reported threats to Professor Reyntjens, Professor Longman, to other lawyers and now to Martin Witteveen, in other words threats not confined to political opponents, but affecting experts and lawyers critical of the criminal justice system in Rwanda. We are not in a position to evaluate these threats in detail. However, the deaths and disappearances which have been established, set beside the detention and mistreatment of defence lawyers such as Peter Erlinder, mean that there is sufficient material to show a real risk of political pressure and political interference in the justice system in Rwanda. It is for these reasons that we have concluded that the view of SDJ Arbuthnot on this issue is not "wrong" but may be, if anything, rather too sanguine, particularly in the light of the new material available to us.

**§ 372:** (...) The GoR argues that they are not to be compared with the cases such as that of Ingabire and others: straightforward political opponents of President Kagame. We accept the distinction, but we must consider how far it operates. We understand the argument that it is in the best interests of the Rwandan authorities to conduct, or permit these trials to be conducted, fairly, since that is the best means to ensuring future extradition of those who have fled. Yet the evidence is not encouraging that that objective reasoning is sufficient to guarantee the outcome. We consider that there is a risk, unless clear conditions of guarantee are established, of interference and pressure in these cases.

**§ 373:** (...) As to the independence of the Rwandan judiciary, we note carefully the context. The evidence suggests that judges are not appointed unless they have party membership of the RPF.... But the capacity of the executive to get rid of judges is established. In such circumstances, there can be little doubt that judges will feel exposed.

**§ 374:** *The evidence is that judges in the past have ignored or resisted pressure. However, as will be obvious, there will rarely be evidence when judges have acceded to pressure. There are many indications that judges would wish to act independently, but there are also indications, including those illustrated by the later Report and Memorandum of Witteveen, when the conduct of trials has been disturbing. Our conclusion here, once again, is that SDJ Arbuthnot is not “wrong”. However, some of the material we have seen was not available to her. Our view is that the evidence points to some risk, depending on the evidence before them and the safeguards in play, that judges might yield to pressure from the Rwandan authorities. .*

**&377:** *(...) Whilst in the context of our court system adequate representation is of course important, other safeguards in the system such as responsible unbiased prosecution, witness protection, unchallenged and complete judicial independence taken together, mean that inadequate defence may be compensated for and a reasonable quality of justice delivered overall. Even in that context, it is well established that miscarriages of justice will occur, where defence representation is inadequate. However, in the context of Rwanda, with the difficulties and weaknesses we have identified, the presence or absence of effective defence is absolutely central. We are completely of one mind with the judge below on that point. .*

**§ 378:** *For the reasons we have identified, and need not repeat, the arrangements for defence in Rwanda are clearly inadequate. They would be inadequate even if the remainder of the criminal justice system was acceptable and the concerns which arise were not present. In an authoritarian state, where judicial independence is institutionally weak and has been compromised in the past, where there is established fear by witnesses, not all of which can be effectively countered, the existing arrangements are quite insufficient to ensure a reasonable fairness in the proceedings. The story of the existing post 2009 genocide cases, the “transferred” case, gives rise to real concern. We cannot rule out a degree of tactical complaint and manoeuvring by those defendants, but objectively the conditions are such as to give ample opportunity for complaint. Here as in other aspects of the case, we pay great regard to Martin Witteveen. We consider that SDJ Arbuthnot was right to rely on his evidence, and that evidence is heavily fortified on this issue by material coming too late for her consideration but which is before us. We cannot find reassurance from the evidence of James Arguin.*

**§ 379:** *Focussing on the correct legal test, we have considered carefully whether the problems identified are sufficient to establish a real risk of a truly serious or flagrant denial of justice. We find, as matters now stand, that they are sufficient to do so. We also find, with the remarks of Lord Phillips in RB (Algeria) in mind, that the result of such a fundamental breach of the principles of a fair trial might be likely to lead to serious miscarriages of justice, in this context where, in the one completed transfer case, there has been a conviction for genocide, leading to a prison sentence of 30 years, itself regarded as lenient.*

**§ 382:** *(...) we are prepared to permit the Appellant a final opportunity to seek to assure the Court that credible and verifiable conditions will be in place, to overcome the legal bar to extradition upheld above. It should by no means be assumed that such assurances will successfully overcome the bar to extradition given the historical failure of the Appellant to cooperate in prosecutions in England, the serious concerns articulated earlier in this judgment, the length of time that has passed and the inherent difficulty of being able to rely on assurances.*

In order to agree to extraditions to Rwanda, the UK has set out as a precondition: a detailed, formal assurance or guarantee backed up by significant diplomatic weight. These should include at least

*&383(...) (1) adequate funding for investigation and development of defence cases and for representation in Court by experienced and properly resourced advocates, (2) assurance of admission to the Rwandan Bar for suitably qualified and experienced foreign lawyers as defence counsel, where desired, and (3) inclusion of at least one non-Rwandan judge in any trial, such judge to be suitably experienced and independent of any connection with the Government of Rwanda (for example an existing judge of another relevant international Court or tribunal).*

The defendants were released from detention.

## 6.6 Interpol implicated

The November 2021 article on [www.justsecurity.org](http://www.justsecurity.org)<sup>299</sup> informs us that members of the US Congress are deeply concerned about the rise of the phenomenon of transnational repression - that is, cross-border actions ranging from assassinations, kidnappings to intimidation,... aimed at deterring and suppressing opposition or dissent.

The article points out that one of the means used by some repressive states, **including Rwanda**, China, Turkey, Saudi Arabia, Russia and Iran, is the abuse of the services of Interpol, the international organisation charged with facilitating global police cooperation.

These congressmen rightly point out that, as the largest financial contributor to the operation of Interpol, the US should use its leverage to stop the corruption within this organisation aimed at supporting transnational repression,

It is clear that the phenomenon of transnational repression goes beyond the abuses of Interpol, and therefore (but) democratic countries and other countries with a high regard for human rights should follow the lead of the US Congress and decide not to cooperate with oppressive states such as Rwanda.

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<sup>299</sup> <https://www.justsecurity.org/79161/abuse-of-interpol-for-transnational-repression-assessing-the-fy22-ndaas-provisions-for-prevention/>

## Conclusion

This book will have demonstrated beyond any reasonable doubt that the current Rwandan regime is among the most repressive in the world with a score of 21% in terms of respect for political and civil rights ( Freedom House report 2021), and prison conditions that are among the most appalling in the world. It has also been shown that Rwanda has a record number of 'suicides' of intellectuals, professionals, artists while in police custody and is among the few countries where criticism of the head of state is considered as a symptom of mental disorder and arrested manu militari by the Bureau of Investigation (RIB) to be taken to a psychiatric centre.

Rwanda is probably the only country in the world where the head of state publicly declares that he will authorise his security services to shoot people 'suspected' of threatening his regime in broad daylight, and publicly sells himself as someone who does not care about assassinations and abductions of political opponents abroad.

This book has also documented that the Rwandan judicial system does not meet any of the preconditions for fair trials, especially those related to political activities. Fair trial standards are routinely flouted in many politically sensitive cases, where charges related to the political survival of the regime are often used to prosecute critics of the government. The judicial system has thus become one of the instruments of domestic and transnational repression.

It is difficult to understand why democratic human rights countries continue to rely on testimonies provided by the Rwandan dictatorial regime, obtained under duress from witnesses who are in Rwanda, paid or otherwise given other incentives, or picked from those who have pledged total loyalty to the government at official ceremonies, during which they sign their own death sentence in case of disloyalty.

Some of these false witnesses are sometimes also prisoners who give false testimony in exchange for the promise of release or lighter sentence.. On the other hand, lawyers fight with their hands tied behind their backs, as the suspect has to prove his innocence, and statements from defence witnesses and other sources are systematically rejected. Moreover, it is an open secret that the RPF's police control of the population leaves virtually no opportunity for defence witnesses to express themselves freely.

This is no longer just a question of the absence of the rule of law or the lack of respect for human rights, but and above all compromising national reconciliation, peace and stability in the country in the medium and long term. As Maina Kiai, the UN Special Rapporteur on the rights to freedom of peaceful demonstration and association, pointed out in her June 2014 speech to the Human Rights Council, *"the fear of a new genocide cannot be invoked to flout fundamental rights in any society, since they are in fact necessary to prevent conflict and genocide"*. Hence *"He who passively accepts evil is as much involved as he who helps to perpetrate it. (Martin Luther King Jr.)"*

**Favouring political and economic interests over respect for human rights is a recipe for the future implosion of Rwanda.**

History has shown that a policy of appeasement and collaboration has encouraged rather than changed the behaviour of dictatorships. The world has plenty of examples of this, including the cases of Hitler and Mussolini in Europe.

In view of the nature of the RPF regime as described in this book, it is clear that the motivations for the policy of appeasement and especially direct collaboration with this notoriously repressive regime by handing over political opponents, are far from being the promotion of justice or respect for human rights. It is more plausible to suggest that these manoeuvres are linked to short term political and commercial interests that do not take into account their impact on the long-term peace and stability of Rwanda. This policy undermines democratic values and national reconciliation; it contributes to entrenching repression and selective justice that led to the same conditions of conflict that culminated in the Rwandan genocide.

It is our very considered view that Western countries, especially the Dutch government, should stop handing over critics to the Rwandan dictatorial regime. It is common knowledge that this party-state regime, the RPF, carries out assassinations and abductions of opponents both abroad and at home. It is not in the long-term interest of European citizens and Rwanda that Western countries support a system that they know is no longer viable.

## Annex 1

### **The historical context of Rwanda<sup>300</sup>**

There are two main schools of historians who argue about the history of modern Rwanda with regard to the origin of the different ethnic groups in Rwanda: the migration theory and the social differentiation theory<sup>301</sup>.

To avoid going too far into these debates, we have opted for what is commonly known as the migration theory.

### **Original population of Rwanda, Burundi and Congo, 700 BC**

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

The first Hutus settled in the Great Lakes region around 700 B.C. They belong to the Bantu peoples, who have been slowly spreading in Central Africa since 1000 B.C. The Bantu were farmers and looked for new land. They found it in the Great Lakes region. In Rwanda and Burundi, it was mainly the Hutu Bantu who settled, while in Congo other Bantu tribes such as the Mongo, Luba and Longo settled.

### **The Tutsis arrive in Rwanda and Burundi**

It was not until the 13th century AD that the Tutsis arrived in Rwanda and Burundi. They were cattle breeders. Opinions are divided on their exact origin. Among other things, they are related to the great Masai. Their arrival is not massive, the families arrived gradually in the region. The Tutsi culture is more hierarchical than that of the Twa or the Hutu. Martial arts play a more important role.

### **Changing relationships in Rwanda and Burundi, 17th-19th centuries**

Herders and farmers generally do not mix well. Herders (in our case cattle herders) are nomads, they need a lot of space for their cattle. Farmers are sedentary, settle in a place where they work the land they cherish, they don't like cows trampling on the crops.

From the 17th century onwards, the Tutsis started to conquer the land of the Hutus because they needed more pasture. The Tutsis managed to conquer 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 is however synonymous with status, which explains why many Tutsis have a higher status as cattle breeders than Hutus who were traditionally farmers. As the size of the herd determines the status of a person, Hutus can also rise to the rank of Tutsi and Tutsis can fall back to the rank of Hutu if they lose all their cows.

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<sup>300</sup> A big part of this historical background comes from the book: *Rijke mensen sterven niet*, written by Anneke Verbraeken

<sup>301</sup> [https://en.wikipedia.org/wiki/History\\_of\\_Rwanda](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>



In the 19th century there were two Tutsi kingdoms: Ruanda and Urundi. The Hutus played a subordinate role, they were obliged to perform all kinds of services for the Tutsis. The upper class of administrators was largely composed of Tutsis. The Twa are a minority, they do not play an important role and live in the forests.

### **Congo: property of King Leopold II, 1885-1908**

At the end of the 19th century, Western explorers discovered the Great Lakes region: they were all looking for the mythical sources of the Nile.

At the Berlin Conference of 1885 (84), fifteen European countries and the United States determined the spheres of influence on the African continent: East Africa, including Burundi and Rwanda, became Germany's; the Congo was awarded to the Belgian King Leopold II, who proclaimed the Congo Free State as his personal property; Leopold could do whatever he wanted with the Congo. He used the Congolese as slaves on his rubber plantations. An estimated five million Congolese died of disease, exhaustion and exploitation. When news of what was happening in the Congo spread, international outrage followed. In 1908, Leopold had to hand over his country to the Belgian state.

### **Rwanda and Burundi: colonies of Germany, 1895-1918**

Around 1895, Rwanda and Burundi had to deal with the arrival of German colonialists, as these territories had been allocated to Germany at the Berlin Conference. The Germans considered the Tutsis as natural rulers and left most of the administration to them. Only a dozen German officials governed the two countries when the First World War broke out in 1914.

### **Belgian colonial rule**

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 African campaign led by the Belgians and the British was a success. As a reward, the Belgians received Rwanda and Burundi, which was formalised in 1919 by the Treaty of Versailles. The League of Nations issued a mandate appointing Belgium as governor; the region was merged and renamed Ruanda-Urundi.

From 1925, Ruanda-Urundi became part of the Belgian Congo. As Rwanda and Burundi had hardly 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 arrived in Ruanda-Urundi. At first the Tutsis were not very enthusiastic about the Catholic Church and pushed the Hutus to be converted to Christianity;. When the Tutsi leaders saw that they could secure their position through the Catholic Church and that education at the mission school was good for their career, the Tutsis also converted.

The Catholic Church favoured the Tutsis, based on the belief that the Tutsis are descendants of the Hamites of North Africa, a race allegedly related to the Europeans and genetically predestined to rule. Moreover, the Tutsis are monotheistic, which also pleases 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 access to education.

In the 1930s, under the influence of eugenics, the Belgians fully implemented the ethnic division into three groups: every inhabitant of Ruanda-Urundi received an identity book in which the ethnicity (Twa, Hutu or Tutsi) would be included. The Belgians even devised a measurement system based on external characteristics (skull, nose, body size) to identify ethnicity. The ethnicity on the identity card largely determined a person's education and future. But it is not easy to determine ethnicity: Hutus and Tutsis lived together for centuries, intermarried and had children. Ethnicity was not only determined by external characteristics, 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 was placed under the aegis of the United Nations and, just as after the First World War, was put under Belgian trusteeship. The Belgians had to ensure that the region would evolve towards independence, even if this would take several decades.

The Church was modernising and the call for democracy was becoming more important. The Catholic Church increasingly defended the Hutus; it believed that the Hutus should have the same rights as the Tutsis.

This improved the situation of the Hutus and gave them more access to good schools. Livestock and land were also redistributed, allowing more Hutus to own livestock, although most land remained Tutsi property. The Tutsis pushed for independence quickly; they still had influence with the Belgians but expected the tide could turn against them. This is indeed what happened; the Belgians focussed more and more on the Hutus, especially because they represent the majority of the population with 85%. The Belgians supported the independence movement of the Hutu elite. The first political parties appeared along ethnic lines. From the mid-1950s, ethnic tensions intensified.

In the summer of 1959, the Tutsi king Mutara died under suspicious circumstances in Rwanda ([Bujumbura- Burundi?](#)). The king's death was the starting point for months of unrest. When a Hutu leader was attacked in November, it became the trigger of the Hutu revolution. 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 a Hutu, Gregoire Kayibanda. He took office after the 1961 parliamentary elections. Not surprisingly, the elections were won by the Hutus given their 85% numerical preponderance. Like the Congo, Rwanda became a one-party state, thanks to a Hutu elite that tried to seize all power.

### **Rwanda: events leading to war and genocide, 1970-1990**

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

In July 1973, Hutu Defence Minister Juvénal Habyarimana staged a coup.

After this military coup, tensions increased when the Hutu government introduced the principle of regional and ethnic balance, especially in secondary and university education. This meant that many Tutsi students were not admitted to education, which was intended to ensure

that school places were allocated in proportion to the ethnic and regional percentage of 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 trusted people hold the power and money. Thanks to the relative calm, foreign donors were interested in Rwanda and Kigali had turned into a city. The WB was in praise of government achievements: *"Food production in Rwanda increased by 4.7% while the population grew by 3.4% between 1975 and 1982. Rwanda has avoided the urban inequalities so common in Africa. The government listened to the majority of farmers in determining price policy, exchange rate policy, fiscal priorities and effective rural institutions. In this favourable environment, production increased largely due to spontaneous changes undertaken by farmers"*<sup>302</sup>.

In the late 1980s, the international community decided that Burundi and Rwanda should become democracies, so both countries moved from a one-party system to a multi-party system. Rwanda embarked on the democratic process after the La Baule conference in 1990<sup>303</sup>. In October 1990, the RPF (Rwandan Patriotic Front), dominated by Tutsis, invaded Rwanda from Uganda, with the declared aim of ending Rwandan refugee status and establishing democracy in Rwanda.

Paul Kagame, who fled to Uganda in 1959 and grew up in a refugee camp, became one of the main leaders of this invasion. He was a junior military intelligence officer ( a Major) in the Ugandan army. When Major General Fred Rwigema, former deputy chief of staff of the Ugandan army, died in October 1990, Kagame took () over command of the rebel group.

### **Rwanda: Unrest increases, 1991 - February 1994**

With the introduction of multiparty politics in Rwanda, ethnic divisions increased in the early 1990s. From 1991, each party has had a youth wing that turned later into a militia: Interahamwe for the MRND; Inkuba for the MDR and Abakombozi for the PSD. The best known are the Interahamwe, the youth of the dominant Hutu party MRND. They were accused of being responsible for many massacres during the 1994 genocide. Curiously, the president of the Interahamwe, Robert Kajuga, was Tutsi.

Meanwhile, RPF guerrilla attacks from Uganda into Rwandan territory continued. There were numerous reports of massacres of Hutus who did not want to join the RPF in the conquered areas. Hutu survivors fled these atrocities<sup>304</sup>. According to the International Red Cross, there were 900,000 displaced persons in April 1993 in the Nyacyonga camp<sup>305</sup> at the gates of Kigali.

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<sup>302</sup> <http://documents.worldbank.org/curated/en/498241468742846138/pdf/multi0page.pdf> page 105.

<sup>303</sup> [https://fr.wikipedia.org/wiki/Discours\\_de\\_La\\_Baule](https://fr.wikipedia.org/wiki/Discours_de_La_Baule)

<sup>304</sup> <https://www.bbc.com/news/world-africa-35070220>  
[https://en.wikipedia.org/wiki/In\\_Praise\\_of\\_Blood](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/>

<sup>305</sup> <https://avarchives.icrc.org/Picture/83237>  
<https://rwanda.hypotheses.org/960>  
<https://www.alamy.com/stock-photo-nyaconga-camp-around-60-000-of-displaced-people-all-hutus-23819542.html>

In response, Tutsis were murdered. The fighting reached a temporary peak later in 1993 when the RPF advanced to the gates of Kigali.

Negotiations took place under heavy diplomatic pressure and in August 1993 an agreement was reached in Arusha<sup>306</sup>, Tanzania, which included the establishment of a mixed Hutu-Tutsi transitional government and the merging of the Rwandan national army (FAR) and the RPF army (RPA). In November, a UN peacekeeping force, mainly composed of Belgian soldiers, arrived. Their mission was to ensure that all parties respected the agreement.

At the same time, targeted killings of politicians inside Rwanda increased. Many people point to the RPF as being responsible. At the same time, mutual distrust among the Hutus increased: some Hutu parties were in favour of cooperation with the RPF, others are strongly opposed to it.

The RPF broadcasted its propaganda on the radio station Muhabura. In response, a number of people, mostly ethnic Hutus, set up Radio-Télévision Libre Milles Collines (RTLM), which was later accused of spreading hatred.

### **Genocide in Rwanda, April - July 1994**

General Habyarimana remained in power until 6 April 1994, when his plane was shot down and crashed into his own residence. The plane was carrying the Rwandan president and the new Burundian president.

Who shot down the plane?

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

With the announcement of the death of the Rwandan president, all hell broke loose in Rwanda. The presidential guard massacred opposition leaders and Tutsi ministers. Ten Belgian peacekeepers were also killed, as the radio reported that the Belgian peacekeepers were responsible or complicit in the death of the president.

Hutu militia groups, mainly from parties opposed to the RPF, all of whom were assimilated to the Interahamwe, roamed the country, killing all Tutsis in their way. RPF militias also roamed the country, in turn driving out the Hutus. Many people took advantage of this violent situation to settle old scores with their families, neighbours, colleagues and acquaintances.

It was an unprecedented bloodbath; in three months, it is estimated that more than one million Rwandans were killed. The peacekeepers did nothing, the international community looked the other way. The RPF asked all foreign forces to leave the country<sup>307</sup>. The genocide left the country and its people completely traumatised. There is not a single family that has not lost someone.

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<sup>306</sup> <https://peacemaker.un.org/rwanda-peaceagreementtrpf93>  
<https://nsarchive2.gwu.edu/NSAEBB/NSAEBB469/>

<sup>307</sup> <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB117/Rw29.pdf>  
<https://medium.com/@RwandaBriefing/déclaration-par-le-rpf-sur-le-déploiement-proposé-d'un-u-n-b0a7cfe6bda8>

### **Rwanda after the genocide: July 1994-1995**

On 7 (4) July 1994, RPF troops marched on Kigali. Almost two weeks later, a government composed of Hutus and Tutsis was formed, but the Tutsis get the most important posts. Paul Kagame became vice-president and minister of defence. Although he was not 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 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 the refugees back to Rwanda, most of the political leaders tried to flee abroad; they feared for their lives if they were forced to return to Rwanda.

Several attempts were made to return the refugees in dignity, but they were rejected by the regime in Kigali. At the same time the "Interahamwe" and the military in the camps tried to set up a new army to overthrow the Kigali regime. In 1996, Rwandan Defence Minister Kagame stopped this threat and bombed the refugee camps. Thousands of civilians were killed and a new mass... displacement of population started.

Hundreds of thousands of people undertook a terrible 2,000-kilometre journey from the east to the west of the Congo. They were ruthlessly pursued by the Rwandan army and the rebel army of Laurent Kabila, who wanted to depose President Mobutu. Again, thousands of Rwandans, mainly Hutus, died. A UN report speaks of a secret genocide by the Rwandan army against Hutu refugees. This second genocide is a taboo subject in Rwanda; it does not fit the image of Kagame as the one who ended the genocide.

### **Congo: Kabila in power, 1997**

Kabila's rebels and the Rwandan army arrived in Kinshasa in May 1997. Kabila proclaimed himself president, ending the Mobutu era. Rwanda and Uganda supported Kabila in Kinshasa. Having made the 2,000-kilometre journey together, they all wanted a piece of the resource-rich Congo. Rwandan General James Kabarebe of the RPF became chief of staff of the Congolese army.

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

### **Eastern 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 asked for help from the remaining Hutu fighters in eastern Congo. They too had become rebels, the FDLR, a group still active in North Kivu in particular. The FDLR stated that their main

objective was to protect Hutu refugees and to press for a negotiated return of the refugees in dignity and to end Tutsi domination of all levels 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 became in fact a struggle for minerals.

Throughout the conquest of the Congo by the RPF and its allies, many Hutu refugees were massacred. The Mapping Report even mentions acts of genocide<sup>308</sup>.

Rwanda continue to support the rebel groups to this day. This makes eastern Congo one of the most dangerous regions in the world. The rebels loot villages, steal minerals, rape and kill. International companies, neighbouring countries and (local) authorities prey on the region 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 - today**

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

How do you treat your neighbour if he killed your father?

How does it feel to meet your sister's rapist in the street?

Rwandans, already very reserved, became even more reserved and suspicious.

In the years that followed, the Tutsi dominated government officially declared that the genocide was a genocide of the Tutsis. Anyone who claims that Hutus were also murdered during the genocide faces a heavy prison sentence. However, according to the law, there are no longer Hutus and Tutsis in the new Rwanda, only Rwandans.

The prisons are full of people accused of mass murder; the conditions are degrading. It soon became clear that ordinary justice could not cope with the huge numbers. There was a return to the earlier popular jurisdiction dating from the 17th century: the Gacaca, where wise men decide whether someone is guilty or not. The traditional Gacaca had ended during the period of colonisation.

After the genocide, this form of justice was revived, but the lay judges were not quite up to the task, especially in the beginning. They were trained by, among others, the Netherlands, observers were appointed and the quality improved. But there is also a lot of criticism<sup>309</sup>: people used them to settle scores, to get property and land; the system was used to silence critics of the regime and became selective because only Hutus were tried, not Tutsis.

The Gacaca courts were intended for people accused of "minor to medium" crimes. According to Rwandan government figures, nearly two million cases were processed; the Gacaca were abolished in 2012, when most cases had been processed.

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<sup>308</sup> <https://www.ohchr.org/en/countries/africaregion/pages/rdcprojetmapping.aspx>  
[https://www.ohchr.org/Documents/Countries/CD/DRC/MAPPING\\_REPORT\\_FINAL\\_EN.pdf](https://www.ohchr.org/Documents/Countries/CD/DRC/MAPPING_REPORT_FINAL_EN.pdf)

<sup>309</sup> <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/>



In Arusha - Tanzania, , the International Criminal Tribunal for Rwanda (ICTR) was established to try those accused of the most serious crimes committed during the genocide. Again, only Hutus were tried.

With Paul Kagame at the helm, the country slowly started to rebuild itself economically. The international community realised that it had looked the other way at crucial moments of the genocide and supported Rwanda with money and knowledge. Rwanda became the darling of donors and humanitarian aid organisations.

In 2000, Vice President Paul 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 which Rwandans could choose, but they were of little importance.

President Kagame became more and more of a dictator, especially as the second 'free' elections in 2010 approached. Overnight, English became the language of communication instead of French. History has also been rewritten again and again: one narrative is that the RPF did not commit any crime before or after the genocide and Kagame, and his army, are the great liberators of Rwanda. Reports like the UN Mapping Report and human rights organisations like HRW and Amnesty are repeatedly dismissed as baseless.

Kagame won the 2010 elections with over 90% of the vote. His second term officially ended in 2017, but parliament voted in 2015<sup>310</sup> to amend the constitution, allowing Kagame to remain president until 2034. On 4 August 2017, Paul Kagame was re-elected president with 99% of the vote.

There is apparent peace in Rwanda, no dissenting voices are tolerated, the opposition is muzzled, disappearances<sup>311</sup> of people continue, even genocide survivors no longer feel safe with the RPF<sup>312</sup>.

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<sup>310</sup> [https://www.europarl.europa.eu/doceo/document/E-8-2015-012336\\_EN.html](https://www.europarl.europa.eu/doceo/document/E-8-2015-012336_EN.html)

<sup>311</sup> <http://www.rwandanlivesmatter.site/#/>

<sup>312</sup> <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 sustainable peaceful Rwandan society

##### 1. What is "All for Rwanda"<sup>313</sup>?

Many of us left Rwanda at a very young age. We are recovering from the trauma we experienced during the war in Rwanda between 1990 and 1994. But today, we are also deeply disturbed by the destruction of our social stability as a result of a politically motivated campaign of destabilisation by the Rwandan government against the elders in our community.

In African culture, elders are respected not because of their age, but because of their wisdom and the strict moral integrity they must demonstrate and instil in the young. If you undermine their reputation and dignity, as the Rwandan regime is trying to do, you undermine the social fabric of the community. We are Dutch nationals and want to participate in building 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 *"Droits des opposants, réfugiés politiques et activistes (DORPA)"*<sup>314</sup>. This approach aims to open a debate to reflect on the ways that can lead to the building of a state where there is rule of law, where all Rwandans can live together in harmony and in the respect of human rights.

DORPA aims to promote and defend the rights and freedoms of human rights activists, Rwandan political opponents in exile or descendants of Rwandan exiles who are acting to implement and consolidate the rule of law in Rwanda.

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

##### 2. "All for Rwanda: the challenge of building a Rwanda for all

###### Vision

"All for Rwanda": for a Rwanda for all in a state where there is rule of law, where people are free to express their opinions, where the opposition can work without any restrictions, with a government that brings peace, harmony, economic prosperity and well-being for all its citizens inside and outside the country.

###### Mission

We are an interactive youth-centred group that campaigns for a Rwanda for all. We organise all kinds of activities to achieve this mission. We want to engage Rwandan youth from inside and outside Rwanda, in political, social, economic and human rights activism so that Rwanda can be transformed into a peaceful, harmonious and prosperous country. We want to establish transparency in international and national affairs related to Rwanda, so that people, including policy makers and journalists, have reliable information to make their decisions.

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<sup>313</sup> <https://www.allforrwanda.org/>

<sup>314</sup> **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 Western countries and Rwanda

Twenty-eight years after the Rwandan tragedy that claimed the lives of countless innocent people, the Rwandan population is still suffering from the aftermath of a bloody war that started in October 1990 and from the Rwandan genocide that followed.

The social system is demolished as it is confronted with a highly contested reconciliation process initiated by the regime. Rwandans continue to be disenfranchised and flee their country. Several analyses lead to the same conclusion: the main problem is power.

The negative generalisation of ethnicity and the absence of dialogue lead to the recurrent pattern of a logic of conquering power through the use of violence and use of ethnicity for mobilisation. This explains the absence of the rule of law, the periodic organisation of undemocratic, unfair and non-transparent elections and the cyclical conflicts that have regularly marked Rwanda. It is therefore obvious and imperative to organise a highly inclusive Inter-Rwandan Dialogue (HIIRD).

Through this dialogue, representatives of the different stakeholders in Rwandan society will agree on mechanisms for good governance and power management through constitutional arrangements that will guarantee the personal security and dignity of every Rwandan. This process should lead to the restoration of democracy and true national reconciliation in which all citizens enjoy equal rights in all sectors of life and where interests and solidarity are defined on the basis of shared political ideas, rather than on the basis of ethnicity or region of origin.

It is not in the long-term commercial, moral, political and strategic interests of the West or any other democratic country to hand over prominent political opponents or any other political activists to a government known to violate fundamental rights in its policy of "*repression across borders*" to silence critics.

Any initiative by Western countries that would support the establishment of a democratic system and the rule of law in Rwanda would greatly enhance political stability in Rwanda and the Central and East African region. It would consolidate the image of democratic countries that regularly fight for international justice and respect for human rights<sup>315</sup> and the law.

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<sup>315</sup> <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

*Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world;*

*Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people;*

*Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law;*

*Whereas it is essential to promote the development of friendly relations between nations...*



*“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*