

## **Rwanda: Historic Ruling Expected for Former President and Seven Others**

### **A Human Rights Watch Backgrounder**

The Supreme Court of Rwanda is scheduled to rule January 17 on the bid by former president Pasteur Bizimungu and seven others to have their convictions on charges of having formed a criminal association quashed. Bizimungu and former Public Works Minister Charles Ntakirutinka are also appealing convictions on charges of spreading rumors to incite rebellion against the government; in addition Bizimungu is appealing a conviction on the charge of embezzling government funds.

This is the first major case to be decided by the Supreme Court since the judicial system was reformed two years ago. In light of the egregious errors by the trial court in this case, the ruling will likely say much about judicial competence and independence of the country's highest court, and have major consequences for the future credibility of the rule of law in Rwanda.

### **Background**

Pasteur Bizimungu, head of an important parastatal corporation in Rwanda in the 1980's, fell out with then Rwandan President Juvenal Habyarimana and fled the country. He then joined the Rwandan Patriotic Front (RPF), a guerilla movement opposed to Habyarimana. The RPF, led by Paul Kagame, was dominated by Tutsi but incorporated a number of Hutu, like Bizimungu, in its ranks. After defeating the Rwandan government which was responsible for a genocide of the Tutsi population in 1994, the RPF established a new government to rule for a transitional period with Bizimungu as president. In early 2000, the RPF pressured Bizimungu into resigning, and Kagame assumed the Rwandan presidency.

In 2001, Bizimungu, Ntakirutinka, and several others -- some Hutu, some Tutsi-- sought to create a new political party, the Party for Democratic Renewal-Ubuyanja (PDR-

Ubuyanja), in anticipation of presidential elections scheduled for 2003. Though the 1991 law on political parties permitted the establishment of a new party, authorities rejected the effort, arguing that no new parties could be permitted during the transition period. In the following months Bizimungu and Ntakirutinka were subject to harassment: officials disrupted a press conference and police interrupted a visit by foreign diplomats to Bizimungu at his home. Street gangs attacked both political leaders. Bizimungu published a book in November 2001 but was not permitted to distribute it.

In December 2001 Gratién Munyarubuga, one of those involved in creating Ubuyanja, was assassinated in mid-day in the capital Kigali while members of the Local Defense Force, a state security agency, failed to intervene or to arrest the perpetrators.

As the official disapproval of Ubuyanja was made clear, several members – most or all of them Tutsi - withdrew from the party and denounced it, leaving only Hutu as members of the group.

### **Arrest and Charges**

In April 2002, Bizimungu and Ntakirutinka were arrested on charges of establishing a political party. But when the two appeared in court, they found themselves accused of creating a criminal association, spreading rumors to incite rebellion, and plotting to overthrow the government. Bizimungu was also accused of embezzling government funds, tax fraud, and illegal possession of a firearm.

The six persons tried with Bizimungu and Ntakirutinka were also accused of creating a criminal association. The association was said to have harassed genocide survivors by throwing stones on the roofs of their houses and to have planned to burn down a power plant, among other activities.

The prosecution never attempted to prove any charges relating directly to the establishment of a political party, but throughout the proceedings referred frequently to Ubuyanja, apparently equating it to the alleged criminal association.

### **Weaknesses in the prosecution case**

After some procedural wrangles and long delays, the group was brought to trial in April 2004. The proceedings themselves moved quickly. The prosecution rested its case after

six days, having relied largely on the testimony of a single witness, Theogene Bugingo, who had himself been implicated in the events. For the six accused with Bizimungu and Ntakirutinka, the prosecution presented no other witnesses. Bugingo's testimony contained obvious contradictions and Bugingo showed considerable confusion about the dates of events central to his testimony. One of the six accused said he was studying abroad at the time of the events alleged by Bugingo and presented his passport to corroborate his claim. Seven defense witnesses contested Bugingo's claims.

Other witnesses called to testify against Bizimungu and Ntakirutinka repeatedly contradicted themselves, each other, and Bugingo. There were questions about the authenticity and authorship of one of the documents presented and another document, the record of an interrogation of a witness by the police, was said to have been lost. One witness, Obed Nsengiyumva, testified that his statements to police resulted from fear and intimidation following his own arrest in April 2002.

Another prosecution witness, Christophe Niringiyimana, present during the trial, did not take the stand but interrupted the proceedings to relate his own abuse during two years of pre-trial detention. Niringiyimana was first detained for one week in October 2001 because of his suspected ties to Ntakirutinka. He told the court that during this time he was beaten by police and received no food for three days. He was arrested again in May 2002 on charges of participating in the Ubuyanja party. Held for two years, he was repeatedly interrogated about his political activities and alleged criticism of the RPF. According to Niringiyimana, investigators later falsified or destroyed his recorded statements. The court took no account of this account of unlawful detention and abuse by police and prosecution in their efforts to coerce testimony. At the end of the trial, nonetheless, the police released Niringiyimana, after warning him to speak to no one about his treatment in detention. Shortly after his release he fled the country.

Human Rights Watch considers the defendants to have been denied the right to present a legal defense as provided under article 14 of the International Covenant on Civil and Political Rights, which Rwanda ratified in 1976. On several occasions during the trial, the court refused to allow the defendants and their counsel to fully cross-examine witnesses and they refused them the right to call other witnesses to challenge evidence presented by the prosecution.

## The Verdict

Despite the weakness of the prosecution case and the many contradictions in Bugingo's testimony, remarked by the court itself in its decision, the court nonetheless found all eight accused guilty of criminal association. In addition, Bizimungu and Ntakirutinka were convicted of spreading rumors to incite rebellion against the government and Bizimungu was found guilty of embezzling government funds. Bizimungu and Ntakirutinka were acquitted of the other charges. The court sentenced Bizimungu to fifteen years in prison, Ntakirutinka to ten years, and the others to five years each.

The defendants appealed to have the convictions overturned and the prosecution appealed to have the acquittals reversed and the punishment increased.

The Supreme Court, headed by Aloysie Cyanzayire, heard arguments in several sessions late in 2005. In rendering its verdict, the court has a historic opportunity to begin establishing a tradition of judicial independence and respect for the rule of law long absent from the Rwandan judicial system.