

Preparing for Elections: Tightening Control in the Name of Unity

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The Rwandan Patriotic Front (RPF) is labeling possible political opponents “divisionist” and taking steps to silence them in order to ensure victory in upcoming elections. In late March President Paul Kagame warned that he would “wound” “divisionists” who threatened to undermine national unity and reprimanded foreign donors who give money to “people to teach divisions.” The Transitional National Assembly (TNA) voted unanimously to recommend dissolving the second largest political party in the country, the Mouvement Démocratique Republicain (Democratic Republican Movement, MDR) because of its “divisionism.” The MDR has been a political ally of the RPF since 1992 and a participant in the RPF-led unity government since it was established in 1994. Two high-ranking military officers singled out as “divisionist” fled the country while others were arrested or “disappeared.” A deputy of the assembly and other citizens have also “disappeared.” The government-influenced press has amplified the criticisms, sometimes attacking persons like the prime minister by name. Officials and press alike linked “divisionism” to the prospect of another genocide, thus heightening fears and tensions between the groups they profess to be unifying.

Unity in the Face of Elections

In July 1994 the Rwandan Patriotic Front (RPF) defeated the Hutu Power government responsible for a genocide of at least half a million Tutsi and thousands of Hutu opposed to Hutu Power. Since that time, a transitional government of persons named by the RPF and the other political parties that signed the Arusha Accords has ruled the country. The elections scheduled for late 2003 will choose a president and legislators to replace this transitional government.

When presidential elections were announced, no candidate sprang forward to contest the current incumbent.¹ But in early March Faustin Twagiramungu, first prime minister of the 1994 post-genocidal government and now in exile, announced his intention to return to Rwanda to run for the presidency. His announcement suggested the possibility of a real contest for the post. A long-time leader of the MDR, he would be expected to draw considerable support from among party members.

Rwandan president and RPF head Paul Kagame threatened this rival and others in several recent speeches. On March 31 Kagame told listeners that elections would be “carried out peacefully and in a transparent manner.” But in an apparent reference to Twagiramungu and perhaps other contenders, he continued:

I can even say that the outcomes of these elections are known. Those elected will be individuals who are 100 per cent in line with the current political agenda, aimed at building the country. This will be the case, and I am sure that it is also

¹ President Paul Kagame has not yet announced if he will run for the post. Jean-Nepomucene Nayinzira has said that he will run without party affiliation.

your view and your wish to have national security, unity, development and democracy. Anyone who would bring in division—because I know that the views of those who intend to come back are based on division—will not be elected.

In the same speech he warned that he would “wound” any who failed to understand and heed his message against “divisionism.” In a threatening metaphor, he said that any who expected to profit from the “sorghum and corn” they had sown—presumably a reference to political rather than agricultural activities—should remember that “we have enough machines to crush the grains....” In an apparent reference to the flight of several high-ranking military officers the previous day (see below), Kagame announced that some people would soon be fired from government posts because they were suspected of wanting to flee the country.²

In a speech on April 7 at the ceremony commemorating victims of genocide, Kagame criticized the “bad policy of foreigners who support division.” He implied that by aiding civil society foreign donors helped sow division, a theme taken up a week later by deputies in the assembly.³

The attack on “divisionism” accelerated early in the year when authorities held a series of workshops with local government officials in preparation for elections. In Kibungo, the official speaker insisted on the “delicacy” of the period and reportedly said, “Any divisionism will be smashed—not with a hammer. But you are adults, you know what I mean.” At a similar meeting in Ruhengeri, the speaker led a kind of call and response session much like the political “animation” meetings that were frequent under the government of Juvenal Habyarimana (1973-1994). His theme was that “unity” was a baby that needed to be kept at the breast until its mother—presumably the RPF—decided it was ready to be weaned.⁴

Expansion of RPF Power

During the years of war and bitter inter-party struggle that culminated in the 1994 genocide, many Rwandan leaders manipulated ethnic and political divisions in a desperate bid to hold on to power. With the establishment of the new government, the RPF rejected the divisions of the past and made unity a central focus of its policy. During the nine years of transition it has used the need for unity to attempt to justify increasingly tight control over political life.

The government operates under a “Fundamental Law” (the 1991 constitution, the 1993 Arusha Peace Accords, the July 17, 1994 declaration of the RPF, and a November 1994 agreement among political parties that divides official posts among various political parties.) The RPF, as the victorious military force, was dominant from the start, but there was originally a show of parity among the leading political groups, the RPF and the MDR, and two smaller groups, the Social Democratic Party (PSD) and the Liberal Party (PL). Over the years, the RPF increased its official share of posts to more accurately reflect the real extent of its power. As of late 2002, the president of the republic, twelve of fifteen ministers⁵ (and most of the secretary-generals of ministries), the chief judges on the Constitutional Court and the Court of Cassation,

² Paul Kagame, President of the Republic of Rwanda, on the occasion of International Water Day, Rebero, Bwisige, Byumba, March 31, 2003.

³ Paul Kagame, President of the Republic of Rwanda, “Allocution du président Paul Kagame lors de la commémoration de la neuvième anniversaire des victimes du génocide de 1994, Mwurire, Rwamagana, Kibungo, April 7, 2003.

⁴ Human Rights Watch interviews, Kigali, February 22, 2003.

⁵ The sixteenth, the Minister of Defense, is an active member of the armed forces and so is not allowed to belong to a political party.

the prosecutor general of the republic, eleven of twelve governors, thirteen of fifteen ambassadors, seven of nine heads of security services, and nineteen of seventy-four assembly members (thirteen for the RPF, six for its military branch, the Rwandan Defense Forces, RDF) were members of or affiliated with the RPF.⁶

By mutual agreement, all political parties are supposed to refrain from grass-roots organizing and recruitment during the transitional period. The RPF has ignored this undertaking and has greatly increased its membership. A leading RPF official admitted the increase but asserted that it resulted from spontaneous requests to join the party which could not be denied without restricting the individual's right to free political association. In at least some cases, persons have joined the RPF because they believed they had no choice and some have been threatened with sanctions if they chose not to do so.⁷

In view of the coming elections, the RPF stepped up recruitment of new members in at least four provinces during the last week of April and the first week of May. In several places local officials or party organizers called people to meetings at sector offices where they were publicly pressured to join and to get others to join the RPF. In one case, approximately half the group agreed. Officials continued to "persuade" those who refused to join until finally all but 20 percent of the original number had accepted RPF membership. In a sector in another province, people were told that they should aim to make 90 percent of their neighbors into RPF members. One reluctant recruit said he had initially refused to join but that he changed his mind when told that he would otherwise be seen as a supporter of another party. He said, "I agreed because I was afraid of being labeled a supporter of one of the divisionist parties like the MDR or Ubuyanja."⁸ One RPF member said:

Those who taught me said that the RPF is not a party but rather a family⁹ and that all Rwandans should be part of this family. Those who don't join are outsiders. They are the ones who cause instability in the country. We should build the family to prepare for elections. It would be dangerous to be governed by someone from outside the family.

The RPF tries particularly to recruit respected local persons, such as teachers, medical assistants, and traders.¹⁰

Even this description gives a less than complete picture of RPF control because the other political parties, while permitted to exist, hardly function as vigorous autonomous organizations. After 1994 when the National Republican Movement for Development and Democracy (MRND) and the Coalition for the Defense of the Republic (CDR) were banned for their role in the genocide, the most important party left—apart from the RPF--was the MDR, but even it had

⁶ International Crisis Group, "Rwanda at the end of the transition: a necessary political liberalization," November 13, 2002, p. 11 and appendix E.

⁷ Human Rights Watch interviews, Gisenyi, January 31, 2000; Buffalo, N.Y., June 10, 2000; Cambridge, MA, June 11, 2000; Kibuye, April 25, 2003; Butare, May 4, 2003; Kigali, May 10, 2000; February 11, 12, 13 and March 13 and March 27, 2001; April 26 and May 5, 2003.

⁸ For the party PDR-Ubuyanja, see below.

⁹ Since its beginning, the RPF has referred to itself in Kinyarwanda as *umuryango* or lineage.

¹⁰ Human Rights Watch interviews, Gisenyi, January 31, 2000; Buffalo, N.Y., June 10, 2000; Cambridge, MA, June 11, 2000; Kibuye, April 25, 2003; Butare, May 4, 2003; Kigali, May 10, 2000; February 11, 12, 13 and March 13 and March 27, 2001; April 26 and May 5, 2003.

been shorn of a significant part of its strength because of the split with the MDR-Power wing just before the genocide (see below). The PSD had never extended its base outside southern Rwanda and the PL was limited largely to urban areas. These parties have generally observed the prohibition on local political activity and have done nothing to recreate or extend their organization at grass-roots level. Restricted to meetings at the level of the central committees, the parties have focused on internal struggles, many of them for posts or other form of personal gain. Such squabbling discredits party leaders among ordinary people and weakens support both for particular parties and for the larger concept of multiparty politics. In addition, parties operate under the supervision of the forum of political parties, an institution without any legal basis and dominated by the RPF. The forum can and does intervene in such internal party matters as designations of persons to posts, including to legislative seats, and enforces a code of behavior on party members.

The Risk of Multiparty Elections: The Burundi Model

Even while the RPF agreed to work within a multiparty framework, some of its leaders expressed serious misgivings about the risks posed by such a system. In 1995, Kagame told a journalist that unbridled multipartyism would result in “dividing people who are already divided,” making any long-term hope of unity and democracy impossible.¹¹ In line with this philosophy, the government directed that candidates for local elections in 2001 and 2002 must stand without any party affiliation. But with the transition—already once extended—approaching its end, Kagame promised that presidential and legislative elections would be held, presumably with parties free to present candidates. He also announced that elections would be by universal direct suffrage and secret ballot.

Despite the tight control exercised by the RPF, some soldiers and political leaders expressed fear that direct, secret elections might produce unexpected results, as had a free and fair election in Burundi in 1993.¹² Like Rwanda, Burundi is peopled by a large Hutu majority with Tutsi representing a small minority of the population. The Tutsi-dominated UPRONA party, which controlled the army and much of the administration, presented the incumbent Pierre Buyoya as its candidate in presidential elections. Most members expected an easy victory, but Melchior Ndadaye, the Hutu candidate of FRODEBU, defeated Buyoya.

Torn by squabbles at the top, with its grass-roots network atrophied, the MDR would seem to pose little threat to the RPF. But no one can assess the residual loyalty lying dormant among former and inactive members, a loyalty based at least in part on a perceived link between the current MDR and the first MDR party, the MDR-Parmehutu which led the overthrow of the Tutsi monarchy beginning in 1959. With multiparty elections by secret ballot looming, the easiest way to remove any possibility of an MDR upset would be to remove the party itself.

The Assembly Inquiry: Division and “Divisionism”

In mid-December Deputy Abbas Mukama asked the Transitional National Assembly to address the problem of the MDR. On December 30, 2002, the assembly charged him and six other deputies to examine divisions within the MDR and the role played by the party in the

¹¹ International Crisis Group, “Rwanda at the end of the transition,” p. 4.

¹² *Ibid.*, p. 7.

“divisions which had characterized Rwandan history.”¹³ Even before the commission began its work, the head of the MDR group close to the RPF was predicting the abolition of the party.¹⁴ On April 14, the commission presented its report to the assembly, a document that included a summary of thirty-five pages (in French translation) with an annex that totaled more than 1000 pages.¹⁵ Commission members consulted government officials, “wise persons,” and at least one university researcher; they also relied extensively on various security services to provide data that was said to prove their allegations concerning “divisionism.”

The commission made two important charges against the MDR: that it could not resolve its own internal disputes and that it was “divisionist,” promoting the same pro-Hutu ideology originally developed by the MDR-Parmehutu party in 1959. At one point the commission even stated explicitly that this MDR ideology led to the 1994 genocide.¹⁶

The commission did establish the first contention, that the MDR had been split in the past and that it remained torn by struggles over leadership and ideology. But such dissension violates no statute and is no reason to dissolve a party. In describing the most recent disputes over policy and leadership, the commission relates how government officials, including the president of the republic, the prime minister, and the minister of local administration intervened in matters internal to the party and regulated by its own rules. The extent of outside official participation in such disputes demonstrates the lack of autonomy of the MDR.¹⁷

The very success of the commission in confirming disputes in the MDR undercuts its second argument, that the current party has continuously held a single ideology since 1959. Important points in the development of the MDR include the following:

- The most important party at the start of the new republic in 1962, the MDR-Parmehutu was abolished with other parties by President Juvenal Habyarimana in 1975.
- The MDR was reestablished in 1991 after Habyarimana agreed to permit multipartyism again. MDR leaders at the time affirmed a general dedication to the “light brought by MDR- PARMEHUTU”¹⁸ but took no explicitly ethnically-based stand. Indeed, the RPF itself had no trouble allying with the MDR first informally and then more formally after mid-1992.
- In July 1993 the MDR divided: one wing (MDR-Power) espoused Hutu Power ideology and participated actively in the genocide but the other, led by Twagiramungu, rejected the genocide and remained loyal to its RPF alliance. Leaders of this part of the MDR, including Prime Minister Agathe Uwilingiyimana, were slain by genocidal killers and proponents of Hutu Power.
- With the establishment of the new government, the RPF welcomed the participation of the Twagiramungu wing of the MDR. According to the commission, the MDR was seen

¹³ Republique Rwandaise, Assembleé Nationale, *Rapport de la Commission Parlementaire de controle mise en place le 27 decembre 2002 pour enquerer sur les problemes du MDR*, accepted by the National Transitional Assembly, April 14, 2003, p. 2.

¹⁴ *Umuseso*, ““Si on entre dans les elections avant la reconciliation du MDR, il sera d’office aboli,”” Twagiramukiza,” III, no. 108, December 2, 2002 p. 3 and no. 109, December 9-15, 2002.

¹⁵ Human Rights Watch researchers examined the French translation of the report and some 900 pages of the annex.

¹⁶ *Rapport de la commission*, p. 33.

¹⁷ The prime minister is a member of the MDR. According to the commission, President Kagame himself intervened to suspend the results of an internal party election. *Rapport de la Commission*, pp. 20-21.

¹⁸ *Rapport de la Commission*, pp. 6-7.

as one of the parties “ that had “dissociated itself from the discriminatory ideology which characterized the PARMEHUTU.”¹⁹

- Following pressure from official and other political sources in 1998 and 1999, MDR leaders agreed to change some policies and some symbols, like the party flag. To demonstrate its openness to all Rwandans, the MDR recruited some Tutsi, two of whom hold assembly seats.²⁰
- Contending factions within the MDR have since disputed the extent to which agreed-to changes have been or should be made; personal rivalries among party leaders have complicated these substantive issues.

Unable to explain how MDR leaders could be said to adhere to a single doctrine while splitting over ideological issues as they did in 1993 and since 1999, commission members were left concluding that the discriminatory ideology was “like a drug or a lover,” that is, an inescapable force that adherents could not shake. For this there was only one remedy, said the commission report: “remove yourself from it or all join together to eradicate it.”²¹

The commission did not try to explain how the RPF managed to ally with the MDR—or at least with a portion of the MDR—from 1991 through 2003. The record of this twelve-year alliance is in itself sufficient to discredit the claim that the MDR was committed to a genocidal ideology throughout that period.

“Divisionism” Dissected

Several of the specific charges leveled at the MDR relate to the general claim that its ideology is genocidal. Adherents are accused of :

- minimizing the genocide
- claiming that there had been a double genocide in 1994, meaning that the RPF had deliberately set out to eliminate Hutu in the same way that Hutu Power proponents had sought to eliminate Tutsi
- opposing compensation payments to genocide survivors
- opposing the ceremonial reburial of bodies of genocide victims.

Beyond these allegations related to the genocide, the commission charged MDR members with opposing current government programs, as if any such dissent were proof of “divisionism.” It wrote, “In order for the state to carry through its mission successfully, it should unified in its actions.”²² It said MDR members opposed such programs as administrative decentralization, gacaca jurisdictions (popular courts to try persons accused of genocide), and the Local Defense Force (a government-organized paramilitary force). It claimed also that MDR members resisted the influence of the RPF-dominated forum of political parties.

According to the commission, MDR members spread discontent in the army, discredited the government abroad so as to diminish foreign assistance, and, possibly, spied for a foreign power.

¹⁹ Ibid, pp. 11 and 15.

²⁰ *Umuseso*, ““Si on entre dans les elections avant la reconciliation du MDR, il sera d’office aboli,”” Twagiramukiza, p. 3,” III, no. 108, December 2, 2002.

²¹ *Rapport de la Commission*, p. 16.

²² *Rapport de la Commission*, p. 19.

Commission members made a final major charge against MDR members: “They have secretly begun to teach the population to vote as was done in Burundi when they elected Ndadaye in 1993.”²³ In the opening debate on the report, the head of the commission said that some of those interviewed intended “to play the political card of Frodebu during the elections,”²⁴ that is to follow the Burundian model. By such comments, commission members reveal their fear that the MDR will attract the vote of Hutu in upcoming elections. Should a significant number of Hutu vote on ethnic grounds, the MDR as the party historically identified with Hutu interests would emerge the winner.

The Accused

The commission named forty-six persons²⁵ as supporters of the MDR divisionist ideology, many of them important political or administrative figures. They include one secretary of state (forced by President Kagame to resign just before presentation of the report), five deputies, three high-ranking military officers, six members of the staff of the prime minister, one ambassador, a former prefect (governor) and head of the National Public Transportation Service. One of those named has been in jail since January 2002 and five others live abroad, in the Democratic Republic of Congo, Belgium, New Zealand and China (the Rwandan ambassador to China).

In contrast to the list of charges leveled against the party members collectively, accusations against the named individuals amount to the one broad charge of having held or attended meetings where the ideology criticized by the commission was allegedly discussed. Under the heading “The Propaganda group of the MDR Parmehutu ideology,” the forty-six accused are grouped into “those who are at the head,” “those who participated rarely in meetings,” and “Non-members of the MDR who participated in meetings” and another group from the province of Cyangugu.

The commission asked the General Commissioner of National Police if he had proof of these meetings. He stated:

The appropriate services have solid proof showing that secret meetings were organized by those who stand firm on the ideology of genocide; these meetings aimed at mobilization on an ethnic basis, mobilization done by young people who carry out divisionist activities everywhere out on the hills and who spread defamatory propaganda against the activities of the state.²⁶

In the 900 pages examined by Human Rights Watch researchers, very few details are provided concerning the alleged meetings. One meeting is supposed to have taken place in Kibuye, but the person accused of having organized this meeting told the assembly that the event was a social occasion. Another person was reportedly in Europe when he was listed as attending a meeting while another was in prison.²⁷

In addition to the general charge of attending meetings, one person is accused of suggesting the desirability of following the Burundian model from 1993 and of distributing

²³ Idem.

²⁴ Human Rights Watch field notes, Transitional National Assembly debate, April 14, 2003.

²⁵ One person, Amandin Rugira, is listed twice; *Rapport de la Commission*, pp. 22-24.

²⁶ Annexe, *Rapport de la commission*, p. 246.

²⁷ Ibid., p. 69; Human Rights Watch interview, Kigali, April 17, 2003.

“incendiary tracts.” Several were said to have provided advice or money to members of a young people’s association called Itara (literally, the light) or to an otherwise unidentified association for Hutu unity. Two were simply characterized as known extremists because of alleged activities in 1993.²⁸

Two of the accused were linked to the banned Party for Democracy and Renewal-Ubuyanja (PDR-Ubuyanja). In a hearing of the commission, the minister of internal security stated that the group of Celestin Kabanda, listed as one of the fifteen top MDR propagandists, had held joint meetings with members of PDR-Ubuyanja. He said they had met at the Hotel Okapi, but that the PDR-Ubuyanja group had met on the ground floor and Kabanda’s group upstairs in order to camouflage their collaboration.²⁹

Not all of the accused had a chance to be heard or to be fully heard by the commission and one who attempted to defend himself during the assembly debate was cut off. One deputy protested that another accused person had never had a chance to defend herself.³⁰

Flight, Arrest, and “Disappearances”

Brig. Gen. Emmanuel Habyarimana³¹, who was minister of defense until November 2002, and Lieut. Col. Balthazar Ndengeyinka, one of the army representatives to the assembly, fled Rwanda on March 30, apparently after having been informed that they would be accused of “divisionism” in the commission report. Lieutenant Alphonse Ndayambaje accompanied them into exile. As members of the armed forces, these officers were prohibited from belonging to any political party.

A military spokesperson reportedly labeled General Habyarimana “a Hutu extremist” on BBC radio and said that he had left to join Ugandans and Rwandan rebels in the Congo in fighting against Rwanda.³² On April 7, Foreign Minister Charles Murigande made clear in a radio interview that the government knew that at least Habyarimana had asked for asylum in Belgium.³³

On April 1, Major Felicien Ngirabatware, a friend of General Habyarimana and director of the Ruhengeri Military School, was arrested and has since been held incommunicado. Military intelligence officers have repeatedly interrogated the wives of the three soldiers who fled and of Major Ngirabatware.

On April 3, Damien Musayidizi “disappeared” on his way home from work. A former army sergeant, he had been Gen. Habyarimana’s secretary at the ministry of defense.

On April 4, a Kigali shopkeeper, Jean-Marie Vianney Nkulikiyinka, was taken from his shop at about 10 p.m. by unidentified persons and has not been heard from since. Nkulikiyinka was not known to have played a political role but he was reportedly linked to Dr. Hitimana, next on the list of “disappeared” persons.

On April 7, Dr. Leonard Hitimana, a MDR deputy, “disappeared” between 8 and 9 p.m. apparently after having left the home of another MDR deputy in the Remera section of Kigali. The police announced that Hitimana’s car had been found near the Ugandan frontier, but his family rejected any suggestion that he might have driven there at night, left his vehicle, and fled

²⁸ *Rapport de la commission*, pp. 22-26.

²⁹ Annexe, *Rapport de la commission*, p. 253.

³⁰ Ibid; Human Rights Watch field notes, assembly debate, April 14, 2003.

³¹ No relation to former president, Juvenal Habyarimana.

³² Munyaneza Godfrey Manu, “‘Au Rwanda on se base encore sur l’ethnie,” and A.B. Twizeyimana “General et colonel ont-ils fui la paix ou l’aggression?”, *Umuseso*, III, March 31-April 6, 2003, pp. 2 and 4.

³³ Radio Rwanda, morning news, April 7, 2003.

across the border. Dr. Hitimana is one of those MDR members whose record calls into question assertions about the genocidal nature of the party. He is widely acknowledged to have tried to save Tutsi during the genocide and has testified in trials against persons accused of genocide.³⁴

On April 23, Lieut. Col. Augustin Cyiza, a demobilized officer of the Rwandan army, formerly president of the Cour de Cassation and vice-president of the Supreme Court, “disappeared” after having taught a law class at the University of Central Africa in Kigali. He failed to respond to calls on his cellular telephone and his vehicle apparently disappeared from the city streets. Initial inquiries to police and judicial authorities elicited no information about his whereabouts, but some days later police reportedly told Cyiza’s family that his vehicle had been found in the northwestern district of Butaro, near the Ugandan frontier. The police spokesman, Tony Kuramba, told others that Cyiza’s vehicle was found in Nkumba district, adjacent to Butaro. According to witnesses, however, his vehicle was seen the night of his “disappearance” in the Kanombe military camp. Some military sources say that Cyiza is now detained at the military camp Kami or at the military prison at Mulindi.³⁵

A university student and cantonal judge from the court of Nyamata named Eliezer Runyaruka left the university with Cyiza on April 23 and has also not been heard from since. When his relatives appealed to police for information they were reportedly told that Eliezer “had been in league with Cyiza” and had fled the country with him. Eliezer was a Munyamulenge, a Kinyarwanda speaking person from the Congo. The Banyamulenge are generally counted as Tutsi. Cyiza regularly transported Eliezer to and from the university.³⁶

Associations and the Press

Commission members claimed that MDR members used not-for-profit associations to disseminate party ideology. They established that the office of the prime minister had given 200,000 Rwandan francs (\$400) and that several other politicians had given lesser amounts to the organization Itara, but they did not establish that the organization was related to the MDR or even that it had a political agenda.³⁷

According to the founding members and officers of Itara, the organization did construction work and other business activities to benefit young people without other employment, particularly those who had suffered from the genocide.³⁸ Commission members and others referred to information from a disgruntled former vice-president of Itara as if that proved the claim that the organization was a front for MDR activities, but the one letter from this person published by the commission states merely that he was leaving Itara because

- the organization wanted to make a profit for its members rather than conforming to its original non-for-profit purpose
- the division of members into work groups must be meant to hide something

³⁴ Human Rights Watch interviews, Kigali, April 14-23, 2003; Liprodhor, “Declaration sur les recentes arrestations et disparitions forcees,” April 12, 2003; for Dr. Hitimana, see African Rights, *Tribute to Courage*, Kigali: 2002, pp. 74-89.

³⁵ Human Rights Watch interviews; telephone and electronic mail communications, April 25-30, May 1, 2003.

³⁶ Human Rights Watch interviews; telephone and email communications, April 28-30; May 1, 2003.

³⁷ *Rapport de la commission*, pp. 14, 21, 23, 24, 27, 31; Annexe, *Rapport de la commission*, p. 118.

³⁸ *Ibid.*, p. 63; BBC News, Evening Edition, April 10, 2003; N. Patrice, “Gare a celui qui va depasser la ligne de demarcation,” ; L.M., “Je voudrais te confier un secret!,” *Umuseso*, III, no. 112, December 30 2002 to January 6, 2003.

- the organization engaged in discrimination and regionalism.³⁹

When asked by the commission about the “discrimination” practiced by Itara, the former vice-president complained that people hired by the organization had all been from the province of Gikongoro. He said nothing about ethnic discrimination.⁴⁰

The extent of the organization was also at issue. In late December 2002 Minister of Internal Security Jean de Dieu Ntiruhungwa compared Itara to the Interahamwe, a militia that played a major role in the 1994 genocide and asserted that Itara numbered some 10,000 members. The association filed a complaint with the prosecutor general of the republic against Ntiruhungwa for having made these inaccurate statements, but no action has yet been taken on it.⁴¹

When the General Commissioner of National Police appeared before the commission on February 27, he was pressed for information on the number of Itara members. He gave no estimate but asserted that the organization was active throughout the country. In that connection he cited the letter described above which in fact says nothing about the size of the organization.⁴² In the annex to the report, the commission published an intelligence report stating that Itara had registered 435 young people for its work projects.⁴³ The Secretary General of Security Services told the commission that Itara had ceased its activities throughout the country once the assembly began to discuss the organization. He then added that the Jeunesse Démocratique Republicaine (JDR)—the MDR youth organization from the 1990’s—was present throughout the country and that it was “a bomb waiting to explode.”⁴⁴ It is unclear why he raised the JDR unless he wished to suggest a link between that organization, which no longer officially exists, and Itara.

Commission members used the MDR affair as an occasion to attack the Rwandan League for the promotion and defense of human rights (Ligue Rwandaise pour la promotion et la defense des droits de l’homme, Liprodhor), the most credible human rights organization in Rwanda. A balanced and well-informed observer of the human rights situation, Liprodhor has been repeatedly harassed by the government in the past. Its treasurer has been imprisoned for ten months on accusations of having supported the PDR-Ubuyanja (see below). During the debate over the MDR report, Protais Kabanda Mitari, deputy and vice-president of the commission, claimed that MDR members—said to be affiliated with the genocidal MDR-Power-- collaborated with Liprodhor and that the human rights group received money from abroad to aid the MDR efforts. According to the commission, a local administrator from the northwest of the country also implicated Liprodhor in MDR meetings.⁴⁵ Neither the report nor the annex offered any proof to support claims that the human rights organization was involved in MDR activities. The commission did accuse a former employee of the organization now active in the MDR of being a propagandist for divisionist ideology.

³⁹ Annexe no. 560, *Rapport de la commission*.

⁴⁰ Annexe, *Rapport de la commission*, p. 206.

⁴¹ BBC News, Evening Edition, April 10, 2002; N. Patrice, “Gare a celui qui va dépasser la ligne de demarcation,” ; L.M., “Je voudrais te confier un secret!,” *Umuseso*, III, no. 112, December 30 2002 to January 6, 2003.

⁴² Annexe, *Rapport de la commission*, p. 247.

⁴³ *Ibid.*, p. 558.

⁴⁴ *Ibid.*, p. 274.

⁴⁵ Human Rights Watch field notes, assembly debate, April 14, 2003; Annexe, *Rapport de la Commission*, p. 192.

The commission also mentioned two other associations but without giving any details about their membership or supposed activities, one the National Association of Retired People (ANR) and the other an organization for Hutu unity.⁴⁶

The commission said that MDR members used newspapers like *Umuseso* and *Le Partisan* to disseminate their ideas.⁴⁷ In January 2002 *Le Partisan* published an article detailing RPF efforts to control the MDR. The author of the article, Amiel Nkuliza, was detained for several days and the MDR secretary general Pierre Gakwandi was jailed on suspicion of having been the source of information published in the article. Nkuliza later fled the country and *Le Partisan* stopped publishing. Fifteen months later Gakwandi remains in prison and has not been tried. *Umuseso* is the one independent journal currently publishing in Rwanda. Its editor Ismael Mbonigaba was jailed in late January 2003 for having published an article about a possible presidential contest between Kagame and Twagiramungu. The article, said to be “divisionist,” was accompanied by a cartoon showing Kagame in the role of King Solomon deciding the fate of the MDR. Mbonigaba was provisionally released in late February and has not been tried. On April 15 Mbonigaba circulated an informal account of the MDR debate under the heading of a journal called *Indorerwamo/Le Miroir*. A week later officials seized an issue of *Indorerwamo/Le Miroir* that gave extensive coverage of the MDR affair. Police said they confiscated the journal because it was new and had failed to conform to regulations concerning the publication of a new newspaper. The editor argued that the journal had been published first in 1997 and again since 2002 as a supplement to *Umuseso*.⁴⁸

Legal Prohibitions of “Divisionism”

The International Covenant on Civil and Political Rights (ICCPR), to which Rwanda has been a party since 1975, guarantees freedom of association, assembly, and speech.⁴⁹ The ICCPR also provides that “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”⁵⁰ This provision, however, only reaches “advocacy,” rather than, for example, the mere discriminatory opinions of persons, and also must be interpreted in such a way as to not undermine the basic protections of free expression or other ICCPR rights. As defined in the provision, such “advocacy” must amount to incitement to prohibited acts.⁵¹ But the Siracusa Principles on the Limitation and Derogation

⁴⁶ *Rapport de la commission*, pp. 14, 21.

⁴⁷ *Idem*.

⁴⁸ Human Rights Watch interview, May 6, 2003; Radio Rwanda, morning news broadcast, April 26, 2003.

⁴⁹ ICCPR, articles 19 (2), 21, and 22. The proposed Rwandan constitution reaffirms at article 10 that the ICCPR is “an integral part of the present constitution.”

⁵⁰ ICCPR, article 20 (2).

⁵¹ See, e.g. Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (Kehl am Rhein, Strasbourg, Arlington: N.P. Engel, 1993), p. 368 (“the obligation in Art. 20 may not be interpreted in such a way as to establish for a State Party the right to restrict other Covenant rights to an extent going beyond permissible interference provided therein....Art. 20 does not in any way authorize restrictions on freedom of opinion....nor does it permit interference with freedom of expression forbidden by Art. 19(2) and (3).” See also United Nations, Economic and Social Council, U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights, Annex, UN Doc E/CN.4/1984/4 (1984), principles 2, 11, 13, and 14 (limitations on rights should not jeopardize the essence of the right concerned, entail more restrictive means than necessary, or be inconsistent with other human rights guaranteed in the Covenant or other international law).

Provisions in the International Covenant on Civil and Political Rights require that any limitations on rights must be proportionate, narrowly-tailored and the least restrictive possible.⁵²

The Rwandan constitution of 1991 also guarantees the right to free speech, free assembly and free association.⁵³ Under the Rwandan law on political parties, parties are prohibited from discriminating on ethnic grounds. The same law provides that the minister of the interior may suspend the activities of a party for three months in the interest of public order and that he may also request the court of first instance to dissolve a party whose activities have been suspended or which has “seriously violated the law.”⁵⁴

The Arusha Accords (Article 80), part of the “Fundamental Law,” directs parties participating in the transitional assembly to “reject and undertake to fight any political ideology or any act aimed at fostering discrimination based mainly on ethnic, regional, sexual or religious differences...” Should parties persist in this prohibited behavior after having been warned against it, the government can bring the matter to the Supreme Court. The Court, at the request of the government, may exclude offending parties from participating in governmental institutions.⁵⁵

A Rwandan law on discrimination and sectarianism (“divisionism”) published in 2002 defines sectarianism as a “speech, written statement or action that causes conflict that causes an uprising that may degenerate into strife among people.” The redundancy aside, the clear intent of the article is to prohibit language or acts that lead to violence or otherwise unlawful acts (e.g., “conflict,” “uprising,” or “strife”). The law provides for a prison term of one to five years and a fine of up to two million Rwandan francs for government or political party officials found guilty of this crime. A political party found guilty can be suspended or “depending on the seriousness” of the consequences of its acts, can be dissolved by the tribunal of first instance. Individuals found guilty of this crime lose their national civil rights.

It appears that the assembly report and the recommendation for the dissolution of the MDR will go to the prime minister, then to the minister of local administration, and from him, to the council of ministers. The council will then decide whether or not to ask one of the relevant courts to dissolve the party or exclude it from governing institutions.

The issue is whether the MDR is in fact “divisionist,” discriminatory, promoting genocide and threatening state security, as authorities have charged. From the quality of evidence presented in the assembly debate, it appears that the government is far from having convincing proof of these broad and extremely serious charges.

The assembly also recommended that the individuals named in the report be investigated and charged by judicial authorities. In the past authorities have detained several persons for alleged divisionism and have kept them in pretrial detention for a year or more in violation of their right to speedy trial.⁵⁶

A Continuing Pattern of Repression

As the RPF has moved to appropriate an increasingly large number of official posts, to increase its membership, and to limit the autonomy of other parties, it has also suppressed efforts to create new political groups. While the argument is that the MDR must be ended because of its

⁵² ICCPR, article 20; Siracusa Principles 2, 3, 10, and 11.

⁵³ Republic of Rwanda, Constitution of 1991, articles 7, 19, and 20.

⁵⁴ Loi no. 28/91 du 18 juin 1991 (parties politiques).

⁵⁵ Protocol of Agreement Between the Government of the Republic of Rwanda and the Rwandese Patriotic Front on Power-Sharing within the Framework of a Broad-Based Transitional Government, January 9, 1993, Arusha, articles 81 and 82.

⁵⁶ ICCPR, articles 9 (3) and 14 (3).

pro-Hutu genocidal ideology, authorities also sought to suppress two earlier dissident groups that were multiethnic in nature, suggesting that it is the fact of dissent rather than any supposed ethnic nature of the dissent which is targeted. In these cases, as in the recent MDR affair, the strategies used comprise threats, including public threats by the president himself, arbitrary arrests, violence, and intimidation of nongovernmental organizations and the press.

In 2000 authorities squelched a small multiethnic group interested in restoring the monarchy. Kagame publically linked an important Tutsi political leader, Joseph Sebarenzi, to the “royalists” and Sebarenzi felt sufficiently threatened to flee the country, as did three journalists who had been reporting on political events.⁵⁷

In mid-2001, former president Pasteur Bizimungu and a small group of others, Hutu and Tutsi, founded a new political party PDR-Ubuyanja. Although the 1991 law on political parties guaranteed the right to form new parties, authorities declared that establishing a party was illegal during the period of transition. In August, Bizimungu and another party founder, Charles Ntakirutinka, were detained and questioned by authorities and, shortly after, both were attacked by street gangs. Bizimungu published a book in November 2001, but it was confiscated before being distributed. In December 2001, a member of Ubuyanja, Gratien Munyarubuga, was murdered in mid-day in Kigali, a crime which has never been solved. Several persons said to be members of Ubuyanja were arrested, at least one of whom has never been heard from since.⁵⁸

In January 2002, authorities arrested Laurien Ntezimana and Didace Muremangingo, leaders of the Association Modeste et Innocent (AMI), of a small non-governmental organization devoted to conflict resolution. Ntezimana, winner of several international awards for his work, is a lay theologian and a Hutu. Muremangingo is a young Tutsi genocide survivor. The newsletter of their organization published the word Ubuyanja, which means rebirth or renewal, in its masthead. For that reason, the two were accused of links with Bizimungu’s political party. They were arrested and spent several weeks in jail. They have been provisionally released but have never been brought to trial. Their organization has been banned. When questioned about the case, a member of the National Human Rights Commission attempted to justify the arrest by asserting that Ntezimana had influenced twenty people “who could pose a threat to the state.”⁵⁹

In April 2002 Kagame made a highly publicized speech at the ceremony for commemorating the genocide warning Bizimungu and other dissidents that no one would be able to protect them if authorities lost patience with them. Soon after Bizimungu and Ntakirutinka were arrested and charged with endangering state security, fostering ethnic divisions, and engaging in illegal political activities. Some twenty others were also arrested in the following weeks, all charged with supporting Ubuyanja. Six of them, including the treasurer of Liprodhor and an employee of the U.S. embassy, have been put on trial with Bizumungu and Ntakirutinka. Apparently lacking proof for the original charges, the prosecutor has been attempting to find new grounds for charging the detainees.

The New Constitution

A constitutional commission named by the government is completing the draft of a new constitution that will be presented to voters in a referendum planned for late May. As currently proposed, the constitution will continue many of the institutions and practices that have favored the development of tight RPF control. A number of the draft provisions directly violate

⁵⁷ Human Rights Watch, “Rwanda: The Search for Security and Human Rights Abuse,” April 2000.

⁵⁸ Human Rights Watch press release, January 9, 2002.

⁵⁹ Human Rights Watch interview, February 18, 2002.

Rwanda's obligations under the rights of association, free expression, and political representation through free elections in the ICCPR.⁶⁰ Political parties, for example, will be allowed to exist, but they will be prohibited from grass-roots political activity, once more leaving them as debating societies where politicians cut off from the population quibble over the spoils of power. Parties will be required to "constantly reflect the unity of the Rwandan nation" and will be prohibited from identifying themselves with any "divisive element" in the population. The forum of political parties will be legally entrenched as an organ to supervise political parties and the Supreme Court will have broad discretion to dissolve parties.

In addition, the constitution confers on the government broad powers to curtail speech or meetings that are deemed divisive.⁶¹

Consequences

By public denunciation of persons and organizations, apparently on the basis of vague and otherwise inadequate reports from security services and others, the assembly has put individuals at risk. Some have sought safety in flight: in addition to the three military officers, a deputy who was abroad has reportedly decided not to return to Rwanda. At least three other persons have "disappeared" and a fourth is being held incommunicado by the authorities.

A well-respected human rights organization has been labeled an organization that associates with people who hold a genocidal ideology. Staff and members feel sufficiently threatened to have made a public statement about their sense of insecurity. In an apparently related case the General Commissioner of the National Police Frank Mugambage used a BBC radio broadcast to criticize another human rights organization, the Great Lakes League for the Defense of Human Rights. He said the group had turned things upside down and had "a bad vision" for wanting to examine the conduct of the Local Defense Force, a government-sponsored paramilitary force. In the commission report, critics of the Local Defense Force were said to be "those who hold onto the ideology of ethnic discrimination."⁶²

The mayor of Kigali warned the public on the radio that secret meetings have been taking place. He said authorities would be tracking down persons who participated in such meetings. He said that some people were being paid to run these meetings and he warned that accepting this money "could cost people their lives."⁶³

In a debate with Twagiramungu broadcast on BBC, RPF central committee member and head of the constitutional commission Tito Rutaremara accused him of sharing the ideology of the killers, even though he himself had not killed during the 1994 genocide. Rutaremara admitted that Twagiramungu himself had been sought by the killers, but did not explain why they wanted to attack him if he shared their ideology. He also compared the MDR to the Nazi party and said that Rwanda could do well without it.⁶⁴

In a newspaper datelined April 21, General Commissioner of National Police Mugambage announced the beginnings of investigations into all persons named in the assembly report.⁶⁵ Until such investigations and possible trials are complete, all those cited—individuals, organizations, and a political party—appear likely to be exposed to a mounting campaign of

⁶⁰ See ICCPR, articles 19, 22, and 25.

⁶¹ Draft number two of the Rwandan constitution, articles 34, 53, 55, 56, 57.

⁶² BBC morning broadcast, May 3, 2003; *Rapport de la commission*, p. 19.

⁶³ Radio Rwanda, evening news, April 11, 2003.

⁶⁴ Transcript, BBC debate between Tito Rutaremara and Faustin Twagiramungu, April 19, 2003.

⁶⁵ *The Rwanda Voice*, "Premier Makuza, Minister Mugorewera face censure," April 21-28, 2003, p. 2.

vilification, accusing them of harboring genocidal ideas and even of secretly planning another genocide. One journal favorable to the government has published the statement that the MDR ideology “could lead to a tragedy like that of 1994” and another said the group Itara “shares the ideology of the Interahamwe.”⁶⁶ Still another asserted:

A faction of MDR members led by the former minister of state for finance Celestine Kabanda found it convenient to go holding secret meetings, based on hatred, malice and disinformation against the Tutsi. Given another chance such elements can kill again because they even believe there was no genocide in Rwanda.⁶⁷

The government has not proved its case that the present-day MDR or its current leaders participated in advocacy of genocide or even in any active program of “divisionism.” It has instead documented splits within the party and has chosen to stress the negative rather than the positive heritage of the MDR. It has detailed the anti-Tutsi ideology of MDR-Power in 1993-1994 and has ignored the sacrifices made by other MDR members, once honored as national heroes for opposing that ideology.

By launching the campaign against the MDR in the months preceding the elections, Rwandan authorities have changed the conditions under which the elections will be held. Although charges against the party have not been proved, some of its supporters have left the MDR and moved into the RPF ranks to avoid being labeled “divisionist” or even “genocidal.” Others are likely to do the same before the elections.

If the MDR is dissolved, conditions for the elections will change even more dramatically. As the only party outside of the RPF with any substantial support, the MDR would be the only one able to seriously contest at least the legislative if not the presidential elections. As the government currently interprets the law, no new party could be founded until the transition is ended, that is, when the new constitution has been approved. If this happens at the end of May and elections are held as early as September, as is proposed, no new party would have time to organize a significant electoral campaign. In addition, if the constitution is approved as now written, no party would be able to engage in any grass-roots organizing.

President Kagame has frequently told the international community, most recently in his April 7 address, that Rwanda will chart its own course regardless of foreign criticism. But he and other authorities have on many occasions shown significant regard for the opinion of others, at home and abroad. The great effort invested in trying to justify the dissolution of the MDR is itself an indication of sensitivity to that opinion.

Heavily dependent on foreign assistance, Rwanda has asked foreign donors to help pay the costs of its elections. The National Electoral Commission has said it needs \$16.8 million to develop the capacity to run elections and to carry out the referendum and the elections. As of early May, the Rwandan government had allocated \$5.5 million and donors, including Germany and the Rheinland Palatinate, Canada, the United States, Switzerland, and the United Nations Development Program (UNDP) had provided another \$1.8 million for these purposes. On May 6

⁶⁶ Ndamage Frank, “Kabanda a ete destitute,” *Imvaho Nshya*, no. 1488, April 14-20, 2003, pp. 1-2; Marcel Museminari and Emmanuel Rutaisire, “Dissolve MDR, MPS tell government,” *The New Times*, April 17-23, 2003, pp. 1-2.

⁶⁷ Editorial, *The Rwanda Voice*, April 21-28, 2003, p. 4.

donors pledged approximately \$5.5 million more, with the most important anticipated contributors being the European Union, the United States, UNDP, Belgium, and the Netherlands.

Some donors have suggested that support should be tied to guarantees of the exercise of basic civil and political rights. Indeed paying for elections conducted without the exercise of these rights—before as well as during the electoral period—is a waste of money. Such contributions will not help assure the long-term stability of the region and will discredit rather than enhance the idea of electoral democracy.

Recommendations:

- The Rwandan government should guarantee the rights to association, free expression, and assembly provided for in its own laws and in the International Covenant on Civil and Political Rights to which Rwanda has been a party since 1975.
- Any investigations and trials of the persons accused in this affair and in other political cases, like that of PDR-Ubuyanja, should be carried out in accord with the guarantees provided by Rwandan and international human rights law, including the guarantee of trial without undue delay.
- Authorities must take appropriate measures to guarantee the security of persons who are named or whose organizations are named in the commission report.
- The Transitional National Assembly should publish all the evidence supporting its recommendation to dissolve the MDR, including all the evidence from security services about alleged clandestine meetings, so that persons accused may know and confront accusations and evidence against them.
- Judicial authorities must provide information, as required by law, about the whereabouts of detained persons, including Major Ngirabatware and must investigate the “disappearances” of others, including Dr. Leonard Hitimana, Damien Musayidizi, Jean-Marie Vianney Nkulikiyinka, Lieut. Col. Augustin Cyiza, and Eliezer Runyaruka.
- The Council of Ministers should leave prosecution of any accused individuals to the judicial authorities and should recognize that the actions of one group, even if found guilty, cannot end the rights of others to remain associated with a party they have chosen. They should not pursue further efforts to dissolve the MDR.
- International donors should not fund the Rwandan elections if the MDR is dissolved or if “disappearances,” arbitrary arrests and prosecutions are carried out against individuals solely because of their political ideas.