



## **Submission to the Human Rights Committee in advance of the fourth periodic review of Rwanda**

**February 12, 2016**

Human Rights Watch welcomes the upcoming review of Rwanda by the Human Rights Committee (“the Committee”). This briefing provides an overview of some of our main concerns with regard to Rwanda’s compliance with the International Covenant on Civil and Political Rights (“the Covenant”). We hope it will inform the Committee’s review of Rwanda and that these points will be raised during the dialogue with the Rwandan government.

This submission concentrates on issues which Human Rights Watch has researched extensively, including concerns and cases highlighted in the Committee’s List of Issues (2015), covering the period 2009 to 2015 (since the latest Concluding Observations in 2009). It is not an exhaustive account of the human rights situation in Rwanda. Human Rights Watch acknowledges significant human rights developments in Rwanda not covered in this submission, including on gender equality, children’s rights and a range of economic and social rights. For additional information, please see Human Rights Watch’s country page on Rwanda:

<https://www.hrw.org/africa/rwanda>

### **Constitutional and legal framework within which the Covenant is implemented (art. 2)**

#### **Constitutional amendments**

In a public referendum in December 2015, 98% of Rwandans supported amendments to the Constitution that will allow President Paul Kagame to stand for a third term in the 2017 elections. The National Assembly and the Senate had approved the amendments in October and November 2015, respectively, after receiving petitions from more than 3.78 million people supporting such a move and carrying out national consultations on the constitutional changes.

The opposition Democratic Green Party of Rwanda challenged the legality of the constitutional amendments at the Supreme Court but lost the case. Rwandan civil society organizations did not voice any criticism of the process or the amendments. All parties in Parliament approved the amendments, with some actively supporting the constitutional revision process.

Human Rights Watch takes no position on the length or number of presidential terms, but has concerns about the environment in which the referendum took place and the constitutional amendments were adopted. Given the tight restrictions on freedom of expression (see below), the context was not conducive for Rwandans who might not have agreed with the constitutional changes to express themselves openly on this issue or vote according to their conscience.<sup>1</sup>

The amended constitution allows President Kagame to stand for a new seven-year term in 2017 (his third) and for two five-year terms in 2024 and 2029. Following the result of the referendum, he announced that he was planning to stand in 2017.

### **National Commission for Human Rights**

The 2013 law on the National Commission for Human Rights (NCHR) affirms the body's independence and financial and administrative autonomy and grants it judicial police powers and the power to file legal action. However, in practice, the NCHR has not often been able or willing to function independently. Its members are selected by a committee appointed and regulated by the President and the government submits their names to the Senate for approval. This selection process contributes to the limited scope for independent oversight or action by the NCHR. While the NCHR has made efforts to implement the part of its mandate relating to human rights promotion, its role in the protection of human rights has been limited.

The NCHR has rarely taken issue with or criticized human rights abuses by state agents, especially those of a political nature. At times, it has even actively undermined independent civil society initiatives and sought to discredit the work of international human rights organizations. In 2010, officials from the NCHR tried to stifle discussion of a collective civil society report on the human rights situation in Rwanda submitted to the UN Human Rights Council in advance of Rwanda's Universal Periodic Review in 2011. NCHR officials put pressure on several civil society organizations to publicly denounce their report and withdraw support for it. One

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<sup>1</sup> Human Rights Watch, *Will Rwandans be able to speak their minds in referendum?*, December 17, 2015, <https://www.hrw.org/news/2015/12/17/dispatches-will-rwandans-be-able-speak-their-minds-referendum>.

NCHHR official later co-authored a letter to the UN High Commissioner for Human Rights challenging the accuracy of the civil society report.

**Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and liberty and security of person (arts. 2, 6, 7 and 9)**

**Unlawful detention**

Between 2010 and 2014 in particular, Human Rights Watch documented scores of cases of individuals held unlawfully by the military or the police in unofficial detention centers. Some were detained incommunicado for several weeks or months, without their families being informed of their whereabouts. They included at least 23 people who were detained incommunicado for several weeks in 2014 at Camp Kami, a military camp on the outskirts of the capital Kigali, before being tried by a civilian court for security-related offenses and alleged collaboration with armed groups. Other detainees were held incommunicado in a police detention center known as Chez Gacinya, in Kigali. Human Rights Watch is not aware of measures taken by the Rwandan government to end unlawful detentions in these and other unofficial detention centers run by the security forces. The government has consistently denied the existence of unofficial detention centers.

Some detainees held in unofficial places of detention were tortured and pressured to confess to alleged crimes or to incriminate others. These included several people accused of involvement in grenade attacks in 2010, who were held in military custody, and several people accused of stealing televisions and other goods who were detained by the police at Chez Gacinya in 2012.

Kizito Mihigo, a well-known singer and survivor of the genocide, was arrested, together with three others, in April 2014. His whereabouts were unknown for several days before he appeared in police custody. Mihigo and his co-defendants were accused of collaborating with the Rwanda National Congress (RNC), an opposition group in exile, and the Democratic Forces for the Liberation of Rwanda (FDLR), a Rwandan armed group active in eastern Congo, some of whose members participated in the 1994 genocide. Mihigo confessed to being in contact with a RNC member and pleaded guilty on all charges. In February 2015, Mihigo was sentenced to 10 years in prison, including for conspiracy against the established government or the President of the Republic. Two of his co-accused, journalist Cassien Ntamuhanga and Jean-Paul Dukuzumuremyi, were sentenced respectively to 25 years and 30 years in prison. The third, Agnès Niyibizi, was acquitted. The date for the appeal has not been set at the time of writing, almost a year after the verdict.

Joel Mutabazi, a former presidential bodyguard, was forcibly returned from Uganda to Rwanda in October 2013,<sup>2</sup> and tried by a military court in Kigali in January 2014. He and 15 co-accused were charged with terrorism, forming an armed group, and other offenses linked to alleged collaboration with the RNC and the FDLR. Mutabazi and several co-defendants stated in court that they had been tortured and forced to sign statements. In October 2014 the court found Mutabazi guilty of all charges and sentenced him to life imprisonment. 13 co-defendants received sentences ranging from four months to life imprisonment. Two were acquitted. 11 defendants, including Mutabazi, have lodged an appeal with the Supreme Court.

### **Enforced disappearances and summary or arbitrary executions**

In its Concluding Observations of March 30, 2009, the Committee expressed its concern about enforced disappearances in Rwanda.<sup>3</sup>

Human Rights Watch has documented the enforced disappearance of at least 30 people between March and November 2014, many in north-western Rwanda.<sup>4</sup> Some people were arrested by state agents and taken to unknown destinations. After several weeks, some of them reappeared in police detention and were transferred to civilian prisons. Some were among a group of people who were accused of conspiracy against the government or the President and of complicity in terrorism for their alleged collaboration with the FDLR and were tried by the high court in Musanze. Four defendants were released before the accusations were presented in court, seven were acquitted and six convicted to 20 years in prison; the six have lodged an appeal. Government and judicial authorities did not acknowledge the unlawful detention of these individuals or account for their whereabouts in the period preceding their detention in police custody.

In 2003, Leonard Hitimana, a Member of Parliament, and Augustin Cyiza, a demobilized army officer and former president of the *Cour de Cassation*, disappeared.<sup>5</sup> The Committee expressed concern about their disappearance in 2009 and asked the

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<sup>2</sup> Human Rights Watch, *Uganda/Rwanda: Forcible Return Raises Grave Concerns*, November 4, 2013, <https://www.hrw.org/news/2013/11/04/uganda/rwanda-forcible-return-raises-grave-concerns>.

<sup>3</sup> UN Committee on Civil and Political Rights, "Consideration of reports Submitted by States Parties", Concluding Observations, Rwanda, CCPR/C/RWA/CO/3 (2009), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en).

<sup>4</sup> Human Rights Watch, *Rwanda: Spate of Enforced Disappearances*, May 16, 2014, <https://www.hrw.org/news/2014/05/16/rwanda-spate-enforced-disappearances>.

<sup>5</sup> Human Rights Watch, *Preparing for Elections: Tightening Control in the Name of Unity*, May 2003, <https://www.hrw.org/legacy/background/africa/rwanda0503bck.pdf>.

Rwandan government for updated information in its 2015 list of issues.<sup>6</sup> Human Rights Watch documented both cases at the time of their disappearance and is not aware of any further information on their fate or government action on these cases.

Denis Ntare Semadwinda, an influential former member of the Congolese rebel group National Congress for the Defence of the People (*Congrès National pour la Défense du Peuple*, CNDP), was killed in Rwanda in June 2010.<sup>7</sup> HRW is not aware of any arrests in connection with this murder.

André Kagwa Rwisereka, vice president of the opposition Democratic Green Party of Rwanda, disappeared on July 12, 2010. His body was found near the southern town of Butare on July 14, 2010. His head had been almost entirely severed and his face showed signs of beatings. A man was arrested and briefly detained soon after the murder, then released.<sup>8</sup> No further arrests have been made and there has been no progress in official investigations into Rwisereka's death.

On June 24, 2010, journalist Jean-Léonard Rugambage was shot dead outside his home in Kigali. In 2010 Didace Nduguyangu and Antoine Karemera were convicted of his murder, allegedly carried out in revenge for a killing they claimed he had committed during the genocide in 1994. The Supreme Court upheld the conviction in September 2011. Judicial authorities are not known to have pursued leads suggesting that Rugambage may have been killed because of his investigative work as a journalist; just before his death, he had been investigating the attempted murder of prominent dissident General Kayumba Nyamwasa in South Africa (see below).<sup>9</sup> The newspaper Rugambage worked for, Umuvugizi, had been suspended just two months before he was killed, as part of a broader government crackdown against independent or critical media before the 2010 presidential elections (see below).

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<sup>6</sup> UN Committee on Civil and Political Rights, "Consideration of reports Submitted by States Parties", Concluding Observations, Rwanda, CCPR/C/RWA/CO/3 (2009), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en) and UN Committee on Civil and Political Rights, *List of issues in relation to the fourth periodic report of Rwanda*, CCPR/C/RWA/Q/4 (2015), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fRWA%2fQ%2f4&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolNo=CCPR%2fC%2fRWA%2fQ%2f4&Lang=en).

<sup>7</sup> Human Rights Watch, *DR Congo: ICC-Indicted War Criminal Implicated in Assassinations of Opponents*, October 13, 2010, <https://www.hrw.org/news/2010/10/13/dr-congo-icc-indicted-war-criminal-implicated-assassinations-opponents>.

<sup>8</sup> Human Rights Watch, *Rwanda: Allow Independent Autopsy of Opposition Politician*, July 21, 2010, <https://www.hrw.org/news/2010/07/21/rwanda-allow-independent-autopsy-opposition-politician>.

<sup>9</sup> Human Rights Watch, *Rwanda: Stop Attacks on Journalists, Opponents*, June 26, 2010, <https://www.hrw.org/news/2010/06/26/rwanda-stop-attacks-journalists-opponents>.

## Attacks against dissidents abroad

In addition to the repression of critical voices inside Rwanda, dissidents and critics outside the country have been attacked and threatened. The Rwandan government has consistently denied any involvement in these cases and refuted allegations that these attacks may have been ordered or facilitated from Kigali.<sup>10</sup>

General Faustin Kayumba Nyamwasa, a former senior military official in Rwanda who became an outspoken critic of President Kagame and co-founded the opposition RNC in exile, was seriously injured in an assassination attempt in Johannesburg, South Africa, on June 19, 2010. In September 2014, a South African court sentenced two Rwandans and two Tanzanians to eight years in prison for the murder attempt and acquitted two other Rwandan defendants. The judge stated that the attack was politically motivated and emanated from a group of people in Rwanda.

Exiled Rwandan journalist Charles Ingabire, a genocide survivor who was critical of the government, was shot dead in the Ugandan capital Kampala on November 30, 2011. He survived a first attack about two months earlier and had reported to friends that he had been threatened several times.<sup>11</sup> In the aftermath of his murder, the Ugandan police said they were investigating the case and held two people for questioning. However, to date, to Human Rights Watch's knowledge, no one has been charged with his murder.

On August 22, 2012, Frank Ntwali, brother-in-law of Kayumba Nyamwasa and chairperson of the RNC in South Africa, was attacked in his car outside Johannesburg and stabbed repeatedly with a knife. He survived. Ntwali was due to testify at a South African court in the trial of those accused of the attempted murder of Kayumba Nyamwasa (see above).

Patrick Karegeya, former head of Rwanda's external intelligence services who became an outspoken government critic in exile and co-founded the RNC, was found dead in a hotel room in Johannesburg on January 1, 2014. The South African police launched an investigation, the results of which are not yet known.

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<sup>10</sup> Human Rights Watch, *Rwanda: Repression Across Borders*, January 28, 2014, <https://www.hrw.org/news/2014/01/28/rwanda-repression-across-borders>.

<sup>11</sup> Human Rights Watch, *Uganda/Rwanda: Investigate Journalist's Murder*, December 6, 2011, <https://www.hrw.org/news/2011/12/06/uganda/rwanda-investigate-journalists-murder>.

## 1994 RPF Crimes

Very few members of the Rwandan Patriotic Front (RPF) -- the rebel group that ended the genocide, went on to form a government in 1994, and has been Rwanda's ruling party ever since -- have been held to account for war crimes and crimes against humanity they committed in 1994 as they took over the country. Although the scale and nature of these killings were not equivalent or comparable to the genocide, the victims and their families also have the right to justice. Despite the Committee's recommendation in 2009 to investigate, prosecute and punish those responsible, few RPF soldiers have been tried for these crimes, and most have received comparatively lenient sentences.<sup>12</sup>

The International Criminal Tribunal for Rwanda (ICTR), which was set up by the UN in 1994 in response to the genocide in Rwanda and closed on December 31, 2015, had a clear mandate to prosecute crimes committed by the RPF in 1994, as well as genocide-related cases, but never tried any RPF cases.<sup>13</sup> In a case initially prepared by the ICTR then handed over to Rwanda by the ICTR prosecutor, a Rwandan military court in 2008 tried four RPF members accused of killing 15 civilians in 1994. It acquitted the two most senior officers and sentenced the two lower-ranking ones, who confessed to the killings, to eight years' imprisonment; their sentences were reduced to five years on appeal in 2009.<sup>14</sup>

## Abuses in the Democratic Republic of Congo

In 2010, the UN published a "mapping report" which described the most serious violations of human rights and international humanitarian law in the Democratic Republic of Congo (DRC) between March 1993 and June 2003. Among other things, the report documented "apparent systematic and widespread attacks" against Hutu carried out by the Rwandan army and its Congolese allies in eastern Congo in 1996, in an "apparently relentless pursuit and mass killing of Hutu refugees," resulting in the

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<sup>12</sup> UN Committee on Civil and Political Rights, "Consideration of reports Submitted by States Parties", Concluding Observations, Rwanda, CCPR/C/RWA/CO/3 (2009), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en) &, and Human Rights Watch, *Rwanda: Justice After Genocide—20 Years On*, March 28, 2014, <https://www.hrw.org/news/2014/03/28/rwanda-justice-after-genocide-20-years>.

<sup>13</sup> Human Rights Watch, *Rwanda: International Tribunal Closing Its Doors*, December 23, 2015, <https://www.hrw.org/news/2015/12/23/rwanda-international-tribunal-closing-its-doors>.

<sup>14</sup> Human Rights Watch, *Law and Reality: Progress in Judicial Reform in Rwanda*, July 26, 2008, Annex 2, <https://www.hrw.org/reports/2008/07/25/law-and-reality>.

deaths of tens of thousands of people. To date, the victims and survivors of these crimes are still waiting for justice.<sup>15</sup>

In 2012 and 2013, Human Rights Watch documented support from within Rwanda to the M23, a Congolese armed group that committed numerous human rights abuses in Congo. This support included regular movements from Rwanda into Congo of men in Rwandan army uniforms, and the provision of ammunition, food, and other supplies from Rwanda to the M23. People were recruited within Rwanda to join the M23 and Rwandan military officers trained M23 recruits.<sup>16</sup> Human Rights Watch is not aware of any investigations or prosecutions in Rwanda of former members of the M23, including several of its leaders who are currently living in Rwanda, or of individuals who provided support to the M23.

### **Treatment of persons deprived of their liberty (arts. 9, 10 and 24)**

In 2009, the Committee voiced its concern about reports of arrests and detention, without charge and in precarious conditions, of persons belonging to vulnerable groups.<sup>17</sup> Human Rights Watch has documented the arbitrary arrest and detention, in harsh conditions, of hundreds of people from vulnerable groups—including street children, commercial sex workers, and street hawkers—at the Kigali Rehabilitation Transit Center in the Gikondo suburb of Kigali. The government describes the center as a transit or rehabilitation center. In practice it has been used as an unofficial detention center for more than 10 years.<sup>18</sup>

In all the cases documented by Human Rights Watch between 2011 and 2015, detainees were held at the Gikondo center without charge, with no regard for due process and no apparent judicial oversight. The length of detention at the center could range from a few days to several months. Detainees were held in deplorable and

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<sup>15</sup> Human Rights Watch, *DR Congo: Questions and Answers on the United Nations Human Rights Mapping Report*, October 1, 2010, <https://www.hrw.org/news/2010/10/01/dr-congo-q-united-nations-human-rights-mapping-report>.

<sup>16</sup> Human Rights Watch, *DR Congo: M23 Rebels Committing War Crimes*, September 11, 2012, <https://www.hrw.org/news/2012/09/11/dr-congo-m23-rebels-committing-war-crimes> and Human Rights Watch, *In DR Congo, M23 Rebels Kill, Rape Civilians*, July 22, 2013, <https://www.hrw.org/news/2013/07/22/dr-congo-m23-rebels-kill-rape-civilians-0>.

<sup>17</sup> UN Committee on Civil and Political Rights, “Consideration of reports Submitted by States Parties”, Concluding Observations, Rwanda, CCPR/C/RWA/CO/3 (2009), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en).

<sup>18</sup> Human Rights Watch, “Why Not Call This Place a Prison?” *Unlawful Detention and Ill-Treatment in Rwanda’s Gikondo Transit Center*, September 2015, [https://www.hrw.org/sites/default/files/report\\_pdf/rwanda0915\\_4up.pdf](https://www.hrw.org/sites/default/files/report_pdf/rwanda0915_4up.pdf).

degrading conditions and beaten by police or other detainees, with the assent or on the orders of the police.

Until late 2014, children, including many street children, accounted for a significant proportion of detainees in the center. In a positive decision in August 2014, the Rwandan authorities announced that children would no longer be sent there. By September 2015 Human Rights Watch had not received reports of new cases of children detained in the center since then. However, adult men and women (including some women with infants) continue to be detained there.

Kigali City Council published a new directive on November 1, 2015, setting out, amongst other things, the mission and organization of the Kigali Rehabilitation Transit Center.<sup>19</sup> The directive contains some positive elements, but a number of fundamental concerns remain, including the lack of accountability for past abuses, the broad and vague definition of “behaviour endangering tranquillity and the security of the population”, the continued possibility of arbitrary detention at the center for unspecified periods, limited guarantees in terms of judicial oversight, and the absence of specific provisions for women and infants.

### **Independence of the judiciary and fair trial (art. 14)**

The Rwandan justice system has undergone a number of important and positive reforms over the years, but still lacks independence, especially in political or otherwise sensitive cases.

Broad and vague charges such as “offences against state security”, “inciting insurrection or trouble amongst the population”, “divisionism” and “genocide ideology” (see below) have been used in judicial proceedings against real or suspected government opponents, sometimes infringing upon the right to free speech. Human Rights Watch has documented unfair trials in a number of politically sensitive cases. Judges, prosecutors, and witnesses remain vulnerable to government pressure, especially in cases involving government opponents, such as the trials of Victoire Ingabire and Bernard Ntaganda (see below).

Concerns about due process have also been raised in the trials of three military officers arrested in August 2014: Col. Tom Byabagamba, retired Brig. Gen. Rusagara and his driver, retired Serg. François Kabayiza. Their trial before a military court is ongoing at the time of writing. Byabagamba and Rusagara are both accused, among

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<sup>19</sup> Kigali City Council, Directive N° 001/2015 November 01, 2015, Gazette N°44 Bis, 64 (unofficial translation from Kinyarwanda).

other offenses, of inciting insurrection or disorder amongst the population and of tarnishing the image of the country or government, because of comments they allegedly made, including during their participation in the United Nations Mission in South Sudan. The defendants claimed that some of their witnesses had been corrupted and intimidated into testifying against them, and that the charges against them were motivated by their family links with RNC members. Kabayiza told the court that he was suffering from ill-health as a result of torture in detention and that he had not received adequate medical care. To date, there has been no impartial, independent or thorough investigation into these allegations of torture.<sup>20</sup>

Human Rights Watch has observed and documented several other trials in which judges dismissed and failed to order investigations into defendants' allegations that they had been tortured. Some of these trials resulted in convictions and lengthy prison sentences. They include some of the cases mentioned above, such as the trial of Joel Mutabazi and co-accused in 2014; the trial of 30 people accused of involvement in grenade attacks in 2010, which concluded in January 2012; the trial of 20 people accused of stealing televisions and other goods, which began in 2012 and concluded in September 2013; and other trials of people accused of alleged collaboration with armed groups and of security-related offences.

Rwanda's community-based *gacaca* courts, set up to try genocide-related cases, finished their work in 2012 and left a mixed legacy. There were several positive achievements, including their swift work in processing a huge number of cases, the participation of local communities and the opportunity for genocide survivors to find out the truth about what happened to some of their relatives. However, Human Rights Watch shares the conclusion of the Committee in 2009 that "the Gacaca system of justice does not operate in accordance with the basic rules pertaining to the right to a fair trial".<sup>21</sup> Human Rights Watch documented limitations on the ability of the accused to effectively defend themselves; numerous instances of intimidation and corruption of defence witnesses, judges and other parties; and flawed decision-making due to inadequate training for lay judges who were expected to handle complex cases.<sup>22</sup>

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<sup>20</sup> Human Rights Watch trial observation, Kigali, September 2014 to January 2016.

<sup>21</sup> UN Committee on Civil and Political Rights, "Consideration of reports Submitted by States Parties", Concluding Observations, Rwanda, CCPR/C/RWA/CO/3 (2009), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en), p. 4.

<sup>22</sup> Human Rights Watch, *Justice Compromised: the Legacy of Rwanda's Community-Based Gacaca Courts*, May 31, 2011, <http://www.hrw.org/reports/2011/05/31/justice-compromised-0> and Human Rights Watch, *Rwanda: Case Studies*, June 3, 2011, <https://www.hrw.org/news/2011/06/03/rwanda-case-studies>.

## **Freedom of expression and freedom of association (arts. 19 and 22)**

Tight restrictions on freedom of expression and freedom of association remain in place in Rwanda, affecting political parties, independent civil society and media, as well as individuals who may hold views different from or critical of the government.

### **Genocide ideology law**

An amended version of the 2008 genocide ideology law was promulgated in October 2013. The new law contains several improvements, including a more precise definition of the offense and the requirement to demonstrate intent behind the crime, thereby reducing the scope for abusive prosecutions. However, several articles retain language that could be used to criminalize free speech. The law retains heavy prison sentences, although the maximum prison sentence has been reduced from 25 to nine years.

### **Political Opposition**

It is very difficult for genuine opposition parties to function in Rwanda. The RPF dominates and controls most aspects of political and public life. Other parties represented in parliament do not challenge the RPF and even actively support it. The government has clamped down severely on opposition party members, particularly in periods preceding elections, such as in 2010.<sup>23</sup> Most leading opposition figures have left the country, have been jailed or have abandoned active political engagement after repeated threats, intimidation and harassment.

On October 14, 2010 Victoire Ingabire, president of the FDU-Inkingi opposition party, was arrested and charged with six offenses. Three were linked to “terrorist acts” related to her alleged collaboration with the FDLR. Three others – “genocide ideology,” divisionism, and spreading rumors intended to incite the public to rise up against the state – were linked to her public criticism of the government before the 2010 presidential elections. In 2012, she was convicted of conspiracy to undermine the government and genocide denial and sentenced to eight years’ imprisonment. In December 2013, the Supreme Court increased her sentence to 15 years. Human Rights Watch concluded in 2012 that the first instance trial was flawed and included politically motivated charges, some of which were based on the 2008 genocide ideology law. There were doubts about the reliability of some of the evidence, and

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<sup>23</sup> Human Rights Watch, *Rwanda: Silencing Dissent Ahead of Elections*, August 2, 2010, <https://www.hrw.org/news/2010/08/02/rwanda-silencing-dissent-ahead-elections>.

statements by government officials before her trial had undermined the presumption of innocence.<sup>24</sup>

Two other members of the FDU-Inkingi remain in prison. Sylvain Sibomana, the party's Secretary-General, and Anselme Mutuyimana, a political activist, were each sentenced to six years' imprisonment in January 2014 after being arrested in September 2012 while holding a meeting in a bar. They were charged with "inciting insurrection or disorder amongst the population". Six people attending the meeting were sentenced to two years' imprisonment each and have since been released. In November 2013, in a separate case, Sibomana was sentenced to two years in prison after being arrested on March 25, 2013, when he got into a fight with a policeman outside the court where Ingabire's trial was taking place. Fellow party member Dominique Shyirambere, who was arrested at the same time, was sentenced to five months in prison.

Bernard Ntaganda, leader of the PS-Imberakuri opposition party, was arrested in June 2010 and released in 2014 after serving a four-year sentence for endangering national security and divisionism. His arrest and prosecution were politically motivated, a consequence of his public statements criticizing government policies.<sup>25</sup> Other members of the PS-Imberakuri remain in prison.

Several other members of the FDU-Inkingi and PS-Imberakuri have been threatened, arrested and detained since 2010.<sup>26</sup>

Local authorities have repeatedly denied the Democratic Green Party and the FDU-Inkingi permission to hold their congress meetings – a precondition to registering their parties. The FDU-Inkingi has not succeeded in registering. On August 9, 2013, only days before the deadline for registration for parliamentary elections in September, the Rwanda Governance Board (RGB), the state body responsible for overseeing political parties, granted registration to the Democratic Green Party, after it had been struggling for almost four years to obtain it. After a visit to Rwanda in January 2014, UN special rapporteur on freedom of association and assembly Maina

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<sup>24</sup> Human Rights Watch, *Rwanda: Eight-Year Sentence for Opposition Leader*, October 30, 2012, <https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader>.

<sup>25</sup> Human Rights Watch, *Rwanda: Opposition Leader's Sentence Upheld*, April 27, 2012, <https://www.hrw.org/news/2012/04/27/rwanda-opposition-leaders-sentence-upheld>.

<sup>26</sup> Human Rights Watch, *Rwanda: Eight-Year Sentence for Opposition Leader*, October 30, 2012, <https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader>.

Kiai described the process of establishing a political party as “long, laborious and far too often, arbitrary”.<sup>27</sup>

## Media

Independent journalists in Rwanda have faced obstruction and intimidation for many years, causing many to flee the country and others to refrain from investigative reporting. State intimidation has also led to widespread self-censorship.

Threats against journalists increased in 2010, in the run-up to presidential elections. Two popular and critical newspapers, Umuseso and Umuvugizi, were suspended for six months, then the Media High Council, a government-aligned body in charge of regulating the media, called for their definitive closure. Their editors and several journalists were prosecuted.

In February 2010 Umuseso editor Didas Gasana, former editor Charles Kabonero, and journalist Richard Kayigamba were found guilty of defamation (which remains a criminal offence in Rwanda); they received sentences of between six months’ and a year’s imprisonment and were ordered to pay a large fine. In April 2010 Umuvugizi editor Jean-Bosco Gasasira was also found guilty of defamation and fined. All four went into exile after receiving threats. One of the few independent journalists who remained in Rwanda, Jean-Léonard Rugambage of Umuvugizi, was shot dead in June 2010 (see above).

In February 2011, Umurabyo newspaper journalists Saidati Mukakibibi and Agnès Uwimana were sentenced to seven and 17 years in prison respectively in connection with articles viewed as critical of the government and President Kagame. On appeal, the Supreme Court reduced their sentences to three and four years respectively. It upheld charges of endangering national security against both women, and a charge of defamation against Uwimana, the newspaper’s editor. It dropped charges of minimization of the 1994 genocide and divisionism against Uwimana. Both have since been released.<sup>28</sup>

The authorities have detained several other journalists in recent years. In November 2012, Stanley Gatera, editor of Umusingi newspaper, was sentenced to a year in prison for discrimination and sectarianism in connection with an opinion article published in

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<sup>27</sup> UN Commission on Human Rights, Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, Mission to Rwanda, A/HRC/26/29/Add.2 (2014), [http://freeassembly.net/wp-content/uploads/2014/06/A-HRC-26-29-Add2\\_en-final1.pdf](http://freeassembly.net/wp-content/uploads/2014/06/A-HRC-26-29-Add2_en-final1.pdf), p. 10.

<sup>28</sup> Human Rights Watch, *Rwanda: Opposition Leader’s Sentence Upheld*, April 27, 2012, <https://www.hrw.org/news/2012/04/27/rwanda-opposition-leaders-sentence-upheld>.

his newspaper about marital stability and the problems posed, in the author's view, by the supposed allure of Tutsi women. He was released in July 2013. Epaphrodite Habarugira, an announcer at Radio Huguka, spent three months in prison in 2013, charged with genocide ideology after apparently mistakenly, during a news broadcast, mixing up words when referring to survivors of the genocide. He was acquitted in July 2013. Idriss Gasana Byringiro, a journalist at The Chronicles newspaper, was briefly abducted and questioned in June 2013 and rearrested several days later, after which he publicly retracted earlier statements about his abduction and was released on bail.<sup>29</sup>

Rwanda has introduced a number of media reforms since 2013, which appear to increase the scope for independent journalism. New laws adopted in February 2013 enshrined journalists' rights to freedom of opinion and expression and protected journalists' sources, and a new self-regulatory body was created: the Rwanda Media Commission (RMC). However, its ability to operate independently was called into question after its chair, Fred Muvunyi, resigned in May 2015 and fled Rwanda, following disagreements with the government about the RMC's autonomy.

The wrangles between the RMC and the government included a disagreement about the government's suspension of the British Broadcasting Corporation's (BBC) Kinyarwanda service broadcasts in Rwanda in October 2014, following a BBC television documentary entitled "Rwanda's Untold Story." On February 28, 2015, a committee set up by the media regulator, the Rwanda Utilities Regulatory Authority (RURA), and chaired by the former Prosecutor General Martin Ngoga, published a report concluding that the BBC had, among other things, abused press freedom and violated Rwandan law relating to genocide denial and revisionism, inciting hatred and divisionism. In May 2015, RURA announced that the BBC's Kinyarwanda service broadcasts were indefinitely suspended, depriving many Rwandans of a precious source of independent information. In a media landscape dominated by pro-government broadcasts, many Rwandans rely on the BBC local language service to access information and debate on issues that are not usually covered by domestic media.

In the last two or three years, some radio stations have begun broadcasting call-in programs in which listeners can raise a broader range of issues, and have occasionally aired spontaneous debates between journalists and with opposition politicians on more sensitive subjects, such as the work of human rights organizations or presidential term limits. However, the media remain heavily dominated by pro-government views and few journalists are willing to report on alleged human rights

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<sup>29</sup> Human Rights Watch, *Rwanda: Eight-Year Sentence for Opposition Leader*, October 30, 2012, <https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader>.

abuses or corruption cases. Human Rights Watch has received information about further cases of intimidation, harassment and detention of journalists, as recently as 2016. Investigations into acts of intimidation or aggression of journalists, requested by the Committee in 2009, have been very limited.<sup>30</sup>

## Civil society

Obstacles to the registration and freedom of action of non-governmental human rights organizations, referred to in the Committee's 2009 Concluding Observations,<sup>31</sup> have continued in recent years. Rwandan independent civil society organizations are weak, and few document and expose human rights abuses by state agents. Rwanda's domestic human rights movement has been almost destroyed by a combination of state intimidation, threats, manipulation, infiltration and administrative obstacles. Most leading human rights activists have fled the country.

In 2013, the human rights group LIPRODHOR was taken over by elements sympathetic to the ruling party, in a process which violated Rwandan law and the organization's statutes. The RGB recognized the new leadership a few days later.<sup>32</sup> The ousted leaders lost a court case in 2014 to challenge the new leadership, but appealed. On March 23, 2015, the High Court of Kigali upheld the 2014 court decision that the case was unfounded on procedural grounds.

One of the only other active independent human rights organizations in Rwanda, the Human Rights League in the Great Lakes Region (LDGL), has also experienced serious difficulties for several years. Two leading members were unlawfully detained, questioned and harassed in 2011.<sup>33</sup> The group again suffered serious setbacks in 2015 as a result of internal disputes, effectively paralyzing its work. Several of its members were questioned at length by the immigration and police in mid-October 2015, mostly about administrative and organizational matters.

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<sup>30</sup> UN Committee on Civil and Political Rights, "Consideration of reports Submitted by States Parties", Concluding Observations, Rwanda, CCPR/C/RWA/CO/3 (2009), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en), p. 5.

<sup>31</sup> UN Committee on Civil and Political Rights, "Consideration of reports Submitted by States Parties", Concluding Observations, Rwanda, CCPR/C/RWA/CO/3 (2009), [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fRWA%2fCO%2f3&Lang=en).

<sup>32</sup> Human Rights Watch, *Rwanda: Takeover of Rights Group*, August 14, 2013, <https://www.hrw.org/news/2013/08/14/rwanda-takeover-rights-group>.

<sup>33</sup> Human Rights Watch, *Rwanda: Eight-Year Sentence for Opposition Leader*, October 30, 2012, <https://www.hrw.org/news/2012/10/30/rwanda-eight-year-sentence-opposition-leader>.

The registration process for international non-governmental organizations (NGOs) remains very cumbersome. Registration has to be renewed annually. NGOs can only obtain a five year registration if they provide evidence of funding for the full five years – a requirement which most NGOs are unable to fulfil.

The body of Gustave Makonene, coordinator of Transparency International Rwanda's Advocacy and Legal Advice Centre in Rubavu was found on the morning of July 18, 2013, just off a road along the shore of Lake Kivu.<sup>34</sup> Two policemen accused of murdering Makonene pleaded guilty at their trial, after initially denying the charges. The High Court in Rubavu sentenced them to 20 years' imprisonment in January 2015.

### **Recommendations for the Government of Rwanda**

- Ratify the first optional protocol of the ICCPR.
- Investigate and bring to justice those responsible for arbitrary arrests, unlawful detentions, enforced disappearances, torture and politically motivated attacks, inside and outside Rwanda.
- Ensure that detainees are only held in recognized prisons and detention centers and allowed visits by relatives, friends, lawyers, and spiritual leaders. Provide information to detainees' families on their whereabouts.
- Ratify the International Convention for the Protection of All Persons from Enforced Disappearance.
- Cooperate fully in investigations by foreign governments into attacks and threats against Rwandan opponents and critics abroad.
- Ensure that judges order investigations into credible allegations by defendants that they were tortured or where there is reason to believe that witnesses were intimidated or coerced, and disregard evidence which may have been extracted under torture or under duress.
- Safeguard the independence of the justice system and prevent and refrain from political interference in prosecutions and trials.
- Allow opposition parties to carry out their activities without intimidation or hindrance, particularly in the run-up to the 2017 elections.
- Enable and encourage independent civil society organizations and journalists to operate freely and to investigate and publish information on sensitive subjects, including allegations of human rights abuses by state agents.
- Ensure that any state agent or anyone acting on behalf of the state who threatens, attacks or otherwise intimidates a journalist or civil society activist

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<sup>34</sup> Human Rights Watch, *Rwanda: Investigate Anti-Corruption Campaigner's Murder*, January 22, 2014, <https://www.hrw.org/news/2014/01/22/rwanda-investigate-anti-corruption-campaigners-murder>.

because of the content of a publication or investigation that they are conducting is held to account, and, if there is sufficient evidence, prosecuted and punished as appropriate.